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Floor Debate  
March 21, 2012

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[LB209A LB209 LB513 LB540A LB540 LB541A LB711 LB715 LB727 LB731A LB750  
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LR520 LR521]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-eighth day of the One Hundred Second Legislature, Second Session. Our chaplain for today is Senator Harms. Please rise.

SENATOR HARMS: (Prayer offered.)

SENATOR GLOOR: Thank you, Senator Harms. I call to order the forty-eighth day of the One Hundred Second Legislature, Second Session. Senators, please record your presence. Mr. Clerk, please record. (Gavel)

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

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

CLERK: I have no corrections, Mr. President.

SENATOR GLOOR: Are there messages, reports, or announcements?

CLERK: Enrollment and Review reports LB959, LB711, LB1063, LB1114 to Select File. New resolution, study resolution: Senator Sullivan offers LR511; that will be referred to the board. And I have a gubernatorial appointment letter. That will be referred to Reference for referral to standing committee for confirmation hearing. That's all that I have, Mr. President. (Legislative Journal pages 1037-1039.) [LB959 LB711 LB1063 LB1114 LR511]

SENATOR GLOOR: Thank you, Mr. Clerk. We now move to the first item on the agenda, Mr. Clerk.

CLERK: LB209A is a bill by Senator Cornett. (Read title.) [LB209A]

SENATOR GLOOR: Senator Cornett, you are recognized to open on LB209A. [LB209A]

SENATOR CORNETT: Thank you very much, Mr. President and members of the body. LB209 is the bill that we have passed that allows for the one-year notification to municipalities, smaller municipalities, when they are going to be facing a sales tax

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refund. We amended another bill that allows a municipal employee with confidentiality requirements to view with the Department of Revenue where sales tax receipts should be generated. The A bill is for administration of this. It includes funds needed for additional administration recordkeeping requirements created by the bill. The language contains a limit on the amount to be spent on salaries and per diem. With that, I urge the body to advance LB209A. [LB209A LB209]

SENATOR GLOOR: Thank you, Senator Cornett. Are there members wishing to speak? Seeing none, Senator Cornett, you're recognized to close on the advancement of LB209A. Senator Cornett waives. The question is the advancement of LB209A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB209A]

CLERK: 25 ayes, 0 nays on the advancement of the A bill. [LB209A]

SENATOR GLOOR: LB209A advances. Continuing on General File, Mr. Clerk. [LB209A]

CLERK: LB540A by Senator Campbell. (Read title.) [LB540A]

SENATOR GLOOR: Senator Campbell, you're recognized to open on LB540A. [LB540A]

SENATOR CAMPBELL: Thank you, Mr. President, and good morning, colleagues. This is the A bill to the family planning bill which we amended on the floor and we are still working actually on LB540, but what we're trying to do here is have the A bill catch up with it so as we may make any changes in LB540 or proceed, the A bill is with it. And with that, Mr. President, I would conclude my remarks. [LB540A LB540]

SENATOR GLOOR: Thank you, Senator Campbell. Are there senators wishing to be heard on this bill? Seeing none, Senator Campbell, you're recognized to close. Senator Campbell waives. The question before the body is the advancement of LB540A to E&R Initial. Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB540A]

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB540A. [LB540A]

SENATOR GLOOR: The bill advances. Continuing with General File, Mr. Clerk. [LB540A]

CLERK: LB949A, Senator Harms. (Read title.) [LB949A]

SENATOR HARMS: Thank you, Mr. President, colleagues. This bill carries out the provisions of LB949 that requires the child welfare budget to be separated from

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Program 347, the budgeted program child welfare is currently located in. Program 347 had 28 subprograms prior to the change in LB949. This allowed the Department of Health and Human Services to move money around among all the subprograms. These subprograms included funding from programs that served the aged, persons with disabilities, economic assistance programs, food programs, child welfare. Because Program 347 is so large, \$400.4 million in fiscal year '13, and had so many subprograms, it allowed a substantial movement of funds over the course of the lead agency's contracts without having to come to the Legislature and made the tracking movement almost impossible. The amount of funds for the child welfare for fiscal year '13 is \$156.1 million General, \$2.7 million cash fund, and \$30.6 million federal. The net impact of LB949A is 0. This simply allows us to be able to track and have better control on what is happening in this particular portion of the program, so I would urge you to support LB949A. Thank you, Mr. President. [LB949A LB949]

SENATOR GLOOR: Thank you, Senator Harms. Members, you've heard the opening on LB949A. Are there senators wishing to be recognized? Seeing none, Senator Harms, you're recognized to close. Senator Harms waives. The question is the advancement of LB949A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB949A]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB949A. [LB949A]

SENATOR GLOOR: The bill advances. Moving to Select File, Mr. Clerk. [LB949A]

CLERK: Senator Campbell, I have no amendments to LB541A, Senator. [LB541A]

SENATOR CAMPBELL: That's correct. Mr. President, that is correct. [LB541A]

SENATOR GLOOR: Senator Campbell for a motion. [LB541A]

SENATOR CAMPBELL: I would move that LB541A be advanced to E&R Engrossing. [LB541A]

SENATOR GLOOR: You've heard the motion. Those in favor say aye. Those opposed say nay. LB541A is advanced. We return to General File. Mr. Clerk. [LB541A]

CLERK: Mr. President, LB1145 by Senator McGill. (Read title.) Bill was introduced on January 19, referred to the Judiciary Committee, advanced to General File. There are Judiciary Committee amendments, Mr. President. (AM2387, Legislative Journal page 924.) [LB1145]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Ashford, you're recognized to open on LB1145. [LB1145]

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SENATOR ASHFORD: Thank you, Mr. President. I'm going to talk about the amendments because the committee amendments really are the bill itself. So with that, as a little background, the Judiciary Committee, this is a committee priority bill for the committee. We have studied the issue of human trafficking for a few years now and Senator McGill has taken a leadership role in this issue, both on a local and a national level, and has been involved in thinking about the negative impacts that human trafficking have on our society. It's interesting. I have an article, I don't know if maybe Stacey has it, there was a...Paul Krugman did an article in The New York Times called "Where Pimps Peddle Their Goods," I'm sorry, Nicholas Kristof. I get my New York Times columnists mixed up. It's...I'm going to hand it out, make copies of this and hand it out because it's so graphic and glaring. And Nicholas Kristof has a reputation of traveling the world and thinking about and writing about the human condition, and of late he has been writing about the problem of human trafficking on an international stage. It is...has become and is one of the great problems of the world, and Nicholas Kristof claims and writes about the fact that human trafficking and the slavery that results from it in numbers actually is greater than proportionally than the slave trade and it is part of the same thinking. When individuals, primarily young women, are really held in hostage, become sex slaves, whether it's in this country, whether it's in Nebraska, whether it's in eastern Europe or Asia, wherever it is, it may be one of the great catastrophes of our time. So I'm going to hand this out but you may not get it until after the bill is debated, but I'd ask you to take a look at it because this is not a joke. This is really, really serious business. Let me get to the committee amendments. We do amend the pandering statutes, LB...or, I'm sorry, Section 28-802, to provide that there is a new penalty for pandering of a person under the age of 18 and it would become a Class III felony, which has a punishment of 1 to 20 years for each offense, and the penalty would increase for all subsequent violations up to a Class III felony. It has pandering, for whatever reason, has been a misdemeanor primarily in Nebraska and this would enhance that penalty significantly and I think appropriately. Section 2 creates a task force, and I know we create task forces here on many issues but this task force I believe is critical, and the purpose of the task force is to study and investigate human trafficking. It places the commission...the task force under the Commission on Law Enforcement and Criminal Justice for administrative purposes. It requires the task force created under this section and the Department of Labor to create or select informational posters. And I think what's...this is very baseline stuff here. All we're requiring is that we post information about where a young person, a young woman or in some cases a young male, can contact, can get help if they feel that they are in this kind of predicament. It requires rest stops and strip clubs in this state to post informational signs created under this section and requires the task force that we create here to work with other entities, other businesses across the state to encourage the voluntary posting of signs in their facilities. Other entities that we feel should be considered for posting would include secondary education facilities, hospitals, gas stations, hotels, and so forth, but those postings would be voluntary. Section III of the committee amendments require the

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mandatory training for law enforcement agencies, prosecutors, public defenders, judges, and other officials involved with juvenile detention and prosecution, and other relevant government officials across the state on human trafficking. Section 3 requires the task force created under Section 2 to work with the various agencies to develop a proper training curriculum. The training provided under this section should include information regarding the investigation and prosecution of human trafficking, the identification, prosecution, and assistance of victims, and methods to increase cooperation between relevant stakeholders, including nongovernmental organizations. We need to shine a light on this problem in our state. We need to shine, in fact, a glaring light. I'm struck by, dealing with the juvenile justice issues that we've dealt with in committee over the last several years, the number of young runaway, primarily females, in our state. It is a serious problem I know in Douglas County, in our part of the state, and it's in many cases the young runaway females who become embroiled in this sex trafficking business. It is slavery. It's an enslavement of these people, these young people. It takes them away from their homes, obviously, and puts them in a terrible environment. I commend Senator McGill for her passion on this issue. And as is the case with all the other juvenile issues, and it's not just juveniles obviously that are involved in human trafficking but many of them are, this and many of the other juvenile issues that we've dealt with in this body are so important to our future and the ramifications of not, at the very least, shining the light of the public on so the public can see what's going on we can make a difference. We can make a difference in the lives of these children so...juveniles and others who get involved in human trafficking. I commend AM2387 and the article by Mr. Kristof. And with that, I would conclude my comments. Thank you, Mr. President. [LB1145]

SENATOR GLOOR: Thank you, Senator Ashford. And, Senator Ashford, I am to conclude that your opening was for both the bill and the underlying amendment. [LB1145]

SENATOR ASHFORD: Right. The amendments really are the bill. Thank you, Mr. President. [LB1145]

SENATOR GLOOR: Thank you, Senator Ashford. Members, you've heard the opening on AM2387 and the underlying bill, LB1145. There are senators wishing to speak. Senator Cook, you are recognized. [LB1145]

SENATOR COOK: Thank you, Mr. President, and good morning, colleagues. I simply wanted to rise in support of AM2387 and the underlying bill and echo what Senator Ashford had to say about the human trafficking issue as it manifests itself in our state and being proud that we are taking a step in the right direction to do something about this. This is not only something that is going on in our state all around us, not necessarily with us noticing in our day-to-day lives, but something that is really an international issue. So I am very glad that we are taking this step to address the issue of

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human trafficking. And with that, I will yield the balance of my time to the Chair.  
[LB1145]

SENATOR GLOOR: Thank you, Senator Cook. Senator Christensen, you are recognized. [LB1145]

SENATOR CHRISTENSEN: Thank you, Mr. President. I want to thank Senator McGill for attending the human trafficking conference this last fall and seeing what I have seen the previous two years--the importance of this issue. You realize Nebraska is the leading researcher in the nation on human trafficking, yet we have some of the weakest laws. And it's very disappointing to me because I brought legislation the last two years. This would have been the third year that I've worked on this subject and have yet to get anything through the committee. I do not think that we are taking and doing the whole...dealing with the whole situation. I had LB513 that's still in committee--it's not coming out and that's their choice--deals with escort services. And unfortunately, the piece of the pie that this LB1145 doesn't deal with is they use these human traffic girls in strip joints and they'll move them through, or they use them in an escort service and they will move them across the state into different areas of need through these services. And the sad part is there's not a legitimate escort service. Some people will tell you they're for the lonely business person to have an evening date or whatever it is. It isn't. It's prostitution. And the sad thing, if you go look in the yellow pages you'll see all kinds of escort services and they'll have out-of-state phone numbers, they'll move these girls through and around. It's a serious issue, folks. And I don't understand why we're not dealing more with this issue than we have, but at the same time I'm appreciative of this bill coming forth. I support this bill. I'm asking everyone on the floor to give this a green vote and to look at this issue. I encourage every one of you next October, this coming October to attend the University of Nebraska's conference on human trafficking. It will be eye-opening. There's people worldwide come to this. And the fact is we need to deal with this issue even more intensely than this bill does. It sets up a commission to study it. I appreciate what the committee has done. I just hope they'll be ready to step forward and do more because we're just on the tip of the iceberg. And again, I thank Senator McGill because she attended that conference, as I'm pretty positive is the reason why you're seeing this bill and the reason that we're seeing something come through the committee that we can get accomplished. Would Senator Ashford yield to a question, please? [LB1145 LB513]

SENATOR GLOOR: Senator Ashford, would you yield? [LB1145]

SENATOR ASHFORD: Yes. [LB1145]

SENATOR CHRISTENSEN: Senator Ashford, do you think this bill is taking care of the whole situation of human trafficking? [LB1145]

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SENATOR ASHFORD: Oh my, no. [LB1145]

SENATOR CHRISTENSEN: What additional things would you like to see done?  
[LB1145]

SENATOR ASHFORD: Well, first of all, Senator Christensen, let me say this, that you have been dogged in your determination to address this issue and I was remiss in not mentioning that in my opening. You have brought bills to the committee and we've had many conversations and your commitment to this issue is extremely important. It's an international problem. There are international...there has been a federal response. There is a federal hot line number that has been set up through the Polaris organization, and hopefully the informational signage or posters that go up around the state will include that hot line number. We have enhanced the penalties to felonies. Pandering,...  
[LB1145]

SENATOR GLOOR: One minute. [LB1145]

SENATOR ASHFORD: ...which is basically pimping, as you know, is one of the...obviously one of the most glaring acts that occur in this kind of enslavement of females, young females, and...but there are more things we can do. There needs to be a regional response I think within the various states around us. There needs to be...we have to accept the fact that women, primarily women, and it's not always women but most cases it is, young females, that we have to get over the fact that somehow they are the...they really are the victims. [LB1145]

SENATOR CHRISTENSEN: Uh-huh. [LB1145]

SENATOR ASHFORD: And I think that's the point that you've made. These young girls are the victims of unscrupulous criminal activity and it is absolutely an abomination internationally and in our state and across the country. So that's my answer, Senator.  
[LB1145]

SENATOR CHRISTENSEN: And thank you. [LB1145]

SENATOR GLOOR: Time, Senators. Thank you, Senator Christensen and Senator Ashford. Senator Harms, you are recognized. [LB1145]

SENATOR HARMS: Thank you, Mr. President, colleagues. First of all, I do rise in support of AM2387 and the underlying bill. I wonder if Senator Ashford could just yield for a couple of questions. [LB1145]

SENATOR GLOOR: Senator Ashford, would you yield? [LB1145]

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SENATOR ASHFORD: Yes. [LB1145]

SENATOR HARMS: Senator Ashford, Senator McGill came to the Appropriations Committee maybe on another bill but we were talking about this very topic and looking for some funding and things, and I guess I've never really paid a lot of attention to it. But after listening to her testimony and then listening to some of the folks in law enforcement, people who specialize in that, I left that committee hearing almost sick to my stomach. And what I learned was horrifying to me where some of the children, young teenagers, may have...forced to have 15 or 20 partners in one day. And so what I'm wanting to ask you is do you have any statistics or data just about our own state about what we have found in human trafficking? [LB1145]

SENATOR ASHFORD: Let me check, Senator Harms,... [LB1145]

SENATOR HARMS: Okay. [LB1145]

SENATOR ASHFORD: ...the actual numbers on trafficking, not that...I don't...I think part of the problem is we don't treat it seriously enough and, therefore, we don't...and we don't categorize. When we get criminal data sheets or information, we don't categorize or organize the data in such a way as to shine the light on this particular issue, which is trafficking, pimping. We don't, so it's very difficult to look at the data and discover how prevalent the problem is. Simply giving out a misdemeanor ticket for prostitution, and we have those kinds of data points, but that doesn't get at the underlying problem that you're talking about, Senator Harms. [LB1145]

SENATOR HARMS: You know in the discussion with a couple of the specialists, and if I can recall, they said that human trafficking was one of the top three crimes in the nation. Is that pretty accurate? [LB1145]

SENATOR ASHFORD: That's correct. [LB1145]

SENATOR HARMS: And we yet in this country have not yet been willing to address the situation. What really concerned me is that when we were there we had one...the Health and Human Services had a representative come and actually testify against this bill, and I was taken back by that and was disappointed in that aspect of it, because here it is, we know that it's a huge issue in this nation and actually in our state. Because if you look at some of the numbers I think that are truly available, it's shocking, and as colleagues in this room we should not allow this to happen. And this commission is important and we need to focus on this and we need to get after it and fix it. I couldn't imagine my own children or grandchildren or my neighbors' children going through something like this. I would be furious. And I think it's something we can no longer tolerate. And so I hope as you look at this that you look at it seriously, because I think it's an issue that we need to address. When it's in the top three in this country and we're

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refusing to address the issue, there's something wrong. If this great state needs to be an example, then we need to make it an example of what you ought to do to fix it. Thank you, Mr. President. [LB1145]

SENATOR GLOOR: Thank you, Senator Harms and Senator Ashford. Senator Pirsch, you are recognized. [LB1145]

SENATOR PIRSCH: Thank you, members of the body. I rise in support of the LB1145 and I want to commend Senator McGill for her efforts in this area. As a prosecutor in Douglas County, I can tell you that you do see a tremendous amount of young people who I've prosecuted for prostitution, soliciting prostitution, and just a comment on a few things and maybe a question or two. But in response to Senator Harms's question about the data behind it, when it comes to pandering, and that's what we're looking at here, from an enforcement perspective it is easy to...for law enforcement to detect certain types of prostitution, enforce those type of laws, and with respect to the so-called johns as well for soliciting prostitution that also is somewhat easy. But when it comes to the act of pandering, so now we're essentially talking about the pimps, that's a more difficult proposition for law enforcement to address. Those actors tend to stay in the shadows more and not easy to root out. And so it somewhat defies, as Senator Ashford, Chairman Ashford points out, easy categorization in terms of data. But I can tell you it is a depressing thing to see and there is almost, when you look at the women who are engaged in this, in the prostitution in my case in Douglas County, has been my observation as a prosecutor and also working in the juvenile courts, there is such a high correlation between these--and they're primarily women--and addiction. And it is just a continuing cycle and so hard to get out, which is why programs offered by the YWCA, such as Wellspring, I think we need to look at as one role, one factor that can be used to help at least break the cycle for many women. And towards that end, I wanted to ask just Senator Ashford a question with respect to differences perhaps between the original green copy of the bill Senator McGill had originally filed and the committee amendment which replaces the bill. I wonder if he may yield for a quick question. [LB1145]

SENATOR GLOOR: Senator Ashford, would you yield? [LB1145]

SENATOR ASHFORD: Yes. [LB1145]

SENATOR PIRSCH: With respect to the provision in the green copy vacating convictions for sex trafficking, is that a part of the surviving amendment? [LB1145]

SENATOR ASHFORD: No. [LB1145]

SENATOR PIRSCH: Okay. I just wanted to be...you know, the unfortunate part, as I mentioned, is that almost 100 percent of these women are addicted to drugs or...well, usually drugs, very strong drugs, and they don't see a way out. You know, I think the

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desperateness of their lives is emphasized by the fact that they are willing to, on a downtown street corner, jump into any car that will pull up for \$10 and put their lives at risk in that way. And I think that kind of underscores the addiction and the desperateness that they're lives are going. And so really there are city ordinances in Omaha that are a stairstep... [LB1145]

SENATOR GLOOR: One minute. [LB1145]

SENATOR PIRSCH: ...with serial offenses into long-term time. And really that has resulted in the best way to get these women into programs like Wellspring. And so I want to just make sure that we're not inadvertently doing anything with unintended consequences. Sounds like we're not. I do appreciate the intent of the bill and the provisions of the bill and, again, I'd urge support for the amendment and the underlying bill. Thank you. [LB1145]

SENATOR GLOOR: Thank you, Senator Pirsch. Senators remaining in the queue: Wallman, Dubas, and Council. Senator Wallman, you are recognized. [LB1145]

SENATOR WALLMAN: Thank you, Mr. President. Good morning, colleagues. We're attacking the world's oldest profession here and we should. It's asinine that a civilized country like the United States of America lets this happen. Maybe you expect it in some other foreign nations, but we shouldn't expect it here and especially with our children. We have to take care of our children, folks. And addiction, whether it be addiction, whether it be sex trafficking, I want to thank Senator McGill for bringing this forth and the Judiciary for putting this out. Because most of us think see no evil, hear no evil, there's probably no evil, but we know that is not true. Thank you, Mr. President. [LB1145]

SENATOR GLOOR: Thank you, Senator Wallman. The Chair recognizes Senator Dubas. [LB1145]

SENATOR DUBAS: Thank you, Mr. President. Good morning, colleagues. I rise in strong support of LB1145 and appreciate all of Senator McGill's and her staff's hard work on this issue. When she first started talking to me about this, my first silent thought was, in Nebraska? You know, aren't there more important issues we should be working on than this? I mean this certainly isn't happening in Nebraska. But allowing myself to listen to her and doing a little bit of research on my own, discovered that while Nebraska is the good life, and it certainly is, this is an issue that is happening right here in our own backyard. After drug dealing, human trafficking, which is tied to the illegal arms industry, is the second largest criminal industry in the world. There are 600,000 to 800,000 young women and men who are trafficked across international borders annually. I mean these numbers just...they were just a real eyeopener for me. There was an article in one of my local newspapers here a few weeks ago about a young man from my district who is

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involved with an organization called the International Justice Mission. And this is located in Washington, D.C., but they have professionals working in 13 countries around the world with their goal of rescuing these young people and helping them reclaim their lives, because they have found that even after these young people have been rescued from this horrible lifestyle, that if they aren't provided opportunities with jobs and education and other types of support to change their lifestyle, they are regularly re-recruited back into this lifestyle. So there's a subprogram of this International Justice Mission which is called Red Window and I would invite you to look at their Web site, which is [www.RedWindow.org](http://www.RedWindow.org). And they talk a lot about the people who are supporting their efforts and the work that they're doing in trying to address this problem. So I think what Senator McGill has been doing and is continuing to do, along with the support of the Judiciary Committee, is to certainly raise the level of awareness about this very real problem that not only exists in Nebraska but all around the world, and attempt to educate the general public about what this is and why we need to address it and launch this very good, public information campaign. Because we can't address a problem if we don't understand a problem, and there certainly is a serious lack of understanding about this real issue and what we need to do to try to curtail it. And I think to the extreme, it dovetails into our child welfare reform that we're dealing with. Because again, if we aren't able to help children early at younger ages, provide a stable family home for them, the support services that they need, a good education, a feeling that there are opportunities for them out there, this type of lifestyle is unfortunately what they're drawn to. And it's easily...it's easy...they're drawn to it because there's a lot of glitz and glamour initially, but after they get past the shiny stuff it's more horrendous than most of us can probably even imagine. So again, I really appreciate Senator McGill's efforts on this and I certainly hope I can continue to be supportive of what she is doing, and I think the Legislature's adoption of this bill will be a very important step in helping not only our state but the rest of our country understand why we need to step up and start to address this very real problem. Thank you. [LB1145]

SENATOR GLOOR: Thank you, Senator Dubas. Senator Council, you are recognized. [LB1145]

SENATOR COUNCIL: Yes, thank you, Mr. President. Good morning, colleagues. I rise in strong support of AM2387, which actually replaces LB1145, and I want to commend the work of the Judiciary Committee, particularly Senator McGill, in looking at this issue. The difficulty in crafting the type of legislation that we all believe is necessary here requires a lot more time and effort than some realize. Senator Harms hit one of the touching points right on the head when he asked what is the prevalence of human trafficking in the state of Nebraska. We don't know. There's anecdotal information. We heard the same testimony that you referred to and that's one of the reasons that AM2387 provides for the establishment of a task force. And if you look at the membership on that task force that's proposed, those are the individuals who are most likely to be at the front line of dealing with individuals who are involved in human

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trafficking. So the committee spent a lot of time outside of the session trying to educate ourselves on the nature and extent of this problem. I, too, attended the human trafficking conference here in October. I was very proud, in fact, to realize how prominent a position the University of Nebraska holds in terms of its research. I sat at a table with graduate students from the East Coast who told me it was their second or third time attending this conference. So we're all gaining knowledge of the issue. Senator McGill has been working very closely with the Polaris group. The Polaris group assisted in the development of the language that you find in AM2387. There were portions of the original green copy of the bill that, you know, after careful study and consideration the committee had to arrive at the conclusion that we could not move forward. Senator Pirsch made reference to vacating the conviction. Well, we have a constitutional limitation on who can vacate convictions and so we wanted to be sure that any bill that was advanced out of the committee was a bill that would withstand constitutional scrutiny. There were also provisions in the bill that dealt with property forfeiture. Here again it's a serious issue in how to craft that kind of legislation in a constitutionally sound manner. Now what you see in terms of the seriousness is pandering I believe was a misdemeanor offense prior to what is before you in AM2387. That offense now, the first offense is a Class IV felony and that's...one of the concerns is reaching the people behind the goods, whatever the title here. That's what you need to get to. And this piece of legislation takes us, in my opinion, giant strides towards accomplishing what all of our objectives are, and that is to prevent residents of the state of Nebraska from being victimized by these predators. So I would urge your favorable consideration of AM2387 and I have every expectation that the Judiciary Committee will continue to refine legislation to effectively address and eliminate this problem in Nebraska. Thank you. [LB1145]

SENATOR GLOOR: Thank you, Senator Council. The Chair recognizes Senator Smith. [LB1145]

SENATOR SMITH: Thank you, Mr. President, and good morning, colleagues. I wanted to also thank Senator McGill for bringing forward to our attention and standing up on a particular issue that unfortunately has been invisible to our society. Like Senator Christensen said earlier, we need to do more to end this terrible activity going forward, but I do believe that this amendment and this bill is a very good starting point. And again, thank you to Senator McGill for introducing this bill and I stand in support of AM2387 and the underlying bill, LB1145. Thank you, Mr. President. [LB1145]

SENATOR GLOOR: Thank you, Senator Smith. Senator Sullivan, you are recognized. [LB1145]

SENATOR SULLIVAN: Thank you, Mr. President. Good morning, colleagues. I also stand in strong support of this legislation. It's not a desirable topic. It's one that we even feel uncomfortable talking about I think, but it's good that we're addressing it. And as

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Senator Dubas said, sometimes those of us particularly in rural Nebraska think that this is not an issue, but I actually had a constituent come up to me and say we really need to take a look at this in our state. So I'm glad that we are addressing it. But to that end, I did have a couple questions for Senator Ashford, if he would yield. [LB1145]

SENATOR GLOOR: Senator Ashford, would you yield? [LB1145]

SENATOR ASHFORD: Yes. [LB1145]

SENATOR SULLIVAN: Senator Ashford, with respect to the makeup of the task force, and it's been mentioned that the University of Nebraska has done a lot of research, are they going to be involved at all in the task force? [LB1145]

SENATOR ASHFORD: Yes, unquestionably. The Crime Commission has the jurisdiction over the task force but the university, as Senator Council correctly stated, has had a leadership role in the nation on this issue and so I'm certain that they will be engaged. I'm not sure they're actually specifically mentioned. [LB1145]

SENATOR SULLIVAN: I didn't see that they were. That's why I was asking the question. [LB1145]

SENATOR ASHFORD: I don't think they're specifically mentioned but we can...I can't...they're not mentioned specifically. It's more of a, as you suggest, it's more of a...the county attorneys and public officials. But I think that the university would play a major role in this. [LB1145]

SENATOR SULLIVAN: Also, I noticed on the committee statement that the Omaha Police Department and the Nebraska Catholic Conference testified in a neutral capacity. Any...can you shed any light on their comments? [LB1145]

SENATOR ASHFORD: I can tell you the Omaha Police Division came in and gave us...it was more informational than it was anything else. And also the Catholic Conference certainly acknowledged the gravity of the problem. I don't recall specifically without looking but I don't recall any opposition at all to the bill. [LB1145]

SENATOR SULLIVAN: Thank you, Senator Ashford. Again, as I said, I'm in strong support of this and I think the structure of the task force and ultimately will probably produce some future legislation that we'll be dealing with, so that's a good thing. Thank you. [LB1145]

SENATOR GLOOR: Thank you, Senator Sullivan. Senator Price, you are recognized. [LB1145]

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SENATOR PRICE: Thank you, Mr. President and members of the body. Would Senator Ashford yield to a question, please? [LB1145]

SENATOR GLOOR: Senator Ashford, would you yield? [LB1145]

SENATOR ASHFORD: Yes. [LB1145]

SENATOR PRICE: Thank you, Senator Ashford. I rise in strong support of what we're trying to do here. I did have just one question. In looking the bill over, I see where we talk about later on in the drafted amendment that we will have someone teach all the coursework to learn the applicable laws at the federal level. [LB1145]

SENATOR ASHFORD: Yes. [LB1145]

SENATOR PRICE: But I didn't see in there how or does there need to be linkages for the state to have a relationship with that committee and federal agency. So I'm sure that sheriffs and county attorneys have the ability to interface with the federal level, but seeing how we're creating this and it's our creature, so to speak, shall we build into this linkages to work directly with federal agencies so we don't have a barrier for...because timing is very important in this. It's my understanding from reading that when people believe that someone has either given them up or that they're going to be made, that they move these individuals rather quickly. And so I would hate to have the period in the opportunity or the window of opportunity to catch the individuals who are perpetrating this heinous crime to get away because we're looking for a permission to get ahold of someone from Homeland Security or to whomever a federal agency task force might be with. [LB1145]

SENATOR ASHFORD: Well, you're absolutely right. And the task force is...certainly the intent of the amendment is to establish the task force as the entity that will interface with the federal agencies, FBI, TSA, whomever it is, to monitor this situation and to gain information about programs and projects that have been undertaken in Nebraska by federal authorities and also get into the actual case-by-case studies of what's going on in Nebraska as it relates to the federal side of this effort. So that's the intent. I'll look back over it, Senator Price, to see if there needs to be some additional language that would put that interface more into play here. [LB1145]

SENATOR PRICE: What I was hoping maybe we could investigate is that you would put an ad hoc type or... [LB1145]

SENATOR ASHFORD: Right. [LB1145]

SENATOR PRICE: ...an advisory position so that these people, you know, when I work with the disaster planning groups across the state, you know, we want to make sure that

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there's a chair at the table already, that we know how to wire them up for sound, so to speak, when they come in, it's a seamless integration, and that we can go ahead. And those entities I'm sure again, when we talk about the sheriffs, they have a great amount of knowledge in interfacing with the federals, as does the Attorney General and the district attorney, but still being said, if we have something on that called out in legislation, that only facilitates it and I think that would be value added. [LB1145]

SENATOR ASHFORD: Thanks, and we will definitely look at that. [LB1145]

SENATOR PRICE: Thank you very much, Senator Ashford. Thank you, Mr. President. [LB1145]

SENATOR GLOOR: Thank you, Senator Price and Senator Ashford. Senator Carlson, you are recognized. [LB1145]

SENATOR CARLSON: Mr. President and members of the Legislature, I stand in support of LB1145 and the underlying amendment. When you think in terms of human trafficking a couple of different thoughts can come to mind. Certainly there are individuals that are in the midst of this by their own choosing. They've made bad choices. But when I think of human trafficking, I think of slave trade. And I've talked before on this mike that one of the catastrophes in the history of our nation was slavery. Human trafficking is a form of slavery to many of the young people that are caught in it. They may have made bad choices by friends, but they're not necessarily continuing in the act of what they're doing by choice. They become slaves and they are bought and sold just as slavery used to be. I can guarantee that every one of us, if it was our daughter that was in this predicament, to each one of us it really wouldn't matter whether it was by choice or not. But if it wasn't by choice we would do everything that we could, we would spend every dollar that we could get our hands on, including our own, to try and rescue our daughter out of that circumstance. This is the right effort. Initially, it's a drop in the bucket in order to solve the problem, but as we go forward and we have other bills and we try and make decisions about slicing the pie that include dollars for taking care of people in our citizenry that are in difficult situations, this is one that we need to pay attention to and we need to put some serious input into and see that there is success. But I am in support of LB1145 and the underlying amendment. Thank you. [LB1145]

SENATOR GLOOR: Thank you, Senator Carlson. Seeing no additional senators in the queue, Senator Ashford, you're recognized to close on the committee amendment, AM2387. [LB1145]

SENATOR ASHFORD: Thank you, Mr. President. And, of course, thanks to everyone who has spoken on this bill and this amendment. Senator, again, thanks to Senator Christensen for his commitment to the issue and, of course, Senator McGill and Senator

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Council who have taken on the committee, taken very active roles in trying to understand this issue. I think one of the...and I was struck by what Senator Carlson just mentioned about these young people becoming victims of a nefarious criminal activity that is...that has infected our society, globally and in our state. And one of the criteria of the commission is to think about changing how we think about young girls, young boys who are victims of this. And in (f) it says, "The necessity of treating victims of human trafficking as crime victims." These young people are victims and by enhancing the penalty...it is unbelievable to me that we're still, as of now, we've been treating pimping or pandering as a misdemeanor. It's egregious that we've done that and I'm sure many other states are in the same place. But making this a felony and a Class III felony for subsequent offenses we're beginning to not only shine a light on the problem, as we're doing with the task force, but we are making this a serious criminal offense. It is, Senator Carlson is absolutely correct, this is slavery. It's modern, twenty-first century slavery. The article I handed out talks about the backstage Web...Backpage Web site which unbelievably is owned by the Village Voice. In my youth, the Village Voice was always known as a progressive newspaper that called for change, especially as it related to treatment of women, and they happen to own the largest...the Web site that provides, you know, these sort of pimping services on-line and makes up 70 percent of the on-line purchasing of young girls, for God's sake, excuse my French. So this is nefarious, it's ubiquitous, it is horrific, it is twenty-first century slavery. We are making a good start here. We know we have the commitment of the law enforcement agency. Senator Price has made a great suggestion that we may be more directly interfaced with the federal side of this issue, enforcement side. But with that, I urge the adoption of AM2387 and the advancement of LB1145. Thank you. [LB1145]

SENATOR GLOOR: Thank you, Senator Ashford. The question is, shall the committee amendment to LB1145 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB1145]

CLERK: 35 ayes, 0 nays on adoption of committee amendments. [LB1145]

SENATOR GLOOR: The amendment is adopted. [LB1145]

CLERK: I have nothing further on the bill, Mr. President. [LB1145]

SENATOR GLOOR: Seeing no senators wishing to speak, Senator Ashford, you're recognized to close on LB1145. Senator Ashford waives. The question is the advancement of LB1145 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB1145]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB1145. [LB1145]

SENATOR GLOOR: The bill advances. Items for the record, Mr. Clerk? [LB1145]

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CLERK: Thank you, Mr. President. Hearing notice from General Affairs regarding a confirmation hearing. And Senator Avery offers LR512, a study resolution; that will be referred to the Reference Committee. That's all that I had, Mr. President. (Legislative Journal pages 1040-1041.) [LR512]

SENATOR GLOOR: Thank you, Mr. Clerk. Continuing with General File, LB715. Mr. Clerk. [LB715]

CLERK: LB715, a bill by Senator Fischer. (Read title.) Introduced on January 4, referred to the Transportation and Telecommunications Committee, advanced to General File. There are committee amendments, Mr. President. (AM2000, Legislative Journal page 551.) [LB715]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Fischer, you're recognized to open on LB715. [LB715]

SENATOR FISCHER: Thank you, Mr. President and members of the body. In a large geographic state with a sparse population, broadband has become a necessity to Nebraska. While strides have been made in this area, there is still work left to be done that ensures that all Nebraskans have access to high-speed broadband service. This bill is a small step towards that goal. LB715 will modify the statutes that allow a telephone customer of one local telephone company to seek a change in the exchange boundary so that the customer can receive broadband service from a telephone company in an adjacent exchange. The state has experienced situations where a customer on one side of a boundary line receives high-speed broadband with one provider while the provider on the other side of the boundary line does not offer broadband to another customer. Although these two customers live in close proximity to each other, the one with inadequate service is being held hostage by the outdated statute from receiving broadband from the provider on the other side of that boundary line. Under the current statutory process, when one company objects to the customer's request for a boundary change, the commission--and that's the Public Service Commission--can only order the change based upon the quality of the voice grade service the customer is receiving. Broadband accessibility can have no bearing on the commission's decision. When the boundary change statutes were originally enacted in 1969, voice service was the primary offering of a telephone company. Today these statutes are outdated. Due to universal service and technological advances, voice service is no longer the primary service many Nebraskans want. Broadband is the service customers want, and in many rural areas it is not available. LB715 updates the boundary change provisions so that an application for a change is based on broadband service and whether the change will afford the applicant broadband service that is not currently available to him or her. The bill is competitively neutral and equally applies to large and small companies. The bill only addresses broadband services offered by landline telecommunication companies

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under the jurisdiction of the Public Service Commission. It is not intended and does not impact other companies who may be providing wireless service or local services not using their own facilities. It expands the commission's jurisdiction in a very narrow sense to satisfy the sporadic occurrences when one telecommunications company cannot provide the broadband to a customer, and a nearby local telecommunications company is willing and able to provide the service to the customer. Thank you, Mr. President. [LB715]

SENATOR GLOOR: Thank you, Senator Fischer. As the Clerk stated, there are amendments from the Transportation and Telecommunications Committee. As Chair of that committee, Senator Fischer, you're recognized to open on the committee amendment. [LB715]

SENATOR FISCHER: Thank you, Mr. President and colleagues. The committee amendment, AM2000, makes clarifying language changes to the bill. These changes were done in conjunction with the Public Service Commission and members of the industry that have concerns with the bill. First, the definition of advanced telecommunications capability service is altered to make it clearer that it only pertains to service provided by a local exchange carrier. Second, the amendment provides a new subsection (3) of Section 4 to require the commission to take into account the effect on the telecommunications company and consider each applicant separately when more than one customer is requesting a boundary change. Finally, the amendment adds language to Section 5 to ensure that the evidence of a technological and engineering burden on the affected telecommunications company will be taken into account when the commission is deciding to grant an application. Thank you, Mr. President. [LB715]

SENATOR GLOOR: Thank you, Senator Fischer. Members, you've heard the opening on LB715 and the committee amendment AM2000. We now move to discussion. Are there senators who wish to be recognized? Seeing none, Senator Fischer, you're recognized to close on the committee amendment. Senator Fischer waives. The question before the body is, shall the committee amendment to LB715 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB715]

ASSISTANT CLERK: 30 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB715]

SENATOR GLOOR: The amendment is adopted. We now move to discussion on LB715. Senator Schumacher. [LB715]

SENATOR SCHUMACHER: I move to reconsider the vote on LB715. I had my light on just as you spoke. I think there are several very important issues that need to be examined in the context of the Universal Service Fund, and I would move that we

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reconsider that vote. [LB715]

SENATOR GLOOR: Mr. Clerk. [LB715]

ASSISTANT CLERK: Mr. President, Senator Schumacher would move to reconsider the vote taken on AM2000. [LB715]

SENATOR GLOOR: Senator Schumacher, you're recognized to open on your motion to reconsider. [LB715]

SENATOR SCHUMACHER: Thank you, Mr. Chairman, members of the body. Perhaps I should learn to push my light a little bit quicker, but I thought I had it on in time. There's several issues in this bill that we just passed without any debate that are very important. The object of the game is to have service to all Nebraskans, and we supposedly have a fund that provides for service for all Nebraskans. I point out these problems with the existing bill so that we might want to reconsider the thing at this particular point and raise the issues accordingly. For example, on page 2, Section 3, it talks in terms of, "Advanced telecommunications capability service means high-speed, switched, broadband." Now the incumbent local telephone companies have a technology going out of style rapidly called switched technology. The only possible reason for that word to be in there is to somehow create an anticompetitive advantage. I think I can show on, if we reconsider this, that packeted technology is what is used for broadband, not switched technology, and that word doesn't belong there. Next, page 2, line 18, it says that the person who doesn't have broadband may file with the commission an application to have service furnished by a telecommunications company that is adjacent to the one that isn't providing it service. I think that's anticompetitive. It's restricting the market. There's no reason to restrict the market, and that should say "by any telecommunications company." That isn't harmed because this application goes to the Public Service Commission for consideration. It doesn't have to accept the application but may accept it. So if there's an unreasonable request from any communications company, the Public Service Commission can reject it. We can also go on and look at page 4 where it says that the applicant has got to be willing to pay for the construction costs as are fair and reasonable and willing to reimburse the affected communications company--That's the one who's not going to provide them service?--for any necessary loss of undepreciated investment. So we're going to be paying...the applicant has got to pay to the phone company, who won't provide them service, money as a condition of getting service, and pay for a dead line that's going to lay in the ground, and also they've got to pay for the service and negotiate the service, in that same paragraph. What do we have this tremendous Nebraska Universal Service Fund for? Instead of the applicant, the poor rancher or farmer out there who can't get service have to dig into their pocket to get what the neighbor across the street has. Why don't we use this \$20 million or whatever the current balance is, and \$50 million, \$60 million collected a year in the Universal Service Fund to put that wire in? And only if that fund is at zero should

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the applicant have to pay anything. I think that there's merit to reconsidering this. I was in the process of filing a number of floor amendments to discuss this issue, this idea of the Universal Service Fund not being used here, this thing with a constricted technical language which basically says we play in the sandbox of the 40 phone companies whose structure is antiquated based on something that occurred in technology in the 1920s is simply wrong. If a rancher needs service, then, by gosh, that's what the Universal Service Fund is for. And we should take out of here the spin that favors incumbent telephone companies and opens it up to all competition, to common sense, to packeted technology, and to a proper application of our resources, so maybe at some point in the future we can have a telecommunications system that's designed on modern technology and provided by service providers who, in fact, are able to do so in a way consistent with the future instead of shackled by the past. Thank you, Mr. Chairman. [LB715]

SENATOR GLOOR: Thank you, Senator Schumacher. Members, you've heard the opening on the motion to reconsider AM2000. We now move to floor debate. Senator Fischer, you are recognized. [LB715]

SENATOR FISCHER: Thank you, Mr. President and members of the body. I would ask you to vote no on this motion to reconsider. Senator Schumacher and I have had a discussion earlier this morning, and his first point that he brought up, which is on page 2, in Section 3 of the bill dealing with the word "switched," we can take that word out. There's no problem with that, but we can do that with an amendment on Select File. To the broader question of Senator Schumacher discussing policy issues, I don't believe having a motion to reconsider the amendment that we just passed is necessary for that. We can have that discussion on the bill itself, and so I would ask you to vote no on the motion to reconsider. Thank you, Mr. President. [LB715]

SENATOR GLOOR: Are there other senators wishing to be recognized? Seeing none, Senator Schumacher, you are recognized. [LB715]

SENATOR SCHUMACHER: As long as we can have this discussion on the bill itself, I'll withdraw the motion. [LB715]

SENATOR GLOOR: Are there any objections? So ordered. Members, we continue debate on LB715. Are there senators wishing to be recognized? Senator Schumacher, would you...you are recognized. [LB715]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. At this time...at this time, the Clerk is entering some floor amendments to this particular bill so we can have a debate on the specific issues of this thing. Yes, these are policy issues, and yes, we are using tremendous resources to the extent of \$50 million a year from the highest, the highest tax or assessment in the United States for such purposes, paid by

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even the poorest of Nebraskans in an amount equal to the tremendous tax cut we had--but we don't want to cut that. So by gosh, these series of amendments that I'm going to be filing at this particular time is designed to see if this Universal Service Fund is going to be available for universal service or whether or not it's going to just be another fund to supplement antiquated local exchange carriers who are now being superseded by cable companies, by wireless companies, by AT&T, Verizon, and all of those. So one at a time we will go through these procedures. The first amendment that, floor amendment, will strike the word "switched" technology which has no place in the bill and we'll move on to two other floor amendments, one of which will require the Universal Service Fund to be first used to pay for the installation of this particular infrastructure, and only when it's empty does a rancher or the farmer have to pay for it, and take out the provision that the rancher or the farmer has got to be willing to pay for a dead wire laying in the ground to the phone company who won't provide them service. And another one will let any telecommunication service or provider provide the service to the customer provided that the Public Service agrees that it's the proper thing to do and it can be cost-effective in doing that. Thank you, Mr. President. [LB715]

SENATOR GLOOR: Thank you, Senator Schumacher. (Visitors introduced.) Mr. Clerk for an amendment. [LB715]

CLERK: Mr. President, Senator Schumacher would move to amend the bill with FA59. (Legislative Journal page 1041.) [LB715]

SENATOR GLOOR: Senator Schumacher, you're recognized to open with FA59. [LB715]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. We're going to play telephone company and communications technology for just a little bit here. In the old world, the one to which the incumbent telephone companies remain married, because it's profitable, there was...telephone was done like Thomas Edison did it. There was a wire, some electricity on the wire. You talked into a microphone and then it went...closed the circuit, just like when you flick the light switch, to hit the earphone on the other side. At a point you wanted different people to be able to talk, and so old Mary sat in the telephone office switching your wire to that guy's wire to make the connection--switch technology. Later on, that connection was made through mechanical switches that did the same thing, and the technology evolved on. Well, the problem with switch technology, as is required in the present bill, is that the line is always in use for that one single call. Well, then when Al Gore got around to inventing the Internet, things changed. And the lines were always there, always active, like the railroad system, and when somebody wanted to use and pass information, it was packed onto a railroad car and sent down the railroad track with an address on the end. You may have heard the term "IP" addresses. And that packeted technology enables very high-speed broadband. It enables all kinds of things besides sound to be passed down a wire, a

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fiberoptic cable, a wireless connection. For the life of me, I don't know why in this particular piece of legislation it is limited to the technology still most in use by the old phone companies: switched technology. I think that word should be stricken. It adds nothing to the bill except maybe giving some competitive edge to a special interest class of telephone companies. And so this is a very simple amendment. It strikes the word "switched," so that the modern packeted technology can apply to the broadband that rancher is going to get, as well as the old "hackable" switched technology that is on the way out. That's this particular amendment. Without...by leaving "switched" in there, this poor rancher is going to be married to something that is long the dinosaur. Thank you, Mr. President. [LB715]

SENATOR GLOOR: Thank you, Senator Schumacher. Members, you've heard the opening on FA59. We now move to debate. Senator Fischer, you are recognized. [LB715]

SENATOR FISCHER: Thank you, Mr. President and members. I do accept Senator Schumacher's amendment to take out the word "switched," even though I don't necessarily agree with him that this poor old rancher is going to be stuck with something. But I would urge you to vote yes on this floor amendment. Thank you, Mr. President. [LB715]

SENATOR GLOOR: Thank you, Senator Fischer. Are there other senators wishing to be recognized? Seeing none, the question is, shall the floor amendment to LB715 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB715]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Schumacher's FA59. [LB715]

SENATOR GLOOR: The amendment is adopted. (Doctor of the day introduced.) Mr. Clerk. [LB715]

CLERK: Mr. President, Senator Schumacher would move to amend the bill with FA60. (Legislative Journal page 1041.) [LB715]

SENATOR GLOOR: Senator Schumacher, you are recognized to open on FA60, and my apologies for not allowing you to close on the last floor amendment. [LB715]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Of my three floor amendments, this is the most meaty. Now let me recount some history with you as to why it is, I think, appropriate to make this amendment. In 1996, something fairly significant happened in the world of telecommunications. The federal government passed the Communications (sic--Telecommunications) Act of 1996, and it opened up

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the world to competition. One of the things that had been impeding competition up to that point was a technique employed by many local telephone companies to overcharge tremendously on long distance rates in order to make money for their companies and to provide their local service. The federal Congress said, no; if you're going to do any of this overcharging, if you're going to have any kind of subsidy, you've got to put it out front where the people can see it on their bills. The phone companies convinced the Legislature, even though they knew the age of cellular and the age of broadband was about to emerge, a piece of legislation called the Nebraska Universal Service Fund, which said the phone companies would have to contribute to a fund in order so that everybody could have universal service. Well, as a legislator you read that and you said, hey, sounds good to me, because somebody making a call in Omaha and wants to call Hemingford should, should have phone companies, they should work that out and pay the fees back and forth. Well, the phone companies then raced off to the Public Service Commission and said, oh, my gosh, you can't expect us to pay this; we need to pass it on to our consumers; and oh, by the way, we need 6.95 percent, the highest in the nation, to do it because we can. And that money largely only went to them. It did not go to the newer technologies that were developing. It was a self-associated little club. But its purpose was initially so that 96 percent of Nebraskans would have a landline, something everyone knew was going out of style anyway. And now gradually, over time, with incremental little amendments, that has become broadband. But the one thing that's remained consistent is that the incumbent local phone companies have the edge to the money and their competitors do not. Now we have problems because since they're now in control of most everything in rural Nebraska, they don't have to act very fast and they can let a rancher out in Timbuktu, 20 miles from someplace, do without, because there's no competitive heat for that rancher. Here comes this particular bill. This particular bill says that if the rancher wants to, he can apply for a line to be put in from another company that may be willing to serve him provided that he's willing to pay for the cost of that line and provided he is willing to pay the phone company who won't provide him service for the wire that's now going to lay dead, because that phone company won't trench in broadband to him. This particular amendment says this: It says that, first of all, there's no money for your dead wire, for your undepreciated investment in the infrastructure that's no longer going to be used by the first phone company; secondly, that if there is going to be cost of trenching in wire or fiber or radio waves or whatever to that particular ranch, it's going to first be paid out of the Universal Service Fund rather than out of that rancher's pocket. And only when that fund is empty is there going to have to be some negotiation with the rancher. Now all this does have the implication of how we ultimately are going to do telecommunications in this state. And I'll be quite frank with you, the smart way to do it is to move into the next century here and use our public service...or public power company. But that's a debate for another day. At any rate, this says that rancher shouldn't have to pay. That rancher should be able to dip into the fund that was designed to give him the same service as everybody else. What good is a fund if it's just a play fund for the phone companies to enhance their profits, which if you check with the Public Service Commission, pays some pretty hefty

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dividends and salaries, even the little ones. So this says this: You don't have to pay for the dead wire and Universal Service Fund money, \$20 million, or balance now, \$50 million collected a year, should go to pay for those wires, and only then should the rancher have to dig into his pocket. It's a simple amendment but it does put a bite on the system because it puts that Universal Service Fund to use to bring direct service to people rather than just pad budgets and phone companies. Thank you, Mr. President. [LB715]

SENATOR GLOOR: Thank you, Senator Schumacher. (Visitors introduced.) Members, you've heard the opening on FA60. We now move to floor debate. Senator Fischer, you are recognized. [LB715]

SENATOR FISCHER: Thank you, Mr. President and members. I'm still looking at the amendment, Senator Schumacher, but I'll give you a chance to catch your breath so you can keep talking then. I do have a question for you, though, if Senator Schumacher would yield, please. [LB715]

SENATOR GLOOR: Senator Schumacher, would you yield? [LB715]

SENATOR SCHUMACHER: Yes, I will. But I thought I was going to catch my breath. (Laugh) [LB715]

SENATOR FISCHER: You can answer questions. We won't go back and forth too much here. Is the intent of this amendment to make sure that voice grade service remains the priority and will be satisfied first? [LB715]

SENATOR SCHUMACHER: I'm sorry, there was just enough of an echo that I didn't hear your question, Senator. [LB715]

SENATOR FISCHER: What is the intent of your amendment? Is it that voice grade service be satisfied first? Is that still going to be the priority in this policy discussion we're having? [LB715]

SENATOR SCHUMACHER: The intent...first of all, voice grade service is something that nobody should invest very much in at all, because voice grade service to the extent you lay out copper wire for voice grade service, or even fiber and then copper wire, you're investing in a dead horse. And voice grade is a switched service that's going away. Voice in the future will be done over broadband just like video is done over broadband, Internet, and everything else. So the intent is that, just as the recent history of this Universal Service Fund legislation has been to move away, in fact, they struck out the goal of 96 percent of the people connected to an old piece of copper and now have been using broadband, so broadband takes precedent over old switched wire. [LB715]

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SENATOR FISCHER: But it's always been the policy priority in the state of Nebraska that all of our citizens have access to affordable phone service, that they...that no matter where they live in this state, every Nebraskan has a right to a landline. Are you looking to expand that to require that every citizen have a right to broadband or other services that are out there? [LB715]

SENATOR SCHUMACHER: Senator, that expansion has been done. If you look at the recent history of the Universal Service Fund legislation, it has changed. You won't find the old goal of 96 percent of the people connected to broadband...or to a phone service being there anymore. [LB715]

SENATOR FISCHER: But, Senator... [LB715]

SENATOR SCHUMACHER: It's gone. [LB715]

SENATOR FISCHER: But, Senator, the Public Service Commission and the federal government are just currently moving in that direction, and that's one of the purposes for this bill is to take another step in that direction. [LB715]

SENATOR SCHUMACHER: And this is the... [LB715]

SENATOR FISCHER: I don't believe we are there yet, and I believe this bill is a step to get us there. [LB715]

SENATOR SCHUMACHER: And...is that a question? [LB715]

SENATOR FISCHER: Yes, you may comment. [LB715]

SENATOR SCHUMACHER: And this amendment is a step to get us farther. [LB715]

SENATOR FISCHER: If you would like the rest of my time, Senator Schumacher, I will be happy to yield it to you while I continue to look at your amendment. Thank you. [LB715]

SENATOR GLOOR: One minute and thirty-eight seconds, Senator Schumacher. [LB715]

SENATOR SCHUMACHER: Thank you for the time, Senator Fischer. This particular amendment is in tune with the future. It is also in tune with the amended and re-amended purposes of the Nebraska Universal Service Fund. If you look in there, it doesn't talk of landlines anymore. It talks of advanced services. Advanced services is a code word for broadband. That's what's in there now. What this particular thing says is

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that our goal of providing advanced services... [LB715]

SENATOR GLOOR: One minute. [LB715]

SENATOR SCHUMACHER: ...to every Nebraskan is going to be heated up. And if people don't have advanced services, they can turn the heat up on the local phone company to dip into the Universal Service Fund in order to get that piece of fiber or that radio wave or whatever it's going to take to get wire to them. Now that's going to have a tremendous effect on the old landline companies who suddenly, since they got rid of a lot of their competitors, are sitting on their hands now, gradually sucking out the money and leaving those ranchers swaying in the wind. This is a good amendment. And what it does, it says: Let the Universal Service Fund go to work, and if it can't go to work for the people who need the service, then maybe we should consider getting rid of it. Thank you, Mr. President. [LB715]

SENATOR GLOOR: Thank you, Senator Schumacher and Senator Fischer. (Visitors introduced.) We continue with floor debate. Senator Ken Haar, you are recognized. [LB715]

SENATOR HAAR: Mr. President and members of the body, I live out by Branched Oak Lake, and as such we have telephone service, of course, and I have DSL, but at night...and it's part of a package. It's all bundled together. And at night DSL slows down so that it takes me five minutes to get onto Hotmail. Okay. So I've finally gone to another service. There's a local company that bounces signals off of the water towers, and so I get my signal bounced off the water tower in Malcolm. So I called up to get rid of the DSL that isn't working, and was told that it's just free, it's part of the package, and if I want to get long distance, unlimited long distance and stuff, I have to buy the package that includes a DSL that really doesn't work very well after 6:00 p.m. Does your bill do anything with that, Senator Schumacher? [LB715]

SENATOR GLOOR: Senator Schumacher, would you yield? [LB715]

SENATOR SCHUMACHER: This particular bill does not involve the practice, an anticompetitive practice that the incumbent companies use to try to keep people from going to cable, going to alternative providers who may want to hang on to that old piece of wire or telephone because maybe their mother or somebody has their telephone number and they don't have good cell service at that particular location. So the phone company then says, oh, guess what? You're going to have to bundle, and when you bundle you get it all whether you want it or not, and even though the service isn't so hot. This particular piece of legislation today, this floor amendment does not go so far to address the issue and whether or not that anticompetitive practice of bundling and saddling people with a bundle is proper and whether or not it should be outlawed too. [LB715]

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SENATOR HAAR: Okay, thank you very much. And when I went to unbundle my service, then I have to start paying by per long-distance phone call and I have to pay for a phone call into Lincoln, and etcetera, etcetera. And it would cost me more to unbundle than to get the free Internet service, the DSL that doesn't work after 6:00 p.m. So is there a possibility then for another...for a remedy, a legal remedy to this one, in your mind, perhaps next year? [LB715]

SENATOR SCHUMACHER: Senator Haar, I think that perhaps next year we should look at looking at what telecommunications should become and how we should properly design a telecommunications company that's not saddled with an architecture that's 70 years old at the present time. Bundling is just a mechanism to keep the customer tied down. Hopefully, this won't do it because you already have cellular service, and this addresses the rancher with no service, not the issue of cellular service. [LB715]

SENATOR HAAR: And then finally my question, Senator Schumacher, because I think you're bringing up a really important issue as we move into the future, could the universal...and I've been told that the reason my DSL is so slow after 6:00 p.m. is that there isn't a sufficient wire run out there. Could the Universal Service Fund be used to upgrade that DSL? [LB715]

SENATOR SCHUMACHER: The Universal Service Fund's stated purpose is to give everybody advanced service. As a practical matter, the architecture of the old phone companies... [LB715]

SENATOR GLOOR: One minute. [LB715]

SENATOR SCHUMACHER: ...make that very costly to do. It could be used to that, but I think there's better ways than the Universal Service Fund to get you service that's decent. Fortunately now, somebody who doesn't probably get a nickel in Universal Service Fund is giving you service off that water tower. [LB715]

SENATOR HAAR: Okay. Thank you very much, and I hope I can work with you to pursue these issues which not only affect ranchers but affect those of us who live 18 miles from Lincoln. Thank you. [LB715]

SENATOR GLOOR: Thank you, Senators Haar and Schumacher. Senator Flood for a Speaker's announcement. [LB715]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. A couple of notes on scheduling that I think you'll find important: We are going to recess for lunch today at 11:30. I would encourage members to stay as we'll be honoring former members of the Nebraska Legislature, as is our custom. That will start immediately

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upon recess at 11:30, and we'll conclude well before the noonhour. In addition, I am not...I am going to cancel dinner for tonight. We may work close to the dinner hour but we have been working...we worked two nights late this week. I wanted to give you as much advanced notice as possible. We are starting consent calendar tomorrow morning at 8:00 a.m., and my plan is to go somewhere between 2:00 and 2:15 tomorrow afternoon. There are 60 bills. It's consent calendar. I don't know if I'm going to revisit consent calendar on General after tomorrow. Let's get to work. Let's get here at 8:00 and make sure we get our quorum checked in as soon as possible so that we can start the process, because if you're on the list I'm sure you want your bill heard. So if there are any amendments, please visit with members about those amendments today. I again anticipate starting at 8:00 a.m. tomorrow and working until around 2:00, and then we'll be done with consent calendar on General File wherever we end. So let's work our best and see how we can do that. So again, I'm canceling dinner for tonight. It doesn't mean we won't work past 6:00, but hopefully we can finish it up, get people a good night's sleep, and then tomorrow I know some folks need to get on the road, so I'm kind of looking at that 2:00 time frame. Thank you very much.

SENATOR GLOOR: Thank you, Mr. Speaker. Continuing with floor debate on FA60. Senator Sullivan, you are recognized. [LB715]

SENATOR SULLIVAN: Thank you, Mr. President. This is a good education this morning, and I know Senator Schumacher has presented us with some ideas and some good thoughts, and to that end I'd like to ask him some questions if he would yield. [LB715]

SENATOR GLOOR: Senator Schumacher, would you yield? [LB715]

SENATOR SCHUMACHER: Yes, I will. [LB715]

SENATOR SULLIVAN: Thank you, Senator. As I listened to you talk several different times about what seems to be a hot-button issue with you, the Universal Service Fund, tell me in your estimation how you feel those funds are either not appropriately being used or not being used. [LB715]

SENATOR SCHUMACHER: In my estimation, first of all, there's \$20 million sitting there that's available for these ranchers. That fund is not being used. The Public Service Commission increasingly tries to extend these highest-in-the-nation rates to other services like cellular services or anything to bring more money into that fund. Now what that does is it enables basically the incumbent 40 or so local phone companies to go submit an application, saying we've got a project; give us money for this, that, or the other thing. Those projects lots of times are done in-house or with affiliates or on a way to maybe lay a piece of fiber, but knowing--or a switch on the end or maybe some broadband connections--knowing that there's no heat on them. They do it really slow so

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that money keeps flowing and flowing. And they do it really expensively, not using the most efficient ways to bring technology. They also can use that fund to up their internal value, and then when they sell themselves to another company, turn that money into cash that goes into their own pocket. Even some of that, the toys, the switches, the equipment, the revenue that Nebraska "gravies" to these phone companies can be diverted to their other states which don't have such a gravy program. [LB715]

SENATOR SULLIVAN: Okay. I don't mean to interrupt you, Senator Schumacher, but this is going to be probably an ongoing discussion, and in the fairness of compromise and also to get the full picture I'd also like to ask Senator Fischer if she would yield. [LB715]

SENATOR GLOOR: Senator Fischer, would you yield? [LB715]

SENATOR FISCHER: Yes, I will. [LB715]

SENATOR SULLIVAN: Thank you, Senator Fischer. I've trusted your vision and your work on the Transportation and Telecommunications Committee, and I'm sure that you've looked at the Universal Service Fund as well. So what is your opinion in terms of how it is currently being used and...or perhaps underutilized? [LB715]

SENATOR FISCHER: Well, I disagree with Senator Schumacher, obviously, on the Universal Service Fund. Its purpose was to provide services for all Nebraskans as I stated earlier. We see the Public Service Commission now moving towards broadband. But one thing I think we all need to realize is that there are service areas that companies have to provide service in. They make investments and they've made those investments in the past. When you make a wireless call, it doesn't just fly through the air. It uses a landline to get there. I think the fund has been good for all Nebraskans. I think it has been a good example that Nebraska was in the forefront in establishing it. You know, sometimes we hear on the floor that our rates are high and it's because of that darn Universal Service Fund. Well, you know, other states, they have implicit charges, and if you look through all that you will see it. They have access charges. It's not open and accountable and transparent to their customers. In Nebraska we are, and that's due to us setting up a Universal Service Fund which I believe is a model for the country. [LB715]

SENATOR GLOOR: One minute. [LB715]

SENATOR SULLIVAN: Thank you, Senator Fischer. Well, I think this discussion is good. It appears to me that we're sort of potentially at the crossroads where we had something put in place, the USF that I firmly believe in, because it has brought telecommunication services to rural Nebraska. We're...it's at the crossroads because we are entering this new era of technology in telecommunications, and so perhaps it is time

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to look more carefully at it. But we want to be cautious about not throwing the baby out with the bathwater. Thank you. [LB715]

SENATOR GLOOR: Thank you, Senator Sullivan, Senator Schumacher, and Senator Fischer. Senator Fischer, you are next in the queue and recognized. [LB715]

SENATOR FISCHER: Thank you, Mr. President and members. And thank you, Senator Sullivan, for your words. I'm trying to save that baby. You know, this is a good policy discussion and not many folks understand what the Universal Service Fund does. And I'm not sure if I understand, yet, Senator Schumacher's amendment, so would he yield for a question, please? [LB715]

SENATOR GLOOR: Senator Schumacher, would you yield? [LB715]

SENATOR SCHUMACHER: Yes, I will. [LB715]

SENATOR FISCHER: Thank you, Senator. If I am reading your amendment correctly, I'm trying to understand not only the intent but what it truly does. Instead of paying companies...or instead of a company now paying to put in that construction for broadband, your amendment would have the new company being paid by the Universal Service Fund for that. Is that what your amendment is doing? [LB715]

SENATOR SCHUMACHER: Exactly. It turns up the heat on the first company to get the job done. [LB715]

SENATOR FISCHER: I...okay, thank you, Senator Schumacher. I appreciate that. I will have to oppose this amendment if that is the purpose of it, because the companies currently are doing that. And under this bill when we worked with the Public Service Commission, when we worked with the telephone companies on this bill, those companies...the new companies that would be affected by this boundary change bill are willing to step up and assume those costs. I do not believe it is a good policy change here to have Universal Service Funds be used for that purpose when we have private companies who have agreed to do so on their own. With that, Mr. President, I would ask for a no vote on this floor amendment. It is a big policy switch. I don't think a decision should be made on it at this time to approve it. And as I said, the companies have agreed that they will pay the cost, and at any time I would rather have private industry pay the cost than Universal Service Fund. Thank you. [LB715]

SENATOR GLOOR: Thank you, Senator Fischer and Senator Schumacher. The Chair recognizes Senator Avery. [LB715]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. I wonder if Senator Schumacher would yield to a question. [LB715]

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SENATOR GLOOR: Would you yield, Senator Schumacher? [LB715]

SENATOR SCHUMACHER: Yes, I will. [LB715]

SENATOR AVERY: Thank you, Senator Schumacher. Senator Fischer just said this is a policy change, and I'm having a hard time understanding how that can be so. Would you please explain how this is a policy change or whether it is? [LB715]

SENATOR SCHUMACHER: Well, I suppose it's like anything else, it's what direction you look at it from. But our policy, if you read the Universal Service Fund Act, is to give every Nebraskan equal, comparable access to, quote, advanced services. That's exactly what this is designed to facilitate. And, in fact, it facilitates it better because the new phone company that Senator Fischer just talked about would probably be using a good chunk of Universal Service Funds to extend it at no cost if it's going to do it for no cost, which I doubt, otherwise they wouldn't have this thing written this way. [LB715]

SENATOR AVERY: Thank you. I'm reading here from the Public Service Commission's document entitled "Nebraska Telecommunication Infrastructure and Public Safety Department." They describe the Nebraska Telecommunications Universal Service Fund Act signed into law on September 13, 1997, as having the purpose of ensuring that all Nebraskans without regard to their location have comparable access to telecommunication services at affordable prices. I just looked at the current balance as of March 2 in the USF. It is \$21,034,126.90. That is not a small sum of money. It seems to me that there is plenty of money there to fund this amendment, which I intend to support. I do not think it's a policy change. If the Universal Service Fund has any purpose at all, it ought to be to fund projects of this sort. It seems to me that when the stated purpose of the fund is to provide services at affordable prices and you look at where we are in the country right now, we are number one in terms of the fees and taxes that we pay for telecom service in this state, number one. We outstrip all of our neighbors in terms of those fees and taxes. That is not an affordable situation. We're not abiding by the intent of the law as passed in 1997. If the intent was to provide affordable service at reasonable prices, we would seem to...it seems to me we're not doing that. Any of you in here who pay those fees know that when you look at your bill, if you can understand it at all, fee after fee after fee. And one of the most oppressive of those fees is, of course, this Universal Service Fund. If it's not to be used for purposes like this, then what is it used for? It seems to me that it's mostly a subsidy to the company. And every time there is a need to use it, we have to have a bill like this so they don't...they're not on the hook for it. I intend to vote for this and I hope you will too. Thank you, Mr. President. [LB715]

SENATOR GLOOR: Thank you, Senator Avery. Senators in the queue: Schumacher, Nelson, Fischer, and Ken Haar. Senator Schumacher, you are recognized. [LB715]

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SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Let me begin by addressing three points raised by Senator Fischer. Number one, she says we have this Universal Service Fund and it's so high because other states use implicit service...or implicit charges. Wrong. The 1996 federal Telecommunications Act prohibited implicit charges and said such charges should be explicit and specifically set out on the bill. We have explicit and so does everybody else. You know some of them admittedly have drug their feet, they're still there. Access charges, we don't have them we're told. Guess what, folks? Look at your phone bill. There's all kinds of access charges, the principal one of which is the federal access charge. Now one would think that the federal access charge is something that the darn federal government charges and makes you pay, and the federal government gets rich off of it. No. That federal access charge is an optional charge that goes direct into the phone companies. You see, the phone companies have figured out a cute way to raise their rates and raise the money they get from the customer by couching them and getting administrative and regulatory bodies to camouflage their particular fees. We have all the federal access charges that every other state has. Finally, the new technology, the one that most people are shifting to, cellular technology, as they abandon their landlines in droves we're told, use the local wire and this particular technology to...they go back to the landlines. Wrong again. What you find from AT&T and what you find from Verizon and the cellular carriers is they like to put up an antenna that broadcasts to a cellular area and carry it back over the wire to a wired system that's on their backbone. But guess what they're finding and have found consistently? The local phone company, funded by Universal Service Fund, tries to hold them up on fees for renting that piece of wire. So do you know what they're doing? They're putting up radio waves to connect their towers with radio waves to get around the expense and the anticompetitive nature of the local phone company who uses their subsidized infrastructure in order to try to hold up people that have to use it to pay. Well, fortunately, most of the cellular companies and the wireless companies have gotten smart and they've developed a wireless technology which may not be as good as fiber but nevertheless is adequate for cellular service. In fact, the only wireless operations that are (inaudible)...or I shouldn't say only because there's probably a few out there that would be not true on, but basically the wireless distributors for cellulators, if they're done by the local phone company, they use their own wire because they can use their own subsidized wire for free and make their competitors pay for it. Ladies and gentlemen, this is the kind of thing where we can do something here today. We can turn up the heat on those phone companies who are now sitting back, and slowly bleeding that Universal Service Fund, in luxury and not extending service to the ranchers and want to play back-and-forth to get money from somewhere for their...even payment for infrastructure they're never going to use again because it's being abandoned to the phone company on the other side of the line. We have an opportunity to turn the heat up on them and say, if you're going to want this Universal Service Fund intact then you're going to provide that service, and we're even going to, if necessary, give money to the guy across the street in order to provide that

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service if you won't do it. What we're trying...what this bill, like every other telecommunications bill, it tried to preserve these fiefdoms, the 40 fiefdoms that have evolved over time... [LB715]

SENATOR GLOOR: One minute. [LB715]

SENATOR SCHUMACHER: ...based upon how things were originally done, when it made sense to do it that way, way back when. And by the way, a lot of this is not private investment. You trace through the history of the phone companies, they have gotten so much of federal funding through I think they call it the RUS or something like that, and these particular funds and federal Universal Service Funds in which they have been distributed in an anticompetitive manner. Let's use this Universal Service Fund for its intention to bring a service to that rancher. There's no reason that rancher should have to pay a phone company for a wire that isn't used, pay another phone company to install a new wire while those phone companies suck down on the Universal Service Fund and other people don't have to pay in this state. This is a very poignant amendment. It says, let's use that fund and put the phone companies in competition to extend that service knowing that their gravy train will run dry or low if they don't do it. Thank you, Mr. President. [LB715]

SENATOR GLOOR: Thank you, Senator Schumacher. The Chair recognizes Senator Nelson. [LB715]

SENATOR NELSON: Thank you, Mr. President and members of the body. This is a pretty complex subject here, but I do have some questions for Senator Schumacher if he would yield. [LB715]

SENATOR GLOOR: Senator Schumacher, would you yield to questions from Senator Nelson? [LB715]

SENATOR SCHUMACHER: Yes, I will. [LB715]

SENATOR NELSON: If I understood...thank you, Senator. If I understood your most recent comment there is that this amendment of yours will give incentive to the telephone companies to go ahead and provide that service and not charge the rancher for the service or for the line that's gone dead. Is that a fair statement? [LB715]

SENATOR SCHUMACHER: Yes, Senator. Nothing makes a pig eat faster than another pig at the trough. [LB715]

SENATOR NELSON: Okay. So they would have an incentive to do this so as not to have to pay for it out of the Universal Service Fund. Was that correct? [LB715]

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SENATOR SCHUMACHER: They will see someone coming into their territory funded by the Universal Service Fund if they don't do it for their customer. [LB715]

SENATOR NELSON: All right. Why did they refuse to do this in the first place? I mean, that's a broad question. What are the reasons that companies don't want to go ahead and do this, and then it causes the rancher to go elsewhere? [LB715]

SENATOR SCHUMACHER: The reason that a phone company does not want to do it is, first of all, and primarily, it doesn't have to hurry up and do it under the present mechanism. There is no time line at which this rancher should get service. And so you do it slowly so every year you can claim you're on your way to helping him, just send another Universal Service Fund check. [LB715]

SENATOR NELSON: So the rancher, in desperation, so to speak, has made an application or does make an application to get this service from somebody else, so he doesn't get reimbursed for the line that isn't used anymore but he also...does he have to pay for the service from the company that he changes over to? [LB715]

SENATOR SCHUMACHER: Under this particular legislation, which at its core is not bad legislation, it says if that old phone company servicing the rancher does not do the job, the rancher can apply to the Public Service Commission, provided that the old company is agreeable and he pays the old company for its wire that's going to go dead and he's agreeable for paying the construction cost and installation cost to the new phone company to lay the wire or fiberoptic cable out to them. And so that's what this does. What I'm saying in my floor amendment is, hey, why should the rancher have to pay for, first, the old wire to go dead and, secondly, the new wire to be installed when we have \$20 million sitting in the Universal Service Fund, the express purpose of which is that the rancher have service like everybody else in the state? [LB715]

SENATOR NELSON: Do you have any idea how quickly this would draw down that \$22 million? Is this extensive, this type of practice? [LB715]

SENATOR SCHUMACHER: I would think what it would force the phone companies to do is employ the most efficient technology, which in some cases to these ranchers will be point-to-point wireless that could be done for a fraction of the cost of laying out fiber or copper lines or some other medium. That would be the first thing. How many ranchers would be forced to apply? My guess is that seeing that the money would come out of their slush fund, the phone companies would start listening to the ranchers calling for service, and say, you know, we better kind of run that guy a wire or a piece of fiber or a beam of some kind. So it's real hard to guess how long it would draw it down. But if it draws it down, it draws it down. That's what it's for. [LB715]

SENATOR NELSON: Thank you, Senator. I...you know, it seems to me, in light of what

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Senator Schumacher has said and the intended purpose of this fund, this seems to me like a realistic way to provide a service and to use this money. And I see nothing wrong with the amendment and I stand in support of it, and I thank you for bringing it, Senator Schumacher. [LB715]

SENATOR GLOOR: Thank you, Senator Nelson and Senator Schumacher. Senator Fischer, you are recognized. [LB715]

SENATOR FISCHER: Thank you, Mr. President and members. I just had a couple of responses to some comments made on the floor again, Senator Avery, Senator Nelson. With regards to the money in the fund, there is \$10.5 million that's unencumbered. There's not \$50 million in. That's what comes in for a year. There's not \$20 million, because part of that is encumbered for projects. And that \$10 million that is in the fund, it has to meet that three-month reserve that the Public Service Commission keeps in place. Just as we have a minimum reserve, they try to keep a minimum reserve in place too. So there's not millions and millions and millions of dollars sitting there to do this. Senator Avery brought up about Nebraska is first in the nation in our fees and taxes that we have on telecommunications, and that's true. You can look that up. But part of that is due to state and local taxes. You can't blame the Universal Service Fund if your city has a 6.25 occupation tax on telecommunication services. That puts you higher in the national rankings. So once again, I think you need to consider this and look at it objectively. As I said earlier, I am opposed to this amendment. I do not believe that Universal Service Funds should be used when the telecommunications companies are currently paying for it, and the new companies, if they are going to see customers move across a boundary, will also pay for it. So I would ask you to vote no. Thank you. [LB715]

SENATOR GLOOR: Thank you, Senator Fischer, and that was your third time, Senator. Senator Ken Haar, you are recognized. [LB715]

SENATOR HAAR: Mr. President and members of the body, and this is an issue that does concern not only me but quite a few of my constituents that live outside the city of Lincoln. Senator Fischer, if I could ask you a question or two? [LB715]

SENATOR GLOOR: Senator Fischer, would you yield to a question from Senator Haar? [LB715]

SENATOR FISCHER: Yes, I will. [LB715]

SENATOR HAAR: Could the Universal Service Fund be used to upgrade the kind of situation that I'm talking about where there is DSL service but the equipment is way, I'm going to say, too small, because I don't know how to describe it otherwise, but, you know, where the service degrades enormously at nighttime? Could the Universal

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Service Fund be used for that, or is that up to just Windstream to do that? [LB715]

SENATOR FISCHER: I believe that theoretically they could do that, Senator Haar. [LB715]

SENATOR HAAR: Okay. [LB715]

SENATOR FISCHER: It could be used for that purpose. [LB715]

SENATOR HAAR: And if there is this kind of problem, is the Public Service Commission the place to go with complaints then, or...? [LB715]

SENATOR FISCHER: Are you asking if a company would like to see...make these upgrades, would they go to the Public Service Commission? [LB715]

SENATOR HAAR: No, no, as a consumer. I'm sorry. As an individual consumer, when we come with these kinds of problems, is the Public Service Commission the appropriate place then to talk to or...? [LB715]

SENATOR FISCHER: I can relate to you a personal experience in my legislative district that may help answer that question. A provider that we had in one area of my legislative district, a number of complaints were lodged against that telecommunications provider, and these are ranchers that a number of people talk about in here. Well, I'm a rancher and my constituents are ranchers, and they were having complaints with their service, and this is landline service, and they were having complaints with that. They lodged those complaints with the Public Service Commission. The Public Service Commission opened an investigation that went on, I believe it was, for over a year. I would have to check on that for sure. They had two hearings in my legislative district to hear from the constituents that lodged those complaints. So there is a process in place where consumers can go to the Public Service Commission and seek to get recourse. [LB715]

SENATOR HAAR: Okay. Well, I appreciate that information, and again sometimes it seems like there's nowhere to go and constituents do come and talk to us. And again we were...I was told that because of this bundling, the DSL is free. Well, nothing is free, and the DSL doesn't work very well. So I appreciate that information and I'll follow through on it. Thank you. Yeah, go ahead. [LB715]

SENATOR FISCHER: Senator Haar, the Public Service Commission cannot handle that with broadband right now. They're moving in that direction because of actions taken at the federal level. So that's again a step forward that we're trying to make and again with this bill with regards to the boundaries. [LB715]

SENATOR HAAR: Okay. And then just one follow-up to that. You say they couldn't

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handle that right now. Explain that a little bit to me. [LB715]

SENATOR FISCHER: The Public Service Commission right now cannot require a company to provide broadband. [LB715]

SENATOR HAAR: But if they do provide it and it's a service that's being paid for and it doesn't function, are they out of that too? [LB715]

SENATOR FISCHER: I believe a constituent can still file that complaint. [LB715]

SENATOR GLOOR: One minute. [LB715]

SENATOR HAAR: Okay. Well, thank you. I appreciate that, and I'm sure that some of my neighbors will be happy to have this information. Thank you. [LB715]

SENATOR GLOOR: Thank you, Senator Haar and Fischer. (Visitors introduced.) Senators in the queue: Avery, Pahls, and Bloomfield. Senator Avery, you are recognized. [LB715]

SENATOR AVERY: Thank you, Mr. President. Senator Fischer admitted that Nebraska ranks number one in terms of taxes and fees on telecommunication services, and she suggested that maybe it's not because of the Universal Service Fund fee. I take exception to that. I think that is one of the major reasons. Obviously the occupation taxes that we pay also contribute, but we have state and local tax and fee rates of 18.35 percent. That compares very unfavorably with our neighbors. Missouri has 15.73 percent; South Dakota, 11.91; Kansas, 11.12; Colorado, 10.89; Wyoming, 8.17; and Iowa, 7.36. The way we get to 22.54 percent, which is number one, is because the federal rate is added into the state and local rate, and that federal rate is 4.19 percent. We are paying more than anybody else in the country, and a major part of the reason for that is the Universal Service Fund. This is the worst of fees and taxes because it's largely a stealth tax just like occupation taxes tend to be stealth taxes. And the really disturbing thing about it is this is essentially a regressive tax because it is no longer the case that people can live without telephones. It is no longer the case even that cell phones are a luxury. At one time people who had cell phones were only those people who could afford to purchase frivolous items. I can remember one time when we had a bill on the floor in this Legislature years ago, before I was here, but I was watching from the Rotunda, and it was a tobacco issue, and the tobacco lobbyists were walking around with these shoe-size cell phones, and boy, everybody was marveling at that. And it was a big deal, and the only people who could afford it were the well-funded lobbyists from the tobacco companies. Nobody else had cell phones. They were luxuries. It's no longer like that. It is no longer that way. In fact, now, if you don't have a cell phone, you are largely outside the norm even for teenagers and younger. So we're talking about a regressive tax here that is the highest in our area at 6.95 percent, and

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we are talking about our neighbors that are much lower. This is something we need to care about, and I think Senator Schumacher probably knows more about it than anybody else and cares more about it than anybody else. But we need to have this discussion, and if not on this bill then we have another bill coming up here probably very soon where we can talk about it. What about an amendment to completely eliminate the Universal Service Fund? You want some tax relief, that's one way to do it. How about a sunset date on that fund? How about a bill that would disperse the remainder of the fund that sits at the Public Service Commission and put it in the General Fund? I've got it drafted already, folks. I just haven't decided whether to file it. I got it drafted to have this discussion, and Senator Schumacher has made that possible this morning. [LB715]

SENATOR GLOOR: One minute. [LB715]

SENATOR AVERY: But I would hope that we don't give up on this, because this is something we need to be talking about. There is no reason why our taxpayers should be ranked number one in these taxes and fees. There is no reason at all for that. And if this amendment that Senator Schumacher has before us is not adopted, then when will we do something? And I think the time is now. Thank you, Mr. President. [LB715]

SENATOR GLOOR: Thank you, Senator Avery. The Chair recognizes Senator Pahls. [LB715]

SENATOR PAHLS: Thank you, Mr. President and members of the body. I'm in sort of a quandary right now. I respect Senator Fischer and what she's done with this body over the last several years, and I do respect Senator Schumacher because I've served with him on Government and now on Banking. I hear the word millions of dollars. One said there's really not the millions that you have. I hear a senator saying this will help the ranchers out in western Nebraska, give them better service. And then I hear some senators saying, well, it's going to be there. I currently live in a metropolitan area...and I'd like to have Senator Schumacher yield. [LB715]

SENATOR GLOOR: Senator Schumacher, would you yield to a question from Senator Pahls? [LB715]

SENATOR SCHUMACHER: I sure will. [LB715]

SENATOR PAHLS: Thank you, Senator. Other than being a member of this body, I represent the...basically, the state of Nebraska, of course, but my district is in the Omaha area. Why do I care? [LB715]

SENATOR SCHUMACHER: You really want to know why you care? Here's why you care. Because you know where most of the money for the Universal Service Fund comes from? From your town and from the city of Lincoln, and it is a tremendous...as

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we chop away at the people of Omaha and the people of Lincoln to generate this huge fund, and then we take away their revenue sources on the other hand, it's a crying shame. You should care because your people are paying the bulk of it. [LB715]

SENATOR PAHLS: Yes. And I understand that. I mean you brought this to my attention. I hadn't been thinking about it. I do understand that. So that leads to me to say that last year when I shared this information and I still have...maybe I will share with the body again. Basically the metropolitan areas, we carry the tax load of the state when it comes to income tax, sales tax, etcetera, etcetera. We do not necessarily do that with property tax because of the land values. But we already, I'm going to use the word, "subsidize." Let me ask you this, Senator Schumacher. Is this...and I can feel by just your voice this is a significant thing. Is this something that should...and I'm not trying to put it off, but is this something that we should perhaps or the new Legislature should discuss next year, I mean, to really get their arms around it? Or do you think the information is clear enough now that you're going to get 25 votes? Do you believe that? [LB715]

SENATOR SCHUMACHER: Well, do I believe I can get 25 votes? Senator, the most well-funded lobby and the most powerful PACs in this state are the phone companies who are able to make those contributions because the Universal Service Fund frees up their money for political activities and they don't invest their money as much or have to invest as much in infrastructure. So do I think I can get 25 votes? I'll be watching very carefully if I get 25 votes, but I know I've made the lobby some money. [LB715]

SENATOR PAHLS: Right. Any time we bring up something that's controversial, we do help the lobbyists out financially because their clients want them, and I understand that's part of it. But to be honest with you, I don't know if they spend that many dollars on lobbying or lobbying senators, because I've not had one lobbyist talk to me about this, to be honest with you, nor have I gotten lots of lobby dollars in this particular issue, just to let you know. Well, thank you, Senator. [LB715]

SENATOR GLOOR: Thank you, Senator Pahls. Senators remaining in the queue: Bloomfield, Brasch, and Schilz. Senator Bloomfield, you are recognized. [LB715]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good morning, colleagues. I'd like to ask Senator Schumacher a question if I could. [LB715]

SENATOR GLOOR: Senator Schumacher, would you yield? [LB715]

SENATOR SCHUMACHER: I sure will. [LB715]

SENATOR BLOOMFIELD: Thank you. I visited with a constituent this morning. She lives a mile from the dividing line of two different phone companies. Her computer service to download anything is remarkably slow. The people a mile up the road can

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download in a tenth the time she can. Will your bill or your amendment affect her in any way? Would she be able to go to the next company up and say, come in and improve my service, and the telecommunications techs will pay for it? [LB715]

SENATOR SCHUMACHER: You know, Senator, that's a real interesting question, because we just got done hearing that we shouldn't use the Universal Service Fund for this because a new phone company will just be more than willing to plow in a line for free and on their nickel. Now I'm wondering if what your constituent told you and that she's only a mile from the other phone company, why it is that the good phone company doesn't do what I'm hearing that they'll do for ranchers, and that's plow in a piece of fiber or something for free without any compensation at all? So something is bothering me here. Maybe the new phone company won't do it for free. Maybe that's why they want to charge the rancher. And more so, the phone company, the new phone company and the old phone company got this boundary line. You don't cross into my fiefdom, I don't cross into your fiefdom, and that's probably why you don't get service there. But at any rate, you know, if they're willing to do it for free, the new phone company probably has filed--if they haven't, they should--for what they call a CLEC license, which gives them permission to go across boundaries. That's different from this bill that says you can make an application and then the rancher can get charged for the extra going across boundaries. So right now this particular bill does not say that somebody who gets poor service can go petition for, under it, for better service. But if what we've been hearing is accurate, that new phone company should be in there with the plow tomorrow and do it for free. They won't. [LB715]

SENATOR BLOOMFIELD: Oh. And what you stated is, as I understand it, in fact, the case. There is a boundary line there and they will not come in to improve her service because they don't want to cross that line. [LB715]

SENATOR SCHUMACHER: If you look across the state of Nebraska, the old fiefdom lines are the fiefdom lines, and rarely does somebody cross into somebody else's sandbox. [LB715]

SENATOR BLOOMFIELD: Okay. Thank you, Senator Schumacher. And if you would like it, I will yield the rest of my time to you. [LB715]

SENATOR SCHUMACHER: Thank you, Senator Bloomfield. A couple of different things: I addressed three issues, that of implicit charges, access charges, and the cellular companies just avoiding the local phone companies by putting their signal wirelessly through the air instead of having to pay a premium. Every time I raise an issue and...or refute an issue that's been brought up by the phone lobby and there's no response, I write "none" down on this little piece of paper. Folks, I've got a whole "convent" on this piece of paper. Let me address further: If a phone company will provide service free, the new phone company, they can file and become a competing

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local exchange carrier and go right ahead and do it under existing law. They won't do it. [LB715]

SENATOR GLOOR: One minute. [LB715]

SENATOR SCHUMACHER: Next, we hear that our state and local taxes bump up our phone bill. Sure they do, no doubt about that. But that's a red herring. Our Universal Service Fund is the highest in the nation. It should be made to do its job. Well, we've heard that the Public Service Commission needs \$20 million or so laying around just because it needs a reserve. Folks, there's no statutory requirement for a reserve in that fund. Why should the rancher do without to maintain a reserve in that fund? And just yesterday we heard we shouldn't maintain reserves in funds. Why, we hacked away \$2 million off of a Medicaid fund because there's no need for reserve funds. So, my God, we have \$20 million laying in this fund, ranchers doing without service, phone companies going slow on deployment of broadband so they can keep the money flowing year after year--over half a billion, maybe three-quarters of a billion so far. And we should maintain a reserve of \$20 million? That's half of our tax cut right there, not to... [LB715]

SENATOR GLOOR: Time, Senator. [LB715]

SENATOR SCHUMACHER: Thank you. [LB715]

SENATOR GLOOR: Thank you, Senator Schumacher. Senator Brasch, you are recognized. [LB715]

SENATOR BRASCH: Thank you, Mr. Speaker, and good morning, colleagues. I've been following this debate with great interest simply because Senator Haar is talking about the slow broadband service. That was the concern in our district initially during the interim period. And my staff and I met with the Public Service Commission and then we also had a meeting held with the service providers, the telecom, and the broadband, and looked at their charts and their maps and dialogues, and talked about the plan moving forward. There are two broadband service providers in District 16. At one point the Stanton telecom was also in the old District 16, which is now Senator Schumacher's district. When I was their senator, I did a walking tour through the Stanton telecom, met with them. They are great supporters of their community and looking at their servers, which physically have many switches, not the old movie kind, but as you walk through you see the many...I akin it to the newer power boxes. However, also meeting with providers in Blair who are also...they were stellar during the flooding and great community people. The ones in West Point who ten years ago before I was a state senator I was trying to work virtually, and they came and installed an extra phone line in a 100-year-old farmhouse that was a challenge. You know, these are workers, these are jobs, these are people in the community. And since our interim meeting, they have

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worked on the technology side. My constituents are reporting that their high-speed Internet connectivity has improved. We slowly moved from phone lines only to fiber optics to our schools, to our hospitals. We are moving to the farms systematically. [LB715]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: (Gavel) [LB715]

SENATOR BRASCH: It does concern me to hear us talk about the companies as if they weren't people on our main streets delivering services the best they can with great challenges. I think we're moving there, and we'll find that it will continue moving forward. So I did want to stand up and speak favorably and gratefully for the services that we are getting delivered, whether we're being...this is an interesting body. Last night, we were saying we can't lower taxes, and today we're saying we have to lower taxes on this particular issue. Bottom line is that we're talking about our money. You know, we're saying cities lost money. There is no lost money. It's with who it belongs to: the people of our state. It's a matter of finding equity. How much will we afford? Are we willing to pay this entity, that entity? How much money can our people keep of their own money, not lost money but their money? But I did want to thank our companies and thank the senators and Senator Schumacher, and Senator Fischer for bringing LB715 forward. I do support this legislation. I will not vote in favor of FA60. Thank you. [LB715]

SPEAKER FLOOD: Thank you, Senator Brasch. Mr. Clerk, items? [LB715]

CLERK: Mr. President, confirmation reports from Health and Human Services, those signed by Senator Campbell. An amendment to be printed, Senator Schumacher, to LB715. (Legislative Journal page 1042.) [LB715]

And, Mr. President, Senator Pirsch would move to recess the body until 1:30 p.m.

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. We are recessed until 1:30.

RECESS

SENATOR COASH PRESIDING

SENATOR COASH: 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. Roll call. Mr. Clerk, please record.

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

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SENATOR COASH: Thank you, Mr. Clerk. Do you have any items for the record?

CLERK: I do. New A bill. (Read LB731A by title for the first time.) That's all that I have, Mr. President. (Legislative Journal page 1043.) [LB731A]

SENATOR COASH: Thank you, Mr. Clerk. We'll proceed to the first item on the afternoon's agenda.

CLERK: LB806, a bill originally introduced by Senator Lautenbaugh, relates to horse racing. It authorizes the State Racing Commission to license and regulate wagering on historic horse races. The bill has been discussed as on March 6 and 7, Mr. President. Committee amendments have been adopted. When the Legislature left the issue, Senator Fulton had pending a motion to indefinitely postpone the bill. That motion is currently pending, Mr. President. [LB806]

SENATOR COASH: Thank you, Mr. Clerk. Senator Lautenbaugh, would you please give us a brief opening, a recap on LB806. [LB806]

SENATOR LAUTENBAUGH: Yes, thank you, Mr. President, members of the body. As was indicated, this is the...I'll call it the second part of the requisite seven or eight hours we need to get in on this on General File. You've all heard me talk about this bill quite a bit. And what it does, simply put, is authorize historic horse racing machines at licensed racetracks only. And again, I don't mean to sound weary at the mike as I approach this, but we have had ample discussion about this and we'll have more this afternoon. It is my intention late in the afternoon to seek a cloture vote and move forward. I anticipate that being around 4:00. I can't stress enough that this is a jobs bill, plain and simple. This is not like keno. We're not talking about casinos here, despite what some would have you believe, we are talking about probably 3,000 or 4,000 jobs that currently exist in Nebraska. And those aren't soft numbers. A large portion of that are...actually, those individuals are actually licensed by the Racing Commission because of the particular jobs they have. So we know they exist, we know they're out there. You've seen them here. I was explaining keno to someone the other day, how this is different. And I said, well, it's just different. This has an industry that reaches down into our agricultural sector and touches the entire state. And we bear some responsibility for the difficulties they're having. Some of you don't. Some of you weren't here when we agreed to do away, basically, with the Lincoln racetrack. That was a blow they didn't need. And there was a supposition at the time that that track would be replaced somehow. This is the vehicle to help do that and to help revive this industry and save these jobs. This is not something that will lead to casinos. This is not something that will authorize casinos on Indian reservations. Those are red herrings. That's not what we're talking about here. These machines have worked where they've been tried. In Kentucky and Arkansas the industry is reviving, handles are up, live race days are up. And once again I need to mention the

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tracks exist to promote live racing. They are not-for-profits run for the purpose of preserving and promoting live racing. This is not something that the tracks want in lieu of live racing, this is something that we need to bring back live racing, increase the purses, increase the quality of races and the race days. I'm struggling a bit because I'm really not sure what more to tell you about this. The individual at the track who uses one of these machines is given the same information as you would have had the day of the live race, excepting the date, the real name of the horse, the real name of the jockey, etcetera. This is not a slot machine. This is not a pure game of chance by any measure. And I wish we could abandon the distracting rhetoric that's surrounded this so often and just actually focus on what we're talking about. And I think it's very hard to turn your backs on the people who are depending on us to make the right decision here today. I've pointed out to you the first time we debated this that problem gambling associated with horse racing is almost nil and no one has contradicted that, yet the proceeds from this will go to help fund gambling problem or problem gambling treatment funds, if you will. And that's only proper because we do allow other forms of gambling that actually do lead to problem gambling already in Nebraska and surrounding states. This bill would also benefit what I call equestrian therapeutic riding for special needs kids and wounded veterans. And this program exists in western Douglas County at a place called HETRA, there's a few other locations that do it. And there is something about the equestrian therapy that treats both our wounded veterans and some special needs children. And that's another way that this is different from the other things we're talking about, other forms of gambling which we seem to be fine with. It is impossible for me to stand here and overstress the importance of this. We have put this off too long and these people need us to do this thing. They're not asking us for a handout, they're not asking for us to get, you know, appropriate any money to do anything in particular for them. They're just asking us to get out of the way and let them compete and revive their industry. And that's a thing we should be all about I would think. And again, we can't afford to turn our backs on these people, we can't afford to turn our backs on these jobs. And that's what moved me to bring this bill. I wasn't even asked to introduce this bill this year. I just introduced it because it was the right thing to do and it's something these people need. And I would urge you to support LB806. Thank you, Mr. President. [LB806]

SENATOR COASH: Thank you, Senator Lautenbaugh. (Visitors introduced.) Senator Fulton, would you give us an opening on your motion to indefinitely postpone. [LB806]

SENATOR FULTON: I will. Thank you, Mr. President, members of the body. Well, to start this, this probably does not need to be said here among our colleagues, here among those of you in the Legislature. We know each other very well. But I say this for the sake of the record. Somewhere down the road, people may look back on this, and to set the mood and the scene in here people in the future reading back should know that it's not an easy thing going against a friend. Oftentimes we find ourselves on the same side of issues. And that's the case with Senator Lautenbaugh and myself and Senator Schilz, probably Senator Larson also, Senator McCoy. We often find ourselves on the

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same side of things because we think alike, we hold the same ideals, same values, and indeed a friendship. So it's not an easy thing to do against a friend. And I think that's a fair assessment of what's going on here. We just have a disagreement on this bill. I filed this motion to IPP the bill and I hope that my colleagues will take a look at it and think about it, because I've not filed it simply to kill the bill. I mean, I don't want the bill to go forward. I file it to put a decision point in front of us here as legislators. Today we all get to be Mike Flood. I'm going to say that again as I have his attention. Today we all get to be Mike Flood. The Speaker of our Legislature sets our agenda and he decides how we're going to debate, when we're going to debate. That is the power that we endow in him to schedule our bills. We are now on the forty-eighth day of this legislative session. Tomorrow, will be the forty-ninth day of the legislative session, a day on which we will debate consent calendar bills. We will not likely take up debate again on General File. Of course, again this is up to our Speaker, but the fiftieth day if you have a bill that is still on General File, for all intents and purposes you'll need to get it passed off of General File anyway on the fifty-seventh day. You'll not have another chance to do that until the fiftieth day. There are a lot of bills to get to. To underscore what I started this motion off with, my priority bill is still out there, still on General File. And as irony would have it (laugh), I said Senator Lautenbaugh and I see things the same way, it's actually Senator Lautenbaugh's bill that I prioritized and it's on General File, along with a number of your bills. And so when I say today we get to behave as the Speaker, I'm putting this motion in front of us to be able to make a decision. You may well be in favor of LB806, but you would also know that there's a certain vote threshold that will be needed in order to invoke cloture, which I suspect we will end up having to do on this bill. If you believe that vote threshold is reachable, that is 33 votes, and you support LB806, then you will vote against this IPP motion. We will continue debate on a number of amendments that have been filed, indeed on this bill. And then we will take that cloture motion. And if there are not 33 votes, it will have been for naught. If there are, then we'll go on and we'll do this again on Select File. If, however, you don't feel so strongly as to put other bills behind, as to leave other bills to potentially not even be heard in debate, then you'll support this IPP motion, not necessarily because you are opposed to LB806 but because you don't believe it merits the time of the Legislature such that other bills will not be heard. We haven't seen a lot of this in the past couple of years. But I can tell you in the first two years that I came to this body this type of motion was filed quite often to get a sense where we are, whether indeed we as the Legislature want to consume time on a particular bill. In fact, I think it was Senator Erdman who first taught me the use of this motion. And so I put it up there as a mechanism by which we gauge where the Legislature is. If indeed we have the stomach to continue on this bill, then we will. If, however, you choose not to, you believe there are other things of higher import, then you'll vote in favor of this IPP motion. There will be substantive arguments, more substantive arguments to follow after me, indeed, I think I will be making them. I think Senator McCoy will, there will be others too. But I put this before you as a motion to consider how we're going to go forward with our agenda and for the remainder of at least the next couple of days and indeed one of the days in the future. This bill also, I

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would point out, has a fiscal note. The fiscal note exists, if you'll read the fiscal note itself, because it is anticipated there will be a loss of revenue to the General Funds through other charitable gaming and that is why this has a fiscal note. Indeed, this has an A bill. And so not only will we need to make a decision on the merits of this bill, not only will we need to make a decision as to whether we're willing to let other priority bills not hear debate, we'll also have to make a decision at the very end about which of the bills with fiscal notes we're going to allow to go forward to fit within the confines of our budget. There are a number of decision points in front of us. This IPP motion simply puts things in order. And this is the first decision point in front of this body. I'll stop there, Mr. President. Thank you. [LB806]

SENATOR COASH: Thank you, Senator Fulton. Members, you've heard the opening to LB806 and the motion to indefinitely postpone. Those wishing to speak: Senators McCoy, Fulton, Hansen, and others. Senator McCoy, you're recognized. [LB806]

SENATOR McCOY: Thank you, Mr. President and members. I doubt there's anyone here on the floor that would express out of where I stand on this issue. I've said it before today and I'll say it again. This violates constitutional grounds which I'll outline, and furthermore, to use Senator Lautenbaugh's words from a few minutes ago, I can't overstress the importance of upholding the will of over 61 percent of Nebraskans who have said no to expanded gambling. As Senator Fulton outlined, we have a lot of ground to cover the remainder of this session. You received a moment ago a picture, front and back picture, color picture that I direct your attention to. The upper right-hand corner of the screen on both of those pictures, front and back, shows you what instant racing terminals look like. Ladies and gentlemen, these are the very same machines that are being talked about for the state of Nebraska. These are Race Tech's machines at Kentucky Downs in Franklin, Kentucky. I would encourage you to get on your gadget, pull up You Tube and watch these two videos. There's a picture, a still shot from both of them. And you tell me what it looks like to you because while at the same time the race is going so are the tumblers and the lights in conjunction with the race. And in one of those videos three races, ladies and gentlemen, three races in 20 seconds. Now I ask you, what skill is involved in that? It's been said this is a game of skill. I object to that. I believe it isn't. Instant racing occurs today at two racetracks in the United States--Oaklawn Park in Hot Springs, Arkansas, and Kentucky Downs in Franklin, Kentucky. Now you might ask, why only one racetrack in the state of Kentucky that is the heart of thoroughbred racing in America? Well, it's pretty simple if you look into it. For years, Governor Steve Beshear from Kentucky tried to get this through the Kentucky Legislature. It failed every time. In 2009, Kentucky Attorney General Jack Conway said that instant racing was not pari-mutuel wagering. In 2010, the Kentucky Racing Commission decided to go around that AG's Opinion and allow racing at Kentucky Downs. The Kentucky Family Foundation filed a suit and the case will likely be heard before the Kentucky Supreme Court in the near future. In Oregon, a judge determined in 2009 and the Oregon Racing Commission later agreed that instant racing

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was unconstitutional because it wasn't mutuel wagering that's allowable by law in the state of Oregon. In 2005, the Governor of Wyoming vetoed a bill from the Legislature authorizing instant racing at Wyoming Downs on the grounds that they operate exactly like a slot machine. Progambling interests filed suit and the case ended up in the Wyoming Supreme Court. In a 2006 Wyoming Supreme Court Opinion, the court determined that the proposed... [LB806]

SENATOR COASH: One minute. [LB806]

SENATOR McCOY: Thank you, Mr. President,...instant racing terminals manufactured by Race Tech, same company, ladies and gentlemen, and the Cella family from Arkansas at Wyoming Downs were unconstitutional because they were not pari-mutuel wagering. And they said in their opinion, I would invite you to look it up and find it, we take note from the record that the instant racing terminals look like and are used like a slot machine. They went on to say that the U.S. Patent documents, which I'll talk about later, from Race Tech were enlightening, the description of the instant racing gambling device found in the patent documents makes it unmistakable that it is a gambling device. They concluded by saying, we agree that we are not dealing with a new technology here, we are dealing with a slot machine that attempts to mimic traditional pari-mutuel wagering. Although it may be a good try, the Wyoming Supreme Court ended, we are not so easily beguiled. Thank you, Mr. President. [LB806]

SENATOR COASH: Thank you, Senator McCoy. Senator Fulton, you're recognized. [LB806]

SENATOR FULTON: Thank you, Mr. President. Point to go, the motion in front of us has a number of...there are a number of decisions that we're making with the motion in front of us. But I am going to go to more substantive arguments in opposition to LB806. A picture is worth 1,000 words. And what Senator McCoy has handed out I had not seen up until a couple of days ago. That's going to be pretty hard to sell to the people of Nebraska. Ladies and gentlemen, I have said this before, I'm going to say it again for the sake of clarity and for the record, my own opposition is not based in any particular aversion to gambling per se. It's not an issue of ethics for me. I look at this from a political lens. And I'm using this word "political" in the actual meaning of the word. This was an issue of politics before the people of Nebraska having to do with expanded gambling, slot machines, casinos, what have you. And I know it's been argued that these are not, but this is an important portion of this argument. The people of Nebraska voted overwhelmingly to disallow this expanded gambling. And so if we were to accomplish among us here, the 49 of us, if we were to accomplish something which the people voted against, we should have to answer for that. From my vantage, I was put into office to exercise judgment, to make judgment when I'm supposed to, and that is when we have bills before us. Here we have a bill in front of me and I cannot in good conscience go back to the people of my district, and granted, I'm done, this is it for me,

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but I have a job to do. When I take a look at this picture, and the record should reflect that I'm holding a picture that looks like a slot machine. It says, Yukon Willie's Gold Rush, 25 cents. In the upper right-hand corner you see indeed that there are moving horses and it looks like a live horse race. It represents a miniscule percentage of this screen. And in the course of 20 seconds, if you actually watch this video, there are three races that occur in that time. And so if we were to pass LB806, if I were to vote in favor of LB806 to allow these machines to go into our horse tracks, the people of Nebraska have already voted this down, I would...would you go to your constituents, show them this picture and say, yeah, but this is not a slot machine, this is live horse racing? It's...I don't see how you do that. And perhaps there is evidentiary...there is evidence to the contrary that these are more akin to live horse racing. But from what I have seen, and I have researched this for sake of debate on this bill, as has Senator McCoy, we pass LB806, not only are we usurping what we believe to be opinions, legal opinions that hold water by our Attorney General, by others, we're also usurping a vote of the people. And I don't know how you can look at this picture and say otherwise. Now I had left off with this...that's an argument, there will be others. There's another argument that I had put forward, just got started on previously, we ran out of time, and I would like to flesh it out because, again for the sake of future reference, if this bill doesn't go forward, perhaps people will look back in the record and read through this and maybe this will spawn an idea for someone. I asked this question as to whether... [LB806]

SENATOR COASH: One minute. [LB806]

SENATOR FULTON: ...every effort has been expended with the Racing Commission, within the horse racing industry to try to increase their business, to try to get people to attend the track. And I did not mean that, I don't even remember the word now, but Senator Karpisek, who I will say another friend, it's difficult to go against Senator Karpisek also, we talked about that earlier. We had a moment of drama when I started to bring this issue up. And I have great respect for Senator Karpisek. There ought to be some passion. But we didn't really get into this argument that I'm putting forward. I asked a question and I don't, I truly do not ask this rhetorically, has a target audience been identified for the horse racing industry? The issue is about losing...declining revenue. And so the reason why LB806 is put forward... [LB806]

SENATOR COASH: Time, Senator. [LB806]

SENATOR FULTON: Thank you, Mr. President. [LB806]

SENATOR COASH: Thank you, Senator Fulton. Senator Hansen, you are recognized. [LB806]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. Would Senator Lautenbaugh stand for a couple questions? [LB806]

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SENATOR COASH: Senator Lautenbaugh, will you yield? [LB806]

SENATOR LAUTENBAUGH: Yes, I will. [LB806]

SENATOR HANSEN: Thank you, Senator Lautenbaugh. My questions would deal with simulcast racing because I think that most of the tracks in Nebraska and a lot of the tracks outside of Nebraska have the simulcast racing. And I've been to horse races before, and really enjoyed them, enjoyed the crowd, enjoyed the horses, enjoyed the jockeys warming up, enjoyed the trainers. In live horse racing do they have, start off at the beginning, do they have live horses? [LB806]

SENATOR LAUTENBAUGH: Yes. [LB806]

SENATOR HANSEN: Do they have jockeys? [LB806]

SENATOR LAUTENBAUGH: Yes. [LB806]

SENATOR HANSEN: Do they have starting times? [LB806]

SENATOR LAUTENBAUGH: Yes. [LB806]

SENATOR HANSEN: Do they have betting windows? [LB806]

SENATOR LAUTENBAUGH: Yes. [LB806]

SENATOR HANSEN: Do they have hay for the horses? [LB806]

SENATOR LAUTENBAUGH: I assume so. [LB806]

SENATOR HANSEN: Trainers? [LB806]

SENATOR LAUTENBAUGH: Yes. [LB806]

SENATOR HANSEN: Vets? [LB806]

SENATOR LAUTENBAUGH: Yes. [LB806]

SENATOR HANSEN: Exercising riders? [LB806]

SENATOR LAUTENBAUGH: Yes. [LB806]

SENATOR HANSEN: Bartenders? [LB806]

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SENATOR LAUTENBAUGH: Yes. [LB806]

SENATOR HANSEN: Good place to be. With simulcast, where we're looking at TV sets in a room, they have tables and they have betting forms and racing forms. And I have some examples here of Northfield, Ohio, they have lots and lots of days and lots and lots of times for simulcast racing. At Delaware Park they have hundreds of days of...or hundreds of races anyway that they have. In Horsemen's in Omaha they have simulcast, is that correct? [LB806]

SENATOR LAUTENBAUGH: Yes. [LB806]

SENATOR HANSEN: Okay. Fonner Park, I know they have simulcast because I've been there. Would they have live horses? [LB806]

SENATOR LAUTENBAUGH: Yes. [LB806]

SENATOR HANSEN: Even though you're viewing them on a screen, they're live horses, TVs. Do they have trainers? [LB806]

SENATOR LAUTENBAUGH: I assume so, yes. [LB806]

SENATOR HANSEN: At the various tracks around the country they have starting gate times then I assume? [LB806]

SENATOR LAUTENBAUGH: Yes. [LB806]

SENATOR HANSEN: And those are announced ahead of time. They have hay for all the horses? [LB806]

SENATOR LAUTENBAUGH: Presumably, yes. [LB806]

SENATOR HANSEN: Off-site...it's not at the site of the simulcast, but they have trainers, too, wouldn't they? [LB806]

SENATOR LAUTENBAUGH: Yes. [LB806]

SENATOR HANSEN: Jockeys, of course. And they would probably announce the track conditions ahead of time? [LB806]

SENATOR LAUTENBAUGH: Yes. [LB806]

SENATOR HANSEN: And I think I've seen a bartender there too. Is that correct?

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[LB806]

SENATOR LAUTENBAUGH: Yes. [LB806]

SENATOR HANSEN: Okay. Now let's go to the historic horse races. The only commonality that I see in live horse racing...that's all the questions I have, Senator Lautenbaugh. In live horse racing and even in the simulcast racing they have that list of requirements that they have to have horses, they have to have jockeys, they have to have track conditions announced prior to the race, they have people that are taking care of the horses. And, well, they do at Horsemen's Park, too, but they only have six days of live racing. And when they do have those six days of live racing it's like a county fair. They have kids' events all day long and it's a great marketing tool that they get people out to the live horse races and I think it's great. Fonner Park does similar, I think they race 31 days a year. And it's great. And I see where the people are employed, I see where they go out and they take care of the horses and it employs a lot of people. The veterinarians, too, take care of the horses. And it takes a lot of trainers and exercise riders. In historic horse racing the only similarity I see is the bartenders. Thank you, Mr. President. [LB806]

SENATOR COASH: Thank you, Senator Hansen. Senator Christensen, you're recognized. [LB806]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Lautenbaugh yield to a question, please? [LB806]

SENATOR COASH: Senator Lautenbaugh, will you yield? [LB806]

SENATOR LAUTENBAUGH: Yes. [LB806]

SENATOR CHRISTENSEN: Senator, I'm trying to go through your bill here a little bit. And when you get onto Section 3 and then top of page 2, where it talks about the 1 percent of the first \$1 million, 1.5 percent of the \$100 million, 2 percent all additional, where does that money go? [LB806]

SENATOR LAUTENBAUGH: Well, I believe it's set forth in the amendment as far as it goes, first, to the Racing Commission to cover the costs of administering this and regulating this program. And then there's a provision that would provide if the racetrack, if the facility is within a city limit a portion would go to the city, a portion would go to the county. If it's just within the county, then that same portion that was split between the city and the county would just go to the county. And then there's another percentage or portion of it that would go again to the fund for problem gambling and to benefit children and injured veterans with equestrian therapeutic riding. [LB806]

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SENATOR CHRISTENSEN: Well, I follow you with the city and the county part. I never did find in here, and I'm probably just missing it, where it says it goes to the Racing Commission. But I'll take your word for it. I would think it needs to be clear. Can you tell me in this bill what percent goes to the quarter horses? [LB806]

SENATOR LAUTENBAUGH: What percent specifically goes to quarter horses? [LB806]

SENATOR CHRISTENSEN: Yes. [LB806]

SENATOR LAUTENBAUGH: I'll have to check. I don't know the answer to that. [LB806]

SENATOR CHRISTENSEN: Thoroughbreds, then you won't know that one either, correct? [LB806]

SENATOR LAUTENBAUGH: No, I don't know... [LB806]

SENATOR CHRISTENSEN: Okay. [LB806]

SENATOR LAUTENBAUGH: ...I haven't got those percentages, no. [LB806]

SENATOR CHRISTENSEN: Okay. Can you tell me what percent goes to like the track owners? [LB806]

SENATOR LAUTENBAUGH: Well, they're not-for-profits, so it would be the remainder if you take out those percentages I guess. But... [LB806]

SENATOR CHRISTENSEN: How about to the jockeys? [LB806]

SENATOR LAUTENBAUGH: Well, I have no idea how the jockeys are compensated. I know they are, but I just can't tell you what percentages they would be as a portion of the whole. [LB806]

SENATOR CHRISTENSEN: They might be paid rather than a percent of the race is what you're saying? [LB806]

SENATOR LAUTENBAUGH: I would assume so, yes. [LB806]

SENATOR CHRISTENSEN: How about the horse owners, do you know? [LB806]

SENATOR LAUTENBAUGH: Again, it would depend on the size of the purses and which would...one of the things we're looking to increase would be live racing days and the size of the purses. So they'd be compensated in that way certainly. [LB806]

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SENATOR CHRISTENSEN: How about what percent of this goes into the bets, to the bettor or returns into the... [LB806]

SENATOR LAUTENBAUGH: The actual percentage that goes back? I'm going to have to pull that percentage up for you because I don't recall that. [LB806]

SENATOR CHRISTENSEN: Okay, I'll come over off the mike and talk to you about that. Thank you. You know, I'm not sure everything is as clear here as it needs to be. Again, I'll continue to work with him off mike to figure out all these different percentages and places it goes. I was looking up different statutes, because I know 2-1201 to 2-1242 will probably give me the answer on part of this. And I'll go to looking there. But I just think we need to make sure it's on the record, if this goes forward, where and how this is going to be split, because I think it's very important here that if you're going to pass this bill that the quarter horse industry gets their fair share of this. I believe there's a lot of quarter horse owners out there and horses out there that would race if they had more opportunity to. And I think if we...if this does go forward then we got to make sure that we're taking care of all Nebraska horse owners, not just the thoroughbreds. But at this time, I'll stop and wait to learn more. Thank you, Mr. President. [LB806]

SENATOR COASH: Thank you, Senator Christensen. (Visitors introduced.) Returning to discussion, those wishing to speak: Senator Schilz, Harms, Wallman, and others. Senator Schilz, you're recognized. [LB806]

SENATOR SCHILZ: Thank you, Mr. President. Good afternoon, members of the body. Here we are once again speaking about the livelihoods of the good people and the horsemen of the state of Nebraska and the surrounding states. I want to thank them again for showing up and showing how important this is to their business, to their industry, to their livelihoods, and to the health of the state of Nebraska and our economy. You know, you hear me stand up quite a bit on the mike and talk about rural population decline and talk about what it's going to take and what things we need to do to start to turn that tide and to fix that. Well, the one thing that we cannot do is turn away things that are already in place. I believe wholeheartedly in this. It's going to take all things to help turn that around. We have to make sure and we have to be cognizant of the fact that we are going to have to take more risks in rural Nebraska to turn that tide, to stem the population decline. You can't sit here 40 years after a trend has started and we continue to see it eat away at our population. We can't expect that just tweaking here or tweaking there is going to make a difference. But where we find those opportunities to help people that are willing and want to help themselves we should allow them to do that. Senator Fulton talked about a fiscal note. Senator Fulton talked about, oh no, private business is going to take away from the public coffers. (Laugh) Quite honestly, folks, a person that believes in the free market, believes in capitalism, that's not such a bad place to be. I'd much rather have somebody productive out there spending their money, taking in revenue and doing all that than having money go into

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the government coffers where, quite honestly, 49 people or however many sit in the Legislature at the time get to pick where that money goes. It's just like the tax cuts, guys. Let's let that money stay where it can be most productive. Let's give them a chance. The Legislature has held these folks down, has held this industry down for quite a number of years on the basis of if we do anything we are expanding gambling. Well, by not doing anything, we are contracting this industry. We, not them, we are the ones that are putting the noose around their neck. Thank you, Mr. President. [LB806]

SENATOR COASH: Thank you, Senator Schilz. Senator Harms, you're recognized. [LB806]

SENATOR HARMS: Thank you, Mr. President, colleagues. Senator Schilz, will you yield for a couple questions, please? [LB806]

SENATOR COASH: Senator Schilz, will you yield? [LB806]

SENATOR SCHILZ: Sure. [LB806]

SENATOR HARMS: Senator Schilz, you have a...you're very passionate about this. And you have, I'm assuming, a pretty good understanding about horse racing. So can you tell me, as you look at the state of Nebraska, what fiscal conditions is the horse racing industry in today in this state? [LB806]

SENATOR SCHILZ: Yeah, well, as with all agriculture industries, it's an ebb and a flow and it goes up and down. But they've been having some issues. I can't tell you exactly where they are. I haven't gotten together with any of the... [LB806]

SENATOR HARMS: So what we're really talking about here, Senator, is the fact that they are not profitable now, okay? So thank you very much. I just want to follow this up now. Well, first, Senator Schilz, once again, I'm sorry. One other question I want to ask you, since you do understand horse racing, can you tell me about the Churchill Downs horse race? I'm assuming that's a big, a big deal. Is that correct? [LB806]

SENATOR SCHILZ: I...I...yeah, I would guess it is if you're talking about... [LB806]

SENATOR HARMS: So as big as it is, we would think, thank you very much, that's all. [LB806]

SENATOR SCHILZ: Yeah, okay. [LB806]

SENATOR HARMS: You would think that this would be very profitable. It's not, colleagues. In fact, in March of 2010, and it hasn't gotten any better since then, in the fourth quarter they lost \$6.9 million, one of the largest horse racing in the country and it

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lost money, 51 percent of its share it lost compared to \$4.1 million or 30 percent of the share a year earlier. So two years in a row they continue to lose dollars. Now you tell me in this great state, as small as this industry is, if they can't make it in the large capacity, we're going to make it in the small? I don't think so. According to Churchill Downs' president, CE, Robert Evans, he said, we've put \$10 million into this industry, we have modernized it, we have improved its safety measures, we have done all kinds of things that you can do. And I quote, he says, but in caution and despite the expenditures, it is proving increasingly difficult to generate an acceptable return for those investments. In fact, what they had to do to save that industry, they had to go further into gambling. They opened a casino for \$127 million investment to save what they could. Now, colleagues, let's look at this realistically. It's impossible for us to say this. It makes me feel badly about this. But it isn't here, regardless of what Senator Schilz says, what people say, it's just not possible. The kind of gambling we have to attract would have to be for young people. And they're not drawn to horse racing. So let's don't talk about saving the jobs of Nebraska. They're gone and they'll be gone in the future and we have to accept that fact. And we have to look forward along this line. Now let me go a little bit further for you. There was...Mr. President, how much time do I have? How much time... [LB806]

SENATOR COASH: One minute forty-five seconds. [LB806]

SENATOR HARMS: Thank you, Mr. President. I can't do that in one minute. I'll come back. Thank you very much. [LB806]

SENATOR COASH: Thank you, Senator Harms. Senator Wallman, you're recognized. [LB806]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Welcome, horsemen. Senator Harms talks, and I respect Senator Harms. But look at Ak-Sar-Ben, how we treated the racetrack there. It's how we treated the tracks, folks, how we treated the people that bring revenues to the state of Nebraska. They drive their pickups, they have their horse trailers, they buy food, they buy diesel fuel or gas. Folks, I don't understand why this is trying to be filibustered. It should be a vote of the people. They say, well, last time they turned it down. Why? I heard about a vote of the people last night. What did we think about that? Nope, we got to decide it in here. Well, if we decide it in here I guess I'd be for letting that racetrack...expanding the racing thing. So any little thing we can do, we've helped businesses out, we've helped all kinds of things out. And have we said anything about slot...pickle cards, all these things we sell, keno, go on and on and on? If we are against gambling, folks, wipe the table clean. Thank you, Mr. President. [LB806]

SENATOR COASH: Thank you, Senator Wallman. Those still wishing to speak: Senators Schumacher, McCoy, Lautenbaugh, Fulton, and others. Senator Schumacher,

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you're recognized. [LB806]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I rise for two purposes: one, to address maybe what is some imperfect information about what the people think about gaming in Nebraska; and the second, to address specifically why I think that this motion should be defeated and we should advance this particular measure. First of all, it's been repeatedly stated that the people have repeatedly rejected expanded gambling. If you look at the election results, which are alluded to, you will find that the gambling that has been rejected has been limited, very limited scope gaming: a video keno machine, which people really didn't care about in 2006, 39 percent of the vote; back farther in time you had some off-track betting things. People really didn't care about that limited form of gaming, and that's not fair to compare to. What is fair to compare to is 2004. In 2004, there were two separate gaming initiatives on the ballot, one of which was more expansive than the other. One by...the lesser expansive was by the Legislature. Both went to the people. In that election, the expansive one, the ones that provided for slot machines and casino gaming got 47-point-something percent of the vote at its lowest vote level. At the same time, the legislators', two, casino measure called Amendment 3, got 35 percent. Not all of the people who voted for the initiative proposal, the 47 percent, were among the 35 percent and vice versa. Any reasonable analysis of that particular election shows clearly more than 50 percent of the people approved casino-type gambling. So the idea that the people of Nebraska are against casino-type gambling and expanded gambling is far more myth than reality. In fact, if you were to conduct a scientific poll today you would find that there is a double-digit lead in favor of expanded gambling and in favor of \$100 million in additional revenue coming to us. Now with reference to this specific bill before us right now, I spent 20 years focusing on this part of the constitution. The odds are extremely high that this measure is unconstitutional. Here's why. The constitution says all gambling is bad, the Legislature can't touch it, except, except, except. The exception that this one relies on is one that says, except for wagering on horse races at licensed enclosures. What does the word "wagering" mean? The Supreme Court has got a nasty tendency to look up the meaning of words. The word "wagering" means betting on a future event. The future event in this case is the computer selecting from 20,000 files randomly a set of numbers represented by horses. That is not permitted by the constitution. You can't say it's a horse race because these horse races...horses are pushing daisies for a long period of time. Now having said that, there's only one way to know if that analysis is true, remembering the Supreme Court has never been kind to gambling in Nebraska, unless it has been clear that gambling was permitted. Withdraw this long list of amendments and we put this thing out. The first thing that's going to happen, there's going to be a lawsuit. The horsemen are going to have their chance to pony up their last dollar, take it to the Supreme Court and chances are it's going to go... [LB806]

SENATOR COASH: One minute. [LB806]

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SENATOR SCHUMACHER: ...away forever. And that would be the smart thing to do if we want to conserve time. Incidentally, I do apologize, I didn't mean the thing this morning to drag on as long as it did. I know that we're under time constraints right now. And so I apologize for that. But...and it was unintentional. I didn't think it would go that long. But as far as this, the appropriate way to handle this particular thing, defeat the indefinitely postpone motion, vote this thing out and let the Supreme Court take care of business. Thank you. [LB806]

SENATOR COASH: Thank you, Senator Schumacher. Those still wishing to speak: Senators McCoy, Lautenbaugh, Fulton, and others. Senator McCoy, you're recognized. [LB806]

SENATOR McCOY: Thank you, Mr. President and members. My answer to Senator Schumacher right there would be I want to see the numbers. He talks about there supposedly being at least a 10 or 20 percent margin of people in favor of expanded gambling. I want to see the numbers. Show me the money. I've never seen those numbers. Let's see them. And if this is such the pathway to go, how come we aren't talking about a constitutional amendment today rather than an actual bill? I think we had a constitutional amendment on casino gaming this year in this session, and the committee chose not to advance it to the floor. If the people are in such favor of this, as Senator Schumacher speaks of, then why haven't we put it to a vote again? Why don't we test that theory? Why don't we test those numbers? I don't believe it. And if they are so sure that that's accurate then why aren't we talking about a constitutional amendment today? Why aren't we putting this up to a vote of the people to see? In lieu of that, ladies and gentlemen, this IPP motion needs to succeed so this bill does not advance. I left off earlier reading from...and I'm not an attorney. There are plenty of attorneys in the body who may be able to speak more greatly than I to these Attorney General Opinions and Supreme Court Opinions. I just can't believe that we're here today discussing this when we live and die by AG Opinions a lot of the time, and there is a wealth of information out there on AG Opinions, but yet somehow that doesn't matter, that's insignificant, it doesn't matter. In 2009, the Maryland Attorney General issued an opinion that instant racing terminals were unconstitutional because they were not pari-mutuel wagering, and one thing that I'll get into with Senator Lautenbaugh here in a little bit, because of seed pools, seed pools being used they're not part of pari-mutuel wagering. The most important Attorney General Opinion, in my mind, is the one that's from here in our state in 2010. Senator Fulton and I asked for an opinion in March of 2010 on LB1102, which was former Senator Bob Giese's bill that Senator Lautenbaugh prioritized in the 2010 Session. Mr. Bruning noted in his opinion that our Nebraska Supreme Court would likely conclude, like Wyoming, that I mentioned earlier, that instant racing terminals are impermissible electronic gambling devices and not a constitutional form of pari-mutuel wagering. Mr. Bruning went on to say that, in our view, the Nebraska Supreme Court, like the Wyoming court, would be inclined to view instant

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racing terminals as slot machines that attempt to mimic traditional wagering. Accordingly, we conclude that the Nebraska Constitution does not permit the Legislature to authorize wagering on historic horse races through instant racing terminals. You know, I want to talk about something I'm sure will get brought up later and that is the February 24, 2012, Husch Blackwell opinion that the proponents of this bill are hanging their hats on, that was paid for and provided to Race Tech Industries, who manufactures these machines, and the Cella family of St. Louis. And I know all of us remember the special session that we just went through last fall. As a member of the Natural Resources Committee, we had a lot of white paper opinions that floated around during that special session. And you know the only difference between a lot of those opinions was who was paying for them. So I find it hard to believe that we're going to hang our hats on a white paper legal opinion from a law firm that was paid for by the proponents, the family that owns these machines,... [LB806]

SENATOR COASH: One minute. [LB806]

SENATOR McCOY: ...but yet we're going to disregard all of the Attorney General's Opinions that I just outlined, including ours and a Supreme Court decision in the neighboring state of Wyoming. You know, I'll go back to the picture that I handed out earlier. You can look at that. I would challenge you to also look up the Oaklawn racetrack and the Kentucky Downs racetracks on-line, you can do it right here on your computer, and I'll talk about in a minute what it shows on their Web sites about instant racing and what it means to the picture that I just handed out. Thank you, Mr. President. [LB806]

SENATOR COASH: Thank you, Senator McCoy. (Visitors introduced.) Senator Lautenbaugh, you are recognized. [LB806]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. And I, of course, (laugh) for clarity sake still rise in opposition to the motion to IPP. And we did hear some talk earlier about what people voted on and what they haven't. They've never voted on this. That's just another red herring in this. And we're being asked to, you know, well, remember that and, how can you look people in the face? Well, there's a lot of people that we have to look in the face, depending on what we do with this bill, including the ones whose jobs that we seem hellbent on killing if we're opposed to this. I will say one way in which the people have spoken in a nonscientific way is that the lead opponent of this sent out one of her e-mails last night misstating what this does, misstating what it would authorize, and painting the bleakest picture ever and urging her supporters, for the sake of the Republic, to please send us e-mails today to resist this bill. Well, how many did you all get? I got one, one. I checked around, nobody else...everybody else got the same one I got. So who is opposed to this? If we're really listening to the public, the first day of debate on this we had 200-and-some people here who were trying to save their jobs. And instead we're going to listen to the one e-mail

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that we got after some woman urged her to write in? Please, all of you write in, tell them what you think. And one person was so moved by this to send an e-mail. So we have to turn our backs on the hundreds and thousands that are depending on us to do the right thing, and I said hundreds and thousands, not hundreds of thousands, to be clear. And we aren't just hanging our hat on the Husch Blackwell opinion. Although I don't want to denigrate it by saying...revealing to all of you that shocking bit of information that sometimes attorneys are paid for what they do. I will point out though that we did have an opinion from Denny Lee from the Racing Commission two years ago, and that still stands. And that said this was going to be constitutional. And he's probably the preeminent expert in the state on this type of thing. I guess we're supposed to discount that, too, because he must have had some mixed motive as well. There's a point at which, folks, we have to actually let people help themselves. And again, as I said earlier, this is not this industry coming to us and saying we need a tax break. This is not some industry coming to us saying that we'll expand if you'll do this for us or do that for us. This is the simplest thing we should be able to find our way to do, and that is to get out of the way at long last of this industry that means so much to so many in our state, again, so much to so many in our state. You've been hearing from them. You've seen them. This is different, folks. You've never heard me stand up here and speak in favor of casinos, slot machines, expanded gambling, none of that. I don't support that. This isn't that. This is different and you've heard why. And I don't know how to put it any plainer than that. We're saving jobs here. And we can say, well, the industry is gone. Well, I see them around still. I've talked to them. I've met them. I held an umbrella over one of them so she could finish her cigarette before we came up here. I know these people exist. And I don't know how, for the life of me, we can say because we have some concerns or because some group that apparently doesn't speak for too darn many people keeps telling us that this is going to lead to all these bad things, we have to turn our backs on our fellow Nebraskans, we have to ignore them and let them lose their jobs. We spend so much time in here talking about the children, the children... [LB806]

SENATOR COASH: One minute. [LB806]

SENATOR LAUTENBAUGH: ...everything we do is for the children. Well, one thing the children benefit from is when their parents have jobs. We probably shouldn't take those away. And we should stop trying to take them away with our passivity and sometimes our actual actions in the case of closing the Lincoln track. This is important, folks. This isn't just something that I've embarked on, on a lark and so many of you are in the same boat as I am. We see why we're doing this. It is not to bring about casinos and Indian gaming and anything else that the opponents are throwing at this. This is to save those jobs and save this industry that has been so much a part of our tradition for so long. And I can't make it any plainer than that. Thank you, Mr. President. [LB806]

SENATOR COASH: Thank you, Senator Lautenbaugh. (Visitors introduced.) Senator Fulton, you're recognized. [LB806]

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SENATOR FULTON: Thank you, Mr. President. Okay, I have 5 minutes, I think I can get through this. Every time I get started I get cut off. A target market, an industry should...if you're in a business you have an audience that you're particularly interested in marketing to. You know, if you sell football games then you want to target to people who like football games and would have income to spend on a football game, a targeted audience. I was able to...I received some e-mails, some phone calls, and I was able to engage with some folks from within the horse racing industry. And the response that I got was that, well, we target everybody. And I appreciate that. I mean, by way of marketing you want get your message out to as many people as possible. But the whole idea behind targeted marketing is that you find an audience that are likely to use your product or in this case attend your event because of your limited resources. So in my business we care for elderly people, that's who we're targeting, our audience, that's who we're marketing toward. And so when I hear that our target audience is everyone, then that says there is no target market. And so I track that...I trace that back. Perhaps there has not been adequate work done within the realm of identifying what product do we have, how are we branded, how are we perceived by the public? How are we perceived by our target audience? One can get an idea of your target audience by gauging who actually attends. And so I don't know if this happens, but here would be a piece of advice if I'm providing business consulting for someone in the horse racing industry. Those folks who come to your events, have you ever polled them or surveyed them: Why did you come? What is your economic situation, over \$40,000, under \$60,000? How big of a house do you live in? What's your...what hobbies do you have? These are the type...these are the basic things. Before I got into my business anyway, we took a survey of where we could market, where our marketing dollar would get the most bang for its buck. And these are very basic, fundamental things. Perhaps they have been done already and we are at the end of that rope. But I hope that people will look at this. I'm not simply trying to be mean here. I'm trying to give advice because it does not appear that that has been done and that could help your industry. But at least for my part, other senators will vote their own way, I look at these machines and I recognize what has been voted on in Nebraska and I have a hard time voting this through. The people gave me authority to cast votes down here. And if I were to contradict something that was voted on in a ballot, I know I would be pretty upset if I were a person who had voted me in. Would Senator...is Senator Schilz, would Senator Schilz yield to a question? [LB806]

SENATOR COASH: Senator Schilz, will you yield? [LB806]

SENATOR SCHILZ: Yes. [LB806]

SENATOR FULTON: Senator, I'm going to engage some questions with you. [LB806]

SENATOR SCHILZ: Okay. [LB806]

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SENATOR FULTON: Why is LB806 necessary? [LB806]

SENATOR SCHILZ: Well, I would say that LB806 is necessary because of all the reasons that you just said. The horsemen, in doing their studies, to see what they can do to help themselves to pull themselves out of where they are and said, you know what, in the studies that we've looked at around the country and where it has worked, these machines helped these racetracks. And so I say that that's why this bill is needed, for exactly the reasons that Senator Lautenbaugh and myself have stated before. [LB806]

SENATOR FULTON: Okay. [LB806]

SENATOR SCHILZ: These, guys, are Nebraska jobs. [LB806]

SENATOR FULTON: Would you say that there is...if business were good... [LB806]

SENATOR COASH: One minute. [LB806]

SENATOR FULTON: ...at the tracks, would LB806 be...would LB806 be necessary? [LB806]

SENATOR SCHILZ: I'm sorry, I didn't... [LB806]

SENATOR FULTON: If business were better, would LB806 be necessary? [LB806]

SENATOR SCHILZ: I guess you'd have to ask those guys. But I would say that in any business where you're trying to make strides and trying to stay profitable, changes have to be made over time. You can't...well, as you know, you can't build a bridge from 1920 today and have it be the same as the technology today. [LB806]

SENATOR FULTON: Understood, Senator, but this is a little bit different than other businesses in that we're being asked to change the law. Something which was illegal before would have to be made legal in order for it to be engaged. And it seems to me that in order to get to that step there would had to have been a decline in business. So has there been a decline in business in the horse racing industry? [LB806]

SENATOR SCHILZ: I think we all know that that's the case, yes. [LB806]

SENATOR FULTON: Okay. I suspect that Mr. President is about to tell me I'm out of time. That being the case, perhaps we can engage in conversation later. Thank you, Mr. President. [LB806]

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SENATOR COASH: Thank you, Senator Fulton. Those still wishing to speak: Senators Karpisek, Christensen, Avery, and others. Senator Karpisek, you're recognized. [LB806]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I didn't even get down to my office today to try to hide before I got a little fired up, but I didn't push my button until now. There was a bill in General Affairs this year about casinos. I think that Senator Schumacher will be the first to admit that there were some parts of that bill that probably made it not come out of committee more than others. But I hope that next year if one does come out that we'll let it out to a vote of the people. We want to...we've been hearing about a vote of the people. If we get one out I hope we'll let it go to a vote of the people. I tried to run a constitutional amendment a couple years ago to put slots at the tracks. The opponents filed an Attorney General's Opinion which never came and effectively killed the bill. So that's what happened when we tried to run an amendment, a constitutional amendment. I've also heard that these jobs are gone. They're not gone, they're here. There's not as many as there were, unfortunately, but they're not gone. They're real people, they're Nebraskans. The people who go to the horse races are Nebraskans. Somehow the people that do this are vilified, they're horrible people, they beat their kids, they're alcoholics, they're everything. They're not, they are people trying to do a job that has probably been passed down to them from their fathers and mothers. It is an industry and it is in trouble, it needs some help. We've heard about a lot of industries that need help. We give tax breaks to corporations, multimillion dollar corporations to come in here to create jobs. We don't even know what kind of jobs they're going to bring, but we want to get them here, and I want to get them here too. But we give so much money in tax breaks and we don't even know how much it is. We bend over backward for the big guy to come in here. I don't think we do enough for the little guy. I've said that ever since I got here. I've tried to do some things and they don't go very far because the big guys stomp it. We need homegrown jobs to expand. And if this isn't one of them, I don't know what it is. Why is it hurting? Because we have all these other things like the lottery that everyone around here sure likes to take the money and use and fight over. We have many different kinds of gambling now. The lottery went to \$2 a ticket, which when that got brought up the other day I bet three-fourths of the body didn't know. We have church bingo, we have every kind of thing under the sun. I don't think that this is anything that is going to turn into casinos. It's a great way to talk about it to scare everyone. [LB806]

SENATOR COASH: One minute. [LB806]

SENATOR KARPISEK: And, of course, we all know that slot machines are the crack cocaine of gambling. I've heard that enough to last me two lifetimes. These people are trying to help themselves. They are coming here and asking us to do something. They're not asking for a handout but to untie their hands so they can do something. They're trying. Senator Lautenbaugh and others have tried while we've been here to help them. I don't think that there's anything wrong with trying to help some of our

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friends and fellow Nebraskans. Thank you, Mr. President. [LB806]

SENATOR COASH: Thank you, Senator Christensen...or Senator Karpisek. (Laughter)  
Senator Christensen, you are recognized. [LB806]

SENATOR CHRISTENSEN: Thank you, Mr. President. You know, I sit here, I've been listening. And the senator I was going to ask questions has left, but there's Senator Schilz. Would he return for a question? [LB806]

SENATOR COASH: Senator Schilz, will you yield for a question from Senator Christensen? [LB806]

SENATOR SCHILZ: I would be happy to, thank you. [LB806]

SENATOR CHRISTENSEN: Senator Schilz, you were talking about we're trying to help the horse people make money and help this industry. Can you tell me, do they make money or lose money on every race they run? [LB806]

SENATOR SCHILZ: You know what, I can't tell you. I don't know myself. I'm sure there's plenty of them here that would be able to answer that question if you wanted to go in the lobby. [LB806]

SENATOR CHRISTENSEN: Well, I've been told anyway, in visiting with the industry, that they actually lose money on every race. But they're actually making their money on the simulcasting and which...would you say that's been a step that the Legislature has done to help the horse industry? [LB806]

SENATOR SCHILZ: By allowing them to do simulcasting? [LB806]

SENATOR CHRISTENSEN: Yes. [LB806]

SENATOR SCHILZ: I would say that that hasn't been a bad thing for the industry, no. [LB806]

SENATOR CHRISTENSEN: And that's actually the intent of why they built Horsemen's Park in Omaha, correct? [LB806]

SENATOR SCHILZ: If you say so, I don't know for sure. [LB806]

SENATOR CHRISTENSEN: Thank you, Senator Schilz. You know, I look at this and I have sat down a couple of times and visited with the people in the industry. And a number of them have told me that they'd like to run quarter horses, but yet we don't see very many quarter horse races. I've been told, and somebody can correct me if I'm

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wrong, that there's more quarter horses in the state than thoroughbreds, yet there's only one location we have quarter horse races. I've asked the question and I've been told up in Columbus they would like to run quarter horse races. But the fact that the thoroughbred industry gives them money every year for purses to get them high enough, if they do that they'll lose that money, so they can't run quarter horse races. I guess, I'm asking out loud here, is this true? If it's true, why isn't the horse racing industry helping themselves, allowing quarter horse races at thoroughbred tracks, vice versa, one another helping the industry? If the facts I've got, and I believe I'm correct because I've sat down with the industry, if we've got an internal fight between the quarter horse industry and the thoroughbred industry, how can we help them? Until they can come to an agreement and support one another and encourage one another's industry, how can we help them? I've sat here, I've talked to people. I've tried to sort through this. And it tears me apart that the industry that we're supposedly trying to help won't even help themselves. They ought to encourage one another. And the same way I've had the questions, and I haven't got any answers to yet, how will the splits in the money be? I went up and looked in some of the statutes that I knew of. I don't know yet how the money is going to be split in this. If this is passed, will the quarter horses get any? Is it all for the thoroughbreds? [LB806]

SENATOR COASH: One minute. [LB806]

SENATOR CHRISTENSEN: Who's going to determine this? Or do we want to determine this? I think there's a lot of questions here that need to be answered, that need to be done before this bill goes forward. I'm hoping them answers come out. I asked some questions on the first round and they got answered quickly. I appreciated that. I'm asking again, can we get some answers onto these questions? Then I turned...everybody has seen the pictures of is this slots in Kentucky. I've talked to the industry. I got the honor to do it again last night. I sat down in some their offices. If you want to get away from the perception that these are slot machines, why don't we go to a full screen showing the horse race. Why don't we show the whole race... [LB806]

SENATOR COASH: Time, Senator. [LB806]

SENATOR CHRISTENSEN: Thank you. [LB806]

SENATOR COASH: Thank you, Senator. Senator Avery, you're recognized. [LB806]

SENATOR AVERY: Thank you, Mr. President. Good afternoon, colleagues. I want to share with you some research, factually-based research not funded by gambling interests, not funded by antigambling interests. These are objective facts. Thirty percent of the population does not gamble at all. Most people gamble rarely. And a minority of 10 percent accounts for two-thirds to four-fifths of all wagering. Thirty to 50 percent of revenues come from problem or pathological gamblers. That's worth repeating. Thirty to

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50 percent of revenue in the gambling industry comes from problem or pathological gamblers. Slot machines, particularly slot machines, are the most damaging and quickly addicting form of gambling. That's what we're talking about with this bill. And the reason that slot machines are so addictive is that they have a shorter time to get the bets in. And there is a documented, empirical, factual shorter time to reach addiction for those who get hooked on video gambling. It takes about one year versus three and a half years for nonvideo gamblers. Some of the economic costs for society and taxpayers, and I say society and taxpayers, it's not just the gamblers that pay these costs, but the rest of us pay and that includes the nongamblers: crime, aggravated assault and various other crimes for the pathological gamblers, that cost is \$3,591, for the larger population that works out to about \$53 to \$75 per adult; business and employment costs, lost productivity, lost work time, unemployment related employer costs \$2,358 for the pathological gambler, and that translates to about \$58 per capita adults; bankruptcies, \$251 per pathological gambler or \$3 for the general population; illnesses, stress related, cardiovascular, anxiety, depression, cognitive disorders, \$773 for the pathological gambler, \$9 for the general public; social service costs, treatment, unemployment and other social services, \$425 for the pathological gambler, \$20 for the rest of the population; family costs, divorce, separation, child abuse, child neglect, domestic violence, \$62 for the gambler and \$1 for the general population. If we look at gambling in a cost-benefit analysis, even using the most conservative estimates, the costs to benefits are greater than 3 to 1, that is it costs \$3 for every \$1 earned. The social costs from gambling are approximately \$219 per adults annually. Social costs are less than...just less than \$46 per adult. On a per pathological gambling basis, studies in different parts of the nation, conducted since 1994, conservatively estimate the cost to be \$10,330 per year, and that is a taxpayer burden. In a typical county of 100,000 adults, the introduction of gambling creates an additional social cost of about \$14.3 million annually, the social costs of about \$4.6 million annually. [LB806]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: One minute. [LB806]

SENATOR AVERY: The total number of jobs in a county would have to be increased by more than 12,933 to improve well-being for all the citizens. That's a very unlikely outcome. I want to talk more. I want to put my light back on. I want to talk about crime, I want to talk about the impact of gambling on crime. I want to also talk more about the economic effects. And I will be doing that in my next turn at the microphone. Thank you, Mr. President. [LB806]

SENATOR COASH PRESIDING

SENATOR COASH: Thank you, Senator Avery. Senator Harms, you're recognized. [LB806]

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SENATOR HARMS: Thank you, Mr. President and colleagues. I wanted to share an article that appeared in USA Today, and it's entitled "Horse Racing Fights for Survival in Nebraska." This was posted on 4-12-08 at 7:58 p.m. and it was written by Eric Olson, AP sportswriter who was in Grand Island and did an interview. And I'll just pick out the areas, and why I'm giving you this background information is you can go read it yourself, make sure t what I'm giving you is exactly correct. And I quote: When troubled racing people...what troubles racing people here, and this is Nebraska, is that the sport is dying a slow death. In what once was a Midwest racing hub, the state was the nation's first to legalize pari-mutuel wagering in 1935. The first to worst, said longtime Nebraska horse trainer, David Anderson. Fonner used to fill up with 8,000 fans on its best days in the 1980s, the heyday for Nebraska racing. But on this very clear, cool day and windy spring afternoon there aren't even 800 in this place. You think about those days when the stands were full, Anderson said, his voice trailed off. If we don't get something done legislatively, by 2010 racing as we know it in Nebraska will virtually be done. Here it is 2012. So we know that this industry is about done. And I will come back when you see that Churchill Downs losing in a quarter \$6.9 million, colleagues, there's just no way. Let me give you some other information that came out of this same article. It said that horse wagering in Nebraska, from its peak in 1985, has dropped 76.8 percent when it was measured in 2007. So we knew in 2008 that this industry was in trouble. And so if you go back and historically look at all the tax breaks we're giving this industry now, it still can't make it, colleagues. And that's what this is about. How much more do we want to give them? How much more do we want to expand gambling to save this industry? That's what Churchill Downs had to do. They pumped in, as I said before, \$127 million in a casino in hopes that they could save that industry, the racing industry. Colleagues, it's been in trouble for a long time and you know what the sad thing about this is, and I feel sad for the people that are in this industry, the sad thing about it is times have changed; people's views have changed. If you look at the statistics and the data and the research, it says, you know what, the only people who are drawn to the horse racing are the older people like myself that are more mature, as I like to refer to. It's the younger people who you have to attract. And this industry is not attracting them as we know it today. And the only way you're going to attract them, in a recent research that I just looked at, and the last time we debated this issue, it showed what was the most popular form of people that they wanted...that they would use for actual gambling. It was lottery. It was the machines. And that's why we're moving in this direction because it is their only hope. And even if we put that in, and let's say that you decided that this is the direction we want to go, horse racing as we know it today, in a park, on the track will be dead. Thank you, Mr. President. [LB806]

SENATOR COASH: Thank you, Senator Harms. Those in the queue wishing to speak: Senator Schilz, Langemeier, McCoy, Gloor, and others. Senator Schilz, you're recognized. [LB806]

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SENATOR SCHILZ: Thank you, Mr. President, members of the body. As I sit here and listen to the debate today I appreciate everybody's position. I appreciate everybody's deeply held convictions and beliefs. And that's why I stand up here today because I do believe in the people of the state of Nebraska. I believe in those people that have jobs that want to continue those jobs, that want to continue to bring revenue to the state, bring revenue to their families and just go on doing what they love to do. I think those are good things. The people that we see here in the green shirts, they're here because they care about their industry. They're concerned about their livelihoods. They have families; they pay taxes; they buy at their local stores, participate in their local communities. They're Nebraskans. These horsemen deserve to have this go for a vote. They deserve the respect that this Legislature and our process to allow an up or down vote on the merits of the bill. They don't want to see this get bogged down in procedure; they don't want to see political wrangling and moving back and forth and finding out which rules work and which rules don't. And if everybody believes that the people of the state of Nebraska and their representatives are exactly what they've said and 61 percent have voted against this thing before, then it should not be a problem to take it to a vote of this body and find out what the Legislature will say on their vote. I believe that's what we should do. And I ask every single one of you to please do not support the IPP motion. Support to invoke cloture and then let the chips fall where they may. Thank you very much. [LB806]

SENATOR COASH: Thank you, Senator Schilz. Senator McCoy, you're recognized. This is your third time. [LB806]

SENATOR McCOY: Thank you, Mr. President and members. The only thing I feel is important to bring up, your proponents of this legislation indicate that by not advancing LB806, we're somehow disposing of these jobs in this industry. How is that the case? By saying no to LB806 we're saying no to expanded gambling and no to historic horse racing because it's unconstitutional. That's what we're doing. You know I would draw your attention, I indicated earlier I would talk about...you can look it up on your computers if you would like, if you go to [Kentuckydowns.com](http://Kentuckydowns.com), right there on their main page says, "Instant racing marked the first effort by racing interest to merge the 'fun and flash' of video gaming with the wagering excitement of horse racing." And also [Oaklawn.com](http://Oaklawn.com), Oaklawn Park Racetrack in Arkansas, main page of their Web site, I printed this off this morning. I encourage you all to look at this. Again, main page of their Web site, big heading, "instant racing, alongside the latest electronic games of skill and the instant racing and gaming room you'll find these popular pari-mutuel machines that combine all the fun and flash of video gaming with the wagering excitement of racing." I really see this as pretty clear cut. This isn't old information. I printed it off the two Web sites for these two race tracks at 11:30 this morning out there for all the world to see. I've yet to hear any of the proponents of this legislation even address the picture that I handed out earlier. I would dare say it's because they can't or don't want to. You know, Senator Schilz just talked about, well, the Legislature shouldn't be scared to take it to a

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vote of the Legislature. Well, how about a vote of the people? As I mentioned earlier, why isn't this a constitutional amendment? Or is it because proponents of this legislation don't want it to go to the vote of the people because they're scared of the results. I went through the Attorney General's Opinions. Again, proponents aren't addressing any of those, didn't the last time...the last two days we talked about this legislation; they didn't two years ago when we talked about LB1102, totally in one ear and out the other, which is fine. But I'll tell you what, I'll hang my hat on these Attorney General and Supreme Court Opinions from other states long before I will from another law firm somewhere that issued an opinion to the company that owns these machines. You look at the picture. Tell me what you think it looks like. You know, the proponents of this bill will say, well, you know there's no problem with gambling addictions with horse racing. Well, guess what, there is with slot machines. So if this goes forward, what do you think the addiction problems might be with a machine that looks like this, whether it's historic horse racing or not? Thank you, Mr. President. [LB806]

SENATOR COASH: Thank you, Senator McCoy. Senator Gloor, you're recognized. [LB806]

SENATOR GLOOR: Question. [LB806]

SENATOR COASH: There's been a call for the question. Do I see five hands? I do. The question before the body is, shall debate cease? All those in favor vote aye; all those opposed vote nay. [LB806]

SENATOR COASH: Senator Gloor. [LB806]

SENATOR GLOOR: Mr. President, I'd like a call of the house. [LB806]

SENATOR COASH: There has been a request for a call of the house. The question before the body is, shall the house be placed under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB806]

CLERK: 27 ayes, 0 nays to place the house under call, Mr. President. [LB806]

SENATOR COASH: The house is under call. All senators please return to the Chamber and record your presence. All unauthorized personnel please leave the Chamber. The house is under call. Senators Council, Dubas, Lathrop, Carlson, and Heidemann, and Mello, please return to the Chamber. The house is under call. Senator Council, Lathrop, and Dubas, please return to the Chamber, the house is under call. Senator Lathrop and Senator Dubas, please return to the Chamber and record your presence. Senator Gloor, all senators are present or accounted for. How would you like to proceed? [LB806]

SENATOR GLOOR: Machine vote. [LB806]

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SENATOR COASH: Machine vote has been requested. Call in or roll call, Senator Gloor? Call-in votes are being accepted. [LB806]

CLERK: Senator Larson voting yes. Senator Dubas, is that a yes, Senator? Thank you. Senator Dubas voting yes. Senator Pahls voting yes. Senator Nelson voting...changing from no to yes. Senator Louden voting yes. Senator Mello voting yes. [LB806]

SENATOR COASH: Record, Mr. Clerk. [LB806]

CLERK: 26 ayes, 4 nays, Mr. President, to cease debate. [LB806]

SENATOR COASH: Debate does cease. Raise the call. Senator Fulton, you are recognized to close on your motion to indefinitely postpone. [LB806]

SENATOR FULTON: Mr. President, first I'd like to request that the house remain under call. [LB806]

SENATOR COASH: We will keep the house under call. [LB806]

SENATOR FULTON: Thank you, Mr. President. Well, here we are. I appreciate the fact everyone is here. I'm going to explain my rationale on this. I think that folks have probably...most folks here probably come to a conclusion where they're at on LB806. I'd like you to set that to the side for just a minute. This is a motion to IPP LB806. And similarly to how I opened, I'd like to lay out why I believe you should vote green for this motion. We are on the forty-eighth day. Tomorrow will be the forty-ninth day and we will be taking up consent calendar. We will, in all likelihood, be back to debating priority bills on the fiftieth day. If you have a bill on General File, a priority bill on General File, you're going to have to get that bill moved from General File by the fifty-seventh day. That means over the course of, basically, seven days we're going to have to get to your bill if you want to have a chance for it to move forward. I have a bill under that scenario. I imagine...I'm just looking at the agenda, there are a number of bills that fall under that description. We have a number of amendments filed on this bill, and I think we've made clear that we want to investigate those amendments and that will take time to do. If it is the will of this body to move on, then we can express that with this IPP motion. You may well find LB806 something that you can vote for. But recognize that even if you are for LB806 this motion asks whether you're willing to spend some time to get there. The cloture motion requires by our rules 33 votes. That's another thing to consider. Are there 33 votes to invoke cloture? If there are not, then let us save the time with this IPP motion and vote green. There is a fiscal note, and I do understand that a number of bills have fiscal notes. That, in and of itself, should not disqualify this bill, but it should at least be a consideration. For bills with fiscal notes, will go to the end, they go on to the green sheet. Those that will affect the budget, we will talk about those and we will make

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a decision as to whether...and which to actually pass. This is General File, there is also a Select File which will also take time. You'll see on your agenda that after LB806 there is an A bill, LB806A. Perhaps it's not appropriate to spend a great deal of time on it, but there are questions, at least that I have, on that bill as well. You have been lobbied by both sides passionately. I congratulate Senator Lautenbaugh. He is a worthy opponent, and I think you all know that. And there has been a strong lobby on his side of things. But this is not about lobby on pro...either the lobby for or against. These are senators, 49 of us or however many are here, deciding whether indeed we're going to take more time on this bill. That's the question I put before you in the form of this motion. And so I simply ask your green light on this motion to IPP LB806. Thank you, Mr. President. [LB806 LB806A]

SENATOR COASH: Thank you, Senator Fulton. Senator Lautenbaugh. [LB806]

SENATOR LAUTENBAUGH: Point of order, Mr. President, as far as the number of votes necessary to successfully pass an IPP motion in the Chair's ruling. [LB806]

SENATOR COASH: This motion takes a simple majority. [LB806]

SENATOR LAUTENBAUGH: Of those voting? [LB806]

SENATOR COASH: Yes. [LB806]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB806]

SENATOR COASH: Senator Fulton. [LB806]

SENATOR FULTON: I request a roll call vote in regular order, please. [LB806]

SENATOR COASH: Thank you, Senator Fulton. Members, you've heard the closing to the motion to indefinitely postpone. There has been a request for a roll call vote in regular order. Mr. Clerk, please read the roll. [LB806]

CLERK: (Roll call vote taken, Legislative Journal pages 1043-1044.) 14 ayes, 28 nays on the motion to indefinitely postpone, Mr. President. [LB806]

SENATOR COASH: The motion to indefinitely postpone is not adopted. Raise the call. Mr. Clerk, you have another amendment? [LB806]

CLERK: I do, Mr. President. May I read some items? [LB806]

SENATOR COASH: Items for the record. [LB806]

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CLERK: Thank you very much. Mr. President, your Committee on Enrollment and Review reports LB541A, LB968, LB969, LB1072, those reported correctly engrossed. I have a Reference report referring a gubernatorial appointee to standing committee for confirmation hearing. Senator Wightman introduces LR513, LR514, study resolutions; both will be referred to the Reference Committee. (Legislative Journal pages 1044-1046.) [LB541A LB968 LB969 LB1072 LR513 LR514]

Mr. President, the next motion, Senator Smith, I have an amendment, but I have a note, Senator, you wish to withdraw AM2224. Mr. President... [LB806]

SENATOR COASH: So withdrawn. [LB806]

CLERK: Next amendment, Mr. President, Senator Harms, AM2230. (Legislative Journal page 742.) [LB806]

SENATOR COASH: Senator Harms, you're recognized to open on AM2230. [LB806]

SENATOR HARMS: Thank you, Mr. President and colleagues. What this amendment does, this amendment would simply require that for a license to be granted for pari-mutuel wagering, there would be a live racing conducted there for at least 150 percent of the days which there was live racing at the track in 1988. Thank you, Mr. President. [LB806]

SENATOR COASH: Thank you, Senator Harms. You've heard the opening to AM2230. Members wishing to speak: Senators Karpisek, Avery, Krist, and Fulton. Senator Karpisek, you are recognized. [LB806]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I wanted to tell Senator Fulton I thought that was a good move on his part to do the IPP motion and see where we're at. He's right; we used to see that a lot of the times just to see where people were and I give him kudos. I'm also happy that he didn't succeed. Mr. President and colleagues, I rise in support of LB806. I'm very supportive of what the program has done through rural Nebraska. The additional dollars that we're going to see come in gives us...opens doors for us to have the opportunity to address the issue that the racing industry actually has. And you know, if you have time you really need to visit the tracks and you need to take a look at some of the issues that they have in regard to their maintenance and their upkeep and their facilities. You know, we need to address that issue and this is a great opportunity for us to do so. I think that it would be appropriate and I think that it would be...would set a fund that would bring forward for the horse tracks a point where they could actually make some progress in what they're doing. For every year that we wait on helping the tracks, the deeper these tracks get into and the more costly it is. And if we can ever get us to a point where we're able just to...just to keep abreast with it and we have an opportunity to do some things, and

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I...when I look at some of the facilities that our citizens go through in racing, it's just not appropriate. And I really believe if we're going to have a racing system, it's got to be an integral part of our state. And then we need to treat it appropriately. We need to find some other source of funding so that when a person works at one of these tracks that they're not in deficient facilities. And I think that's what this is all about, is just trying to find a way to get them funded so that we can at least guarantee that they'll be able to keep up with just the regular maintenance. It's just impossible the way it is now. So based on that, I would simply urge you to support LB806. Senators, if that sounds vaguely familiar, I will tell you that is Senator Harms speaking on the State College System with a few words changed, horse racing put in for state colleges. I realize it's not the same, but isn't it funny how when you support one thing, you can say that same thing and make it sound the same when someone is passionate about what they want and when they're just trying to help people that they want to help. I don't know where this comes from, if it's the gambling part of it. I don't know if it's the misconception that these are bad people. If it's all the numbers that Senator Avery has dug out of some thick textbook somewhere. I don't think he taught from that textbook when he was at the university. I hope not. We all feel strongly one way or another, but we do feel very strongly about jobs in this state. And I have heard some of the most ludicrous things proposed... [LB806]

SENATOR COASH: One minute. [LB806]

SENATOR KARPISEK: ...because we need to create jobs. I know I repeat myself often on the mike because I'm hoping one time I might get through to someone that speaks out of both sides of their mouths, but, believe me, when we go to give all these tax breaks and all these things to businesses that probably don't need them, you're going to hear a lot more from me. Thank you, Mr. President. [LB806]

SENATOR COASH: Thank you, Senator Karpisek. Mr. Clerk, you have an announcement. [LB806]

ASSISTANT CLERK: Mr. President, Business and Labor will meet under the north balcony now. [LB806]

SENATOR COASH: Thank you, Mr. Clerk. Returning to discussion, those wishing to speak: Senators Avery, Krist, Fulton, and others. Senator Avery, you're recognized. [LB806]

SENATOR AVERY: Thank you, Mr. President. I want to continue the discussion that I began my last time on the mike when I was talking about the economic and social cost of gambling. A study done at the Baylor University and a separate study at the University of Georgia found that approximately 9 percent of total crime is due to gambling in counties where gambling is permitted: 8.6 percent of property crime, 12.6

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percent of violent crime. For the average county with a population of 100,000, this implies 615 more larcenies, 325 more burglaries, 272 more auto thefts, 10 more rapes, 65 more robberies, and 100 more aggravated assaults. Crimes rates...and by the way, the way you get at this is you compare nongambling counties with gambling counties. Crime rates drop much more in nongambling counties than they do in gambling counties. And the divergence between these two sets of counties is greatest since 1992, after gambling started expanding throughout the United States. Some people, we know from studies, gamble for recreation, but many gamble to acquire money. They're addicted to the possibility of an instant, large, cash winning. They do not create a product. They do not offer a service. They are not adding value to an existing service or adding value to an existing product. As I've said before, this is sterile transfer of money. They do not earn money. In fact, those who gamble to acquire money don't accomplish anything, and yet they expect to acquire money. That is one of the problems with expanded gambling. And as I've said in here many times before, it's the economics of gambling debt that concern me. It is the social and pathological cost associated with it that concern me. I am not approaching this issue from a moral standpoint and I don't expect that I ever will. To address again the problem of addiction, drawing from the experience in the state of Nebraska, I have here some numbers that were reported on March 14 of last year. Nebraska provided gambling addiction treatment to 243 people during that fiscal year. The Department of Health and Human Services reported that the average gambling debt of those receiving treatment in 2009 and 2010 was about \$28,000. Scot Adams, at the time director of the Division of Behavioral Health, said gambling can be a serious problem from some people and can destroy their families and their finances. There are costs to gambling. And I have not been able to find any credible, nonbiased study, and by nonbiased I mean a study that is not paid for by gambling interests or antigambling interests. [LB806]

SENATOR COASH: One minute. [LB806]

SENATOR AVERY: Would you repeat that, Mr. President? [LB806]

SENATOR COASH: One minute. [LB806]

SENATOR AVERY: Thank you. What I can find is abundant evidence that there are too many costs associated with gambling for us to be going down this road. I do not believe that based upon the economic studies with which I am familiar that this is about jobs. If it were strictly about jobs, there would be some evidence that expanding gambling creates jobs. It doesn't. In fact, it does quite the opposite. With that, Mr. President, I will stop and put my light back on for a little more fun and games. [LB806]

SENATOR COASH: Thank you, Senator Avery. Senator Krist, you're recognized. [LB806]

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SENATOR KRIST: Thank you, Mr. President. Good afternoon, Nebraska and colleagues. I don't remember what the subject was, but within the past few weeks Senator LeRoy Loudon looked at me and as I made a comment said, boy, you are a city kid, aren't you? Well it's true, I am. And I grew up in an era where Ak-Sar-Ben was a focal point for my community and my neighborhood and a source of employment for me during the summertime, and a source for my family's employment as they worked at the track, and a source for employment when those folks who came in and set up in the horse barns were there, and a source of employment for those who were in the concession stands to do their thing, and a source of employment for those who ran at that time any other pari-mutuel gambling that was going on. So I respect Senator Avery a great deal, but I think that the separation between having a horse industry that is viable does represent jobs. Having said that, I would say that most people in this room have either owned their own business, tried to manage their own business, given consulting services to help establish businesses, and I would remind you that there is a concept of a loss leader. Not everything in your business is a revenue source or profit center. Many things in your business cost you money. In the aviation business, in the business that I'm in, the contracts are viable and lucrative, the commercial enterprise sometimes is a loser in terms of flying, and maintaining airplanes can be extremely risky depending upon what you bid and what you come out of it. So one of my cost centers pays the bills, while others may or may not. If you boil down this tool as it is projected, that is one facet of raising revenue that may indeed produce a cost...a profit center, cost center that is profitable, and I think every study that I've read says that it has been, I would say that to deprive the business of that potential cost center that is profitable would again drive another nail into the coffin. So I offer that as a perspective in terms of the business decision that might be made. I would also say that I have read with great interest all the studies. And I would say that to discredit the study because of who actually ordered the study, paid for the study, would be to say that the person who is doing that service and providing that opinion has no credibility or integrity. And I don't look at it that way. I look at all those studies out there coming from different perspectives and I try to read them with great interest and make my own decision about where we are. I also appreciate the fact that some of them are very, very truthful and others tell part of the truth or have part of the discussion. So, I only get here today, up on the mike today, to talk about in a business sense what we're talking about here is a profit center that would help a business that sadly needs that kind of help as a profit center. Think about it in terms of your own business and the loss leader concept and then weigh out the rest of the factors. Thank you, Mr. President. [LB806]

SENATOR COASH: Thank you, Senator Krist. Those still wishing to speak: Senators Fulton, Loudon, McCoy, Conrad, and others. Senator Fulton, you're recognized. [LB806]

SENATOR FULTON: Thank you, Mr. President and members of the body. The amendment before us, AM2230, as part of the regulations under subdivision (7) of Section 2-1203.01, "the commission shall require that live racing be conducted at the

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licensed racetrack enclosure for 150 percent or more of the days assigned to the racetrack in 1988." This is basically an expression that indeed these machines will not in the future become the focus of this industry. And that is a concern. There was...I don't know if anyone has talked about it, but I'll mention it here and then perhaps talk about it later, what has happened to dog racing in other states. Eventually these machines take over. And if...I don't think Senator Schilz is here, but the conversation I was hoping to have was why... [LB806]

SENATOR COASH: Senator Schilz. [LB806]

SENATOR FULTON: Oh, Senator. Would Senator Schilz yield to a question? [LB806]

SENATOR COASH: Senator Schilz, will you yield? [LB806]

SENATOR FULTON: Senator Schilz, Senator Schilz, Senator Schilz. [LB806]

SENATOR SCHILZ: Yes, Senator Fulton. Thank you. [LB806]

SENATOR FULTON: You're very gracious, Senator. The business, the revenues that are being experienced in the industry, they have been declining in recent years. Is that a correct statement? [LB806]

SENATOR SCHILZ: As far as I know, yes. [LB806]

SENATOR FULTON: And this would be an effort to lure more revenue or to produce more revenue within the industry such that it could be viable again. Is that a correct statement? [LB806]

SENATOR SCHILZ: This would be a step to move in that direction, yes. [LB806]

SENATOR FULTON: Is there any concern--and this was the point I was going to make so I'm just going to throw it out there--is there some concern that if we have, on the one hand, the industry itself which is in decline, at least with respect to revenue? When I say in decline I do not mean that to mean the passion or the importance of the industry. That is something that is separate. The revenue being garnered in the industry is declining. On the other hand, this would cause revenue to increase. So ostensibly, whatever it is that would attract people to this industry is attractive such that more revenue would get spent. Do you see some rationale as to why we could see that horse racing would only continue to decline and indeed this industry would be dominated by these machines? [LB806]

SENATOR SCHILZ: I think that...I think that in the other examples that we've seen where it has worked and that it's one of those things that has gone hand in hand is to

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where these machines have allowed the industry itself to grow. And I think that both sides...both sides have moved in that direction. We need to remember that it's all part of the horse racing industry. [LB806]

SENATOR FULTON: Let me ask you, would you be willing...if there were other...and the reason I'm talking with you, Senator, is we...you talked about free market principles earlier. [LB806]

SENATOR SCHILZ: Um-hum. [LB806]

SENATOR FULTON: And it occurs to me that there can be an argument...one from the free market could argue both sides of this. I want to explore the side from which I'm coming that indeed we're having to change the law to make, the way I said it before, to make what was first illegal legal in order for revenues in this industry to at least flatten or to increase. Let me ask you, would you be willing to allow casino gambling to be conducted in a horse racing track? [LB806]

SENATOR SCHILZ: Under...I mean, right now under the law we can't do that. If you're asking personally if I would mind, I, you know, I enjoy going and wagering on games of chance sometimes. So I look at it as I'm not going to try and force my opinions and my beliefs on somebody else if they want to do that, and I don't want to stand here and say that I'm not going to when I do myself. [LB806]

SENATOR FULTON: So, that's...I appreciate that. [LB806]

SENATOR COASH: One minute. [LB806]

SENATOR FULTON: I didn't know that about your position on...with respect to expanded gambling. Then would you be willing to change the law to allow casino gambling? Because right now it is disallowed,... [LB806]

SENATOR SCHILZ: It's...yeah,...Senator Fulton... [LB806]

SENATOR FULTON: ...would you change the law to allow for that? [LB806]

SENATOR SCHILZ: That wouldn't be up to me. I would be one vote in the state of Nebraska as it would go on the ballot. And so I would say that that's not my decision to make. That's my decision as a voter when it gets to the ballot. [LB806]

SENATOR FULTON: Fair enough. In that regard we're all equal when we go to the ballot box. Okay, I'll let you off the hook. Thank you, Senator. [LB806]

SENATOR SCHILZ: Thanks. [LB806]

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SENATOR FULTON: This is about the ends and the means. We have an end in mind to help the industry. The means by which we get there is what is being objected to here. And what complicates this is that some object to it on different grounds, some on ethical grounds; some based on a respect for what has been decided by the people. And I detected that, a little of that in Senator Schilz's response. He would not allow for casino gambling because it's not legal right now. [LB806]

SENATOR COASH: Time, Senator. [LB806]

SENATOR FULTON: Thank you, Mr. President. [LB806]

SENATOR COASH: Senator Louden, you're recognized. [LB806]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I've listened to the debate most of the afternoon on what we're talking about, whether we're talking about horse racing or simulcast and all that, you want to think about what we were trying to do and where we're trying to go. Actually, it looks like to me we're trying to salvage some kind of an industry. And what's happened over the years, as they talk about horse racing, where we've put...given tax advantages and whatever we've done for them, and also regulated them, and we nearly choked them down and what's happened in a lot of this gambling. I mean, so we went into keno and pickle cards and those sort of things. And you look, you can get a copy of those, I mean, you know, like Adams County, Hastings, \$4 million...\$4.4 million in keno in total over there; Box Butte County, you know, \$340,000. But there's gambling all over. And what I would point out when it comes to a livestock industry, the racing...the quarter horse racing has never been given a chance to hardly be able to move because of some of the regulations. And what's going on now is you're having matched races. The people are going to gamble themselves, they're going to gamble on horses, and so they go ahead and do this on their own with some matched races. Also, how many of you have ever heard about Calcutta? This goes on every weekend all summer long out in those areas where they're heading and heeling steers. They auction off those teams for a certain price and then, depending on how many teams, that's how the money is split. But this is gambling that's going on all the time. So why are we trying to shut down some type of racing where we ought to be trying to promote like quarter horse racing? What, 80-some...81,000 registered quarter horses in the state of Nebraska? And my understanding is about 10 percent of them have AAA time. Now, how many of you know what that even means. AAA time means that they are fast enough they can qualify to go on racetracks someplace. Also AAA time means that they can probably outrun any car you have around for the first 200 yards. I mean, these are horses that can move and move fast. So there's probably 8,000 head of those kind of horses that would...if you had racetracks around the state of Nebraska, they would probably be competing all the time. What would that do? That would probably bring in a lot of people from different

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parts of the United States, for that matter. This is something that people like to do. Whether you bet \$2 on a race and they bet on 10 races, I was looking on the television the other day and if I want to go out here at the Event Center and watch a tractor pull, I think it costs me \$22 just to have a ticket to go at the Event Center. So there's...horse races aren't that expensive for people to go and spend a little money and watch compared to some of your other events that go on around the countryside. Also, I'd point out that with some of the keno that we have around, this is probably...you talk about a game of chance, at least on horse racing you can at least watch the horses run and take a look and if you're a good judge of livestock...as they say, a good judge of horse flesh and a gentleman and a judge of good whiskey and that's what it takes to win at a horse race. And so I think you have to take that in consideration. This is what it looks like we're trying to do, or what I think we should be trying to do, instead of worrying about the gambling part that people are going to gamble anyway. This simulcast that goes with this, it's going to be controlled about so much, and it won't be any different than going to a keno, watching keno. I don't know, I've been to some of them. We go out to cowboy night at Denton and I see those keno things running there. [LB806]

SENATOR COASH: One minute. [LB806]

SENATOR LOUDEN: I have no idea how they operate or what they do, but I know if I was watching a horse race I'd have some idea of what's going on. So, whether you think keno is probably all right; pickle cards, I mean, you buy those pickle cards by the bunches and all you do is peel them off. That's the fun of it, is peeling those pickle cards. So I think we need to think about what we're trying to do here. We're trying to set something up and if we can get some amendments on there to help with the quarter horse industry, I'd certainly think it would be the way to go because I think we have an industry out there that's ready to take off. As we say, it's probably just about ready to pop for the amount of quarter horses we have in the state of Nebraska and the amount of good quarter horses that are out here. I think we need to advance with this LB806 and see if we can't next year work on some way or another to make it easier to have some quarter horse racetracks,... [LB806]

SENATOR COASH: Time, Senator. [LB806]

SENATOR LOUDEN: ...some real hard to work tracks. Thank you, Mr. President. [LB806]

SENATOR COASH: Thank you, Senator Louden. Senator McCoy, you're recognized. [LB806]

SENATOR McCOY: Thank you, Mr. President and members. Would Senator Lautenbaugh yield, please? [LB806]

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SENATOR COASH: Senator Lautenbaugh, will you yield? [LB806]

SENATOR LAUTENBAUGH: Yes, I will. [LB806]

SENATOR McCOY: Thank you, Senator. What did we do, do you know, Senator, in 1988 when we...when it took a constitutional amendment to allow simulcasting? Do you remember the verbiage that was added in the constitution? [LB806]

SENATOR LAUTENBAUGH: I do not, no; I was not here. [LB806]

SENATOR McCOY: Okay. The language was, "wherever run." How would that fit in the constrict of LB806? Because I don't believe that the constitution says "whenever run," does it? [LB806]

SENATOR LAUTENBAUGH: I think the verbiage that you're citing would be possibly read broadly enough to cover wherever whenever, not meaning just not live at the track in question. [LB806]

SENATOR McCOY: Okay. Now Senator Schilz, and for that matter so did Senator Krist a little bit ago, referenced studies that show that instant racing helps. What are these studies? [LB806]

SENATOR LAUTENBAUGH: Well, I don't think I would call...at least what I'm familiar with, studies, I'm just saying we know what happened in places where the machines have been installed and race days have increased again and purses are up. I wouldn't call that a study. I'm just saying that's what was experienced in the places where this has been tried. [LB806]

SENATOR McCOY: Was I correct earlier, Senator, when I noted that there are only two racetracks in the United States that currently have instant racing? [LB806]

SENATOR LAUTENBAUGH: I don't know if that's correct, but I don't want to argue that point with you because I don't know how many, specifically, there are beyond the two. [LB806]

SENATOR McCOY: Okay. And is it your knowledge that the Cella family has owned Oaklawn Park for over 100 years, Hot Springs, Arkansas, and, in turn, they own Race Tech Industries as well? [LB806]

SENATOR LAUTENBAUGH: I know they own Race Tech Industries. I don't know what else they own though. [LB806]

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SENATOR McCOY: Well, if you pull up the Oaklawn Park Web site, ladies and gentlemen--and thank you, Senator Lautenbaugh--the Cella family has owned Oaklawn Park for over 100 years, in fact since 1904. And Race Tech Industries that owns and manufactures these machines, these instant racing terminals, is owned by the Cella family as well. Now two tracks in the United States own...pardon me, two tracks in the United States currently conduct instant racing. Now, Kentucky Downs in Franklin, Kentucky, has only had the machines since September 1 of last year, so just a little over six months. Now one thing that I think is somewhat interesting about Kentucky Downs, over \$3 million was spent at Kentucky Downs to prepare and house these machines. Now here is an interesting fact. These machines are leased from Race Tech Industries. So at the two tracks in the United States that conduct instant racing, the machines are owned by Race Tech Industries in Oaklawn Park in Arkansas because the same family owns the track, owns the machines, and at Kentucky Downs in Kentucky because the same family owns the machines, leases them to Kentucky Downs. I just thought of one more question for Senator Lautenbaugh, if he would yield again. Thanks. [LB806]

SENATOR COASH: Senator Lautenbaugh, will you yield? [LB806]

SENATOR LAUTENBAUGH: Yes, I will. [LB806]

SENATOR McCOY: Thank you, Senator. I apologize for getting you back up again, but I should have thought of this earlier. Can you go through with me, this \$3 million that was spent in the last couple of years at Kentucky Downs in Kentucky, how would the tracks in Nebraska prepare to house these machines? And that would be my first question. And who would pay for that, being that these are nonprofit tracks? And would these machines be leased or owned? [LB806]

SENATOR LAUTENBAUGH: Well, there's multiple questions there. I have no idea what the actual ownership arrangements would be for the machines. They would probably...could vary... [LB806]

SENATOR COASH: One minute. [LB806]

SENATOR LAUTENBAUGH: ...from track to track. As far as financing goes, yes, they are not-for-profits, but even not-for-profits can go take out bank loans, they can enter into any number of arrangements to expand, renovate, build a structure to house these machines. I don't even know that I can sit here and say that the existing tracks don't have structures in some instances that would accommodate them already. I've never looked at the square footage we're talking about. [LB806]

SENATOR McCOY: Thank you, Senator. And I know time is running short, (inaudible) opportunities to dialogue in a little while. But again, I would let you know that...and it's on their Web site, it's a number they put on their own Web site, Kentucky Downs spent

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\$3 million to prepare for these machines. I would like to know from the proponents of this bill, how do the racetracks in Nebraska, how are they going to pay to...for improvements to even house these machines if the industry is in such dire shape?  
[LB806]

SENATOR COASH: Time, Senator. [LB806]

SENATOR McCOY: Thank you. [LB806]

SENATOR COASH: Those still in the queue wishing to speak: Senators Conrad, Gloor, Brasch, Avery, and others. Senator Conrad, you are recognized. [LB806]

SENATOR CONRAD: Thank you, Mr. President. I rise in support of LB806. I haven't had an opportunity to speak on this legislation yet and it's for a few very, very simple and straightforward reasons. This industry has a proud history in my district in north Lincoln and I believe very deeply and sincerely that this industry has a proud history and a statewide impact all across Nebraska. I see this as an important economic development issue. I see this as a very straightforward mechanism to assist the industry and to ensure that proud history can continue into the future. And in the spirit of cooperation, I have agreed to yield the remainder of my time to my good friend, Senator Lautenbaugh. Thank you, Mr. President. [LB806]

SENATOR COASH: Thank you, Senator Conrad. Senator Lautenbaugh, 4 minutes 8 seconds. [LB806]

SENATOR LAUTENBAUGH: Thank you, Mr. President, and thank you, members of the body. I won't take all of that, but there are some points raised that I must address. This is the first I'm hearing of the question as to how these individual tracks plan to finance any expansion or renovation or whatnot to install these machines. And I'll be honest, I'm not going to know the answer 10 to 15 minutes from now either. It really didn't seem like my place to ask. I mean, I'm assuming they have a plan to do it, or they're not going to do it. But they don't exist in a vacuum. They are businesses like any others with lenders that accommodate them from time to time, etcetera. We had some discussion as to why isn't this a constitutional amendment. Well, the short answer is because a constitutional amendment isn't required to do this. And here is what you have to understand. People keep saying, well, we're authorizing something that's currently illegal with this. That's not the case. Previously, proponents of this had been advised, you need to get the Legislature to authorize it. There's an argument to be made that existing constitutional provisions would allow us to do exactly what we're talking about with no legislative authorization. But the problem is, if someone wants to test the case without legislative authorization, an ambitious prosecutor or Attorney General could prosecute them. And they would have to defend themselves from a criminal charge, which is an awful lot to ask. That's why we were told, get clarification from the Legislature saying it's okay. But

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since we believe it's constitutional, you don't go with a constitutional amendment. It isn't necessary. But the legislative authority will protect these individuals from any sort of allegation that they're not doing something in compliance with the law. That's an important distinction to understand because that's why we're standing here. It's a lot to ask of someone in this industry to say, well, why don't you just try it and see what happens. Well, sometimes bad things happen. And either way, even if you're vindicated, you have to defend yourself against a criminal charge. If we authorize it, that prospect doesn't exist anymore. If some future court found that somehow this wasn't authorized, it would cease. That's fine, that's a lot cleaner and asking a lot less of the proponents of this outside the body than to subject themselves to possible prosecution to do a test case. And I don't think it will come to that; well, there will probably be a test case, that much is certain, but you can say that about anything we do. And I'd be out of a job if that weren't true in my real life. But the other thing that's come up is we've had allegations, well, the proponents won't address the look of these machines. They won't talk about it. Well, that's because we talked about it a couple of days ago and these machines can look like anything you want. You're getting a handout right now, showing a completely different configuration from the one you were handed today. We can address that if that is the real concern. In a state that has slot machines, these things are made to look, on the screen at least,... [LB806]

SENATOR COASH: One minute. [LB806]

SENATOR LAUTENBAUGH: ...thank you, Mr. President,...more slot-like, if you will. But they don't have to look like that. The handout I'm looking at here that was just distributed by Senator Schilz shows a race, in the middle shows the odds, doesn't look like a slot machine to me at all. I hope that underlines the danger of saying, well, gee, we think it looks like this so it must be this. I pointed out the other day, I have a cigarette lighter that looks like a gun. That doesn't make it a gun; it's a cigarette lighter. We could make these look like slot machines. We could also make them look like a '57 Buick if we had a mind to. But that wouldn't make them a Buick, now would it? It matters, the specifics, it matters what's inside, it matters how these things function. And to call them a slot machine is to try to steal some bases and mislead you. They don't look like that in this handout you just received. This is racing; this is not a slot machine. Thank you, Mr. President. [LB806]

SENATOR COASH: Thank you, Senator Lautenbaugh. Senator Gloor, you are recognized. [LB806]

SENATOR GLOOR: Thank you, Mr. President, and good afternoon, members. Senator Harms referenced a newspaper article written some time ago that referenced Fonner Park. I talked to an individual in the industry who bemoaned the fact that by 2010 the industry was going to...or the park was going to be bare and turned the issue on its head by saying, obviously, that the fact that it's going two years later means that it lived

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beyond its useful life and is destined for the trash heap of the racing industry. And I would tell you that what I know of and what I see and hear, the fact that that one individual...and I dislike individual, episodic testimonials because you can find anybody to say anything that suits the argument you're trying to make. The realities are that that individual said in 2010 the track would be closed. It's 2012, the track is doing well; and it's doing well because a lot of people are working hard busting their backsides to make sure that the track remains viable as long as possible. And yes, there's a recognition that there is a struggle out there. And yes, there is a limited period of time for people to be able to put in extra effort, but that's where we come in. We're still talking about racing. We're still talking about horse racing. It may be historic, but it is not slot machine gambling. And I appreciate Senator Lautenbaugh's comment to this because I was talking to Senator Schilz. I wonder if Senator Schilz would yield for a question. [LB806]

SENATOR COASH: Senator Schilz, will you yield? [LB806]

SENATOR SCHILZ: Yes, I would. [LB806]

SENATOR GLOOR: Thank you, Senator Schilz. Senator Lautenbaugh started it down this road, but I'd like to take it a little further and I'm looking at the handout that we received earlier that came off of You Tube. And on the sign front it shows what appears to be something like a slot machine. In fact, the first thing I did was look for the arm on the side since it looks like a one-armed bandit, and then I flipped it over on the backside, which I encourage people to look at, and it looks completely different, with buttons on the bottom and clearly not deep enough to be anything like a traditional slot machine. Can you tell me what you know of these machines, how they're designed and configured? [LB806]

SENATOR SCHILZ: You know, when Senator McCoy handed that out and I looked at that, I was like, you know what, yeah, that kind of looks like a slot machine. And then I thought, you know, we need to find out for sure. We need to dig deeper than just a visual image that was pulled off the Internet. And what you're going to find is that when these folks do these types of machines, they can be configured in all sorts of ways. And if it's my guess, what we find in the state of Kentucky where these pictures were taken is that the state of Kentucky probably already allows casino gaming. And so their machines have been configured to allow that to be part of the system, because...so, that's what I saw. But other places where it wouldn't be allowed, those machines can be configured and a software can be set up so that only the horse race shows so that that's the only thing that comes up and none of the slot-like aspects are there. And we can...I believe that we can put that into the legislation. [LB806]

SENATOR GLOOR: But, Senator Schilz, mechanically, if I'm looking at the view of the this You Tube handout that says 709 views... [LB806]

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SENATOR COASH: One minute. [LB806]

SENATOR GLOOR: Thank you, Mr. President...is this a monitor? [LB806]

SENATOR SCHILZ: Yes. [LB806]

SENATOR GLOOR: It's a video monitor. So the picture there could be anything that you want to put on any kind of monitor that you have, is that...? [LB806]

SENATOR SCHILZ: Absolutely. [LB806]

SENATOR GLOOR: Okay. Thank you, Senator Schilz. [LB806]

SENATOR SCHILZ: Um-hum. [LB806]

SENATOR GLOOR: So if it makes folks understand the issue here a little better, trying to paint this as expanded gambling, having pictures that are clearly nothing more than monitors that display what you want, moves in that direction. We could have the whole screen, clearly, nothing but horse racing or horses or the Big Red's latest victory. That would be football or volleyball. Or we could have a picture of the State Capitol or one of our distinguished senators standing there in his bow tie. It could have anybody or anything on this face. It does not have to have the appearance of... [LB806]

SENATOR COASH: Time, Senator. [LB806]

SENATOR GLOOR: Thank you, Senator. [LB806]

SENATOR COASH: Thank you, Senator Gloor. Senator Brasch, you are recognized. [LB806]

SENATOR BRASCH: Thank you, Speaker, and good afternoon, colleagues. I do rise opposed to LB806. And today I just want to speak...it's not because of e-mails or certain people pulling one way or another, but I do have a constituent who at a recent meeting...never met him before, he races horses; distinguished gentleman, makes Senator Lautenbaugh look like a kid. And I thought I'm in trouble now. He races horses and he said to me, I was sitting up at Atokad and I saw your name on a list. And I thought, okay, this is going to be good, but I'm here to listen and learn. And he said, I don't think we need to have that machine horse stuff, and he went on, and he talked to me about what I thought was really interesting. I did a Google on it. He said, this is what we need. He's raised horses in California, across the country, and now in his retirement years he's racing them in Burt County. He said that the horse racing industry and the Legislature, whoever in Nebraska, needs to hold and host what is called a horse fair. I looked it up, Midwest Horse Fair. Their mission is to unite all facets of the horse industry

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through the premier event known as the Midwest Horse Fair by focusing on education, networking, and promotional opportunities to introduce nonhorse owners to the beauty and enjoyment of this magnificent animal and to provide entertainment to individuals and families of all ages. What is the horse fair? It is a top three-day horse event in America. This one is held in Madison, Wisconsin. They have...and it goes on describing, they have many events, they have 500 vendors, they have everything from A-Z to help people know why horse racing, why the horse industry is so well-loved, so respected, the sport of kings through our history. And he said he was saddened to see that we would be taking it down to the like of a metal machine and our children, our youth would never know the true entertainment and joy of the beauty of a horse running. It was just going to become mechanical. I have done my responsibility in relaying this message to you from him. And I do ask everyone to seriously consider where we are taking this industry. Thank you, colleagues. [LB806]

SENATOR COASH: Thank you, Senator Brasch. Those wishing to speak: Senators Avery, Nelson, Fulton, Lautenbaugh, and others. Senator Avery, you are recognized. [LB806]

SENATOR AVERY: Thank you, Mr. President. I have some questions for Senator Larson, but he seems to be missing in action. He prioritized this bill, but yet he is not on the floor and has not been on the floor for much of this debate, either the last time we debated it or today. I wonder if that indicates a lack of commitment to the bill or lack of confidence in his ability to defend it. But I have questions and I don't see Senator Lautenbaugh, so I guess I will ask Senator Schilz if he would yield. [LB806]

SENATOR COASH: Senator Schilz, will you yield? [LB806]

SENATOR SCHILZ: Sure, please. [LB806]

SENATOR AVERY: Thank you, Senator Schilz. I believe we have been told that the track...that a track is being planned for Lincoln or a city of the primary class. Is that correct? [LB806]

SENATOR SCHILZ: I know...I know that there were some promises that were made in the past. I don't know where that stands, to be honest with you, Senator Avery. [LB806]

SENATOR AVERY: Do you know if these facilities would be nonprofit? [LB806]

SENATOR SCHILZ: I would suppose that if it was set up like the others that, yes, it probably would be. But I wouldn't want to presume that that would be the case necessarily. [LB806]

SENATOR AVERY: Well, I've been told that there is an Arkansas investor by the name

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of Cella, that I believe was being discussed on the mike a few minutes ago by Senator McCoy, who has said that if we pass this bill he will build a racing facility here in Lancaster County. How would that work? If these are nonprofit, I mean, what would be in it for him to build a facility from which he could not earn profit? [LB806]

SENATOR SCHILZ: You know, I guess not knowing, I wouldn't want to put words in any of their mouths. I couldn't tell you, but I'm sure that there is...there would be all sorts of ways to configure that so that, possibly, all could get benefits from it. [LB806]

SENATOR AVERY: Well, we do know that he is a manufacturer of and lessor or seller of these machines. Could it be that what he really wants is to lease the machines to a facility here in this county? [LB806]

SENATOR SCHILZ: It could be, very well, yeah. [LB806]

SENATOR AVERY: Thank you, Senator Schilz. I would invite Senator Larson to come to the floor sometime and defend his priority bill. I have here an editorial that was published in today's Journal Star that reports that the redevelopment of Haymarket Park and the building of the Pinnacle Bank Arena is going to be subject to some rules in the Haymarket around that arena that will exclude, explicitly forbid gambling and wagering of any kind. I think that's interesting. It shows you, at least, that not everybody in the city of Lincoln is behind expanded gambling. I know that we're nearing the end of debate on this issue and I think that my colleague, Senator Smith, will need some time to make a point on the microphone to get it on the record and I'm going to give him the rest of my time. Thank you, Mr. President. [LB806]

SENATOR COASH: Thank you, Senator Avery. Senator Smith, 1 minute 25 seconds. [LB806]

SENATOR SMITH: Thank you, Mr. President. Thank you, Senator Avery, for giving me some time to speak. I did want to speak on this underlying bill before the day ended. I've looked at this game every which way possible and have concluded that I am absolutely positively convinced that this is expanded gambling, at least to the same degree as reducing keno intervals. While this device could be argued to mirror pari-mutuel racing in that the player is presented statistics that a player normally would use to make their bet in a live horse race. [LB806]

SENATOR COASH: One minute. [LB806]

SENATOR SMITH: And I've even willing to dismiss the presentation of the game insomuch as it may look like a slot machine. Put all of that aside for a moment, colleagues. My determination that this is expanded gambling is the fact that the speed of this game is dialed up to the point that less time occurs between races, very much

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like the speed of keno that we voted on just recently. I voted against the IPP motion because I believe the proponents of LB806 do deserve to be heard, their day in court, so to speak. I gave my word that the proponents should receive an up or down vote on this. With all this said, colleagues, I stand in strong opposition to LB806 because it is expanded gaming. [LB806]

SENATOR COASH: Time. [LB806]

SENATOR SMITH: Inasmuch as the reduced keno... [LB806]

SENATOR COASH: Time, Senator. [LB806]

SENATOR SMITH: Thank you. [LB806]

SENATOR COASH: Thank you, Senator Smith. Senator Nelson, you are recognized. [LB806]

SENATOR NELSON: Thank you, Mr. President and members of the body. I stand in opposition to LB806 and support of AM2230 that was offered by Senator Harms. We've had a lot of talk and I've heard a lot of talk about the racing industry, which I respect. I've said before, I used to go to Ak-Sar-Ben once in a while. I used to see all the activity there and I appreciated it very much. And I know there were a lot of jobs involved. But things have changed. We look at Iowa where they started out very small. Eventually you didn't have to take a boat up and down the river. The casinos became permanent and the casinos...it didn't stop there. Pretty soon they were after...the gambling industry was after other machines that supposedly were not slot machines. And I think in my recollection, the Legislature over there authorized that and there was a court case and then, at considerable expense, the people had to remove those machines. In referring to...we've already heard about the Attorney General's Opinion in the past, but the Attorney General concluded that the constitution does not permit the Legislature, that's us, to authorize instant racing terminals. The Nebraska Constitution grants the Legislature limited authority to permit pari-mutuel wagering on horse races and the use of IRTs. It runs contrary to the constitution's original intent. I think that we, as the Legislature, have to be very careful about what we do. The argument has been made, well, we ought to approve this so it's not necessary for someone in the industry who might install these machines or have a go at it to face the possibility of criminal prosecution in order to get this to the court. I think the thing for us to do, and I'm going to argue, is that this is something we do not want to do. We can talk about the pictures of what the face of the machine looks like, it can be configured in several ways. However you configure this machine, this instant racing machine, the only thing different from a slot machine is the fact that there is not a lever there to pull; otherwise, it is almost the same. In the words of Shakespeare, "a rose is a rose is a rose by whatever name." What the Legislature might do here is not the final say. Sooner or later, if this does get

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approved, and I certainly hope that you do not vote for LB806, it will go to our Supreme Court and I'll tell you what's going to happen. They're going to look at all the cases that we have and we're going to find, I think, pretty much what the courts in several other of the states and jurisdictions found, that installing slot machines and similar gambling devices, because of their similarity between the IRTs and slot machines, a court will very likely conclude, and our court will conclude, that legislation authorizing these instant racing machines and pari-mutuel wagering on horse races is unconstitutional and that it is an improper attempt, it's an end run to indirectly allow what our constitution... [LB806]

SENATOR COASH: One minute. [LB806]

SENATOR NELSON: ...directly forbids. I want to conclude here by repeating again that the Wyoming court, our adjoining state, concluded that they are impermissible gambling devices rather than a form of pari-mutuel wagering. It said we are not dealing with a new technology here, we are dealing with a slot machine that attempts to mimic traditional pari-mutuel wagering. So, again, I stand in opposition to LB806 and urge all of you to think very carefully before you move this bill forward and cause us a lot of trouble in the constitutional area. Thank you, Mr. President. [LB806]

SENATOR COASH: Thank you, Senator Nelson. Senator Fulton, you're recognized. [LB806]

SENATOR FULTON: Thank you, Mr. President. Warm down here, putting the jacket on for the sake of formality. Maybe I'll bring a little...some levity here to the moment. The folks who are reading this in the judicial branch or lawyers in the future who may be involved with this case, people in the future who may be researching this bill are not privy to the visuals that we have here, but the record should note that we have seven, eight, nine, I don't know, ten pictures here. There's the picture of one of these live horse race machines that looks every bit like a slot machine. There's a little corner in the...upper right-hand corner there's a little view screen where you can see a horse race, or at least the tail end of a horse race, and if you watch the video, three such races occur over the course of 20 seconds. Then we have another picture, and this is for the proponents of the bill, and I'd ask if Senator Schilz were here, he's not here, I'd ask where this one came from, but at least the video screen of the race is in the middle of the screen. And then what's even more...I guess I find it almost humorous, we have a picture of what looks like a slot machine, but it's actually a candy machine. Here in the Nebraska Legislature we go from Shakespeare to '57 Buicks, and it is a beautiful thing. We're not debating whether or not one can dress up one of these machines as a '57 Buick. Kudos to Senator Lautenbaugh for the '57 Buick, that's very funny, it's a great line. The question is, what's the intent of these machines? I mean, certainly they can be dressed up to look like a slot machine, and that evidently is what they did with that first one, the slots in Kentucky. Why? Why would one dress these up as a slot machine?

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Because they want to draw people in who think it is a slot machine. So if we dress it up in another way, well, we won't attract people who want to be here for slot machines; we'll attract people...what other people? That's the question here. If they are coming to see a horse race, then why do we need these machines? We bring these machines because the gratification of the gambling act is able to occur more frequently. That's just logic. So we can dress the machines up like can openers or Buicks or what have you, the fact of the matter is, this does not address the underlying free-market argument that explains what is happening to this industry, to this once grand industry. Folks are not interested in horse racing anymore. Now I will say that the folks who have reached out to me on the other side of this, those who are in favor in the horse racing industry on LB806, I've received e-mails and calls and I would like...I would like to come out and be exposed to what goes on at the race track. It sounds to me like there are an awful lot of good people in this industry who...folks who I would consider like folks from back home, small town folks, agricultural folks, rural folks, and so I would like to get to the underlying problem in the industry. I'm telling you with every fiber of my being that this is not going to help the industry. This is going to help bring revenues in for a short period of time, but what has happened in other venues is, with respect to dog racing particularly, it's gone away. And so that which lured the people in is eventually what took over. The analogy I was putting forward before, on the one hand we have declining interest and declining revenue in horse racing proper. On the other hand, we have interest in machines... [LB806]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: One minute. [LB806]

SENATOR FULTON: ...that are able to allow people to engage in the gambling act more frequently. The one on the right is declining; the one on the left is increasing. And so it's only a matter of logic that after some requisite period of time that which is declining will have declined, that which is increasing will have increased such that it is the only thing left. I think history will vindicate that opinion. If I'm wrong, so be it. Ladies and gentlemen, I stand in favor of AM2230. I do oppose LB806. I ask you to consider this very carefully as we go toward our vote. Thank you, Mr. President. [LB806]

SENATOR GLOOR: Thank you, Senator Fulton. Senator Lautenbaugh, you are recognized. Senator McCoy, you're recognized. [LB806]

SENATOR McCOY: Thank you, Mr. President and members. I was going to ask Senator Schilz a question; he was here a moment ago. I would go back to the nature of what AM2230 is, and it is about increasing race days if these machines are allowed. Which we've talked quite a bit about Kentucky Downs in Kentucky, in Franklin, Kentucky. Even with the instant racing terminals, they have six live days of racing a year, that's it. If we truly are about helping this industry, why are we not increasing the

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race days in order to make sure that these individuals that have these jobs have these jobs for a longer period of time? I found it fascinating in the exchange of information, I think, between Senator Avery and Senator Schilz about how these individuals would actually receive the trickle-down effect of the profits if these terminals were instituted. I'd like to know how that would work. I have a small business and I would be curious as to how one would go about, in the business of horse racing in this state, applying these profits, such that they may be with these instant racing terminals, to the individuals that have jobs in the actual racing, horse racing and horse breeding end of this industry, not the tracks themselves or the simulcast areas at the tracks but the actual folks in this industry themselves. I've yet to hear the proponents of this legislation articulate how that would happen...how that would work. And Senator Lautenbaugh expressed the inability earlier to know or understand how any of that process would work. I think that...I don't know how that could be. I mentioned earlier how there are only two tracks in the United States that have these instant racing terminals. One has machines that are leased from Race Tech Industries; and the other one, Oaklawn Park in Hot Springs, Arkansas, the machines are owned by Race Tech, which also Cella family owns Oaklawn Park. So I think it's a pretty important...when you talk about not-for-profit tracks and how would you house up to 200 machines, which is what they have at Kentucky Downs in Franklin, Kentucky. Are our tracks in Nebraska, can they handle that many machines without major capital construction improvements? Who is going to pay for that? How would any of this actually work in reality? We want to talk about business principles. How would that work in business principles? You know, I spent a good deal of time last year with Senator Karpisek as we tried, unsuccessfully, to find a way with simulcast for the Lincoln area to maintain simulcast racing when the track here in Lincoln is gone. And throughout that process, I actually talked to several bankers on how financing would work for the racing industry if they didn't have simulcast racing here in Lincoln. Well, at the time I was told by a number of bankers that it just wouldn't work unless they had proof that... [LB806]

SENATOR GLOOR: One minute. [LB806]

SENATOR McCOY: Thank you, Mr. President...that the industry was sustainable, that a track would be built, would be able to produce money. They wouldn't finance the construction of a track. Well, I'd like to know how you would go about constructing or paying for improvements. Three million dollars is what it took at Kentucky Downs, Kentucky, to house a new area at their track for these machines. Who is going to pay for that here in Nebraska? No one has answered that question. Thank you, Mr. President. [LB806]

SENATOR GLOOR: Thank you, Senator McCoy. The Chair recognizes Senator Avery. And, Senator Avery, this is your third time. [LB806]

SENATOR AVERY: Thank you, Mr. President. Let me tell you a story. You all are

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familiar with Bluffs Run over in Council Bluffs. The dog racing track there started losing money almost from the day it opened. I believe that the first day they opened they had...well, they opened it in 1986 and that's when the sport was still growing. We're talking about dog racing, but dog racing and horse racing are similar. But from the very first day they saw a steady drop in wagers on live races from the beginning. The first year they had \$122 million and then that's now dropped down to 406. The problem was that live racing there and elsewhere around the country has lost its popularity. Over the years the tracks which were, by the way, the track at Bluffs Run was built first before the casinos, they had to go to slot machines. They got permission to add slot machines and poker tables under the condition that a chunk of the profits would go to prop up the dog races, essentially using one form of gambling to subsidize another. That's what we're talking about here, one form of gambling to subsidize another. Now, after years, they have discovered that the dogs live racing still is suffering. And, in fact, the people who are supporting the slot machines, that form of subsidy of another form of gambling are saying, look, we've got a profitable business here, we can't keep pouring money into a dying industry in dog racing. So they began to complain that they're being forced to put millions of dollars a year to subsidize a pastime the public has abandoned. And they're even calling for shutting down the tracks. And this is happening in Florida, Iowa, and Arizona, and other places. Florida particularly has a problem. And they are saying that there is no reason to continue spending money on a dying sport. That is a quote from Bo Guidry, must be from Louisiana, the general manager of the Horseshoe Council Bluffs Casino complex, which includes Bluffs Run. Many of the racing supporters acknowledge that the sport cannot survive financially on its own. That's true for horse racing, I believe. They argue that operations like Bluffs Run should not be allowed to abandon dog racing for greater profits after using it as a justification to expand into other forms of gambling. That's what we're talking about here. The racing end was used as a ticket to help them get those licenses for the slot machines. And now they're trying to use the profits from the...they've used the profits from the slot machines to prop up the live racing and now they're trying to force the live racing out. So I'm not sure that this is the great savior of live racing that we're being told it is. The races are losing millions of dollars. The only time there is a large crowd of people watching live racing is when people get up... [LB806]

SENATOR GLOOR: One minute. [LB806]

SENATOR AVERY: ...from the poker tables to take a smoke, then they go outside and they watch. All live racing is declining in popularity around the country. And why? Because it is just not as impulse-oriented and it's not as convenience-oriented as most other gambling is today. And let me quote from a longtime gambler over at Council Bluffs, 28-year-old man spending hours and hours in front of the slots. He says: You really have to pay attention to the background and history of dogs or horses. That's a lot of work to do. You won't see very many guys my age up there at the live races. We're down here where we can get a quicker response. It is easier, it's more fun, you get the...

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[LB806]

SENATOR GLOOR: Time, Senator. [LB806]

SENATOR AVERY: ...rush from the slots. Thank you, Mr. President. [LB806]

SENATOR GLOOR: Thank you, Senator Avery. Are there additional senators wishing to be heard? Seeing none, Senator Harms, you're recognized to close on AM2230 to LB806. [LB806]

SENATOR HARMS: Thank you, Mr. President, colleagues. What AM2230 simply does, this amendment would require that for a license to be granted for pari-mutuel wagering, there will have to be live racing conducted there for at least 150 of the days in which there was live racing in that track for 1998. Thank you, Mr. President. [LB806]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Members, you've heard the closing on AM2230. The question before the body is, shall AM2230 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB806]

CLERK: 8 ayes, 14 nays on adoption of the amendment, Mr. President. [LB806]

SPEAKER FLOOD: AM2230 is not adopted. Mr. Clerk. [LB806]

CLERK: Mr. President, I have a priority motion. Senator Lautenbaugh would move to invoke cloture pursuant to Rule 7, Section 10. [LB806]

SPEAKER FLOOD: It is the ruling of the Chair that there has been full and fair debate afforded to LB806. Senator Lautenbaugh, for what purpose do you rise? [LB806]

SENATOR LAUTENBAUGH: Well, first I'd like a call of the house. [LB806]

SPEAKER FLOOD: 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. Mr. Clerk, please record. [LB806]

CLERK: 35 ayes, 0 nays, Mr. President, to place the house under call. [LB806]

SPEAKER FLOOD: Members, 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. Would the following senators please return to the Chamber:

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Senators Coash, Larson, Pirsch, Janssen, McGill, and Campbell. Members, the house is under call. Please return to the floor and record your presence. Senator McGill, please return to the Chamber and record your presence. The house is under call. Senator Lautenbaugh, all senators are present or otherwise accounted for. It's my understanding you'd like a roll call vote in regular order. [LB806]

SENATOR LAUTENBAUGH: That's correct. [LB806]

SPEAKER FLOOD: Mr. Clerk. Members, I should stress the first vote is the motion to invoke cloture. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please read the roll. [LB806]

CLERK: (Roll call vote taken, Legislative Journal page 1047.) 33 ayes, 11 nays on the motion to invoke cloture, Mr. President. [LB806]

SPEAKER FLOOD: Members, the motion has been invoked and adopted. Are there any amendments pending to the bill at this time? Members, the next vote is on the adoption of LB806, and the question is, shall LB806 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Senator Lautenbaugh, for what purpose to you rise? [LB806]

SENATOR LAUTENBAUGH: Briefly to close, if I may. [LB806]

SPEAKER FLOOD: You may not. Would you like to request a roll call vote? [LB806]

SENATOR LAUTENBAUGH: Yes, in regular order. [LB806]

SPEAKER FLOOD: A roll call vote has been requested in regular order. Mr. Clerk, please read the roll. [LB806]

CLERK: (Roll call vote taken, Legislative Journal pages 1047-1048.) 26 ayes, 18 nays, Mr. President, on the advancement. [LB806]

SPEAKER FLOOD: LB806 advances to E&R Initial. I raise the call. Mr. Clerk, any items? Mr. Clerk, we now proceed to LB806A. [LB806 LB806A]

CLERK: LB806A is a bill by Senator Lautenbaugh. (Read title.) [LB806A]

SPEAKER FLOOD: Senator Lautenbaugh, you are recognized to open on LB806A. [LB806A]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. This is the A bill that we previously discussed and I'd appreciate your support. [LB806A]

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SPEAKER FLOOD: Members, you've heard the opening to LB806A. There are no members wishing to speak. Senator Lautenbaugh, you're recognized to close. Senator Lautenbaugh waives his opportunity to close. Members, the question before the body is, shall LB806A advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB806]

CLERK: 29 ayes, 9 nays, Mr. President, on the advancement of LB806A. [LB806]

SPEAKER FLOOD: LB806A advances to E&R Initial. Mr. Clerk. [LB806A]

CLERK: I do have some items, Mr. President. Study resolutions: LR515, LR516, Senator Nordquist; LR517, Senator Nelson; LR518, LR519, and LR520 by Senator Mello. Those will be all referred to the Executive Board. (Legislative Journal pages 1048-1052.) [LR515 LR516 LR517 LR518 LR519 LR520]

SPEAKER FLOOD: Members, pursuant to the agenda, we return to the location on the agenda that we left at noon recess, or more likely 11:30 this morning, that is LB715, a bill brought by Senator Fischer. In her absence, Mr. Clerk, it's my understanding that Senator Hadley will be handling LB715. [LB715]

CLERK: That's true, Mr. President. And I might indicate when we left the issue this morning Senator Schumacher had pending FA60 as an amendment to the bill. (Legislative Journal page 1041.) [LB715]

SPEAKER FLOOD: Senator Schumacher, why don't you advise the Legislature as to the content of your FA60 within two minutes. [LB715]

SENATOR SCHUMACHER: Mr. Speaker and members of the Legislature, I believe I'm going to withdraw these, but I want to advise some of the content and the reasoning. We're returning now to the subject of broadband, the crack cocaine of communications. This morning I tried to review these bills and I saw in the language in this bill, that was for the phone company cartel by the phone company cartel and of the phone company cartel. While it appeared that the cartel had \$20 million in a special fund to serve rural areas and was bringing in another \$4 million to \$5 million a month on largely the backs of citizens of cities of the first class and larger, the cartel seemed to have the gall to want farmers and ranchers to pay big money to get connected, and then to add to the frosting to the cake, the companies refusing to grant those farmers and ranchers service wanted the farmers and ranchers to pay for dead wire. I wanted to make two points this morning:... [LB715]

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SENATOR SCHUMACHER: ...(1) that the inefficiencies, the unfairness, and the extreme cost to the Nebraska Universal Service Fund needs to be examined, and (2) to introduce concepts which will lead to the inevitable conclusion that the proper way to bring twenty-first century tech communications to rural areas is to enable the option for our public power companies to work with the 4G cellular companies to light up our rural areas. With that, Mr. Chairman, Mr. Speaker, I would withdraw both of my floor amendments so that we can proceed with business and with the full intention that these issues will be examined in due course over the next year or two. Thank you. [LB715]

SENATOR GLOOR: Are there objections? Seeing none, so ordered. [LB715]

CLERK: And, Senator Schumacher, that applied to FA61 as well, did it not? Okay. I have nothing further on the bill pending at this time, Mr. President. [LB715]

SENATOR GLOOR: We return to discussion on LB715. Seeing none, Senator Hadley, as Vice Chair of the Transportation and Telecommunications Committee, you are recognized to close on the advancement of LB715 to E&R Initial. [LB715]

SENATOR HADLEY: Mr. President, thank you. I will just say I better get this right. LB715 will modify the statutes that allow a telephone customer of one local telephone company to seek a change in the exchange boundaries so that a customer can receive broadband service from a telephone company in an adjacent exchange. With the advancement of the bill, the Public Service Commission will be able to order a boundary change based on the broadband accessibility a customer is receiving from his or her current provider. These applications are received by the commission on a limited basis. While the bill does not address broadband access on a larger scale, it is a small step that will allow certain customers to receive broadband in specific situations. With that, I would ask for your green vote on LB715. [LB715]

SENATOR GLOOR: Thank you, Senator Hadley. Members, the question is the advancement of LB715 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB715]

CLERK: 27 ayes, 0 nays on the advancement of LB715. [LB715]

SENATOR GLOOR: LB715 advances. Continuing with General File, Mr. Clerk. [LB715]

CLERK: LB905, a bill by Senator Carlson. (Read title.) Introduced on January 9 of this year, referred to the Agriculture Committee, advanced to General File. There are committee amendments, Mr. President. (AM2197, Legislative Journal page 737.) [LB905]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Carlson, you're recognized to open

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on LB905. [LB905]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I come forward with LB905, which is a request from the Wheat Board to change their checkoff rate. Currently, the rate is 1.25 cents per bushel. It's been the same since 1988. Nebraska, in checkoff rate of the wheat-producing states, there are 3 states that are lower and there are 16 states that have higher checkoff rates. Over the years, the acres in wheat in Nebraska fluctuate up and down, but there's a general trend of downward in acres of wheat. Under their current checkoff, revenue that was generated was \$1,046,000 in 2003; \$1,053,000 in 2007; and \$800,000 in 2010. They have requested a change in the checkoff rate to go to four-tenths of one percent of the market value of wheat rather than a set amount per bushel. Now under current prices with wheat at about \$6 a bushel, four-tenths of a percent would figure out to 2.4 cents per bushel, which is not quite double their current rate of 1.25 cents per bushel. The thinking on this would be, there's not a lot of wheat ground in Nebraska that has irrigation. And so because of drought, lack of rainfall, the yield in wheat is up and down more than it would be in other crops. But generally if it's similar in other states that grow wheat, as the yield is down, the price is up, and as the yield is up, the price is down. So if we've got less bushels and it's calculated on a higher price, four-tenths of a percent should put them in a better condition than what they are right now. If they raise a lot of wheat, the prices go down a little bit. They may take in less but they feel this is best for them in the long run. Now after one year, the checkoff rate could go to five-tenths of a percent or five-tenths of the value of wheat, up from four-tenths of a percent. But once this would become law, that would require the change to be subject to the administrative procedures which would require review by the Attorney General's Office and the Governor. Now I think that the idea of checkoffs is an example of businesses and producers investing money back in its own business. The purpose of a checkoff for the Wheat Board is to enable the promotion of wheat, including marketing, both domestic and international. Money would be used to educate the public on the value of wheat in the food chain. We all understand the value of wheat as far as food is concerned. And it would provide some dollars to conduct research. Purpose of the research partially would be to develop some better hybrids that might be a greater producer, to research on how to be more efficient on fertilizers, and perhaps develop a strain that would perform better under drought conditions. I think it's the right thing to do. We are encouraging growers to invest in their own production. And as I go through this introduction, I'm also including what's included in the amendment. The amendment would set an operative date for the change in assessment rate to occur on October 1, 2012, and eliminates the need for the emergency clause. Now currently, although not explicitly stated in statutes, it's understood that any adjustment in assessment rate by any of the state commodity board is legislative in nature and, therefore, occurs by rules subject to the process of Administrative Procedure Act. Finally, the committee amendment limits additional non-checkoff revenues that may be placed in the cash fund, limits it simply to repayments to the fund, including any license fees or royalties.

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Royalties could come about as a result of research that has been paid for and then contracts resulting from these...the results of the research. The committee felt that the ability of the board to accept gifts created a potential for unnecessary outside influence and, therefore, the only dollars that could be placed in this cash fund include the checkoffs and license fees or royalties. With that, I've introduced LB905 and also included the amendment. And I would ask for your support and try to answer any questions that you may have. Thank you, Mr. President. [LB905]

SENATOR GLOOR: Thank you, Senator Carlson. Members, you've heard the opening on AM2197 and the underlying bill, LB905. There are senators wishing to be heard: Wightman, Harms, Larson, Schilz, and Bloomfield. Senator Wightman, you are recognized. [LB905]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. I rise in strong support of LB905, as well as the underlying amendment, AM2197. It seems to me that...and particularly wheat is in a special situation from corn and as a result I see that they've gone on the checkoff to where you'll be talking about a percentage of the total sales. If Senator Carlson would yield for a question, I would have a... [LB905]

SENATOR GLOOR: Senator Carlson, would you yield? [LB905]

SENATOR CARLSON: Yes, I would. [LB905]

SENATOR WIGHTMAN: Am I right, in wheat, rather than go to a certain number of cents per bushel or a partial cent per bushel, you'll go to the price of the wheat? [LB905]

SENATOR CARLSON: A percentage of the sale price. [LB905]

SENATOR WIGHTMAN: Of the sale price. [LB905]

SENATOR CARLSON: Yes. [LB905]

SENATOR WIGHTMAN: And I understand that that's being done because of the fact that with drought situations and it being almost all dryland that that varies substantially from year to year, even assuming the acreage was not dropping. Is that correct? [LB905]

SENATOR CARLSON: Well, that's correct. And then if you follow along with that concept that when yields are down, prices are probably up. So it would tend to even out a little bit more. [LB905]

SENATOR WIGHTMAN: Tend to make up some of the difference. So I think it is important that everybody share in this expense of promotion, everybody is getting the

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benefit of it. I am sure that it's gone to develop export markets across the United States. It's gone to promote various uses of wheat, as it will have been corn when we get to that with the following bill. So I think it's important that these sources remain, that everyone benefits from it, and that the increase is necessary. Thank you, Mr. President. [LB905]

SENATOR GLOOR: Thank you, Senator Wightman. Senator Harms, you are recognized. [LB905]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of AM2197 and LB905, the underlying bill. Where I live, we don't have a lot of wheat farming in the Scotts Bluff County, but we have probably...we have more to the north and to the south, actually probably more in Senator Schilz's district where a lot of wheat is grown. But it is dry farming. And it's very risky. It's amazing how...what kind of a problem these wheat farmers actually have when they plant that crop. And the moisture has to come at the right time. They have all other kinds of issues. And so I think this is a really a good opportunity to probably help and help stabilize it a little bit, the wheat industry. So I support this very strongly. Thank you, Mr. President. [LB905]

SENATOR GLOOR: Thank you, Senator Harms. The Chair recognizes Senator Larson. [LB905]

SENATOR LARSON: Thank you, Mr. President. In the Agriculture Committee, I think we sent this out 6 to 0 to 2, and I was one of the nonvoting ones. And I have a few issues. I do think that the wheat checkoff has done some good things in the state of Nebraska. And I guess I'm prefacing LB905 to the next bill, LB1057 which is the corn checkoff, which I have a few more problems with. But those problems kind of root in the same area. And if Senator Carlson would yield to a question, I'd appreciate it. [LB905 LB1057]

SENATOR GLOOR: Senator Carlson, would you yield? [LB905]

SENATOR CARLSON: Yes, I would. [LB905]

SENATOR LARSON: Senator Carlson, is the Wheat Board an elected body by other wheat growers? [LB905]

SENATOR CARLSON: The Wheat Board is appointed by the Governor. [LB905]

SENATOR LARSON: Okay. And essentially, I mean, we can call this an investment or a tax, but they've asked essentially, increase this mandatory fee on wheat producers, correct, they've asked us to do it? [LB905]

SENATOR CARLSON: Yes, they have. That's the procedure they have to go by. [LB905]

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SENATOR LARSON: All right. Thank you, Senator Carlson. I guess my biggest issue with the wheat side, and this will follow into the Corn Board, is we have an unelected body that is representing all wheat growers across the state. And, again, this will move onto LB1057 with the Corn Board. But an unelected body supposedly representing all of the wheat growers across the state that feel that they need more money to do X or Y, so they ask us to raise the fee/tax so they can invest more. And they do do a number of good things, but they cannot be held accountable to the wheat growers they supposedly represent. Every one of us are held accountable to our constituents. If we make poor decisions, our constituents can vote us out and get rid of us. Yet in the Wheat Board, you know, they can say, well, let's raise their taxes or, you know, raise their fees. But it doesn't matter. If the Governor keeps reappointing them, you know, you may disagree with the person that you have on the Wheat Board, but there's no repercussion to get rid of them. And that's something that I really disagree with. Concerning the wheat checkoff, I think it's better than the corn checkoff for the main reason...or the increase is better...I still don't know if I can support it, but it's better because I'd call it floating. As, you know, the price decreases, the checkoff will decrease. When the price increases, the checkoff increases since it's a percent value. And since it floats like that, I think it's more proportional to, you know, the economic cycles that these wheat growers will face. And, again, prefacing on LB1057, the corn checkoff, that's not the case. So I find the wheat checkoff in LB905 a little more palatable in AM2197. It's still not something that...I don't know if I can support just because we have an unelected body in the Wheat Board deciding they need more money and have absolutely no repercussions once we give them more money or, you know, no authority determining how they spend it and really don't have any constituents to hold them accountable, which I have concerns with. So thank you, Mr. President. [LB905 LB1057]

SENATOR GLOOR: Thank you, Senator Larson. The Chair recognizes Senator Schilz. [LB905]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. I stand in favor of the amendment, AM2197, as well as the bill, LB905. I think that in times like these where we see prosperity in our agricultural sectors and our commodity sectors, it makes sense to take a look at how we promote, how we market, and what we do to make things happen for these producers that produce this product. I think that it makes sense at this point to look at what LB905 is saying. To say, hey, this is...this may be a great way and it will be a great way to help promote that product and it's a fair way to get the money that you need to do that. I was doing some research a little earlier. You know, obviously checkoffs are important to our state's economy and obviously to the producers of those commodities. As we see the prices increase for these commodities, we need to keep up with the promotions as we know and the research that helps move those products further. Studies in other states have shown that for every dollar in checkoffs that's collected and spent for promotions, \$23 are realized back in profits to

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the bottom line. That's a great way to put dollars to the bottom line. Collectively, they market their products, they market the commodity, in this case wheat. The growers pay it. The board who is elected by the growers, I believe, if that's the way it works with the other commodities that I've seen, the other groups, then that board takes that money and decides how to spend it for a promotion. I think that it's time that we move forward with ideas like this and take the opportunities when they present themselves to help our agricultural commodity industries within the state of Nebraska to move forward and to be more productive, more profitable as we move into the future. Thank you, Mr. President. [LB905]

SENATOR GLOOR: Thank you, Senator Schilz. Senator Bloomfield, you are recognized. [LB905]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good afternoon or near good evening, colleagues. This bill, under AM2197, is a whole different animal than what it was when we first saw it. I was opposed to the bill when it came out. After considerable conversation and compromise, I can and do support this bill. The fear of having a nonelected board out there running willy-nilly, raising the rate whenever they want to, is bound up in what we're asking for here. They can raise one-tenth of one percent with the Governor having veto power. That does not leave them a lot of room to jump this around. This is asked for by wheat growers. I believe we should give it to them. I'm not a great fan of raising fees, but I think in this case it's probably a good idea. And I would yield the rest of my time to Senator Carlson if he needs it. [LB905]

SENATOR GLOOR: Three minutes fifty seconds, Senator Carlson. [LB905]

SENATOR CARLSON: Thank you, Mr. President. Thank you, Senator Bloomfield. The Wheat Board is appointed by the Governor and not on an election. But this is one of the things that we might look at on an interim study is to the design of what's happening here with the wheat growers and the Wheat Board as well as the corn growers and the Corn Board. But keep in mind that what we're asking for here for the wheat growers has nothing to do with General Funds. This is their initiative to invest in their own area and promote it and make it better. If we as a state recruited a business to come into Nebraska because they were going to build a facility and hire 200 people, we would celebrate. Now if a business does that, it isn't in the contract but it would be understood and it certainly would be desired that as that business prospered, they would use part of their earnings and invest back into that business to make it better so that we could go from 200 employees to 250 or 300 or whatever. For a business to flourish long term, it needs to invest back in itself. And I think that's a fairly good definition of what checkoffs are. And so I appreciate questions and discussion and ask for your support of LB905 and AM2197. Thank you. [LB905]

SENATOR GLOOR: Thank you, Senator Bloomfield and Senator Carlson. Senator

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Hansen, you are recognized. [LB905]

SENATOR HANSEN: Thank you, Mr. President. I also rise in favor of this amendment and the underlying bill, LB905. I'd like to ask Senator Carlson a couple of questions if I could please. [LB905]

SENATOR GLOOR: Senator Carlson, would you yield? [LB905]

SENATOR CARLSON: Yes, I would. [LB905]

SENATOR HANSEN: Senator Carlson, thank you. Research, education, promotion are the three legs of the Wheat Board, is that correct? [LB905]

SENATOR CARLSON: That's correct. [LB905]

SENATOR HANSEN: Did they come to you with these numbers or is this something that was negotiated? How did you arrive at the amendment? I guess that was the question. [LB905]

SENATOR CARLSON: Okay. That's a good question because in the original bill, it was five-tenths of a percent instead of fourth-tenths, with the ability to go up to seventy-five hundredths of a percent of value. Now I would have been okay with that as long as they're spending the money wisely and, in fact, promoting themselves. But the committee felt that this first step of going to four-tenths of a percent of value and then after a year they could go up to five-tenths of a percent, but that's got to be with the okay of the Attorney General and the Governor. So that's how it was amended. [LB905]

SENATOR HANSEN: And the Wheat Growers Association is one of the nonfunded...or cash-funded agencies, a nongovernment agency. But they're all cash funded, is that correct? I think you already mentioned that. [LB905]

SENATOR CARLSON: Well, that's correct. But it's good to clarify that a cash fund can be from fees or from checkoffs or whatever. It could also involve some General Fund dollars. But the Wheat Board and that fund is all fees and checkoffs. There are no General Fund dollars involved. [LB905]

SENATOR HANSEN: Strictly. And fines, too, in certain of the cash agencies are...includes fines too. So Senator Larson's comments about being a nonelected board, I think when you look at the cash-funded agencies, most of them are that way, where the producers suggest a name, it goes to the Governor, and the Governor appoints those people. And it's always for a specific time. I'm most familiar with the Nebraska Brand Committee where they are four-year terms, and the Governor okays them. They can go for two terms, or eight years, which is something similar to what we

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do now. But cash-funded agencies are different. They raise their own money. They spend their own money for their three-legged stool that they have promotion, education, and research. The research is so important to anything in agriculture. We have a West Central Research and Education Center at North Platte. Even though in my district we raise some wheat in the southwest corner and the northwest corner, but we don't raise a lot of wheat, but the research center in North Platte does a lot of research. And the reason they're doing research now is, in a rotation system with corn, wheat is invaluable. Wheat is also a commodity that, like you said earlier in your opening, price goes up and down, depends on the weather, it's all dryland. We're talking about dryland corn and the rotation in that system with wheat. Wheat is invaluable as a water saver, and that's what the university is all about right now is trying to figure out how to save water. They bought a farm at Brule just to study wheat production, wheat and corn production. But the wheat is very important. They've got to get some money involved in wheat production to do their research. This is how they do it. It's not all university research. It's genetics from the seed stock that they put in the ground. [LB905]

SENATOR GLOOR: One minute. [LB905]

SENATOR HANSEN: So there's...this is a really important bill that's...it's important that we realize that the three-legged stool that these cash-funded agencies live on is important. They fund it themselves; we need to listen to them when they say they need more money. Thank you, Senator Carlson. Thank you, Mr. President. [LB905]

SENATOR GLOOR: Thank you, Senator Hansen. Senator Langemeier, you're recognized. [LB905]

SENATOR LANGEMEIER: Mr. President and members of the body, I rise in opposition to LB905 and AM2197 for a number of reasons, which is going to be unique because I'm going to support the next one on the Corn Board. You've heard a little bit about elected and appointed boards, and the reality is you have an appointed board and that's great. Senator Hansen brought up the same thing. The Brand Commission is an elected board. But the Brand Commission came to us last year and talked about their fees. And we become at that point, when we're talking about their fees, we become the elected board, we make that decision as a body. So now we're going to take this, and this is the part I don't like. I don't have a problem with raising their fees, and I don't care how you spin it, it is a tax increase that you're voting for. And that's okay. I'm willing to support that. But what I don't like is the variable of this, that it goes upon the cost of corn...or, excuse me, in this case wheat that it becomes a variable. Now you'd never have to come back to this body and now it's all to this appointed board because they're very...their amount of money, if the wheat goes up, they get more money, they can spend it however they want. If it goes down, then they have a tough time making their budget. I'm a very big opponent on making these variable in that regard. So I think if they want to come back, and I'm just deciding how involved I'm going to get here, is if

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we want to make this where they have an increase so they can do more things and more funds and more, I'm willing to support that. But I'm not willing to support making this variable. And so at this time, I can't support LB905 or AM2197. We'll see where it goes. We'll see how much more engaged we have to get. Thank you, Mr. President. [LB905]

SENATOR GLOOR: Thank you, Senator Langemeier. Are there other senators who wish to be recognized? Seeing none, Senator Carlson, you're recognized to close on the committee amendment. [LB905]

SENATOR CARLSON: Mr. President, and thank you, members that have spoken concerning this bill. And I would disagree with Senator Langemeier on his assessment of the need for this with the wheat growers. Again, would go back to the fact that we don't have much irrigated wheat and the yields are fluctuating more than with other crops. Corn is fairly predictable; wheat is not. And, again, the general rule that when yields are down, prices are probably up; when yields are up, prices are probably down. And I think this gives the wheat growers a little better possibility for stability in the amount of money that they get off these checkoffs year by year. There could be an unusual year where we got the rain and nobody else did and we raise a lot of wheat and nobody else does and the prices go sky high. That's just a good year for them and I would hope they'd remember that the three-legged stool gives them more money to spend on research, more money to spend on promotion and marketing, and more money to spend on just increasing the value of what they do and educating the public as to the value of their contribution to the food chain. And so I think it's a legitimate request. I think that we should support it and I certainly ask for your support of AM2197 and LB905. Thank you. [LB905]

SENATOR GLOOR: Thank you, Senator Carlson. Members, the question is, shall the committee amendments to LB905 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Senator Carlson, for what purpose do you rise? [LB905]

SENATOR CARLSON: Mr. President, I'd like to request a call of the house. [LB905]

SENATOR GLOOR: The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB905]

CLERK: 26 ayes, 0 nays to place the house under call, Mr. President. [LB905]

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 Mello, Conrad, McGill, Lathrop, please return to the Chamber and

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record your presence. Senator Lathrop, please return to the Chamber and record your presence. Senator Carlson. [LB905]

SENATOR CARLSON: Mr. President, I would accept call-ins. That would be permissible. [LB905]

SENATOR GLOOR: Members, the question is, shall the committee amendments to LB905 be adopted? Those in favor vote aye; those opposed, nay. [LB905]

CLERK: Senator Louden voting yes. Senator Smith voting yes. Senator McGill voting yes. Senator Hadley voting yes. [LB905]

SENATOR GLOOR: Record, Mr. Clerk. [LB905]

CLERK: 26 ayes, 1 nay, Mr. President, on adoption of committee amendments. [LB905]

SENATOR GLOOR: The amendment is adopted. We return to discussion on LB905. Seeing no senators in the queue, Senator Carlson, you're recognized to close on the advancement of LB905 to E&R Initial. [LB905]

SENATOR CARLSON: Members, again, thank you for the discussion that has taken place and for being in the Chamber, and I certainly ask for your vote on advancing LB905. Thank you. [LB905]

SENATOR GLOOR: The question is the advancement of LB905 to E&R Initial. Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB905]

CLERK: 28 ayes, 0 nays, Mr. President, to advance LB905. [LB905]

SENATOR GLOOR: The bill is advanced. The call is raised. Mr. Clerk. [LB905]

CLERK: Mr. President, LB905A by Senator Carlson. (Read title.) [LB905A]

SENATOR GLOOR: Senator Carlson, you're recognized to open on LB905A. [LB905A]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I simply remind you that the dollars that come into this fund are cash fund dollars. They are fees. They are checkoffs. It may be royalties. There are no General Fund dollars. It's entirely cash funded. And so I would ask for your support of LB905A. [LB905A]

SENATOR GLOOR: Members, you've heard the opening of LB905A. Are there senators who wish to be heard? Seeing none, Senator Carlson. Senator Carlson waives. The question is the advancement of LB905A to E&R Initial. Those in favor vote aye; those

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opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB905A]

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB905A. [LB905A]

SENATOR GLOOR: The bill is advanced. We continue on General File, LB1057. Mr. Clerk. [LB905A LB1057]

CLERK: LB1057 is by Senator Carlson. (Read title.) The bill was introduced on January 18, referred to the Agriculture Committee for a public hearing, advanced to General File. There are committee amendments, Mr. President. (AM2170, Legislative Journal page 730.) [LB1057]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Carlson, you're recognized to open on LB1057. [LB1057]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. The Corn Board has come forward requesting a change in their checkoff rate as well as the Wheat Board. The current checkoff rate for corn is one-fourth of a cent per bushel. This has been the same rate for 24 years. Our rate of one-fourth cent per bushel is the lowest rate of the top 12 corn-producing states. The increase, and it was brought about with the amendment, would still be tied for the lowest rate amongst the 12 top corn-producing states. Now this is an important figure that I'd like you to listen to and think about a little bit. The current rate of one-fourth cent per bushel, with average yields on corn compared with other Nebraska crops looks like this: When we take average yield of about 167 bushels per acre, the corn growers pay 40 cents an acre with the checkoff; the wheat producers pay 56 cents an acre. And now with what we've advanced, that would go to about a dollar an acre for wheat growers. Soybean producers pay \$3.37 an acre; the current corn checkoff rate is at 40 cents an acre. Last night after our session, I went home to our condo, sat down to relax, had the TV on, and all of a sudden on comes a nice ad about the positive aspects of agriculture in Nebraska--the way we do things, the way we treat our animals, the way we conduct our business, the way we contribute to the food chain. And before that ad was even over, I knew what I was going to see at the end where that came from. That's the Soybean Board. They've got money--\$3.37 an acre. Grain sorghum pays in \$3.42 cents an acre. Now let's review again what is a checkoff. To me, a checkoff is a self-imposed investment in the business. And isn't this what we would hope every business in Nebraska would be willing to do? And so for 24 years, the corn checkoff has been at a quarter of a cent. It's time to allow them to change that rate. LB1057 with AM2170 will take the checkoff to one-half cent per bushel from one-quarter cent. The change would be effective October 1, 2012. The money would be deposited in the Nebraska Corn Development, Utilization, and Marketing Fund. The only dollars in that fund are checkoffs, license fees, or royalties. Now currently...this is important about the corn producers as compared to the wheat producers. Currently, corn producers, in addition

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to the quarter of a cent checkoff per bushel when they sell their corn, contribute seven-eighths of a cent to the EPIC Fund, the ethanol fund. And so along with the current one-quarter cent per bushel and the seven-eighth cents to the EPIC Fund, right now they're contributing 1.1 cents per bushel in total because of the contribution to the EPIC Fund. The seven-eighths contribution to the EPIC Fund stops September 30, 2012. The bill is requesting an effective date for the increase in the checkoff as October 1, 2012. So with the increase in the checkoff to a half-a-cent per bushel, the total paid by the producer drops from 1.1 cent per bushel down to one-half cent per bushel, a 55 percent reduction. Now what will a one-half cent per bushel be used for? It'll be used for research; it'll be used to market, domestic market as well as foreign markets for corn; it will be used for education and promotion of the value of corn and corn products, its place in the food chain, its contribution to ethanol, and the contribution to livestock production. With the current checkoff of one-quarter cent, Corn Board really doesn't have the resources that the soybean does in order to contribute the way they would like to educating people in Nebraska as to the positive aspects of agriculture. The Corn Board asked for some other changes, and those changes were not granted. They requested the possibility of going to a quasi-government agency. They'd like to consider having an elected board rather than an appointed board. They'd like to consider the possibility of a refund option for producers that pay into the checkoff. They'd like to follow a procedure that before an increase in the checkoff could take place, there would be a public meeting in each of the eight districts and a vote of seven out of the nine board members to have this increase. Now these were suggestions that weren't seriously considered this session. But I will propose an interim study for a possible change and will invite any interested senators in joining me in that interim study. Senator Larson has indicated an interest in doing that, and we would invite others to participate. So I've given you a summary of LB1057 and AM2170, and I ask for your support. Appreciate questions, appreciate discussion, and I'll try to answer any questions that you may have. Thank you, Mr. President. [LB1057]

SENATOR GLOOR: Thank you, Senator Carlson. And you included your opening on AM2170, is that correct? [LB1057]

SENATOR CARLSON: That's correct. [LB1057]

SENATOR GLOOR: Members, you've heard the opening on AM2170 and the underlying bill LB1057. There are senators in the queue. Senator Larson, you are recognized. [LB1057]

SENATOR LARSON: Thank you, Mr. President. I touched on a few of my issues that I had with LB1057 on the last bill, LB905, and I'm sorry for...to my colleagues for taking up comments on the Wheat Board for what is going to be my...I wouldn't call strong opposition, but a number of questions about LB1057. And I agree with Senator Carlson that, you know, the Corn Board has done excellent things in the state of Nebraska. It

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does offer a lot of education. And the Soybean Board has far outstripped them in terms of funding. If Senator Carlson would yield, I'd have just actually one or two questions for him. [LB1057 LB905]

SENATOR GLOOR: Senator Carlson, would you yield? [LB1057]

SENATOR CARLSON: Yes, I would. [LB1057]

SENATOR LARSON: Like the Wheat Board, the Corn Board is unelected. But it's my understanding that the Corn Board does take 50 signatures. Is that correct? [LB1057]

SENATOR CARLSON: Yes, I believe that's correct. If someone wants to run for the Corn Board or be considered for an appointment, they need to have signatures of 50 other producers. [LB1057]

SENATOR LARSON: Do you know if they have to have those signatures each appointment or just the first appointment? [LB1057]

SENATOR CARLSON: I'm sorry, I didn't follow you. [LB1057]

SENATOR LARSON: Like obviously you can be reappointed to the Corn Board by the Governor. And do you need the 50 signatures the second...each subsequent time that you go to get appointed? Do you get, like if I were to get appointed the first time now, I need the first 50...I need 50 signatures, but the second time... [LB1057]

SENATOR CARLSON: Yes. I'm going to say that I'm very certain that that's the case. I just talked to a board member who's accumulating those signatures, and this would be a reappointment. [LB1057]

SENATOR LARSON: Okay. Thank you. Well, that makes me feel a little better, not a whole lot. When you figure you have roughly anywhere between we'll say a rough estimate of 25,000 corn producers in eight districts I think, I might be wrong, you're still looking at only...needing only 50 signatures is a very, very small minority of people that need to approve your reappointment from your district. I guess therein lies my main issue, is, again, we are looking at something where we have an unelected board appointed by the Governor that has decided that they see the other major 12 producing corn states and that have more money to do X, Y, and Z, and we, you know, feel inadequate or we want to be, you know, comparable to what the other states have to spend, or they see that, you know, the Soybean Board has X amount of dollars and they want X amount of dollars. But in the end, the people that those Corn Board members represent don't get an ultimate say. And I was happy to hear Senator Carlson talk about in his opening possibly moving them to an elected board and the refund option. And that's something that I would wholeheartedly work with hard with him over the summer

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and hopefully we could get something done next year to take them out of government so where they can control their own checkoff and have their own refund option and not have to come to the Legislature asking for money but be accountable to their own members, because right now they aren't accountable to their own members. Also, Senator Carlson mentioned the EPIC Fund retiring. So where I think seven-eighths of a cent is going away as of September 30, 2012, and, therefore, that gives us an opening, the proponents of LB1057 say to raise the checkoff because they really, you know, the corn farmers won't realize it, they're getting a tax cut. [LB1057]

SENATOR GLOOR: One minute. [LB1057]

SENATOR LARSON: Well, I think, you know, last night this Legislature discussed LB970 which is a tax cut. And say what you will about a checkoff, in the end, I mean, it can be an investment, but I mean my income taxes in the state of Nebraska are an investment to the state. They go to TEEOSA funding and everything else. But, you know, I think a lot of us, the majority of us supported LB970 and that tax cut of putting more hard-earned money in the people of Nebraska's pocket. And with the EPIC Fund retiring, it'll be putting more of the hard-earned money into the farmer's pockets, the corn farmer's pockets. And yet we're now saying, well, you know, they won't even realize it if we bump it up a quarter of a cent. One thing that I have an issue with in terms of the corn checkoff is it's a flat rate in the sense that... [LB1057 LB970]

SENATOR GLOOR: Time, Senator. Thank you, Senator Larson. Senator Wallman, you are recognized. [LB1057]

SENATOR WALLMAN: Good evening, Mr. President. Members of the body, I'm a corn producer. Corn is king in Nebraska, in Iowa, Illinois. Corn is king. It brings the most revenue per acre of anything, except specialty crops. So I think it's really great that the corn producers come to us with this...it was the producers that came to us with this proposal. And we tried to amend it a little bit here with Senator Carlson. But, you know, 96 percent of the world's people live outside of our country and they need food. So we have to promote our product. Here's Argentina. There's Brazil. There's China coming on board. There's South America...I mean Africa. Folks, we have some of the best corn in the world, and so we have to promote it. It's a different world out there now. If we don't promote our own product, I've always said that whether it be beef or corn, it's a good thing to do. If Senator Carlson would like some of my time, I'd yield him. [LB1057]

SENATOR GLOOR: Three minutes forty seconds, Senator Carlson. [LB1057]

SENATOR CARLSON: Thank you, Senator Wallman. In remarks made by Senator Larson, the idea that the timing is good because they won't notice it, well, that...there's some rationale with that. It's a good time because that seven-eighths cents drops off. And nobody likes additional fees, but most growers understand what this money is used

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for and look at it differently than they would some other kind of tax. I don't...I used to call it a fee or a tax. I don't like to refer to it that way. On the other hand, I don't like when some other politicians talk about an investment in our infrastructure, investment in this, investment in that. It's still tax dollars. But when a business reinvests in itself, that's the right thing to do and that's the only way that the growers can handle this. You know, in the United States, we have the safest food supply in the world. We have the most plentiful food supply in the world. We have the most economical food supply in the world, and we want to keep it that way. We want to fulfill our mission, which is to help feed the world. And I've said many times, there's only one other mission that's more important than that and that's the mission of the church. But when we're supplying food to the world, that's a noble mission. And so it's important that we have our growers in a position that they can do the things necessary to continue to grow their business for the benefit of all of us. Thank you. [LB1057]

SENATOR GLOOR: Thank you, Senator Wallman and Senator Carlson. Senators in the queue: Wightman, Bloomfield, Dubas, Larson, and Schilz. Senator Wightman, you're recognized. [LB1057]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I do rise, again, in strong support of LB1057 and the amendment, AM2170. It seems to me that this is a much more direct investment when farmers, corn producers, are investing in their own business, and that's exactly what they're doing. And they're going to see the benefits and I think they've seen the benefits of this many times. Not only did we have the EPIC Fund, but I think long before that there's no question in my mind that some of these promotional dollars were spent in the development of the ethanol industry. And I don't think you have to look or imagine very much what our corn prices would be today if we had not invested in this industry. And certainly every producer has seen a great return of the money that they have paid out in the form of checkoff dollars. And every farmer and, as far as that goes, the farm owners have benefited from those expenditures that have been made. With that, I do have a couple of questions of Senator Carlson if he would yield. [LB1057]

SENATOR GLOOR: Senator Carlson, would you yield? [LB1057]

SENATOR CARLSON: Yes, I would. [LB1057]

SENATOR WIGHTMAN: Senator Carlson, I don't know that you have found the answer yet to this. I spoke to you off the mike. Perhaps you could first just tell us some of the things that the promotional dollars are used for. [LB1057]

SENATOR CARLSON: Okay. And, again, it's the three-legged stool. Research, and in corn where corn is king, but water is the lifeblood, part of those research dollars would go for efficiency in the use of water, developing hybrids that would produce more with

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less water, so more crop for the drop. That's in the research area, and being efficient on fertilizers and such. The other is promoting the marketing. And, for example, we know that the Governor and the Director of Agriculture and some other farm representatives from farm groups take trips to foreign countries to promote our products. If it's the Corn Board, those trips are paid for by these dollars. [LB1057]

SENATOR WIGHTMAN: Okay. That was... [LB1057]

SENATOR CARLSON: So marketing is a part of that. That's a part of marketing. [LB1057]

SENATOR WIGHTMAN: And that was one of the questions I was going to ask you specifically, but you have determined that some of the checkoff dollars go to pay the expenses of corn producers and wheat producers as they go to Taiwan and various other places, Europe, to promote corn and soybean and wheat sales. Is that correct? I know the corn only goes for the corn promotion, but... [LB1057]

SENATOR CARLSON: That is the case and, again, not requesting General Fund dollars. [LB1057]

SENATOR WIGHTMAN: Okay. And I thought that was probably the case but I didn't know that for sure. But with that, I do urge your support, that you vote green on both AM2170 and LB1057. Thank you, Mr. President. [LB1057]

SENATOR GLOOR: Thank you, Senator Wightman. Senator Flood, you're recognized for a Speaker's announcement. [LB1057]

SPEAKER FLOOD: Thank you, Mr. President and members, good evening. We've made good progress today. My intention is to go ahead and adjourn for the day at the conclusion of LB1057. Thank you, Mr. President.

SENATOR GLOOR: LB1057A were recognized. Senator Bloomfield, you are recognized. [LB1057 LB1057A]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good evening, colleagues. Again, when LB1057 came to us, I couldn't support it. There was a lot of debate went back and forth. There was a lot of work done in the committee. I've come to where I can and will support AM2170. I believe this will be put to good use. And in the interest of full disclosure, I'd like Senator Wallman's folks sell a little corn this year if it rains. I did file a conflict of interest statement. And I will be voting for this when we get to it. Thank you. [LB1057]

SENATOR GLOOR: Senator Carlson, 4 minutes 20 seconds. Senator Carlson waives

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the time. Senator Dubas, you are recognized. [LB1057]

SENATOR DUBAS: Thank you, Mr. President and colleagues. I am a corn producer. And the farmers and ranchers that I know personally as well as across the state are some of the most independent and strong-willed people you will probably ever come across. And we have to be to survive in our business. And our business is very uniquely different than most other traditional-type businesses you think about. Whether you're in, you know, a grocery store or a bank or any of those kinds of businesses, you set aside a certain amount of money to promote yourself, to improve your business, to attract new customers, to do all those kinds of things. Well, as farmers and ranchers, we are all out there operating independently of each other. We don't...I don't set aside money out of my farm income to promote my product. And that, to me, is one of the biggest benefits of the checkoff, is that collectively we can pay into this fund and it can be used to promote our business at large. And, you know, there's no question. You'll talk to farmers and ranchers who don't like the checkoff, who would prefer not to support the checkoff. But yet there are incredible benefits that come from taking some of our money and putting it into this research and promotion and education. You know, right now we're enjoying some of the best prices that we've seen in a long, long, long, long time. And I certainly am enjoying that aspect of my business right now. But whether we're making good money or whether we're making not so good money, there are always people who are going to be lined up, the inputs, our costs, you know, taking care of our notes at the bank. There are always people who are lined up there with their hand out for their share of our money. That's the cost of doing business. And so I see the checkoff as that cost of doing business. And I want to keep as much of that money in my operation as I can. And while I might not always agree with everything that the Corn Board might be out there doing, I still believe they're out there promoting our business to the best of their ability. And I really do believe that the mission of the board is to provide those market opportunities. And I hope to see them provide those market opportunities and support corn farmers from the smallest to the largest because I think there are untold opportunities, whether you're a small niche operator and trying to figure out a way you can, you know, raise some grain or put it into your livestock, or what have you, or whether you're...you know, you farm thousands of acres. We're all faced with that real challenge of how do we promote our product, how do we improve our product, how do we deal with the...I mean, now the global economy that we're in. I mean, something that happens in China has an immediate impact on our markets right here in Nebraska. And so we have to be able to be up to speed and try to maintain whatever competitive edge we can find. I really appreciated, you know, what Senator Carlson said about the things that he would like to look at during an interim study and I'd be very interested in being a part of that. I think it's never bad to go back and look at how you've been doing things and maybe how you can do things better in the future and whether it's reorganizing the board or the mission or how the checkoff is collected or, you know, how we put people on the board... [LB1057]

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SENATOR GLOOR: One minute. [LB1057]

SENATOR DUBAS: ...I think those are all good things to look at. And so I'm very supportive not only of the bill and the amendment but the idea of an interim study because I think only good things that can come out of that and I think in the end will serve agriculture and corn producers in particular very well. Thank you. [LB1057]

SENATOR GLOOR: Thank you, Senator Dubas. Senator Larson, you are recognized. [LB1057]

SENATOR LARSON: Thank you, Mr. President. To kind of continue where I left off, it's not so much that I oppose the corn checkoff. I think a number of senators bring a very valid point. The corn checkoff does do a number of very good things for the corn industry, as does the soybean, as does the edible dry bean, as does the beef checkoff. They are all very important to sustaining agriculture and the state of Nebraska. My concerns and opposition truly do rise in the sense that it is an unelected board wanting to essentially raise the taxes on their members that will have no repercussions. And you know, the corn growers, I won't deny, are reinvesting in themselves. The checkoff, that is the definition of a checkoff. And like I said, it's something that I think is very good. Again, they reinvest in themselves but each individual corn producer doesn't have a say. It's just we dictate whether or not they pay or not. Now, Senator Carlson mentioned earlier that in the interim study that we study this summer we will discuss a refund option or they'll discuss a refund option. Well, I have an amendment that I'll probably attach on...or, you know, bring up to debate on Select File that makes that a reality from the Legislature. If every corn producer, essentially what it does is it says that we can bump it up to half a cent, like Senator Carlson would like, but any corn producer that wants to refund back down to a quarter of a cent, which it is right now, may do so. So it really is each corn farmer, each corn producer deciding for themselves whether they want to reinvest their money into the checkoff or at least a quarter of a cent. Everybody will invest a quarter of a cent into the checkoff which we're at now, but they could refund it back. And at least at that point each individual producer will have the option to say, yes, I agree with how the Corn Board is using these funds or, no, I don't think that they need this. Now, three other states, I know for sure, have a refund option and they have a participation rate roughly on average about 90 percent. So I think the Corn Board will get their money in the end anyway. They will get their increase because, I agree, a number or most corn farmers in this state think the checkoff does good things. My opposition arises from the point of they don't have a say. They don't have a say who their elected official...or who their appointed official, not elected official, is. They don't have a say if their checkoff gets raised. We take that away from them. And I think that is a fundamental problem. If we're dictating that they have to pay this tax, this fee, this reinvestment into their own business, if we're dictating it, I honestly believe they should have a say in whether or not that happens. We are telling the people that are most...that are affected by this the most, you have no repercussions or no way to, you know, vote

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out your elected representative or you have no way to protest us raising your corn checkoff; we're just going to do it. And one of the problems with the corn checkoff as is, and I talked a little bit about the floating in the wheat and how I like the motto a little better,... [LB1057]

SENATOR GLOOR: One minute. [LB1057]

SENATOR LARSON: ...when corn is high, as it is now, this checkoff percentagewise is less of a farmer's overall income. You know, \$6, \$7 corn, half-cent checkoff, you know, percentagewise that's less. But what happens when corn goes back down to \$3, \$4, \$2? First of all, let's all hope that doesn't happen because our state's economy will take a definite hit. But what happens if it does go back down to \$2, back down to \$3 and now we have this half-cent checkoff in there? The percentage of their income tax...or not their income tax, the percentage of their checkoff will be higher than it was when corn was \$6 and \$7. So essentially the lower the corn price is, the higher in taxes they're paying. [LB1057]

SENATOR GLOOR: Time, Senator. Thank you, Senator Larson. Senator Hadley, you are recognized. [LB1057]

SENATOR HADLEY: Yes. [LB1057]

SENATOR GLOOR: Senator Hadley, you are recognized. My error, Senator. Senator Larson, you are recognized. [LB1057]

SENATOR LARSON: I think this is my third time. And I know everybody wants to get out, and I'll get off my soapbox quickly. As I was in the middle of, essentially, the lower corn prices are, the more taxes our corn farmers are going to have pay. And I think I hear always a number of senators, you know, discussing, you know, tax equality and things of that nature. To me, that concept is wrong. When corn prices are low, we have again, or we'll go back to it, an unelected board that is still going to get their \$7 million a year to promote corn and agriculture. Like I said, I don't have any problem with checkoff in theory. As I said earlier, I couldn't agree with Senator Carlson more. This is something we need to look at over the summer in an interim study. We need to shift the Corn Board out of a governmental agency, give them the right to elect their own board members, give them the right to raise and lower their own checkoff, and this is supposedly what they want. They don't want to be in government any longer, yet we're going...and Senator Carlson has dedicated an interim study this summer to taking them out of government or making them quasi...or, you know, more so out of government, maybe not completely, yet they still want us to increase it this year. They want us to increase essentially a tax on 25,000 corn farmers in this state. If we're going to look at the study this summer, why do we need to increase it this year? Let's look at the study. If we think it's feasible, we take them out of the governmental agency so they can elect

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their own board members and raise their own checkoff. That can be done next year. They can do all that next year by themselves without us having to do it. That way, each corn producer in the state of Nebraska has the ultimate say of whether or not they want their checkoff to be raised or not, or possibly we look at my Select File amendment where we give each corn producer in the state of Nebraska the right to refund back down to the quarter cent. Raise it up to a half cent, give them the right to refund back down. In that instance, each corn farmer gets their own say whether or not they want to tax themselves instead of us. Forty-nine of us deciding we are going to mandate that you have to increase your corn checkoff, increase your tax, and we're not going to let you vote for the board that gets to spend that money or how they spend that money, and I think if we really look at it and look how the Corn Board operates, that's not representative democracy in any way. And we have to be concerned about that. I know I'm concerned that there's no repercussions. And hopefully we, you know, look at this long and hard and, you know, understand how the Corn Board operates, what happens if corn goes down, should each individual farmer have the right to ask for the refund back, should each individual farmer have the right to decide whether or not they want to tax themselves or should the state just mandate it and give them no avenue to protest it. To me, each individual should have the right to stand up for what they believe and if they disagree with the checkoff or disagree with the increase, they should have a way to express themselves. And right now, their only way is us because they can't vote out the member that represents them on the Corn Board. Thank you, Mr. President. [LB1057]

SENATOR GLOOR: Thank you, Senator Larson. There are no further senators waiting to be recognized. Senator Carlson, you're recognized to close on the committee amendment to LB1057. [LB1057]

SENATOR CARLSON: Thank you, Mr. President and members. Thank you for listening. Thank you for asking questions and making comments. This is the right thing to do. Corn is the number one crop in Nebraska. They need help on being able to put money into research, marketing, and promotion. This is one way we can help them do that. And they're not asking us for money. So I ask for your support on AM2170 and the underlying bill. Thank you very much. [LB1057]

SENATOR GLOOR: Thank you, Senator Carlson. Members, the question is, shall the committee amendment to LB1057 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB1057]

CLERK: 30 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB1057]

SENATOR GLOOR: The amendment is adopted. [LB1057]

CLERK: I have nothing further on the bill, Mr. President. [LB1057]

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SENATOR GLOOR: There are no senators in the queue. Senator Larson... Senator Carlson, you are recognized to close. Senator Carlson waives. Members, the question is the advancement of LB1057 to E&R Initial. Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB1057]

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB1057. [LB1057]

SENATOR GLOOR: LB1057 is advanced. Mr. Clerk. [LB1057]

CLERK: LB1057A, a bill by Senator Carlson. (Read title.) [LB1057A]

SENATOR GLOOR: Senator Carlson, you're recognized to open on LB1057A. [LB1057A]

SENATOR CARLSON: Thank you, Mr. President. Again, members, I ask for your support on LB1057A. These are no General Fund dollars. They're all fees and checkoff dollars in this fund to carry out the duties of the Corn Board, and so I ask for your support. Thank you. [LB1057A]

SENATOR GLOOR: There are no senators waiting to be recognized. Senator Carlson waives closing. Members, the question is the advancement of LB1057A to E&R Initial. Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB1057A]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB1057A. [LB1057A]

SENATOR GLOOR: The bill is advanced. Mr. Clerk for announcements. [LB1057A]

CLERK: Mr. President, amendments to be printed: Senator Lautenbaugh to LB806; Senator Lathrop to LB899; and Mello to LB727; Senator Bloomfield to LB1158. Enrollment and Review reports LB1053, LB1080, LB1128, LB1128A, LB750, LB970, LB209A, LB540A, and LB949A to Select File, some having Enrollment and Review amendments. Senator Larson, a study resolution, LR521, to be referred to Reference. The Business and Labor Committee, chaired by Senator Lathrop, reports LB1058 to General File with amendments. (Legislative Journal pages 1053-1056.) [LB806 LB899 LB727 LB1158 LB1053 LB1080 LB1128 LB1128A LB750 LB970 LB209A LB540A LB949A LR521 LB1058]

And a priority motion, Mr. President: Senator Lathrop would move to adjourn the body until Thursday morning, March 22, at 8:00 a.m.

SENATOR GLOOR: Members, you have heard the motion to adjourn until 8:00 a.m. tomorrow morning. Those in favor say aye. Opposed, nay. We stand adjourned.