

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

Floor Debate  
April 04, 2012

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SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-sixth day of the One Hundred Second Legislature, Second Session. Our chaplain for today is Bishop John Ford, Second Advent Church of God in Christ in Omaha, Senator Council's district. Please rise.

BISHOP FORD: (Prayer offered.)

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

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

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

CLERK: I have no corrections, Mr. President.

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

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

SPEAKER FLOOD: Members, if you would please find your seats in preparation for Final Reading. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following legislative resolutions: LR522, LR523, LR524, LR526, LR527, LR530, LR531, LR554, LR599, LR603, LR604, LR605, LR606, LR607, LR609, and LR610. Members, we are on Final Reading. Please take your seats. The Legislature would like to welcome back one of our own, Senator Les Seiler. Please stand so we can congratulate you. Mr. Clerk, we begin with LR358CA. [LR522 LR523

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LR524 LR526 LR527 LR530 LR531 LR554 LR599 LR603 LR604 LR605 LR606 LR607  
LR609 LR610 LR358CA]

CLERK: (Read LR358CA on Final Reading.) [LR358CA]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LR358CA pass providing for the submission of such proposition at the next general election? This requires 30 votes. All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LR358CA]

CLERK: (Record vote read, Legislative Journal page 1366.) 31 ayes, 14 nays, 4 excused and not voting, Mr. President. [LR358CA]

SPEAKER FLOOD: LR358CA is adopted. Mr. Clerk, LR373CA. [LR358CA LR373CA]

CLERK: (Read LR373CA on Final Reading.) [LR373CA]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LR373CA pass providing for the submission of such proposition at the next general election? This requires 30 votes. All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LR373CA]

CLERK: (Record vote read, Legislative Journal pages 1367-1368.) 31 ayes, 15 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LR373CA]

SPEAKER FLOOD: LR373CA is adopted. Mr. Clerk, we now proceed to LB670. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LR373CA LB670]

CLERK: 41 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB670]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB670]

CLERK: (Read title of LB670.) [LB670]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB670 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB670]

CLERK: (Record vote read, Legislative Journal pages 1368-1369.) 47 ayes, 0 nays, 2

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excused and not voting, Mr. President. [LB670]

SPEAKER FLOOD: LB670 passes with the emergency clause attached. Mr. Clerk, LB715. [LB670 LB715]

CLERK: (Read LB715 on Final Reading.) [LB715]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB715 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB715]

CLERK: (Record vote read, Legislative Journal pages 1369-1370.) 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President. [LB715]

SPEAKER FLOOD: LB715 passes. Mr. Clerk, LB750. [LB715 LB750]

CLERK: (Read LB750 on Final Reading.) [LB750]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB750 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB750]

CLERK: (Record vote read, Legislative Journal page 1370.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB750]

SPEAKER FLOOD: LB750 passes. Mr. Clerk, LB905. [LB750 LB905]

CLERK: (Read LB905 on Final Reading.) [LB905]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB905 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB905]

CLERK: (Record vote read, Legislative Journal page 1371.) 44 ayes, 0 nays, 4 present and not voting, 1 excused and not voting, Mr. President. [LB905]

SPEAKER FLOOD: LB905 passes. Mr. Clerk, LB905A. [LB905 LB905A]

CLERK: (Read LB905A on Final Reading.) [LB905A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB905A pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB905A]

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CLERK: (Record vote read, Legislative Journal pages 1371-1372.) 44 ayes, 0 nays, 4 present and not voting, 1 excused and not voting, Mr. President. [LB905A]

SPEAKER FLOOD: LB905A passes. Mr. Clerk, LB959. [LB905A LB959]

CLERK: (Read LB959 on Final Reading.) [LB959]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB959 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB959]

CLERK: (Record vote read, Legislative Journal pages 1372-1373.) 45 ayes, 0 nays, 3 present and not voting, 1 excused and not voting, Mr. President. [LB959]

SPEAKER FLOOD: LB959 passes. Mr. Clerk, the next bill is LB972 and the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB959 LB972]

CLERK: 40 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB972]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB972]

CLERK: (Read title of LB972.) [LB972]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB972 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB972]

CLERK: (Record vote read, Legislative Journal page 1373.) 49 ayes, 0 nays on the passage of LB972, Mr. President. [LB972]

SPEAKER FLOOD: LB972 passes. Mr. Clerk, LB1001. [LB972 LB1001]

CLERK: (Read LB1001 on Final Reading.) [LB1001]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1001 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1001]

CLERK: (Record vote read, Legislative Journal page 1374.) 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB1001]

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SPEAKER FLOOD: LB1001 passes. Mr. Clerk, LB1057. [LB1001 LB1057]

CLERK: (Read LB1057 on Final Reading.) [LB1057]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1057 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1057]

CLERK: (Record vote read, Legislative Journal page 1375.) 44 ayes, 0 nays, 5 present and not voting, Mr. President. [LB1057]

SPEAKER FLOOD: LB1057 passes. Mr. Clerk, LB1057A. [LB1057 LB1057A]

CLERK: (Read LB1057A on Final Reading.) [LB1057A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1057A pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1057A]

CLERK: (Record vote read, Legislative Journal page 1375.) 44 ayes, 0 nays, 5 present and not voting, Mr. President. [LB1057A]

SPEAKER FLOOD: LB1057A passes. (Visitors and doctor of the day introduced.) Mr. Clerk, the next bill is LB1058 and the next vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1057A LB1058]

CLERK: 42 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB1058]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB1058]

CLERK: (Read title of LB1058.) [LB1058]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1058 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1058]

CLERK: (Record vote read, Legislative Journal page 1376.) 49 ayes, 0 nays, Mr. President, on the passage of LB1058. [LB1058]

SPEAKER FLOOD: LB1058 passes. Mr. Clerk, LB1114. [LB1058 LB1114]

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CLERK: (Read LB1114 on Final Reading.) [LB1114]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1114 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1114]

CLERK: (Record vote read, Legislative Journal page 1377.) 49 ayes, 0 nays, Mr. President, on the passage of LB1114. [LB1114]

SPEAKER FLOOD: LB1114 passes with the emergency clause attached. Mr. Clerk, the next bill is LB1115 and the next vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1114 LB1115]

CLERK: 47 ayes, 0 nays on the motion to dispense with the at-large reading, Mr. President. [LB1115]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB1115]

CLERK: (Read title of LB1115.) [LB1115]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1115 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1115]

CLERK: (Record vote read, Legislative Journal pages 1377-1378.) 49 ayes, 0 nays on the passage of LB1115. [LB1115]

SPEAKER FLOOD: LB1115 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following resolutions and bills: LR358CA, LR373CA, LB670, LB715, LB750, LB905, LB905A, LB959, LB972, LB1001, LB1057, LB1057A, LB1058, LB1114, and LB1115. Members, before we proceed to Final Reading, consent calendar, which is expected to take some time, the Legislature will stand at ease to give members a chance to move their legs and walk around before we endure some more Final Reading. We will retake up Final Reading at 9:56 this morning. We're standing at ease. [LB1115 LR358CA LR373CA LB670 LB715 LB750 LB905 LB905A LB959 LB972 LB1001 LB1057 LB1057A LB1058 LB1114]

EASE

SPEAKER FLOOD: Members, please find your seats now for Final Reading. Members, please find your seats now for Final Reading. Mr. Clerk, we now move to Final Reading,

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consent calendar. The first bill is LB398. [LB398]

CLERK: (Read LB398 on Final Reading.) [LB398]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB398 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB398]

CLERK: (Record vote read, Legislative Journal pages 1378-1379.) 49 ayes, 0 nays, Mr. President, on the passage of LB398. [LB398]

SPEAKER FLOOD: LB398 passes. Mr. Clerk, LB719. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB398 LB719]

CLERK: 46 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB719]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB719]

CLERK: (Read title of LB719.) [LB719]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB719 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB719]

CLERK: (Record vote read, Legislative Journal page 1380.) 49 ayes, 0 nays on the passage of LB719, Mr. President. [LB719]

SPEAKER FLOOD: LB719 passes. Mr. Clerk, LB721. [LB719 LB721]

CLERK: (Read LB721 on Final Reading.) [LB721]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB721 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB721]

CLERK: (Record vote read, Legislative Journal page 1380.) 49 ayes, 0 nays, Mr. President, on the passage of LB721. [LB721]

SPEAKER FLOOD: LB721 passes. Mr. Clerk, LB722. [LB721 LB722]

CLERK: (Read LB722 on Final Reading.) [LB722]

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SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB722 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB722]

CLERK: (Record vote read, Legislative Journal page 1381.) 49 ayes, 0 nays, Mr. President, on the passage of LB722. [LB722]

SPEAKER FLOOD: LB722 passes. Mr. Clerk, LB729. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB722 LB729]

CLERK: 41 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB729]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB729]

CLERK: (Read title of LB729.) [LB729]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB729 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB729]

CLERK: (Record vote read, Legislative Journal page 1382.) 49 ayes, 0 nays, Mr. President, on the passage of LB729. [LB729]

SPEAKER FLOOD: LB729 pass. Mr. Clerk, LB734. [LB729 LB734]

CLERK: (Read LB734 on Final Reading.) [LB734]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB734 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB734]

CLERK: (Record vote read, Legislative Journal pages 1382-1383.) 49 ayes, 0 nays on the passage of LB734, Mr. President. [LB734]

SPEAKER FLOOD: LB734 passes. Mr. Clerk, LB737. [LB734 LB737]

CLERK: (Read LB737 on Final Reading.) [LB737]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB737 pass? All those in favor vote aye; all those opposed

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vote nay. Mr. Clerk, please record. [LB737]

CLERK: (Record vote read, Legislative Journal page 1383.) 49 ayes, 0 nays, Mr. President, on the passage of LB737. [LB737]

SPEAKER FLOOD: LB737 passes. Mr. Clerk, LB738. [LB737 LB738]

CLERK: (Read LB738 on Final Reading.) [LB738]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB738 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB738]

CLERK: (Record vote read, Legislative Journal pages 1383-1384.) 49 ayes, 0 nays, Mr. President, on the passage of LB738. [LB738]

SPEAKER FLOOD: LB738 passes. Mr. Clerk, LB740. [LB738 LB740]

CLERK: (Read LB740 on Final Reading.) [LB740]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB740 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB740]

CLERK: (Record vote read, Legislative Journal page 1384.) 49 ayes, 0 nays, Mr. President, on the passage of LB740. [LB740]

SPEAKER FLOOD: LB740 passes. Mr. Clerk, we now proceed to LB742. [LB740 LB742]

CLERK: (Read LB742 on Final Reading.) [LB742]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB742 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB742]

CLERK: (Record vote read, Legislative Journal page 1385.) 47 ayes, 0 nays, 2 present and not voting, Mr. President. [LB742]

SPEAKER FLOOD: LB742 passes. Mr. Clerk, LB743. [LB742 LB743]

CLERK: (Read LB743 on Final Reading.) [LB743]

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SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB743 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB743]

CLERK: (Record vote read, Legislative Journal pages 1385-1386.) 49 ayes, 0 nays, Mr. President, on the passage of LB743. [LB743]

SPEAKER FLOOD: LB743 passes. Mr. Clerk, we now proceed to LB761. [LB743 LB761]

CLERK: (Read LB761 on Final Reading.) [LB761]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB761 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB761]

CLERK: (Record vote read, Legislative Journal page 1386.) 49 ayes, 0 nays on the passage of LB761, Mr. President. [LB761]

SPEAKER FLOOD: LB761 passes with the emergency clause attached. Mr. Clerk, LB766. [LB761 LB766]

CLERK: (Read LB766 on Final Reading.) [LB766]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB766 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB766]

CLERK: (Record vote read, Legislative Journal page 1387.) 49 ayes, 0 nays, Mr. President, on the passage of LB766. [LB766]

SPEAKER FLOOD: LB766 passes. (Visitors introduced.) Mr. Clerk, LB768. [LB766 LB768]

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

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB768 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB768]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1387-1388.) 49 ayes, 0 nays, Mr. President, on the passage of LB768. [LB768]

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SPEAKER FLOOD: LB768 passes. Mr. Clerk, we now proceed to LB772. [LB768 LB772]

CLERK: (Read LB772 on Final Reading.) [LB772]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB772 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB772]

CLERK: (Record vote read, Legislative Journal page 1388) 49 ayes, 0 nays, Mr. President, on the passage of LB772. [LB772]

SPEAKER FLOOD: LB772 passes. Mr. Clerk, we now proceed to LB779. The first vote is to suspend the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB772 LB779]

CLERK: 46 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB779]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB779]

CLERK: (Read title of LB779.) [LB779]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB779 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB779]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1389.) Vote is 49 ayes, 0 nays, Mr. President. [LB779]

SPEAKER FLOOD: LB779 passes. Mr. Clerk, LB788. [LB779 LB788]

ASSISTANT CLERK: (Read LB788 on Final Reading.) [LB788]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB788 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB788]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1390.) Vote is 49 ayes, 0 nays, Mr. President. [LB788]

SPEAKER FLOOD: LB788 passes. (Visitors introduced.) Mr. Clerk, proceeding on to the next item on today's agenda, LB795. [LB788 LB795]

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ASSISTANT CLERK: (Read LB795 on Final Reading.) [LB795]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB795 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB795]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1390-1391.) Vote is 49 ayes, 0 nays, Mr. President. [LB795]

SPEAKER FLOOD: LB795 passes. Mr. Clerk, LB805. [LB795 LB805]

ASSISTANT CLERK: (Read LB805 on Final Reading.) [LB805]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB805 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB805]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1391.) Vote is 49 ayes, 0 nays, Mr. President. [LB805]

SPEAKER FLOOD: LB805 passes. Mr. Clerk, LB819. [LB805 LB819]

ASSISTANT CLERK: (Read LB819 on Final Reading.) [LB819]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB819 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB819]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1391-1392.) Vote is 47 ayes, 0 nays, 2 present and not voting, Mr. President. [LB819]

SPEAKER FLOOD: LB819 passes. Mr. Clerk, we now proceed to LB822. [LB819 LB822]

ASSISTANT CLERK: (Read LB822 on Final Reading.) [LB822]

SPEAKER FLOOD: All provisions of law related to procedure having been followed, the question is, shall LB822 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB822]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1392.) Vote is 49 ayes, 0 nays, on the final passage of the bill. [LB822]

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SPEAKER FLOOD: LB822 passes. Mr. Clerk, LB823. [LB822 LB823]

ASSISTANT CLERK: (Read LB823 on Final Reading.) [LB823]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB823 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB823]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1393.) Vote is 49 ayes, 0 nays on the final passage of the bill. [LB823]

SPEAKER FLOOD: LB823 passes. Members, while the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following legislative bills: LB398, LB719, LB721, LB722, LB729, LB734, LB737, LB738, LB740, LB742, LB743, LB761, LB766, LB768, LB772, LB779, LB788, LB795, LB805, LB819, LB822, LB823. (Visitors introduced.) [LB398 LB719 LB721 LB722 LB729 LB734 LB737 LB738 LB740 LB742 LB743 LB761 LB766 LB768 LB772 LB779 LB788 LB795 LB805 LB819 LB822 LB823]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Mr. Clerk, items for the record.

CLERK: Thank you, Mr. President. Enrollment and Review reports LB599 and LB599A to Select File with E&R amendments attached. Constitutional Amendments read earlier this morning were presented to the Secretary of State at 9:55. (Re LR358CA and LR373CA.) Bills read earlier this morning were presented to the Governor at 9:57. (Re LB670, LB715, LB750, LB905, LB905A, LB959, LB972, LB1001, LB1057, LB1057A, LB1058, LB1114, and LB1115.) That's all that I have, Mr. President. (Legislative Journal pages 1393-1398.) [LB599 LB599A LR358CA LR373CA LB670 LB715 LB750 LB905 LB905A LB959 LB972 LB1001 LB1057 LB1057A LB1058 LB1114 LB1115]

SENATOR GLOOR: Thank you, Mr. Clerk. Members, we now move to Select File, Speaker priority bills, Mr. Clerk.

CLERK: Mr. President, LB979. Senator Larson, I have no amendments to the bill. [LB979]

SENATOR GLOOR: Senator Larson. [LB979]

SENATOR LARSON: Mr. President, I move that LB979 be advanced to E&R for engrossing. [LB979]

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SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. Those opposed say nay. LB979 is advanced. Mr. Clerk. [LB979]

CLERK: Mr. President, LB793; Senator, I have no amendments to the bill. [LB793]

SENATOR GLOOR: Mr. Larson. [LB793]

SENATOR LARSON: Mr. President, I move that LB793 be advanced to E&R for engrossing. [LB793]

SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. Those opposed say nay. LB793 is advanced. [LB793]

CLERK: Mr. President, with respect to LB793A, Senator, I have no amendments to the bill. [LB793A]

SENATOR GLOOR: Senator Larson. [LB793A]

SENATOR LARSON: Mr. President, I move that LB793A be advanced to E&R for engrossing. [LB793A]

SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. Those opposed say nay. LB793A is advanced. Mr. Clerk. [LB793A]

CLERK: Mr. President, LB1082. Senator, I have E&R amendments first of all. (ER275, Legislative Journal page 1347.) [LB1082]

SENATOR GLOOR: Senator Larson for a motion. [LB1082]

SENATOR LARSON: Mr. President, I move the E&R amendments to LB275 (sic) be adopted. [LB1082]

SENATOR GLOOR: Members, the question is the adoption of E&R amendments to LB1082. Those in favor say aye. Those opposed say nay. The amendments are adopted. [LB1082]

CLERK: Mr. President, Senator Nordquist would move to amend with AM2719. (Legislative Journal page 1399-1400.) [LB1082]

SENATOR GLOOR: Senator, you're recognized to open on your amendment. [LB1082]

SENATOR NORDQUIST: Thank you, Mr. President and members. AM2719 had several

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IRS updates to first-class city police officer and firefighter retirement acts including adding specific citations regarding the treatment of incidental death benefit distributions and direct rollover requirements, implements provisions of the Hero Earning Assistance and Relief Tax Act of 2008 or the HEART Act requiring firefighter's beneficiary to be entitled to any additional death benefit that he or she would be entitled to, be entitled to had the firefighter been employed during the period of qualified military service when the death occurred. Changes...and it also changes numbering of several subsections. I'd appreciate your support to this amendment. Thank you. [LB1082]

SENATOR GLOOR: Thank you, Senator Nordquist. Members, we now move to floor debate. Are there senators who wish to be recognized? Seeing none, Senator Nordquist, you're recognized to close on your amendment to LB1082. Senator Nordquist waives. Members, the question is, shall the amendment to LB1082 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Record, Mr. Clerk. [LB1082]

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Nordquist's amendment. [LB1082]

SENATOR GLOOR: The amendment is adopted. Mr. Clerk. [LB1082]

CLERK: I have nothing further on the bill, Mr. President. [LB1082]

SENATOR GLOOR: Senator Larson. [LB1082]

SENATOR LARSON: Mr. President, I move LB1082 be advanced to E&R for engrossing. [LB1082]

SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. Those opposed say nay. LB1082 is advanced. We now move to General File, Speaker priority bills. Mr. Clerk. [LB1082]

CLERK: Mr. President, Senator Wightman would offer LB14. (Read title.) Bill was introduced on January 6 of last year, referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. I do have Government Committee amendments pending, Mr. President. (AM1954, Legislative Journal page 583.) [LB14]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Wightman, you're recognized to open on LB14. [LB14]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. First of all I would like to thank the Speaker for designating LB14 as a Speaker's priority bill. Since

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I've been in the Legislature, there's been a recognized need to increase the recording fees collected by the register of deeds, and this has been so for a good number of years. The county officials requested and I introduced legislation to increase this user fee in 2008, 2009, and 2010. Bill did get out of committee in 2010; was advanced by the Government, Military, and Veterans Affairs Committee. When considered on General File, the filing fee was somewhat confused with the last increase and documentary stamp tax. This resulted in the failure of LB686 to advance and not be considered again. The user fee collected for recording documents has not been increased for 28 years, since 1984. Just to help refresh your memory since that was a number of years ago, Ronald Reagan defeated Walter Mondale for President of the United States. As another point of reference, legislative salaries were at \$4,800. Several years later they were increased to \$12,000; a little after that per diem expenses were allowed for the first time and I was a 45-year-old kid. LB14 seeks to increase recording fees charged by the county register of deeds for recording documents such as deeds, mortgages, and other legal documents listed on page 4, lines 12 through 15 of AM1954 which is a committee amendment that will be discussed later. The fees are increased from \$5 to \$10 for the first page of a document and to \$6 for subsequent pages. Currently those fees are \$5 for the first page plus a 50 cent indexing for each lot or section number and would be increased from \$5 to \$6 for subsequent pages. The reasons that they requested a larger amount on the first page is that that does frequently require calls from a register of deeds office to law offices, realty offices, many times lawyers that are out of state that are filing a document. LB14, however, does repeal the 50 cent indexing fee for each lot or section for the first five lots or sections. Currently there's a 50 cent indexing fee for each and every lot or section that is included. Considering the indexing fee, the current fee for a single page instrument is really \$5.50 and can be up to \$7.50 if five lots or sections were covered by the one-page instrument. The elimination of the indexing fee will simplify the system for both the users and for the register of deeds, but doesn't reduce the revenues generated by the fees. The increase in user fees is split into two equal parts. One part will increase the user fees to address cost increases that occurred since 1984. The additional amount, or one-half of the fee, will be used for purposes of (1) preserving and maintaining public records, and (2) modernization and technology needs relating to such records. The basic user or filing fee should be increased to address increased administrative costs. If we adjust the current \$5 indexing fee by the federal Consumer Price Index over the past 26 years, 28 years, the basic filing fee should be well over \$11. In the last 28 years, salaries of the office, health insurance, overhead costs, supplies, have all increased, but the fee has remained the same. Users, the people most benefitted by the filing, should pay a user fee that is adjusted for inflation. Through the public filing of these documents, the owner and mortgage holder are protected from other claims against the property. And I might add that they house these records in the register of deeds' office. You can go in there and find documents and still receiving the protection that were some filed a hundred years ago will eventually get to 200 years ago, probably some now are as much as 125 or 130 years old. So the interest of the user is protected forever in perpetuity. In the last...users, the

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people...through the public filing of these documents the owner, mortgage holder are protected from other claims against the property. After 28 years, the taxpayers of the county have been bearing the cost of inflation for a sufficient length of time. The basic user fee is increased from \$5 to \$7.50 for the first page and 50 cents for any subsequent pages. The second part of the increase, \$2.50 for the first page and 50 cents for any subsequent pages will be used for record preservation and modernization. That was done at the request of the realtors who had opposed this bill until two years ago or until a year ago when it was filed and they withdrew their objections to the bill on the basis that if it modernized records it would help preserve the fees and in their opinion justify the increase. The register of deeds also face increasing costs because of the need to preserve aging records and to move to an on-line and electronic system to access deeds, mortgages, and all types of filed documents. The person most benefited by an electronic system will be persons engaged in real estate transactions such as prospective buyers, realtors, mortgage lenders. Because of the pressure not to raise property taxes, the funds for building an on-line system should be paid by the users of the system through an increase in filing fees. As I said two years ago, the Nebraska Realtors Association dropped their longstanding opposition to an increase in the filing fees because of the recognized vital need to modernize the filing system with new technology across the state. LB14 incorporates a compromise that was adopted on the floor in 2009. Public access to records must be brought into the Internet age. Finally, LB14 also increases the fees paid to the Nebraska Secretary of State for recording documents under the Uniform Federal Lien Registration Act and the Uniform State Tax Lien Registration and Enforcement Act. The fee is raised from \$6 to two times the fee required for filing other documents with the register of deeds. Since these documents must be filed both with the Secretary of State and the county, this fee is split evenly between the Secretary of State and each designated county in the filing. Two years ago during floor debate on LB686, the filing fee for documents became somewhat confused with the documentary stamp tax which is a separate and distinct tax. This, I'll concede, is a tax. I would state and truly believe that the amount that's paid for recording is a user fee and should be distinguished from a tax. The documentary stamp tax has increased, but the increases are dedicated to other purposes such as Affordable Housing Trust, the Homeless Shelter Assistance Fund, and the Behavioral Health Services Fund. We have a handout that shows how the documentary stamp tax has increased over the years and what that has been used for. And at the time of the last increase the actual percentage... [LB14]

SENATOR GLOOR: One minute, Senator. [LB14]

SENATOR WIGHTMAN: ...that went to the county was decreased. A portion of this tax placed in the county fund from the documentary stamp tax has not increased. There has been an amendment that will be explained by the Chair of the Government, Veterans Affairs Committee, and that...one of those is to have a five-year sunset on the bill. With this, I would urge the adoption of LB14. Thank you, Mr. President. [LB14]

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SENATOR GLOOR: Thank you, Senator Wightman. As the Clerk stated, there are amendments from the Government, Military and Veterans Affairs Committee. Senator Avery, as Chairman of that committee, you're recognized to open on the amendment. [LB14]

SENATOR AVERY: Thank you, Mr. President; good morning, colleagues. The committee amendment sunsets the fee increase received by the clerks and registers of deeds under this bill after five years. The current fee for recording a deed, a mortgage, a will, a decree and a testate estate, or any other instrument with the register of deeds is \$5 per page. For entering each instrument presented for record in the numerical index, the clerk or register of deeds receives 50 cents for each lot and each single block without lots in plated areas and 50 cents for each section in unplatted areas to be paid in advance by the person offering the instrument for record. These current fees will be reinstated on January 1, 2018. Additionally, the increased fees for filing and indexing a notice of lien under the Uniform Federal Lien Registration Act and the Uniform State Tax Lien Registration and Enforcement Act will only apply until January 1, 2018. These fees will return to their current levels on or after January 1, 2018. The Government Committee felt that sunseting these fee increases after five years was important. The increase in fees is to be used for preserving and maintaining public records and for modernizing the process of retaining these records, and it was the feeling of the committee that most counties will have sufficient funds accumulated after five years to complete most, if not all, of the preservation and modernization projects, therefore we decided to sunset it. The bill becomes operative on January 1, 2013. With that, Mr. President, I would urge the adoption of AM1954. Thank you. [LB14]

SENATOR GLOOR: Thank you, Senator Avery. Members, you've heard the opening on LB14 and the committee amendment, AM1954. We now move to floor discussion. There are senators wishing to be recognized. Senator Pahls, you are recognized. [LB14]

SENATOR PAHLS: Thank you, Mr. President, members of the body. Would Senator Avery entertain a question or two? [LB14]

SENATOR GLOOR: Senator Avery, would you yield? [LB14]

SENATOR AVERY: Yes. [LB14]

SENATOR PAHLS: Senator Avery, the question I have, just for clarification, could this be interpreted as a tax, a fee like this, would this be a tax? [LB14]

SENATOR AVERY: No, you remember in committee, Senator Pahls, we had a lively discussion of this. The only people who will pay these fees will be people who actually

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use the service. These are user fees and I know there is some disagreement as to whether user fees can be classified as taxes. I don't think that this is a tax, but it is a user fee. [LB14]

SENATOR PAHLS: Okay, it's a user fee, so indirectly if we would raise gasoline taxes that I'm a user, so that would be...that's not really a gasoline tax increase, it's a fee increase. [LB14]

SENATOR AVERY: Well, in a sense yes. But in this case you will not have a great many people who will be paying this fee because not a great many people use this service. [LB14]

SENATOR PAHLS: Okay Would you just repeat those people who will pay for this additional fee? Can you... [LB14]

SENATOR AVERY: The people who will be entering instruments with the register of deeds, they will present for record in the numerical index to the clerk or for the register of deeds, and those are the people who will be paying the fee. [LB14]

SENATOR PAHLS: Okay, they will pay the fee, then they will pass that fee on to people like me if I utilize that service. [LB14]

SENATOR AVERY: Yes, if you were going to present for record an instrument, say a deed, a mortgage, a will, or a decree, and a testate estate, or any other instrument, you'd have to pay the fee. [LB14]

SENATOR PAHLS: Right, so in other words, it is...it will eventually drift on down to the people. I'm not questioning that, but I just think that sometimes there are many of us on the floor says we're not going to increase taxes. Well, I think if you look at it there are shades of this. I did like when you said the word "sunset," you know I like that, sort of like some of us are going to be sunsetted here pretty soon and exempted from this body. Explain to me again, you say part of these...or the idea behind these fees is to modernize various agencies, is that...did I... [LB14]

SENATOR AVERY: Well, it's to allow them to do some important work in preservation of documents and to modernize their equipment. [LB14]

SENATOR PAHLS: Okay, okay. I appreciate your answers, Senator. Thank you. [LB14]

SENATOR GLOOR: Thank you, Senator Pahls and Senator Avery. Chair recognizes Senator Price. [LB14]

SENATOR PRICE: Thank you, Mr. President, members of the body. Sitting in the

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committee listening to this, there was a sense of hesitation to go forward on this. But working with Senator Wightman and others we were able to put the sunset on there. Issue at hand is modernization and technology as presented to the committee. And it's very important that these records are preserved, as a matter of fact, there's a statutory requirement to do so. And in looking at it and putting the sunset on, the hope and the desire is when you go through a technology refresh that the items will be properly vetted for the requirements, they'll bring the best equipment and needed software support and that when they do this that there are counties that will not be experiencing enough of these fees to improve all of their IT so it's hopeful that within the county system that they will roll down some of this equipment into other counties. So what you'll see is you'll see a net effect, an improvement over the entire enterprise, if you would, within the state. And talking to that it is my desire and hope that when they go out and do a purchase of new systems and the supporting software that they will look at enterprise licenses so that all the counties, as many as possible, can join in and use the same software suite when processing these forms. Ladies and gentlemen, one of our biggest challenges here in Nebraska as we've talked about many times is bringing our IT posture up and making sure that they integrate well with each other, that we're not tied to any proprietor systems that can be quite expensive and then when you want to get more licenses that you end up spending more and more money. So again, hopefully what we'll see here in the long run is that the entire enterprise across the state will become better integrated, that our costs will actually go down and that in five years we'll look back on this, or a body will look back on this, and they will be able to go to them and say, what did you do with the authority that was granted to you? Did you, indeed, improve the IT? Did you go out there and find records that needed to be upgraded and microfiched and put into the IT system? We heard earlier this year, even already and in committee, the state news organization, Allen Beermann's organization that he works with, they already have an ability for people to take their records there and get them transferred from paper to microfiche through an electronic means, which is even a little cheaper. And hopefully we'll see other counties begin to do this because there is a statutory requirement to save these records for posterity needs. And the first time you go back there trying to find your records for some property and you have to do a data search, you'll appreciate having the technology there to where you can sit in your home, if it's where I'm at in Sarpy County or if you're in Deuel County, wherever you're sitting, whatever county that you can reach out to another county via an on-line-type of application working through the cloud, if it were, and find the records you need for your family and moving your business and/or your personal matters forward. So again, with that and with the concession Senator Wightman gave us with the sunset provision, I'm going to be supportive of this bill at this time. Thank you, Mr. President. [LB14]

SENATOR GLOOR: Thank you, Senator Price. Senator Wightman, you are recognized. [LB14]

SENATOR WIGHTMAN: Thank you, Mr. President. I did want to weigh in a little bit; and

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I do thank Senator Price for his work in mediating this between myself and the committee. And the sunset will give us a chance, I think, at a later date to look and see how the additional funds have been spent. I can see...I would feel strongly that some of this increase is necessary just to take care of inflation in salaries in everything else since 1984 which is a long period of time as is indicated by what other prices have done during that same period of time. With regard to whether this is a tax or a user fee, if we eliminated all fees at the county court house or at the state of Nebraska at the Secretary of State's Office, we would actually need tax increases to cover those expenses that should be paid for by the user. And if we don't adjust those from time to time for inflation, we are going to see tax increases which will be a general tax upon the public instead of something that is paid by the user, the benefit is received almost entirely by the user. Also, although everybody within the state, within the county, within whatever subdivision you're in, benefits from the preservation of these records for generally perpetuity. And so with that, I certainly do support the amendment and would ask for your support of the amendment, as well as LB14. Thank you, Mr. President. [LB14]

SENATOR GLOOR: Thank you, Senator Wightman. Senator Schumacher, you're recognized. [LB14]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. One thing I notice in looking at the data here is that these taxes, or assessments, or whatever we call them, maybe we should call them government assessments on life or something, but whatever they are, they've been going up. And I noticed that the...we're assuming here that they go up and that's just what they represent that there's a constant rate of deeds and mortgages and things that these are assessed against being filed. But really when you look at these historically, we've had, particularly since 2005, probably a massive increase in the number of these documents filed due to refinancing and due to the various attempts to take advantage of lower interest rates. So would Senator Wightman yield to a question? [LB14]

SENATOR GLOOR: Senator Wightman, would you yield? [LB14]

SENATOR WIGHTMAN: Yes, I will. [LB14]

SENATOR SCHUMACHER: Senator Wightman, do you have any figures which would indicate how much revenue is brought in by these particular things and whether or not it has been going up dramatically over the years due to the increase in the number of things filed? [LB14]

SENATOR WIGHTMAN: I have checked with three counties that are part of my district, and while the revenue...certainly the revenues from the filing fees have gone up very little through increased use, I don't have the figures with me, but the number of filings has remained pretty constant for a number of years, at least in counties out...such as

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Dawson County, Buffalo County--Buffalo probably a little higher--and Custer County. Some of the counties actually see less filings than they did five years ago, six, ten years ago even. The revenue from the documentary stamp tax has increased, although it hasn't increased as far as the county's share of it. It has if you look at the prices of land. So there is some increase from that. I did check with three different counties. Two counties, even if you add on all the documentary stamp tax and the filing fee are still subsidizing it with tax dollars. Buffalo County being the exception and they are one of the cities in Nebraska that has probably experienced the most growth. But you can add the revenue stamps...revenue tax which the county only receives the collection fee on that, 50 cents for every \$2.25 that is actually paid per thousand. Really, it's a little difficult to tell this years which is seeing the big increase in the price of farmland. [LB14]

SENATOR SCHUMACHER: Senator, those counties are fairly rural counties and that would seem to make sense. But the counties in which there would be fairly dramatic increase in the number of filings, I would think, would be the growing counties of Douglas, Sarpy, and Lancaster County, any numbers on those? [LB14]

SENATOR WIGHTMAN: I do not have any numbers on those, Senator. [LB14]

SENATOR SCHUMACHER: Thank you, Senator Wightman. I think those would be useful figures. I'll admit this isn't a big assessment increase. But it is somewhat of an assessment increase where we rarely pay these in our lives when we file a deed or a mortgage, so it's probably not anything that rises to the level of concern. But I do think that probably, we've seen in the larger counties a fairly good size increase in the net revenue brought in by these assessments because there has been just a whole lot of refinancing and refilings and transactions that have gone up dramatically since July, 2005, I would think, in the larger counties. Thank you, Mr. Chairman. [LB14]

SENATOR GLOOR: Thank you, Senator Schumacher and Senator Wightman. Senator Nelson, you are recognized. [LB14]

SENATOR NELSON: Thank you, Mr. Speaker, members of the Legislature. May I ask a question or two of Senator Wightman this morning? [LB14]

SENATOR GLOOR: Senator Wightman, would you yield? [LB14]

SENATOR WIGHTMAN: Yes, I will. [LB14]

SENATOR NELSON: Thank you, Mr. Speaker,...Mr. President, and thank you, Senator Wightman. Senator, I've been engaged in conversation on another matter so I may have missed some of this and this may be repetitious, but I just want to clarify, there's no increase in documentary stamps here in this bill, is that correct? [LB14]

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SENATOR WIGHTMAN: No. There was an increase, the last time in 2005, but none of that went to the county because the counties were actually reduced in their collection fee from...a percentage, and I can't give you the percentage right now, but I think it was 2.28 percent and then they stayed at the same level which is 50 cents out of the \$2.25. So 50 cents for each thousand dollars, Senator Nelson. [LB14]

SENATOR NELSON: Thank you. We are...Senator Schumacher was asking about the volume, and I have the same question, not that I'm against raising money or revenue, which I think you're anticipating, maybe, \$63,000, was that a figure from a year ago; an increase in revenue of about \$63,000? [LB14]

SENATOR WIGHTMAN: Are we talking documentary tax or are we talking the revenue from the recordings? [LB14]

SENATOR NELSON: In the fiscal...in the fiscal note, maybe I...I think maybe I saw that in the committee statement then or perhaps that we thought there would be an increase. Say, I think we keep half of the amount that we collect from this increase in fees, and that our half that would be retained would be about \$63,000, isn't that about the figure? [LB14]

SENATOR WIGHTMAN: That's correct. This would involve filings for the Secretary of State's Office that we're talking about here. [LB14]

SENATOR NELSON: Okay, okay. But I have a letter in my file and this is from a year ago from Diane Battiato, who is the register of deeds in Douglas County, and she said, "this is needed for modernizing records and meeting technology needs relating to those records, as well as the ever-increasing demand from the public that they have on-line access to these records so they can conduct their business more efficiently." Well, and then it goes on to say that 38 states have enacted technology fund legislation. Is that what this is, basically, technology fund legislation? [LB14]

SENATOR WIGHTMAN: Well, it originally started out as just an increase in fees, and then to satisfy objections of the real estate...state realtors, we dedicated half of this increase to increase technology. And so half of it has to be set aside and used for modernizing records and placing these on a Web site, the documents, so that someone sitting in their office, a prospective buyer, prospective seller, can access these records, a lender could as well. [LB14]

SENATOR NELSON: Well, that's for the benefit of the real estate people that are buying and selling real estate and then having to record the documents that were involved in their transactions, is that correct? [LB14]

SENATOR WIGHTMAN: Well, it would be to the benefit of a lot of people. It could be

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title insurers, it could be lenders, it could be anybody who could access a record if they're on the Web site. [LB14]

SENATOR NELSON: Who is the ultimate payer of that? It's the people that are refinancing their homes and/or borrowing money and mortgages and through the banks, they wind up, as you know, on any closing statement, at the time of closing... [LB14]

SENATOR GLOOR: One minute. [LB14]

SENATOR NELSON: ...it is the purchaser that's going to pay these things, right? [LB14]

SENATOR WIGHTMAN: That's usually true or the borrower. [LB14]

SENATOR NELSON: The borrower, yeah, that's true, if there's a borrower. Thank you. That...it's a user fee, but it's paid by...as part of the cost, I guess, of the financial transactions. As you say, people who are borrowing money or with regard to estates and other things have to pay these fees to record. I guess I'm not objecting to an increase in some of these fees for those purposes of recording and everything, but I'm wondering if we ought to...the users, the borrowers, ought to be paying for technology increases when that might be a county obligation out of their general funds rather than using this money here. [LB14]

SENATOR GLOOR: Time, Senator. [LB14]

SENATOR NELSON: Thank you. [LB14]

SENATOR GLOOR: Thank you, Senator Nelson and Senator Wightman. Senator Lautenbaugh, you are recognized. [LB14]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do rise in support of this bill as it was amended in committee certainly. And I would like to point out that this issue isn't new; it's been around for years and I applaud Senator Wightman for seeking to address it. The opposition over time as I recall it has been that the money would just go into general funds for the counties. And that's not what this bill does as amended. It goes specifically for records management and we get to evaluate it after five years and see if the counties are actually upgrading their technology and records management capabilities. This is not a tax, this is a user fee in the purest sense, I believe. And if we're going to modernize this equipment in these offices I think the people that benefit from them and use them should be willing to pay a little something to do just that, and that's what we're trying to do here. So I think this is a good bill; I think this is good policy and I would urge you to support it. Thank you, Mr. President. [LB14]

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SENATOR GLOOR: Thank you, Senator Lautenbaugh. The Chair recognizes Senator Karpisek. [LB14]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Would Senator Wightman yield please? [LB14]

SENATOR GLOOR: Senator Wightman, would you yield? [LB14]

SENATOR WIGHTMAN: Certainly. [LB14]

SENATOR KARPISEK: Thank you, Senator Wightman. So we've said that the counties need to do something to keep their equipment newer, right? To keep up with the times to be able to better keep the records, isn't that kind of where we're going with this? [LB14]

SENATOR WIGHTMAN: Certainly that part is true. Also make the records more accessible. [LB14]

SENATOR KARPISEK: Right. And so if we did it, as Senator Nelson said, that the counties should just do it out of general funds, who would be paying for that? [LB14]

SENATOR WIGHTMAN: The user would not be paying. [LB14]

SENATOR KARPISEK: The user wouldn't, it would be the whole county paying probably in property taxes, correct? [LB14]

SENATOR WIGHTMAN: Right, and they are paying, in many counties, subsidizing this even taking into account the entire collection fee from documentary taxes and all of the revenue that comes in from the recordings. [LB14]

SENATOR KARPISEK: So by turning this into more of a user fee that we could essentially help out a little bit on the general fund which is mainly funded by property taxes. [LB14]

SENATOR WIGHTMAN: That's correct. [LB14]

SENATOR KARPISEK: Very good. And I feel the same way and I hadn't supported this bill years ago, but I think everybody got on board and supports it now and I appreciate your hard work on it. Thank you, Mr. President. [LB14]

SENATOR GLOOR: Thank you, Senator Karpisek. Senator Pahls, you are recognized. [LB14]

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SENATOR PAHLS: Thank you. I wasn't going to speak on this bill, but I...when somebody stands up and says a user fee is not a tax, well, I disagree with that. Let's call it like it is. We can use these fancy names. Now I do like the idea if you're using something, you're going to be taxed because you're using it. But a lot of those people who pay that tax, they move it right along because I see the real estate association, they supported this. Now, they will benefit from this, I'm not saying that that's bad, but that will be passed on. So when...I think we're playing games when we use the word "fees," I truly do. The part that I like about the amendment is that it will go for technology and there is a sunset clause. But I think we fool ourselves. It's an easy way of us thanking somebody, and I'll use this as an example, we give additional vacation days instead in increasing peoples' salaries around here because we're the nice guys. Well I think you look at salaries as important. There are all kinds of little things that we maneuver around under the guise of doing something. And you get right down to brass tacks, this would be classified to be a tax. Did I say brass tacks? Thank you. [LB14]

SENATOR GLOOR: Thank you, Senator Pahls. Are there any other senators wishing to be recognized? Seeing none, Senator Avery, you're recognized to close on the committee amendment to LB14. Senator Avery, you're recognized to close on the committee amendment to LB14. [LB14]

SENATOR AVERY: Thank you, Mr. President. This committee amendment mostly retains the main features of the bill itself, but provides a five-year sunset. The committee believes that enough resources will be generated by approving these fees over a five-year period and that they will accumulate enough to do the modernizing of their record keeping and preservation that they would need and we recommend that you approve this with the start date of January 1, 2013, and the sunset date of January 1, 2018. Thank you, Mr. President. [LB14]

SENATOR GLOOR: Thank you, Senator Avery. The question before the body is, shall the committee amendments to LB14 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB14]

ASSISTANT CLERK: 34 ayes, 0 nays on the adoption of the committee amendments. [LB14]

SENATOR GLOOR: The amendment is adopted. We turn to discussion on the bill, LB14. Seeing no senators wishing to be recognized, Senator Wightman, you're recognized to close on LB14. [LB14]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I do urge your support for LB14. As I stated before, it's been 28 years since these fees, taxes, whatever we want to call them, but they are basically for the benefit of the user, have been changed and have been looked at. And, quite frankly, we are going to see

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increases in property taxes and other taxes if we don't from time to time review our user fees, user taxes, whatever we want to call them, if we don't review those from time to time, then the general public is going to be paying a far bigger percentage of it. So with that, I urge your support for LB14 and ask that you would vote green on it. Thank you. [LB14]

SENATOR GLOOR: Thank you, Senator Wightman. Members, the question is the advancement of LB14 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB14]

ASSISTANT CLERK: 30 ayes, 3 nays on the motion to advance the bill, Mr. President. [LB14]

SENATOR WIGHTMAN: The bill advances. Continuing with General File, Mr. Clerk. [LB14]

ASSISTANT CLERK: Next bill, Mr. President, LB1125 introduced by Senator Christensen. (Read title.) Bill was read for the first time on January 19; referred to the Natural Resources Committee. That committee placed the bill on General File with committee amendments. (AM2378, Legislative Journal page 909.) [LB1125]

SENATOR GLOOR: Senator Christensen, you're recognized to open on LB1125. [LB1125]

SENATOR CHRISTENSEN: Thank you, Mr. President and colleagues. I introduced LB1125. It affects a problem regarding the current natural resources districts occupation tax which occurred in the Republican River Basin. Let me give you a little background. As most of you are aware, the Natural Resources Committee has worked hard to find ways to give natural resources districts tools to deal with water shortages and to find ways to augment streamflow, work on vegetation management, and acquire or lease water rights. All of these tools cost money, so the Legislature gave the NRDs the ability to implement an occupation tax to help with these costs. The occupation tax is found in Section 2-3226.05 is a tax on the activity of irrigation on agricultural land. In this section, we also currently allow farmers to opt out of the occupation tax for acres they do not irrigate. In order to opt out acres that aren't irrigated, farmers have the right in (2) of Section 2-3226.05 to come in to the NRD on or before March 1 and certify that his or her acres will not be irrigated for the current tax year. However, in 2010, the Legislature passed LB862 which changed the language regarding the requirements necessary for the NRD to be eligible to levy the occupation tax in Section 2-3226.05. In order for the NRD to qualify to levy an occupation tax, the NRD had to adopt an integrated management plan that expressively states its intention to use the revenue for a qualified project as described in Section 2-3226.04. Here's where the problem comes: Lower Republican NRD didn't change their IMP pursuant to changes made in LB862 in 2010 to

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maintain eligibility to levy the tax until September of 2011. After adopting the IMP, they then implemented an occupation tax for the 2011 tax year which is six months after which a farmer could come in and certify acres as nonirrigated so as not to be taxed. Back in March of 2011, there was no way the district could have implemented the tax because the IMP had not been changed to be eligible to levy an occupation tax. So farmers in the basin did not have any notice that they would need to come in and certify these acres as nonirrigated. In addition because of LB862, the Lower Republican NRD did not levy an occupation tax in 2010 tax year. What LB1125 does is give farmers in this type of situation the right to come into the NRD and present evidence that they did not irrigate and that they would have certified their acres as nonirrigated. And if they do, the board has the ability to refund the occupation tax. The new language in (d) of the committee amendment, AM2378, says there's only one time when a farmer can do this and that is when two conditions have occurred. First, there must have been an occupation tax levied by the NRD in the prior year or must not have been, sorry. The reason for this part is that there was an occupation...if there was an occupation tax in prior year, the farmer has notice that there might be one next year and he or she should certify any nonirrigated acres by March 1. Second, the district must have entered into an IMP that allows for an occupation tax after the March 1 opt-out deadline. That means that the farmer would have no reason to think that there could have been a tax on March 1, so it is unfair to not give him a chance to opt out after the fact. The language doesn't harm any other NRD that have implemented occupation taxes right now. Moreover, (d) will be sunsetted on October 1, 2012. During the committee process, two other subdivisions were added to this bill. One allows districts to exempt acres on the record that are enrolled in the federal, state, and local temporary irrigation retirement programs for the occupation tax without requiring the farmer to come into the NRD. The second addition to the bill is (c) brought to the committee by the Nebraska Association of Resource Districts, NARD, seeks to clarify what evidence is required to prove nonirrigated status after the fact. I will address this section further when I open on AM2513 to the committee bill. I do believe this is a good bill and one that fixes a problem that the Lower didn't expect to happen when they did what they needed to do and adopted a new IMP. Thanks for your consideration to LB1125 and I'd urge the advancement to Select File. [LB1125]

SENATOR GLOOR: Thank you, Senator Christensen. As the Clerk stated, there are amendments from the Natural Resources Committee. Senator Langemeier, as Chairman of that committee, you're recognized to open. [LB1125]

SENATOR LANGEMEIER: Mr. President, members of the body, Senator Christensen did an excellent job of introducing his bill, as well as the committee amendment. But the committee amendment is designed to clarify the tools and the programs you can participate in that allow you to opt out. As you can imagine in the water world, all the NRDs looked at it a little different and so we started out with a number of NRDs not liking the green copy language. And so we worked very hard to create the committee

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amendment to be the official--what is proof that you weren't irrigating for the previous year and the fact that you couldn't just come in at the end of the season and say, hey, I opted not to irrigate, I shouldn't pay the tax. And so with that, the wording in this amendment has been very tenuously crafted through a lot of meetings with the different NRDs to make sure everybody was on the same page and everybody is using the same proof. So we'd ask for your adoption of the committee amendment to LB1125 and it does become the bill. Thank you, Mr. President. [LB1125]

SENATOR GLOOR: Thank you, Senator Langemeier. Mr. Clerk. [LB1125]

ASSISTANT CLERK: Mr. President, I do have an amendment to the committee amendment from Senator Christensen, AM2513. (Legislative Journal page 1165.) [LB1125]

SENATOR GLOOR: Senator Christensen, you're recognized to open on your amendment to the committee amendment. [LB1125]

SENATOR CHRISTENSEN: Thank you, Mr. President. First of all, I'm going to tell you the section I'm asking to cut out was agreed upon by the whole committee and myself to get this advanced. After we had done that, I got a number of phone calls from one of my Republican NRD districts that they have been charging this tax on acres that are being irrigated and then rebating them because they feel like the natural resources district does not have any control over surface irrigated waters and that they should not be administering that tax. And they believe that surface water has been reduced in the amount of flows over time, the amount of water they get, and that they should not have to force that tax upon them. After hearing a number of complaints, I told them I would bring this bill and I visited with them about if this was the best approach. I see two approaches to handling this situation. One is we cut this section out. The other one is to bring a bill back next year that would allow them to...on surface irrigated only acres, be able to take that amount of occupation tax, give it to the surface irrigation district, and allow them to use that for the same criteria as the NRD uses money for. Pros and cons of that is, you're still going to have the NRD collect it, give them the money, should not be an issue; benefit of it, it could cause the surface and NRD people to work together. If you guys don't choose to cut this out, I will bring this bill back next year to have its hearing, it will be handled in another direction which I think might even be better than allowing them to exempt it. I will defer to what this body decides to do, whether they cut this out. I care to get this bill passed, sent forward, and be glad to address any questions on this. Thank you. [LB1125]

SENATOR GLOOR: Thank you, Senator Christensen. (Visitors introduced.) Members, you've heard the opening on LB1125, the committee amendment and the amendment to the committee amendment. We now move to floor debate. Senator Langemeier, you are recognized. [LB1125]

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SENATOR LANGEMEIER: Mr. President, members of the body, I rise in opposition to AM2513. As we talked about, as Senator Christensen talked about LB1125 is trying to deal with a date overlap and how you can allow farmers that have chosen not to irrigate this year how to opt out of an occupation tax. With the adoption...if we adopt AM2513, that's going into public policy and it goes into how we're going to implement an occupation tax whether it's on...through NRDs on irrigated...groundwater irrigated or it's through surface water and I would encourage Senator Christensen, he and I have talked about this a number of times, I think it's a policy issue. I think he should bring that back as a bill next year to allow a hearing and allow for the ability to vet that out amongst all the partners in water. And so I'd encourage him to bring it as a bill because LB1125 is dealing with a technical issue of a timing from when an IMP was adopted and when the official date is to opt out, so it takes this from just a technical into a real policy issue that I will tell you will be a long hearing when he does bring it as we have surface and groundwater talk about who's the best. And so with that I would ask that the body do not adopt AM2513, but do take the committee amendments and the bill; it's very important for those NRDs that are now experiencing this occupation tax and how it's implemented and who they need to let back out of that tax. So with that, I'd ask you vote red on this amendment and then green on the committee amendment and the bill. Thank you, Mr. President. [LB1125]

SENATOR GLOOR: Thank you, Senator Langemeier. Senator Carlson, you are recognized. [LB1125]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I'm really going to echo what Senator Langemeier has just said. We recall and we know that agriculture is our number one industry, but water is the lifeblood and we have to be careful with our water and we want to encourage efficient use and we want to encourage those people that decide that they're not going to irrigate to not be penalized by it and the basic amendment, AM2378, answers those questions. I believe that AM2513 is an issue that ought to be brought back next year and get the parties together and think it through a little bit better, have more agreement on it. And so I am opposed to AM2513, but I'm supporting AM2378 and the underlying bill. Thank you. [LB1125]

SENATOR GLOOR: Thank you, Senator Carlson. Are there other senators who wish to be recognized? Seeing none, Senator Christensen, you're recognized to close on your amendment to the committee amendment. [LB1125]

SENATOR CHRISTENSEN: Thank you, Mr. President, colleagues. Again, I stand here saying there's two ways to handle this. One is, we can take this out and let them continue a practice that they have started for a year of rebating occupation tax they collected because it is on the activity of irrigation, because they don't feel like they have jurisdiction over it and because they feel like they have paid their dues in another

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direction. Or if we kill this amendment, I'll bring a bill back next year, as Senator Langemeier said, would have a lot of attendees, would have a lot of discussion and set forth a policy to go forward. So, again, I'm deferring to the body what you think is the best approach to go here. I'm just trying to address some issues that we have in my district that is being done in a different manner that this legislation would prohibit right now. Thank you. [LB1125]

SENATOR GLOOR: Thank you, Senator Christensen. Members, the question before the body is, shall the amendment to the committee amendment to LB1125 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB1125]

ASSISTANT CLERK: 7 ayes, 18 nays on the adoption of Senator Christensen's amendment to the committee amendments. [LB1125]

SENATOR GLOOR: The amendment is not adopted. We turn to discussion on the committee amendment. Are there senators who wish to be recognized? Seeing none, Senator Langemeier, you're recognized to close on your committee amendment. [LB1125]

SENATOR LANGEMEIER: Mr. President, members of the body, we'd ask that you adopt the committee amendment and then advance LB1125. It is a very important issue for those NRDs that have just experienced signing new IMPs and allowing for some exemptions out of that occupation tax that makes sense. Thank you. [LB1125]

SENATOR GLOOR: Thank you, Senator Langemeier. The question is, shall the committee amendments to LB1125 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB1125]

ASSISTANT CLERK: 30 ayes, 0 nays on the adoption of committee amendments. [LB1125]

SENATOR GLOOR: The amendment is adopted. Discussion on LB1125. Seeing no senators in the queue, Senator Christensen, you're recognized to close on the advancement of LB1125. [LB1125]

SENATOR CHRISTENSEN: Thank you, Mr. President; and thank you, colleagues. I appreciate the vote on the committee amendment to get this advanced. It is an important bill to get passed and sent forth this year and I ask you to vote green and advance this to Select File. Thank you. [LB1125]

SENATOR GLOOR: Thank you, Senator Christensen. The question is the advancement of LB1125 to E&R Initial. All those in favor vote aye; all those opposed vote nay.

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Record, Mr. Clerk. [LB1125]

ASSISTANT CLERK: 33 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB1125]

SENATOR GLOOR: The bill advances. (Visitors introduced.) Mr. Clerk. [LB1125]

ASSISTANT CLERK: Mr. President, I have some items. The Transportation Committee will meet under the north balcony upon recess. The bills that were read on Final Reading this morning have been presented to the Governor. (Re LB398, LB719, LB721, LB722, LB729, LB734, LB737, LB738, LB740, LB742, LB743, LB761, LB766, LB768, LB772, LB779, LB788, LB795, LB805, LB819, LB822, and LB823.) New resolution: LR625 by Senator Brasch; that will be laid over. Explanation of vote from Senator Janssen. (Re LB670, LB715, LB750, LB959, LR358CA, and LR373CA.) Name add to LB793 from Senator Pirsch. (Legislative Journal pages 1401-1402.) [LB398 LB719 LB721 LB722 LB729 LB734 LB737 LB738 LB740 LB742 LB743 LB761 LB766 LB768 LB772 LB779 LB788 LB795 LB805 LB819 LB822 LB823 LR625 LB670 LB715 LB750 LB959 LR358CA LR373CA LB793]

Finally, a priority motion. Senator Langemeier would move to recess until 1:30 p.m.

SENATOR GLOOR: Members, you've heard the motion to recess until 1:30. Those in favor say aye. Those opposed, nay. We stand recessed.

RECESS

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. Members, the afternoon session is ready to reconvene. Please record your presence. Record, Mr. Clerk.

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

PRESIDENT SHEEHY: We will now move to an item under General File, 2012 Speaker priority bills, Lautenbaugh division, LB928. [LB928]

CLERK: Mr. President, LB928 is a bill by Senator Loudon. (Read title.) The bill was introduced on January 10 of this year, referred to the Natural Resources Committee, advanced to General File. [LB928]

PRESIDENT SHEEHY: Senator Loudon, you're recognized to open on LB928. [LB928]

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SENATOR LOUDEN: Thank you, Mr. President and members. Good afternoon, members. I want to thank Senator Flood for putting this on the Speaker priority bill. And today I bring LB928 which would authorize the Nebraska Game and Parks Commission to issue permits for hunting mountain lions. LB928 is a bill I introduced in the Natural Resources Committee on behalf of the Nebraska Game and Parks Commission. At the present time, there isn't any wording in statute that allows the Game and Parks Commission to declare hunting season on mountain lions. Mountain lions are described in statute 37-228 as a game animal, but there have never been any provisions in statute to allow any kind of management or control of the population. What LB928 does is give the commission the authority to implement a season and it also describes in statute how the season would be implemented, how a limited number of permits would be allocated, and what the proceeds from the sale of permits would be used for. The reason for this bill is that it is the opinion of the Game and Parks Commission that the mountain lion population could achieve a high enough level to warrant an official hunting season. There are signs of a resident population of mountain lions in northwest Nebraska. With such a resident population, these animals then begin migrating to other areas of the state as there have been sightings of mountain lions statewide. LB928 is a tool that the Game and Parks Commission have asked for to help them in their management of wildlife and game animals in Nebraska. I would ask that you advance LB928 to Select File. Thank you, Mr. President. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Louden. You've heard the opening to LB928. Mr. Clerk, do you have an amendment on your desk? [LB928]

CLERK: Mr. President, Senator Fulton would move to amend with AM2667. (Legislative Journal page 1234.) [LB928]

PRESIDENT SHEEHY: Senator Fulton, you're recognized to open on AM2667. [LB928]

SENATOR FULTON: Thank you, Mr. President and members of the body. First, I would like to thank Senator Louden for allowing me to bring this amendment on his bill. This was...this amendment was LB1163, which is a bill I brought this year and it's actually something I've worked on for a number of years. I should also thank Senator Langemeier, and then also Game and Parks Commission. Really, Senator Langemeier took the bull by the horns on this and we're able to put this together. What this is...I'm just going to go ahead and read you Section 5. The purpose of Sections 5 to 14 of this act, and this is what's in AM2667, is to establish procedures for the administration of a deer donation program and to encourage hunters to harvest deer to donate to a program to feed residents of Nebraska who are in need. Surrounding states have similar programs and since I became involved with the sportsman's forum, I've received e-mails and requests as to why Nebraska doesn't have something similar in place. We have a...Game and Parks does have an exchange in place, but not a full-blown program like we're proposing here. And so I brought this in the form of LB1163. Game and Parks

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had some concerns with how this would go forward, whether it would cash flow properly and they were doing their due diligence as to how this bill could work. And so it was very important that we sit down with Mr. Douglas with Game and Parks Commission and come up with a way forward on this. The amendment is pretty straightforward. There are...the way I can explain it to you quickly, there are two components here. Those who are deer hunters, when they fill out their permit, they would have the opportunity to check off a box, as we envision it, to donate money to the Hunter's Helping the Hungry Cash Fund, and in return they would get a tag to be able to take a deer and then donate that deer to a participating meat locker. And that's all defined in the amendment and then that meat would be processed and would go to those in need through varying agencies that provide food for those in need. So we think this is a win-win-win. This is a way that we can control...further control the deer population, which is a safety issue for those of us in urban Nebraska, and certainly an issue of economic development for those in rural Nebraska. We provide the mechanism by which we can provide food for the needy and to allow hunters to engage in the sport that they love. So I will...I'll stop there. It's pretty self-explanatory. It's laid out here. We give authority to the Game and Parks Commission. I'll answer any questions, if you have any. I just ask you to support AM2667. Thank you, Mr. President. [LB928 LB1163]

PRESIDENT SHEEHY: Thank you, Senator Fulton. You've heard the opening of AM2667 to LB928. (Visitors introduced.) Members requesting to speak on AM2667, we have Senator Karpisek, followed by Senator Hadley, Senator Krist, and Senator Pahls. Senator Karpisek. [LB928]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. Would Senator Fulton yield, please? [LB928]

PRESIDENT SHEEHY: Senator Fulton, would you yield to Senator Karpisek? [LB928]

SENATOR FULTON: I will. [LB928]

SENATOR KARPISEK: Thank you, Senator Fulton, and I really support this idea. I did...I read the amendment a little bit but not as thoroughly as I should have. What does it take for the meat locker to be involved? [LB928]

SENATOR FULTON: Okay. I'll point to you to the part of the amendment and then I'll just describe it in my own parlance or my own language. The meat processor needs to sign a contract with Game and Parks Commission. And let's see, the meat processors...what a meat processor...what and which meat processors is found on page 3 of the amendment. [LB928]

SENATOR KARPISEK: Okay. [LB928]

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SENATOR FULTON: Section 3 at the very top. That is the qualifier as to what defines a meat processor. The...let's see, we are on...now page 4, Section 11, this is at the volition of individual meat processors. If they want to be part of this program, they should enter into a contract with Game and Parks. And it's part of that contract that's to be spelled out with Game and Parks. They would be able to receive payment for these...for processing these donated deer carcasses. [LB928]

SENATOR KARPISEK: And is the fee set out anyway or is it whatever the locker charges customarily? [LB928]

SENATOR FULTON: That is something that will be set by the Game and Parks Commission. [LB928]

SENATOR KARPISEK: Okay. And there have been some of these hunters feeding the hungry before. Was that more of a private group doing it? [LB928]

SENATOR FULTON: Yeah. There is...there haven't been any, in Nebraska anyway, there haven't been any deer donation programs put forward as a program like this. What exists right now with Game and Parks is an exchange. It's a Web site basically where those who would like to donate deer meat can make that known and those who would like donated deer meat can make that known. And so that has been effectuated with this Web site, this exchange that's run by Game and Parks Commission. Perhaps that is what you have been exposed to in the past. [LB928]

SENATOR KARPISEK: Great. Again, I thank you for bringing this. I will read it a little bit more. I feel very comfortable with the Game and Parks being involved. There's also a situation that often comes up is some of this meat, even though not donated, isn't picked up by the time that it's supposed to be out of people's possession. And sometimes the locker will find themselves with quite a bit of deer meat in...still in their freezer taking up room after they shouldn't have it in their possession anymore. And I will talk to the Game and Parks about that because the only other thing to do with it is to throw it away and that is nothing but a waste of resources. But I know some locker plants that have gotten in trouble for that because their customers didn't pick the meat up. It's been processed, they don't have anyone paying for it, and so they have it sitting there and the inspector comes in and says, oh, that's supposed to be gone, and then they have to pay the fine, which is a tough spot to be in. But again, I will read it better and I appreciate you bringing it, Senator Fulton. I think it's a great idea and I think it will work very well. Thank you, Mr. President. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Hadley. [LB928]

SENATOR HADLEY: Mr. President and members of the body, would Senator Fulton yield to a question? [LB928]

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PRESIDENT SHEEHY: Senator Fulton, would you yield to Senator Hadley? [LB928]

SENATOR FULTON: I will, yes. [LB928]

SENATOR HADLEY: Senator Fulton, we had a situation in the 37th District and Hastings within the last couple of weeks dealing with a locker plant and wanting to donate meat to a mission, homeless mission out there. And we were told they couldn't do it because of the fact that they did not have a retail license so basically they could only send the meat back to the person that they did the processing for. Is that taken care of in this bill? [LB928]

SENATOR FULTON: I believe so. Not...what you described to me I believe would be addressed in this bill. Perhaps there are more particulars I'm unaware of. Similar to how I described to Senator Karpisek, this is page 3...page 3 of the amendment, AM2667, at the very top. A meat processor means any business that is licensed to process meat for retail customers by the Department of Agriculture, U.S. Department of Agriculture, or a neighboring state's department that is similar to Nebraska's. And so it...the situation you describe, perhaps this wouldn't remedy the situation you describe, but it is articulated and outlined clearly, statutorily anyway, as to what defines a meat processor that would be eligible to participate in this program. [LB928]

SENATOR HADLEY: Okay, I would just...thank you, Senator Fulton. I just want to make sure because we did run into this legal hassle and it had to do with the fact that the U.S. Department of Agriculture was doing inspecting at the same time the State Department of Agriculture, and the person at the processing plant did not have the right kind of license so they couldn't do this. They literally could not give the meat to a charitable organization. So I assume that you have vetted it enough that this would not be a problem. Thank you, Mr. President. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Hadley. (Visitors introduced.) Continuing with floor discussion on AM2667, member requesting to speak, Senator Krist. [LB928]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, Nebraska and colleagues. In November of last year, I received a phone call asking me to come to a meeting, a group of businessmen in the Omaha area and they wanted to talk about this very thing. They were very energized to put some kind of a program together. And this is a cooperation, I think, that needs to be highlighted when it comes to getting things done in this body, this Legislature which is...unifies for several causes. I thank Senator Fulton for bringing it to fruition. I asked Senator Schilz to help me and Senator Langemeier got involved on the other end of it. This was a group effort. I thank Senator Fulton again for bringing it to fruition and attaching it here. It's a great program. I will say this, colleagues, our neighboring state, Iowa, does it just one step better in the fact that

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they have a statewide food bank. And I think we should look into that in the next few years because it would certainly make distribution of the product, to the folks who really need it, easier for us. So thank you, Senator Fulton, for bringing it forward and I would ask you to vote green on AM2667 and the underlying LB928. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Krist. Seeing no additional requests to speak, Senator Fulton, you're recognized to close on AM2667. [LB928]

SENATOR FULTON: Thank you, Mr. President. Briefly, I'm glad Senator Krist got up to talk. Indeed, Senators Krist and Schilz also should go into this list of folks to thank here in the body. And also some credit should be given to Game and Parks because, as you can see, they'll need to hustle to put this together for the upcoming season and that means work is going to have to be done here, like, right away. And they have expressed a willingness to hustle and take the steps necessary to implement the program. So they need to be recognized too. This is a good program. I think it's a good idea and hopefully we can improve on in future years. I ask for your green vote on AM2667. Thank you, Mr. President. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Fulton. You have heard the closing. The question before the body is on the adoption of AM2667 to LB928. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB928]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of Senator Fulton's amendment. [LB928]

PRESIDENT SHEEHY: AM2667 is adopted. [LB928]

CLERK: I have nothing further on the bill, Mr. President. [LB928]

PRESIDENT SHEEHY: Seeing no requests to speak, Senator Louden, you're recognized to close on LB928. [LB928]

SENATOR LOUDEN: Thank you, Mr. President and members. And this is a collaborated effort here amongst us that we would use our sportsmen and also our natural resources to a very good use, which using the amount of deer out in there that could be used for food processed in Nebraska is a great deal, and giving the Game and Parks authority to do something so they can have a control over the mountain lion population. With that I would ask you to advance LB928. Thank you, Mr. President. [LB928]

PRESIDENT SHEEHY: Thank you, Senator Louden. You have heard the closing. The question before the body is on the advancement of LB928. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB928]

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CLERK: 42 ayes, 0 nays, Mr. President, on the advancement of LB928. [LB928]

PRESIDENT SHEEHY: LB928 advances. We'll now proceed to LB928A. [LB928 LB928A]

CLERK: Mr. President, Senator Langemeier offers LB928A. (Read title.) [LB928A]

PRESIDENT SHEEHY: Senator Langemeier, you're recognized to open on LB928A. [LB928A]

SENATOR LANGEMEIER: Mr. President and members of the body, this is really kind of getting to be a tag-team effect on LB928 with Senator Loudon, the mountain lion, and Senator Fulton with the hunters helping the hungry. LB928 is an A bill that is required to allow Game and Parks to take this cash in that's going to be donated to help pay for these processing. We need the A bill to allow them to spend the money to pay for the processing of the actual meat. And what we have is we have, as Senator Krist has mentioned, we have a number of people in Omaha that have committed funds to this. We basically need to start off with some software changing on the Web site for Game and Parks which is an \$8,000 expense. They need some employment, a part-time person to help with this program, so they think they need about \$32,000 there, as well as the money to process the deer. And so we're asking you to adopt the A bill which would authorize Game and Parks to...well, they can take in the money because you created the cash fund in the previous bill, but this would authorize them to spend the money to update the Web site, do the promotion as well as process the deer. And without the donations, you don't have a program. So those individuals will have to step up very, very quickly with money to make this work and so we'd ask for your adoption of LB928A allowing Game and Parks to spend the money. Thank you. [LB928A]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You've heard the opening to LB928A. Seeing no requests to speak, you're recognized to close. Senator Langemeier waives closing. The question before the body is on the advancement of LB928A. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB928A]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB928A. [LB928A]

PRESIDENT SHEEHY: LB928A advances. We will now proceed to LB908. [LB928A LB908]

CLERK: LB908, it's a bill by Senator Lautenbaugh. (Read title.) The bill was introduced on January 9, referred to the Judiciary Committee, advanced to General File. I do have committee amendments, Mr. President. (AM2319, Legislative Journal page 816.) [LB908]

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PRESIDENT SHEEHY: Senator Lautenbaugh, you're recognized to open on LB908.  
[LB908]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I had a different opening written for this bill, but I'm going to give the one that I'm going to give, it appears. And if you happen to live in the 3rd District, I hope you're paying extra special attention to this because there's been a concerted effort to give you what I would call--politely--misinformation about what this bill would result in, especially as amended. There is...and I apologize if I sound patronizing but some people aren't up on this, I guess, I wasn't. There is such a thing as the Commission on Public Advocacy. It was set up a while back to help what I would call smaller counties in the event that there is a...back in the day were talking about death penalty cases, and the county has to provide defense for an indigent person who is charged. So this is the indigent defense fund and every filing in the state there's a \$3 fee, every court filing goes to the indigent defense fund. And that brings in about, in round numbers, \$1.2 million a year. Under the law, basically a public law firm was created called the Commission on Public Advocacy. It employs, I think, five attorneys and a sixth attorney who runs the office and carries half a caseload. And again, their original mission was set up to help smaller counties with the burden of a high-cost defense case. Douglas County came to me and said, look, the thing is overfunded every year, it has a surplus every year, and we don't use it. We'd like to get some of our money back. The bill that I introduced says the \$3 goes back to Douglas County because it pays for its own indigent defense fund by hiring, when its public defender can't do it, outside counsel. And it pays them. The Commission on Public Advocacy generally doesn't come into it in Douglas County. And we had a hearing on this, obviously, and we discussed numbers and round numbers, if you will. Generally, about \$1.2 million comes in every year, a little more, and the commission's budget is around \$1 million or a little more, so they've built up about \$1.4 million, \$1.5 million in reserve. And we got to talking about the caseloads and whatnot, and what the commission actually does. And to my surprise, because I did not know this...well, I'll save that for a minute. We did what we normally do. People came in opposed, we had discussions, and we worked out what I thought was a fair compromise, meaning Douglas County would get back half of its money, continue not to use the commission as has been its practice, and still pitch in \$1.50 on every court filing instead of \$3 to this Commission on Public Advocacy. If Douglas County took out all of its money, the commission would have lost about \$380,000. Taking out half of the money, the \$1.50 from every filing, Douglas County will get back about \$190,000. That would leave ample funds to fund the Commission on Public Advocacy. But the commission has decided, apparently, that they do not want this deal. So I have another amendment coming on this as well. But that's what the amendment does. It provides for Douglas County to get back half of the indigent defense fund fee it pays on every filing, and continue to pay for its own indigent defense costs. The amendment that's coming does something radically different because I think this was a good deal and this good deal is not being accepted.

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And what I have learned from testimony in the committee and otherwise, is that for some reason the commission does, it appears, better than half of its work right here in Lancaster County, which by any measure is not a small county that was meant to be helped out by the original intent of this bill. So what you're being told is that if my bill advances, even with the original amendment from the committee, that somehow it will impair the right or the ability for this fund to be available for the smaller counties. That is an out-and-out falsehood. What it might impair is for this commission to continue acting like a spare public defender's office for Lancaster County, which is what it does in reality now. And, yes, this was a Douglas County bill as it started because it was brought to me by Douglas County and they said, we don't use it, we want some of our money back. But I would hope everyone in the state, and all of you represent different parts of the state, would understand that you are funding, in effect, a spare public defender's office for Lancaster County. And that's not what this was intended for. That's not what this thing exists for. And I didn't want to have this discussion at the mike. I wanted to take the pittance that we were going to take back to Douglas County, and still have to pay the lion's share of its own indigent defense fund. Happy to do it. That's what they've been doing for years. But we will have a discussion, I guess, on what this commission was meant for because my other amendment, that I'll ask you to look favorably upon now, basically says that it is now a fund, it's not a commission. And Douglas, Lancaster, and Sarpy pay in \$1.50 per filing and do not use the fund. Everyone else continues to pay the \$3 and if you need the fund you can use the fund to pay for your defense costs. That is much closer to what we originally intended when we set this thing up, providing defense for counties that would find a high dollar defense cost catastrophic. What it has evolved into, as I indicated, is a spare public defender's office right here in Lancaster County that all of you are paying for. And make no mistake, the counties pay the filing fee. The counties pay the indigent defense fund fee. Your taxpayers pay the indigent defense fund fee and it is being spent, I would argue, wildly, disproportionately here in Lancaster County. So rather than have the discussion on my simple compromise amendment, which I still will ask you to approve, we'll have the more protracted discussion it looks like, on the one that really forces this thing back to what it was originally set up for which is helping all of you, not my county, not Lancaster County, and not Sarpy County, defray the cost of a catastrophic defense case. And that's not what it's doing now. And I think there was opposition to this. The commission came in and there was some remarkable testimony from the commission in the legislative hearing. And the bar came in on this, too, in opposition, and the bar has been talking to all of you about this. So we'll have a little discussion about the bar, too, another topic that's near and dear to my heart, and why in God's name they're involved in this supporting an ongoing public law firm that takes away work from private attorneys that are supposed to be, or are forced to be, paying members of the bar. That's a remarkable circumstance for the bar to be taking that position, and they have with a certain amount of vigor. And you may have picked up on this, I don't like it, and I don't want to pay for it anymore, so I've asked the Supreme Court to address that. That's beyond the scope of what we're doing here today, but if you wonder why when you hear

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about me having some issue with the bar association that I'm forced to pay into, remember this floor debate. And remember where they are and imagine if you were a criminal defense attorney, I'm not one, but you're told, well, Lancaster County, we don't need you when we have a conflict, we have the Commission on Public Advocacy to do the work. Private defense attorney, you're out in the cold. My amendment, the longer amendment, if you will, the second amendment, would allow any attorney, any county to hire any attorney in the state and make application for funds from this fund to defray the cost, with the exception again of Douglas, Lancaster, and Sarpy. They would continue to pay in the fund because we're all one state, they'd pay at a lesser rate, and they would not consume the funds. So if you've been told that this is some deal to go out and impair what you smaller counties might be used to expecting from the Commission on Public Advocacy, if and when you need it, hopefully you don't but you can, understand my amendment addresses that. And it will send this thing back to what it was meant to be, which is a fund for the smaller counties... [LB908]

PRESIDENT SHEEHY: One minute. [LB908]

SENATOR LAUTENBAUGH: ...to defray the cost of defense. It has become something quite different and it is high time to rein it in, in the interest of all the taxpayers of the state. And I would urge you to adopt both amendments and approve the underlying bill. Thank you, Mr. President. [LB908]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You've heard the opening to LB908. (Visitors introduced.) As was stated, we do have a Judiciary Committee amendment, AM2319. Senator Ashford, you're recognized to open. [LB908]

SENATOR ASHFORD: Thanks, Mr. Lieutenant Governor and members. I would like to first implore this body not to go to the place that Senator Lautenbaugh is talking about which is an urban-rural split. This...urban-rural issues do not exist in this amendment. There is plenty of money in this fund, \$1.7 million at the end of the 2010-2011 fiscal year to handle any exigency that would come about in any county throughout the state. And let me say further that we did not hear in the Judiciary Committee, we heard absolutely no push back from any county judge or district judge in the 3rd District or the 1st District. We didn't hear from any public defender in any of those districts. We didn't hear from any county attorneys in any of those districts. And as far as I can recall, we didn't hear from any lawyers in the 3rd District or the 1st District at all. What we did do is...and Senator Lautenbaugh is absolutely correct. When we set up this Public Advocacy Fund, and I was here during the early years of that, the idea was to provide--and other lawyers in this body I'm sure are aware and know about this--some logistical and legal help to rural communities throughout the state in difficult cases, no question. And that is being done now, adequately, funded adequately. If we divide the \$3 Douglas County court fee in half, it will continue to be fully funded adequately with plenty of money for representation in the 3rd District and in the 1st District. But

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here...there's another problem that I have with what happened here. We have an emissary, or a plenipotentiary is the old word they used to use, in our Judiciary Committee that we send out to troubleshoot all of our troubles. And that's my good friend, Senator Lathrop, or as we call him, depending on what party you're in, the Averell Harriman or Henry Kissinger of the Judiciary Committee. (Laughter) And we send Senator Lathrop, no matter what the issue is, we send him out to resolve these matters that we have with various parties. And he, as we all know, has been successful in these efforts, the stem cell research, public liability, whatever it is. And we sent him out on this mission as well to go to the bar association and to go to the public advocacy group because they are fine lawyers. There's absolutely nothing wrong with their representation and we sent our emissary out to resolve this matter. And it was resolved. And if...I don't know where Senator Lathrop is, or Averell, can you...that if...and I might ask Senator Lathrop if he could chime in on this. At least the committee felt that we had a resolution encompassing this amendment or encompassed in this amendment which is before you now, AM2319. Senator Lathrop, would you mind answering a question? Mr. Lieutenant... [LB908]

PRESIDENT SHEEHY: Senator Lathrop, will you yield to Senator Ashford? [LB908]

SENATOR LATHROP: Yes. [LB908]

SENATOR ASHFORD: Senator Lathrop, can you describe...tell us what happened in your discussions and where we are in your mind on this thing? [LB908]

SENATOR LATHROP: I can tell you where I thought we were and got to and that is, Senator Lautenbaugh put a bill in to essentially say the \$3 filing fee generated in Douglas County would go back to Douglas County. And, of course, the Commission on Public Advocacy said, we don't want that, that's too much money. I thought we agreed on half of that. And we did have to jump through some procedural questions about, how do we do that effectively? And I thought we worked with the bar on a solution to that. And then we put the amendment together which is our Judiciary Committee amendment. I thought that was the understanding. [LB908]

SENATOR ASHFORD: Thanks, Senator Lathrop. And I think that's the way we operate in the Legislature. We have ideas within the body and I think...and we work those ideas within our committees because there are many stakeholders involved in everything we do here. It's important to keep those individuals involved and made part of the effort to arrive at a bill that's a consensus bill. And that's what we try to do in the Judiciary Committee and that's what every committee tries to do as well. That's what happened here. This amendment which retains in Douglas County \$1.50 of the \$3 filing fee for Douglas County defense is the compromise. The other amendment that Senator Lautenbaugh is talking about is a much more dramatic change in how we do business in the public advocacy area. It would eliminate the Public Advocacy Commission as an

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active legal group, group of lawyers, and it would create a fund and distribute that fund as the need arose throughout the state. That's not going to be...that's a more dramatic, drastic...and I don't know where Senator, I would...I don't think it's necessary. What we're doing here is an appropriate response to the concern in Douglas County that they have not, do not very often except in rare occasions, and there are some capital cases where the Public Advocacy Commission has been involved, the Carey Dean Moore case for one, but that there is adequate money for everyone here. With the Judiciary Committee amendments, I would strongly urge that we adopt it and not spend...we really don't need to spend all afternoon getting into the nitty-gritty of this fund. We are covering the counties. We are very mindful. Senator Larson does a good job in the committee representing the 3rd District of bringing up when the need arises the concerns of the 3rd District regarding judicial services, legal services, and so forth. So I think we're covered here. I would strongly urge we adopt the amendment and move on...to the bill and move on from there. Thank you. [LB908]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the opening of AM2319 to LB908. Members requesting to speak: Senator Harms, followed by Senator Gloor, Senator Campbell, Senator Wallman, Senator Lathrop. Senator Harms. [LB908]

SENATOR HARMS: Thank you, Mr. President and colleagues. I do rise in opposition of AM2319 and the underlying bill, LB908. Quite frankly, I think this is going to be extremely damaging to rural Nebraska regardless of what we're hearing. From what I've had and the discussions I've had with some of the judges and some of the attorneys, they have concerns about that. Either they don't understand it or I don't understand it or we're not communicating appropriately. And I'm here to tell you that I don't think this is an appropriate thing for us to do. Let me give you a little background. Then we're going to get into some of these high-profile cases. We're talking about having enough money that's adequate. Well, I just want to talk to you a little bit about that and where these cases have gone and what the costs have been, and the fact that in rural Nebraska some of the crimes are more serious than they have ever been before and we're having more and more crimes. And then not only that, the number of counties that are using the services, that are getting assistance from them. And I'm going to walk you through this and I'm sure I'm not going to be able to do this a short period of time and so I'll be back. But let me just give you just a little more background so you have a better understanding about this Commission of Advocacy which was started in 1995 and it was created as a way to provide, quite honestly, property tax relief to counties to ensure that qualified attorneys were available on a statewide basis to provide effective assistance of counsel in the most serious criminal cases and that's where the rub comes, colleagues. We probably will not be able...the way this is drafted now, I do not believe that we will have the power and the ability to do that. When a capital or other serious felony crime is committed, a judge may appoint the Commission on the Public Advocacy at no cost to the county. The commission helps protect county resources from unexpected and significant legal fees that are necessary to defend these kinds of cases.

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Now most of these smaller counties don't have large budgets. In fact, we have one in Scotts Bluff, and it's larger than most of the counties that were in western Nebraska, they are concerned. And one of the cases they've got now, whether they're going to have the appropriate funding just to handle this and can they balance their budget and will it have a major impact on having to raise the property tax in regard to that particular issue. Representatives of defendants in serious crimes, as I believe, and we've heard this, is a statewide responsibility. To allow Douglas County to opt out or to cut back or whatever they want to do in regard to this particular fee to assist in the funding the Public Advocacy would impair that program. And here's what it would do. Here's what we're not hearing. Here's what it would do. It would leave many counties either a public defender, which is not appropriate in some of these high profile cases, or an appointed counsel, neither of which would ordinarily be prepared to have the experience to handle such cases. So what we're really setting up for is, you can live in urban America and you'll get the coverage. You can live in rural America and if you have more than one case going on throughout these counties, you will not have the appropriate assistance that these people deserve to have. Now let's talk just a little bit about some of these high-profile cases. Let's look at Scotts Bluff County for example. The Jeffrey Hessler, death row trial, direct appeal expense, \$350,000. And how many years ago was that? Ray Mata, death penalty row trial, direct appeal, new sentencing hearing, direct appeal, \$500,000. The Beatrice Six \$100,000 on an DNA testing. Jesse Camacho, up in the northeastern corner of Nebraska, a first degree life imprisonment after a sentencing hearing finding by the three judges, the cost for that was \$475,000. Erick Vela, V-e-l-a, death penalty trial sentence, a ten-day hearing regarding... [LB908]

PRESIDENT SHEEHY: One minute. [LB908]

SENATOR HARMS: Pardon me, Mr. President? One minute? [LB908]

PRESIDENT SHEEHY: One minute. [LB908]

SENATOR HARMS: Thank you very much...was \$800,000. Salvador Lopez, up in the Sioux County area, life imprisonment, \$10,000. I wanted to tell you, colleagues, the costs have gone up, the crimes are more serious, and they're more numerous. And I think it's something that you need to think about very carefully. This commission was set up for a reason. It was to provide the appropriate assistance. And we cannot judge by cutting this in half and saying, oh, they're just...we won't have as many, you'll have the assistance. I don't believe you will. There are more crimes. And I'm going to come back. I'm going to give you some more data that will prove exactly what I am saying to you is, the number of counties that are drawing upon this commission where they need assistance, as well as those crimes that are serious crimes, that they have to have them assisting them. [LB908]

PRESIDENT SHEEHY: Time, Senator. [LB908]

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SENATOR HARMS: Thank you, Mr. President. [LB908]

PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Gloor. [LB908]

SENATOR GLOOR: Thank you, Mr. President. I wonder if Senator Lautenbaugh would yield for some questions. [LB908]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to Senator Gloor? [LB908]

SENATOR LAUTENBAUGH: Yes, I will. [LB908]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. I think Senator Harms answered my first question, but am I correct that this initiative, this program was established in 1995? [LB908]

SENATOR LAUTENBAUGH: I don't know the date, Senator, but I don't have any reason to dispute that. [LB908]

SENATOR GLOOR: Do we have any idea how the \$3 fee was arrived at back in those days? And I ask it in the context of your comment that the fund has been overfunded, that there's been more money that's been drawn on. And I'm wondering, all right, somebody came up with \$3, that was supposed to be the right amount. Can you shed any light on that for me? [LB908]

SENATOR LAUTENBAUGH: I can't tell you what the original thought process. All I can do is look what's happened as we've had the \$3 fee. I can't tell you how they picked \$3 out of \$2, \$4, \$1.50. I don't know. And I don't even know if that was the original amount, by the way. [LB908]

SENATOR GLOOR: Okay. But your contention would be that that full \$3 really is not needed for the rest of the counties to...or for the fund to remain solvent to help the rest of the counties if it's reduced to \$1.50 in terms of the contribution from Douglas County. Am I correct in that assumption? [LB908]

SENATOR LAUTENBAUGH: I'm not sure I understood your question, Senator Gloor, I'll be honest. [LB908]

SENATOR GLOOR: Well, we're talking about less money going in from Douglas County and it would seem to me what you're saying when you say that is, there will be plenty of money that's coming in from all other sources to continue for that fund to serve the purpose it was established originally. [LB908]

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SENATOR LAUTENBAUGH: Absolutely, to serve its original purpose, yes. [LB908]

SENATOR GLOOR: Okay. And one of the things that I didn't understand is why Douglas County does not seek to use these funds or use them more. [LB908]

SENATOR LAUTENBAUGH: Well, I'll give you the short answer and I don't want to take up a lot of your time. I guess we have more chances to speak, but at a very basic level Douglas County has private defense attorneys that the county pays for when the public defender has conflicts. This entity was never set up to be used in Douglas County. And it really wasn't meant, I don't believe, to be used in Lancaster County very much either or Sarpy. This was supposed to be set up to help the rural counties when they needed it, if they needed it. [LB908]

SENATOR GLOOR: Okay. My challenge here is, and Senator Harms addresses some of my concerns, we're talking in Hall County of 67 cases that availed themselves of the fund. Over the past decade, 21 of those were homicides, pretty expensive to try, and because of that I also am a bit concerned about what it may mean. So I appreciate your answers. I'm just trying to get a handle on what this may mean if the ox gets gored out in Hall County, speaking bluntly. Thank you, Senator Lautenbaugh. Thank you, Mr. President. [LB908]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Senator Campbell. [LB908]

SENATOR CAMPBELL: Thank you, Mr. President and members of the body, and good afternoon. You know when you come to the Legislature you just never know when your life experiences are going to come into play. And when I first looked at LB908 I realized how many years had truly transpired here. In October of 1992, the State Court Administrator's Office received a grant from the Nebraska Crime Commission to conduct a first ever study of Nebraska's indigent defense system. The Spangenberg Group, which is a nationally known group, conducted the study and Chief Justice William Hastings appointed a 36-member task force primarily made up of judges, attorneys, and a few who were county commissioners. And I was chosen to sit on that task force as a Lancaster County Commissioner and spent quite a bit of time and learned to really, truly appreciate former Attorney General Spire who also sat on that task force with us. And the reason that the task force was, I think, formed was at that point in time in the state of Nebraska indigent defense was very, very uneven in the state of Nebraska. And some counties were pleading down on cases because they didn't have the money and they didn't have what they felt was the expertise within their county. And particularly because not very often were the counties faced with a murder trial. And so it was believed by the task force that the state of Nebraska needed to improve its indigent defense system. And the task force brought forward the idea of the commission as a way to relieve property taxes and also to provide assistance on

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indigent defense across the state of Nebraska. And it was interesting sitting on that task force and the belief of the importance of all counties participating in order to help each other. I have on several occasions since I've come to the Legislature spoken about my true advocacy--I'll use that word--for the commission, having sat on that original task force. I would have to say that then again in 2004 another study updating that original task force report was put into place and it dealt with far more issues. And so I would have to say, and as I indicated to Senator Lautenbaugh, I've had a longstanding support of this agency, and certainly do have trouble with LB908. But I would highly encourage, and I hope Senator Lautenbaugh would be willing to work with me, but I think it is time that the questions he's raising within these bills perhaps have a broader look than just LB908. And that we reconstitute what had been done and take a look at the 2004 report because, colleagues, there are a lot more issues in that report than how this is funded or how it is distributed. [LB908]

PRESIDENT SHEEHY: One minute. [LB908]

SENATOR CAMPBELL: And so I would highly encourage and hope Senator Lautenbaugh would look at that idea because I think it's time for a much broader look than LB908 would bring to us. Thank you, Mr. President. [LB908]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Wallman. [LB908]

SENATOR WALLMAN: Thank you, Mr. President and the body. I can appreciate what Senator Lautenbaugh is trying to do here, but unless you have had high-profile murder cases in your district and how it affects your roads, your funding of gravel, rock, everything like this, it was set up to help counties so this didn't happen. And so should we do away with it? Maybe you could tweak it a little as far as putting input but you have to have money, cash money, on hand because you never know when this is going to pop up. And counties can't necessarily anticipate...nobody can, when this is going to happen. So we're going to have...we're losing rural judges in rural America somewhat already, so we want to keep the funding, public funding for our court systems and indigent people in the mix. And I'd yield the rest of my time to Senator Harms if he'd like. [LB908]

PRESIDENT SHEEHY: Senator Harms, you're yielded 3 minutes 55 seconds. [LB908]

SENATOR HARMS: Thank you very much, Senator Wallman. You know, earlier I talked with you about the fact that there are more cases, they're very serious felony cases that are growing in Nebraska. And during these economic times, I think we find that the budgetary protection that the commission provides is probably more important than ever. And with cases like this continuing to go up, the rural communities have less opportunity and less funding to really cover those particular issues. Let me give you just some more data, if I can, in regard to this particular issue. Mr. President, how much time

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do I have left on that 3 minutes? [LB908]

PRESIDENT SHEEHY: 3 minutes. [LB908]

SENATOR HARMS: Thank you. When I was talking to you about the cases that are increasing and some of them are very serious, let me give you just Scotts Bluff County for example. And the data that I have that I think is important, was for me, over the last ten years when you look at the Nebraska Commission on Public Advocacy, the number of cases that they assisted us with in Scotts Bluff County alone were 32. And then there's another... [LB908]

PRESIDENT SHEEHY: (Gavel) [LB908]

SENATOR HARMS: ...column that talks about homicide, talks about trials, appeals, postconvictions, that the serious category. And in my county in the last ten years, 19 times we've had to have them come in and help us. Actually help us because we didn't have the assistance nor did we have the legal background to take on those sort of cases. Let me walk you down through a few more that live in my region that I think are rather interesting, for example. Box Butte, which is just north which would be the Alliance community, over the last ten years they've had ten cases where they needed help, and then on the area of homicide and trials and appeals, they had two. Cheyenne County, which is down in Senator Schilz's district as well as Box Butte, over the last ten years they had 78 cases where they had to ask for help. They didn't have the expertise and they had five where they actually had to go to the trial to deal with those particular issues. And when we look at the times that we have today and what's going on, this is not going to go away. In fact, when you see the statistics from the last census, it says 73 percent of the people are living back here in urban America. What my biggest concern is, that we will not have the necessary tools to protect our own public. We will not have the services that we need to live there. This is what... [LB908]

PRESIDENT SHEEHY: One minute. [LB908]

SENATOR HARMS: Thank you. Is it done? One minute. Thank you, Mr. President. You have to stay on top of me, I'll slip right past that. So that's my concern. And as I watch what's taking place and I watch some of the services that are going away, it saddens me to think that I'm going to live in an area that hopefully my grandchildren will grow up in an area, that we will not have what's appropriate. I've talked with...and I've been very active in economic development and I have talked with many companies who have had an interest in coming into our region. And one of the things they talk a great deal about is, they talk about the crime, they talk about juries, they talk about whether you have judges, they talk to us about whether or not they're going to have to travel for any kind of court issues. [LB908]

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PRESIDENT SHEEHY: Time, Senator. [LB908]

SENATOR HARMS: Thank you, Mr. President. [LB908]

PRESIDENT SHEEHY: Thank you, Senator Harms. Members requesting to speak on AM2319 to LB908, we have Senator Lathrop, followed by Senator Avery, Senator Dubas, Senator Lautenbaugh, Senator Harms, and Senator Wightman. Senator Lathrop. [LB908]

SENATOR LATHROP: Thank you very much, Mr. President. I would like to offer a couple of observations having been involved in this down in Judiciary Committee in visiting with the people involved so that you kind of understand the lay of the land and how this commission has worked. The first point I want to make is, Douglas County is blessed with a great public defender and a great public defender's office. That said, we have the Commission on Public Advocacy which was set up for a particular purpose. And that is, as Senator Harms suggested, to provide expertise in the defense of significant, primarily capital cases, in the more rural areas of the state. They're doing that and they do a good job. I know those people. I've worked with them on a lot of bills over the last several years and they're good lawyers and they're good people. Nobody is criticizing them. Nobody is criticizing Douglas County, no one is criticizing the public advocate. Here's the...let's talk about the money though, because that's what we're talking about. My understanding is something like this: That the public advocate or the commission has...they bring in money from a \$3 filing fee across the state. Typically, they have about \$200,000 left over every year. That's the surplus after they take care of the big cases Senator Harms talked about, after they've done their work that they have been charged to do, they have \$200,000 left over, roughly. And what has happened is, maybe the filing fee that we're using for this is too much, I don't know. But they have more money coming in than they're using to do their work, and they're taking their surplus time and devoting it to cases that we probably never expected them to do in the first place, primarily what are Class III felonies in Lancaster County. And I don't blame Lancaster County for asking them to come in on conflict cases. They're not the public defender, they come in on conflict cases. I don't blame them for doing that, and we ought to appreciate that they have the initiative to fill up their time by doing what I would call smaller felonies, not the capital cases, a Class III felony is a smaller case. And they've done a bunch of those in Lancaster County. Douglas County has not asked them to do that. They've done some...I think, they did Carey Dean Moore's postconviction. They've done some of the work and perhaps some of the postconviction work in some capital cases, but they don't do a lot of work in Douglas County. And we probably have the most expensive public defender's office in the state primarily because that's where the population is, you're going to have more crime, you're going to have more poverty, and you're going to need the public defender's office more. Where's that leave us? I want to assure you if you live in a rural community that this amendment and the bill is not going to affect the ability of this office to perform its original charge which

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is to take care of the serious defense cases that would otherwise bankrupt a small community if it's a death penalty case. What happens is, the public advocate can take fewer cases that they are using to fill up their time, for example, Class III felony conflicts in Lancaster County and make this work. So in some respects, they're balancing their budget by the number of cases they take in Lincoln, and not just Lincoln, in some other communities where they're taking conflict cases where the felony isn't that...it doesn't rise to the level of a capital case. That's what we're talking about. No one is taking away the ability of these guys to come into your small county, your rural community, and to provide a vigorous defense... [LB908]

PRESIDENT SHEEHY: One minute. [LB908]

SENATOR LATHROP: ...to spend the money on the experts they need to spend. Now, what do they need going forward? If you pass this amendment and the bill, what they need is to have the Legislature not swipe their money. They need to be able to have some reserve. That reserve that we need to not touch in tough times is so that when they need an expert witness in a Madison County bank robbery case, they have the means to hire them. This will work. If we're not taking their money away from them, if we take no more than \$1.50 in Douglas County, and if we move LB908. I hope that explanation is helpful and I would encourage your support of AM2319 and LB908. Thank you. [LB908]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Avery. [LB908]

SENATOR AVERY: Thank you, Mr. President. I think I understand the purpose behind the commission, but I do have some questions about the amendment and I wonder if I could get Senator Ashford to yield to a couple of questions. [LB908]

PRESIDENT SHEEHY: Senator Ashford, would you yield to Senator Avery? [LB908]

SENATOR ASHFORD: Yes. [LB908]

SENATOR AVERY: Did you say in your opening on the amendment how much is in the fund right now? [LB908]

SENATOR ASHFORD: \$1.7 million. [LB908]

SENATOR AVERY: And do you know if we were to adopt AM... [LB908]

SENATOR ASHFORD: I'm sorry, \$1.6 million. [LB908]

SENATOR AVERY: \$1.6 million. And if we were to adopt this amendment, AM2319, what would be the financial impact on the fund? [LB908]

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SENATOR ASHFORD: \$180,000. [LB908]

SENATOR AVERY: \$180,000? [LB908]

SENATOR ASHFORD: \$190,000. [LB908]

SENATOR AVERY: That would be lost to the fund. [LB908]

SENATOR ASHFORD: Right. It would go...it would be utilized in Douglas County. [LB908]

SENATOR AVERY: Okay. Can you also tell me how the commission is formed? I know that's not a part of your... [LB908]

SENATOR ASHFORD: The commission was formed in the '90s. [LB908]

SENATOR AVERY: I mean how is...how are the members of the commission selected? [LB908]

SENATOR ASHFORD: It's my understanding there's an executive director and a...and then there's five lawyers who work in the office. They do the work throughout the state or advise them. Stacey's got the number here. [LB908]

SENATOR AVERY: So the counties participate in this process? [LB908]

SENATOR ASHFORD: It's appointed. There are nine members. I'm sorry, Senator Avery, there are nine members appointed by the Governor from a list of attorneys submitted by the Nebraska State Bar Association after consultation with the board of directors of the Nebraska Criminal Defense Attorneys Association. [LB908]

SENATOR AVERY: So the counties don't participate in the formation of the commission itself? [LB908]

SENATOR ASHFORD: No. [LB908]

SENATOR AVERY: Okay. Well, thank you, Senator Ashford. I have trouble with this and the reason I do is that it seems to me that crime of the most serious kind, serious felonies and capital crimes, are going up in Nebraska, not going down. In fact, I have some information that in rural counties they're having more of these crimes than ever before. And this commission is designed to provide some budgetary protection for counties that cannot muster the resources themselves. So I am really concerned that if we reduce the amount of funding to the commission, that we will undermine the ability of

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our counties to adequately provide defense for the indigent. I'm going to oppose this amendment and the underlying bill. And if I have any time left, Mr. Speaker, I will give that time to Senator Coash. [LB908]

PRESIDENT SHEEHY: Senator Coash, you're yielded 1 minute 55 seconds. [LB908]

SENATOR COASH: Thank you, Mr. President, and thank you, Senator Avery, for the time. I want to address a few things that so far have been put forth during this debate. Lancaster County has been singled out as a overutilizer of the commission. It's referred so many cases that that's the reason that the rural communities will suffer, and as reason for this particular solution in LB908. But I want to let my colleagues know that it's public information. You can go on Lancaster County Public Defender's Web site and you can see there that in 2010 there were only 7 cases referred to the commission. And last year in 2011 there were 12--7 and 12. That doesn't seem to me... [LB908]

PRESIDENT SHEEHY: One minute. [LB908]

SENATOR COASH: ...to be an overreach of the use of the Public Advocacy Commission. I don't blame Lancaster County for using them when they need to. Senator Lathrop mentioned earlier that the commission would still be able to serve rural Nebraska and I think he has good reason to say that but if you go ask the commission, they'll tell you differently, that their ability to serve rural Nebraska will be diminished. If LB908 goes through, we'll know if they have the capacity to do it or not. My opposition to LB908 is not because I don't think Douglas County has a good case to make. I don't...I didn't care for the precedent that it sets. If a county says, I don't like paying this, I want to do it myself, I want to opt out, here's one example... [LB908]

PRESIDENT SHEEHY: Time, Senator. [LB908]

SENATOR COASH: Thank you, Mr. President. [LB908]

PRESIDENT SHEEHY: Thank you, Senator Coash. Thank you, Senator Avery. Senator Dubas. [LB908]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor. This is one of those issues that probably the majority of us in here don't have a lot of understanding or background in unless you're directly involved in the legal business. And as Senator Ashford said, and I couldn't agree with him more, I don't want to see this become a rural-urban issue divide, but I don't have that experienced understanding of what we're talking about, and I need to make sure that what we are talking about through these proposed changes won't adversely impact the more rural areas of the state, the counties that I serve. You know, I've done some research and I've looked at some of the costs for, you know, what one of these cases can entail and what that would do to, I mean, my county is very

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small. One of my neighboring counties is going to be dealing with a...while it's not in my district, it is close to my district, and they're going to be dealing with a case here very shortly that will certainly...will certainly likely be a death penalty case. And my understanding is those are \$300,000 to \$500,000 costs. I mean, you're talking those...our smaller rural counties, that's not something they can deal with themselves. And so, therefore, that is the purpose of this commission and this fund. And I believe it has served in the rural areas of the state in the way that it was intended to. But again, some of the costs, mental health evaluations. I know those are in the tens of thousands of dollars. DNA testing which is becoming more and more prevalent in our legal cases, and I know it's probably something that will be used in this case in Valley County because this is an old murder...murder that has just recently been, hopefully, solved but they're going to rely heavily on DNA testing. I'm understanding, we're talking, you know, \$50,000 to \$100,000 when you get involved with real serious DNA testing, trials, and appeals, all of those things. So, you know, I'm not doubting or questioning that Senator Lautenbaugh is raising some legitimate questions here that need to be looked at. And I think Senator Campbell has talked about the need to evaluate where this commission is at and what it's doing and how it's being used. But I'm just very reluctant to move forward on something that I don't feel I have a solid grasp of, understanding of the changes and how they will impact our counties. And I don't want to have experience give us that thought of, well, if we hadn't done this, then we wouldn't be in this situation. Our counties simply cannot afford to take that risk and so I will continue to listen and hope to gather more information. But at this point in time, I think I'm in the same position that Senator Harms is in understanding what this commission has done for rural counties, and one solitary case could be something that could really sink a county and their ability to continue to provide services for their residents while also requiring them to provide the legal services that would be involved with a major case like a murder. When I look at my district, Hall County is the biggest user of this fund in my district, but I certainly understand the budgetary issues that Hall County is facing. And, you know, I think Senator Gloor mentioned the number of 67 cases that this fund has been used for, and I would think that the loss of any potential impact of this fund for Hall County would really be devastating. And it's been talked about keeping our hands off the money and we all know in here that if there's any fund out there... [LB908]

PRESIDENT SHEEHY: One minute. [LB908]

SENATOR DUBAS: Thank you, Mr. Lieutenant Governor...if there's any fund out there that has what appears to be any loose change laying around, we are going to go after that and it's hard to guarantee a protection of those dollars. So again, I'll continue to listen, but I just don't understand this enough to move forward and give it a green vote and be able to go back to my counties and say, it's going to be okay. Thank you. [LB908]

PRESIDENT SHEEHY: Thank you, Senator Dubas. (Visitors introduced.) Thank you for

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visiting the Nebraska Legislature. Continuing with floor discussion on AM2319 to LB908, members requesting to speak: Senator Lautenbaugh, Senator Harms, Senator Wightman, Senator Council, Senator Hansen, and others. Senator Lautenbaugh. [LB908]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. There is some further explanation here that's needed apparently and I'm happy to try to do that if I didn't do it well the first time. But, yes, by the commission's own numbers, they represented Lancaster County in 700 cases over the last decade, or, I'm sorry, took cases from Lancaster County to the tune of 700 over the last decade. And you can say, well, it's 10 or 20 a year or something like that, but you have to understand what caseloads the commission works with. And this is something that we should have more than an idle curiosity about because it was testified in committee that the five attorneys there each have 20 cases to handle a year, and no more than 5 of them may be death cases, as I recall it. The gentleman who is the head of the commission has half a caseload because he has administrative duties as well. I would challenge all of you to contact your county attorneys, your public defenders, people you know who practice in this area, and ask if that is even a conceivable caseload for a full-time attorney. Similarly, you're being given numbers that this commission supposedly saved on various cases. The bills, as I understand it, for this commission's work are not submitted to anyone, so we're being asked to just take their word that this is what this would have cost if someone else did it. I've taken the liberty of talking to defense counsel, defense counsel that handles murder cases, prosecutors who prosecute murder cases, public defenders who get involved in this, and I say, look, do these numbers, these amounts that are supposedly being saved by the commission even comport with reality? And the answer is, no. And I think we had some very revealing testimony in committee. Because once again, we're talking about at with the \$3 for everyone currently, in round numbers, it was bringing in about \$100 million...I'm sorry, \$1.2 million a year. If my amendment, the original bill had passed, it would take away, in round numbers, \$400,000 which would take it down to \$800,000 a year. The commission's budget was represented to be right around \$1 million. This would have limited the commission's budget to \$800,000 with nothing going into the ongoing surplus as it has in years gone by. And what we were told by the director of the commission is if the budget were limited to \$800,000 a year, he would have to cease operations. Not cease doing work in Lancaster County, not cease doing the nondeath cases, if you will, but just cease operations. There is no way it was represented to us that this public firm, if you will, could function on \$800,000 a year. Now understand, there's a word for representations like that, and I pointed it out to the committee after the fact. That is what we call something that cannot be true. I'm being polite about it here. If your annual budget is \$1 million and you're asked could you get by on \$800,000 by just taking less cases, and the response is, no, we'd have to close the doors, that is not someone who is being what I would call terribly forthright with the committee. And we're having numbers bandied about as to what this commission supposedly saves statewide, and I will tell you up-front that they don't

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appear to have a very firm basis in reality. And how have...have any of you tried to check the information you're getting? I mean, Senator Harms, I listen to you say this was somehow going to impair what goes on in the rest of the state. This would work very simply. Judges appoint qualified attorneys. Under my amendment, the second amendment, the noncommittee amendment, the counties would be paid out of the fund. There would be no question of excess funds, excess time, the overhead of a law firm that doesn't need to exist on the public nickel, if you will. The funds would just be paid to the counties. And there are competent defense attorneys out there that judges across the state can appoint. If you have a murder in Rulo, you don't have to appoint an attorney from Rulo, necessarily, if there's none there that will do it. [LB908]

PRESIDENT SHEEHY: One minute. [LB908]

SENATOR LAUTENBAUGH: There are plenty of attorneys available that could be appointed under this fund. And there's an advantage with the way Douglas County does it. The judges appoint the attorneys, they get to submit bills that are actually reviewed. Do you think any of your counties have any say over what the public commission...Commission on Public Advocacy tells you this case cost? Do you have any basis to think it's actually correct or based in reality in any way? Do you know if anybody reviews the bills? Do you even know if there are bills? Or are you just told, based upon this map, well, that case cost \$100,000 to do. This one cost \$350,000 to do. And we're not going to be able to do it anymore if this bill passes with the modest committee amendment in place. I would hope there's a point at which you would start to question how that is conceivably true when there's a \$1.5 million reserve and the funds that would come in would continue to approximate the budget of this agency. [LB908]

PRESIDENT SHEEHY: Time, Senator. [LB908]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB908]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. (Visitors introduced.) Members, also the cookies that are being handed out to you at this time are to celebrate Senator Schumacher's birthday today. Senator Schumacher, happy birthday. Continuing with floor discussion on AM2319: Senator Harms, followed by Senator Wightman, Senator Council, Senator Hansen, Senator Conrad, and others. Senator Harms. [LB908]

SENATOR HARMS: Thank you, Mr. President and colleagues. One of the concerns I'd like to go back and visit again with you when I ran out of time this last time as I slowly watch what's occurring in rural Nebraska, watching a lot of the services being slowly removed, lots of movement from rural to urban America. And the one thing that I always worry about is that we have...there's a certain base in your foundation that you have to keep solid, whether it be in your school system, whether it be in your city or your county

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government, if you have a community college there or a four-year college, whether you've got a good business base, but the key to all of that has to be within the heart of it is legal services. Having judges to hear our cases and we're seeing that probably will be our next battle that will come up as judge retire because of the loss of the population-base, colleagues. And this is an area that I just don't think we can gamble on. I do not believe at all that we should allow this to take place. Regardless of what we're hearing here, they want to remove, you know, the fee to \$1.50 or whatever it is. They want to cut that in half. When we know the amount of crime is increasing and it's more violent than it has ever been in the history of this great state, and my concern is that I want to make sure that we have and we don't lose this important judicial base in rural Nebraska. Judges and attorneys are important to us. Yes, I agree with Senator Lautenbaugh, there are good attorneys. But what you're going to find is with the decline in the population-base, Senator Lautenbaugh, some of these really highly talented young attorneys are going to leave. And that's what I worry about. You have to look at the big picture here, and we know what we're confronted with. And for every time we take out a stake and move that stake in closer, we lose one more portion of rural Nebraska, that's critical for us. And I will always stand up and object to watching that take place for as long as I'm here. Senator Lautenbaugh, would you yield just for one real quick question, please? [LB908]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield? [LB908]

SENATOR LAUTENBAUGH: Yes, I will. [LB908]

SENATOR HARMS: Thank you, Senator Lautenbaugh. I appreciate, you know, your concerns and I appreciate how you work on the floor and that you're bright and you're articulate and I respect all that. But what I wanted to ask you today is that in the event that Douglas County is granted the right in this filing fee currently allocated to the commission, that we drop it down, is there anything at all in LB908 that would prevent Douglas County from actually appointing the commission? [LB908]

SENATOR LAUTENBAUGH: In my amendment, there is; in the bill as written, there is not. I'd be happy to add that because they're not out to use them. But you do raise an interesting point though. [LB908]

SENATOR HARMS: And that's a concern that I have. I guess what I'm saying is that if this was going to occur, I'd just like to make sure that urban America does not control all this. And I don't think it's right. And if you're sitting on the other side of the fence, it's a little bit different view. We're kind of looking up the mountain and you're looking down the mountain. So thank you very much. I appreciate that. What I really believe and I don't mean this in a negative sense... [LB908]

PRESIDENT SHEEHY: One minute. [LB908]

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SENATOR HARMS: Thank you, Mr. President. I don't mean this in a negative sense or a cutting sense, but this legislation is being pursued to reduce Douglas County's obligations for the defense cost truly at the expense of the rest of the state. And I worry about that. And I understand why they want to move in this direction. But you also have to appreciate where we are in rural Nebraska wanting to keep as much together on that legal foundation as we can, as many judges that don't have to travel 200 or 300 miles to hear a case during the winter in bad weather. We want to have young attorneys there, bright attorneys that we know have a future. That's what's important to rural Nebraska. We cannot afford to lose that very basic core. And that is the core. It's an important core. And even when you have economic developments, I started to touch on earlier... [LB908]

PRESIDENT SHEEHY: Time, Senator. [LB908]

SENATOR HARMS: Thank you, Mr. President. [LB908]

PRESIDENT SHEEHY: Senator Wightman. [LB908]

SENATOR WIGHTMAN: Thank you, Mr. President. Good afternoon, colleagues. It seems to me that if we go forward with LB908, we're setting a very dangerous precedent that wouldn't be limited to advocacy commission or anything else. What if one community thought they were paying...or one county thought they were paying more than their legitimate share of sales taxes, for example, or occupation taxes, or whatever it might be, and that they'd be better off just to retain their own? It seems to me that that's what's being suggested here, that we are, I think, looking at Douglas County, we're being asked to look at Douglas County and consider the fact that they're paying in more than they're receiving. Probably about half of the counties in every instance that we can think of, whether it's the payment of a tax or whatever it might be, are paying over their fair share. So maybe every county could come in and just challenge that and say they want half of theirs back or all of theirs back. And to go down that road would seem to me to be a very dangerous precedent. I understand that some counties are probably paying more than they're receiving back out and it appears that Douglas County is doing so here. I'd like to speak about two or three counties that have a very high minority rate or high immigrant rate. Among those would be my county of Dawson County. I think Dakota County would see the same thing. We'd see it probably in Saunders County. Perhaps a few others counties in which their share of minority population would be maybe five times what the state average is. When you have a case involving someone who is not English-speaking, you get into a lot of expenses with regard to interpreters. When you do that, these counties could experience a tremendous expense far and above what you would maybe pay in another case, another case that you were defending in another county where there were no language barriers. So it's just not a road that I want to go down to see that when a county doesn't like something,

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when they think they're paying more than their fair share, they can come in and ask that it not apply to them. It reminds me a little bit of some of the instances we're seeing in Obamacare in which states are coming in and asking for waivers. You know, there's no way they can be uniformly applied. And maybe you're paying too much of one tax and too little of another. But it just seems to me to be a road that I don't see how anybody here could seriously think we could operate if every county could come in and challenge what they're paying on the basis of what they're receiving or compared to what they're receiving and that we would have any kind of government at all. So I am in strong opposition to AM2319 and LB908. Thank you, Mr. President. [LB908]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Council. [LB908]

SENATOR COUNCIL: Thank you, Mr. President. Good afternoon, colleagues. This was and continues to be a very difficult issue for me. If you look at the committee statement, you will see that I was present but did not vote on the advancement of the bill with the amendment. I understand intimately what the issues are, and I find it troubling that we don't provide the kind of funding that's needed to provide indigent a defense across this state. The issue very simply boils down to this. Douglas County, the largest county, has the greatest number of attorneys in the state, and there is a wealth of attorneys who meet the requirements for appointment to handle capital cases and serious felonies when there is a conflict with our public defender. And I echo Senator Lathrop's comments. Douglas County is fortunate to have one of the finest criminal defense minds in the nation in our public defender. But we also when we have a conflict, there are significant numbers of private attorneys who satisfy the requirements that should be considered by judges in appointing defense counsel for capital cases and serious felony cases. And I say requirements because the American Bar Association has set forth guidelines, criteria, that are recommended for the appointment of indigent defense counsel, and meeting those criteria isn't easy. Not everyone possesses those qualifications. And being a participant currently in a task force that's addressing the issue of indigent criminal defense, I must state that one of the concerns that has been expressed, particularly by judges in outstate Nebraska, is that the number of private counsel available who have the kind of expertise and the education and trial experience does not compare to that in the eastern part of the state. So there are problems in terms of appointment of private defense counsel and may account for the number of times that the Commission on Public Advocacy is appointed as indigent defense counsel in those counties to handle cases that aren't capital in nature. So I understand that. I see the problem that unfolds. But I also see, you know, the fact that Douglas County doesn't use the commission as much as other counties, and there's an explanation. So the issue is whether or not we can strike the appropriate balance here. We could make it easy by just providing General Fund appropriations for the Commission on Public Advocacy, but I doubt that that gets anywhere. Since we're relying on court fees, that's what was being looked at. Notwithstanding the fact that I didn't vote, I did understand that there was... [LB908]

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PRESIDENT SHEEHY: One minute. [LB908]

SENATOR COUNCIL: ...some agreement that had been reached, and apparently that is not the case. But at this point in time the one thing I know definitively is I cannot support any amendment that proposes eliminating the Commission on Public Advocacy. I think that that commission is one place where there is no question that we have the expertise and the knowledge to provide the level of criminal defense that is required by the ABA. I say required, recommended, the guidelines set forth by the ABA. There's no question that they have acquired that type of experience and expertise. And I think that those counties where they need that kind of expertise should have that readily available. So I think we need to come up with some solution... [LB908]

PRESIDENT SHEEHY: Time, Senator. [LB908]

SENATOR COUNCIL: ...short of elimination of the commission. [LB908]

PRESIDENT SHEEHY: Thank you, Senator Council. Members requesting to speak on AM2319 to LB908, we have: Senator Hansen, followed by Senator Lambert, Senator Carlson, Senator Avery, and Senator Lautenbaugh. Senator Hansen. [LB908]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I got an e-mail a while back from the chairman of the Nebraska...I'm sorry, the Nebraska Criminal Defense Attorneys Association, Bob Lindemeier from North Platte. And within his e-mail, he was trying to explain to me, a nonlawyer and not very well versed in things that criminal defense lawyers do, that the Nebraska Commission on Public Advocacy takes on some of the tough cases from rural Nebraska. And that's certainly where we are. If I could just explain just a little bit about my district. It's all of Lincoln County, has 37,000 people like a lot of the other districts do, but it's a quite sizeable area. And it's a little bit different because it's in the middle of the state and it's in the middle of the United States. And there's an intersection south of town which intersects Highway 83 with Interstate 80. And what that means is it seems to be a pretty big drug trafficking area. State Patrol, immigration, all types of law enforcement there. They're based out of North Platte that deal with this all the time. Senator Howard's bill of a couple of years ago, the move-over law, came into effect this year down around the town of Minden, but I'm sure they went right through North Platte on I-80 prior to that. I think they were headed east, and they were picked up for the move-over law, for failure to move over with some of type of an emergency along the side of the road. Anyway, they asked if they could search the car and that permission was granted after a while. And a drug dog was used and they found over 100 pounds of really high-grade marijuana stuffed in the box of the pickup in the panels, in between the panels. So this happens with all too much regularity. Well, these folks that were driving the pickup, I don't know if it was their pickup or not, more than likely not, but they were just

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transporting these drugs across the United States and just happen to pick Highway 30...or highway...Interstate 80 which Highway 83 and Highway 30, they all come together in North Platte. It's actually the center of the world. It really is. It seems like it was a good place where all good things happen. I do have a question for Senator Coash. The reason I ask Senator Coash is that he's a nonlawyer that serves on the Judiciary Committee, if he would yield. [LB908]

PRESIDENT SHEEHY: Senator Coash, will you yield to Senator Hansen. [LB908]

SENATOR COASH: Yes. [LB908]

SENATOR HANSEN: Thank you, Senator Coash. I'm not sure where to go with this because I'm very limited in the knowledge of the big picture, but I know you sit on the committee. So do you think that with the committee amendment that rural Nebraska and Lincoln is better off than we are now or should we defeat this amendment and... [LB908]

SENATOR COASH: Thank you, Senator Hansen. I'll try to answer that the best that I can. Certainly under the green copy of the bill, Lincoln and rural Nebraska would not be as well off. The committee amendment improves that situation for those two areas of our state. But it's certainly not...it's certainly worse than the current situation if we did anything. So not doing anything, keeping things the way that they are, is going to keep things the way that they are. And the committee amendment compared to the green bill does make things a little bit better. But the best-case scenario from my perspective for Lincoln--speaking for Lincoln and for areas west of there, rural Nebraska is just west of Lincoln as you know--is to not do anything. [LB908]

SENATOR HANSEN: Okay. Thank you, Senator Coash. I think it was Senator Harms that said... [LB908]

PRESIDENT SHEEHY: One minute. [LB908]

SENATOR HANSEN: Thank you...is that we are experiencing more and more crime, whether law enforcement is getting better or what, but we are experiencing more and more crime. And the public defender's office and this Nebraska Public Advocacy group takes on more and more of that responsibility. And I think that we need to be sure that it's funded. We don't have that many capital crimes out in Lincoln County, but we certainly have a lot of felonies that do need handling. Thank you, Mr. President. [LB908]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Senator Lambert. [LB908]

SENATOR LAMBERT: Mr. Lieutenant Governor, colleagues, from my understanding, the Commission on Public Advocacy came about from the situation we had in Rulo some years back where the county actually had to use some of its equipment for

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collateral to borrow enough money to pay for all the things that went on down there. I think I know at least two of my counties that I represent and I'd say probably all three, something like Rulo, like Norfolk take place, it would be a budget-buster. How would they pay for it? Fortunately we've got the Commission on Public Advocacy right now. One-point-six million dollars they've got we understand. I think I heard that number correctly. That's a lot of money. But then I look at one of the handouts. One gentleman from Norfolk, \$880,000. Wouldn't take too many cases like that and that \$1.6 million would be gone rather quickly. Then what do you do? Go to the taxpayers. The counties have tightened their belts as much as they can. They have no reserves to speak of, not of this amount. So you go back to the taxpayers. I don't think we can have that. We've got a way now that it can be taken care of. There's money there. We need to keep that. I see one of the handouts, \$10,000 for just a mental evaluation. DNA samples, \$500 to \$2,800 each, and it's not uncommon to have 15 or 20 samples. You know, Madison County, as I said, \$800,000, one person. Dakota County, \$475,000. The money would dwindle quite quickly. But all that has been said and I said it again here, but let's step back and look at this. I think we've got three things we need to look at. Lancaster County has been brought up. Are they using this group correctly? The advocacy group themselves, are we happy with the type of work they're doing? I don't know caseload for attorneys. I understand what they do... [LB908]

PRESIDENT SHEEHY: (Gavel) [LB908]

SENATOR LAMBERT: ...is not nearly what an attorney could handle. I've had communication with several of the public defenders in my district. I think they feel that 20 caseload is quite light, and they are very afraid of any of these fundings being cut to the Commission on Public Advocacy. And we've got Douglas County and rightfully so. I understand what they're saying. They're saying, you know, we put a lot into this, maybe we want some of it back. Is that right or not? Is it setting a precedence? It well could be. But I think we need to just step back and look at these at least three issues. And there's really another issue. We've got to have the money out there to prosecute and defend the way that the people are guaranteed in this country. It's very important that we do this. But let's step back and look at these three things before we jump into passing LB908 or AM2319. Thank you. [LB908]

PRESIDENT SHEEHY: Thank you, Senator Lambert. (Visitors introduced.) Senator Carlson. [LB908]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. As I'm listening to the debate on this bill, it seems that everyone across the state contributes to the indigent defense services fund. Now Douglas County is paying in considerably more than they're getting out. Lancaster County is paying in but is using more of the fund than Douglas County thinks is fair. I'm not judging Douglas County. Maybe the claim is true and identifies a legitimate concern and we are hearing from

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Douglas County. Maybe Lancaster County is overusing this fund. We've really only heard from Senator Coash in defending the Lancaster County use of the fund. But I'm listening and if it comes to a vote, I'll decide how to vote. But this is an interesting discussion of a fairness doctrine. Douglas County, please listen to how rural Nebraska senators feel frequently when it comes to contributing to education. We have 95 school districts in Nebraska that are nonequalized. This number will soon grow to 115 to 120 districts, approaching half of the school districts in the state. And nonequalized, of course, means that their resources equal their needs, so property taxes, their property taxes, pay for 100 percent of their education. But these nonequalized districts are paying income and sales taxes into the state General Fund every year. And a portion of these sales and income taxes are set aside for education, but none of those tax dollars get back to the districts that paid them in. In general, we in rural Nebraska don't like that. We don't think it's fair. We think a share of these tax dollars should come back for education to the counties that paid them. So I think it's a parallel picture. I would ask you to please think about that the next time we talk about state aid to education. Is there a better way? Thank you, Mr. President. [LB908]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Lautenbaugh. [LB908]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. Well, this is going horribly. You know, let's be honest here. And I hope I'm getting points for the number of times that I've evidenced my willingness to, I don't want to say beat a dead horse because that's unfortunate, to stop when it's time to stop. And maybe we're there. But, folks, you have to understand that I don't think you're being given the truth here. And the numbers you're being fed are just estimates of what these counties have allegedly been saved by this commission that has an interest in putting out a big number. And I don't want to say we're, well, I won't use that phrase at all. We cannot turn a blind eye to the fact that we don't know how this money is really being spent. We have ample reason to believe these caseloads are the not what you would call full-time caseload for a normal attorney and that this commission does not stick to its mission, to say the least, at least as we envision it for helping out rural Nebraska. And this may very well not go forward today, it would appear. But I hope you understand why I'm not going to say, and that's okay, we can just forget this issue because we cannot forget this issue. This was meant to help all of you that live in smaller counties. You have to have some curiosity, I hope, as to where this money is going and why so much time is being spent in Lancaster County, and do they need all these attorneys on staff, allegedly full time, in the event that a problem breaks out in your district or couldn't they just fund competent counsel if there's a problem in your district? This is not a wise use of these dollars. And make no mistake, these are tax dollars. They come from the filing fees that the counties pay. And I will never stand up here and say that everyone in the state is not entitled to a defense. That's why we set this thing up in the first place was to make sure that wherever you live in the state, if you've been charged with a crime, the county will not be bankrupted by paying for your defense costs if you're indigent. So this exists and

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was created with a noble purpose. Lots of things are created with noble purposes, but it helps to revisit it and see what it's become. I mean, understand, I was, and I'll be honest, personally offended by the testimony we heard in committee because it was not, to be polite again, what I would call forthcoming and in all respects truthful. And I don't like that. And I don't like being played for a fool, and I don't think any of you should like that either. And I hope you've taken the time to ask what are these numbers based on, how are these numbers calculated that my friends at the Bar Association have been passing out, and why is the Bar Association in this anyway. As I pointed out at the beginning, this is taking work away from private attorneys. This is not the kind of thing a mandatory bar can constitutionally get involved in, and I raised that at the committee hearing too. It's a tangent but it's one that seems to come up and come up and come up when you're dealing with the bar. And I don't want to do that anymore, meaning deal with the bar obviously. But Douglas County is not saying, hey, you're all on you own, we don't want to pay in. We, again, had what I thought was an agreement, with the same people who are providing you with numbers, to move forward on this. And since...and we all know how this worked. There was, oh, we have to get back to you, we have to get back to you, we have to get back to you. And all they were keeping an eye on was when the priority deadline was coming and going... [LB908]

PRESIDENT SHEEHY: One minute. [LB908]

SENATOR LAUTENBAUGH: ...because they were trying to run out the clock. So then when the Speaker, and if I did not thank the Speaker yet I should, when the Speaker prioritized this, it's, oh my gosh, we have to do something. Let's strike a deal. Now, understand, we're going to keep working against your bill. Well, that wasn't what I understood; that's what I learned. These are the people that you're supposed to be trusting the information from and that you've decided that you can't support my bill based upon. Please keep that in mind. And if this is offensive to some, well, understand, this is offensive to me. And I will not just let this go and my curiosity about how these numbers are calculated and what these people are doing... [LB908]

PRESIDENT SHEEHY: Time, Senator. [LB908]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB908]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Pahls. [LB908]

SENATOR PAHLS: Thank you, Mr. President. I was sitting, listening, and then when I was told that when we look at state aid for education there are a number of communities who do not receive state aid, and for those of us who are living in the urban area, we ought to take that into account, and I do. So what I did, I pulled out the information I have, how we gather revenue for the state of Nebraska. All of you should have that on your desk right now. The information I have given you tells from the year 2009, and as

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you go over on the income tax, and I have it by county, I have the state sales tax revenue by county. I have the property tax levy by county. Those are 2009 figures. The local sales tax revenue is by 2005 because I have not had the opportunity, or I should say my staff has not had the opportunity, to gather all that information. Take a look at the numbers. I have a feeling we could probably take care of all of the school monies in Douglas County if we'd just leave the money there. I do not want to make this a city-rural issue. But when I'm told I better start looking at how state aid is parlayed out, it's not unfair. It's supposed to provide an education for all children. And that's why property taxes, we have equalization. But, again, I'm asking you to take a look at the numbers. I don't think Douglas County is digging in everybody else's pocket. As you follow down, you will see...I'm saying this now to the people in the state of Nebraska. Individual income tax is over \$510 million. Over \$465 million on state sales tax, right. Property tax, \$789 million. Ask your state senator if you could have a copy like...this is information they gather not by me. And as you follow down, you will be surprised. So when we start talking about one section of the state is robbing another section or do not care, take a look at the numbers. I recognize we are a state and we need to be treated equally. But don't stand and tell me, take a look at one section and we're not getting our share. I was told earlier in the conversation they didn't want to make this a rural-urban battle, nor do I. But when you stand up and say that, some of us have to stand up and say, let's take a look at the total picture. I do hope you take the opportunity to peruse this list. So when we say that certain people are trying to keep money from certain people, I don't think that's in the cards. And if you do have a question about these numbers... [LB908]

PRESIDENT SHEEHY: One minute. [LB908]

SENATOR PAHLS: Thank you. If you do have a question about these, please ask me and I will try to clarify any error that you believe is there. A lot of good information here. And like I say, the numbers are 2009 numbers, except for local sales tax which is 2005. Thank you. [LB908]

PRESIDENT SHEEHY: Thank you, Senator Pahls. Mr. Clerk, you have a motion on your desk. [LB908]

CLERK: Mr. President, I do. Senator Lautenbaugh would ask unanimous consent to bracket LB908 until April 12, 2012. [LB908]

PRESIDENT SHEEHY: Without objection, so ordered. Mr. Clerk, we will now proceed under General File 2012 Speaker priority bill, LB924. [LB908 LB924]

CLERK: Mr. President, LB924 is a bill by Senator Mello. (Read title.) Introduced on January 10 of this year, referred to the Urban Affairs Committee. The bill was advanced to General File. There are committee amendments, Mr. President. (AM2537, Legislative

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Journal page 1210.) [LB924]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Mello, you're recognized to open on LB924. [LB924]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. LB924 is the product of two interim studies that were heard before the Urban Affairs Committee: LR469 during the 2010 interim, which examined economic development tools that were available to municipalities and LR241 during the 2011 interim which specifically examined the Nebraska Redevelopment Act. The Nebraska Redevelopment Act was adopted in 1995 as part of a package of bills designed to attract the Micron Corporation to Nebraska. Although Micron never moved to Nebraska, the provisions in the act were only used once. The act was drafted to mirror the existing tax increment financing statutes in the Community Development Law and at the time with two primary differences. The first, the definition of blighted and substandard property under the TIF statute was expanded to include vacant land; and the second, cities were given the authority to use TIF in areas up to ten miles outside of city limits, depending upon the class of city. There was never any applications to use the TIF provisions, however, file with the Department of Revenue. In fact, the only time the act was ever utilized was to redevelop the Ak-Sar-Ben area in Omaha. The city of Omaha used the TIF provisions in the Community Development Law in conjunction with provisions in the Redevelopment Act, allowing the use of personal property taxes, not just real property taxes, to repay TIF bonds. While the Redevelopment Act sunsetted in 2000, this statutory language remains on the books, and LB924 is designed to reactivate and update the act. The bill was advanced with amendments by the Urban Affairs Committee on a 6 to 0 vote with 1 member absent. Most of the changes in LB924 update the TIF language in the act to reflect the changes in the Community Development Law that have occurred since the act sunsetted. The bill also makes several small substantial changes that were suggested by Nebraska municipalities following the interim study hearing in November. First, the bill changes and expands board membership provisions for the redevelopment projects under the act. Currently, the board consists of the Governor, the State Treasurer, and the chairperson of the Nebraska Investment Council. Under the bill, the State Treasurer and Nebraska Investment Council positions would be replaced with the executive director of the Nebraska Investment Finance Authority and three local representatives, the mayor and finance director of the city where the project is taking place, as well as a member of the county board who represents the area that is proposed to be designated substandard and blighted. Current language in the Redevelopment Act requires redevelopment projects to meet certain eligibility standards and give school districts within 20 miles of the project notice of the proposed project as well as the ability to file an objection to the project in writing. LB924 will reduce the investment threshold for projects from \$50 million to at least 500 new employees to \$25 million and at least 150 new employees. It would also limit the notice in written objection provisions to school districts within or abutting the proposed redevelopment project.

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While LB924 is not introduced with a specific project in mind, the need for additional tools to help cities attract large businesses to Nebraska still exists. The difference between the Community Development Law TIF provisions and the Redevelopment Act TIF provisions were specifically crafted to bring a large employer to our state, recognizing the fact that many Nebraska cities lack the large tracts of land necessary to bring a large manufacturer or industrial park to their community. With the new thresholds in LB924, the Redevelopment Act would also enable midsized communities, like Norfolk or Kearney, to utilize TIF for industrial parks on the outskirts of their city limits. I'd like to thank Speaker Flood for designating this bill as a Speaker priority, and I'd urge the body to advance LB924 and bring back the Nebraska Redevelopment Act. Thank you, Mr. President. [LB924 LR241]

PRESIDENT SHEEHY: Thank you, Senator Mello. You've heard the opening of LB924. As was stated, there is an Urban Affairs Committee amendment, AM2537. Senator McGill, you're recognized to open. [LB924]

SENATOR MCGILL: Mr. President, members of the body, AM2537 just makes a couple of simple changes to the bill. It restricts cities and villages ability to use the Redevelopment Act to only within the extraterritorial zoning jurisdiction of that city. So in the original act, you had up to ten miles outside of that jurisdiction or outside of that city, but this limits it just to that extraterritorial zoning jurisdiction. And this also prohibits its use in areas where cities have overlapping extraterritorial zoning jurisdictions. So, for instance, there were some cities that were concerned about what happens when you have a Waverly and a Lincoln close to one another who have an overlapping area who would be in charge of that project. And so we just said we'll take those overlapping areas out of the equation when it comes to this and otherwise support the bill. So please vote for the advancement of the amendment. Thank you, Mr. President. [LB924]

PRESIDENT SHEEHY: Thank you, Senator McGill. You've heard the opening of the Urban Affairs Committee amendment AM2537 to LB924. Members requesting to speak: Senator Conrad, followed by Senator Mello. Senator Conrad. [LB924]

SENATOR CONRAD: Thank you, Mr. President. Good afternoon, colleagues. I actually am going to ask for a little indulgence. I'm not speaking to AM2537 or LB924. I did have my light on, on the last bill and the priority motion precluded me from having an ability to thank my good friend Senator Lautenbaugh publicly and on the record for providing this body and the general public with a good avenue to discuss issues that are important to all of us. And I also want to thank Senator Harms, Senator Hansen, Senator Coash, Avery, and others who came together to participate in this debate. And to let you all know that I think it was important that we are able to identify some common ground. We're all committed to property tax relief and we're all committed to a sound, criminal justice system. And I think that we should utilize our period of time over the interim to find solutions that benefit all actors within the criminal justice system and indeed all

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counties and all citizens of our great state because indeed these are pressing and important statewide issues. Senator Lautenbaugh has brought forward some of his ideas to address them, and now we have a little bit of breathing room over the interim period to continue to dialogue and work on important solutions to move forward. And I do sincerely appreciate Senator Lautenbaugh's statesmanlike behavior in terms of dealing with the last piece of legislation. And having been on far, far, far more losing votes than I think Senator Lautenbaugh has in his career, I can tell you that that's not a fun place to be, but it is an important part of our work and he did it in a very appropriate and professional manner. So we all owe him a debt of gratitude. Thank you, Mr. President. [LB924]

PRESIDENT SHEEHY: Thank you, Senator Conrad. Senator Mello. [LB924]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I rise in support of the committee amendment, AM2537. And I'd like to thank Senator McGill and the Urban Affairs legal counsel, as well as the committee for working through this amendment essentially dealing...there was an issue...there were issues brought up I think this session in regards to ultimately municipalities and counties in their uniqueness and their abilities to use economic development tools that surround TIF. And ultimately kind of an agreement in a way that looking forward is...it was decided upon and which I support of moving that ten-mile threshold down in the original redevelopment act to moving it within the ETJ area of municipalities. It makes it more uniform across the board for all municipalities, as well as we know ultimately ETJ areas are land masses that surround the cities that ultimately municipalities will ideally seek to annex somewhere down the road. So ultimately they're putting projects, if they ever were to use this act and the Governor was ever to sign off on the act, ultimately the cities would be doing these within areas that they would soon annex. So I just want to stand up in support of the committee amendment, thank them for their work, and I'd yield the remainder of my time to Senator Heidemann. [LB924]

PRESIDENT SHEEHY: Senator Heidemann, you're yielded 3 minutes 40 seconds. [LB924]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. I do not stand in opposition to LB924 or the amendment. I do have questions, though, when it comes to where we are with TIF in this state and where we're headed. This is...it touches TIF a little bit and it's the reason that I wanted to talk just a little bit and maybe eventually have a conversation with Senator Mello, maybe even Senator Adams. Senator Adams and I have had a conversation off the mike through the morning about where we are with the TIF and maybe things that we ought to look at. TIF was established, and I believe it was established for a good reason, but I am concerned about where we are right now. It does a lot of good, don't get me wrong. I support TIF, but I really believe as a state we ought to either maybe sometime through the summer

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take a look about an interim study or to just look about what we do as a state when it comes to TIF and what it costs, where is it used across the state, how is it used. It's very, I don't know, impressive, concerning when you start to look at facts and figures about how much TIF is used across the state and what it costs. Would Senator Mello yield to a question or two? [LB924]

PRESIDENT SHEEHY: Senator Mello, would you yield to Senator Heidemann? [LB924]

SENATOR MELLO: Yes. [LB924]

SENATOR HEIDEMANN: Just briefly, Senator Mello, because I know once you get to going about something, it takes a while. But thank you for yielding me the time. I believe TIF is a good tool. At what point does TIF become too much in this state? Are we at that point? Are we approaching that point? Can we get to that point if we continue to go down the road that we are going? [LB924]

SENATOR MELLO: Well, I appreciate your compliments on I guess my brevity. But I think your question, Senator Heidemann, and this is an issue. I know Senator Cornett had a bill on it earlier, and I know in conversations with the Urban Affairs Committee that's a question that ultimately we're continually wrestling with. No one that I've talked to on any of the bills I've done in regards to Community Development Law issues want to see local governments abuse TIF. It's an authority that they're given to them by the State Constitution and through statute. And ultimately I think as we move forward there's the conversation, I had a bill this year that looked at reforming the TIF constitutional amendment... [LB924]

PRESIDENT SHEEHY: One minute. [LB924]

SENATOR MELLO: ...or the constitutional language regarding TIF where we'll probably be exploring that further down the road to ensure that we don't cross that threshold, so to speak, where the state ultimately somewhere down the road cannot afford TIF. [LB924]

SENATOR HEIDEMANN: Do you ever become concerned about areas that are being blighted? I read an article I believe in the Omaha World-Herald the other day about blighting west of 72nd Street. Do you ever feel like we should narrow down what can be blighted and what cannot be? [LB924]

SENATOR MELLO: I think the issue of...I've had many conversations with mayors from across the state who express concerns of the language that's in the State Constitution regarding the blighted and substandard language. And I think, Senator Heidemann, that issue needs to either be fleshed out further or it needs to be completely thrown out and we need to start over, which is a view that I take. I think the blighted and substandard

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language is a little outdated right now. I think if we want to try to provide this tool to municipalities to ultimately do redevelopment projects, we probably need to have a bigger conversation which... [LB924]

PRESIDENT SHEEHY: Time, Senator. [LB924]

SENATOR MELLO: Thank you. [LB924]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Thank you, Senator Mello. Senator Adams. [LB924]

SENATOR ADAMS: Thank you, Mr. President, members. Senator Heidemann, I'll yield you some time here in just a moment if you and I want to continue to have a discussion about things. TIF. The point I want to make is TIF is critical to cities as long as it is not abused. And I would tell you, and most of you already know this, much of what we do in this body, somebody tries to run around it. And whoever tries to run around it makes it worse for everybody else. And TIF can be that way. If there are cities out there who are going to push the envelop on the intention, and if they push too hard, then pretty soon we in here start asking the question: what are we doing this for. Look what's going on. Look what it's doing to TEEOSA. Look what it's doing to counties. And all of a sudden we're starting to pull the reins in on something that maybe we pull too tight and we've taken away a good tool for cities because of the abuse of some. If you think about its purpose, community redevelopment but for, something would not happen but for the use of TIF. It's a good tool. Communicating with schools. You know, as a former mayor, we used TIF a lot in York. Love to take you and show the benefits of it. Sitting in this chair as Chair of the Education Committee, I can also begin to see some of the downsides and loss of value and its impact on TEEOSA or its impact on nonequalized school districts that don't get any TEEOSA, and you have urban areas that are TIFing within those school districts. There's that impact as well. Cities sitting down with impacted political subdivisions, not just sending them a notice that says, oh, by statute, we got to send you a notice that say here's what we're going to do. Whatever happened to sitting down with them and saying to the school district, here's what we'd like to do? Here's what we're looking at. Here's how it might impact you. A little communication goes a long way, and that probably occurs in many, many cities. And I can't identify ones that abuse TIF. But they're out there. Just like all political subdivisions, out there someplace maneuvering around something that we've done. But I'll conclude and I want to yield my time to Senator Heidemann. It's an important tool and I don't want to see it taken away, but I think it is time to take a good hard look at it, to study it, and make sure that it's up to date and we can tighten it if we need to. And I will yield to time to Senator Heidemann. [LB924]

PRESIDENT SHEEHY: Senator Heidemann, you're yielded 2 minutes. [LB924]

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SENATOR HEIDEMANN Thank you, Senator Adams. Would Senator Adams yield to a question or two? [LB924]

PRESIDENT SHEEHY: Senator Adams, would you yield to Senator Heidemann? [LB924]

SENATOR ADAMS: Yes, I will. Yes. [LB924]

SENATOR HEIDEMANN: So if a project is going to get TIFed, who decides that? [LB924]

SENATOR ADAMS: If it's going to get TIFed? There is a process under statute. Basically what the city council is going to do is to identify the area that they would consider where a project may be necessary, and sometimes the project has been determined by the city council. Maybe it's old dilapidated buildings that need to get torn down or maybe it's somebody coming to town that says I'd like to do this, this, and this. The next thing is to do the blighted and substandard study, if it hasn't already been done. And then the city council holds public hearings on the project, reviews the applications, and makes a determination as to whether to move forward on it or not. [LB924]

SENATOR HEIDEMANN: And who all possibly could lose...I mean, it's always a gain. It can be a gain because you're going to get development in a community, but who actually can lose valuation for a while and doesn't even get a say? [LB924]

SENATOR ADAMS: Well, the reality... [LB924]

PRESIDENT SHEEHY: One minute. [LB924]

SENATOR ADAMS: ...is that the counties, any political subdivision that's impacted by the TIF district will lose that potential increment in growth over and above the base year. Schools are top of the list given their levies typically. [LB924]

SENATOR HEIDEMANN: But as long as you're equalized, and we'll talk about that. I have my light on. We might talk about that a little bit later. As long as you're equalized, you're really not going to lose because the state is going to pick it up. But sometimes I wonder if we ought to give more people a voice in the process because there are winners and losers here. And when you come to counties, NRDs, ESUs, and other people that access property tax, they have that possibility of actually losing and not gaining a whole lot through the whole thing and they have no say. [LB924]

SENATOR ADAMS: You're right I think, and it's different everywhere, Senator, but proportionately you may have a situation where, let's take a school district where you

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have a very large school district, an area that is predominately ag and you have a small rural community... [LB924]

PRESIDENT SHEEHY: Time, Senator. [LB924]

SENATOR ADAMS: ...inside there... [LB924]

PRESIDENT SHEEHY: Time. Thank you, Senator Heidemann. Thank you, Senator Adams. Senator Krist. [LB924]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, Nebraska and colleagues. And I just, I want to tell you as a member of the Urban Affairs Committee, and I don't see Senator McGill up right now, but this is going to be a focus on our interim looking at tax incentive financing, looking at all of the things that go around it. We had a situation, again, you talk about the potential, as Senator Adams said, of someone finding a way around the way things are supposed to happen. You put an ethanol plant at the edge of the town and you TIF that and you bring it in, the plant itself may have a life expectancy and you're never going to really get the taxes or the advantage out of it as a community. It was never intended to do certain things, and we have done those things. It needs to be looked at. It needs to be tightened up. And we had a situation come into the committee which a county wanted to participate in a TIF process when we all know TIF is a city project or a city tool. But, again, just the manipulation of the process so they're going above and beyond. I will tell you, it is going to be a focus of the Urban Affairs Committee coming up this interim. We are going to look into it. When you combine the Advantage Act, TIF operations, and a few other out there, a city can get themselves into a lot of trouble, a lot of trouble quick, and maybe not intentionally. I'll yield the rest of my time to Senator Heidemann if he would like it. [LB924]

PRESIDENT SHEEHY: Senator Heidemann, you're yielded 3 minutes 25 seconds. [LB924]

SENATOR HEIDEMANN: Thank you, Senator Krist. I'm beginning to regret that I'm going to be term limited out because I almost disagree a little bit with Senator Krist on that. I understand where you see that there's maybe a little bit of abuse and concern with the ethanol plants, but it is a tool, TIF has been a tool to bring those ethanol plants into the state. I will let Senator Krist reply to that. [LB924]

SENATOR KRIST: Yes, sir. I didn't imply that it wasn't a tool to be used for ethanol. I implied that in a couple of cases they put it at a place in a blighted area in the city where they're never going to recoup that. So a study, a better study should have been done in terms of whether to use TIF as that tool. So I'm not speaking poorly of ethanol plants. [LB924]

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SENATOR HEIDEMANN: Thank you. And it does do crazy things. When you look at the excess valuation and the...to certain cities and the percentagewise, these ethanol plants throw them way out of whack. So there are concerns there. I think my light is coming on. I do want to have a continued conversation with Senator Adams. I applaud if the Urban Affairs Committee is going to look at TIF and where we're headed with this state, I think it's needed. And I wish Urban Affairs and the Revenue Committee would get together because there's...it's an issue that I think you both share. I believe it is a tool. I believe it's an important tool that can be both used in Omaha, Lincoln, the Norfolk, Scottsbluffs, and even smaller towns. Sometimes I think we ought to even for the smaller towns and help them and use TIF once in a while because I don't...they think it's just too much for them to handle and they just...they don't go there. But I believe it is an important tool, but I believe we need to take a look at it. I will continue on when my light comes back on. [LB924]

PRESIDENT SHEEHY: Senator Heidemann, you still have 1 minute 20 seconds of yielded time, then you're next in the queue. [LB924]

SENATOR HEIDEMANN: Thank you. I would like to have a continued conversation with Senator Adams then. [LB924]

PRESIDENT SHEEHY: Senator Adams, would you yield? [LB924]

SENATOR ADAMS: Will yield. [LB924]

SENATOR HEIDEMANN: Senator, why is the state concerned about TIF? We're talking about property taxes. [LB924]

SENATOR ADAMS: Well, rhetorical question but one that's worthy of getting on the record. When we take incrementally and we take value away from a school, then that school doesn't have that value and if their needs calculation has grown, then the state comes back in with state aid to supplement, whereas if they had the value there is less likelihood that the state would be supporting those needs. [LB924]

SENATOR HEIDEMANN: Do you have an idea what TIF costs the state aid formula in TEEOSA? [LB924]

SENATOR ADAMS: Boy, there was some things here in front of me. I think you maybe have the more specific numbers, but aren't we in the \$20 million category? [LB924]

SENATOR HEIDEMANN: I was told this morning, and I don't have those figures in front of me, and this was just verbally so I couldn't show those facts right now, but I was told right at \$20, \$21 million. So this isn't a cheap program by any way when it comes to, you know, supporting TIF by loss of local resources and then bringing those back

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through TEEOSA. Would you say? [LB924]

SENATOR ADAMS: Yeah, absolutely. It, in effect, is one more thing that we have... [LB924]

PRESIDENT SHEEHY: Senator, you're now on your time. [LB924]

SENATOR ADAMS: ...that the state is contributing to economic development on to the tune of \$20 million on TEEOSA. [LB924]

SENATOR HEIDEMANN: When I look here and in 1998, we were at \$12 million in TIF excess tax levied, and in 2011 we shot up to \$53 million of TIF excess taxes levied. Does that concern you? [LB924]

SENATOR ADAMS: Well, it does because it's going to impact TEEOSA. You know, frankly, Senator, it also concerns me, let's put TEEOSA aside, I'm concerned about nonequalized districts... [LB924]

SENATOR HEIDEMANN: I was going to bring that up next, Senator. [LB924]

SENATOR ADAMS: ...that don't have TEEOSA to go to, and you have a community in that school district that TIFs something. What they have in effect done is taken away the valuation growth there. You still have the ag land but you've taken away the valuation growth there which is the school's ability to grow their budget. [LB924]

SENATOR HEIDEMANN: Correct, and that's another concern. Even if it's not costing the state and if the community TIFs a large project, it's going to affect the rest of the taxpayers. [LB924]

SENATOR ADAMS: You're right. And if you don't mind, I'm going to take 20 seconds to add to that. You're right on the mark and that's why I think it is critical for cities when they TIF that they sit down with school districts, equalized or particularly nonequalized, and say: Here's what we're thinking about doing. Do you understand the impact on you? And the school district can walk away and say: We get it and we know that but for this intervention on the part of the city, we're not going to have 8, 10, 15 years down the road, this growth, and we can live with that, then you have a good partnership. [LB924]

SENATOR HEIDEMANN: But that process right now is not there. Should we put it in statute someplace that there should be some type of cooperation, a process where you involve everybody that's going to get affected? [LB924]

SENATOR ADAMS: Well, if I had my way, I don't know if the statute is the place to put it. There are times when I think we ought to. But I certainly think more than just a notice

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in the mail ought to occur. [LB924]

SENATOR HEIDEMANN: Because if there's a project that comes in, and even if you are equalized and you get state aid to education, if there's a huge project that is TIFed, if there's a bond issue, how does that work? [LB924]

SENATOR ADAMS: Well, typically they're revenue bonds and the TIF is going to be paying on those bonds. And so you're not going to a vote, your city council is going to issue them. [LB924]

SENATOR HEIDEMANN: I was thinking more about a school bond. [LB924]

SENATOR ADAMS: Well, school bonds are going to be impacted because if you're anticipating an increase in value on your PNI, you know, all of a sudden you do your bond issue, and two or three years into a 20-year issue here comes a TIF project, it could have an impact. [LB924]

SENATOR HEIDEMANN: Thank you, Senator Adams. I think if we've had an opportunity here at least for me to talk about TIF anyway, I will not be in the Legislature anymore after another four days. But I think this is a discussion that has to be had. But this tool that we use in the state and what it actually costs this state and what we accomplish, where we accomplish, and how maybe we could improve it. I do support LB924, the committee amendment. Thank you. [LB924]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Senator Price. [LB924]

SENATOR PRICE: Thank you, Mr. President, members of the body. I first hit my light to make sure that there was a enough time for Senator Adams and Senator Heidemann to have their discussion, but it does look like they've come to a conclusion. But one of the things that I'm heartened by when I heard the discussion is the concept being spoken of when they talk about TIF and there being an investment, that yes sometimes investments cost. And then you get a return on your investment. And I'm thinking about that, thinking ahead to next year when we give consideration to fiscal notes and some of the things we've seen. And one of the things that I'm going to focus on is how a fiscal note is generated where all we seem to look at is cost and we don't look at the investment return. You know, one of the key ingredients of an ROI is you don't look at just investment; you actually look at the return. And we had that conversation and it went well. And with that, I will yield my time back to the Chair. Thank you, Mr. President. [LB924]

PRESIDENT SHEEHY: Thank you, Senator Price. Members requesting to speak on AM2537 to LB924, we have: Senator Lambert, followed by Senator Pirsch. Senator Lambert. Senator Pirsch. [LB924]

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SENATOR PIRSCH: Thank you, Mr. President, members of the body. I just wanted to chime in on a point that was briefly mentioned, and that has to do with taking a harder look at the TIF process, the requirements in the state, and seeing if we can refine those perhaps over in the interim. I just want to raise the importance of doing so in a joint capacity. The Urban Affairs Committee and the Revenue Committee have both, to my knowledge, have pretty extensive dealings with bills involving this concept. And so as this takes place, I would just ask that a unified approach occur rather than each go its own track and perhaps result in two different approaches come next year. But I do believe fundamentally that the TIF concept in certain structures can be sound and helpful in taking areas that have not been redeveloped, that are stale, and essentially giving them the boost so that they're relevant for decades to come. And ultimately if it can be done correctly I think that the bridge, the gap, between the political subdivisions, the city on one hand, for instance, and the...for example as Senator Adams was mentioning, the school districts, I think that that bridge is not insurmountable, that there is a way to align interest so that it turns out to be a win-win. So with that, I will yield the balance of my time. Thank you. [LB924]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. Senator Lambert. Seeing no additional requests to speak, Senator McGill, you're recognized to close on AM2537. [LB924]

SENATOR MCGILL: Thank you, Mr. President, members of the body. Again, this is the amendment that limits the act to extraterritorial jurisdictions excluding those that overlap with another city's zoning jurisdiction. Also, I'll just reiterate what was said before, that we are continuing to look at TIF and its uses, as well as what additional tools maybe we can use for rural economic development. We're seeing a lot of problems or people trying to use TIF in creative ways because we have no other tools. And so that's something we do need to work with the Revenue Committee on going into the future. But, again, this is about the jurisdiction, so I ask for your support of the amendment. Thank you, Mr. President. [LB924]

PRESIDENT SHEEHY: Thank you, Senator McGill. You have heard the closing of AM2537. The question before the body is on the adoption of AM2537 to LB924. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB924]

CLERK: 28 ayes, 0 nays on adoption of committee amendments, Mr. President. [LB924]

PRESIDENT SHEEHY: AM2537 is adopted. [LB924]

CLERK: I have nothing further on the bill, Mr. President. [LB924]

PRESIDENT SHEEHY: Member requesting to speak on LB924, Senator Lambert.

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[LB924]

SENATOR LAMBERT: Thank you, Mr. Lieutenant Governor, colleagues. I wanted to step back a little bit and talk on the TIF issue. It's possible that it hurts in school districts. Every city councilman that's involved in voting for it can set the time limit on how long the TIF is in effect. I think that's important to know. And I know of an instance I'm very familiar with where a school district went out and purchased a large amount of land that's on a highway that would be prime economic development property, and it is now off the tax rolls. So I think things roll both ways and I think we got to keep that in mind. Yes, we've got to come up with money, find money for the schools. We've got to have education. But I think the development that comes from TIF in most cases outweighs what we give up as far as tax dollars for it. And if you do have something like an alcohol plant that has a life span that you know how many years, you can cut that TIF short. There's no requirement that TIF runs for some many years. You can vote it ever how many years you want to if the city council chooses to do that. And I just wanted to make that statement on TIF and what some of the school districts are doing, too, because it's a two-way street. Thank you, Mr. President. [LB924]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thank you, Senator Lambert. Are there other senators wishing to be recognized? Seeing none, Senator Mello, you're recognized to close on the advancement of LB924. [LB924]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. As I stated before, LB924 is reinstating the Nebraska Redevelopment Act as well as making some modernizations with the adoption of the committee amendment that restricts the usage of the act within the ETJ of a municipality. And it also makes it uniform across the board regardless of you're a city of the metropolitan class or you're first-class or second-class city. As I also stated, it changed the board membership who ultimately gets to decide whether or not this act actually is used. It includes the Governor, it includes the NIFA executive director that incorporates three local representatives, the mayor, a finance director, and then a county board member who represents the area in which the large project would take place. At the end of the day, colleagues, I brought this bill after the last two interim studies looking at municipal economic development issues to provide a tool to municipalities to embark on an issue that has been brought forward to us before--finding a way to bring large, industrial companies to Nebraska. Understanding that the problem we see more than anything else besides work force challenges is identifying large tracts of land that can be utilized to house these businesses. Ideally, LB924 is another tool in the toolbox to allow municipalities to assist the state in bringing in these large companies to our municipalities. With that, I want to thank Speaker Flood again for making this a Speaker priority, and I urge you to adopt LB924. Thank you, Mr. President. [LB924]

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SENATOR GLOOR: Thank you, Senator Mello. Members, the question is the advancement of LB924 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB924]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB924. [LB924]

SENATOR GLOOR: The bill advances. Mr. Clerk, items for the record. [LB924]

CLERK: Thank you, Mr. President. Enrollment and Review reports LB793, LB793A, LB979, and LB1082 as correctly engrossed. Enrollment and Review reports the following bills to Select File: LB14, LB1125, LB928, LB928A, some having Enrollment and Review amendments. And an amendment to LB1161 from Senator Smith. That's all that I have, Mr. President. (Legislative Journal pages 1404-1408.) [LB793 LB793A LB979 LB1082 LB14 LB1125 LB928 LB928A LB1161]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Thank you, Mr. Clerk. Members, please find your seats in preparation for Final Reading. Mr. Clerk, LB851. [LB851]

CLERK: (Read LB851 on Final Reading.) [LB851]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB851 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB851]

CLERK: (Record vote read, Legislative Journal page 1409.) 41 ayes, 0 nays, 4 present and not voting, 4 excused and not voting, Mr. President. [LB851]

SPEAKER FLOOD: LB851 passes. Mr. Clerk, LB865. [LB851 LB865]

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

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB865 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB865]

CLERK: (Record vote read, Legislative Journal page 1410.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB865]

SPEAKER FLOOD: LB865 passes. Mr. Clerk, LB869. [LB865 LB869]

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CLERK: (Read LB869 on Final Reading.) [LB869]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB869 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB869]

CLERK: (Record vote read, Legislative Journal pages 1410-1411.) 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB869]

SPEAKER FLOOD: LB869 passes. Mr. Clerk, LB880. The first vote is to suspend the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB869 LB880]

CLERK: 42 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB880]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB880]

CLERK: (Read title of LB880.) [LB880]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB880 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB880]

CLERK: (Record vote read, Legislative Journal page 1411.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB880]

SPEAKER FLOOD: LB880 passes. Mr. Clerk, LB881. [LB880 LB881]

CLERK: (Read LB881 on Final Reading.) [LB881]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB881 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB881]

CLERK: (Record vote read, Legislative Journal page 1412.) 45 ayes, 0 nays, 4 excused and not voting. [LB881]

SPEAKER FLOOD: LB881 passes. Mr. Clerk, LB896. [LB881 LB896]

CLERK: (Read LB896 on Final Reading.) [LB896]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied

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with, the question is, shall LB896 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB896]

CLERK: (Record vote read, Legislative Journal pages 1412-1413.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB896]

SPEAKER FLOOD: LB896 passes with the emergency clause attached. Mr. Clerk, LB897. [LB896 LB897]

CLERK: (Read LB897 on Final Reading.) [LB897]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB897 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB897]

CLERK: (Record vote read, Legislative Journal pages 1413-1414.) 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB897]

SPEAKER FLOOD: LB897 passes. Mr. Clerk, LB898. [LB897 LB898]

CLERK: (Read LB898 on Final Reading.) [LB898]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB898 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB898]

CLERK: (Record vote read, Legislative Journal page 1414.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB898]

SPEAKER FLOOD: LB898 passes. Mr. Clerk, LB899. [LB898 LB899]

CLERK: (Read LB899 on Final Reading.) [LB899]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB899 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB899]

CLERK: (Record vote read, Legislative Journal pages 1414-1415.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB899]

SPEAKER FLOOD: LB899 passes. Mr. Clerk, we now proceed to LB936. [LB899 LB936]

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CLERK: (Read LB936 on Final Reading.) [LB936]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB936 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB936]

CLERK: (Record vote read, Legislative Journal page 1415.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB936]

SPEAKER FLOOD: LB936 passes with the emergency clause attached. Mr. Clerk, we now proceed to LB941. [LB936 LB941]

CLERK: (Read LB941 on Final Reading.) [LB941]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB941 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB941]

CLERK: (Record vote read, Legislative Journal page 1416.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB941]

SPEAKER FLOOD: LB941 passes. Mr. Clerk, LB997. The first vote is to suspend the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB941 LB997]

CLERK: 42 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB997]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB997]

CLERK: (Read title of LB997.) [LB997]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB997 pass? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB997]

CLERK: (Record vote read, Legislative Journal page 1417.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB997]

SPEAKER FLOOD: LB997 passes. Mr. Clerk, LB1005. [LB997 LB1005]

CLERK: (Read LB1005 on Final Reading.) [LB1005]

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SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1005 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1005]

CLERK: (Record vote read, Legislative Journal pages 1417-1418.) 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB1005]

SPEAKER FLOOD: LB1005 passes. Mr. Clerk, LB1026. [LB1005 LB1026]

CLERK: (Read LB1026 on Final Reading.) [LB1026]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1026 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1026]

CLERK: (Record vote read, Legislative Journal pages 1418-1419.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB1026]

SPEAKER FLOOD: LB1026 passes. Madam Clerk, we now move to LB1030. [LB1026 LB1030]

ASSISTANT CLERK: (Read LB1030 on Final Reading.) [LB1030]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1030 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB1030]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1419.) Vote is 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB1030]

SPEAKER FLOOD: LB1030 passes. Madam Clerk, LB1035. [LB1030 LB1035]

ASSISTANT CLERK: (Read LB1035 on Final Reading.) [LB1035]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1035 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB1035]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1420.) Vote is 43 ayes, 0 nays, 2 present and not voting, 4 excused and not voting, Mr. President. [LB1035]

SPEAKER FLOOD: LB1035 passes. Madam Clerk, LB1038. [LB1035 LB1038]

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ASSISTANT CLERK: (Read LB1038 on Final Reading.) [LB1038]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1038 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB1038]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1420-1421.) Vote is 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB1038]

SPEAKER FLOOD: LB1038 passes. Madam Clerk, we now proceed to LB1042. [LB1038 LB1042]

ASSISTANT CLERK: (Read LB1042 on Final Reading.) [LB1042]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1042 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB1042]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1421.) The vote is 43 ayes, 0 nays, 2 present and not voting, 4 excused and not voting, Mr. President. [LB1042]

SPEAKER FLOOD: LB1042 passes. Madam Clerk, we now go to LB1049. [LB1042 LB1049]

ASSISTANT CLERK: (Read LB1049 on Final Reading.) [LB1049]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1049 pass? All those in favor vote aye; all those opposed vote nay. Record please, Madam Clerk. [LB1049]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1422.) Vote is 44 ayes, 1 nay, 4 excused and not voting, Mr. President. [LB1049]

SPEAKER FLOOD: LB1049 passes. Madam Clerk, we now move to LB1051. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB1049 LB1051]

ASSISTANT CLERK: 40 ayes, 0 nays on the motion to dispense with the at-large reading, Mr. President. [LB1051]

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SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB1051]

ASSISTANT CLERK: (Read title of LB1051.) [LB1051]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1051 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB1051]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1423.) The vote is 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB1051]

SPEAKER FLOOD: LB1051 passes. Madam Clerk, LB1054. [LB1051 LB1054]

ASSISTANT CLERK: (Read LB1054 on Final Reading.) [LB1054]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1054 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB1054]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1423-1424.) The vote is 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB1054]

SPEAKER FLOOD: LB1054 passes. Madam Clerk, we now proceed to LB1054A. [LB1054 LB1054A]

ASSISTANT CLERK: (Read LB1054A on Final Reading.) [LB1054A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1054A pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB1054A]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1424-1425.) The vote is 43 ayes, 0 nays, 2 present and not voting, 4 excused and not voting, Mr. President. [LB1054A]

SPEAKER FLOOD: LB1054A passes. Madam Clerk, LB1062. [LB1054A LB1062]

ASSISTANT CLERK: (Read LB1062 on Final Reading.) [LB1062]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied

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with, the question is, shall LB1062 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB1062]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1425.) Vote is 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB1062]

SPEAKER FLOOD: LB1062 passes. Madam Clerk, LB1077. [LB1062 LB1077]

ASSISTANT CLERK: (Read LB1077 on Final Reading.) [LB1077]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1077 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB1077]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1426.) Vote is 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB1077]

SPEAKER FLOOD: LB1077 passes. Madam Clerk, we now proceed to LB1083. [LB1077 LB1083]

ASSISTANT CLERK: (Read LB1083 on Final Reading.) [LB1083]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1083 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB1083]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1426.) The vote is 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB1083]

SPEAKER FLOOD: LB1083 passes with the emergency clause attached. Madam Clerk, we now proceed to the next bill, LB1087. [LB1083 LB1087]

ASSISTANT CLERK: (Read LB1087 on Final Reading.) [LB1087]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1087 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB1087]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1427.) Vote is 43 ayes, 0 nays, 2 present and not voting, 4 excused and not voting, Mr. President. [LB1087]

SPEAKER FLOOD: LB1087 passes. Madam Clerk, LB1087A. [LB1087 LB1087A]

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ASSISTANT CLERK: (Read LB1087A on Final Reading.) [LB1087A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1087A pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB1087A]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1427-1428.) Vote is 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB1087A]

SPEAKER FLOOD: LB1087A passes. Madam Clerk, LB1101. [LB1087A LB1101]

ASSISTANT CLERK: (Read LB1101 on Final Reading.) [LB1101]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1101 become law with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record please, Madam Clerk. [LB1101]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1428-1429.) Vote is 45 ayes, 0 nays, 4 present and not voting, Mr. President. [LB1101]

SPEAKER FLOOD: LB1101 passes with the emergency clause attached. Madam Clerk, we now proceed to the next bill on the agenda, LB1106. [LB1101 LB1106]

ASSISTANT CLERK: (Read LB1106 on Final Reading.) [LB1106]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1106 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB1106]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1429.) Vote is 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB1106]

SPEAKER FLOOD: LB1106 passes. Mr. Clerk, we now proceed to LB1116. [LB1106 LB1116]

CLERK: (Read LB1116 on Final Reading.) [LB1116]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1116 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1116]

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CLERK: (Record vote read, Legislative Journal pages 1429-1430.) 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB1116]

SPEAKER FLOOD: Thank you, Mr. Clerk. Before we proceed, one schedule note: We are going to take up LB1050 before LB599 tonight. We're going to take up LB1050 before LB599 given the fact that LB1050 has an amendment that shouldn't take us long and is on General File, given our point in session. So please move LB1050 ahead of LB599. Mr. Clerk, we now proceed to the next item on the agenda, LB1121. [LB1121]

CLERK: (Read LB1121 on Final Reading.) [LB1121]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1121 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1121]

CLERK: (Record vote read, Legislative Journal pages 1430-1431.) 42 ayes, 0 nays, 3 present and not voting, 4 excused and not voting, Mr. President. [LB1121]

SPEAKER FLOOD: LB1121 passes. Mr. Clerk, LB1122. [LB1121 LB1122]

CLERK: (Read LB1122 on Final Reading.) [LB1122]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1122 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1122]

CLERK: (Record vote read, Legislative Journal page 1431.) 45 ayes, 0 nays, 4 excused and not voting. [LB1122]

SPEAKER FLOOD: LB1122 passes with the emergency clause attached. Mr. Clerk, LB1126. [LB1122 LB1126]

CLERK: (Read LB1126 on Final Reading.) [LB1126]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1126 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1126]

CLERK: (Record vote read, Legislative Journal page 1432.) 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB1126]

SPEAKER FLOOD: LB1126 passes. Mr. Clerk, we now proceed to LB1140. The first

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vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1126 LB1140]

CLERK: 38 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB1140]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB1140]

CLERK: (Read title of LB1140.) [LB1140]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1140 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1140]

CLERK: (Record vote read, Legislative Journal page 1433.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB1140]

SPEAKER FLOOD: LB1140 passes. Mr. Clerk, LB1141. [LB1140 LB1141]

CLERK: (Read LB1141 on Final Reading.) [LB1141]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1141 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1141]

CLERK: (Record vote read, Legislative Journal pages 1433-1434.) 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB1141]

SPEAKER FLOOD: LB1141 passes. Mr. Clerk, LB1148. [LB1141 LB1148]

CLERK: (Read LB1148 on Final Reading.) [LB1148]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1148 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1148]

CLERK: (Record vote read, Legislative Journal page 1434.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB1148]

SPEAKER FLOOD: LB1148 passes. Members, while the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following legislative bills: LB851, LB865, LB869, LB880, LB881, LB896, LB897, LB898, LB899, LB936, LB941, LB997, LB1005, LB1026, LB1030, LB1035, LB1038, LB1042, LB1049,

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LB1051, LB1054, LB1054A, LB1062, LB1077, LB1083, LB1087, LB1087A, LB1101, LB1106, LB1116, LB1121, LB1122, LB1126, LB1140, LB1141, and LB1148. Members, we now proceed to the next item on our agenda. But first, any items, Mr. Clerk? [LB851 LB865 LB869 LB880 LB881 LB896 LB897 LB898 LB899 LB936 LB941 LB997 LB1005 LB1026 LB1030 LB1035 LB1038 LB1042 LB1049 LB1051 LB1054 LB1054A LB1062 LB1077 LB1083 LB1087 LB1087A LB1101 LB1106 LB1116 LB1121 LB1122 LB1126 LB1140 LB1141 LB1148]

CLERK: No, sir, I have nothing at this time.

SPEAKER FLOOD: We now proceed to LB1050. [LB1050]

CLERK: Mr. President, LB1050, a bill by Senator Cornett. (Read title.) Bill was introduced, referred to Revenue, advanced to General File, discussed on the floor on March 28. At that time Senator Cornett had offered, and the amendment was pending, AM2181. [LB1050]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Cornett, would you give us a brief opening on AM2181? Would you like to withdraw AM2181? [LB1050]

SENATOR CORNETT: Yes, that is the amendment I would like to withdraw. I thought I'd already done that. I'm sorry. [LB1050]

SENATOR LANGEMEIER: AM2181 is withdrawn. Mr. Clerk. [LB1050]

CLERK: Mr. President, Senator Cornett would offer AM2746. Pursuant to that offer, I have a motion from Senator Cornett to suspend Rule 7, Section 3(d) to permit consideration of AM2746. [LB1050]

SENATOR LANGEMEIER: Senator Cornett, you are recognized to open on your motion to suspend the rule. [LB1050]

SENATOR CORNETT: Thank you, Mr. President. Members of the body, I would like to share some of the reasons why I'm asking for the suspension of rules. I have spent many years in this body working on a number of different types of issues and economic issues and this is branching out a little bit different from that. This amendment is a continuation of some of the economic development work I have done, though, in the past. The USDA, United States Department of Agriculture, has been working on a new program to track the movement of livestock within the U.S. for disease control and prevention. They will release a new program this year. Cattle brands will be allowed for tracking movement of cattle. AM2746 is LB927, which was heard by the Agricultural

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Committee and placed on General File with a committee amendment. We have incorporated the committee amendment into AM2746. AM2746, as amended, will allow cattle to be brought to Nebraska for cattle feeding purposes mainly. This would put Nebraska ahead of the curve on regulations. Nebraska will be the leader in using this form of brand identification in movement of cattle. Nebraska has already received over 40 commitments from stock growers wanting to send their cattle here to be fed. This is a unique economic development bill for agriculture. It will benefit the entire state by adding jobs at no new cost, rebates, or incentives. I am doing this for...this was Senator Louden's bill and I would appreciate the support in suspending the rules for this amendment. [LB1050 LB927]

SENATOR LANGEMEIER: Thank you, Senator Cornett. You have heard the opening on the motion to suspend the germaneness rule. The floor is now open for discussion. Seeing no light...Senator Louden, you're recognized. [LB1050]

SENATOR LOUDEN: Yeah, thank you, Mr. President. And thank you, Senator Cornett. This is some work we've been working on to advance this bill. It was drawn up rather late and worked around through the session and what it is, is to set something up so we can import cattle into Nebraska with using the regulations that are already in place. Thank you, Mr. President. [LB1050]

SENATOR LANGEMEIER: Thank you, Senator Louden. Seeing no other lights on, Senator Cornett, you're recognized to close on the motion to suspend. Senator Cornett waives closing. The question before the body is, shall the rule, the germaneness rule, be suspended? All those in favor vote yea; all those opposed vote nay. This does take 30 votes. Have all those voted that wish to? [LB1050]

SENATOR CORNETT: I request a call of the house. [LB1050]

SENATOR LANGEMEIER: Thank you, Senator Cornett. There has been a request to put the house under call. All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB1050]

CLERK: 20 ayes, 0 nays to place the house under call, Mr. President. [LB1050]

SENATOR LANGEMEIER: The house is under call. Senators, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Haar (phonetic), would you please check in? Senator Coash, Senator Ashford, Senator Wallman, Senator Harms, the house is under call. Please return to the Chamber and record your presence. Senator Lathrop, please return to the Chamber and record your presence. The house is under call. Senator Lathrop, Senator Harms, the house is under call. Please return to the Chamber and record your presence. Senator Cornett, for what purpose do you rise? [LB1050]

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SENATOR CORNETT: We can go ahead with the vote. [LB1050]

SENATOR LANGEMEIER: Okay. Would you like to take call-ins or a roll call vote? [LB1050]

SENATOR CORNETT: Call-ins are fine. [LB1050]

SENATOR LANGEMEIER: Thank you, Senator Cornett. The question before the body was, should the germaneness rule be suspended? All those in favor vote yea; all those opposed vote nay. [LB1050]

CLERK: Senator Hadley voting yes. Senator Adams voting yes. Senator McCoy voting yes. Senator Flood voting yes. Senator Campbell voting yes. Senator Smith voting yes. Senator McGill voting yes. Senator Dubas voting yes. Senator Wallman voting yes. Senator Price voting yes. Senator Cook voting yes. Senator Nordquist voting yes. Senator Pirsch voting yes. [LB1050]

SENATOR LANGEMEIER: Record, Mr. Clerk. [LB1050]

CLERK: 30 ayes, 0 nays to suspend the germaneness rule. [LB1050]

SENATOR LANGEMEIER: They are suspended. Mr. Clerk. [LB1050]

CLERK: Senator Cornett would move and amend...offer AM2746. (Legislative Journal pages 1435-1436.) [LB1050]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Cornett, you are recognized to open on AM2746. And I raise the call. [LB1050]

SENATOR CORNETT: Thank you, Mr. President and members of the body. I'm going to turn the explanation of the amendment, which is now the bill, over to Senator Louden. Before I do that, I just want to let everyone know we will be working on an amendment between now and Select File to address a concern that has come up. With that, I will be happy to turn the mike over to Senator Louden. And he can describe the amendment. Thank you. [LB1050]

SENATOR LANGEMEIER: Thank you, Senator Cornett. Senator Louden, 9 minutes 34 seconds. [LB1050]

SENATOR LOUDEN: Thank you, Senator Cornett. And thank you, Mr. President and members. I introduced originally LB927 to provide the cattle brands would be the official identification for imports of cattle as prescribed. And that would be a brand should be

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accepted as official identification of cattle for purposes of animal disease traceability. AM2746 now becomes the bill and it is now LB1050. At first glance you may think that LB1050 is a health inspection and disease traceability, but not entirely. The traceability will only be used if some sort of cattle disease outbreak occurs. And that is something that doesn't happen all that often, it is not a day-to-day issue and seldom a daily occurrence. What does occur on a daily basis is the importation of a large number of cattle into Nebraska to sale barns and feedlots. And I will point out that LB1050 with AM2746 is really an economic development legislation. First, it would be the sale barns. There are sale barns along the border, between South Dakota and Nebraska. The Gordon sale barn imports around 15,000 head of cattle a year from South Dakota to sell through the auction facility; the Valentine sale barn somewhere around 20,000 head of cattle a year; the Rushville sale barn, 15,000 head; Crawford, from South Dakota and Wyoming, 15,000 head; and Bassett sale barn another 12,000 head which totals somewhere around 87,000 head of cattle or so that are imported just mostly from South Dakota. And with this importation the auction barns receive \$15 a head, about, for the service to sell these cattle. So with that many cattle that alone right there is over \$1,300,000. And this is money that they receive just for a service. And this is money from out of state. It's a very good source of revenue for the economy in those areas and the rural economy. This is money that is used to...as a peripheral benefit, such as trucking, jobs, sale of feed to the auction facilities and so forth. This is...as it's collected from out of state business we don't give any incentives to bring this money into Nebraska. In fact, all it has given back in return is good service to sell those cattle. Now that the cattle are sold, they must be delivered to a facility someplace and the distributions could be pastures, packing houses, or usually feedlots. And the biggest number of cattle go to Nebraska feedlots. I would point out that feedlots is a method of value-add product which would be the corn, the soybeans, distillers grain, hay, and about any kind of vegetation that a cow will eat and grow on. Now the number of cattle that move into Nebraska feedlots from other states that don't go through an auction barn but are brought directly and shipped to feed yards. If you will look at the capacity of the commercial feedlots in Nebraska as of January 1, 2012, the USDA declared there were 2.55 million head on feed in Nebraska in yards that held over 1,000 head. There are thousands of these cattle that have arrived from out of state and this is a huge economic injection. By making it easier to import cattle without having to go through some type of catching everyone of them and putting a button in their ear or something like that is what we're trying to do. What AM2746 does is we use regulations that are in place. A mandatory brand inspection and a certificate of veterinary health inspection to allow cattle to be imported from a state that also has a mandatory brand inspection. Veterinary health inspection is already required to import cattle from other states. LB1050 with AM2746 is just about cattle, it's not about poultry, swine, sheep, goats, hogs, buffalo to name a few. And it is only with states that have a mandatory brand law. As before when we tried to have some traceability there, they included all animals of all kinds. And, of course, it made such an issue that you had to certify your premises and it was something that didn't work at all. And so we're trying to streamline this now so that

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cattle can be imported in Nebraska, cattle can be fed feed, the feed is sold and they are pushed onto packing houses and this is how we value-add to our product. This is what makes Nebraska great as an agricultural state. LB1050 and AM2746 will have the greatest impact on economic development than it will on the health and traceability of cattle being shipped interstate. I would ask that you would approve and advance LB1050 with AM2746. Thank you, Mr. President. [LB1050 LB927]

SENATOR LANGEMEIER: Thank you, Senator Louden and Senator Cornett. You have heard the opening on AM2746 offered to LB1050. The floor is now open for discussion. Those senators wishing to speak, we have Senator Fischer, Hansen, and Carlson. Senator Fischer, you're recognized. [LB1050]

SENATOR FISCHER: Thank you, Mr. President and members. I appreciate Senator Louden's views on this amendment. I appreciate that he offered the bill, but there are some of us who have concerns about it. I visited with Senator Cornett and with Nebraska Cattlemen and the Veterinary Association. And we are willing, because of time constraints this late in the session, to advance the amendment with the bill with the understanding that there will be a lot of work done on it between General File and Select File before we can be in full support of it. So with that, I would urge the body to, you know, advance the amendment. We don't need a lot of discussion on it. And then let us work on the bill in the next day or so before it comes up on Select File. Thank you, Mr. President. [LB1050]

SENATOR LANGEMEIER: Thank you, Senator Fischer. Senator Hansen, you're recognized. [LB1050]

SENATOR HANSEN: Thank you, Mr. President. I'd probably join in with Senator Fischer and say that this bill needs some work on it too. And I put a lot of faith in the Nebraska brand laws. But once we sell these cattle and we have cattle coming in, that veterinary inspection is really, really important. And we want to keep that, as Senator Louden explained too. I think I'll wait until Select File, see what happens, and hopefully Senator Cornett and a few of the organizations can get together and talk about this until Select File. Thank you, Mr. President. [LB1050]

SENATOR LANGEMEIER: Thank you,... [LB1050]

SENATOR HANSEN: Oh, Mr. President, may I add something? Am I too late? I have some cards back here, it's called Agri-Facts, and it comes from the Department of Agriculture. And it gives a lot of the statistics that are very...well, they're recent and they're also very important of what goes on in the animal industry and agriculture in general in the state of Nebraska. Thank you. [LB1050]

SENATOR LANGEMEIER: Thank you, Senator Hansen. Senator Carlson, you're

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recognized. [LB1050]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I appreciate the comments made by Senator Fischer and Senator Hansen in regard to this bill. In the hearing that we had, there were eight positive testifiers, one negative and that was the Department of Agriculture, and there were two neutral testifiers--the Nebraska Cattlemen and Farm Bureau. Now the hope is and the claim is from the Independent Cattlemen, who asked for this bill, that if the brand is accepted as official ID, that more feeder cattle will come into Nebraska instead of going to Kansas, Oklahoma and Texas where those states are putting into effect rules that require other forms of identification. The amendment addresses the Department of Ag concerns. And I believe that. It indicates that brands are acceptable, but it gives the Department of Ag and the state veterinarian complete authority to require other forms of animal ID whenever appropriate. And certainly that can be tuned up before Select File. But that did address the department's concerns. And so I would ask for your support of AM2746 and LB1050. Thank you. [LB1050]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Seeing no other lights, Senator Cornett, you're recognized to close on AM2746. [LB1050]

SENATOR CORNETT: Thank you, Mr. President, members of the body. Again, AM2746 reflects a bill that came out of the Ag Committee, Senator Louden's bill. I appreciate your support on it. And we will be working on that amendment that Senator Carlson spoke of between now and Select File. Thank you. [LB1050]

SENATOR LANGEMEIER: Thank you, Senator Cornett. You have heard the closing on AM2746 offered by LB1050. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Thank you, Senator Cornett. There has been a request to put the house under call. All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB1050]

CLERK: 19 ayes, 0 nays to place the house under call. [LB1050]

SENATOR LANGEMEIER: The house is under call. Senators, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Janssen, please return to the Chamber. The house is under call. Senator Mello, would you please check in. All members are present and accounted for. Senator Cornett, how do you wish to proceed, call-ins or roll call? [LB1050]

SENATOR CORNETT: Call-ins are fine. [LB1050]

SENATOR LANGEMEIER: Thank you, Senator Cornett. Question before the body is,

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shall AM2746 be adopted to LB1050? Mr. Clerk. [LB1050]

CLERK: Senator Adams voting yes. Senator Hadley voting yes. Senator Schilz voting yes. Senator Ashford voting yes. Senator Harms voting yes. [LB1050]

SENATOR LANGEMEIER: Record, Mr. Clerk. [LB1050]

CLERK: 25 ayes, 0 nays. [LB1050]

SENATOR LANGEMEIER: AM2746 is adopted. [LB1050]

CLERK: I have nothing further on the bill, Mr. President. [LB1050]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. The floor is now open for discussion. Seeing no lights on, Senator Cornett, you're recognized to close on LB1050. [LB1050]

SENATOR CORNETT: Thank you very much. LB1050 is a bill that deals with cattle branding. [LB1050]

SENATOR LANGEMEIER: (Gavel) [LB1050]

SENATOR CORNETT: I believe Senator Loudon did an adequate job of explaining it. I would urge the body to support LB1050. [LB1050]

SENATOR LANGEMEIER: Thank you, Senator Cornett. You have heard the closing on LB1050. The question before the body is, shall LB1050 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB1050]

CLERK: 43 ayes, 0 nays, Mr. President, on the advancement of LB1050. [LB1050]

SENATOR LANGEMEIER: LB1050 does advance. And with that, I raise the call. Speaker Flood, you are recognized for a Speaker's announcement. [LB1050]

SPEAKER FLOOD: Thank you, Mr. President, members. We're going to continue to work on LB599 tonight on Select File. And then tomorrow, just a reminder, we have an 8:00 a.m. start, 8:00 a.m. start tomorrow. Thank you.

SENATOR LANGEMEIER: Thank you, Speaker Flood. Mr. Clerk, items for the record.

CLERK: Thank you, Mr. President. Bills read on Final Reading late this afternoon were presented to the Governor at 5:50 p.m. (re LB851, LB865, LB869, LB880, LB881, LB896, LB897, LB898, LB899, LB936, LB941, LB997, LB1005, LB1026, LB1030,

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LB1035, LB1038, LB1042, LB1049, LB1051, LB1054, LB1054A, LB1062, LB1077, LB1083, LB1087, LB1087A, LB1101, LB1106, LB1116, LB1121, LB1122, LB1126, LB1140, LB1141, and LB1148.) I have a new resolution. Senator Mello, LR626, that will be laid over. That's all that I have, Mr. President. (Legislative Journal pages 1436-1437.) [LB851 LB865 LB869 LB880 LB881 LB896 LB897 LB898 LB899 LB936 LB941 LB997 LB1005 LB1026 LB1030 LB1035 LB1038 LB1042 LB1049 LB1051 LB1054 LB1054A LB1062 LB1077 LB1083 LB1087 LB1087A LB1101 LB1106 LB1116 LB1121 LB1122 LB1126 LB1140 LB1141 LB1148 LR626]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We return on to the agenda, Select File, LB599. [LB599]

CLERK: Mr. President, LB599, Senator Larson, I have Enrollment and Review amendments first of all. (ER276, Legislative Journal page 1393.) [LB599]

SENATOR LANGEMEIER: Senator Larson for a motion. [LB599]

SENATOR LARSON: Mr. President, I move the E&R amendments to LB599 be adopted. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Larson. Those senators wishing to speak on the E&R amendments: Senator Council, Fulton, Nordquist, McGill, and Mello. Senator Council, you're recognized. Senator Council waives her opportunity. Senator Nordquist, you're recognized. [LB599]

SENATOR NORDQUIST: Thank you, Mr. President and members. I think we're going to have another chance to debate the policy that's before us this evening and talk about some of the arguments that are being made on both sides of this issue. Last night, in my initial comments, I talked about how this issue was a fiscal imperative for our state. We talked about the impact of the dollars spent and the impact that those dollars have on the health outcomes of the children that receive those services. Certainly we've all seen data that shows \$1 spent is worth anywhere from \$2 to \$3 in services, and largely because of the cost that it prevents, the days in the NICU that are thousands of dollars, complications, low birthweight births and complicated births can range from \$20,000 all the way up to, I know Senator Campbell, Senator Gloor have gathered data from our own hospitals showing over \$800,000. On the data that we received from the Department of Health and Human Services which shows in our state every month since this policy has gone into effect, we have...since, I should say, since the policy was removed, our current policy has gone into effect, we've seen in the range of 60 to 70 births per month. And just in the short time, you know, we're talking a little over a year, a year and three months is what we have of data, there's been several months already that the numbers are kind of outliers. And one month in particular that caught my attention which showed a particularly high cost for a child born...whose birth was paid

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for by emergency Medicaid. The only births we're talking about on emergency Medicaid essentially are the births that we're going to be providing prenatal care for under this piece of legislation. In one of those months there was a child whose first 28 days, first 28 days of claims exceeded \$600,000. That child did not have access at least through this program. We know they were low-income because it was an emergency Medicaid birth, did not have access to prenatal care through our program, and their medical costs, which we as taxpayers would be footing at that point because that child is a legal resident of Nebraska, their first 28 days of claims exceeded \$600,000. That's money out of our tax coffers, out of our state revenue streams. That's why I say this is a fiscal imperative for our state. We can say, well, we don't know. There was a lot of discussion last night about, well, taxpayers shouldn't be paying for the front end, the prenatal care. Folks, we pay for the...right now we're paying for the birth, we have to under emergency Medicaid. And the second that child is born we're paying for everything after that. It's all coming out of this. So what we're talking about is making a small investment, anywhere in the neighborhood total of \$2,000 federal-state split. Less than half of that is state. A small investment up front to prevent these big costs on the back end that we will be paying. [LB599]

SENATOR LANGEMEIER: One minute. [LB599]

SENATOR NORDQUIST: We need to keep that in mind. We heard last night folks say, well, federal dollars are equally important, they can go get healthcare somewhere else, maybe a federally qualified health center. I found that amusing, the fact that there are federally qualified health centers means that they receive a significant portion of their dollars from federal grants, federal establishment grants that support our federally qualified health centers. And even with the situation we have now, federally qualified health centers with the dollars that they have are not able to meet the demand that's out there. First of all, there isn't one between Columbus and Scottsbluff for those people that live in central Nebraska. But for instance the one in Columbus I know was overrun with cases. In Omaha... [LB599]

SENATOR LANGEMEIER: Time. [LB599]

SENATOR NORDQUIST: ...we've had...thank you. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Nordquist. Senator McGill, you're recognized. [LB599]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I didn't have a chance really to speak much yesterday, so I wanted to get up right away because this is my priority bill. And it's something that everyone here has heard me speak about in past years and knows how passionate I am about it. And I regret that I didn't get to hear some of the very eloquent speeches that were presented here yesterday in favor of

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LB599. During all of our times in the Legislature we obviously face a great number of moral issues that range on a spectrum of black and white to many shades of gray. But for me this issue couldn't be more clear on that moral spectrum. You know, it's one of the few that we do get to debate that couldn't be more clear. And since we removed this prenatal care from this population of women and regardless of what some folks may feel they can justify to themselves, there have been children that have been stillborn and perhaps prenatal care could have done something about that, at least could have made the family aware that there were issues going on in that pregnancy. There have been women who have had abortions because they're afraid of coming forward and getting help. I've heard a lot of people saying that we have nonprofits willing to help these women. Many of them are afraid to come forward at all. They're afraid of seeking help and so they don't get any service. They're afraid they're going to be rejected even by a nonprofit or they'll be turned over. And so their child doesn't get that service. And then there have been complications in many of the cases or, like I've said, we've encouraged abortion by not providing prenatal care. Now I've talked to a lot of people over the last day or so about this issue. And I've looked at the polling that I think most of you have seen now conducted by a Republican pollster that shows that even when recipients of these calls hear about the illegal immigration issue, 66 percent still support giving prenatal care to these children. That's a significant majority of folks in Nebraska. They might not be that vocal, vocal group that is calling us. And quite frankly, they're cussing in many cases at us. We need to have a civil debate and that includes from the public. And when people are that viciously angry, then clearly their judgment is being overshadowed. And the fact that we would succumb in this body to threats and fears from some of those individuals to me is inhumane and irrational on our part. Senator Nordquist and others have spoken about the costs associated with not providing this prenatal care. And that evidence couldn't be more clear. But at the end of the day for me this is an incredibly clear, moral imperative that we have before us. There have been a loss of lives because we haven't acted on this in the past. There is a silent or a more quiet majority on this issue that supports this action that I've heard from. And people who are afraid to go on Facebook or speak publicly, state their opinion because they are afraid they're going to get criticized just as the Governor has criticized some members in this body. And they're afraid of taking that fire. But we get paid, we get elected to take that fire and to do what we ultimately believe is right and have the statistics to show is correct and have the data and the fiscal information to show is correct. I mean, that's why we're here, folks, to stand up and do what we know... [LB599]

SENATOR LANGEMEIER: One minute. [LB599]

SENATOR MCGILL: ...is right, both by the data we have before us and by our own moral compasses within us all. So with that, I urge folks support of LB599 and look forward to the rest of the debate today. Thank you, Mr. President. [LB599]

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SENATOR LANGEMEIER: Thank you, Senator McGill. Seeing no other lights on, the question...the motion before the body was...is the adoption of the E&R amendments to LB599. All those in favor say aye. All those opposed say nay. The ayes have it, they are adopted. Mr. Clerk. [LB599]

CLERK: Mr. President, the first amendment I have to the bill Senator Krist, AM2752. (Legislative Journal page 1437.) [LB599]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Krist, you're recognized to open on AM2752. [LB599]

SENATOR KRIST: Thank you, Mr. President. Good evening, Nebraska and colleagues. This amendment I believe is dilatory and substantive in nature. It's so short I'd just like to read it for you for your edification. "Insert the following new section: Section 5, This act becomes operative on May 1, 2012." And then we renumber the remaining sections. I think it's interesting and I hope my colleagues are listening no matter where they are. Some of them I think would like a refresher on where we are and how we started because it appeared to me after the debate that many did not know that we had this service in place in the state and that there was a series of events that happened. So I'd just like to go over those real quick in the introduction and tell you why I think it's important that that operative date changes. Just as a matter of background information, fundamental to having any accurate or fair or honest debate here we need to find out where we came from. The state of Nebraska was providing prenatal services to optional group of poverty-related pregnant women, that is a definition. Then on November 30 of 2009, the Department of Health and Human Services received a letter from CMS, that's the Centers for Medicare and Medicaid Services. This letter was sent telling us we were not in compliance with the rules in terms of administering this program. The letter was stamped, day stamped, arrived here in Nebraska, the Director of Medicaid Office of Nebraska, on 4 December of 2009. And we're obviously planning on vacation someplace for Christmas or being with family, so we were not here at that point. But we, the Health and Human Services Committee, the Legislature, were not informed of this letter until after bill submission cutoff date, which was January 21 of 2010. Hmm, curious. The department knew that we were not in compliance and that they were going to reduce the services and save the money and not perform any services for optional group of poverty-related pregnant women, but they chose not to give us that information until after bill submission date. And at that point they told us that they were no longer going to be able to provide those services, period, because the federal government told them they couldn't. That was half the truth. The rest of the truth was that they gave us, in the letter that was sent, the way that we could provide those services. The money needed to come out of a different pot. In addition, please provide a written explanation regarding references to the state's policy manual and regulations to the provision of prenatal and postpartum care for ineligible pregnant women of unborn children. The Title XII does not allow coverage of the unborn child, however, Nebraska may provide

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prenatal care to pregnant women who do not qualify for Medicaid by covering unborn children under the Children's Health Insurance Program, CHIP program. Notice, I've never used the word "illegal alien" here. The category for this coverage I've already discussed with you. So the CMS gave us the answer in terms of how to continue to give this care in the proper way. I can only assume that the department of...director of Medicaid, I'm sorry, Vivianne Chaumont, the CEO of DHHS, Kerry Winterer, or the Governor himself chose to make this issue about illegal aliens because otherwise I don't know why we would have discontinued giving people who were not illegal aliens under this category the kind of care that they needed. Because we were informed of this as late as we were, Senator Campbell had to come in and ask for a suspension of the rules. We had to have a public hearing on then LB1110. It was voted out of committee. But due to problems that could not be overcome primarily coming from the executive branch and the Department of Administrative...Department of Health and Human Services, this bill was never debated on the floor in 2010. It was kicked down the road. Some of us here in this room remember why, some of you said you would support and then backed out at the last minute. Well, all that's history. So what we're debating here is how we get our Department of Health and Human Services to get off their collective seats and move in this direction. This bill, I'm sorry, this amendment simply gives them an operative date of moving in that direction--1 May. I want to see them comply with what the federal government told us to do in the letter dated 30 November 2009. I want to see them act. You see, I've had a history in the last 18 months of asking the Department of Health and Human Services where the money went, where it came from, where it was transferred to, and why we weren't moving in a particular area. And I am, quite frankly, fatigued with assuming that something is going to be done. So I'm hoping LB599 succeeds. And when it does, I'm insisting with this amendment that the operative date becomes 1 May of this year. Again, this letter simply said, state of Nebraska, you're taking the money out of the wrong pot, you're doing a good job, but if you want this to continue to correct this error in the state plan, and I quote, Nebraska must submit an amendment which includes the following: attachment 2.2a, page 20, with a check mark in the box beside number 14. They were very, very specific. There was very little to wonder how to get it done. This will indicate that the state wishes to cover the optional group of poverty-level related pregnant women and infants under one as described in 1902810Aii9 and 1902i1a and b of the act. Probably would have taken somebody less than a day. Attachment 1 to the attachment 2.6a, page 3 to indicate that the state applies an income standard of 150 percent FPL to optional group of poverty-level related pregnant women and infants under one as described as 1902 etcetera, etcetera. Step 2, step 3, supplement 8a. The director of Medicaid in the state of Nebraska could do this now. She should have done it when she got the letter. So as we're reviewing and talking about illegal aliens, I want you to understand this coverage or this category is an optional group of poverty-level related pregnant women and infants of all colors, all ethnic persuasions. I still contend, as I will throughout the evening, as many opportunities as I have, that if you are pro-life and you believe from conception that that is a baby, then it is a U.S. citizen and a future resident of the state

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of Nebraska. And the mother, if you choose to think about her like that, is the life support system for that child. This category allows us to help treat that category of pregnant women who are not covered in any other way. And if you're not pro-life, the law in the state of Nebraska, thanks to Senator Flood's action and our action in the last few years, recognizes that person who can feel at 20 weeks. We're not talking about... [LB599]

SENATOR LANGEMEIER: One minute. [LB599]

SENATOR KRIST: ...the mother, we are talking about the infant, the baby, the human being. AM2752 holds the Department of Health and Human Services to the task of an operative date, an implementation in doing what the federal government told them to do in order to restore those services in November of 2009 to an operative date of 1 May of this year. I look forward to the debate tonight. I look forward to those who will proclaim themselves to be one thing and be another. And we'll see at the end of the night where we are. I ask for the support of AM2752 because it is a serious amendment and the underlying bill, LB599. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Krist. Mr. Clerk for a motion. [LB599]

CLERK: Mr. President, Senator Schilz would move to amend with AM2759. (Legislative Journal pages 1437-1438.) [LB599]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Schilz, you're recognized to open on AM2759. [LB599]

SENATOR SCHILZ: Thank you, Mr. President. Members of the body, good evening. I know it's been a long day. I want to be as quickly as...do this as quickly as possible. Basically, the amendment that I have put forward here would cause and make sure that if somebody was going to use this and be able to get state funds, to be able to do this, they would have to be able to prove that they are a citizen of the United States and be able to sign an attestation to that fact. And that's what the amendment does. I hope to hear some good debate on it. And thank you very much. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Schilz. You have heard the opening on AM2759 offered to AM2752. The floor is now open for discussion. Those senators wishing to speak, we have Senator Gloor, Krist, Mello, Wallman, Dubas, Ken Haar. Senator Gloor, you're recognized. [LB599]

SENATOR GLOOR: Thank you, Mr. President. Good evening, members. I am in support of LB599. I'm not sure of the amendments yet. I'm fairly sure that I'm not in support of AM2759, although I haven't had a chance to take a look at it because it seems counter to what we're trying to do here, which is avoid unnecessary expense to

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Nebraska taxpayers by paying for the high-end costs associated with struggling infants, struggling babies who have been born, who are our responsibility now as Nebraskans and who will be covered under Medicaid. And that seems to be one of the problems that came out of our...or one of those areas that came out of our discussion last night that require some additional clarity because I, in discussion with other members today, it's come up again. And it's the whole issue of when pregnant women who have no means of support present to emergency rooms they have to be taken care of. So they get their care, but that's not the issue. When pregnant women present to emergency rooms they are presenting because they're in crisis. They don't go in for throat swabs. They don't go in for multivitamins. They show up because they are in trouble. They show up because they're in labor and they're going to deliver. And what we are trying to accomplish with prenatal care is make sure that they get the appropriate care necessary so that that baby when it's born in Nebraska as a U.S. citizen is a healthy baby and that the costs that are associated with that delivery are minimal costs that go with a routine delivery and routine prenatal care as opposed to the tens of thousands of dollars in specialty services that go to struggling infants. This is the root of the problem. Those patients we're concerned about are not going in for routine care. I mean, they are patients like any of us. If things are fine, you don't see a need to go to see your physician. Pregnant women I believe have a different attitude towards that clearly because they know that they are carrying a baby and want to make sure that baby is well cared for. But without a care provider, where do they go? And I can tell you they don't show up routinely at emergency rooms or hospitals. The question I asked last night still merits I think individuals considering, and that is if you needed charity care where would you go in this state to get it? If your daughter or your wife were pregnant do you know where you would go that somebody would give you that prenatal care? Think about that for a second. And the answer most people will come up with I think is I have no idea. I think I've heard of the Third City Community Clinic or the clinic of the heart or the heart, but that may be for a small, small, small subset of individuals who live in the right communities. It becomes a challenge for everybody else. We want to make sure that those low-end costs associated with the prenatal visits are the ones that are being paid for so that we as taxpayers aren't paying for those cases, the \$800,000 case that we know of as an example that are (laugh) hugely problematic for us. [LB599]

SENATOR LANGEMEIER: One minute. [LB599]

SENATOR GLOOR: Thank you, Mr. President. When I get back up next time I will talk about some of the charities, churches involvements, efforts that are being made to reach out to these communities, because there was an inference last night that nobody is doing anything to try and reach out and provide services to this population group. That's not true. There are many organizations and entities that are trying to develop programs. But the challenge still becomes without a source of payment for those services, individuals are challenged and suffer from the same self-conscious feelings any of us would have about going to the door, knocking on that door and saying, I'm

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pregnant, I'm worried about my baby, will somebody see me so I make sure...so I'm sure to have a healthy delivery. Thank you, Mr. President. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Gloor. Senator Krist, you're recognized. [LB599]

SENATOR KRIST: Thank you, Mr. President. Wondering if Senator Schilz would yield to a question. [LB599]

SENATOR LANGEMEIER: Senator Schilz, would you yield? [LB599]

SENATOR SCHILZ: I'd be happy to, thank you. [LB599]

SENATOR KRIST: Explain to me again the premise behind your amendment. [LB599]

SENATOR SCHILZ: Sure. This amendment here is to make sure that the people that are receiving the benefits are U.S. citizens. And I know in the bill it says you have to be a Nebraska resident. But, you know, as we've seen with other things when people...you can move right in the first day that you're here and you can claim yourself a resident. So I just wanted to make sure that we aren't going out and spending money on folks that may not have a right for that money to be spent. [LB599]

SENATOR KRIST: Okay. And when you say prove that you're a citizen are you talking about the mother who's carrying the child or the child that's in the womb? [LB599]

SENATOR SCHILZ: Well, I think that when you look at it and as I see it we're talking about the mother that's carrying the baby because that is the person that will get the care. [LB599]

SENATOR KRIST: Okay. [LB599]

SENATOR SCHILZ: I don't think there's any argument about that. [LB599]

SENATOR KRIST: Well, there is an argument, Senator, not to interrupt you, but the point is that an unborn child has no immigration legal status. And though it's born on the United States, that soil, the child, under the Fourteenth Amendment, is by the U.S. Constitution, a citizen. And prenatal care comes from the pot of money that I described earlier. I think you might have heard me describe it coming from CHIP, which has to be the child. [LB599]

SENATOR SCHILZ: Right. [LB599]

SENATOR KRIST: So the proof is you're asking the child to prove himself or herself to

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be a U.S. citizen when, by our own Fourteenth Amendment, our own constitution, we know that that is already the case. We're not treating the mother, we are treating with prenatal, under the CHIP program, the unborn child. [LB599]

SENATOR SCHILZ: Is that a question? [LB599]

SENATOR KRIST: I'll allow you to respond if you'd like to. [LB599]

SENATOR SCHILZ: Okay. Okay, thank you, I appreciate...I'm sorry, I was waiting for the question mark. As I look at it and as I see it and we talk about the child being taken care of, I don't disagree with that one bit, I think that makes all the sense in the world. As soon as that child...you know, we tried this yesterday to make sure that we could get it put in there whether it was done right or not to allow that person, that unborn child to be recognized in the bill, we were turned down. So then what I said is, hey look, if we could find some way to segregate that and let it just be for the baby, I would be all for it. Unfortunately, that baby has a mother and that mother is the only way to get that prenatal care to her. So the question is, who are we really treating? Because in order for that baby to be safe that mother has to have better health than she did before. [LB599]

SENATOR KRIST: Right. [LB599]

SENATOR SCHILZ: So who is being treated? [LB599]

SENATOR KRIST: Well, I thank you for that, Senator Schilz. And let me again state for the record an unborn child has no immigration legal status, though if born on U.S. soil the child will, under the Fourteenth Amendment of the United States Constitution, be a citizen and therefore a resident of the state of Nebraska. Prenatal care is aimed at the unborn child. So no matter how you define it, the prenatal care that's coming out of the CHIP fund, which would be for the child, see, you can't treat an adult under CHIP. (Knocking sound.) Hello, you cannot treat an adult under CHIP, you're treating the child. If under the Fourteenth Amendment, when that child is born, it is a citizen I guess we just ignore that fact. And I said last night if you're really worried about it then deport the mother, the pregnant mother so she can't be in Nebraska or the United States. I don't think that's what you're saying. But technically we can't treat the mother... [LB599]

SENATOR LANGEMEIER: One minute. [LB599]

SENATOR KRIST: ...as the illegal alien. We are treating the unborn child under the CHIP program. I do not support AM2759 and I would hope that you would see the logic in not supporting it yourself. Thank you, colleagues. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Krist. Senator Wallman, you're recognized. [LB599]

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SENATOR WALLMAN: Thank you, Mr. President, members of the body. I don't support the amendment either. And I appreciate Senator Krist's statements. And if you've ever been to a hospital emergency room at night, emergent care takes place there, whether you be a citizen or not. And I just read a book about how Americans love to hate. When we have financial troubles we blame somebody. We called the Native Americans savages so they couldn't have any property. So where are we going here? If you're pro-life you don't have a choice. And it's easy to support the family. We're all a part of the family of God. Jews and gentiles, I have Jews in the family and we all get along. Do I believe different than they do? Absolutely. But taking care of the mother's prenatal care, I have some figures in my office but I didn't go back down there, and my daughter works in social work in Iowa, she has a company. And we compared our cost per immigrant child with theirs, a huge difference. So this isn't a cost, folks, it's a benefit, it's a benefit to society, it's a benefit to our churches. And you talk about churches should do more, I appreciated Senator Gloor, the churches do quite a bit. Our church, we sponsored a family, wasn't...it was from Vietnam. And the Asians value education, they got their citizenship. Actually, one of them was from Laos and one of them was from Vietnam. And they became good citizens of America. They're making money, they live by a golf course. And they're proud whenever they stop by, I'm proud to know them. So are we...the Statue of Liberty, are we welcoming people here? This world is in turmoil and part of it is our fault. We love to hate. And Americans love to hate when we're in trouble. Are we in trouble? Nebraska is the good life, so that's why we probably do have some immigrants. But as long as they're hired by somebody, folks, they're hired by somebody, they have jobs. So that's why they're here. And an industry in this state here told me we couldn't do without immigrants. You probably know what that is. They just said we couldn't function. So is that their fault or our fault? I don't know. But it's a complicated business here. And I think we have to take care of the babies, plain and simple. And I'd yield the rest of my time to Senator Krist if he'd like. [LB599]

SENATOR LANGEMEIER: Senator Krist 1 minute 44 seconds. [LB599]

SENATOR KRIST: Thank you, Mr. President. And thank you, Senator Wallman, for your courtesy. Just to tell you again, wrap it up one more time, if you want to card the mother and we know she's an illegal alien or a person who is not documented in here, I will concede the fact that we cannot treat her. But I'm wondering how we're going to card the baby. I'm wondering if we're just going to take a snapshot and save it for the birth picture. I'm not sure. You can't tell me that there isn't an understanding that the Fourteenth Amendment of this great nation's constitution says that when that child is born it is a citizen. So... [LB599]

SENATOR LANGEMEIER: One minute. [LB599]

SENATOR KRIST: ...unless we want to put it into another life support system, I would

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say that prenatal care under the CHIP program is the best way for us to care for that future citizen and that future Nebraskan. Thank you. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Krist and Senator Wallman. Senator Dubas, you're recognized. [LB599]

SENATOR DUBAS: Thank you very much, Mr. President. I do stand in support of LB599 and Senator Krist's amendment. But I have strong opposition to Senator Schilz's amendment because I find it very disturbing that we're going to make a differentiation between what babies deserve medical care and what babies don't. And as Senator Krist said, you can't separate the mother from the baby. The mother is the source of that baby's nutrition and life. And so to say, well, we're not going to treat the mother, that's going to cause...prenatal is to make sure that the baby has a healthy environment to grow and develop in. So there's just no way that you can separate those out. We've spent a lot of time this session in particular talking about all of our bills, our priority bills. And the first question that usually we're either looking at the fiscal note or that comes out of our mouth is, what's it going to cost? You know, where are the dollars coming from? And we've had some discussion about that on this bill, but I don't think as much as it deserves. And I think especially we're looking at, okay, you look at the fiscal note and you see that it's got \$600-plus thousand on the fiscal note. But what are the related costs to whether we do or whether we don't pass LB599? And all of those costs come from taxpayer dollars. So I think as senators we've got to do that cost-benefit analysis and determine which, you know, there are people who say we shouldn't be supporting these women no matter what their status is and where is personal responsibility. Those are all legitimate questions and deserve some discussion. But for right now we're looking at, without passing LB599, we're looking at what it costs if we do pass LB599, but what happens if we don't? If Senator Gloor would yield to some questions I would appreciate that. [LB599]

SENATOR LANGEMEIER: Senator Gloor, would you yield to a question? [LB599]

SENATOR GLOOR: Be glad to. [LB599]

SENATOR DUBAS: Thank you, Senator Gloor. We've talked about what this particular LB599 will cost, and that's to provide prenatal care. So with your experience in the medical field, what are the costs of prenatal care versus the costs of having babies born who are low birthweight or have some defects or any problems that are associated with not having adequate prenatal care? [LB599]

SENATOR GLOOR: Thank you, Senator Dubas. The number that's been tossed around the most recently has been around \$800 to \$1,000 for what's considered to be adequate prenatal care. And I think the number of visits that they aim for are somewhere around eight or ten visits as part of a course of appropriate prenatal services. I've also heard

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that it can be as high as \$1,500 for prenatal care. I'm not sure what else gets involved in that, perhaps that includes vitamins, I mean some practices, since these are services provided by physicians offices, not by hospitals or other institutions, there may be packages that include more things in that. But I think you're safe to say that it's anywhere from \$800 up to \$1,500 for prenatal care. Now on the other hand when it comes to neonatal services, understand that we're talking about neonatal intensive care units. And we know intensive care units are expensive places. They have specialty trained staff, they have expensive, expensive equipment. And whether you have one baby or you have four babies, you have to have staff there 24 hours a day to make sure that any delivery you have that might go bad there are staff there to provide that care. All that comes as part of an added cost. Sometimes on staff in those neonatal intensive units... [LB599]

SENATOR LANGEMEIER: One minute. [LB599]

SENATOR GLOOR: Thank you, Mr. President. I don't want to eat up all the time, Senator. But I will read something that came from the Hospital Association and what the Nebraska Hospital Association said in 2010 was, on average newborn infants with adverse birth outcomes, like prematurity, low birthweights or whatnot, on average each case resulted in hospital charges of \$33,989. So \$34,000 compared to \$800 to \$1,500, and again we're talking about Medicaid payments. That seems pretty heavily weighted clearly. [LB599]

SENATOR DUBAS: And you don't have the discretion or the option to say you aren't going to provide those services for that baby for whatever reason, whether the mother is undocumented or not. That baby is in the hospital and is now a citizen of our state. So there's no question as to those services being delivered. Correct? [LB599]

SENATOR GLOOR: Correct. [LB599]

SENATOR DUBAS: Thank you very much, Senator Gloor. [LB599]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Thank you, Senator Dubas and Senator Gloor. Senator Ken Haar, you're recognized. [LB599]

SENATOR HAAR: Mr. President, members of the body, being a man I...and I have two children but, you know, I don't know all that much about prenatal care and what a woman goes through. So I've been trying to do a little research on that. And would like to spend a little time talking about that. This is from a Web site called [kidshealth.org](http://kidshealth.org) and it says, almost 4 million American women give birth every year according to the Centers for Disease Control. It keeps those statistics. Nearly one-third of them will have some

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kind of pregnancy-related complication. Those who don't get adequate prenatal care run the risk that such complications will go undetected or won't be dealt with soon enough. That, in turn, can lead to potentially serious consequences for both the mother and her baby. And it goes on to say ideally prenatal care should begin before you get pregnant. If you're planning a pregnancy, see your healthcare provider for a complete checkup. Routine testing can make sure you're in good health and that you don't have any illness or other conditions that could affect your pregnancy. And if you're being treated for a chronic condition, like diabetes, asthma, hypertension, which is high blood pressure, heart problems, allergies, lupus, depression, or some other conditions, you should talk to your doctor about how it could affect your pregnancy and, of course, how it could affect the baby. And in some cases, for example, you may need to change or eliminate medications, especially during the first trimester, the first 12 weeks, to reduce risk to the fetus or you may need to be even more vigilant in managing your condition, for example, women with diabetes must be especially careful about keeping their blood glucose levels under control both before they begin trying to conceive and during their pregnancy. Abnormal levels increase the risk of birth defects and other complications. An amazing thing, the health of the mother is connected to the health of the baby. And again talking about early on in the pregnancy, this also is a good time to talk to your healthcare provider about other habits that can pose a risk to your baby, such as drinking alcohol or smoking. Ask about starting a prenatal vitamin that contains folic acid, calcium, and iron. And it says it's especially important for women who are planning to become pregnant to take vitamins with folic acid beforehand because neural tube defects, and that has to do with the development of the spine and the nervous system, happen in the first 28 days of pregnancy, often before a woman even knows she's pregnant. Some places even suggest that a woman of childbearing age just take folic acid on a regular basis because if she's pregnant and doesn't know it yet the development is already going on. Or if you have...you or your partner have a family history of a significant genetic disorder and you suspect either of you may be a carrier, then genetic testing may be advisable. And then it talks about the first visit and the second visit and routinely, it says, you should, talking to the pregnant woman, every 4 weeks until the 28th week of pregnancy... [LB599]

SENATOR CARLSON: One minute. [LB599]

SENATOR HAAR: ...then every 2 weeks until 36 weeks and then once a week until delivery. And all of this involves things like blood testing, and not only for the health of the mother who indeed may be an illegal immigrant, but the health of the baby who will be an American citizen. And all of these things can result again in the health of the baby. And I guess even if you don't care about the health of the mother, it's going to have an outcome on the health of the baby. And all those kind of outcomes then affect us in the pocketbook, people talking about how expensive this may be and unfair. But the cost of trying to deal with preventable conditions after the birth of the American baby,... [LB599]

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SENATOR CARLSON: Time. [LB599]

SENATOR HAAR: Thank you. [LB599]

SENATOR CARLSON: Thank you, Senator Haar. Those senators wishing to speak include Nordquist, Mello, Howard, and Krist. Senator Nordquist, you're recognized. [LB599]

SENATOR NORDQUIST: Thank you, Mr. President and members. I appreciate the discussion from Senator Haar and the detail that he provided about recommendations when it comes to prenatal visits and almost the simplicity of some of those things. We're talking about a specified...for standards of care, we're talking about a specified number of visits at specific times. We're talking about a regime of vitamins, maybe I think the standard is two ultrasounds over the course of the pregnancy. Very simple things that when you add it up the cost is not great, but the dollars that it can save are tremendous. And that's what we're talking about here. We are already paying everything from the point of birth on, we're paying for delivery, we're paying for everything from that point forward for that child. And all we're talking about doing, all we're talking about here is investing a little bit up front so that that child from that point forward, from the birth point forward, has a healthy start at life, to the best of our ability. Now certainly we know there are situations that arise where you can have the best prenatal care in the world and there are still going to be birth complications. But we can do everything we can to prevent those. And to do everything that is best practices doesn't cost a lot of money. And it certainly doesn't cost a lot of money per birth when the federal government shares with us...shares 70 percent. And again, there's people who have tried to blur this issue time and time again. But ultimately it's not about the status of the mother, it's about the baby who has, according to all federal rules, has no nationality. And we know that when they are born they are going to be citizens of our country and residents of our state. And it's that unborn child that bears the brunt of this. As Senator Haar went through those pieces, when the mother doesn't get the consultations with her physician in a timely manner it's the child that suffers. When the mother doesn't take the right regimen of vitamins it's the child that suffers. When the mother, you know, puts chemicals in her body or takes certain medications that she shouldn't be, it harms the child. And you know, in the mudding of this issue we've heard a lot over the last day or so about how this is going to be a magnet to our state. Well, folks, that magnet was turned on for three decades. We shut it off two years ago, there certainly isn't any evidence of the magnet causing a significant reduction of inflows to our state. And there is plenty of evidence out there that over the course of the three-decade period that there wasn't...it wasn't as much of a magnet actually when we had it turned on. There has been national studies that show that the number of immigrant families with children actually grew four times faster nationally on a state-by-state comparison in states with least generous safety nets, like Arkansas and Texas, than it did in states with more

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generous safety nets for immigrants, in states like California and Massachusetts. So there's scientifically, statistically significant research that's been done that shows that's not the case. [LB599]

SENATOR CARLSON: One minute. [LB599]

SENATOR NORDQUIST: And you can look specifically at Nebraska at our census data which shows percentage of people who are foreign born, and it's been very, very flat and very consistent over the last decade with national numbers. We haven't, when we had this policy we didn't see a huge influx. And of the states that actually have this policy most of them are right on or even below the national norms. So this magnet argument just doesn't bear out when you look at the data. The argument that we made last night and for me it comes back to the value of life and the respect and the recognition that we have as a state for that unborn child that that is a life in and of itself. And the benefits... [LB599]

SENATOR CARLSON: Time. [LB599]

SENATOR NORDQUIST: Thank you. [LB599]

SENATOR CARLSON: Thank you, Senator Nordquist. Senator Mello, you're recognized. [LB599]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Would Senator Schilz yield to some questions? [LB599]

SENATOR CARLSON: Senator Schilz, would you yield? [LB599]

SENATOR SCHILZ: Yes, I would. [LB599]

SENATOR NORDQUIST: Thank you, Senator Schilz. And just for clarification sake, I guess, for those who are deciphering what your amendment does or doesn't do, ultimately your amendment would try to require that the mother, which is not actually covered under LB599 because the unborn child is covered under this Medicaid program, under CHIP, that you would require the mother have to provide information in regards to her citizenship status. Is that correct? [LB599]

SENATOR SCHILZ: That is correct, just like we do with...just like we do in other sections of government for public benefits as we deal with aliens, 4-111 and 4-112, that we've already got in place. [LB599]

SENATOR MELLO: LB403, correct, based off LB403 that was passed in 2009? [LB599]

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SENATOR SCHILZ: Correct, yes. [LB599]

SENATOR MELLO: Okay. What clarification have you gotten from CMS or the federal Department of Health and Human Services that your amendment can actually be done under existing CHIP laws or existing CHIP regulations or Medicaid regulations? [LB599]

SENATOR SCHILZ: You know, I have to be honest with you. As quickly and as fast as this bill was pushed through here, we haven't had the time to have those conversations with anyone. I would love to be able to take a step back and be able to go talk to see what we could get done. But this thing is on a fast track it seems like. [LB599]

SENATOR MELLO: Well, Senator Schilz, thank you for that question. Ultimately, I can, when we're done you can come over and I can print out the regulation for you and show you that your amendment essentially is invalid and is illegal to do because it says under Medicaid that you cannot do this. But that's something we...I can provide that information to you to show the reason why AM2752 or AM2759, I'm sorry, we just can't do because Medicaid says we can't do it. It's plain and clear, a federal regulation that says this cannot be done in part because this program is not about the mother. Senator Krist had a lengthy dialogue with Senator Schilz earlier in the night asking the questions that I was going to ask about this AM2759. Ultimately, this amendment is trying to change the subject. I understand and can appreciate there may be some who refuse to acknowledge that LB599 deals with unborn children. And they can't believe that this bill ultimately is to benefit the child. As Senator Krist asked Senator Schilz earlier, how does an unborn child fill out an affidavit? How does an unborn child fill out a Medicaid application or a waiver? How does an unborn child provide citizenship status? Colleagues, under LB599 we know, based off the federal government's Medicaid expansion in 2002 to create the unborn child option, that can't be done. And with all due respect to my colleague, Senator Schilz, his answers didn't provide any clarification. His answer was, yes, I think that the care goes to the mother and not the unborn child. That's the basis of AM2759, that is why I want to put an amendment forward that ultimately violates Medicaid rules and regulations which would make this essential bill unconstitutional. Great. I think we can clarify that's been clarified for the record. I hope everyone who's watching right now understands this amendment, with all due respect, is intended purposely just to kill the bill. So I can appreciate if that's something Senator Schilz wants to get on the mike and explain further. I will provide him the rules and regulations to show this can't be done. But I think the concern more than anything else I have is this trying to blur the lines. [LB599]

SENATOR CARLSON: One minute. [LB599]

SENATOR MELLO: Blurring the lines that this bill ultimately is just about providing healthcare to the mother. And at the end of the day we don't want to provide taxpayer benefits to those who are in our country illegally. Obviously, colleagues, this bill as the

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previous bill, we discussed in LB1110 two years ago, creates an unborn child program under the CHIP program. I know some colleagues are not as familiar with the Health and Human Services Department or the programs that are in existence, but take some time. Read the rules and regulations. Go through this Medicaid waiver. Dig in, find out what we can and cannot do, because you had a Republican President, in 2002, create this program in part to provide an opportunity to further provide healthcare to unborn children as part of a pro-life agenda that he put forward. So we'll continue probably to debate this amendment... [LB599]

SENATOR CARLSON: Time. [LB599]

SENATOR MELLO: Thank you, Mr. President. [LB599]

SENATOR CARLSON: Thank you, Senator Mello and Senator Schilz. Senator Howard, you're recognized. [LB599]

SENATOR HOWARD: Thank you, Mr. President and members of the body. Senator Krist shared some information with me that he had received from Andrea Skolkin. Andrea is the director, the CEO of the OneWorld Health organization down in south Omaha, which is a wonderful hospital and clinic and provides medical services. She stood out in our Rotunda last night, she listened to the debate. She was here just as late as we were. And the information that she wrote down, she made some notes, is really pretty moving and I'd like to share that with you this evening. She's written here that a baby that's born at 29 weeks on the average will spend 47 days in the hospital; if he or she is born at 30 weeks it's 41 days; 33 weeks, 26 days; 34 weeks, 11 days; 32 weeks, 27 days; 31 weeks, 29 days; 34 weeks 16 days; 36 weeks, 10 days. And this is without adequate prenatal care. Forty weeks is the normal pregnancy and gestation for the infant. She wrote down some notes about some experiences down at OneWorld. And the first one is a patient came to the health center at what she thought was 18 weeks gestation. And she had not received any prenatal care. She was 17, she was in pain and she was cramping. The delivery was spontaneous in the health center with no time to get to the hospital. The baby was not alive. The mom was actually 22 weeks along. Patient came to the health center for a second pregnancy, this is a different mom, afraid of the cost and asked if we could help her terminate. We counseled the patient and told her not to worry about the cost. The patient wanted the baby and we helped her through the pregnancy. Today, today a woman came to the OneWorld Community Health Center at five months of pregnancy, five months of gestation in her pregnancy after being turned away from two physicians offices who told her they did not have an appointment for her because she is uninsured and she could not come up with the money. Women are not receiving tests such as gestational diabetes test. This test prevents this condition, gestational diabetes, which can lead to birth challenges, one of which is an especially large infant. Late entry into care is more common now and women skip appointments. There's no one, no one who would say it's a good idea to

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skip an appointment, if you don't have a problem there really isn't a need to go in. That's probably the worst, the worst kind of thinking for a woman who is pregnant. If the patient skips appointments, babies are left unchecked and get into problems that lead to poor birth outcomes. When you don't have your appointments done on a regular basis, you have no idea if there is a problem with the infant. Now here to me is really the key point of all of this. When women don't get prenatal care it is the baby that suffers. Prenatal care is directed at the health of the baby. [LB599]

SENATOR CARLSON: One minute. [LB599]

SENATOR HOWARD: Thank you, Mr. President. [LB599]

SENATOR CARLSON: Thank you, Senator Howard. Senator Krist, you're recognized. [LB599]

SENATOR KRIST: Thank you again, Mr. President. As we sometimes do, we slip away and try to negotiate and come to an agreement. And the folks who are left here in the Chamber will discuss the issue until that agreement might be met. So I will use the opportunity, while we are waiting potentially for some discussion that's going on, to once again tell you that CMS, the Centers for Medicare and Medicaid Services, told the state of Nebraska on November 30 is the date of the letter, it arrived here at the CEO's desk on December 4 of 2009. And in this letter they describe how we are not in compliance with taking care of a class of people that is defined in the regulations as pregnant women, sorry, an optional group of poverty-level related pregnant women. It arrived on December 4. It was not known to us, not briefed to us as a Legislature until after our...after the date in that following session in January where we can no longer put any bills into the hopper. Was that on purpose? Was it an oversight? I'm curious, because again my relationship in the last 18 months with Department of Health and Human Services would cause me to invoke a Reagan saying, trust but verify. So I ask, does it seem peculiar to you that they waited until after the bill submission date for us to do anything? I'll say again, this program that took care of the women in Nebraska who fit into the category of optional group of poverty-level related pregnant women and infants was in force. I think it was Senator Nordquist who said it had been in force for 30 years. I'm not accusing anybody of anything, but I think the Medicaid pot of money continues to grow as we continue to take less out of it, and the way we do that is we cut the services, we cut the services. So this is an opportunity to say, you know, we're not going to continue those services for that category of optional group of poverty-level related pregnant women and infants, we're going to save that money. And when we get caught we're going to say, you know what, we're not going to give any services to illegal aliens. Am I being a pessimist? Am I being a little critical? You take it from the tone of my voice. We did act upon it. And I'm proud to say that I was one of the people who said that's wrong. We did suspend the rules. We did have a public hearing. We did report that bill out and onto General File, but we never discussed it. It took me about six

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months to be not nauseous when I thought about lack of conviction in going forward and trying to fix this and the ability not to even have a discussion here on the floor. So when this bill came back up this year, I had a conviction to make sure that we would have this discussion and we would make sure that we were at least involved... [LB599]

SENATOR CARLSON: One minute. [LB599]

SENATOR KRIST: ...with decisions of this magnitude that affected this number of people in our state. I, personally, know of a young woman who is a Nebraska citizen, a teenager in the poverty-level. She was denied services because she fit into that category of optional group of poverty-level related pregnant women. Now I do think we fixed part of that, but we haven't fixed it all. We have an opportunity to make sure that we fix this, this time or we bring it to their attention. And the department, by the way, as I'll say it again, has the option to do it all by themselves just the way CMS has described. Thank you, Mr. President. [LB599]

SENATOR CARLSON: Thank you, Senator Krist. Senators still wishing to speak include Senators Price, Ken Haar, Campbell, Lathrop, and others. Senator Price, you're recognized. [LB599]

SENATOR PRICE: Thank you, Mr. President, members, Nebraska. LB599, I'd like to take the conversation to something and somewhere where I believe a lot of Nebraskans are right now. I want to step away for a moment from the humanity that we discuss of the well-being of the baby and I believe actually of the mother because with my little bit of medical training, as a combat lifesaver, and being a parent and being around it, they are tied together. You can have a situation where the mother is in danger and the baby. But putting that aside, I want to give a voice to the frustration of many Nebraskans and many American's who are very frustrated with the status and the condition of what is termed the illegal immigrant situation in the United States and Nebraska. It's my belief that Nebraskans are looking at us and they're saying, where do we have the voice that talks about just that subject? And we know I was having a conversation off the mike. Unlike with the pipeline that we were dealing with last year where you have the Interstate Commerce Clause and different parts and articles within the constitution, this is very clearly delineated an area that belongs to the federal government. And the federal government has unequivocally and absolutely failed. And it hasn't failed just today or just yesterday or last year. I grew up on the border town of El Paso, the sister city to Ciudad Juarez, and I had the great fortune of having day-to-day contact with many people. And in my military career around the world, I got the chance to see how different nations deal with citizens and visas and entry, etcetera. I worked with and went through borders where people had guns to keep their border secure. So for the Nebraskans who are listening, I want you to know that the body is wrestling with this. But we are in a bad situation because the federal government has decided to abandon us on this subject. There is no one here on the floor who is abandoning us. There is no

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one here who has control over it. If we did, that would be a fight I would enjoy and I don't even hesitate to say that there would be many people who'd join on that. So in this discussion on LB599, we have to be able to separate the pepper, so to speak, and we're left without the other part. We're left without the tools. And Nebraskans are out there saying, but what about us? American's are saying, what about us when we look at that in the fine, fine print of that one area, but we can't separate that because we're talking about human life. You know, we had the discussion earlier on the mike about giving services and giving healthcare to the infant. But you cannot separate the two and therein lies the problem. You know, there was a biblical story that many of you are probably familiar with of, you know, someone saying, well, then let's cut the baby in half. We can't do that, we won't do that. The challenges we have today and what we're faced with here... [LB599]

SENATOR CARLSON: One minute. [LB599]

SENATOR PRICE: Thank you, Mr. President...are foisted upon us by an ineffectual, at times I believe complicit federal government who while they can prosecute battles on foreign countries, who can send missiles into a living room from somewhere here in the CONUS, the United States, they can't seem to secure a border and that's why we have a lot of problem here today. That's where we're at and it's an unfortunate place that Nebraskans have to be put in because of their failure. Thank you, Mr. President. [LB599]

SENATOR CARLSON: Thank you, Senator Price. Senator Ken Haar, you're recognized. [LB599]

SENATOR HAAR: Mr. President, members of the body, talking a little bit more here about prenatal care, trying to educate myself, and one of the most important things that they're finding and scientists aren't quite sure why this is true, but this vitamin B, folic acid, has...can have an enormous effect. It can be the difference between a healthy nervous system in the developing baby and real problems. Now this is a really expensive drug, of course, folic acid--it's about 15 cents a tablet--and yet we're arguing here whether we ought to spend that kind of money as a state to help a future American citizen be healthy. Going on with this a little bit, a woman that's getting appropriate prenatal care needs to know this. When you're pregnant, it's also important to avoid food-borne diseases and illnesses such as listeriosis and...which can be life-threatening to an unborn baby and may cause birth defects or miscarriage. So again, what the mother does has a great influence on that future American citizen. Here's some of the things to avoid. Foods you'll want to steer clear of include soft, unpasteurized cheeses, often advertised as fresh, such as feta, goat, Brie, and blue cheese and so on, because they can have certain food-borne illnesses; unpasteurized milk, juices, and apple cider; raw eggs or food containing raw eggs, including mousse; raw or undercooked meat, fish, or shellfish; processed meats such as hot dogs and deli meats which should be

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well cooked. But again, ingesting...the mother ingesting some of these foods could be ingesting a food-borne illness, a disease that can affect the developing baby, the developing American citizen if it's born in this country. You should also avoid eating shark, swordfish, king mackerel, or tilefish. Although fish and shellfish can be an extremely part of your pregnancy because they have beneficial Omega 3 fatty acids and are high in protein, these types of fish may contain high levels of mercury which can cause damage to the developing brain of a fetus. So what the mother eats and the prenatal care that she has can cause brain damage in the developing baby. And if we don't care about that person as such, we should care for the fact that it's going to be much more expensive to educate that American citizen when it's born and all through life. And so on and on, you know, a healthy pregnancy is so important to the development of the baby and really is such a small cost compared to what we have to pay once that American citizen is born and can cost, you know, thousands of dollars more in terms of education and if it's born prematurely and so on and so forth. [LB599]

SENATOR CARLSON: One minute. [LB599]

SENATOR HAAR: And again, the fact is if this baby is born in this country, it has a constitutional right that it's an American citizen and so if we cover our eyes and say, well, we'll deal with the whole citizenship issue later, we are certainly deceiving ourselves. And I think as leaders in our community and in our state, we have to say that this would be a great investment, a great investment for saving money later on. If all you care about is money, then we're saving a lot of money by giving prenatal care to every woman that deserves...or that's going to bear an American baby. Thank you very much. [LB599]

SENATOR CARLSON: Thank you, Senator Haar. Senator Campbell, you're recognized. [LB599]

SENATOR CAMPBELL: Thank you, Mr. President, and good evening, colleagues. We are still having some conversations but I thought it might be important to talk a little bit about the research we looked at this past summer in basic prenatal care and the costs, and actually we conferred with an insurance company and a prenatal care provider representative from the medical providers to try to draw and get some sense of the facts behind this. And the estimated cost at that point of a live birth was \$2,100, which is pretty close to the figure that has been used by the Budget and Fiscal Office. The average cost per live birth for a newborn with adverse outcomes is \$33,989, which is, of course, a significant, highly significant, difference in what it may cost. The lack of prenatal care increases prematurity by 2.8 times, which that is of course our greatest concern is the prematurity of a baby, and prenatal care can take care of that. The neonates without prenatal care are nearly three times as likely to have low birthweight and nearly four times more likely to have been premature when compared with their counterparts who had prenatal care. So we are just increasing manyfold the risks that

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we are taking without that prenatal care. The Nebraska Hospital Association data showed that in 2010, 3.3 percent of cases involve newborn infants with adverse birth outcomes, like prematurity and low birthweight. On average, each case resulted in hospital charges, again we see this \$33,000-plus, more than 5.5 times the cost of each normal infant, accounting for 16.6 percent of total neonatal hospital charges. Many of these poor outcomes and high hospital costs are considered to be preventable through adequate prenatal care. While only 8 percent of U.S. births in 2001 included a diagnosis of preterm birth or low birthweight, they accounted for 47 percent of the costs, which to me is one of those statistics that says we can do a lot to prevent not only the cost in humankind, in terms of the kinds of life conditions that that child, as they grow up and into adulthood, might experience. Also, premature and low birthweight deliveries result in high initial hospitalization costs, we just discussed that, higher total first year healthcare costs and lost, obviously, in lost productivity of the parents caring for that child and increased childhood healthcare and educational costs--and I think Senator Council has talked about that on her times on the mike--and certainly greater lifetime social costs to us all as we look at this problem. I hope that we can continue the discussion this evening and draw out more of the research that we looked at over this past year, and I particularly appreciate all the assistance of the associations that began to put together facts... [LB599]

SENATOR CARLSON: One minute. [LB599]

SENATOR CAMPBELL: Thank you, Mr. President...facts and figures for us to take a look at. Thank you, colleagues. [LB599]

SENATOR CARLSON: Thank you, Senator Campbell. Senators wishing to speak include Council, Dubas, Burke Harr, Nordquist, Krist, Lathrop, and others. Senator Council, you're recognized. Senator Dubas, you're recognized. [LB599]

SENATOR DUBAS: Thank you very much, Mr. President. You know on issues such as this, I don't stand in judgment for anybody's decision because these are decisions that we have to make as individuals that we are comfortable with, that we can leave here with a clear conscience and go home and feel like we did not compromise our principles or our beliefs, and that's what this bill for me is. This is something that I personally cannot compromise my deeply held faith convictions about the sanctity of life. And I know there are many who will disagree with me and that's their prerogative, but this is for me, my personal conviction, and I just...I can't compromise on that. So again, I don't stand in judgment for anybody who feels differently and I hope I will be afforded that same courtesy. But I do appreciate the statement that was released today by the Catholic Conference and our bishops who speaking...Archbishop George Lucas of Omaha, speaking on behalf of the Nebraska Catholic Conference in his capacity as its president, today thanked and commended the state senators who cast a first-round vote to restore prenatal care for unborn children. He goes on to say that together with my

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brother bishops serving in Nebraska, Bishop Fabian Bruskewitz of Lincoln and Bishop William Dendinger of Grand Island, I applaud and am grateful to the legislators who voted to advance LB599. For some unborn children, due to factors obviously beyond their control, including family impoverishment and the ineligibility of their mothers for Medicaid, their health and development are substantially at risk both in their prenatal stage and beyond birth. The necessary response, the response that is consistent with pro-life principles emanating from human dignity, is to ensure access to prenatal healthcare, which is undeniably known to mitigate risk. Regarding those who oppose LB599 on grounds that it should be addressed as an immigration issue and that providing access to prenatal care constitutes benefits for illegal immigrants, Archbishop Lucas responded: Bishop Bruskewitz, Bishop Dendinger, and I recognize and understand that there are legitimate concerns with respect to the predominantly federal policy issue of illegal immigration. We wish that every pregnant woman living in Nebraska was lawfully present, pursuant to a just, efficient, and effective federal policy, but the realities are that the federal immigration system is badly broken and in need of significant reform. Nonetheless, unborn children are not illegal aliens. They are unique human beings and presumptive U.S. citizens who will be fully citizens upon birth. Their health and well-being must be favored in the proper balance. The fact that there is federally authorized and supported program, the unborn child option of the Children's Health Insurance Program that helps to make this critically important coverage possible in these circumstances, is a testament to a compelling respect for the lives and welfare of unborn children. Again, I really appreciate them differentiating between what is going on at the federal level with our immigration policy and the very real and significant problems that causes for us as individual states but the fact that these are children who, through no fault or choice of their own, are being born into these circumstances. [LB599]

SENATOR CARLSON: One minute. [LB599]

SENATOR DUBAS: So I think that's something that maybe if we turned our energy and frustration and concerns about our federal immigration policies towards our federal representatives and demand that they take action and give us good, solid immigration policy, we wouldn't be forced into having the discussions like we're having tonight on this issue. But again, for me, this was a very personal conviction, a personal, deep part of my faith that I cannot separate and turn my back on and be able to leave my legislative career with a clear conscience. Thank you, Mr. President. [LB599]

SENATOR CARLSON: Thank you, Senator Dubas. Senator Burke Harr, you're recognized. [LB599]

SENATOR HARR: Thank you, Mr. President. Members of the body, well, here we go again. This is a very tough issue for a lot of us out there. Let me turn on my light. The Legislature, in 28-3,104, made the following findings: At least by 20 weeks after

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fertilization there is substantial evidence that an unborn child has a physical structure necessary to experience pain; there is substantial evidence that by 20 weeks after fertilization unborn children seek to evade certain stimuli in a manner which in an infant or an adult would be interpreted as response to a pain; anesthesia is routinely administered to unborn children who have developed 20 weeks or more past fertilization who undergo prenatal surgery; even before 20 weeks after fertilization, unborn children have been observed to exhibit hormonal stress responses to painful stimuli. Such responses were reduced with pain medication...when pain medication was administered directly to such unborn child; and it is the purpose of the State of Nebraska to assert a compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates they are capable of feeling pain. So what does that mean? Well, we may legislate a finding that unborn children at 20 weeks can feel pain. We know there are, by this very statute, that there is the ability to have surgery at 20 weeks. Here's my question. Why would we want an unborn child to needlessly suffer pain, especially when we have a way of preventing it? That is cruel and inhumane. I don't care if that kid, that unborn child, is American, Russian, Red Chinese, Vietnamese, whatever; how can you knowingly let a child suffer when you know there is something you can do, nay, something you have a moral obligation, I would argue, to do? We have a situation here where you can hate the mother, and I get that, I don't agree with it but I can understand. You can hate the mother but you got to love the child. That child has done nothing, has not even faced this world yet and has done nothing wrong. No original sin has come upon this child yet. It has done nothing wrong and yet we are deciding to let that child suffer when we have the ability to make that child better. I mentioned earlier this week that this is Holy Week and it still is Holy Week, and I think it's important that we really focus this week on what our priorities are. Ask yourself what is the right way. Ronald Reagan had what he called the Eleventh Commandment. Now it was first speak no evil of fellow Republicans, but I think it's just as... [LB599]

SENATOR CARLSON: One minute. [LB599]

SENATOR HARR: Thank you...appropriate here. Do no evil, speak no evil of someone else is basically what it is, one of your own. Ladies and gentlemen, that child in the womb is one of our own. It does not know the difference between being born being Mexican, a parent of Mexican descent, Russian descent, Canadian descent, American descent. That child in the womb is just that--a child--and here we are putting our standards on that child who has done nothing wrong. Now I don't like talking about this issue. It's a very personal issue to a lot of people and I understand why and where people stand on this issue, but at the end of the day you need to ask yourself what has that child done wrong. Why do we want that child to suffer needlessly when we know that child can feel pain? Thank you. [LB599]

SENATOR CARLSON: Thank you, Senator Harr. Senator Nordquist, you're recognized.

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[LB599]

SENATOR NORDQUIST: Thank you, Mr. President and members. I think...I wanted to talk a little bit about what we've been experiencing in our state over the last year since this policy...since the prenatal care was, you know, was taken away from these children. In July of 2011, the Journal Star, JoAnne Young wrote an article about how the burden has been...where it's been falling and the impacts specifically on clinics and doctors and some of the health outcomes that have been taking place since the state complied early last year with the federal mandate to exclude prenatal coverage for about 1,600 women and those not...those who chose not to find an alternative...and then chose not to find an alternative way to pay for the care. The effects have then mounted for women, their babies, and providers. Across the state, according to these providers, babies have died because their mothers did not get prenatal care. Women have traveled long distances for care and babies have been delivered in clinics, ambulances, emergency rooms, and received more expensive, intensive care. Folks, the data we have talked about up to this point, the numbers we have talked about, the fiscal costs, those are Nebraskans, those are Nebraska babies, those are lives that are impacted and the care that they're getting is not the level that we would want for a baby in our family, in any one of our families in here. We've talked at length last night again about the issue of protecting life and standing for life and we've seen the tragic consequences of this failure to act on behalf of the state. Again, I think Senator Mello may have handed out this article from March 2010 from the Omaha-World Herald. "Abortion Tied to Prenatal Loss" spoke specifically about a doctor in Schuyler that talked about his experience where one pregnant woman opted for an abortion three weeks ago, from the date of this article, because she felt she couldn't pay for the prenatal care. A second is seriously considering terminating her pregnancy, although he is trying to talk her out of it, Dr. John Jackson of Memorial Hospital in Schuyler said. These are tragic consequences that are happening because of our failure to act and the fact of the matter is we know that this is a pro-life issue. We've heard other people on the floor talk about it tonight. We all received the letter from the three leading pro-life groups in our state back when this issue was being discussed in 2010 where they said, and this is from Nebraska Right to Life, the bishops' pastoral council, and Nebraskans United for Life: We believe this would be a terrible injustice that could do great harm to the lives of children who will no longer receive critical prenatal care. What's worse, not receiving coverage for such care could be a decisive factor in leading some pregnant women to choose abortion over childbirth. That was dated February 16, 2010. The article I spoke about, what we know for sure, one pregnant woman in Schuyler--there are similar stories in Omaha and other communities in our state--that was dated a month later, March 2010. The letter that was written... [LB599]

SENATOR CARLSON: One minute. [LB599]

SENATOR NORDQUIST: The letter that was written by those three pro-life groups that

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warned that women not receiving this coverage for these unborn children could be a decisive factor in leading some pregnant women to choose abortion over childbirth, and that is exactly what happened a month later. This wasn't some threat to pass a policy to say, oh, this could happen. They know what was going to happen. They put it in black and white. They sent it to every one of us and a month later, in black and white in the newspaper, we read about the tragic consequences. That's why they went on to say in this letter, we consider it an urgent pro-life matter for the Legislature and the Governor to do what is ever necessary to ensure that unborn children continue to receive prenatal care under Medicaid and CHIP. It was urgent in 2010, in February 2010, because a month later... [LB599]

SENATOR CARLSON: Time. [LB599]

SENATOR NORDQUIST: ...children were aborted. Thank you. [LB599]

SENATOR CARLSON: Thank you, Senator Nordquist. Senators wishing to speak include Senators Krist, Lathrop, Nelson, Gloor, and Council. Senator Krist, you're recognized. This is your third time. [LB599]

SENATOR KRIST: Thank you, Mr. President. Good evening, Nebraska and those that are watching across Nebraska. Sometimes it's difficult to get back to all of you with the e-mail, so I've just decided that there's a couple of questions here that I think I'd like to shout out and say hi to Crofton, Nebraska. Verlynn Kneifl sent me a nice note; she has some questions: Extremely disappointed to hear about LB599, would provide taxpayer funding benefits to illegal aliens. How would...her question: How would LB599 benefit the taxpayers of Nebraska? I would like Senator Gloor, if he would, to help me out with an explanation for Verlynn. [LB599]

SENATOR CARLSON: Senator Gloor, would you yield? [LB599]

SENATOR GLOOR: Certainly. [LB599]

SENATOR KRIST: Senator Gloor, you administered to and led a hospital in the Grand Island area so I know that you're very familiar with the economics of this situation. Let's just say a normal young lady comes in and she finds out that she is pregnant, in reasonably good health, and has a checkup. If there are no complications in the pregnancy, what do you think the cost would be in following through in the normal doctor-patient relationship through a nine-month normal gestation? [LB599]

SENATOR GLOOR: We've been given a number that on average runs around \$800. We've also been told it could be upwards of \$1,500 for somebody who has the Cadillac plan of prenatal care. Let's put it that way. [LB599]

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SENATOR KRIST: Okay. So could you assume or I would like to assume for the purpose of the discussion, it will probably cost less than \$2,500, even with transportation and all the other things involved, for that young lady to get to the doctor, see the doctor, as long as she's in the local area, and have good prenatal preventative care for her baby. Would you agree with that? [LB599]

SENATOR GLOOR: Yes, I would, and that would even be on the high side. [LB599]

SENATOR KRIST: Okay. Now let's just say that a condition that could be prevented from the normal...folic acid, what would it cost to put that person on folic acid for nine months in the event that they might need it? [LB599]

SENATOR GLOOR: That I can't tell you specifically. I'm no longer sure what specific drugs might be. But, you know, let's put it this way, taking something that is a not elaborate medicine of some kind can't be more than maybe \$20 or \$30 a month or two-month prescription. I wouldn't think it would be very expensive. [LB599]

SENATOR KRIST: Okay. And if they're not given folic acid or some type of preventative care that's needed, what might be just one of the things that could happen at childbirth that would cause them to stay in a NICU, a very expensive place? Could you describe the NICU and what might be one of those situations? [LB599]

SENATOR GLOOR: Well, there are any number of things, failure to thrive, low birthweights. You could end up with poor nutritional issues that affect the placenta's ability to stay attached to the uterine wall. And understand that I was an administrator, not a clinician... [LB599]

SENATOR KRIST: Right. [LB599]

SENATOR GLOOR: ...so I'm just kind of falling back on what I know from three decades' worth of being involved in these sort of things. But, you know, that baby is in a fragile, sensitive state when it's in its mother like that and that's the reason that prenatal is so important, but let's assume that that child struggles and gets put in a neonatal intensive care unit. Neonatal intensive care units aren't the kind of places that babies stay overnight for observation. They go in there because they're struggling. Low birthweights, that birthweight has to be brought up. So you can expect that baby to be in that intensive care neonatal unit for easily a week to two weeks. That would not be unusual. If they're sick enough to go in... [LB599]

SENATOR CARLSON: One minute. [LB599]

SENATOR KRIST: At how much a day, Senator? [LB599]

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SENATOR GLOOR: Depends on units but it wouldn't be unusual in an intensive care unit like that to see costs that would run \$3,000 to \$5,000 a day, I think. Again, it... [LB599]

SENATOR KRIST: Three to five thousand dollars a day. So we've just established, Verlynn, that the benefit to the taxpayers of the state of Nebraska is that every time we take preventative care, preventative care, neonatal care, we potentially avert \$3,000 to \$5,000 a day by spending \$2,500 over the period of gestation over nine months, hoping that that baby gets to term and is healthy and can think and can be productive and can pay taxes. Thank you, Senator Gloor. Thank you, Mr. President. [LB599]

SENATOR CARLSON: Thank you, Senator Krist and Senator Gloor. Senator Lathrop, you're recognized. [LB599]

SENATOR LATHROP: Thank you, Mr. President and colleagues. You know, we voted on this last night. There was a little bit of trying to frame this issue as an immigration issue before we even took the bill up, and since we've voted on it on General File there's been more of that. And, you know, I thought I would take my five minutes and talk about what I think are the realities and maybe I can start by recognizing what Senator Price said and that is the fact that we have undocumented people in this state is not our fault. That is a federal issue. The federal government let us down and these people came in. They came in looking for work. I don't believe that they come all the way to Nebraska trying to have a place to have a baby. They come here looking for work and our federal government let them cross the border almost at will. And so they're here and that is our reality. I think if I were to put an amendment up or we had a resolution that asked whether or not you believe an undocumented person in this country ought to get just plain benefits we'd all say, no, they shouldn't, they shouldn't get ADC or public assistance benefits. And so that's not what we're passing on tonight. We're not trying to decide or make a general statement that the illegal immigrant should get Medicaid benefits. That isn't the issue. We are tonight asking whether there should be an exception to the general rule that they should not get benefits. We've already been down that road. They have to E-Verify. We passed that law. I voted for that law and I stand behind that. But that isn't the question. We turned the issue tonight into something broader than one small class of people, right, but it's only a small class of people that we are talking about. And the way it has been framed from there is that we are now burning people's tax dollars for this small group of people that are here illegally. And the question...and we've had folks that have stood up, and I appreciate their position, that have stood up and said, but the taxpayers don't want us spending money on it because it's their money. The difficulty with that argument is...or the problem with it is it's a fiscal argument, it is a taxpayer argument, but what we've heard from Senator Krist, Senator Campbell, people on the Health Committee that have looked at this issue is that we're actually saving money by allowing the preventative care. So if where you're at on this issue is I'm trying to protect the taxpayers, understand that as soon as this

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child draws their first breath, sees the first light of day it is an American, it is a Nebraskan, it will get Medicaid benefits, and if it is sick we will provide care. And so tonight the question, if you want to look at this as purely a fiscal matter, is that this money is an investment... [LB599]

SENATOR CARLSON: One minute. [LB599]

SENATOR LATHROP: ...in saving money in care, expensive care. If it is about immigration, this is not a sweeping, broad license to put every undocumented person on Medicaid. It is a small group and we are investing in saving money in expensive care. And we know, we know, colleagues, that we will save money if we spend money now. So if your concern is the taxpayers, this is a good deal. And it seems counterintuitive but it's going to be way more expensive if they don't receive the care and treatment prenatally. It's that simple. And so what we're left with, I think, is ideology. I do not want to provide anything to anybody who is undocumented. [LB599]

SENATOR CARLSON: Time. Thank you, Senator Lathrop. Senator Nelson, you're recognized. [LB599]

SENATOR NELSON: Thank you, Mr. President and members of the body. I think it's fortuitous that I came after Senator Lathrop because I am going to talk in fiscal terms, not that I want to necessarily but I think it's time that we examine the financial area. We have the human side, the emotional side. We've heard a lot of that tonight and last night. Senator Nordquist says we're investing a little bit up-front. Well, a little bit is \$1,500,000 over two years from the state of Nebraska and \$3.5 million from the federal government over two years, and that's a lot of money. But let's back up and let's look at what Nebraska has to do, \$1.5 million over two years or \$750,000. Does the taxpayer have to do that? I don't think so. I think it can be done by charitable entities, by private individuals, by corporations if they are organized and have the will to do that. In March 24 of 2010, the World-Herald had an article, and this may have been after the initial effort that we're facing with LB599 tonight went down, a private offer of \$3 million to pay for prenatal care. What ever happened to that? Why wasn't some vehicle established to accept that money and make it available, make it available to OneWorld, Charles Drew clinic, private clinics, family physicians so that people had a place to go, not people but young women for prenatal care? I think, and I won't go off on that tangent, but it could be set up. In Omaha, the donations to the Open Door Mission and the Siena/Francis House are unbelievable. They feed...each of them feeds upwards of 300 people a night and they maintain them. A lot of money comes in there. A lot of money goes into the food bank. We feed a lot of hungry families in Omaha. I can't quote you the figures but I know I get letters every other week from those organizations asking for more money and they get the money and they do it. If we can do that in those places, we can do that. If it's important to people and organizations, we can do that to provide prenatal care. It doesn't have to be at the costs of the Nebraska taxpayer. They can volunteer, they can

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donate if they want to, and I don't see any reason why we can't come up with \$1.5 million for a two-year period so that we can solve this and that these women have a place to go. Whether they're sanctioned or undocumented, they can go, no questions asked, they can receive \$2,500, if that's the figure, I think it might be more, of care and it can come out of that fund, out of that vehicle that's been set up. Now you say, well, we don't have it available so what can we do? Well, it can be done. It shouldn't take too long. It might be a small waiting period but that's something that we ought to explore, we ought to look into. And if all of Nebraska is watching tonight, there must be some of you who like this idea and would like to make these donations and these contributions and get organized on this so that we can solve this problem, and it is a pressing problem, and we don't have to get into these other arguments about illegality or the necessity or the morality or it's all for the child. [LB599]

SENATOR CARLSON: One minute. [LB599]

SENATOR NELSON: We can handle it this way and that's the way it should be done. And perhaps there are other ideas how we can go about this. Now we might say that doesn't settle the issue tonight, but it does for me. I'd say let's go ahead and look forward to some sort of plan there and not impose a fiscal obligation on the people of Nebraska that many of them don't want. I think I will conclude with that and argue for that, and I urge all of you to think about this, what can be done, how it could be done, and how we could solve this problem on a voluntary basis and not get involved in the financial end and fiscal impact and the argument over why do I, as a Nebraska taxpayer, have to pay for this for whatever reason. Thank you, Mr. President. [LB599]

SENATOR CARLSON: Time. Thank you, Senator Nelson. Senator Gloor, you're recognized. [LB599]

SENATOR GLOOR: Thank you, Mr. President. And my friend Senator Nelson has segued nicely for me. Senator Nelson has a great idea, but it is an idea that already has taken foot. There are organizations, he mentioned some in Omaha, in Lincoln I know there's Clinic with a Heart, in Grand Island there's a Third City Community Clinic and there are similar organizations, not to mention the federally-qualified community health centers that are stationed in different locations around the state, although that uses federal dollars rather than donated dollars. But these entities are there, do try to provide this care, seek free pharmaceuticals from area pharmacies, have physicians who are willing to donate his or her time to provide the services and provide the care, have diagnostic facilities. They're willing to do things like ultrasound and donate that care, and yet, even with this, are challenged to be able to come in contact with the women who require these services and the babies that they carry because they're not conveniently located within walking distance of the facilities that are there. These women are scattered throughout the state of Nebraska, some miles and miles and miles away from the services that can be provided. Yes, I do remember the discussion about

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donors in the Omaha area who are willing to try and bring some dollars forward, but my recollection was it required some degree of match from either the state or the federal or a combination of both that was not forthcoming or could not be forthcoming for legal purposes. I mentioned last night, I'll mention it again, there was a cry last night that fell along the same appropriate lines, a plea from somebody who said, where are our charitable organizations; where are our churches? Well, my comment last night was, the churches, at least the Catholic Church, is represented in the St. Elizabeths and the Good Samaritans and the St. Francis and the St. Mary's. Those are church-sponsored hospitals that in fact help subsidize, if not run, these outreach clinics to try and provide these services, and yet they're coming to us saying it's not enough. The challenge here again is women who present babies that are born in emergency rooms and emergency situations without the appropriate prenatal care--prenatal care that can cost \$800 to \$1,500, easily under \$1,000 in most cases--and neonatal intensive care units which run to the tens and tens and tens of thousands for a length of stay for one of those babies. It is an admirable thing to try and achieve and that is to turn to charity for this but that effort has been underway and continues to fall short, not for lack of an effort but for lack of resources and lack of an ability to come in contact with all of the women and those babies who need those services. That's where the challenge lies. Again, the focus needs to be on prenatal care. Too often the dollars to these charitable organizations get gobbled up on the high end, helping pay for the expensive care, when small amounts of dollars paid on the front end are where we really need to focus and it's the whole reason behind LB599. I'd like to read a letter that I got, an e-mail, from a physician I know in Grand Island. [LB599]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: One minute. [LB599]

SENATOR GLOOR: Well, I probably won't have a chance to finish this, but I will start it: As a former hospital administrator, Senator Gloor, hopefully you can see what a tough place hospitals and providers have been put in since thousands of women became ineligible for Medicaid during pregnancy. On city call at St. Francis, St. Francis is in Grand Island, I used to get the occasional phone call from a patient who stopped in with a problem to our birthing center. Now I would estimate one-third of all city call nights I have a delivery for a patient with either no prenatal care or substandard care due to lack of insurance or means to get to the community health clinic in Columbus. I feel this puts us as providers in a very difficult position. My most recent poor outcome that is fresh in my mind was a child that I delivered to a young Hispanic mother who had no prenatal care. And I'll be glad to finish that if somebody wanted to give me their minutes at some point in time. I've got to point out that this doctor would probably have received no payment. [LB599]

SENATOR LANGEMEIER: Time. [LB599]

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SENATOR GLOOR: Thank you. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Gloor. Senator Council, you're recognized. [LB599]

SENATOR COUNCIL: Thank you very much, Mr. President. Good evening, colleagues. I rise in strong support of LB599 and AM2752, and in strong opposition to AM2759, and I have three points that I want to make in regard to the basis for my support for LB599 and my opposition to AM2759. First and foremost, I find it incredulous that so-called pro-life advocates do not see the hypocrisy, the absolute hypocrisy in their opposition to LB599, regardless of their attempts to cast this as an immigration issue or to cast it as a taxpayer issue. Allow me to remind you, colleagues, some of the very same people who fought to enact the law to prohibit abortions after 20 weeks on the basis of their argument, and I quote, that the state has a compelling state interest in protecting the lives of unborn children from the stage at which substantial medical evidence indicates that they are capable of feeling pain. How can you in good conscience stand, after having voted in support of that statement of legislative intent, and assert that the lives of unborn children of undocumented immigrants aren't worthy of this compelling state interest to protect them? Well, I submit to you that what you're admitting to is that your pro-life stance is qualified and it's qualified by who the unborn child happens to be and that you're willing to pick and choose and place value on the lives of some unborn children over the lives of others. How can you do that and proclaim to be pro-life? The second point: I get my share of e-mails and I find them interesting. Someone alluded to it earlier, one of the e-mails that is repeated by several authors is, oh, if LB599 is passed there will be this influx of immigrant women who are coming to the state of Nebraska solely to have their children and to receive this high-quality medical care during their pregnancy. I've received a lot of them. They say it's going to make it a magnet. First of all, I think Senator Nordquist shared data that showed that there was no marked decrease in the number of people who came to Nebraska, immigrants, undocumented, after the previous law was repealed, no evidence of that whatsoever. But let me give you another compelling piece of data because, while it's often unspoken, everyone knows who these laws are directed at and these laws are directed at immigrants principally who come to the United States from Mexico and are not documented, haven't entered the country lawfully. Now that's where the bulk of these people that we're trying to prevent from just burdening our health and welfare system, and they're coming to Nebraska for that sole purpose. Help me understand why you would want to travel all the way from the Mexican border to Nebraska when Texas--Texas--is 1 of 13 states that provides coverage for pregnant women under the CHIP unborn child option? Children of foreign-born, illegally entered women are covered under the Texas CHIP unborn child option, but you will assert that if we enact LB599 all of these pregnant women are going to rush to Nebraska to have these children. It's absurd. Finally, the one I get that kind of troubles me because a number of

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the people who write these e-mails are attacking my character, as character assassination. I'm un-American, I'm unpatriotic. [LB599]

SENATOR LANGEMEIER: Time. [LB599]

SENATOR COUNCIL: I'm condoning illegal... [LB599]

SENATOR LANGEMEIER: Time. [LB599]

SENATOR COUNCIL: ...activity. Did you say time? [LB599]

SENATOR LANGEMEIER: Time. [LB599]

SENATOR COUNCIL: I didn't hear one minute. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Council. Senator Ken Haar, you're recognized. [LB599]

SENATOR HAAR: Mr. President, I'd like to give my time to my friend Senator Krist. [LB599]

SENATOR LANGEMEIER: Senator Krist, you're recognized. [LB599]

SENATOR KRIST: Thank you. And thank you for the courtesy, Senator Haar. I just...seems like we have more folks back in the Chamber now and I just really wanted to reemphasize to you how really bad an idea this amendment is, AM2759. Remember that a child that is born in the United States by the Fourteenth Amendment is a citizen of the United States, and of course born in Nebraska would then be a resident of Nebraska. What Senator Schilz has proposed is basically unlawful. It would be to ask a person to qualify for the Medicaid program by proving that that person is qualified to be there, and that would be the mother who in this particular case we concede is an illegal alien. She's not due any services. We're not treating her. We are treating the baby. It should be clear that what we would be doing here is setting ourselves up for a constitutional challenge, not just at the state level but at the federal level, and a potential violation of some immigration factor that would call for us to qualify a person for services that they would be normally qualified for by simply walking into an emergency room, which is what we're trying to get away from in the very beginning. So the full circle is they are already eligible to walk in and making them qualify for those proving their citizenship or they're here legally is not part of the equation, and we have to live with that. That's a federal...those are federal laws. So I would hope that when you look at AM2759 you would differentiate between the services that are provided to the mother and to the unborn child because there's no question by the CMS that the unborn child is due services in the prenatal care position under the CHIP program, which again, let me

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remind you, is a 60/40 or sometimes a higher split matching funds...or funds matched from the federal government. The mother, which we were incorrectly executing the program, which is the letter that I've been referring to from CMS, we cannot pay for the mother's services. It is not legal for us to pay for the mother's services, for the woman's service when she's a mother. Now the prenatal condition allows us to treat the child in the womb. So I would ask you, if you have...if we have an opportunity here shortly, to consider AM2759 to be one step in a direction of an unlawful act and potentially a constitutional violation. Thank you, Mr. President. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Krist. Senator Nordquist, you're recognized. [LB599]

SENATOR NORDQUIST: Thank you, Mr. President and members. I just wanted to say a few things on the mike real briefly, kind of in response to Senator Nelson's comments about the private dollars that are out there. And there were in 2010 offered several million dollars from private donors in Omaha to be essentially the state's match for a couple years--it would only be a couple years and it wouldn't be sustainable--to be the state's match to pull down the 70 percent federal match to cover these services. We can say why don't we just...why don't we just come up with more charity to do it, and there are limits on charity, I think as Senator Nelson himself could probably attest. He has brought several bills regarding Humanities Council and Cultural Endowment, which many could argue why can't charity cover those pieces? We know that there are limits to charity in our state and that's why we have worked together on the Appropriations Committee to enhance the Cultural Endowment. And that's why in a situation like this there are limits on charity and there are needs, very fundamental, human life needs that need to be met that charity doesn't have the capacity to pick up. So that's why we are trying to move forward with this. Again, the state makes a relatively small investment and it is a relatively small investment when you look at the potential costs on the downside, costs that we have experienced right here in Nebraska with this population in the last year; \$600,000 in one case in the first 28 days. We didn't even go past 28 days with that specific case to see how much the costs were for the first year or the first three years. They were tremendous, I'm sure. So we can try to shift this burden on to somebody else, outside of us working here, but the fact of the matter is that that doesn't always work, just like it doesn't work with the Cultural Endowment. There sometimes needs to be public-private partnerships and sometimes there certainly is a role for those of us in government to serve those who need us to make sure that they can have a healthy start at life. Thank you, Mr. President. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Nordquist. Senator Wallman, you're recognized. [LB599]

SENATOR WALLMAN: Thank you, Mr. President. Members of the body, I voted for cultural grants as well. And so this is a pro-life issue. I've said about all I wanted to say

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on this I guess, but please vote green for LB599 and red on AM2759. And then let's have compassion on those unborn children. Thank you, Mr. President. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator Schilz, you're recognized. [LB599]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. I wanted to stand up one more time to bring forward, and as I was talking to folks sitting on the side and things like that, I heard people talk about this issue and this bill and what we're doing here. And quite honestly, if it was one of those things where all we had to worry about was just the prenatal care and there wasn't any question about the immigration issue, undocumented workers, undocumented citizens, this bill would have flown through here with no red votes at all. Unfortunately, that's not the case. And many constituents in the state of Nebraska are concerned about where their tax dollars go and what they're being used for, and that's why I'm standing up here tonight, is to make sure that those folks and their beliefs and what they believe should happen on this bill are put into the record so that they are properly represented within the walls of this floor. This amendment would do what the majority of the people that I've gotten e-mails from today from my district have asked, just to make sure that when somebody goes to apply for this prenatal care that they make sure that they are qualified as a citizen or as a legal resident. I think it makes sense. Are there impediments to it? I don't know. I mean I haven't had a chance to digest what Senator Mello gave to me. But I know this: This is a tough issue. I want to make sure we get this amendment to a vote. I don't want to take up more time than what needs to be taken up. But there are people out there within the state of Nebraska that believe this issue that we're talking about is important. And I can tell you what, a vast majority of those people that I talked to believe wholeheartedly that they are 100 percent pro-life even though they don't want this money going towards somebody that's not a legal resident. So I hope we back off on the rhetoric of who is and who isn't pro-life. I hope we back off on the rhetoric of who's morally right here and who's not, because in this world, folks, there's a lot of gray and we're wading right into the middle of it. So I hope that everybody keeps the respect that everybody here on this floor deserves and you vote your conscience, because that's fine. That's why we're here. And in the end, 49 senators of the state of Nebraska will come up with the proper and right thing to do for our state. I believe that. It doesn't matter what side of the issue we're on. We're on Nebraska's side. And when we work together when we debate these issues and when we take a vote, we are a team and we're Nebraska's team. And when that happens and the procedure is done and everything else is done, it's the right decision. Now I think we've got some procedure left to go here but I don't want to take all night. It's been way too long. It's getting more difficult and more difficult to think. So vote how you feel. Vote what you believe and respect everyone for what they believe as well. Thank you very much. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Schilz. Senator Council, you're

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recognized. [LB599]

SENATOR COUNCIL: Thank you very much, Mr. President. I apologize, colleagues. And I guess it's kind of fortuitous that I was...my light was on following Senator Schilz because the third point I wanted to make that I didn't get to the last time I was on the mike was in reference to the statement that he just repeated about this bill being railroaded through here, and I'm having difficulty understanding it because my understanding of the history of LB599 was that it was introduced in January of 2011, last year; that it had a hearing in March of 2011. So this bill has been out there. There are no committee amendments when it came to General File in February of this year. It was placed on General File in February. And we heard it and here we are now. The last I checked this is April, so someone help me understand what railroad does Senator Schilz think this car is on, because the railroad as I see it is awfully slow because it's been out there for over a year. And in that regard, for those who keep sending the e-mails saying that if you support LB599 you're condoning illegal activity, I submit to you, colleagues, if you support AM2759 you are engaging in illegal activity. Those who oppose LB599 say those who are in our country without documentation are ignoring our laws and they should not receive any benefit of this country. Yet Senator Schilz offers an amendment that ignores federal law, and when pressed on that issue his response was, I didn't have time to look at it because you're railroading this bill through, a bill that was introduced in January of 2011. Let's be honest here, folks. Let's engage in honest debate about what this issue is and what it is not. And what AM2759 is, is an attempt to deny certain unborn children this protection that we state to be a compelling interest of this state, to be free of pain, to have an opportunity to be born healthy without any defects or deficiencies. And we talk about the taxpayers and we are not willing to make the small investment in prenatal care to save taxpayers, to save taxpayers the costs associated with Medicaid coverage when that child is born. The unborn CHIP option provides a greater federal match than Medicaid. I believe that's saving taxpayer dollars. Now if the taxpayers are saying to us, something we can control, something we can control, we would prefer that you bear the costs of neonatal intensive care units... [LB599]

SENATOR LANGEMEIER: One minute. [LB599]

SENATOR COUNCIL: ...when children without the necessary prenatal care are born prematurely, are born underweight and all of the medical consequences associated with that, we're willing to pay \$3,000-plus a day in a neonatal intensive care unit as opposed to \$800 to \$1,500 max in prenatal care. I think the responsible thing to do is to pass LB599 with AM2752 and not to advance AM2759. Thank you. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Council. Seeing no other lights on, Senator Schilz, you're recognized to close on AM2759. [LB599]

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SENATOR SCHILZ: Thank you, Mr. President. Members of the body, as everybody scatters (laugh)...oh, that's not for me. I just...I know we've gone on a long time about this. The amendment says what it says. It's simple. It's easy to understand. It's what...you know, it is what it is. It says that someone that wants to have this prenatal care and wants to have it covered needs to prove residency, and that's the long and the short of it. And it's up to everyone on this floor to decide where they fall on this issue. And with that, I would ask for your support to the amendment that's up here. Thank you very much. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Schilz. You have heard the closing on AM2759. Question before the body is, shall AM2759 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Senator Fulton, for what purpose do you rise? [LB599]

SENATOR FULTON: I request a call of the house. [LB599]

SENATOR LANGEMEIER: There has been a request to put the house under call. All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB599]

CLERK: 28 ayes, 2 nays to place the house under call. [LB599]

SENATOR LANGEMEIER: The house is under call. Senators, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Mello, would you check in? Senator Louden, would you please return? Senator Janssen, would you check in? Senator McGill, would you return to the Chamber? Senator Lathrop, would you please check in? Senator Lautenbaugh, would you check in? Senator Brasch, would you please check in? The house is under call. Senator Louden, please return to the Chamber and record your presence. Senator McGill, please return to the Chamber and record your presence. The house is under call. Senator Fulton, for what purpose do you rise? [LB599]

SENATOR FULTON: When everyone arrives, I'd like a roll call vote in regular order, please. [LB599]

SENATOR LANGEMEIER: Thank you. Senator McGill and Senator Louden, please return to the Chamber. The house is under call. Senator Fulton, Senator McGill is no longer in the building. Do you care to proceed without her or do you... [LB599]

SENATOR FULTON: May I ask if she has checked out? [LB599]

SENATOR LANGEMEIER: She has not. [LB599]

SENATOR FULTON: We'll wait. [LB599]

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SENATOR LANGEMEIER: Members, you are under call. You need to remain in your seats. Senator McGill, the house is under call. Please return to the Chamber. All members are present and accounted for. Senator Fulton has asked for a roll call vote in regular order. The question before the body is, shall AM2759 be adopted to AM2752? Mr. Clerk, please call the roll. Regular order. Thank you. [LB599]

CLERK: (Roll call vote taken, Legislative Journal pages 1438-1439.) 11 ayes, 23 nays, Mr. President, on the amendment to the amendment. [LB599]

SENATOR LANGEMEIER: The amendment is not adopted. With that, I raise the call. Mr. Clerk, items for the record? [LB599]

CLERK: Mr. President, Enrollment and Review reports LB924 to Select File, LB1050 to Select File. And resolutions: LR627, Senator Krist; LR628, Retirement systems; and LR629, Senator Mello. That's all that I had, Mr. President. Thank you. (Legislative Journal pages 1439-1441.) [LB924 LB1050 LR627 LR628 LR629]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We return now to discussion on AM2752. Those wishing to speak, we have Senator Krist. You're recognized. [LB599]

SENATOR KRIST: Is there anybody else's light on? [LB599]

SENATOR LANGEMEIER: There is not. [LB599]

SENATOR KRIST: Okay. If that's okay, I would just like to use this for my closing and my action. The point of AM2752 was deliberative; it was intended to do something useful. However, the deal that's been struck is one that I will do my best to make sure that we stay to the handshake. We will pull those amendments that are put on file and stick to the deal. The folks who have made the deal have said that there were three, three amendments that they wanted to discuss. We just took a vote on one of them. So I'm going to assume that there will be two more and that we will at some point be able to get to the discussion about voting up or down on LB599, because they've both all said that this is not a filibuster and I would trust my colleagues' word. So at this point, I will...I'd like to withdraw AM2752, Mr. President. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Krist. Seeing no objection, AM2752 is withdrawn. Mr. Clerk. [LB599]

CLERK: Mr. President, the next amendment I have, Senator Campbell, I have AM2755, but I have a note you want to withdraw and substitute, for AM2755, AM2761. [LB599]

SENATOR CAMPBELL: That is correct, sir. [LB599]

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SENATOR LANGEMEIER: Seeing no objection, so ordered. [LB599]

CLERK: Senator Campbell offering AM2761. (Legislative Journal pages 1441-1442.) [LB599]

SENATOR LANGEMEIER: Senator Campbell, you're recognized to open on AM2761. [LB599]

SENATOR CAMPBELL: Thank you, Mr. President and colleagues. AM2761 would put into place a reporting mechanism that Nebraska hospitals report data regarding women delivering babies in the hospital on an annual basis to the Department of Health and Human Services, and the data would include a number of items. We have looked at a snapshot view of the hospitals and we are putting forth this amendment. Thank you, Mr. President. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Campbell. Mr. Clerk for an item. [LB599]

CLERK: Mr. President, I now have an amendment. Senator Janssen would move to amend Senator Campbell's amendment with AM2775. [LB599]

SENATOR LANGEMEIER: Senator Janssen, you are recognized to open on your amendment to AM2761. [LB599]

SENATOR JANSSEN: Mr. Clerk, is there an amendment behind that I filed, AM2777? [LB599]

CLERK: Yes, sir, there is. [LB599]

SENATOR JANSSEN: If so, I'd like to withdraw AM2775 and substitute with AM2777. [LB599]

CLERK: That's...Mr. President, Senator Janssen would offer AM2777. (Legislative Journal pages 1442-1446.) [LB599]

SENATOR LANGEMEIER: Seeing no objection, so ordered. [LB599]

SENATOR JANSSEN: Thank you, Mr. President, members. AM2777 to LB599 would require the Department of Health and Human Services to develop a drug testing program to screen applicants and recipients of cash assistance benefits under the Welfare Reform Act. If an applicant or recipient is declared ineligible for benefits, he or she would be referred to substance abuse treatment program by DHHS Division of

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Behavioral Health. He or she would be ineligible for cash assistance benefits for one year. This language is similar to LB221, which is presently pending in the Health and Human Services Committee. I introduced this idea after hearing numerous Nebraskans both in my district, Dodge County, and across the state who asked me why they have to undergo drug testing in order to qualify for many jobs in our state but recipients of our state's cash assistance program did not have to be drug-free in order to receive cash assistance. The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 allows states to test Temporary Assistance for Needy Family programs. Numerous states have introduced some form of drug testing requirement for welfare beneficiaries in the last few years. Several proposals from other states included far more assistance programs than this amendment would. When I researched this subject over the last several years, I made the conscious decision to limit Nebraska's drug testing proposal to programs in which adults had children in their care who depend on them for food, shelter, and support. Raising a child, as we are all aware or most of us are aware, is a challenging experience, definitely rewarding, but, no doubt, challenging at times. Clouding this important responsibility with drug use is not fair to the adult or the child. I would hope this amendment will encourage parents to realize the importance of being a good parent. I asked DHHS for figures on how many people they estimate LB221 at the time, now the amendment, would impact. As of December 31, 2010, there were 23,261 total persons receiving Aid to Dependent Children in Nebraska. LB221's fiscal note indicates that 5,629 adults could potentially be tested for drug usage. DHHS ran the numbers with a possible 15 percent test rate. This idea deserves serious consideration because these 17,632 children depend on those adults for their care. Drugs truly damage not only the user but also the family and friends. I hope this concept can make a difference in encouraging people to steer clear from illegal drugs. I amended this several times tonight. And, actually, in listening to the debate, Senator Mello brought up some points. And I had originally wanted to include...and have the debate, and I...and if there is a protracted debate, which I am not encouraging...I'd like to see a vote on this bill. I did...at one point I had in there that recipients of the program that we're speaking to in LB599 would also be subject to testing. Senator Mello pointed out some flaws in that. He didn't point it out to me; it actually was on another bill, but I think it would have applied to this bill as well. So I amended out the portion that would have included pregnant mothers in this bill, which I had included to have that discussion on the problems with drug use while pregnant and detecting it. And I think we would all agree on that, that that is a huge issue and something that should be detected. I would note that in the amendment that I ran, that I wanted to run, it did provide for drug testing to mothers that were pregnant. It did not remove the prenatal care assistance that we were talking about. It basically gave them a referral to DHHS. And I did that, hopefully, so my motive wasn't anything other than it was, to have a discussion on this bill and not to strip the prenatal care from the people that are subject to LB599. I stand before you...I do not support LB599. That may not come to...as a great surprise. I support prenatal care. I think expecting mothers should have prenatal care. I do not think...actually, I know it should not be the taxpayers of Nebraska that are paying for

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this. I do not think this is a pro-life issue. I am a pro-life individual. And I agree with Senator Schilz, there is a lot of gray areas, and this is...we're right in the middle of a gray area. If we're going to say this is a pro-life issue, perhaps we should budget money for other countries, for children in prenatal care that are...pregnant mothers there. By saying if we're not taking care of people that are here in our country who broke our laws, illegally, if we're not taking care of those children, I think we've made a leap. Now, I understand the argument that child is going to be a United States citizen. But I can't get to the point of saying that we as taxpayers have to reward and invite illegal activity into our state. As I'm aware, no border states have this program. We got rid of this program. The numbers have lessened. And I believe if we enact LB599, it will increase...you'll see the fiscal note increase over the years, year after year after year. And we will be the only...only state in our immediate area that is offering this benefit. We could discuss this late into the evening. I don't know if it's been said on the mike, but I am certainly not part of a filibuster on this. I have asked nobody supportive of this...and I know there are people supportive of it. Actually, I don't know where Senator Karpisek is tonight, but last night he made mention on the floor, he goes, "I even signed on to some of Senator Janssen's bills," most of them, I think he said. I said, wow, because I'd never really asked anybody to sign on to my bills; maybe they don't want to. But I pulled the bill out; I dusted it off today. And there he was. Senator Karpisek was on this bill, so was Senator Bloomfield. And that's them coming to me. I don't ask people to sign on to those. The bill was in committee. It had a public hearing. It never had a vote. I wanted to have a vote. There were some issues; I'm still working on it. I asked for an interim study. The committee was very busy this year. I understand that. I don't think there was any intentions of refusing that study. I take them at their word, certainly, as friends and colleagues, that there were higher priorities for them. And I certainly understand that, having been here this session. So I stand before you offering AM2777. I would like to see an up-and-down vote. I certainly am not a fan of filibustering. I recently had a bill, in fact two of them; I asked many of you, and I don't hold grudges, but I asked many of you for your support on a cloture vote, because I thought...and at one point in time somebody that had been here before me told me my first year here that: You know what, I always vote for cloture, because I think we should have an up-down vote. And I took that...I took that piece of information and I've run with it. LB599 should have its vote. We don't have to protract the discussion on AM2777, unless you'd like to, which is fine by me. But, again, I've asked nobody to speak to it, unless they'd like to or against it, unless they'd like to. Would like to get a vote and move on tonight. And again, I do not support Nebraska taxpayers having to pay for people that have broken our laws and came here illegally, and which I think will encourage more people to come here illegally. Thank you, Mr. President. [LB599 LB221]

SENATOR LANGEMEIER: Thank you, Senator Janssen. You have heard the opening on AM2777 offered to AM2761. The floor is now open for discussion. Those wishing to speak: we have Senator Krist, McCoy, Fulton, and Cook. Senator Krist, you're recognized. [LB599]

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SENATOR KRIST: Thank you, Mr. President and colleagues. I would beg you to pay close attention to what I'm about to say, because it will be extremely relevant to whether or not you will vote yes or no on AM2777. AM2777 in its original form was LB221. It was presented to our committee, Health and Human Services Committee; it was discussed on a number of occasions. And Senator Janssen is absolutely right, he has a number of issues to work out before it was ready for prime time. It was not voted out of committee. And if he wants to make issue of it, he should pull it out of committee. There is a process by which we can do that, and you all know that. But when you're making your mind up on the substance matter, this is why it was not ready for prime time. Drug testing of welfare recipients is unconstitutional under both the U.S. Constitution and the Nebraska State's Constitution. So for those of you that have been concerned about constitutionality in issues in the past, Senator Nelson, Senator Ashford, Senator Lathrop, this is it. There has been only one case involving drug testing of public benefit recipients, which arose in Michigan. The ACLU challenged the program as unconstitutional, arguing that the drug testing of welfare recipients violates the Fourth Amendment's protection against unreasonable searches. The case, Marchwinski v. Howard, concluded, in 2003, that the U.S. Court of Appeals for the 6th Circuit upheld the lower court's decision striking down the policy as unconstitutional. Marchwinski v. Howard, 309 F.3d 330, 6th Circuit, and then reviewed again with another number. And I'd be happy bring this to any of your attention or give you a copy. The Fourth Amendment requires individualized suspicion to justify a drug test, because a drug test is a "search" under the Constitution. Normally, searches cannot be performed without a warrant. Even police must have a warrant to do what LB221 wants to do--and now AM2777--and to allow DHHS workers to do with no such constitutional protection. Understanding the mechanics of the drug testing is necessary to understand the impact of what LB221 proposes, and now AM2777. The best form of drug test is to take a urine sample from the individual. In order to ensure that the urine sample is provided by the individual and not substituted or diluted, the urine sample must be produced while the tester watches. To put it more boldly, LB221, and now AM2777, seeks to require poor people to literally expose themselves in exchange for the basic necessities of life. Even if the state develops a different type of testing method, blood testing, etcetera, courts remain hostile to the invasion of one's privacy. So it is unconstitutional. We deemed after...can I have a gavel, please? I guess I don't need it. It was deemed unconstitutional by a group, a group, of people that we consulted. That's why we didn't vote it out of committee. If Senator Janssen wants to discuss this subject matter, he should pull it out, if he has the votes to do that. I would ask you to vote no on AM2777, and let's get back to Senator Campbell's amendment. [LB599 LB221]

SENATOR LANGEMEIER: Thank you, Senator Krist. Senator McCoy, you're recognized. [LB599]

SENATOR McCOY: Thank you, Mr. President and members. I'd like to ask Senator

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Campbell a question or two, if I may. [LB599]

SENATOR LANGEMEIER: Senator Campbell, would you yield to a question? [LB599]

SENATOR CAMPBELL: Yes, Mr. President. [LB599]

SENATOR McCOY: Senator Campbell, thank you for yielding. I apologize, I didn't mean to pull you away from the discussion you were in there. I stand in favor of AM2777, and I...for a few different reasons, and I...one of them being...does LB599...I think this amendment is important, because...is there anything in LB599 that protects the unborn children from illicit drug use that we, I think, probably all know can be very damaging before a child is born? Are there any protections like that in LB599? [LB599]

SENATOR CAMPBELL: In prenatal care, Senator, they do drug screening. That's why prenatal care is important. [LB599]

SENATOR McCOY: Well, I...so what you're telling me is that they're testing in this prenatal care already for...I must confess, I find that surprising. I, as you know, Senator, we...my wife, Shauna, and I have four kids nine and under; I don't remember a drug screening being part of our prenatal care. So you tell me they test for cocaine or marijuana, they test for that as part of prenatal care? [LB599]

SENATOR CAMPBELL: If they're suspicious of it, yes, they would, Senator. [LB599]

SENATOR McCOY: Okay, so...well, let's explore that a little further if we can. If they're suspicious...by that do you mean, is that up to the healthcare professional to determine if they...I guess, what do you mean by "suspicious," if you don't mind elaborating? [LB599]

SENATOR CAMPBELL: If the physician has reason to suspect, they will run that drug test. And, Senator, you have to note that in the amendment that Senator Janssen substituted, he withdrew the section with regard to the screening of the mothers involved in LB599 and left in place in his bill those recipients of ADC and TANF. And ADC and TANF are not the same as CHIP. So the section that you might be referring to, in terms of every one of these moms being tested, was in Section 6, and Senator Janssen removed that in AM2777, I think that's correct. [LB599]

SENATOR McCOY: I appreciate that, Senator, and I...that actually was mentioned to me a moment ago, and so I appreciate you more defining that. And I beg your indulgence on that, for that explanation, and I guess, for the sake of this conversation, I think one of the reasons...I know March of Dimes does enormously beneficial work for children across our country. And I know March of Dimes has a wealth of data to talk about the kind of damages that smoking while pregnant and drug use while

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pregnancy...those factors can lead to a whole host of birth defects and disorders and enormous harm to children. And so I guess, for the sake of this conversation, is there anything in place in the area of statute that you're referring to, the CHIP, or anything perhaps that maybe ought to be in place, and I won't ask you to speculate on that, but for the sake of this conversation...that's why I think that this amendment...and perhaps it's not particularly the right spot that it should be in, and I understand that. But when we're talking about taxpayer dollars going for this prenatal care, I would think it's important, just as I would think it would be important in a discussion that, in our case, my wife and I had with our healthcare professional, that we talk about all of the things that mothers, and fathers, but mothers are doing to protect these children. Is...do you think that that's a component that's something that we ought to explore further on this, what can be done to make sure that if this bill were to advance, that these mothers are knowledgeable of the dangers of drug use while during pregnancy? Do...is that something you think that ought to be something that's explored further? [LB599]

SENATOR CAMPBELL: Senator McCoy... [LB599]

SENATOR LANGEMEIER: Time. Thank you, Senator McCoy. Senator Cook, you're recognized. [LB599]

SENATOR COOK: Thank you, Mr. President. And good evening, colleagues. I rise in opposition to AM2777 to AM2761. And I wanted to also talk about our experience last year when this concept was introduced through LB221. I am going to make reference to a letter that was provided to us during that day of hearings and testimony. Can I get a gavel, please? [LB599 LB221]

SENATOR LANGEMEIER: (Gavel) [LB599]

SENATOR COOK: Thank you. It was submitted by the Nebraska Catholic Conference on March 10, 2011, and in the second paragraph...it's addressed regarding the opposition to LB221. And the second paragraph of the letter states that the conference's opposition is based upon a conclusion that the bill proposes public policy that is excessively punitive and unjust. It goes on to say in the fourth or fifth...in the next sentence: We do not say this with respect to the bill's secondary idea, referring or encouraging persons to obtain substance abuse rehabilitation--obviously, there's a relevant and positive response--but, rather, we regard this proposed policy as punitive and unjust, because cutting off cash assistance for one year absolutely, as prescribed by the legislation, would make the already impoverished family even poorer and the innocent children more dependent, making their future even dimmer. Mr. President, with that I would yield the balance of my time to the Chair. [LB599 LB221]

SENATOR LANGEMEIER: Thank you, Senator Cook. Senator Karpisek, you're recognized. [LB599]

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SENATOR KARPISEK: Thank you, Mr. President and members of the body. I don't want to take much time here. I understand it's not a filibuster; it seems like a filibuster. I don't really know how that's working out. But Senator Janssen was right, I do sign on to him with, I think, all of his bills that deal with things like this. And this was my idea one day. I went home to change clothes to go to bowling, and it was on the news that he was going to do this. I texted him, I called him a bad name, and I said, thanks for stealing my idea. And then he got beat up over it, so that was better. I do agree, Senator McCoy talking about, well, if these women are doing these illegal drugs, aren't they doing more harm than anything could come out of by taking folic acid or these sort of things? I do agree with what Senator Janssen is getting at here, but I don't think this is the place for it. And I don't want to take up any more time, because I think we are under a time constraint. So I will yield a little bit of time to Senator Mello, though. Thank you, Mr. President. [LB599]

SENATOR LANGEMEIER: Senator Mello, 3:44. [LB599]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I'll be quick, as part...Senator Karpisek just said what I was going to say. One, I think there is some belief...and there's the potential to explore this issue a little further in the sense of wanting to ensure that healthy mothers are healthy mothers and if they're receiving public assistance, ultimately they remain healthy. Unfortunately, I think AM2777 is more of a political statement and less of a serious policy argument that we're discussing. But in the same name as Senator Karpisek just said, now might not be the time to have this policy argument; we can have that argument another day, another time. Thank you, Mr. President. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Mello and Senator Karpisek. Seeing no other lights on, Senator Janssen, you are recognized to close on AM2777. [LB599]

SENATOR JANSSEN: Thank you, Mr. President and members. I appreciate what was said and what wasn't said, for that matter, in the spirit of what we've got going on here. Like I said, I brought this, it's simple. I fundamentally don't think we should be using taxpayer money to pay for prenatal care for people that broke our laws, came here illegally. That's my fundamental belief. I get that we have on this floor fundamental differences at times. And it's not my intention to stand here and participate in any type of filibuster. If you looked at the record, I believe this is the first time I spoke was opening on this bill. I didn't even speak to the bill. The bill will probably be back next year, and we'll work on some of the issues, maybe even some of the issues that Senator Krist has. I do disagree with him on the constitutionality. But, again, talking with Senator Mello, this may not be the time to have the policy issue on it, but we'll have our vote, and I'd appreciate a green vote, and we can move on tonight. Thank you, Mr. President. [LB599]

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SENATOR LANGEMEIER: Thank you, Senator Janssen. You have heard the closing on AM2777 offered to AM2761. The question before the body is, shall AM2777 be adopted? Senator Janssen, for what purpose do you rise? [LB599]

SENATOR JANSSEN: Mr. President, I would like a call of the house and a roll call vote in regular order and record vote, of course. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Janssen. There's been a request to put the house under call. All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB599]

CLERK: 35 ayes, 0 nays, Mr. President, to place the house under call. [LB599]

SENATOR LANGEMEIER: The house is under call. Senators please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Harr (phonetic), Senator Flood, Senator Louden, Senator Ashford, Senator Christensen, Senator McGill, please return to the Chamber and record your presence. The house is under call. Senator Flood, would you please check in? All members are present or accounted for. There has been a request for a roll call vote in regular order. The question before the body is, shall AM2777 be adopted to AM2761? Mr. Clerk, please call the roll. [LB599]

CLERK: (Roll call vote taken, Legislative Journal page 1446.) 15 ayes, 13 nays, Mr. President, on the amendment to the amendment. [LB599]

SENATOR LANGEMEIER: AM2777 is not adopted. With that I raise the call. We return now to discussion on AM2761. Seeing no lights on, Senator Campbell, you're recognized to close on AM2761. [LB599]

SENATOR CAMPBELL: I wish to withdraw the amendment. [LB599]

SENATOR LANGEMEIER: The amendment is withdrawn. Mr. Clerk. Mr. Clerk, item. [LB599]

CLERK: Mr. President, the next amendment: Senator Nordquist, AM2754. [LB599]

SENATOR LANGEMEIER: Senator Nordquist, you are recognized to open on AM2754. [LB599]

SENATOR NORDQUIST: Mr. President, could you clarify if there are amendments filed to this amendment. Sorry. [LB599]

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CLERK: Yes, there is, Senator. [LB599]

SENATOR NORDQUIST: It's just one, or is it...sorry. [LB599]

CLERK: I believe there's one. [LB599]

SENATOR NORDQUIST: Is that...and it's mine also? [LB599]

CLERK: No. [LB599]

SENATOR NORDQUIST: Oh. [LB599]

CLERK: Senator Campbell. [LB599]

SENATOR NORDQUIST: Okay. I...can I withdraw this amendment, AM2754? [LB599]

CLERK: Yes. [LB599]

SENATOR NORDQUIST: I would like to do that. [LB599]

SENATOR LANGEMEIER: Seeing no objection, AM2754 is withdrawn. Senator McGill, for what purpose do you rise? [LB599]

SENATOR MCGILL: I would like to withdraw my amendment as well. [LB599]

CLERK: Well, just...Senator... [LB599]

SENATOR MCGILL: Okay. [LB599]

SENATOR LANGEMEIER: One moment. [LB599]

CLERK: Just a moment, please. [LB599]

SENATOR MCGILL: Okay. [LB599]

SENATOR LANGEMEIER: Mr. Clerk, for a motion. [LB599]

CLERK: The next amendment, Mr. President: Senator McGill, AM2751. [LB599]

SENATOR LANGEMEIER: You wish to withdraw. [LB599]

SENATOR MCGILL: I would. [LB599]

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SENATOR LANGEMEIER: Seeing no objection, it is withdrawn. Mr. Clerk, for the next motion. [LB599]

CLERK: Mr. President, the next amendment: Senator Lathrop, AM2750. [LB599]

SENATOR LANGEMEIER: Senator Lathrop, you're recognized to open on AM2750. [LB599]

SENATOR LATHROP: I'd like to withdraw that, Mr. President. [LB599]

SENATOR LANGEMEIER: Seeing no objection, it is withdrawn. Mr. Clerk, next amendment. [LB599]

CLERK: Senator Nelson, AM2747. (Legislative Journal page 1447.) [LB599]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Nelson, you're recognized to open on AM2747. Thank you. [LB599]

SENATOR NELSON: Thank you, Mr. President. Members of the body, we have some confusion about the numbers, but it's the same amendment, I guess, so I will open on AM2747. This amendment is very simple and straightforward. Proponents of the bill have stated that this bill is not going to benefit illegal immigrants; therefore my amendment would strike Section 1 of the bill and strike the reference to "immigration status" on page 6, line 18, of the E&R amendment. In Section 4-108, the Nebraska Legislature established the following requirements, and I will read them. "Unless exempted from verification under Section 4-110 or pursuant to federal law, no state agency or political subdivision of the state of Nebraska shall provide public benefits for a person not lawfully present in the United States." That was (1). Subsection (2) says, "Every agency or political subdivision of the state of Nebraska shall verify the lawful presence in the United States of any person who has applied for public benefits administered by an agency or a political subdivision of the state of Nebraska." If you take a look at Section 1, which I am striking through my amendment, and turn to page 2, you will see in the middle of the page that it says as follows, "The Legislature finds that unborn children do not have immigration status and therefore are not within the scope of Section 4-108," which I just read for you. "Prenatal care services available pursuant to Section 68-913 and Section 4 of this act to unborn children, where eligibility is independent of the mother's eligibility status, shall not be deemed to be tied to the immigration status of the mother and therefore are not included in the restrictions imposed by Section 4-108." As usual, it's difficult to read under these lights, but I think you get the gist of what we have. So Section 1 erodes the strict protections that the Legislature put in place through the enactment of LB403 in 2009, and that was 4-108, the bill that we put in place to require that all persons receiving public taxpayer benefits attest to their legal status before receiving those benefits. And LB599, Section 1, would

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start us on the path of taking away that verification and allowing illegal immigrants to avoid all of the LB403 requirements to receive public health benefits. We need to be clear and honest with Nebraskans about what LB599 is authorizing to occur. There have been statements made by proponents that only a small handful of the low-income women being discussed might be illegal immigrants. If that is the case, then there should be no concern with my amendment. This amendment restores the integrity of the laws this Legislature worked hard to put in place to protect our citizens' hard-earned tax dollars from being spent on anyone who broke the law to be here and then, with an illegal status, received or applied for benefits paid for by law-abiding legal residents of the state of Nebraska. Mr. President, that is the substance of my amendment, and I present that at this time and stand ready to ask (sic) any questions that may be offered. Thank you, Mr. President. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Nelson. You have heard the opening on AM2747 offered to LB599. We turn now to floor discussion. Those wishing to speak: we have Senator McCoy, Fulton, Schilz, and Price. Senator McCoy, you're recognized. [LB599]

SENATOR McCOY: Thank you, Mr. President. And, if I may, I'd like to ask Senator Campbell a few questions. [LB599]

SENATOR LANGEMEIER: Senator Campbell, would you yield? [LB599]

SENATOR CAMPBELL: Yes. [LB599]

SENATOR McCOY: Thank you, Senator. And I apologize that I didn't realize we were coming up against our time on the last amendment we discussed. But, if I may, and if I may beg your indulgence again for a few moments, I wondered if I might ask you a few questions that pertain to this amendment. I do support AM2747, and I believe it to be a worthwhile amendment. And a couple of questions I had. As you know, Senator, my district is near the eastern border of our state. And currently there's no bordering state to Nebraska that would have a program such as LB599 seeks to put into place. And I guess my question, first question, would be, Senator, if a woman would like to receive this care...well, let me back up here. If a woman is seeing or would see someone in the Omaha area for prenatal care but lives in Pottawattamie County, Iowa, or Council Bluffs, or somewhere there, how would that work? Would we, then, be responsible...the taxpayers be responsible for that prenatal care if a person sees a healthcare professional for that care in the Omaha area but yet lives somewhere else? Can you help me understand that? Because I understand they have to...it's my understanding they have to provide an address, but that could be as simple as a P.O. box, is that accurate? [LB599]

SENATOR CAMPBELL: Senator McCoy, first of all, they...the person would have to

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meet some eligibility. You have to realize that there still is an eligibility requirement of 185 percent of poverty which we have in LB599. [LB599]

SENATOR McCOY: Well, I appreciate you bringing up that, because, coincidentally enough, that was going to be my next question. [LB599]

SENATOR CAMPBELL: (Laugh) [LB599]

SENATOR McCOY: How...because then I...and apparently our minds must be thinking alike on that, because I...how do you go about determining a person's eligibility and whether they're 185 percent of poverty if by the very nature of the fact that if they are an illegal alien and they're breaking our employment laws...how would we determine their eligibility of 185 percent of poverty? How would we verify that? [LB599]

SENATOR CAMPBELL: You know, Senator, I would guess that they would bring in whatever receipts they might have. We certainly do, as we look at other eligibility and categorical eligibility, we would look at any receipts that they would bring in, anything that might be able to prove what they have in terms of an income or money. I would think that people would take a look at whatever they brought in. [LB599]

SENATOR McCOY: I appreciate... [LB599]

SENATOR CAMPBELL: The paper... [LB599]

SENATOR McCOY: Oh, sorry. I'm sorry, go ahead, please, Senator. [LB599]

SENATOR CAMPBELL: I think they'd have to bring in the paperwork for whatever they could prove. [LB599]

SENATOR McCOY: I appreciate that, and, again, it isn't by any means to put you on the spot, I'm just genuinely curious how this would work, because typically I would think that if someone is skirting the employment laws that we have in the state of Nebraska, one of which I think many of us voted on, LB403, Senator Karpisek's bill a couple of years ago, I...it seems cumbersome to me at the very least... [LB599]

SENATOR LANGEMEIER: One minute. [LB599]

SENATOR McCOY: Thank you, Mr. President...on how that would operate, because...so they would bring in receipts, but oftentimes these folks, it's my understanding, probably live on a cash basis, I would assume, and...because that would be how they would be, I assume, skirting the employment laws, for immigration status and citizenship status. So how would a...who determines, who verifies that? So they bring in a receipt, is it the healthcare professional that's doing that? Is that the

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Department of Health and Human Services? [LB599]

SENATOR CAMPBELL: The discussion over here, Senator McCoy, was that it would most likely be treated the same as when you came into a hospital for emergency care. The social... [LB599]

SENATOR LANGEMEIER: Time. Thank you, Senator McCoy. Senator Fulton, you're recognized. [LB599]

SENATOR FULTON: Thank you, Mr. President, members of the body. I had a conversation...I...this is something that I want to draw out. Of course, this is a very difficult issue. It's a difficult issue for all of us. For me, I think I laid that out yesterday: the pro-life principle and the illegal immigration principle. This is the point of logic I want to draw out. I was going to do this through conversation; I'm just going to do it on my own, though. We're talking about Section 1 under AM2747. "The Legislature finds that unborn children do not have immigration status," etcetera, etcetera, page 3 of the bill itself, in Section 1 of the bill. Later on in the bill...this is page 7, part (b). And this does harken back to this amendment that we had yesterday, which I understand was not germane; I do wish we could have voted on it. "As defined in Title XXI of the federal Social Security Act as amended and the rules and regulations promulgated pursuant thereto, child means an individual under the age of 19 years, including any period of time from conception to birth, up to age 19 years." Here's where I...and this really cuts to the chase of the pro-life argument. If indeed this is purely a pro-life bill...and I've said that this is both: pro-life and illegal immigration. On the one hand, for purposes of this bill, we assigned the moniker "unborn child" to that entity which is from conception until birth. On the other hand, for purposes of abortion, we don't use the word "unborn child." It's another term; it's "fetus." Or what we talked about yesterday with Senator Lathrop was "embryonic stem cells," or there was different terms of art that he referred to. And so this is where I'm having...I have a hard time understanding the logic. If it's an unborn child for purposes of this section, then it ought to be an unborn child for purposes of abortion. And that's really what, I mean, the pro-life argument has been. And so more than anything, I...it's appropriate at least that I make this inconsistency known, on the record. And I'll leave it at that. Now, there's this...on to another subject. Would Senator Campbell yield to a question? [LB599]

SENATOR LANGEMEIER: Senator Campbell, would you yield? [LB599]

SENATOR CAMPBELL: Yes. [LB599]

SENATOR FULTON: Thank you, Senator. One of my contentions is that it is appropriate...it is more appropriate that this care, particularly given the status of the mother being an...undocumented, I would rather see this take place in the private sector, such that we are not apprehending the payments through force of government

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and taxation but rather we are apprehending the payments through the free will and charity of a free society. And so question: Do we know whether this need is being met presently? Understanding that yanking this from mothers and unborn children a couple of years ago...I don't disagree, that definitely caused trouble, sent a tailspin into this element of our culture. Do we know that the need is being met today? Or do we know that the need isn't being met today? Or do we know how much of the need isn't being met today? [LB599]

SENATOR LANGEMEIER: One minute. [LB599]

SENATOR CAMPBELL: Senator Fulton, that's an excellent question. And through the numerous public hearings that we've had on this issue over the past two years, we have watched the numbers in terms of being able to serve in all categories, not just in this, but people who come to the federal health clinics particularly, for a number of other services, these clinics have been overwhelmed and unable to keep up...I mean, they're keeping...they may be keeping up with this segment, because of the need of it, but they may not be able to serve as many other people who come. They are, I think, stressed because of the numbers all across the board, in all the services that come to them. I think people have stepped up, Senator Fulton, wherever they can. But the point is, should they have to continue to do that? [LB599]

SENATOR FULTON: Thank you, Senator. [LB599]

SENATOR LANGEMEIER: Time. [LB599]

SENATOR FULTON: Thank you, Mr. President. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Senator Schilz, you're recognized. [LB599]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. You know, as I sit here and I'm looking through some of the materials that I have...and it's...and once again I, not serving on the HHS Committee or anything like that, I don't have a vast knowledge or understanding of what this is. But I can see...I can see some areas and some places where, when we talk about costs, things might move and get out of control. And as I look at this, we talk about...we see in the bill, you know, phrases such as "pregnancy-related services." We see such phrases as "services related to conditions that could complicate the pregnancy," "illnesses or medical conditions that threaten the carrying of the unborn child to full term or safe delivery." Would Senator Campbell answer a question, please? [LB599]

SENATOR LANGEMEIER: Senator Campbell, would you yield? [LB599]

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SENATOR CAMPBELL: Yes. Thank you, Mr. President. [LB599]

SENATOR SCHILZ: Thank you, Senator Campbell. I appreciate you...all of us hanging around and being here. Can you...as I look at those things, how do we make sure that we know what those costs could be, going forward, so that we don't end up with a program, albeit while all good-intentioned, ends up costing possibly much more than we ever thought it could? [LB599]

SENATOR CAMPBELL: Senator Schilz, what...when it says "pregnancy-related," that means it has to have an effect, as LB599 expresses, it has to have effect on that unborn child. And so let's say that the mother carrying this child got a severe rash on her foot. That would not be covered, because it would not...we'd have to--I mean, I'm not an M.D.--but you'd have to assume that that would not affect that unborn child, so therefore that would not be covered. It has to affect the child. Great example: gestational diabetes. [LB599]

SENATOR SCHILZ: Sure. Thank you, I appreciate that. Who makes that determination? [LB599]

SENATOR CAMPBELL: I have to apologize, Senator, could you repeat...? [LB599]

SENATOR SCHILZ: That's fine. No problem. No problem. I just asked, who would be responsible for making that determination? [LB599]

SENATOR CAMPBELL: Well, those who are providing that prenatal care are going to be responsible for following the outline and what is in statute in LB599. [LB599]

SENATOR SCHILZ: Sure. And then those same people that would be making...or those same...possibly the same people that would be making those determinations would also be the ones that would be getting paid for the service as well, right? [LB599]

SENATOR CAMPBELL: Senator, you have to realize that all these claims at some point are going to go through the department, who reviews claims, as they would now in any Medicaid case. Those claims are reviewed, and there are times in which the department says: That is not a Medicaid-related condition, and therefore we do not authorize payment. [LB599]

SENATOR SCHILZ: Okay. [LB599]

SENATOR CAMPBELL: So, ultimately, yes, there are checks on this. [LB599]

SENATOR SCHILZ: I appreciate that. That's where I was trying to go. Thank you, you anticipated that. Members of the body, I sit here and I look at Senator Nelson's AM2747.

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This is...it runs along the same lines of the first amendment that I put in. I would be in support of that amendment. [LB599]

SENATOR LANGEMEIER: One minute. [LB599]

SENATOR SCHILZ: And with that, I will be quiet, sit down. And, hopefully, things will move along. Thank you. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Schilz. Senator Price, you're recognized. [LB599]

SENATOR PRICE: Thank you, Mr. President, members of the body. Well, here we are, we're asking the questions. And I was wondering, would Senator Campbell yield to a couple brief questions? [LB599]

SENATOR LANGEMEIER: Senator Campbell, would you yield? [LB599]

SENATOR CAMPBELL: Certainly, Mr. President. [LB599]

SENATOR PRICE: Thank you very much, Senator Campbell. So in this debate we've been talking about funds for the prenatal care. So the question I have is: Once the child is born, is there another funding pool that's used to pay for whatever may arise in complication? In other words, prenatal care versus...is that...I'm going to ask the question...neonatal, is that once you're born? But the question is: Once the child is born, do we shift to another fund and cost center? [LB599]

SENATOR CAMPBELL: You know, Senator, our understanding all along is that it is CHIP or Medicaid. And you have to realize that this will be a option program under... [LB599]

SENATOR PRICE: Okay. Okay. [LB599]

SENATOR CAMPBELL: ...CHIP. [LB599]

SENATOR PRICE: So... [LB599]

SENATOR CAMPBELL: But it is Medicaid related. [LB599]

SENATOR PRICE: Okay, so just to get to the point, and then we'll do it briefly, I've got a couple more points. There is a state portion of that payment, correct? That's what our fiscal note...that we're talking about in the fiscal note. The state pays into this somehow or another. [LB599]

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SENATOR CAMPBELL: The department, yes... [LB599]

SENATOR PRICE: Okay, great. [LB599]

SENATOR CAMPBELL: ...has allocated funds for CHIP. [LB599]

SENATOR PRICE: Okay, so we have funds come in, then we have matching federal funds that come in. Okay. So my question is: What happens when, God forbid, if one child can be in a NICU and cost \$600,000, if we have four children in one calendar year, is there a cap? In other words, what the point is, if we get to a later point and we've used up the money we've allocated in the fiscal note...or is that a WAG? Okay...and I'll tell you what, while you get that, I'm going to ask a couple more points then. [LB599]

SENATOR CAMPBELL: But, Senator, at this point, when you start talking about, you know, that they would need for that...they would be in the NICU unit and that, they're covered with that today. [LB599]

SENATOR PRICE: Right. That's what I'm saying, is...that's why I asked; I'm trying to find that demarcation between prenatal care and post...or when they're born. But we can talk about that more in a minute. I'm going to go ahead... [LB599]

SENATOR CAMPBELL: Okay. [LB599]

SENATOR PRICE: ...and reserve my time. Thank you very much, Senator Campbell. Here's what I'm left with. You know, again, as I spoke earlier today...this evening on this and we talked about it, there's a finite pool of money. And that pool of money comes from Nebraskans, and it comes from the rest of America. And tax dollars are only garnered when we confiscate them, whatever way you want to say it, when they're willingly paid by citizens, okay? So we have a portion paid directly by Nebraskans, and we have a portion...another portion that...this almost manna from the federal government that seems to come from nobody's pocket but comes from everybody's pocket that makes up the difference. And I think what happens, and the frustration is, if there's a finite amount of dollars...when we use dollars for individuals perhaps who are not paying into...I don't know how an illegal, or someone, pays into a system, you know? But the frustration that I'm hearing from constituents is, there's less left. If I divide \$100 up by ten people, it's \$10. If I divide it up by 100 people, it's only \$1. But 10 people paid the \$10 into it; the other 90...and now that's not the number, and it's no reflection to the true burden. But the point is about the frustration people are feeling out there on this. We don't talk to that frustration because federal dollars seem to be free dollars. And they're not. [LB599]

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SENATOR CARLSON: One minute. [LB599]

SENATOR PRICE: Thank you, Mr. President. And they're not. And I believe Nebraskans are very frustrated by that, that it doesn't seem that we're paying enough attention. Now, we know the issue with the costs for prenatal care. We're told that prenatal visits...you know, you have a sit-down, you talk. So you have your billable hours to the physician, you have some vitamins, maybe you have to do some type of diagnostics because of a high-risk situation or scenario; so that's low cost. But when we get to the other side, it's high cost. But, altogether, that money still comes from the pockets of taxpayers, and they're very frustrated in this conversation. Thank you, Mr. President. [LB599]

SENATOR CARLSON: Thank you, Senator Price and Senator Campbell. Senators still wishing to speak include McCoy, Fulton, and Wallman. Senator McCoy, you're recognized. [LB599]

SENATOR McCOY: Thank you, Mr. President, members. If I may, would Senator Campbell yield, please? [LB599]

SENATOR CARLSON: Senator Campbell, would you yield? [LB599]

SENATOR CAMPBELL: Yes, certainly. [LB599]

SENATOR McCOY: Thank you, Senator. Again I apologize, I didn't mean to pull you away from a conversation. And I see you've been visiting with not only your committee staff but also staff from the Fiscal Office. And, if we may, I'd like to kind of continue where we left off the last time on the microphone, if we could. And I think we were discussing how this would work in a matter of determining...who would determine whether or not a person meets the guidelines, 185 percent of poverty, if, by nature...and I guess my first question to you would be: How many--in the data that's been put together--how many sanctioned women would we be talking about, and how many illegal immigrants would we be talking about? I'm not sure that's been asked, and I apologize if it's been asked recently and I missed it. But, if you wouldn't mind, how many...what are those numbers? [LB599]

SENATOR CAMPBELL: Senator McCoy, I believe that we took care of the sanctioned mothers last year in a bill that Senator Nordquist had, and I can't give you the bill number. In terms of what we're covering here, we are saving Corrections, because we can now have women in prison covered under CHIP. And the number that has been used to get at that fiscal note was 1,162. [LB599]

SENATOR McCOY: And I think, if I'm not mistaken, Senator--and I'm using an article from today's Lincoln Journal Star--that, out of that 1,162, I believe 62 are sanctioned, for

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one reason or another, if that's accurate, and 1,100 would be illegal immigrants. Is that accurate? Those are the numbers that were used, and I think that was discussed...and I apologize, I don't know if it was you that that writer interviewed on that. But those were the numbers that were used, out of that 1,162. [LB599]

SENATOR CAMPBELL: I have the benefit of the budget and fiscal person right here; 1,100 would be the undocumented, and 62 would be Corrections. [LB599]

SENATOR McCOY: Thank you, Senator; I appreciate that. And I wanted to make sure we got that on record so we...as we go back to talk about...can you walk me through again, if you can, who would verify that eligibility of 185 percent of poverty? Is it the healthcare professional? Is it the department? And I think where we got...where we left off, timewise, last time on the microphone, was...I think I was asking...a lot of times, it's my understanding that this segment of the population, if they are skirting the employment laws and are not here in our country legally, that they may be operating on a cash system. And there's absolutely nothing wrong with that, but that may be difficult to verify what that income is. So who would go about verifying that? And I think we left off where you'd said it will behave much like an emergency room visit. And would you mind elaborating more on that? [LB599]

SENATOR CAMPBELL: No, Senator. I think I've tried to clarify that, again, with the budget and fiscal person. And that would be, obviously, where that mom went for the prenatal care would put all that documentation together, as they would for any person who walked in. And then it would be reviewed by the department, because that claim would have to be turned in to the department... [LB599]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: One minute. [LB599]

SENATOR CAMPBELL: ...and they could call into question how they are arriving at that eligibility. [LB599]

SENATOR McCOY: Thank you, Senator. And I know we have a little bit of time left, and we may need more later, but...and I know we have an absolutely crack fiscal staff in this building. I think we all know that. My question is, I know just even since less than 24 hours ago, when we were last on this legislation last night, the fiscal note has changed. Do you mind describing what that change was, and I think we're on Revision 4, if I'm not mistaken. What changed between Revision 3 and Revision 4? Because we're still talking about, I think, \$2.6 million of taxpayer dollars, if I'm not mistaken, correct? [LB599]

SENATOR CAMPBELL: Between version 3 and 4, the budget and fiscal person put in

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the figures from the department. [LB599]

SENATOR McCOY: Okay. And that is the department is continuing to... [LB599]

SENATOR LANGEMEIER: Time. [LB599]

SENATOR McCOY: Thank you, Mr. President. [LB599]

SENATOR LANGEMEIER: Thank you, Senator McCoy. Senator Fulton, you're recognized. [LB599]

SENATOR FULTON: Thank you, Mr. President. Sorry, if Senator Campbell would yield to a question, I want to finish. [LB599]

SENATOR LANGEMEIER: Senator Campbell, would you yield? [LB599]

SENATOR CAMPBELL: Yes, certainly. [LB599]

SENATOR FULTON: Thank you, Senator, you're a trouper. I want to finish up on what we were talking about previously. It seems to me that if we have a fiscal note, that is a numeric...it's a numeric by which we're gauging what need exists. Or another way to say it is, it's a numeric by which we are gauging what amount of aid will be provided by the state. That being true, we ought to be able to determine whether that need can be met in the private sector. Or, to take that even further, do we know what need isn't being met in the private sector? We have a fiscal note; it's been quantified; therefore we ought to be able to determine what need isn't being met or at least get close. Can you help me with that? [LB599]

SENATOR CAMPBELL: Are you talking, Senator, about number of people who would be served or...? [LB599]

SENATOR FULTON: We could...it could be done by way of number, but our fiscal note is a dollar amount. [LB599]

SENATOR CAMPBELL: Oh, okay. [LB599]

SENATOR FULTON: And so one of the ideas I had, Senator, was to go out, create a separate cash fund, populate the cash fund with private money, such that public moneys are not engaged to do this, and, like I said previously, through the free will of individuals, meet this need. So the fiscal note that we have before us--it's the Revision 3 I think we're on--it's monetary. And so do we know what monetary need isn't being met? [LB599]

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SENATOR CAMPBELL: Senator, I would have to say that, to be very clear here, I think I answered this once before. But in order to draw down the CHIP funds--those are the federal funds, and they are a greater match than Medicaid--that has to be run through the state. Somebody wanted to say, well, couldn't the federal health clinics just apply directly? But each state has one Medicaid administrator, and it goes through there. So that fund, those private funds, would still have to be accepted by the state. And last year we looked at that option, but it did not find favor. [LB599]

SENATOR FULTON: Then back to the question, do we...can't we quantify what need isn't being met? I mean, presently. So, granted, in 2010 this program goes away, and there's turmoil for a period of time, and perhaps that turmoil has not settled down. In fact, probably not. I've talked with some of the providers, and it sounds like they're really up to their ears. [LB599]

SENATOR CAMPBELL: Right. [LB599]

SENATOR FULTON: And I respect that. But we come down to numerics, and we have a numeric in front of us, on the fiscal note, and so we should be able to determine what need isn't being met. And what I'm trying to do here is to buttress an argument that indeed the private sector could meet this need. [LB599]

SENATOR CAMPBELL: Oh. [LB599]

SENATOR FULTON: But there's no way to...I'm not able to get a quantification as to how much need isn't being met. Is there 30 percent more need, monetarily, out there that's not being met, such that this needs to come back to the state? [LB599]

SENATOR CAMPBELL: Senator, I would guess that, like a lot of other services and what we've talked about in other ways, the private sector has also had to put up their own dollars to make this work. And at some point you get to the stage where those private dollars are just...there's a finite number of them. And I think you're seeing that a lot of the private dollars and agencies have had to pick up costs, and they may not have always enumerated them, Senator. [LB599]

SENATOR LANGEMEIER: One minute. [LB599]

SENATOR FULTON: Okay. We have the fiscal note at \$2.6 million total per year. Are we on the same page? Is that correct? [LB599]

SENATOR CAMPBELL: Yes. [LB599]

SENATOR FULTON: I think that's Revision...yeah, Revision 4. What is the dollar amount of need being met in Nebraska? If we know that, then we subtract that number

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from \$2.6 million. That is what need isn't being met. Do we have that number? [LB599]

SENATOR CAMPBELL: Senator... [LB599]

SENATOR FULTON: Or can we get that number? [LB599]

SENATOR CAMPBELL: Senator, I think you would have to take a period of time in which you looked at all those private agencies and, I hasten to add, probably some of our public entities, begin looking at even the hospitals alone and putting those figures together. I'm not sure that would be easily done, as easily as we might, you know, just say, well, get this figure, then add this one and subtract. There's a lot of private dollars that are going into this from all across the state. And, by private, meaning... [LB599]

SENATOR LANGEMEIER: Time. Thank you, Senator Fulton. Senator Price, you're recognized. [LB599]

SENATOR PRICE: Thank you, Mr. President. I want to rise up to clarify a comment I made earlier. I want to make sure...and I appreciate Senator McCoy getting up and making the same comment. You know, I said that these costs were a WAG, and that doesn't pay a proper respect to our Fiscal Office and the people who work very hard. It's more than a WAG; it's numbers that they've worked hard to generate. And so in doing that...I know as I spoke with Senator Nordquist on this, my understanding is the average cost figured out is \$2,000 for prenatal care. I mean, that's what I understand. Would Senator Nordquist yield to a question? And as he's approaching the mike, I'll say this so he can hear it again. My understanding is that when they built this model up, of costs, they were looking at approximately \$2,000 per case. Could you ask Senator Nordquist, please, now, Mr. President? [LB599]

SENATOR LANGEMEIER: Senator Nordquist, would you yield? [LB599]

SENATOR NORDQUIST: Yes. [LB599]

SENATOR PRICE: All right, thank you. So, Senator Nordquist, and brief as possible, am I approximately correct? I want to make sure I have it right, that when we looked at the fiscal... [LB599]

SENATOR NORDQUIST: Um-hum. [LB599]

SENATOR PRICE: ...note and how they built the model of costs, they're looking at about maybe \$2,000 is the average cost of prenatal care? [LB599]

SENATOR NORDQUIST: I'm trying to find my fiscal notes. I think it was, like, \$2,040-some... [LB599]

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SENATOR PRICE: Well, that's close enough for me. [LB599]

SENATOR NORDQUIST: Yeah. [LB599]

SENATOR PRICE: I get the picture. So that's what we're talking about, Nebraskans, we're talking about \$2,000. Now, I did have other...thank you, Senator Nordquist, that's great. I did have other conversations off the mike...and the body and individual feelings that this cost is going to be borne whether it's \$2,000 now in prenatal care or the \$600,000 due to 26 weeks of NICU or whatever it is that could happen in the worst-case scenarios. But again, since this is going to be under a managed-care system and Medicaid, there is no limit. We're just going on averages here, we're saying that the average...and averages work really well. As a weather person, I depended on averages a lot. I know that averages are tough things. We've heard them in other things, in gambling bills and everything, how that works. But the bottom line is, there is no guarantees on the costs here. And that's just one component. Please don't think that, for a moment, that the cost is so much of a factor over the care of the unborn child and that child that is subsequently born. That isn't the case here. But we do have to have that discussion. I believe citizens who are paying the tax dollars out of their hard-earned money need to know that we're going to spend \$2,000 in prenatal care. But if you make 185 percent over the poverty level but you can't afford that, you're not going to have the chance, and we're not going to move it up to 200 percent or 300 percent or I don't know where it could end up. I don't know what every state has. But right now that is the cost. Thank you, Mr. President. [LB599]

SENATOR LANGEMEIER: Thank you. Senator McCoy, you're recognized. [LB599]

SENATOR McCOY: Thank you, Mr. President. I'd like to talk a little more with Senator Campbell, if I may, on the fiscal note. Would Senator Campbell yield? [LB599]

SENATOR LANGEMEIER: Senator Campbell, would you yield? [LB599]

SENATOR CAMPBELL: Yes. [LB599]

SENATOR McCOY: Thank you, Senator. And I really appreciate your patience as we go through this. I think this has been helpful for me to understand a little more of what this legislation might do if it were to become law and also kind of the rationale behind it. I'd like to pick up where we left off a few minutes ago, back on the fiscal note. And I think we were talking about the 1,100 illegal immigrants that would be part of this, of this 1,162. How...can you walk me through, if you could, how that number is arrived...how do you go about figuring out that exact of a number? Is it based on prior statistical data on that? Is it...how do you go about determining that number? Is that number going to change and be different tomorrow than it is today? How does that work? [LB599]

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SENATOR CAMPBELL: Senator, we're very fortunate here in that the budget and fiscal staff person sat down and began to verify numbers with the director of Medicaid. And they came to an agreement as to what those numbers were. And I'm sure, from the director's perspective, it is based on the statistics that the department has and, I would guess, on emergency labor and delivery. [LB599]

SENATOR McCOY: Okay. And I appreciate that information. And I've heard...and I wanted to make sure I understood it correctly, because off the mike in the last two or three days I've heard, well, they take a certain...I heard something like 26,000 births, maybe, per year. Is that figure...is it a formula that's used? It would seem hard, I think, to know how that would work, because again this would be a population that isn't here legally in our country or in our state. And so how would one go about trying to ascertain what that population would be, and especially when our largest metropolitan area is on a border with another state? So how...help me understand, if you would, Senator, and again I beg your indulgence on this. Help me understand, when you talk about the director making...is that a formula that's used, or is that an exact number, is it an approximation? [LB599]

SENATOR CAMPBELL: Senator, it is based on the experience and actual numbers that are tracked from month to month. [LB599]

SENATOR McCOY: Okay. Is that a...and I wouldn't at all want you to speculate, but is that a number...I wouldn't want to ask you is that number going to go up or down in future months. I know that would be impossible for you to answer, and I wouldn't ask you that question. But is that a number that does fluctuate, when you look back over the past? Does that go up or down or does that stay relatively consistent? [LB599]

SENATOR CAMPBELL: As we looked at some of the numbers over the past year--and I think that the budget and fiscal people had that discussion--we tried to err on the side of larger numbers and months with larger numbers than smaller, to make sure that the figures we brought you...we didn't skimp on the figures, let's put it that way. [LB599]

SENATOR McCOY: And do you know, Senator, back when we provided this benefit in the past, were these numbers roughly the same as they are calculated to be now, when we did offer this coverage, or is it different now than it is then? [LB599]

SENATOR CAMPBELL: I think... [LB599]

SENATOR LANGEMEIER: One minute. [LB599]

SENATOR CAMPBELL: Oh. [LB599]

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SENATOR McCOY: Thank you, Mr. President. [LB599]

SENATOR CAMPBELL: I think they're fairly consistent, Senator. [LB599]

SENATOR McCOY: Okay. And do you know, is there any way to try to determine, again, how...and I want to go back very briefly; I know our time is dwindling here. But is it accurate that it requires an address, might be a P.O. box, to determine residency? And that can be done the day that care is initiated, is that right? [LB599]

SENATOR CAMPBELL: We don't know about a P.O. box, but we think that there's probably addresses, yes, Senator. [LB599]

SENATOR McCOY: Okay. And that address could be a family member, I suppose, or...it would be hard to determine. Who would verify that? I assume that also would be verified is that by the healthcare professional or who would verify that? [LB599]

SENATOR CAMPBELL: I'm sure they'd try to do the best they could to verify it with the documentation--you know, I talked about that--receipts or whatever they have. [LB599]

SENATOR LANGEMEIER: Time. [LB599]

SENATOR McCOY: Thank you, Mr. President. [LB599]

SENATOR LANGEMEIER: Senator Pahls, you're recognized. [LB599]

SENATOR PAHLS: Thank you, Mr. President, members of the body. I'd like to ask Senator Gloor a question, please. [LB599]

SENATOR LANGEMEIER: Senator Gloor, would you yield? [LB599]

SENATOR GLOOR: Yes, I would be glad to. [LB599]

SENATOR PAHLS: Senator, I know you've given this out a couple times, and I'd just like to have it reinforced, because I'm trying to figure out, basically, prenatal care, what is the average amount spent on that? [LB599]

SENATOR GLOOR: Yes, Senator Pahls, the number that I've been given and have been giving out is that usually what you'll find for prenatal care are figures that average between \$800 up to \$1,500. That's what I've heard, on the high end, and it's closer to the lower end than the upper end, for the actual mean on those numbers. So \$800 to \$1,500. [LB599]

SENATOR PAHLS: Okay. So between \$800 and \$1,500. And then just can you ballpark

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to me, about how many individuals would need that in a year's time? [LB599]

SENATOR GLOOR: Oh, I think the number, ultimately, we were looking at was around 800, just a little over 800 babies. [LB599]

SENATOR PAHLS: Okay. So I'm to take this to be \$800 to \$1,500 per baby and around 800 babies per year. [LB599]

SENATOR GLOOR: Correct. [LB599]

SENATOR PAHLS: Okay, because I know...thank you. We're throwing a lot of figures around, and I think sometimes we get a little bit confused by that. Well, you know, I'm sort of on the bubble on this, because I go back and forth on this. And I know several people have talked about this, and I am going to ask Senator Ashford to give me a little bit more information. But here's my challenge. I clear, as a state senator, about \$800 a month. I'm going to challenge...we're all concerned about the taxpayers. Well, I'm going to do this. I will give my \$800 a month if you state senators will match that. And this is what I will do. I want you to listen to this. If all 49 of you do it, I'll give my entire year's, of this next year, which would be \$800 times 12. And that's not...well, indirectly that's taxpayers' money, because I'm getting paid for that. I'm not a rich man, but I'm tired of hearing some of the arguments. We do have individuals out there who do need help. We're concerned that they are not citizens. We do know once they're in a hospital, that is paid for. But if the prenatal is that serious, and if you are that serious about it, take my challenge. Let the people know that we're not only concerned about issues but we're willing to step up to the plate. To me it's a simple fact. It's very easy to sit up here and talk about spending other people's money. Let's spend some of our own, and I...like I say, the challenge is out there. Because I do...it's my understanding the private sector has offered in the past. And I need to talk to Senator Ashford, if he wouldn't mind giving me some attention. [LB599]

SENATOR LANGEMEIER: Senator Ashford, would you yield? [LB599]

SENATOR ASHFORD: Yes. [LB599]

SENATOR PAHLS: Now, I'm not going to ask you individually to do that. [LB599]

SENATOR ASHFORD: Okay. [LB599]

SENATOR PAHLS: But I do know you know a number of people in the private world. What...I've heard money being tossed about out there; they're willing to help. Can you give me some information about that? [LB599]

SENATOR ASHFORD: Well, I think it's been mentioned already; the private sector has

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made, as Senator Campbell has mentioned, significant contributions to keep this healthcare going. And there has been... [LB599]

SENATOR LANGEMEIER: One minute. [LB599]

SENATOR ASHFORD: There have been offers of significant amounts of money. And the concern is that if we give up the federal match and we have to pay 100 cents on the dollar, it makes those dollars...it makes them a lot more difficult to...they don't go the distance that they would go without the federal match. But the private money is there. The private money is there to help. It has helped in this interim; it will continue to help. But it would be, obviously, much better, much more efficient if the federal part of the federal match was part of the reimbursement back to the health clinics. [LB599]

SENATOR PAHLS: Okay, just for clarification, you're telling me the money is out there, there are individuals or corporations... [LB599]

SENATOR ASHFORD: Millions of dollars have been spent by the private sector to keep these kinds of services going. And there will always be those dollars available in the future to help with the program. [LB599]

SENATOR LANGEMEIER: Time. Thank you, Senator Pahls. Senator Campbell, you're recognized. [LB599]

SENATOR CAMPBELL: Colleagues, I think, from those who have been assisting me tonight--and thank you, Mr. President, I'm sorry if I didn't say that--that have been assisting me tonight, I think I may be the last light that was on. And so I want to make a couple remarks and to certainly to thank the people who over the last couple of years have stood out and taken care of these babies. We spent a lot of time in the last hour or so talking about numbers and what does this fiscal note and so forth. I want to go back to the very beginning. And the very beginning of when I started talking about LB599, I talked about the fact that it was about healthy babies. That's what we want; that's what we supported for over three decades in this state. We took care of them, and we believed in that. We affirmed that over those 30 years. Colleagues, LB599 is extremely important in the sense that we have an opportunity here to say we believe that healthy beginnings and healthy babies are important in the state of Nebraska and they are a priority and that prenatal care isn't just important at the beginning, but it will last a lifetime. Thank you, Mr. President. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Campbell. Senator Pahls, you're recognized. [LB599]

SENATOR PAHLS: Thank you, Mr. President, members of the body. Senator Ashford, I'm not going to let you get away. And, body, I'm not going to let you relax. Because I've

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been listening to people for several hours tonight. We're talking about babies. We're talking about money. I'm throwing a challenge out. And I know a number of you on this floor could buy and sell me. But let's do something. Let's model what we're talking about. We have those people who say, hey, I believe in this; I believe in helping kids--okay, this is a chance--and I don't want to use taxpayers' money. And I've heard that there are dollars out there that we have not...I know a lot of dollars...private dollars are going into it right now. But it's my understanding there's still some private dollars out there that we could utilize. One thing about it is I don't have to ask for the gavel. [LB599]

SENATOR LANGEMEIER: (Gavel) [LB599]

SENATOR PAHLS: Thank you. Proving my point. I'm going to take my challenge up, and let's see if we cannot get more private dollars involved. We could be the role model. I'm not asking for a lot. Thank you. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Pahls. Seeing no other lights on, Senator Nelson, you are recognized to close on AM2747. [LB599]

SENATOR NELSON: Thank you, Mr. President, members of the body. In 2009 we enacted LB403, which said no agency or subdivision of the state of Nebraska shall provide public benefits to persons not lawfully present in the United States and that every agency shall verify the lawful presence of any person applying for benefits. So in order to provide prenatal care for a person not lawfully present, in LB599, we engaged in the fiction that unborn children do not have immigration status and therefore don't come under LB403, which is Section 4-108, that they are independent of the mother's eligibility status; they are not tied to the immigration status of the mother and therefore are not included in the restrictions imposed by Section 4-108 of LB403. That is in violation of the intent and purpose of LB403. My amendment AM2747 removes this Section 1 of LB599 and restores the integrity of LB403, and it brings us back to the basic proposition that persons illegally present in the United States shall not receive public benefits. It is the mother who is receiving the prenatal care, the vitamins, the prescriptions. The unborn child is present but very much part of the illegal person present. I ask you to vote for my amendment AM2747 to LB599. I ask for a call of the house and a record vote...a roll call vote. [LB599]

SENATOR LANGEMEIER: Thank you, Senator Nelson. There's been a request to put the house under call. The question before the body is, shall the house go under call? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB599]

CLERK: 35 ayes, 0 nays, Mr. President, on the motion to place the house under call. [LB599]

SENATOR LANGEMEIER: The house is under call. Senators please return to the

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Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Nordquist, McGill, would you please check in. Senator Janssen, Senator Cornett, would you please return to the Chamber. Senator Council, please return to the Chamber. Senator Lautenbaugh, please return to the Chamber. The house is under call. Senator Cornett, Council, and Lautenbaugh, please return to the Chamber. The house is under call. All members are present or accounted for. There has been a request for a roll call vote in regular order. The question before the body is, shall AM2747 be adopted to LB599? All those in favor vote yea; all those opposed vote nay. Mr. Clerk, please call the roll in regular order. [LB599]

CLERK: (Roll call vote taken, Legislative Journal pages 1447-1448.) 15 ayes, 14 nays, Mr. President, on the amendment. [LB599]

SENATOR LANGEMEIER: AM2747 is not adopted. With that I raise the call. Mr. Clerk, next motion. [LB599]

CLERK: Mr. President, Senator Schilz, the next amendment I have is yours, Senator, but I have a note you wish to withdraw. [LB599]

SENATOR SCHILZ: Withdraw, yes. [LB599]

SENATOR LANGEMEIER: It is withdrawn. Mr. Clerk. [LB599]

CLERK: Mr. President, Senator Janssen has the next, but I have a similar note that Senator Janssen would like to withdraw. [LB599]

SENATOR LANGEMEIER: It is withdrawn. Mr. Clerk. [LB599]

CLERK: Senator Campbell, you have the next amendment, Senator. [LB599]

SENATOR CAMPBELL: I wish to withdraw the amendment. [LB599]

SENATOR LANGEMEIER: It is withdrawn. [LB599]

CLERK: I have nothing on the bill, Mr. President. [LB599]

SENATOR LANGEMEIER: We return back to discussion on LB599. Seeing no lights on, Senator Larson, for a motion. Senator Fulton, for what purpose do you rise? [LB599]

SENATOR FULTON: Request a record vote please. [LB599]

SENATOR LANGEMEIER: Thank you. [LB599]

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SENATOR LARSON: Mr. President, I move that LB599 be advanced to E&R for engrossing. [LB599]

SENATOR LANGEMEIER: You have heard the motion. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. Please read the roll. [LB599]

CLERK: (Record vote read, Legislative Journal page 1448.) 29 ayes, 16 nays, Mr. President, on the advancement of LB599. [LB599]

SENATOR LANGEMEIER: LB599 does advance. Mr. Clerk, next item on the agenda, LB599A. [LB599 LB599A]

CLERK: Mr. President, LB599A. Senator Larson, I have Enrollment and Review amendments, first of all. (ER277, Legislative Journal page 1398.) [LB599A]

SENATOR LANGEMEIER: Senator Larson for a motion. [LB599A]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB599A be adopted. [LB599A]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it, they are adopted. [LB599A]

CLERK: I have nothing further on the A bill, Mr. President. [LB599A]

SENATOR LANGEMEIER: Senator Larson for a motion. [LB599A]

SENATOR LARSON: Mr. President, I move that LB599A be advanced to E&R for engrossing. [LB599A]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it, LB599A does advance. Mr. Clerk, items for the record. [LB599A]

CLERK: I have none, Mr. President. Senator Flood would move to adjourn the body until Thursday, April 5, at 8:00 a.m.

SENATOR LANGEMEIER: You have heard the motion to adjourn until Thursday at 8:00 a.m. All those in favor say aye. All those opposed say nay. The ayes have it, we are adjourned. (Gavel)