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Floor Debate  
March 07, 2013

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PRESIDENT HEIDEMANN PRESIDING

PRESIDENT HEIDEMANN: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-ninth day of the One Hundred Third Legislature, First Session. Our chaplain for today is Pastor Bob Lawrence from the South Auburn Church of Christ, Senator Watermeier's district. Please rise.

PASTOR LAWRENCE: (Prayer offered.)

PRESIDENT HEIDEMANN: Thank you, Pastor Lawrence. I call to order the thirty-ninth day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

PRESIDENT HEIDEMANN: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections.

PRESIDENT HEIDEMANN: Thank you. Are there any messages, reports, or announcements?

CLERK: Enrollment and Review reports LB484, LB510, and LB616 as correctly engrossed. Banking, Commerce and Insurance reports LB205 to General File with amendments. Agriculture reports LB597 to General File with amendments. Hearing notice from Transportation. Lobby report this week, and a report of agency reports on file in the Clerk's Office available on the legislative Web site. An announcement, Mr. President, the Revenue Committee will meet in Exec Session under the north balcony at 10:30. That's all that I have. (Legislative Journal pages 647-649.) [LB484 LB510 LB616 LB205 LB597]

PRESIDENT HEIDEMANN: Thank you, Mr. Clerk. Colleagues, in honor of Senator Haar's 70th birthday, clementines are being passed out. We will now proceed to the first item on the agenda. Mr. Clerk.

CLERK: Mr. President, the first bill this morning, Select File, Senator Murante, LB225A. I have no amendments to the bill. [LB225A]

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PRESIDENT HEIDEMANN: Senator Murante. [LB225A]

SENATOR MURANTE: Mr. President, I move to advance LB225A to E&R for engrossing. [LB225A]

PRESIDENT HEIDEMANN: You have heard the motion. All those in favor say aye. All those opposed say nay. LB225A is advanced. Mr. Clerk, next item. [LB225A]

CLERK: Mr. President, the next item, LR41CA, offered by Senator Lautenbaugh, proposed an amendment to Article III, Section 24 of the state constitution. Senator Lautenbaugh presented his resolution yesterday. Senator McCoy then offered a motion to recommit the resolution to committee for...to recommit the resolution to the General Affairs Committee. That motion is pending, Mr. President. [LR41CA]

PRESIDENT HEIDEMANN: Senator Lautenbaugh, you are recognized to recap on LR41CA. [LR41CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And this is a new approach. I was actually moved to prepare an opening today, and so I'll present that. This is not a new debate but it's a new approach. Opponents for years have said the horse racing industry needs to help itself. We shouldn't have to help them. So they come up with this idea a few years back where they're using races that have been previously been run and they have wagering at terminals by the pari-mutuel method. And hopefully you went down to Legislative Research, I know many of you did, and checked out the terminal. It does show you the racing forum info, and then you make your picks. If you don't know, you can let the terminal pick, which is just the same as at the bottom of every race form where they say, these are the ones we recommend, and then you play. And when you play, the race runs, I watch the race, and then you get the information at the start that allows you to identify the where and when. I think at this point if you...especially if you looked at how this works, it should fall to the opponents to explain how this materially differs from simulcasting. It's being run in a different time rather than a different place, but in all other respects it's horse racing. I don't see how this is a difference that makes a difference, and I've argued that in the past. It is true that there are some terminals, or there's some flashing lights on the terminal on occasion. Flashing lights don't make a slot machine, folks. Trust me. I followed a tow truck around all morning and it never paid out. Flashing lights do not make a slot machine. What we were told that the language in our current constitution that says wherever the race is run for simulcasting isn't broad enough for whenever. So I introduced this constitutional amendment to resolve the issue. And I said yesterday I wouldn't proceed with the companion bill, LB590, if this advances. I filed my motion to IPP the next bill for when this advances. Opponents have said last year that the voters have repeatedly rejected this type of thing when it's on the ballot, and I say then what's

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the problem. Let the voters vote on it. They did approve simulcasting somehow. Opponents will say the horsemen should just run more live races but they don't say how. That costs money. In Kentucky, they've used this method and the purses have been up and the handles have been up and the live racing days have been up. We heard yesterday this will be just like dog tracks. These terminals come in and the dogs go away. The crucial difference here that we can't stress enough is that dog tracks were not operated by the "dogmens" benevolent society as nonprofits to promote dog racing. In Nebraska, it's different. Our licensed tracks are operated by the horsemen to promote live horse racing. I pointed out yesterday that this is about jobs. I pointed out last year this is about jobs. We had hundreds of people up in the balcony last year saying, save our jobs. I pointed out this was about agriculture, and it is. And I would note--I hope all of you would note--that the Farm Bureau came in, in support of this, this year. This recommit motion is not well-founded. The opponents of this don't want this sent back to committee and improved in any way. They want to delay it, make someone prioritize it, etcetera, etcetera. I've been down this road last year. I tried to bring last year an amendment on Select File which addressed the concerns expressed ostensibly on General File and that didn't work. So here we are with a constitutional amendment, again trying to sincerely address what the opponents say is the real issue here. And we can either move forward or we can turn our backs on these thousands of Nebraskans yet again. But I say let the people decide, and that's why I bring this amendment. Thank you, Mr. President. [LR41CA LB590]

PRESIDENT HEIDEMANN: There is a motion to recommit. Senator McCoy, would you like to refresh us? [LR41CA]

SENATOR McCOY: Thank you, Mr. President and members. I rise before you this morning as a way of a brief introduction again on what this motion to recommit and why it's filed. I detailed yesterday a good number--and I'm not finished--of constitutional concerns and problems with LR41CA. The proponents, the supporters of this measure, never have once in two hours and ten minutes of discussion yesterday morning acknowledged any of the...whether these were concerns or not, whether they agreed with them or not. You know, if we're going to put something in the constitution, members, I believe it ought to be right, it ought to be done right, ought to be written right. I brought up to you the concern that this measure would unlicense, whether that's intentional or not I don't know, unlicense all pari-mutuel employees and that that is a requirement, a fundamental requirement of the interstate compact that Nebraska is a part of with 11 other states on pari-mutuel wagering. You know, you're just receiving a handout that's going around on the floor right now of the actual transcript from this joint hearing on LR41CA and LB590. And, members, I would direct your attention since Senator Lautenbaugh just mentioned it--I was waiting for him to mention it before we handed it out--you will note the testimony from the Farm Bureau is in support of horse racing and the tracks. It is not, ladies and gentlemen, support for historic horse racing, instant racing terminals. Read the transcript carefully. I would humbly submit to you it is

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disingenuous to say that the Farm Bureau testimony is in direct support of either LR41CA or LB590. The constitutional flaws of this measure haven't been answered at all. Why is it again that we are striking "the pari-mutuel method" and introducing "a pari-mutuel method"? The proponents to this measure haven't answered any of these questions. It's not incumbent upon me to fix this on the floor. It's not my measure. It's incumbent upon the supporters of this measure to fix these problems to submit this to the people of Nebraska. And as of yet of this moment, they haven't answered any of these questions, and there's a great deal more of them that we'll outline later on this morning. Thank you, Mr. President. [LR41CA LB590]

PRESIDENT HEIDEMANN: Thank you, Senator McCoy. We are now open for discussion on the motion to recommit. There are lights on. Senator Chambers, you are recognized. [LR41CA]

SENATOR CHAMBERS: Thank you, Mr. President, and welcome back. We both returned this session. Members of the Legislature, Senator Lautenbaugh said the real issue is jobs. The real issue is gambling. This is not a jobs bill. This is a gambling bill. Horse racing is dead in this state. He knows it, the horse people know it, and that's why you had a guy with a gambling machine down in the Research Office trying to vice and trick your minds. I would like to remind Senator Lautenbaugh that, dress a carcass as you will, a carcass is a carcass still. You can spray it with Chanel No. 5 as you've attempted to do this morning, but that characteristic odor remains intact. It still seeps through. And this is why people tell you if you're trying to get odors out of your house, don't try to cover them over or mask them. Eradicate the cause. The cause of the moral stench in this state that is spreading is gambling. That's what it is and that's why such a determined effort is being brought to support these machines. This is not about retaining jobs. How many people would it take to maintain those machines? And do you think the people who work at the racetracks are going to be hired as technicians to service these machines? They are not dealing with the activities which require the workers whom Senator Lautenbaugh tells us he's so concerned about. If he and his minions encourage hundreds of people to be in the balcony, all they did was deceived hundreds of people by making them think that if you put these machines in place, they'll have jobs. Senator Johnson knows better than that. But at least he talked about people in his area who feed horses alfalfa and whatever they feed them and he wants to make sure the horses have something to eat. But horse racing is not only the means by which that can be done. But this is not about horse racing, Senator Johnson. It will not put a single horse on a track. It will not open an additional track. It will do none of the things that the beguilers, the "bewitchers," the "bebotherers," the "bewilderers" would have you believe. Senator Lautenbaugh said he prepared an opening. It ought to be his closing also in the sense of letting this thing go. But I don't blame him for trying to continue and continue to push. There are people who still believe the earth is flat and they argue that. There are people who argue that the earth is 6,000 years old because they calculate that's how many years it was from the time the Bible was written until now. So when you

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ask them, what about these bones of dinosaurs and other prehistoric creatures? They say, well, god created the earth with those bones already there and he created them to lead human beings on a fast...a false trail. Sheer stupidity. And we are being presented with something that is so unbelievable that I would say its supporters... [LR41CA]

PRESIDENT HEIDEMANN: Senator, one minute. [LR41CA]

SENATOR CHAMBERS: ...are not serious except that they're willing to say anything to try to advance the cause of gambling in this state. And I intend to do everything under the rules to frustrate and defeat them. And if I must do it alone, I'm prepared to do that and would welcome the challenge. Thank you, Mr. President. [LR41CA]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Senator Krist, you are recognized. [LR41CA]

SENATOR KRIST: Thank you, Mr. President, and welcome back. Good morning, colleagues, and good morning, Nebraska. Let's talk about some history. This Legislature years ago closed off the opportunity to have live horse racing, they eliminated the State Fair grounds when they moved the fair grounds to Grand Island, and my repeated attempts to ask the fair grounds, the State Fair folks, to again do live horse racing has been denied. They have all kinds of reasons. Grand Island doesn't have very much land out there I guess where they could give children rides in combines and tractors in someplace other than Fonner Park. The point is that if the industry is going to die, I am not someone who is ready at this point to shoot the horse. I don't think it's lame. I think it is in trouble. I've talked on this mike before about the loss-leader concept. Businesses lose money on things and make money on things, and right now it is very expensive to do live horse racing because we have...we, this Legislature, has eliminated a venue that they could run in. But that's not about this. This is about potentially putting a constitutional amendment on the ballot and allowing the people of Nebraska, the citizens that elect you, to voice their opinion. I'm willing to do that because one way or another it is the people that elect us, it is the people who send us here, and it is the people who need a voice again in this issue. In the early nineties, they spoke loud and clear. Loud and clear. I'd like to talk about that machine downstairs on my next time on the mike and I'd like to tell you where I am on pari-mutuel betting and how I think we need to restrict that machine if we're going to allow it. But that comes with enabling legislation when this CA is on the ballot in the fall and comes back to us and says yes or no. For the time being, we have a decision to make of whether or not to put LR41CA out there. And I would say to Senator McCoy, I did get on the mike right after you told us all the things that needed to be fixed and I asked you if you were going to submit an amendment. And you were loud and clear, it's not up to you to fix the piece of legislation that's in front of you, which is what we customarily do if we find problems with pieces of legislation that come to this floor. So I would interpret the recommit to committee as another attempt to filibuster and kill LR41CA. So let all of the people who

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elected you to come here understand that you don't want them to have the choice on the ballot in the fall. I'll yield the rest of my time to Senator Lautenbaugh. [LR41CA]

PRESIDENT HEIDEMANN: Senator Lautenbaugh, you have 1 minute and 50 seconds. [LR41CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President, and good morning, Senator Krist. I do want to address some of the things that have been said already. And, again, this is a grating phrase for some of you. But for the new members among us, understand, we've debated this issue I think repeatedly. So a lot of us are just picking up where we left off last year, some of us with the same level of frustration and anger that we had last year. But I would like to read from the committee statement you were just handed out where the Farm Bureau signed in as a proponent of this legislation. And I read and I quote, We are here in support of LB590 and LR41CA. [LR41CA LB590]

PRESIDENT HEIDEMANN: One minute. [LR41CA]

SENATOR LAUTENBAUGH: So when Senator McCoy says I'm being disingenuous, I would hope you would actually read the words from the Farm Bureau where they said, "We are here in support of LB590 and LR41CA." I'm having a hard time misinterpreting that myself. And I would point out where these machines have been tried in Kentucky, live race days are up, handles are up, purses are up, and that's where the jobs are. I know we're being told this isn't about jobs, but those people who were here last year were not hired actors. They're the people who work at the tracks. And, again, I have to...you know, we can point to the experience in Kentucky. We don't have to speculate as to what would go on here. That's what this is about. And I don't plan on hammering on this and speaking repeatedly today, but I do want to address, the Farm Bureau came in, in support of this. They were clear. And when I'm being called disingenuous for pointing that out... [LR41CA LB590]

PRESIDENT HEIDEMANN: Time. [LR41CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LR41CA]

PRESIDENT HEIDEMANN: Thank you, Senator Lautenbaugh and Senator Krist. Senator Wallman, you are recognized. [LR41CA]

SENATOR WALLMAN: Thank you, Mr. President. Good morning, America. Good morning, members of the body. I find this conversation pretty interesting. Is Senator Hadley in? Would he answer a...would he ask a question from...I have a question for Senator Hadley. Is he here? [LR41CA]

PRESIDENT HEIDEMANN: Senator Hadley, will you yield to a question? I think Senator

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Hadley is not in the Chamber at the time. [LR41CA]

SENATOR WALLMAN: Okay. That's okay. All the years I went to school, elementary school, confirmation, never was it taught to me about evils of gambling. And I think you know they cast lots for somebody's robe after he died on the cross. So gambling has been around since the beginning of time probably. And I have at least three horse owners in my district that I know, and they're very responsible citizens. They put on quite a 4-H show in the town of Adams. And so they do a lot of community good. But he's pretty well...he's going to move to Texas if this doesn't shape up somewhat to give him somewhat of a break for his horses. And is this a small...is this the right way to go? It's a way to go. And so am I for the horse owners? Sure, I am. And the good lord made us to have choices. We make bad choices; we make good choices. And we don't eliminate the Board of Trade where people lose millions, they lose their whole livelihood. We don't eliminate that, and to me that's a form of gambling. And so gambling, gambling. Pretty interesting. We gamble everyday. Get in your car and go on the road, somebody might hit you. So this is an issue, I think, should be decided by the people. If they don't want it, vote it down. Should we make that decision in here? Sometimes we probably should but sometimes we shouldn't. So I as a senator from District 30 probably 50-50, people want it, people don't. This is a contentious issue for some people. But we don't eliminate keno, pickle cards, lottery cards, it goes on and on, or sports betting. There's sports betting. There's scandal sheets, they call them, all over the restaurants in small-town America. You can bet on a football game on Sunday or on college, Saturday. So do we do anything about that? We're losing millions of revenue I think somebody testified. So why is it we're so hung up on this bill of Senator Lautenbaugh's? I don't know. Thank you, Mr. President. [LR41CA]

PRESIDENT HEIDEMANN: Thank you, Senator Wallman. Senator Brasch, you are recognized. [LR41CA]

SENATOR BRASCH: Thank you, Lieutenant Governor, and good morning, colleagues. I do want to stand again and support the recommit to committee motion on LR41CA. What we're talking about that is truly problematic here is the decline in attendance, the decline in gates. The number of people attending races has dramatically declined for several decades now. Not only has it declined in gates, but wagering has declined. My staff looked up information, even pari-mutuel dollars are going down. We're looking at a problem with admissions, the problem with the number of attendees. And what we'd like to do, what I see happening here is asking for casino-type, -style mechanical racing to offset those expenses. Again in my opinion, that is detrimental to our live horse races. They are again being pushed further and further away from the entertainment venue where now gambling, slot-style, will be in the forefront. And my fear is that live horse racing, the athletics of it, the sportsmanship, the race of kings, the event itself will truly become historic. Live horse racing will be historic. I took the time yesterday afternoon to go down as Senator Lautenbaugh requested to take a look at the mysterious machine in

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the box. It was unveiled. I also had a constituent come from Washington County to stop in and say hello, unbiased, not a member of the Gambling with the Good Life. I said, would you mind coming with me, I want an opinion. We walk into the room. I knew right away, you know, if it quacks like a duck, if it walks like a duck, (laugh) I didn't say a word. I asked the constituent, what do you think this is. They thought it was a slot machine. The build, the light mechanics on the top. I even have the card from the representative of AmTote here. He went through...you can make the horse races...you don't even have to watch the whole race, you can do a simplified version of it and you can pull up race after race after race. So I think we're looking for a way that will just bring in more money to subsidize the very expensive horse racing industry. I, too, have constituents in the district who raise horses. They go out of state for the horse races because the purses are there. They want to recoup their investment, their time. And as far as jobs, we have the lowest unemployment in the nation. We have a lot of jobs available in Cuming County, Burt County, Washington County. We're looking for people to come live and work and play with us up in the northeast corner of the state. So, again, I'm pleading for live horses, for the animal, for the jockeys, for the families. We need to find a way to pique the interest. Last year, a constituent proposed a horse fair where they have 500 vendors, children are able to ride on horses, pet a horse, help, you know, care for or feed a horse, where people are once again understanding the beauty and majesty of these beautiful creatures. These horses were with us for generations. They helped pull our plows. They helped serve with our soldiers. [LR41CA]

PRESIDENT HEIDEMANN: One minute. [LR41CA]

SENATOR BRASCH: To have this mechanical device, this machine which I saw and I think it looks like a casino machine...and I tried to be fair. But most of all, the constituent also thought it was a casino device. And I would believe that if someone were to walk into a casino and one of these machines was side-by-side by another machine, you could not tell the difference of a historic horse race device versus a casino gambling device. Thank you, again, colleagues. I would like to recommit LR41CA to committee. Thank you, Lieutenant Governor. Thank you, colleagues. [LR41CA]

PRESIDENT HEIDEMANN: Thank you, Senator Brasch. Senator Harms, you are recognized. [LR41CA]

SENATOR HARMS: Thank you, Mr. President. Mr. President, welcome, welcome back. We like to see you up there. Colleagues, I rise in support of recommitting to the committee. And I want you to listen really carefully because there are some questions that Senator McCoy has brought up that questions the constitutionality of the way the thing is written, and why would you want to take anything to the public that is even questionable? And I would urge you to look at that very carefully. To be honest with you, this would be recommitted and we fix the issues that Senator McCoy has talked about, I don't mind putting this back to the public to vote. I don't mind doing that. But the



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problem, the question is for them, the people who are supporting this, is that when you do that and the public votes no, gambling is dead for about the next ten years. You are, as I said yesterday, rolling the dice on this particular issue. But I think we need to address the issue of it, of the problems that we have in regard to whether or not this is the appropriate kind of constitutional amendment we put forward which should be clean, there should be no questions about the legality of it, and we need to make sure that's correct. If you vote to move this thing forward or you vote not to recommit this, I will tell you, you will have eight hours on Select, you will have a battle to bring it out in Final Reading. We will not give this up. And what we need to decide is why don't we just fix this and quit our arguing and take it to committee, bring it back out, and have the vote. And I would urge you to give that great thought, colleagues. Vote for the recommitting to the committee so that we can fix this. If not, this is not going to go away. Thank you, Mr. President. [LR41CA]

PRESIDENT HEIDEMANN: Thank you, Senator Harms. Senator Chambers, you are recognized. [LR41CA]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm discussing various things because I don't think this proposal is going anywhere it shouldn't. It should go back to committee. I made it clear I want to kill the thing. I don't have any pretenses of trying to bring or make a silk purse out of a sow's ear. That's what we're being presented with now. They talk about the horse racing industry struggling so you ought to help it. You all haven't been around as long as I have. I don't bite my tongue. When they were trying to get state money for that Kearney Archway, even before they tried to get it, I went out there and told them you got a pink elephant. This is not going anywhere. It's silly. It's simpleminded like so much of what Nebraskans do. And I guarantee you that I'm going to be right before its over. I said that in speeches. I've talked about it on the floor of the Legislature. You know what the big headline says in this morning's paper? Kearney Archway files for bankruptcy. This silly stuff that you all do as a favor to somebody, and I have to stand here and argue for the integrity of a state which has treated my people and me very, very shabbily. But I'm a part of the Legislature now and I'm concerned about how the Legislature operates. So for a member to stand on this floor and say that the people who sent us here tell us what to do, maybe that's what happens with him. He when he comes here is supposed to have access to information they don't have. His judgment as well as his intellect are to be informed beyond that of the citizens and they sent him here because they think he knows something and he will do the job. Then he turns around and tells them, well, tell me what you want me to do. And if they're thinking at all, they say you're down there. You have access to research. You make the decision. You represent me, not necessarily my opinion. It could be wrong on opinions. And I tell people in my district this all the time and anybody else who brings up the issue of an opinion. Everybody is entitled to an opinion, but not every opinion has equal worth and merit. Now the flat earth people are entitled to their opinion. The people who say that the bones of

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prehistoric animals were created by god to trick people, they're entitled to that opinion. But their opinion is not of the same worth as a geographer, a geologist, an archeologist, anybody who has spent the time studying, analyzing, gathering information. There is not even a basis for an intellectual discussion between those learned people and the ignoramuses who speak from their ignorance. Why Senator Krist would say that if Einstein were here, he should let one of his constituents who doesn't know how to do long division explain to Einstein differential equations. And whatever that constituent says is what Einstein ought to suspend his intelligence and say. I'm not here to reflect ignorance. And what I'm hearing are the kind of arguments that are presented to ignorant people, the kind of thing that is done when parents are trying to terrorize their children with stories about ghosts and witches and goblins and things that go bump in the night to compel them to do something because the parent cannot give a persuasive argument as to why a child should do something. And people carry that into adulthood, but not me because I know the value of education, I know the value of reading, and the value of studying. And at some point, I'm going to have a chance to question Senator Krist... [LR41CA]

PRESIDENT HEIDEMANN: One minute. [LR41CA]

SENATOR CHAMBERS: ...about all his concern from compulsive gambling and gamblers and he wants to increase gambling. That doesn't...you...they say you can't mix oil and water. What is an emulsifier? What is the role of an emulsifier? You know what the purpose of that is and you know what it accomplishes. Senator Lautenbaugh told us about Kentucky. Have you ever heard of the Kentucky Derby? It's a nationally known, world known race. It's covered by national and international television and probably the Internet. Gambling all over the world; they have sponsors. Who's going to sponsor Grand Island racetrack? And he's going to put that on the same par as the Kentucky Derby. They have things in Kentucky they don't have here. That's why what happens in another state is totally irrelevant. We are here in Nebraska. And we as elected officials should show the people in this state a better way... [LR41CA]

PRESIDENT HEIDEMANN: Time. [LR41CA]

SENATOR CHAMBERS: ...than the way of ignorance. Thank you, Mr. President. [LR41CA]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Senator Lautenbaugh, you are recognized. [LR41CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I picked the wrong time to eat that orange. I would yield my time to Senator Krist. [LR41CA]

PRESIDENT HEIDEMANN: Senator Krist, you have 4 minutes and 50 seconds.

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[LR41CA]

SENATOR KRIST: Thank you. I am not a brain surgeon. Thank you, Mr. President and colleagues and Nebraska. Good morning, Nebraska. I am not a brain surgeon but I did spend the night at a Holiday Inn Express last night, Senator Chambers, so I do know a little bit about it. Anyway, my point is this with the machine downstairs and back to the subject at hand, I do think we owe it to the taxpayers, to the citizens, to the voters, to put some things back on the ballot. The decision as policymakers is, is this a good product and should we continue, should we try to fix this? Point well taken. We hear it all the time. Is this a sow's ear? Senator McCoy had some concerns about the legitimacy or the accuracy and the constitutionality of the CA. Let's talk about that. Let's spend the next six hours, eight hours, whatever it is, talking about the CA. Let's debate it. Let's let people know that it is or is not where it needs to be, but let's not just talk about recommitting right off the bat because that's just...at least Senator Chambers is being honest. He wants this dead. He has been very honest. Anybody who's pretending that they don't want it dead that's participating in this filibuster...well, anyway. But let's talk about the machine. I think if you go down to the machine, if we would decide to put this on the ballot and if we would decide to do enabling legislation if it is voted in, I think that that machine needs to be limited to the long-play option. That is a long-play option that will require you to watch the entire race, a historic horse race. Now I'd like to ask you a question, and first...and nobody is going to answer me on the mike I'm sure, but if it does comply with in your mind pari-mutuel operations, which it does in my mind, if it is a long-play option so you have to watch the whole horse race, you have to participate in the process and enjoy the race while you have your wager there, and we do put this on the ballot, that needs to be part of the issue. Now in asking all of the folks in charitable gaming and the gaming commission, it would have to comply with the same rules and regulations as live horse racing. But my opponents would say it's all about live horse racing. Remember, folks, we have simulcast in this state. So let me ask you a question. What is history? History is the time on the mike that Senator Chambers just talked to us. It's behind us. In simulcast racing, is that happening simultaneously? In some cases, there's a three- to five-minute delay. Is that a historical horse race? You're watching it on the screen. So there's a lot of questions to ask and a lot of debate I think in front of us on this issue. We'll probably go the full eight hours. It's on the CA. We still have to have a good product go out to the voters. But let's talk about the issues. Let's talk about the issue. If you're on one side of the fence or the other, I asked you when I first got up on this mike yesterday, keep an open mind. Keep an open mind about the issue. Let's talk about it. But let's put it to rest one way or another or we're going to have this conversation over and over again because the opponents and proponents are not going to change sides on this issue. I respectfully ask you to keep an open mind, discuss the issues. I think I may be... [LR41CA]

PRESIDENT HEIDEMANN: One minute. [LR41CA]

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SENATOR KRIST: ...preparing my own amendments in line with Senator McCoy's comments on the things that need to be fixed and maybe we can actually fix it if it does...if we do want it to move forward. Thank you, Mr. President. [LR41CA]

PRESIDENT HEIDEMANN: Thank you, Senator Krist and Senator Lautenbaugh. Senator Schilz, you are recognized. [LR41CA]

SENATOR SCHILZ: Thank you, Mr. President. Good morning, everyone. I would just like to say a few words. As we heard before, we talked about support of farm groups and things like that. And I was at the meeting where Farm Bureau talked about this issue, where they discussed it among all their members, where they voted to put this into their policy book and their platform. And here's why they did that, part of the reason why they did that. Farm Bureau supports all sorts of activities that go on around the state, both in the business of farming and in the cultivation and the nurturing and the education of our children. If you look at these facilities and you see what goes on there besides horse racing, there are a lot of events that involve agriculture that go on at these tracks, whether it's Fonner Park in Grand Island, Columbus, Lincoln, FFA events, horse shows, 4-H events, all of which are made possible because those facilities are there and those facilities can afford to function. If horse racing is dead and horse racing disappears and the track disappears, those venues will not be available anymore for those types of endeavors, and I think that would be terrible. I don't think that's a good thing for the state of Nebraska. These kids don't care about that. But guess what? A lot of times the kids don't have to worry about where the money comes from. The kids benefit from it. And if you don't think that's a benefit to belong to 4-H or FFA, then I'm sorry. You're missing out on what a lot of what is good about our children in the state of Nebraska; 4-H, FFA do wonderful things. They nurture leadership characteristics and capability in children all over the state. So let's not talk about jobs if somebody doesn't want to talk about jobs. Let's talk about the money it takes to have these places to hold these events. And if it's dead, then that's 2,400 jobs and the money that goes along with it that won't be able to do these types of things as well. And I think...you know, I think we need to look at that. I do have to say...moving on to a little different subject, I do have to say that I commend Senator Chambers on yesterday in saying what he believed. And that was that whatever he does, he wants to kill this bill. I appreciate that. I respect that. I understand that. I can deal with that. Everybody has a passion about issues. Everybody has their beliefs. And it's everybody's right to believe what they want and to act on that on the floor of the Legislature. Senator Chambers, I appreciate your honesty and I look forward to dealing with that further. I would just like to ask everyone that is talking about recommitting this that if it gets changed and it actually says or actually the changes get put in place, would you then support it? Because I think I know the answer to that because we've been down this road before. So I think we need to take a step back, get ourselves in the place to understand where we are, each one of us, on this issue. I for myself, as Senator Chambers asked me yesterday, am for supporting this bill. I'm for the horsemen. I know some of them personally. As Senator Wallman said,

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they're good people. [LR41CA]

PRESIDENT HEIDEMANN: One minute. [LR41CA]

SENATOR SCHILZ: They're good people trying to do a good thing. So I just hope that we take that into consideration. As Senator Krist said, keep an open mind. Let's work towards finding a solution on this and getting it done. Thank you very much. [LR41CA]

PRESIDENT HEIDEMANN: Thank you, Senator Schilz. Mr. Clerk, there's...is there a motion on the desk? [LR41CA]

CLERK: There is, Mr. President. I have a higher priority motion. Senator Chambers would move to bracket the bill until May 30, 2013. [LR41CA]

PRESIDENT HEIDEMANN: Senator Chambers, you are...you can open on your motion to bracket. [LR41CA]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the people who support this bad proposition keep saying if those who are opposed to it and see problems with it, why don't they correct it, knowing it's not those people's responsibility. But they're the very ones who said they don't like the recommit motion. So having been around longer than anybody else, isn't it for me to correct our procedure and give the opportunity to do something that is not disingenuous, that is straightforward, but designed, I will tell you, to kill it? I can find ways under the rules to prolong this discussion for the rest of the session if the Speaker allows it. I don't think you have 33 votes. This is one of those motions where we can take a straw poll. You may not like the fact that a recommit motion was the methodology employed by Senator McCoy. But there's nothing wrong with that. That can be done. And that motion can be made with or without instructions. He doesn't have to tell the committee what to do. Look at the rule book as Senator Lautenbaugh told you to do when he was challenging a bill of Senator Lathrop and said it's...this is in the rule book, I can do it. So I'm doing what the rule book says. But now...but that's the way lawyers argue. It's the way people not even trained in the law will argue. You say what you think will carry the day for you. I want to touch on something and I need some help from Senator Schilz because I see him as much more expert and knowledgeable about agricultural matters than myself. If Senator Schilz would yield to a question or two, I would like to engage him. [LR41CA]

PRESIDENT HEIDEMANN: Senator Schilz, will you yield? [LR41CA]

SENATOR SCHILZ: I just about got out of the Chamber but, yes, I will. [LR41CA]

SENATOR CHAMBERS: Senator Schilz, the month of January is named after a god called Janus. And Janus had a face in front and a face in back so that it could see the

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future and the past so I see things coming and going. I don't have eyes in the back of my head. But somewhat like a bat, I sense things about certain people so I didn't want you to escape. Did you have some words to say about the Nebraska Farm Bureau or the Farm Bureau Federation? [LR41CA]

SENATOR SCHILZ: Yes. [LR41CA]

SENATOR CHAMBERS: How familiar are you with the makeup of their membership? [LR41CA]

SENATOR SCHILZ: I'm somewhat familiar. [LR41CA]

SENATOR CHAMBERS: Are you aware that they have fewer rural people as members than urban people? Does that shock you to know that? [LR41CA]

SENATOR SCHILZ: You know what. It doesn't shock me necessarily. What... [LR41CA]

SENATOR CHAMBERS: Does it surprise you? [LR41CA]

SENATOR SCHILZ: No. [LR41CA]

SENATOR CHAMBERS: Does it surprise you that I know about it? [LR41CA]

SENATOR SCHILZ: No. [LR41CA]

SENATOR CHAMBERS: Okay. That's a trail I've been down a lot of times and when we have people from the Farm Bureau and I ask them those questions, they don't want to answer it but I don't see why they want to conceal it. Is the Farm Bureau known as an operation that sells insurance? [LR41CA]

SENATOR SCHILZ: Yes, they are. [LR41CA]

SENATOR CHAMBERS: And do they try to promote that aspect of what they do and persuade people to purchase their insurance? [LR41CA]

SENATOR SCHILZ: Absolutely. [LR41CA]

SENATOR CHAMBERS: So it's not all about 4-H, is it? [LR41CA]

SENATOR SCHILZ: No, definitely not. [LR41CA]

SENATOR CHAMBERS: And it's not about all agricultural matters, is it? [LR41CA]

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SENATOR SCHILZ: No. On the insurance side, no, it's not. [LR41CA]

SENATOR CHAMBERS: Okay. And the insurance is probably the thing that draws a lot of people who have nothing to do with agriculture to the Farm Bureau. Wouldn't you agree with that? [LR41CA]

SENATOR SCHILZ: I would...I can't disagree with that, no. [LR41CA]

SENATOR CHAMBERS: Thank you. Senator Schilz is a very straightforward man when you build a trap from which he cannot escape. But he knows that I know. And that's why when we're on this floor we ought to know what we're talking about and we ought to know what other people are talking about. And I'm not a mind reader, but I can divine motivation and I know what the gambling interests have done in this place down through the years. I wonder...oh, Senator Wallman is gone. Senator Wallman had said something that I wanted to discuss a little bit. He brought up in an oblique way the gambling on somebody's robe. He's talking about what the soldiers did when Jesus was hanging on the cross. Crucifixion was not a method of execution that was created for Jesus. That was a Roman method of killing people. Nothing unusual about it at all. And when a person who had suffered that fate had anything of value that he or she, well, he carried with him, such as garments, the soldiers were allowed to divide those things among themselves. So everything else Jesus had, they divided. But then they came to the...it wasn't called a robe. If you read the King James version, it was called a coat. And it just happens that I remember the two verses that dealt with what Senator Wallman brought up. I'm like that magician who says, Senator Schumacher, if you look in your right front coat pocket you'll find a card, the king of diamonds. And he said, now I didn't even have any cards here. But he reaches in his coat pocket and pulls out the king of diamonds. How would I know what Senator Wallman's going to talk about? So why would I know the verses? Saint John 19:23 and 24. Do you believe me? I could make it up. You're not going to check it. I could mislead you. John 19:23, 24. And the first verse, the first one, tells you about the soldiers dividing. Then the 24th verse mentions that Jesus had this coat and they couldn't divide it because it was seamless, sewn from the top to the bottom. So how are they going to divide that among themselves without destroying the value? They cast lots. And you know what lots were? Little bits of bone or wood or stone that were marked a certain way. They would be put into an animal or leather bag and they'd shake it up. Then they'd either roll it out or they would reach in. And it would be marked in such a way that each person who's going to be involved would be noted. So if there was a guy named Calvin, a guy named Ernie, a guy named Shields--not S-c-h-i-l-z but S-h-i-e-l-d-s--and the three of us were to be involved and one person being selected, each of our name would be placed on one of these objects and you'd reach in and take it out. And whoever's name was on it was the one chosen. And Senator Schumacher is a scholar. If you go to Jonah, the book of Jonah in the Old Testament, one of the minor prophets, and go to chapter 1, verse 7, you will see that the people who were on a ship that was tossed about on stormy seas

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wondered who had done something wrong that would offend the gods of the seas and cause their ship to be handled in this fashion. Since nobody spoke up, they cast lots. And the lot fell to Jonah. And they asked that rascalion, who are you? What is your occupation? Where did you come from? Where are you going? What did you do to offend the gods? But in spite of all that, you got to go, partner. You're out of here. And they needed all of that to come up to one of the biggest, most incredible yarns in the "Holly Bible." They threw Jonah overboard. And guess what was waiting for Jonah? A fish. And that fish saw Jonah and swallowed him, and nobody has been able to find a fish with a throat large enough to swallow a human being without chewing. But what do the people today say? That a whale swallowed Jonah. A whale is a mammal. They don't even have that right, but nobody checks anybody. So how do I tie all that into what I'm doing here? I'm doing what I can to... [LR41CA]

PRESIDENT HEIDEMANN: One minute. [LR41CA]

SENATOR CHAMBERS: ...kill the bill. I'm going to help pass the time. And I'm not going to read recipes or the phone book. I'm going to talk about the things I want to talk about and along the way point out how people have opinions about things and don't even know the facts on which that opinion is based. This is going to be discussed at great length. And I have some very specific things that I want to say in addition to those I've said. But I will repeat as is done when you go to church or anyplace else. Thank you, Mr. President. [LR41CA]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. (Doctor of the day introduced.) We are now open to discussion on the motion to bracket. Senator Gloor, you are recognized. [LR41CA]

SENATOR GLOOR: Thank you, Mr. President. Good morning, members. I rise in opposition of the motion to bracket. I am in support of LR41CA and I would be one of those ignoramuses that is in support of LR41CA. I did go down and take a look at the machine, played the machine, and didn't do half bad for guessing since I didn't have a chance to go through the process of looking at the various horses in the race and their records and the track conditions and the other things that are a part of the enjoyment that comes from picking the ponies. Didn't win, but I placed and showed, which is I would have to say in my case more about luck than it is about any skill. But I want to point out something that I'm afraid has been overlooked on a pretty regular basis as we've talked about the evils of gaming and the big money that is behind it and the fact that the industry supposedly in the vice of gaming is in and of itself going to be responsible for the downfall of our country apparently. That is that racing has been a part of our society for a long period of time and has been legalized by this entity for a long period of time. Here's what I went back to last...at the end of last session in Grand Island, the home of Fonner Park. I went back to individual after individual after individual coming up and bemoaning the fact that we had come so close to putting out a helping



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hand to the horse racing industry. One vote was all we needed. One vote is all we would have needed and we'd have put out a helping hand. And the people who were talking to me weren't big money folks in tweed suits smoking cigars, sipping whiskey in the back room of someplace in Las Vegas or Atlantic City. They were people who drove tractors, took care of the track. They were retired teachers who as part-time income would work the booths where betting took place at the track, may have worked as office staff, may have worked in concessions, been part of the security force that was responsible for security out there and keeping crowd control. And they were average citizens who enjoyed going to the park on a beautiful spring day, bringing their kids and their grandkids, being involved in the State Patrol exhibition that was going on talking about seat belt safety, car carrier safety, all the sort of things that we would associate with a county fair and not with this evil undertaking. And that's how we talked about this bill last session, and it's the reason that almost two-thirds of this body recognize it as something other than an evil vice. And I'd like to bring the conversation, at least for those members who recall a jog in their memory, back to the people who filled the balconies who fit in that category who didn't mind going to the track and paying an entrance fee in addition to knowing that the odds were that they were going to lose something any more than they minded paying an entrance fee to get into the county fair or the state fair or a husker football game where they were going to leave with less money than they went to but found it as an appropriate form of entertainment, which is what we're talking about. Horse racing for its economic development components has always been a form of entertainment. Going back and back and back, it's the sport of kings, after all, and we don't have any kings in this country anymore. We have a country of kings and queens, and we've decided that horse racing... [LR41CA]

PRESIDENT HEIDEMANN: One minute. [LR41CA]

SENATOR GLOOR ...is a form of...thank you, Mr. President, a form of entertainment for us and we enjoy it. And right now for a number of reasons that we haven't been able to get our hands around, on-line gaming being one of them, we find ourselves struggling and saw this as a reasonable way to provide a bridge or an opportunity to help erasing for an industry of gaming than the past for decades and decades, and in other states and other counties for centuries and centuries, has been found appropriate. We're not discussing something that will be the downfall of Nebraska were it to go through. Thank you, Mr. President, members. [LR41CA]

PRESIDENT HEIDEMANN: Thank you, Senator Gloor. Senator Christensen, you are recognized. [LR41CA]

SENATOR CHRISTENSEN: Thank you, Mr. President. Folks, if we put these machines at the racetracks and if they are for the benefit of the horsemen and if the industry would die, would there be an automatic ending to the machines or would they be allowed to continue? And would Senator Lautenbaugh yield to a question, please? [LR41CA]

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SENATOR LAUTENBAUGH: Yes. [LR41CA]

SENATOR CHRISTENSEN: Senator, would...you heard my question? [LR41CA]

SENATOR LAUTENBAUGH: Yes. [LR41CA]

SENATOR CHRISTENSEN: Would the machines be allowed to continue or would they be tied to the industry? How would that be? [LR41CA]

SENATOR LAUTENBAUGH: I would say pretty clearly they would not because we're talking about licensed facilities, and part of being a licensed facility is that you have to race. So if the industry itself died, there would be no licensed facility so there would be no place to put the machines, terminals, I should say. [LR41CA]

SENATOR CHRISTENSEN: Okay. Thank you because I hadn't thought about that. I appreciate that because you're correct on licensed part. I do want to talk about the machine a little bit. I went down there. I didn't take a stopwatch. I'm going to go back down there and take my phone with me and time it. But I asked him yesterday to put it on the fast speed. And I just sat there and I hit bet, automatic choices, and start. The clip was on the short version, it was about four seconds long. From when I finished the bet until I hit the next bet took eight seconds. And so I realize they say this could be set up, and he showed me how you could run the whole race too. And, honestly, that seemed kind of boring. I understand why people want it fast. But to me I believe it would be set on that last short bet, quick clip. And even some of the clips weren't very clear. Of course they got a smaller screen than I think it should be. But I encourage everybody to go down and look at it, set it on the fast speed and see if you don't think it operates about like a slot machine. I realize you're putting cash in this thing and you can read about the race and you can read about the jockey and you can see the percent of wins that they have and you can do everything like you would if you were going to the horse races. You can study it, put as much effort into it as you want to. But I don't believe that's the way it would be done. I believe the people using the machines would be thinking of it like a slot machine, thinking of it as how fast can I turn my bets around. And that's one of my big oppositions. I've always said it was a slot machine or just like one, and the fact that it was just going to be a fast way to turn your bets. And I've always had the belief that the machines are set up to make the owners money. It's not set up for the people playing to win a lot of money. Yes, there's a guaranteed payout. But I'll guarantee you the business is making money on it. They're very open and honest here. Percentage of it's going to the horses and things too. So you know the return to the people is not going to be... [LR41CA]

PRESIDENT HEIDEMANN: One minute. [LR41CA]

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SENATOR CHRISTENSEN: ...thank you, is not going to be a good deal. I know we heard senators talk about it's entertainment, and that's the way I would have to look at it if I was doing it is entertainment. And there is a lot of things we do for entertainment reasons. I don't disagree with you. But I don't see people that go to a movie get addicted and set there, the movie may be an hour and a half long, but I don't see them set there and just continually bet money every four or eight seconds, however fast it's set up. I don't think it's good for the people and I don't think it's good for the state of Nebraska to move this direction. Thank you. [LR41CA]

PRESIDENT HEIDEMANN: Thank you, Senator Christensen. Senator Krist, you are recognized. [LR41CA]

SENATOR KRIST: Thank you, Mr. President, colleagues, and good morning, Nebraska, again. And I apologize for the delay. I wanted to address a concern that was voiced yesterday on the mike about the ridiculous nature of putting out a constitutional amendment and putting an LB on the floor of the same subject matter at the same time or in the same session. The question is, shouldn't you put it to a vote of the people and then come back after it's voted yea or nay and then support it with a piece of enabling legislation if you need to. Again, Senator Chambers probably knows the history better than all of us, but the point is that in the early nineties indeed that Legislature did put a CA and an LB on the floor at the same time to talk about gambling. And when the Legislature passed the LB, it gave the taxpayers of Nebraska some comfort, some direction in terms of where the Legislature might go. That was the rationale. The problem with that rationale as the then-Attorney General opined--and I love to say that word--it brings into play something called a judicial concept of express and implied validation. Chicken or the egg. So the Legislature had to come back then in 1993 very quickly with a piece of legislation to make sure that everything was put in order. So to be clear, when I voted it out of committee, both of these, I knew the historical data, but in terms of the debate on the floor, I saw great value in the fact that we would be able if the CA passed to determine or define the parameters of which we would enable to give the taxpayers a point. And then potentially after the discussion and the legislative intent was established, we could either pass or not pass the LB. And if we did not pass the LB, we then could avoid another AG's Opinion where he would opine that there was a problem with the judicial concept of express and implied validation. I think it's important to understand the history because, as we go down this path, if opponents are not successful in killing it, bracketing it in the time that we have, and that decision will be made...and, again, I'm not...I have not said one way or another. I want to have a discussion on the machine, on the capability, and the possibilities of putting it on the ballot, but let's have the discussion pertinent to that. So understanding now a little history, and if I'm wrong I'm sure Senator Chambers will correct me, but I think that the issue is not whether or not they should be put on the same...at the same time in the same session. The issue is that you need to understand what you're doing in process when you put both a CA and an LB of the same subject matter during the same session.

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And with that, I would yield the balance of my time to Senator Chambers if he'd like it.  
[LR41CA]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Senator Chambers, you have 1 minute, 20 seconds. [LR41CA]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Krist. I want to emphasize again what my position is. I don't care about all these arguments in this particular context relative to the constitution, having a bad bill and a worse constitutional proposed amendment before us. None of it is any good. I'm like the garbage man. I don't make the garbage, I have to get rid of it. And there might be some coffee grounds, some old lettuce leaves, some old bones, some of this and some of that, and I don't go into that garbage heap and sort it out for any purpose. I'm getting rid of the garbage. So whether they call it, whatever the number of the bill is, or whatever the number of the constitutional amendment is, makes no difference to me. It is garbage. There's one place it should go. We don't feed garbage to animals anymore generally, as used to be the case. They take it to the landfill. So I don't know whether this will be fed to hogs, metaphorically speaking, or sent to the landfill. I just want to get it out of here. So as the Lord said, the stench of your wrongdoing rises up and fills my nostrils. [LR41CA]

SPEAKER ADAMS: Time, Senator. [LR41CA]

SENATOR CHAMBERS: And I don't want to smell it anymore. But... [LR41CA]

SPEAKER ADAMS: Time, Senator. [LR41CA]

SENATOR CHAMBERS: Thank you, Mr. President. [LR41CA]

SPEAKER ADAMS: (Visitors introduced.) Senator Schumacher, you are recognized.  
[LR41CA]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. The Legislature, those of us in this Chamber, have got the power to authorize a death penalty. We've got the power to specify how and when it will be carried out. We've got the power to authorize the use of recreational drugs and prostitution. We have the power to authorize harsh penalties applied discriminatively for victimless crimes. We have the power to confiscate your hard-earned savings with deposits or intangibles taxation. We have the power to authorize a pipeline company to take your land. We have the power to authorize many, many, many things. But we don't have the power to authorize the racing of dead animals. This underscores the absolute folly of a constitutional provision which attempts to eternalize the social mores of the time with the constitution was written. This provision that we're haggling about started out as

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saying the Legislature shall not authorize divorce or games of chance. Quite frankly I'm surprised they didn't throw homosexuality in there too. And now in order to authorize dead horses to race, we've got to go to a statewide vote of the people. Constitutions are documents to define the powers and the procedures and the safeties of governmental procedure, not to embody social mores. That decision in Nebraska rests either in the halls of this body or in a petition process which has been sufficiently eviscerated that it is ineffective for anybody that is not extremely well-heeled. The very fact that we are going on eight hours to debate whether we should present to the people a proposition whether or not they should allow us to allow the racing of dead animals borders on the absolute ridiculousness of both sides of this issue. It borders on a disregard of the fundamental principles of constitutional government that somebody back in the age of preprohibition in 1867 decided it was a good idea to embody their view of the world and morality and economics and anything else in a constitutional document. The proposition that we have before us in substance today, whether or not to allow the racing of dead horses, does not belong in the dignity of the ballot box of the people but belongs in the judgment rendered in this Chamber as do other paramutations of this extraordinary complex and expensive issue. And I've heard it said in this Chamber, follow the money. If you follow the money, it will not take you to Nebraska. Thank you, Mr. Speaker.  
[LR41CA]

SPEAKER ADAMS: Thank you, Senator Schumacher. Senator Chambers. [LR41CA]

SENATOR CHAMBERS: Mr. President, members of the Legislature, and Senator Schumacher, I appreciated what you said, up to a point. It is ridiculous for those people pushing this thing to want to talk eight hours. But it's not ridiculous for me to try to stop them. I am the one who believes in prevention rather than cure. I will do everything I can to stop bad legislation. I have spent a lot of years in schools. I've spent maybe more time in libraries. And I've drawn certain conclusions. And one of them relates to that little slogan, or maxim, I just cited: prevention is better than cure. Would you rather avoid having cancer or get it and have to have it taken care of? So I look at what we do, in my mind, as a situation where you have a very high precipice, a cliff. From the edge of that cliff down to the ground below is a thousand yards. There are people who might inadvertently walk off the cliff. What I would believe in doing, not just posting signs because not everybody can read, not everybody will read...people sometimes must be protected from the things they do accidentally, inadvertently, or through ignorance of the dangers inherent in what they're doing. So I would erect a fence that somebody would have to go to great trouble to climb over to fall off the edge. In the process of climbing, they would be asking, what is this fence here for? And when they got to the top they would probably expect to look over there and see what King David saw when he looked, a Peeping Tom that he was, and see somebody's naked wife taking a bath; or some princess, as happened in England, walking around her grounds naked from the waist up or whatever stage of disrobement she was in. I could build the fence at the top and prevent people from falling or I could open a cemetery at the bottom to accommodate

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the person who did fall over the edge or jump over the edge. I believe in stopping trash legislation and I will call it what it is; my legislation can bear the same characterization. I'm not the one who determines that people can speak on this microphone or what they can and cannot say. If we're the ones who advocate free speech, we're the ones who should practice it. I listened to Senator Gloor and he sounded almost like somebody giving an elegy at the funeral of a great but departed person. Even though he is representing a special interest group, it doesn't sway me. That's what his job is, he feels. But I don't care how he dresses it up. I say again, dress a monkey as you will, a monkey is a monkey still. Spray a carcass as you will, a carcass smells like a carcass still; and that's what we have before us, no matter how they try to characterize it. And I will go a little bit farther in what Senator Schumacher opened the way for us to discuss if we choose to. What is our job? What is our role as representatives? Are we to be echoes? Are we to be reflections? Or are we to be informed, thoughtful, analytical people... [LR41CA]

SPEAKER ADAMS: One minute, Senator. [LR41CA]

SENATOR CHAMBERS: ...who take seriously the job of lawmaking and not even submitting to the public something that is simpleminded, irrational, and hurtful to the society? Do you think if we put some things on the ballot, like nobody pays any taxes, it would pass? That doesn't mean it's right. What did that old guy who looked like he was drunk say? There's one of them born every minute. And I'd say more often than that. And that's why a lot of people want to put it to the public because they're not informed and tremendous amounts of money would be spent to influence them. Why do you think these politicians spend hundreds of thousands of dollars on the local level and millions on the national level if they're going to run on their record? They want to propagandize the public. And you all can run for it if you want to. My job is to counteract it. And I will do it. [LR41CA]

SPEAKER ADAMS: Time, Senator. [LR41CA]

SENATOR CHAMBERS: Thank you, Mr. President. [LR41CA]

SPEAKER ADAMS: Mr. Clerk for an announcement.

CLERK: Mr. President, the Revenue Committee will meet in 2022 as opposed to the north balcony now; Revenue Committee in 2022. I also have some messages, Mr. President. Confirmation report from Natural Resources. Senator Krist, a new A bill, LB6A. (Read LB6A by title for the first time.) Senator Crawford has selected LB429 as her priority bill; Senator Carlson, LB517. And I have hearing notices from the Business and Labor, and the Education Committee. Thank you, Mr. President. (Legislative Journal pages 649-651.) [LB6A LB429 LB517]

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SPEAKER ADAMS: Continuing with debate, Senator McCoy, you're recognized.  
[LR41CA]

SENATOR McCOY: Thank you, Mr. President and members. This is my first time to speak on this bracket motion, but I'll choose to use this time to address and continue to address what I believe to be some of the constitutional concerns that exist with LR41CA. We still have the underlying recommit motion, my motion underneath. And again, I believe that it should be recommitted, if we ever get back to it, for a number of different reasons. I think first and foremost is you have a whole multitude of issues. Why is the phrase "wherever run" that's been in our constitution since 1988 when the simulcast constitutional amendment was passed being stricken from line 16, on page 3, from LR41CA? And would Senator Lautenbaugh yield? [LR41CA]

SPEAKER ADAMS: Senator Lautenbaugh, would you yield to a question? [LR41CA]

SENATOR LAUTENBAUGH: Yes, I will. [LR41CA]

SENATOR McCOY: Thank you, Senator. Why is this being stricken? And why isn't the phrase "whenever run" being added on the same line? [LR41CA]

SENATOR LAUTENBAUGH: Well, we believe it's addressed with the language that is added. The reason this is being stricken is because it does not clearly enough, some have argued, provide that it would allow races that are not...that are run at a different point in time rather than a different place to be allowed. [LR41CA]

SENATOR McCOY: But why, if we're talking historical horse racing, would it not be important to say "whenever run" in addition to "wherever run?" So not only are...not only are we striking the "wherever run" that is necessary for simulcasting, but we're not adding "whenever run." And our Attorney General has made it very clear that that is an important component of this issue; as has Governor Heineman with his veto message over...veto message back to the Legislature. So why is that being stricken and why is "whenever" not being added? [LR41CA]

SENATOR LAUTENBAUGH: Well, I think you're pointing out two sides of the same thing. If we were to add "wherever" and "whenever," what would we be excluding? We couldn't add "however" because it has to be by the pari-mutuel method. So this is a difference, I would submit, that makes no difference. [LR41CA]

SENATOR McCOY: Well, that gets back to another question, Senator. Why is "the parimutuel method" being stricken and "a parimutuel method" being added back in? Is that or is that not an acknowledgement that this is not an ordinary, in my belief at all, a pari-mutuel form of wagering? [LR41CA]

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SENATOR LAUTENBAUGH: Senator McCoy, I would say absolutely not. But I would say the proponents of this have had enough experience dealing with the opposition that if you do not...let me put it this way, there would then be a debate over what "the parimutuel method" is as opposed to "a parimutuel method." I think you'll find that there will be plenty that conclude that these machines do operate by a pari-mutuel method and we're struggling with a difference here, I guess, because there are various variants and permutations of everything. What is "the parimutuel method" versus "a parimutuel method?" [LR41CA]

SENATOR McCOY: Well, Senator, what is the definition of "the parimutuel method?" It's in our constitution. [LR41CA]

SENATOR LAUTENBAUGH: That is correct. [LR41CA]

SENATOR McCOY: Well, what is that definition? [LR41CA]

SENATOR LAUTENBAUGH: It's found in the constitution, Senator. [LR41CA]

SENATOR McCOY: But, no, it's found in the constitution, but what is the definition of "the parimutuel method?" [LR41CA]

SENATOR LAUTENBAUGH: I will not try to restate what's in the constitution simply because it speaks for itself. [LR41CA]

SENATOR McCOY: Okay, well, what is the definition of "a parimutuel method" since you're proposing to add that to the constitution instead of "the parimutuel method?" [LR41CA]

SENATOR LAUTENBAUGH: Again, it differs from what we define in the constitution by saying that...recognizing that there would be variants of pari-mutuel wagering. [LR41CA]

SPEAKER ADAMS: One minute. [LR41CA]

SENATOR LAUTENBAUGH: There is nothing that is "the parimutuel method," I would argue, and to the extent it differs in any way, I believe some would argue that this is...well, this isn't "the parimutuel method," it's a different pari-mutuel method. But that would be the next debate, I guess. [LR41CA]

SENATOR McCOY: So what you're saying is, Senator, that what you're proposing with instant racing terminals is a different pari-mutuel method, but we don't know whether it's different or unconstitutional because we don't have a definition for what "the" is. So we're saying we don't have a definition for what "the parimutuel method" is, so we want to say "a" instead to try to make sure that somehow it's constitutional. How can that be?



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[LR41CA]

SENATOR LAUTENBAUGH: Well, I think we've just covered this. If we left it with "the," then the ongoing debate would be what does "the" mean, what is "the" method, and does this differ materially or not? We'll still have that debate under "a," I assume. But, and I know that you filed an amendment to address this on Select... [LR41CA]

SPEAKER ADAMS: Time, Senators. [LR41CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LR41CA]

SPEAKER ADAMS: Senator Carlson, you're recognized. [LR41CA]

SENATOR CARLSON: Mr. President and members of the Legislature, first of all, Senator Chambers, the Bible doesn't mention whales. It refers to a great fish. Now while it doesn't say "whale," without a doubt the big fish had a whale of a belly. And it was the god of the universe who controlled the outcome of the casting of lots for Jonah. Jonah was in a bad fix, but God delivered him in three days. And that was a sign of another three-day resurrection yet to come. This is my one time to speak on this issue. And I think I've identified eight populations that have an interest in what we're talking about today. There are those who love to gamble and they can afford it; that's one population. There are those who love to gamble and they can't afford it; that's the second. There are those who will accept gambling because it brings revenue to the state, but that revenue is not free. There's a social cost, and I believe a substantial cost, but the actual cost is very difficult to determine. There are those...there's a population of people that really don't care one way or the other; it's not worth a lot of time for their thought. There are those that are basically against gambling and they want us to vote no on these issues. And there are those that are basically against gambling, but they believe people should vote. There's another population that are just totally against gambling, see no good in it and want no chance for gambling to succeed or be approved. Now all of us accept risk in our lives. We get in a car, we accept risk. We board a plane, we accept risk. We start a business, we buy a business. Now what if no one started or bought businesses? We would all...all...all depend on the government for our livelihood. How good would that be? Life is a risk. Life is a gamble. Nothing ventured, nothing gained. But I believe the risks should be wise risks. What risks are determined by the Legislature? That's what we're debating today. We were elected to vote, to decide, to take a stance. There are issues that come before us that I don't have any strong personal convictions about. And for those, my constituents can influence me on how I may vote. But I do have strong personal convictions on some issues that are based on my value system which has its foundation in the Good Book, the book of truth, the absolute best source for right and wrong. And convictions on those issues guide my decisions on votes. I'm against LR41CA. I'm against LB590. And I will vote for the bracket motion. I believe we in the Legislature should decide on this issue. I will make

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my vote and I will take the heat. Thank you, Mr. President. [LR41CA LB590]

SPEAKER ADAMS: Thank you, Senator Carlson. (Visitors introduced.) Senator Price, you're recognized. [LR41CA]

SENATOR PRICE: Thank you, Mr. President, Mr. Speaker, members. This is my first time up on the bracket motion here. And in thinking about the subject matter before us last night, I got to thinking about what we're debating and I heard first thing this morning that...that really stuck that I heard was the racing of dead horses. And I would say semantically that would be an inaccurate statement. I don't think dead horses do much racing. And it brings me to what I thought last night. It's more the case that this is gambling on what has already happened. Now that is a concept for you. I mean I think there was a franchise movie industry that made on something like this where they went back to the future. And it made me wonder because here we are, we're talking about wagering on something that has already occurred. Is that almost like finding the Fountain of Youth or something? I mean, it's like the gift that keeps on giving. It's already happened. Obviously, we all understand because it happens very fast. Think about the business case. How would you make that business case to say to people, I want the money to invest to manufacture machinery; I want to pay people to program; I want to pay people to administer the various functions of the location where this will be? And now remember you're a banker, okay, let's say you're a banker and as I want all this because they're going to wager on something, so maybe you get a little skittish about the wagering thing, but you know, it's a business idea. And so they say, what are you wagering on? Well, is it the ball that goes around, the roulette table? Is it finding the right number of combination of cards to get to 21? No, no, no, no. Well, what is it? We're going to wager on races that have already happened. Wow. The banker can look at you and say, wow, I'm going to remember this one because I'm going to get a lot of drinks on this one because people won't even believe this. Someone asked me to give them money for a business idea because people are actually going to spend money on races that have already occurred. But then the gentleman tells them...or the person presenting tells them, oh, but wait, we have a little caveat. The only way we can make that business case work is if we get so many races cycled so fast with so little information that it's not possible for a person to have the ability to determine the outcomes. And you have an "actuarious." And if any of you have ever had to deal with actuarial sciences, I can barely even say the word let alone grasp what the concept is, but when you do that these are people who look at numbers and the repetition of events to find out at what point, whatever point that is that you want, but at what point is it feasible. And when you buy insurance you basically have an actuarial scientist who says, hey, this is how much it's going to cost for the company to make money based on how much money you pay into the pool amongst other things: how long you'll live; what's your weight; those impacts. So these same people say, here's what we have to do to get enough of these already-run races to run so we can make enough money to pay off all the people involved, all the payouts. I mean, folks, this is pretty shaky business right here. And that

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should tell you right there...right then and there this isn't about dead horse races. It's about gambling on something that's already occurred. And that right there should give you cause to pause and consider it. [LR41CA]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: One minute. [LR41CA]

SENATOR PRICE: And with that I yield the rest of my time to Senator Chambers. [LR41CA]

SENATOR CARLSON: Senator Chambers, 50 seconds. [LR41CA]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Price. This is a situation where you don't look at the gift itself, you look at the thought and the motivation behind it. And based on that I thank Senator Price. He was so magnanimous I'm going to be magnanimous and whatever time left I might have I'm not going to consume it. Thank you. [LR41CA]

SENATOR CARLSON: Thank you, Senator Chambers and Senator Price. And, Senator Chambers, you are up next. You are recognized. [LR41CA]

SENATOR CHAMBERS: Thank you. Mr. President, Senator Gloor was very modulated in the way he spoke. He said, horse racing has been here for however long, he said, but a long time and therefore it ought to continue. Candles were here probably even longer than horse racing. Then the incandescent bulb, then neon lights, then the curlicue lights; there are always upgrades. But here is the thing that doesn't change, they're designed to produce light so that the darkness will be driven away and you can do whatever you need to do where there is light. He said that the people who are involved in the horsemen's activity that he knows about are not people smoking cigars, gave a rough description of the mob. Well, the mob doesn't even come like that anymore. They don't have an enforcer who walks around with an ill-fitting suit and a violin case and he can't play a violin and smoking a cigar, that's not the way it's done. Even the Ku Klux Klan, their spokespersons don't wear pillowcases and bedsheets anymore. They organize and incorporate under the rubric of a community betterment association. They know what words to use behind which to hide. So the people who are backing this kind of trash that we have before us today are not going to come in those kinds of suits dressed like that. Who do you think organized these hundreds of people to come down here and sit in the balcony that we keep being told about, where are they now? We're talking about the same thing now, aren't we? The organizers are not here. People are rounded up and told, go down there, it's in your best interest, go down there. And that's what they do. One soul sitting in the balcony, the lone stranger out of all the hundreds, so maybe those hundreds don't care anymore. But on pari-mutuel...that came from the

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term "paris mutuel" and you'll notice it's spelled m-u-t-u-e-l, not a-l. It was a system whereby you would have all these gamblers and instead of them betting one with the other, or one against the house, you put everybody's money in a pot and the one who is in charge will take out his cut first. Then what's left is divvied up among the suckers, only a few of whom can win. The vast majority have to lose to make money for the term now we use for the "house." And at Ak-Sar-Ben what they used to do when a winning horse produced a certain amount of money and some change, the change went to the track. They kept that, you didn't get paid to you everything you won. They cut corners, they cheat in every way they can. And they have well intentions but deceived and misled people, like my colleague Senator Gloor; standing on this floor behind his reputation they hide. And they know the respect we have for our colleague. I noticed how quiet the Chamber got and it wasn't because people were asleep. They were listening because Senator Gloor does not speak often and to hear him speaking in favor of gambling took people by surprise. If he doesn't know what this bill is about...we all know. Everybody listening to our discussion will know. The house in a pari-mutuel system, all the money goes into the pot, the track gets its cut first; then the rest of them... [LR41CA]

SENATOR CARLSON: One minute. [LR41CA]

SENATOR CHAMBERS: ...fight for what's left. That's what the pari-mutuel system is. And I think the reason my good friend Senator Lautenbaugh didn't define it because he didn't know; because nobody was supposed to ask what does pari-mutuel actually mean. And I don't blame him for not knowing. All rivers and most people are crooked because they follow the path of least resistance. I follow the path of least resistance when I'm able to. But when it comes to a matter like this, there is no path of least resistance for me except in a broad, overarching sense. The path of least resistance for me is to fight against this rottenness rather than to try and fight against my conscience. My conscience is stronger than this rottenness. The rottenness will go and I'll send it away, but my conscience is with me all the time because my conscience is me. Thank you, Mr. President. [LR41CA]

SENATOR CARLSON: Thank you, Senator Chambers. Those still wishing to speak include: Christensen, McCoy, Lautenbaugh, Bloomfield, and Chambers. Senator Christensen, you're recognized. [LR41CA]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Lautenbaugh yield to a question? [LR41CA]

SENATOR CARLSON: Senator Lautenbaugh, would you yield? [LR41CA]

SENATOR LAUTENBAUGH: Yes, I will. [LR41CA]

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SENATOR CHRISTENSEN: Senator, I'm going back to our previous conversation that you...that I asked you a question, you graciously answered it and when you said that the machines would have to die if the tracks quit racing, is that...was that written in the original constitution or is that just a commission change? What would have to change to leave them open? Do you know? [LR41CA]

SENATOR LAUTENBAUGH: I don't know. I'm applying what I understand as existing law regarding licensed tracks and what they have to do. And we're limiting these things to licensed facilities, so I guess we would have to change the definition of what it takes to get a license. [LR41CA]

SENATOR CHRISTENSEN: Okay, so it's something that we do statutorily; it wouldn't be...it is part of the constitutional amendment that put this in originally, correct? [LR41CA]

SENATOR LAUTENBAUGH: I believe that's correct. [LR41CA]

SENATOR CHRISTENSEN: Okay, thank you. I thought that's the way it was, but wanted to ask somebody else also, so. And I think Iowa had to do the same thing when they quit racing the dogs over there they had to change their rules so that they could allow the machines to go on. And I just went down there and I looked at the machines again, asked a few more questions, and I don't know if you noticed if you went down there and looked, there's touch screen buttons and then there's some lower mechanical-type buttons. And they had different markings on them. And I asked him, I said, why is there not the same markings on these? And he said, well, I just didn't change the lower buttons to make it match the on-screen ones because we were using this machine as a slot before. So it is a computer, as everyone has said. He'll open it up and let you see inside the working computer and things to it. So I don't know, even though this is about historic racing that the bill says it would be used to, I don't know how you could differentiate this machine from a slot machine because they can take the bets the exact same way, they can put...change the computer screen to make it look like it's rolling the different symbols, like matching three cherries or whatever they have that are on them rolls, they can make it do the same thing that way. So these machines are the exact same machines equivalent to what you see if you went to a casino. So I'm pretty positive after talking to him that they are...it may not be a hand-pull lever slot machine, but it's a machine that you can make bets on and use just like they would in a casino. And I'm pretty positive after talking to him, he says, we just changed these buttons to whatever we want this to do. And previously it was not set up for historic horse racing. So again, I guess I'm a little more confident; I keep looking at the machine and asking more questions as I think about it. I really believe this is truly a slot machine. I understand that it is set up for historic horse racing here, but I guess I'm more sold now after seeing the machines than I was previously that this is just a simple computer chip change or whatever you want to call the design change of it to make it look like

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historic horse racing. And that's what it does. It shows you a clip of a race. And I forgot to time it when I was down there again. I had my phone along, got busy listening and asking questions. There was four or five of us there and so I didn't get it timed like I said I was going to do. [LR41CA]

SENATOR CARLSON: One minute. [LR41CA]

SENATOR CHRISTENSEN: Thank you. But I'm still very positive that...that you can turn this at least every eight seconds. I think it was a little shorter than that, but I wanted to be positive that I didn't understate...or overstate how fast it was. Thank you, Mr. President. [LR41CA]

SENATOR CARLSON: Thank you, Senator Christensen. Senator McCoy, you're recognized. Senator Lautenbaugh, you're recognized. [LR41CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I would like to expand on the banker comparison a little bit. Here's the difference when you're explaining something to a banker, your banker especially, he or she would actually listen to what you're saying. And that kind of matters, because...we've heard this is some sort of crazy business model that a banker would be agape at. Yet somehow these machines exist. I don't know how we account for that otherwise. Maybe it was explained to the banker and the banker didn't have a preconceived notion or bias or knee-jerk reaction against this proposal and he or she would actually listen to what you're saying. We just heard Senator Christensen explain that this machine could be programmed to be a slot machine. It could also be programmed to be an ATM. So maybe we should recommit this to the Banking Committee because there is a real danger, if we authorize machines that show historic horse racing, some nefarious person could convert them all to ATMs and we would be in trouble because there would be too many ATMs. Or you might acknowledge that that makes no sense whatsoever. And what you did here, Senator Christensen say, is that the machines shows a race that has happened and the winner on the machine is determined by how the race came out. And you can watch the race and see how the horses came in. Now I don't know how many of you have ever played slot machines, but if that is your understanding of how a slot machine operates, then you don't understand how a slot machine operates. And, yes, these could be converted to slot machines and they would be illegal because it would not be under the pari-mutuel method and it would not be wagering on horse races. It would be a random game of chance that is prohibited. And I alluded to first thing this morning that sometimes you're going to hear frustration being given voice here. And I'll echo something Senator Schilz said, at least Senator Chambers has laid his cards on the table; he hates this and we're going to talk eight hours, so be it. I'm even helping more than I should probably. But I would point this out, I believe the constitutional concerns raised by Senator McCoy are absolutely specious. And he told you, well, I don't have any obligation to correct those. Well, he's filed three or four

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amendments to be heard on Select File because he's so anxious to get this bill right. Or he's wanting to delay this on Select File, too, and has no interest in getting this bill right. I would challenge any of you to read the language of LR41CA, especially the language preceding where "wherever" is stricken. I think it makes it very clear what we're trying to do here. And I would point out that we did have a public hearing on this and none of the opponents, to my recollection, raised these issues. And then yesterday the General Affairs Committee was not...was criticized, I guess, for not dealing with these issues in committee. Well, it's a funny thing, we tend to deal with actual issues in committee that are brought up and have merit. And I would suggest to you that the constitutional issues have been raised now at the eleventh hour saying our constitutional amendment is unconstitutional, wrap your head around that, to allow some who have said to me previously, yes, I'll support the constitutional amendment, thank you for bringing it; to now say, oh, wait, but not this constitutional amendment, we thought you meant another constitutional amendment other than the one you actually introduced because it has these grave, yet specious, constitutional issues. So again, I guess I'm coming full circle and just applauding Senator Chambers because he has laid... [LR41CA]

SENATOR CARLSON: One minute. [LR41CA]

SENATOR LAUTENBAUGH: ...his cards on the table, although I'm sure he hates that I put it that way, he is not rolling the dice; he has laid his cards down, laid his cards down on the table and showed us what he has. And I suppose, he's a very courteous gentleman, so if Senator McCoy asked that his Select File amendments be taken up on General File, I bet Senator Chambers would defer in the interest of comity, that's c-o-m-i-t-y, and let them be heard now, because these are burning constitutional issues and we should deal with them forthwith. Thank you, Mr. President. [LR41CA]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Those still wishing to speak include: Bloomfield, Harms, and Schilz. Senator Bloomfield, you're recognized. [LR41CA]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good morning, colleagues. As I mentioned yesterday, I voted against this idea in committee. I still don't like it. I went down and looked at the machine. I saw nothing there that changed my mind. I don't believe that we're headed in the right direction with this. So for now I will support the motion to bracket. And if that fails, I will support the motion to recommit and I'll yield the rest of my time to Senator Chambers. [LR41CA]

SENATOR CARLSON: Senator Chambers, 4 minutes and 20 seconds. [LR41CA]

SENATOR CHAMBERS: Thank you, "Johnny." Thank you, Senator Bloomfield. Mr. President, you and I see things in the "bible" a different way. We even call it something different. Jonah was not swallowed by a fish, Jonah was an earthworm, this was a fairy

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tale. And Jonah was an earthworm put on a hook and he was thrown in the water and a trout swallowed him. And he did not...he was not regurgitated and come up alive. But there's another version if it was a man, what swallowed Jonah was not a fish, but a submarine, Senator Kintner. I think that Agenda 21 has been around a lot longer than we realize. Back to this issue, when somebody offers amendments to a bill, it's often a tactic. We know that. So that takes care of that. In the Judiciary Committee, whether an issue is raised by people who bring it up or not, I look at those bills and if I see something wrong with it and it comes to me after the hearing, then I raise it in Exec Session. And there are bills that I might have seemed to support during the hearing and then I'll let my colleagues know I've looked at this and I don't support it, it's worse than what I thought. But at any rate, what I want to touch on is these machines. A machine can be programmed. You all who have these iPads, iPhones, and whatnot are finding out how many things can be done with your phone that you didn't know about. Some of the capacities for that device were built into the thing before you bought it. And it can be tapped into subsequently. You can dial your phone for one purpose and you will reach some place other than where you thought you were dialing and you'll get some billings when you get your bill for things you didn't even know that you dialed. If you all are foolish enough to think that when there is gambling there's honesty, you are a nincompoop. That's what you are. They stack cards, they rig roulette wheels, they load dice, the croupier cheats. They fix those games so you will never get as close to 21 as you need to, to win, you'll go over. That's happening. These machines are programmed by somebody and the machine gives out what is put in. They could have the same race over and over. They could computer generate a race. Who would even know it? And you're going to trust these rascallions, Senator Gloor, and say that these people are trustworthy? You don't trust them. I don't trust them. Nobody with brains trusts them. The ones who support this bill don't trust the ones who are behind it. And this talk of letting the people vote, that is a total abdication of our responsibility. And I am not in favor of that being done. And that's why I'm going to keep talking every time I get the opportunity about what our duty as representatives of the people are based on my view. And I act in accord with mine. When I see trash legislation, I don't even want to put it out there for the public. [LR41CA]

SENATOR CARLSON: One minute. [LR41CA]

SENATOR CHAMBERS: You all hear a lot of times people say the public doesn't understand what this constitutional amendment means. They don't understand the language; there might be a negative, a double negative, so if you vote in a way you think you're voting no, you're really voting yes. You talk about the people and to them like they're fools. Look at the kind of commercials they put on. I saw some strange-looking people during the senate campaign and these people said, I don't want Bob Kerrey coming into my house; and somebody else said, I don't want him in my house either. I don't think he even wanted to go to their house. He doesn't even know them. That's how ignorant they think Nebraskans are and only in a state like this would



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they put something so dumb on the television and expect people to buy it, but they bought it. Nebraskans never have to worry about their intelligence being overestimated. Or is it underestimated? Underestimated? [LR41CA]

SENATOR CARLSON: Time. [LR41CA]

SENATOR CHAMBERS: Somebody will help me, I'm sure. Thank you, Mr. President. [LR41CA]

SENATOR CARLSON: Thank you, Senator Chambers. (Visitors introduced.) Senator Harms, you're recognized. [LR41CA]

SENATOR HARMS: Thank you, Mr. President, colleagues. I yield my time to Senator Chambers. [LR41CA]

SENATOR CARLSON: Senator Chambers, 4 minutes and 50 seconds. [LR41CA]

SENATOR CHAMBERS: Thank you. Thank you, Senator Harms, and anybody else who would offer me time, I will accept it, because we're going to be talking anyway. So you may as well let me talk on my motion. But in any case, I will reserve my closing so I can talk about what the vote is that we're taking and what use I would like to see it put to, but that doesn't bind anybody. Here's what I am going to point out. Trust is a word that often is used. And we never stop to talk about what the word means. I think that there are limitations to language. And even when we try to define a word, we have to use other words to define it. And the words that we use may be susceptible of more than one meaning. So we do the best that we can. And if we give a definition we might offer an example to try to clarify to the extent we can exactly what we're trying to say and what we're not saying. I want to make it crystal clear what I'm saying. I haven't heard one person on this floor--and that's why I have some of the amendments up there that I've offered--I haven't heard one person on this floor to say that gambling improves the morals of this society. I haven't heard one person say that he or she who gambles is better for the experience. But we can find myriad people who have been harmed by it. There is a provision in you all's constitution dealing with compulsive gamblers. A fund is set up to deal with these people because you know what gambling is going to do to them. And Senator Krist with all the things he's talked about has never bothered to discuss what I've mentioned. And when I'm on the floor and I look back, he's not there. How can somebody so concerned about where this fund to help these gamblers is located, but he has no concern about providing more means of people to gamble so that they need those services? How do you comport...make those two things comport? We have a doctor of the day...or had a doctor of the day. I'm sure that if somebody went to that doctor and said, Doc, I got a stomachache...and the doctor says in his mind, there are two ways I can take care of this. I can give you something that will cure it and you don't have it anymore, or I can give you strychnine and that one will go away and you'll

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never have another stomachache. But they tell the doctors the first rule is first do no harm. So you're going to have people on this floor...and I supported what Senator Krist tried to do in moving that fund, because I take seriously what that fund is supposed to do. But I had no idea that he would be supporting more gambling and then not even have the backbone to say, I'm going to make the decision. He didn't say, let's put it to a vote of the people as to where that fund ought to be located. He had in his mind the results of his analysis, which I think was valid, and that's why I supported what he did. But now all of a sudden buck it to the people, because he knows it has no merit. But if you put it out there, the ones who want the gambling can spend enough money to try to get it. And for any politician on this floor to act like he or she thinks that money does not talk and determine the outcome... [LR41CA]

SENATOR CARLSON: One minute. [LR41CA]

SENATOR CHAMBERS: ...of elections, I will say not only are you a nincompoop, you are insane. That means you lack all rationality. Why do you think these politicians and the special interests groups wanted the U.S. Supreme Court to say that these people who have a lot of money can spend as much as they want to and don't even have to say where it comes from? Money doesn't talk, it's talking on this floor. You're not going to see those people who are speaking in behalf of this gambling speaking like this on behalf of something that really benefits the people. Now they might speak this way for a special interest group like the insurance companies, but not the people. And the people are the ones who will be hurt by this and I'm going to do all I can for as long as it takes. And I'm not like Rand Paul. You ought to drop the "d" and put "Ran Paul" because he certainly ran. He ran out of gas and he ran home after saying he would talk as long as it took. It took longer than what he could produce, but challenge me. Give me the time and let me show how long I can talk. [LR41CA]

SENATOR CARLSON: Time. [LR41CA]

SENATOR CHAMBERS: Thank you, Mr. President. [LR41CA]

SENATOR CARLSON: Thank you, Senator Chambers. Those still wishing to speak include: Schilz, McCoy, Price, Brasch, and Bloomfield. Senator Schilz, you're recognized. [LR41CA]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Good conversation that we're having this morning, I guess. I mean, we're talking about all sorts of things that affect people in negative ways. And, yes, certain folks gambling affects in negative ways. But let's talk about driving cars. Do we have in the constitution that you can't drive cars or shouldn't drive cars or that cars need to be regulated because they, probably, affect more people negatively than gambling ever would? Just a point to bring up. The other thing that I've thought about as I'm sitting here and

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thinking about it is, you know, we talk about the evils of gambling. And we talk about why we don't want them here in Nebraska. Well, in this day and age, the twenty-first century, you don't have to be...you don't have to worry about it in the state of Nebraska. It's available to us all around us. You can find it on the Internet. You can drive 50 miles and be at a real casino. You can probably find a card game in your neighborhood. Or if nothing else, you're going to be in on the March Madness bracket that comes out and everybody knows...even, heck, even on the legislative Web site they block that out when ESPN has that going on. So if you think that stuff is not going on, you're mistaken. Do certain people have problems with gambling? Yes, absolutely. But other people have problems with compulsive shopping. There's many myriad of things that an addictive personality will fall into and it is unfortunate. The other side of the issue that I look at and I think about and which hasn't even been talked about here, which everybody...everybody here that sits here on the opposite side, the antigambling side, should understand and should be cognizant of and that's personal responsibility. People may have troubles with it, but let's be honest about it, people have free will. I believe in allowing people freedom to make decisions. Does everybody make them correctly? No. People enter into business opportunities all the time. Eighty percent of businesses fail. Should we have a constitutional amendment to make sure that we don't get hurt that way? A failing business can make it really hard for people to put food on the table. But we don't look at that in a bad light. We look at that, as Senator Carlson said, in taking risks; risks that are inherent to life. Risks make life worth living at many times. That's the way I look at it. Do I feel for people that have problems and have issues and have addictions to this? Yes, absolutely. Do I worry about how they get taken care of here in Nebraska? Yes. That's why I voted for that. Just because we don't have gambling here in the state or expanded gambling in the state does not mean we don't already have the problems. I think we've heard Senator Schumacher say that before and it's real. I appreciate the folks that believe wholeheartedly in this and that believe they don't want to allow this here because they think they're helping. But, folks, it's already here. The issues are already weighing down some of our citizens. And whether you like it or not, because of not having those forums, we are not able to address those folks' problems as readily as some other states are. [LR41CA]

SENATOR CARLSON: One minute. [LR41CA]

SENATOR SCHILZ: Four hundred and forty million dollars comes into the Iowa casinos every year. Some of that money is used for gamblers that have problems. Four hundred and forty million dollars is what comes in over there. The question that I pose to you is, where does this money come from? It comes from all walks of life. And I know that people do have troubles, I recognize that. But I'm not sure that keeping this out of the people's hands solves any of those problems. Thank you very much, Mr. President. [LR41CA]

SENATOR CARLSON: Thank you, Senator Schilz. (Visitors introduced.) Senator

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McCoy, you're recognized. [LR41CA]

SENATOR McCOY: Thank you, Mr. President; thank you, members. Would Senator Lautenbaugh yield? [LR41CA]

SENATOR CARLSON: Senator Lautenbaugh, would you yield? [LR41CA]

SENATOR LAUTENBAUGH: Yes, I will. [LR41CA]

SENATOR McCOY: Thank you, Senator. Line 17 on page 3 of LR41CA, why is the phrase "by licensees" being stricken? [LR41CA]

SENATOR LAUTENBAUGH: I apologize, I accidentally closed out of my copy of the bill, but I know what you're referring to. That language there strikes me in the existing constitution as ambiguous in that it seems to suggest that the wagering must take place by people who are licensed. The people who actually wager are not licensed now. It has been interpreted to mean, obviously, or this wouldn't make any sense, that you don't have to be licensed to be a wagerer. So this clarifies that we're talking about licensed racetracks where live horse racing occurs by the...by a pari-mutuel method, not wagering conducted by licensees, because licensees aren't the ones who wager. [LR41CA]

SENATOR McCOY: Well, Senator, I appreciate that, but I really don't think that's...that may have been your intent, and I'll take you at your word on that, but I don't see that as ambiguous language. I see that as very fundamentally important language. Members, the phrase "by licensees", if you will look, has been in our state constitution since 1934. I hold in my hand, ladies and gentlemen, not only a license from the Nebraska Racing Commission that all pari-mutuel employees have to fill out and subscribe to, but racing commission meetings, members, have license revocation proceedings on pari-mutuel employees at virtually every meeting. And in addition to that, I talked about yesterday that we are part of an interstate compact with 11 other states on pari-mutuel wagering. And the first and fundamental component of that interstate compact is that pari-mutuel employees are licensed. I think that's a very fundamental issue that while it may not be in the intention of the introducer, as you just heard him say, to have that stricken, it's not ambiguous language. I'd like to ask Senator Lautenbaugh an additional couple of questions if I may. Senator, is this interstate compact important, do you believe, that I'm referring to? [LR41CA]

SENATOR LAUTENBAUGH: I have to confess, the interstate compact has not come up in my discussions about any of this. I don't know that anybody wants to change the status quo with regard to it. So I...I guess I'm at a loss for the question because I have to confess ignorance regarding it. [LR41CA]

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SENATOR McCOY: Well, I appreciate that, Senator. But, members, there are 26 statutes...26 statutes that govern the licensure of pari-mutuel employers that we have on our statute books. Now, and we're on a bracket motion, but this goes back to what I talked about with a recommit motion. How do you fix such problems here on the floor of the Legislature? This wasn't talked about in committee. Furthermore, in addition to that, and it hasn't, to my knowledge, and I apologize, I stepped out for a Revenue Committee Exec Session a little bit earlier, perhaps it was mentioned while I was gone, to my knowledge hasn't been mentioned, the underlying enabling legislation, LB590, the introducer, Senator Lautenbaugh, filed a motion... [LB590 LR41CA]

SENATOR CARLSON: One minute. [LR41CA]

SENATOR McCOY: ...thank you, Mr. President, filed a motion to IPP that legislation this morning, so yet another reason why this LR41CA needs to be recommitted to committee. This was a joint hearing, members, between a bill now that clearly the introducer must recognize as unconstitutional because he has IPP...he has put up an IPP motion, so an unconstitutional bill and a constitutional amendment with serious problems with a joint hearing. I continue to bring up serious flaws, constitutional flaws, with this constitutional...proposed constitutional amendment. You just heard the introducer doesn't have answers as to why this is in it. Members, this has to be fixed. The only place to fix it, respect our committee process, is back in committee. I respect Senator Karpisek and the General Affairs Committee. I think they can fix this. But the place to do it isn't here on the floor. Thank you, Mr. President. [LB590 LR41CA]

SENATOR CARLSON: Thank you, Senator McCoy. Senator Price, you are recognized. [LR41CA]

SENATOR PRICE: Thank you, Mr. President, members of the body. First, I'd like to acknowledge that we're pretty much in step with the federal government. At least for awhile there, we were both having a filibuster. I thought that was noteworthy, maybe not. I have to...I wanted to share with you a little anecdote. My mother-in-law, she likes the ponies and she likes slot machines and she doesn't have a problem. And it's amazing that she likes it, because she is legally blind. So it makes it really interesting. I normally when I'm visiting am lucky enough to be her chaperone because I can handle the smoke and the noise and the environment so it was...I got a chance...I never did really quite learn how to box four and do all the different bets you can do at a horse track. But she was more than willing to tell me what to do. But what was interesting...and she shared some of her life events and stories. My father-in-law and her both, also like myself, were in the military, and at one time they were stationed at Nellis at Las Vegas. And...in Las Vegas I should say, and she got a job there working in a casino and her job was to gamble for the casino. That's a pretty good gig. They paid her to be there and go around different tables and play the games so it looked like there were a lot of people there. And so it was a pretty good gig. But what she said that they

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had a policy there, not just for the employees, but kind of went over for the civilian population playing there. They said, you can play with the money all you want. You just can't take it home. And so I thought that was a nice little anecdotal story for today, because you just can't take it home. I mean, if you look at the payouts and you look at the expense and you look at margins, there's got to be a lot of dollars going through the gambling endeavors to make it a business that is profitable. I mean, really think about that, think about if you have a payout of 96 percent, you're making something of a 4 percent margin. You've got to turn a lot of transactions to make money to pay for all that food and all those people and all that security and all the new carpet and everything. So, I just think that we should make sure that we keep all that in mind as we go forward here in looking at policy. And with that I would yield the balance of my time to Senator Chambers. [LR41CA]

SENATOR CARLSON: Senator Chambers, 2 minutes and 20 seconds. [LR41CA]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Price. Again, Senator Schilz has surprised me. He's going to compare cars to gambling and say more people are hurt by cars than by gambling. First of all he doesn't know that. He doesn't have any figures whatsoever. He just says it because he felt like saying it. So, I'm going to deal with his argument on the basis that he made it. That's not true, Senator Schilz. Ten times as many people are hurt by gambling as drive cars, ten times as many. It would be like somebody saying, the total number of stars in the sky, is that number odd or even? We can say whatever we want to, and neither one can be shown to be correct or incorrect except that I know, but I won't tell. And I want Senator Carlson to know something when he can't answer back to me. I've criticized people for saying a particular church is the only church. But there is only one true religion that all wise people accept and all wise people know what it is. That's what a count once said to a lady. And she said, what is this one religion that all wise people say is the right and true religion? He said, the wise people never say. And that's how you prevent wars. But at any rate, we have bullying everywhere. According to Senator Schilz's philosophy, it's here, let it go. We shouldn't try to do anything about it, it's already happening... [LR41CA]

SENATOR CARLSON: One minute. [LR41CA]

SENATOR CHAMBERS: That is the kind of argument that takes you nowhere but to chaos, to say, for example, that liquor is procured illegally so don't regulate it. Senator Schilz, I'm going to ask you a question which you won't have time to answer, but you can speculate. Would you be in favor of legalizing marijuana? [LR41CA]

SENATOR CARLSON: Senator Schilz, you have 20 seconds. [LR41CA]

SENATOR SCHILZ: I don't...I don't believe so, no. [LR41CA]

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SENATOR CHAMBERS: You wouldn't vote to legalize it? [LR41CA]

SENATOR SCHILZ: Probably not, no. [LR41CA]

SENATOR CHAMBERS: Thank you. Thank you, Mr. President. [LR41CA]

SENATOR CARLSON: Thank you, Senator Chambers and Senator Schilz. Senator Brasch, you're recognized. [LR41CA]

SENATOR BRASCH: Thank you, Mr. President. I would like to yield my time to Senator Chambers. [LR41CA]

SENATOR CARLSON: Senator Chambers, would you yield? [LR41CA]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Brasch. And I'm going to leave time, for sure, so that we can take a vote. But when people make some comments, I want a chance to address them. I'd like to ask Senator Schilz a question now that I have a little time for us to talk back and forth. [LR41CA]

SENATOR CARLSON: Senator Schilz, would you yield? [LR41CA]

SENATOR SCHILZ: Yes. [LR41CA]

SENATOR CHAMBERS: Senator Schilz, is the use of marijuana widespread, not only in this country, but in this state? [LR41CA]

SENATOR SCHILZ: I would guess it's more widespread than...than we would like it to be, yes. [LR41CA]

SENATOR CHAMBERS: Is it widespread in terms of its use among young people? [LR41CA]

SENATOR SCHILZ: I don't know the numbers, but I would say that, yes. [LR41CA]

SENATOR CHAMBERS: Well, since it's with us and it's widespread and we're never going to be able to eradicate it, why will you not vote to legalize it? [LR41CA]

SENATOR SCHILZ: That's a very good question, Senator. [LR41CA]

SENATOR CHAMBERS: May I have a good answer, Senator Schilz? [LR41CA]

SENATOR SCHILZ: Yes, I wouldn't do that necessarily because of the effects that it can

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have on young minds and young folks. [LR41CA]

SENATOR CHAMBERS: Okay, now I'm going to take it to the next level. Would you be willing to sponsor a constitutional amendment to let the public vote on whether or not marijuana ought to be legalized in Nebraska? Would you sign your name? [LR41CA]

SENATOR SCHILZ: That's a different question. I may...I may, perhaps, do that. [LR41CA]

SENATOR CHAMBERS: But you don't think every issue ought to be put to a vote of the public, do you? [LR41CA]

SENATOR SCHILZ: No, I don't, you're right. [LR41CA]

SENATOR CHAMBERS: Thank you. And I knew that. Thank you, Senator Schilz. I know that. And it's true about everybody on this floor. Sometimes when you're in a discussion of the kind we're having you make broader statements than you really would back up. And I know that. Even when I'm taking issue with somebody for having said it, I know that that person is not prepared to let every difficult decision confronting us be turned over to a vote of the people. Even people like Senator Wallman who knows better, knows how bad gambling will...can be and how it will hurt people, he wants to support this bill so that people in his district will be supported. His friends in horse racing and...let me ask Senator Wallman a question so I won't put words in his mouth. Senator Wallman, will you yield? [LR41CA]

SENATOR CARLSON: Senator Wallman, would you yield? [LR41CA]

SENATOR WALLMAN: Certainly. [LR41CA]

SENATOR CHAMBERS: Senator Wallman, you did say you support this constitutional amendment, correct? [LR41CA]

SENATOR WALLMAN: Yes, I did. [LR41CA]

SENATOR CHAMBERS: Senator Wallman, do you support gambling? [LR41CA]

SENATOR WALLMAN: Yes, I do. [LR41CA]

SENATOR CHAMBERS: You do? Do you...are you aware...or do you believe that gambling is harmful to society or that it uplifts society? [LR41CA]

SENATOR WALLMAN: It can be harmful. [LR41CA]



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SENATOR CHAMBERS: Not can, do you think it is harmful? [LR41CA]

SENATOR WALLMAN: To certain individuals, yes. [LR41CA]

SENATOR CHAMBERS: Do you think gambling uplifts society? [LR41CA]

SENATOR WALLMAN: No, I don't. [LR41CA]

SENATOR CHAMBERS: Do you think if our young people engage in gambling they'll be better people for it? [LR41CA]

SENATOR WALLMAN: No, I don't. [LR41CA]

SENATOR CHAMBERS: If they do engage in it, do you think they might be worse people for having done it? [LR41CA]

SENATOR WALLMAN: It could be, it depends on the individual, Senator. [LR41CA]

SENATOR CHAMBERS: Are you aware that certain establishments where gambling is occurred will not be open to young people below a certain age, are you aware of that? [LR41CA]

SENATOR WALLMAN: Yes, I am. [LR41CA]

SENATOR CHAMBERS: Why is that if gambling is...why is that? [LR41CA]

SENATOR WALLMAN: Because when we grow up our minds are not mature, necessarily, and it's just like buying alcohol or driving a car, we set age limits in the legislative body. [LR41CA]

SENATOR CHAMBERS: So then you would not want young people exposed to gambling and having it presented to them as a good, uplifting thing? [LR41CA]

SENATOR WALLMAN: No, I wouldn't. [LR41CA]

SENATOR CHAMBERS: But it's all right to have this kind of activity legalized by the constitution and the Legislature in your view? [LR41CA]

SENATOR WALLMAN: If there's an age limit in there like there is for alcohol, yes. [LR41CA]

SENATOR CHAMBERS: Well, if we have prostitution, but it's only for those above a certain age and it would bring in a lot of money, we would regulate it, we would tax it,

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we would make sure that health concerns are taken care of, would you support the legalization of prostitution? [LR41CA]

SENATOR CARLSON: One minute. [LR41CA]

SENATOR WALLMAN: No, I wouldn't. [LR41CA]

SENATOR CHAMBERS: I won't ask you why, but thank you. And that's all that I will ask you. That's all the time that I will use. And for those who have given me time, I really appreciate it, thank you. [LR41CA]

SENATOR CARLSON: Thank you, Senator Chambers and others. Senator Bloomfield, you're recognized. [LR41CA]

SENATOR BLOOMFIELD: Thank you, Mr. President. I would yield my time to Senator McCoy. [LR41CA]

SENATOR CARLSON: Senator McCoy, you have 4 minutes and 50 seconds. [LR41CA]

SENATOR McCOY: Thank you, Mr. President. And thank you, Senator Bloomfield. Would Senator Karpisek yield, please? [LR41CA]

SENATOR CARLSON: Senator Karpisek, would you yield? [LR41CA]

SENATOR KARPISEK: Yes, I will. [LR41CA]

SENATOR McCOY: Thank you, Senator. As the Chairman of the General Affairs Committee, I have some questions for you. First off, are you familiar, and I'm sure that you are, with LB642 which Senator Mello brought to your committee this session? It was also in the form of, I believe, LB1139 last session. I believe your committee has voted it out. Are you familiar with that bill? [LR41CA LB642]

SENATOR KARPISEK: Yes. [LR41CA]

SENATOR McCOY: Okay, members, if you look up on your gadgets, that particular bill which was brought this session, I believe it was LB1139 last session, kind of languished out there on General File, that bill is pertinent to this discussion this morning, leads back to why this constitutional amendment needs to be recommitted to committee, in my view, to have this work done, because, ladies and gentlemen, what's in that bill is an extension of a Class IV felony to unlicensed employees conducting wagering at racetracks. So what we're proposing here in LR41CA is to strike the licensure of pari-mutuel employees. The very same committee, General Affairs Committee, and I respect the work that they do immensely, I'm not denigrating in any way, shape, or form

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here; I'm just merely pointing out, it's available for all of you to look on your gadgets, that they voted out a bill to very clearly state that these employees need to be licensed. We're proposing to unlicense them with this constitutional amendment. Now I'm giving Senator Karpisek a moment so he can discuss this with his legal counsel before I get him back on the microphone. I didn't want to catch him unawares with this, so I'll give them the chance to consult there for a minute. But I will like to ask to Senator Karpisek, do you believe, Senator, that the interstate compact of which I'm referring to is...is that a value to our state? What is the reason that we're 1 of 12 states that is part of that interstate compact which, first and foremost, requires pari-mutuel employees to be licensed? Is that an important compact? [LR41CA]

SENATOR KARPISEK: Yes, it is. [LR41CA]

SENATOR McCOY: Okay, do you recognize what I'm bringing up here that what we're proposing to do on LR41CA is to strike the licensure of pari-mutuel employees? [LR41CA]

SENATOR KARPISEK: I think that you are...I think you're incorrect. But we're trying to work through it. [LR41CA]

SENATOR McCOY: Why would I be incorrect, Senator? [LR41CA]

SENATOR KARPISEK: Because I don't think that you're talking about the same employees. That bill talks about people from other states betting...people betting on the Internet. [LR41CA]

SENATOR McCOY: Okay, I understand what you're saying. So you're saying in the construct of this that LB642 that I'm referencing doesn't apply in this discussion, is that what you're saying, Senator? [LB642 LR41CA]

SENATOR KARPISEK: I'm not saying that it doesn't apply, but I don't know that it is identical either and we're looking into it. [LR41CA]

SENATOR McCOY: Okay, well, I appreciate that. And I appreciate you looking into that. I guess to go back to fundamental issue, take LB642, Senator Mello, and I appreciate that Senator Mello is here and I won't get him on the microphone, but I appreciate that he is here because I'm sure he is familiar with this legislation, but... [LB642 LR41CA]

SENATOR CARLSON: One minute. [LR41CA]

SENATOR McCOY: ...Senator...thank you, Mr. President. Senator Karpisek, do you recognize the issue that I am bringing up as to LR41CA in reference to striking the phrase "by licensees," do you recognize that what we're doing here is getting rid of

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licensing of pari-mutuel employees and all of the unintended consequences that that brings up? [LR41CA]

SENATOR KARPISEK: No, I don't...I don't believe that, Senator, but, again, we are looking at that, and if you have...well, I'm going to wait for my time, I won't use yours. [LR41CA]

SENATOR McCOY: Well, no, I would love for you to continue, Senator, as Chair of this committee; if you think I'm incorrect on this, why is that? [LR41CA]

SENATOR KARPISEK: I think you're mixing two different pieces of legislation that don't come to the same thing. [LR41CA]

SENATOR McCOY: No, I'm not talking about LB642, Senator; I'm talking about in LR41CA, striking the phrase "by licensees." Why would I be incorrect that that indicates that pari-mutuel employees would no longer be licensed? [LB642 LR41CA]

SENATOR KARPISEK: Where does it strike "employees"? It comes back and says "licensed racetracks." [LR41CA]

SENATOR CARLSON: Time. Thank you, Senator McCoy and Senator Karpisek. Those wishing to speak include Christensen, McCoy, Karpisek, and Brasch. Senator Christensen is recognized. Senator McCoy, you're recognized. [LR41CA]

SENATOR McCOY: Thank you, Mr. President. I'd like to continue with Senator Karpisek if he would yield. [LR41CA]

SENATOR CARLSON: Senator Karpisek, would you yield? [LR41CA]

SENATOR KARPISEK: I will, thank you. [LR41CA]

SENATOR McCOY: Okay, I want to go back to where we were, Senator Karpisek. So page 3 of the green copy of LR41CA, line 17, two words, "by licensees," is stricken. [LR41CA]

SENATOR KARPISEK: Correct. [LR41CA]

SENATOR McCOY: What is the definition of a "licensee?" Because I look at the definition and I'm going back to when this was put in our state constitution in 1934 that "parimutuel or certificate method when conducted by licensees"...what is the definition of a licensee, Senator? [LR41CA]

SENATOR KARPISEK: My opinion, it is the racetrack, not the employee. [LR41CA]

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SENATOR McCOY: Okay, Senator, and I appreciate that. My question to you is, how can that be when we have, and I'm holding in my hand, when very clearly we have a license application from the Nebraska Racing Commission that is a license for pari-mutuel employees? In addition to that, there...I'm holding in my hand a copy of 26 different statutes that reference licensees and they're in reference to individuals; some are referenced to tracks, licensed tracks, but some are referenced to individuals, licensees. Do...did you...are you familiar with the license application for pari-mutuel employees that I'm referring to, Senator? [LR41CA]

SENATOR KARPISEK: No, I'm not. [LR41CA]

SENATOR McCOY: Okay, well, do you...are you familiar with the statutes that I'm talking about that reference licensees as individuals? [LR41CA]

SENATOR KARPISEK: No, I am not. [LR41CA]

SENATOR McCOY: Okay, well, this goes back to my fundamental question and I do have another one for Senator Karpisek. When we strike...on line 16 of page 3, why is "wherever run" stricken? And why are we not adding...if we're talking about instant racing terminals and historic horse racing, Senator Karpisek, why are we not talking about adding in "whenever?" Wouldn't that...wouldn't that solve the constitutional issue that we're talking about here? [LR41CA]

SENATOR KARPISEK: Senator McCoy, I don't think there is any constitutional issue, although if you say it enough times you might get someone else to believe it other than yourself... [LR41CA]

SENATOR McCOY: Well, Senator, wait a second here. [LR41CA]

SENATOR KARPISEK: Where it says, "live replayed and delayed," to me, would be the definition of whenever. [LR41CA]

SENATOR McCOY: Okay, well...well, I appreciate that, Senator Karpisek. But the phrase "wherever run," members, was added to the constitution in 1988 with a simulcast constitutional amendment that passed with the vote of the people. Members, we are striking with LR41CA a phrase in the constitution that the people of Nebraska put there. Why is that? Senator, you're still not answering my question. And I know you're...your (inaudible) seem to be kind of trying to say, if I say it's unconstitutional enough time somebody is going to believe me besides me, you know, I might be a voice in the wilderness here, I don't think I am, I think this is fairly significant. Why would you not add "whenever" and leave also "wherever," so you're covering your bases? [LR41CA]

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SENATOR KARPISEK: Because "wherever" comes back in and says, "when such wagering occurs at licensed racetracks where live racing occurs." Again, the definition of "wherever." [LR41CA]

SENATOR McCOY: Well, I understand that, Senator, but you're striking a phrase "wherever run" that the people of Nebraska put there in reference to simulcasting when simulcasting was... [LR41CA]

SENATOR CARLSON: One minute. [LR41CA]

SENATOR McCOY: ...thank you, Mr. President,...was put in our constitution. Why are we striking a phrase the people of Nebraska put in our constitution, Senator? [LR41CA]

SENATOR KARPISEK: Because we are changing the statute...we're changing the constitution, and re...it says the same thing, Senator, and you know that, we're changing it. And it says the same thing. And all...because it was put there by the people, is that your argument? [LR41CA]

SENATOR McCOY: Well, I believe this is my time, Senator, to ask questions. If you would like to direct a question to me on your time... [LR41CA]

SENATOR KARPISEK: You asked me a question first. [LR41CA]

SENATOR McCOY: Well, Senator, I'm asking, the people of Nebraska put "wherever run" in the constitution in 1988, why are we striking that? That's my question to you. [LR41CA]

SENATOR KARPISEK: Because it comes back in and adds language "at licensed racetracks." [LR41CA]

SENATOR CARLSON: Time. Thank you, Senator McCoy and Senator Karpisek. And, Senator Karpisek, you are now recognized. [LR41CA]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I see that the trap seems to be set and I don't know if I walked in it or not; I think it's a pretty weak trap. Again, I will say, I've heard it before, Senator Chambers, thank you for your honesty and at least saying you want to kill the bill. Could I ask Senator McCoy a question, please? [LR41CA]

SENATOR CARLSON: Senator McCoy, would you yield? [LR41CA]

SENATOR McCOY: Yes, I would. [LR41CA]

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SENATOR KARPISEK: Senator McCoy, do we ever change anything on the floor by amending it? Did we change the hunting, trapping thing of Senator Pirsch's on the floor? [LR41CA]

SENATOR McCOY: Actually, Senator Karpisek, I don't believe that we did. If you recall, that was introduced in 2011; it was fixed and amended between the 2011 Session and 2012 Session. We didn't present that to the vote of the people until 2012. [LR41CA]

SENATOR KARPISEK: Well, okay, thank you. I believe, once again, you're incorrect. But if I have to, I'll go find all those things. If we do fix all these things, if I bring floor amendments to fix them on the floor, would you then vote for this, Senator McCoy? [LR41CA]

SENATOR McCOY: Bring floor amendments to fix what, Senator Karpisek? [LR41CA]

SENATOR KARPISEK: Whatever you're talking about. [LR41CA]

SENATOR McCOY: You just told me whatever I talked about wasn't valid. So what are you talking about proposing to fix? [LR41CA]

SENATOR KARPISEK: That's what I'm asking. If I do whatever you want, would you vote for this? [LR41CA]

SENATOR McCOY: Well, that's a hypothetical that I'm not sure anybody could answer, Senator Karpisek. [LR41CA]

SENATOR KARPISEK: You think you're real slippery don't you, Senator McCoy? Thank you. Folks, red herring, whatever you want to call it, this does not need to be recommitted. You want to kill it? Kill it, be honest. There has to be some...something in a person that...to have to go about it that way, to keep saying things that I just don't think are right, but that's okay. That's Senator McCoy's way of doing business; I don't think it suits him well, but that's fine. Again, Senator Chambers doesn't like the bill, he says so. Good. I disagree with him and that isn't the first nor the last time. There are many times that we could bring things up on the floor to stall time, and we do. And it will happen more. But I think that this is in good shape. How a constitutional amendment cannot be constitutional, I don't understand, I'm not an attorney, I did not sleep at a Holiday Inn last night. I heard somebody say they did. This bill is a way for the horsemen to try to make some money. I know Senator Christensen said, I wish we could figure out a way that we...they could make some money. Hey, here's a way. This is a good way. They're not coming here and asking for money. The Nebraska Advantage Act, grants and things that we give out, are giving out money. And I don't berate the businesses that we give them to. We're trying to help an industry that needs

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some help. Now if you don't like how we're going about it or if you don't like that industry, say so, it's okay. But I think they need help. I think it is about jobs. Those jobs will go away. We're not talking about jobs for someone to come fix this...fix the machines or put the machines in, that is not it at all. [LR41CA]

SENATOR CARLSON: One minute. [LR41CA]

SENATOR KARPISEK: Again, I've tried to stay quiet on this issue. I think there's just a lot of things going on that I personally don't like nor appreciate; but what comes around goes around and it will. Thank you, Mr. President. [LR41CA]

SENATOR CARLSON: Thank you, Senator Karpisek and Senator McCoy. Senator Brasch, you're recognized. [LR41CA]

SENATOR BRASCH: Thank you, Mr. President. I would like to yield my time to Senator McCoy. [LR41CA]

SENATOR CARLSON: Senator McCoy, 4 minutes and 50 seconds. [LR41CA]

SENATOR McCOY: Thank you, Mr. President. Thank you, Senator Brasch. Would Senator Karpisek yield, please? [LR41CA]

SENATOR CARLSON: Senator Karpisek, would you yield? [LR41CA]

SENATOR KARPISEK: Yes. [LR41CA]

SENATOR McCOY: Thank you, Senator. I'd like to direct your attention to line 17 of page 3 of the green copy if I may. The phrase, the three words with the phrase "the parimutuel method," is stricken. And on line 19 of the same page, page 3, "a parimutuel method" is added back in. What is the definition of "the parimutuel method" and why is it being stricken and then "a parimutuel method" being added back in? [LR41CA]

SENATOR KARPISEK: My opinion would be that "the parimutuel method," I don't think there is a "the parimutuel method." There are probably different ways of going about it. And this would be one of those ways. [LR41CA]

SENATOR McCOY: If that's the case, Senator, why would we not just leave "the parimutuel method?" Why are we changing it to "a parimutuel method?" What's the definition of "a parimutuel method?" [LR41CA]

SENATOR KARPISEK: It clarifies that there are more definite...or more definitions of a...or ways to do a pari-mutuel method. [LR41CA]



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SENATOR McCOY: Well, then what would be those...what would be those other ways? What would be the definition of those other ways? [LR41CA]

SENATOR KARPISEK: I don't have a dictionary in front of me, I'm sorry. [LR41CA]

SENATOR McCOY: Well, I don't know that a dictionary is going to help, Senator Karpisek, in determining what is "the parimutuel method" versus "a parimutuel method." I go back to you, Senator, this is the constitution of the state of Nebraska, let's get this right. What are we...why are we changing this? Nobody seems to be able give me an explanation for why...why Senator Lautenbaugh, as the introducer of this measure, couldn't give me an answer of why we're changing "the parimutuel method" to "a parimutuel method." You're the Chair of the committee that voted this out. I've been through the transcript, wasn't talked about in the committee. Now I understand, I didn't have...I don't have the luxury, not being a member of the committee, to have been there during Exec Session, but I asked you yesterday, as you'll recall, was this discussed in Exec Session? And you said it was not, to the best of your recollection. So we have a constitutional amendment that we're changing, we don't...I don't seem to know, members, that we have a definition for what "the parimutuel method" is other than, I suppose, a court, although I'm not an attorney, would interpret "the parimutuel method" to be what's in our constitution currently, I'm asking why we're changing it to "a parimutuel method." The introducer doesn't know why. You're the Chair of the committee and you don't know why. I'm trying to understand why are we changing this? If we're going to put something to the vote of the people, let's have it be in the right way. Is there any other reason this is changed from "the" to "a?" [LR41CA]

SENATOR KARPISEK: I think that you've gotten two answers and either you're not listening or you don't like them. There are different kinds of pari-mutuel wagering. [LR41CA]

SENATOR McCOY: What are those different kinds of pari-mutuel wagering, Senator? [LR41CA]

SENATOR KARPISEK: You know, I can't tell you that, Senator McCoy. But there are different ways to go about it. [LR41CA]

SENATOR McCOY: Well, what would those ways be? I'm asking. [LR41CA]

SENATOR KARPISEK: Those ways would be, if you...do you understand what pari-mutuel is? Everyone goes in; it gets split in a pool. [LR41CA]

SENATOR McCOY: Yes, I'm familiar with that, Senator. I would refer back to you, are you talking about the difference between "the parimutuel" and "a parimutuel"... [LR41CA]

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SENATOR CARLSON: One minute. [LR41CA]

SENATOR McCOY: ...thank you, Mr. President,..."the parimutuel method," and "a parimutuel method," may mean that with "a parimutuel method" with historic horse racing we're introducing seed pools into the pari-mutuel wagering, is that what you're referring to? [LR41CA]

SENATOR KARPISEK: I'm sorry, I don't know...seed pools? I'm sorry. What was the...I didn't hear you, Senator, I'm sorry. [LR41CA]

SENATOR McCOY: Well, Senator, by definition from what Senator Lautenbaugh said numerous times over the years on this that seed pools are a part of historic horse racing, instant racing terminals. So are you talking about "a parimutuel method" may mean the introduction of seed pools, is that...would that be another kind of pari-mutuel wagering that you're describing? [LR41CA]

SENATOR KARPISEK: I'm sorry, I don't have a working knowledge of seed pools. [LR41CA]

SENATOR McCOY: Well, I...thank you, Senator, I appreciate it. Members, I go back to...we have a lot of issues here. [LR41CA]

SENATOR CARLSON: Time. [LR41CA]

SENATOR McCOY: Thank you, Mr. President. [LR41CA]

SENATOR CARLSON: Thank you, Senator McCoy and Senator Karpisek. Senator Lautenbaugh, you're recognized. [LR41CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I do have a few comments on this that I would like to expand upon. It is not correct to say that we don't amend constitutional amendments on the floor. It's not correct to say that we don't discuss issues like this on the floor. However, there is a way that you actually work through issues if you're interested in improving the bill. I'll be honest, I've listened to the exchange between Senators McCoy and Karpisek regarding this licensee issue. And licensee can mean different things depending on where it is used and how it is defined in different statutes. So Senator Karpisek, I believe, is being charitable when he calls this a red herring. Another way to put it would be utter nonsense. And while we may have people trying to say, well, why did you do this, this language is different than that language, don't be fooled by that. What we have...I mean we just had a discussion where I was advised by Senator McCoy that I did not explain how there...what the difference between "a" and "the" would be. Seems to me I did. Senator Karpisek heard

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me explain it. But you have to understand there will never be enough. There will never be enough answers, there will never be an amendment that addresses concerns that will bring some people on board with this. And, you know, all of you are going to have bills at some point, and all of you are going to need votes for cloture at some point, I'll promise you. Some of you I'll make it my business to make sure you need votes for cloture at some point. But what I'm saying is, I'm hoping you're paying attention to what is going on here. And I'm hoping you're understanding that a cloture vote, when it comes next week, is different than supporting the bill even. At some point it's okay to say I think the will of the body should be heard. And we've all been there and we've all done it before and we're all, probably, going to have to do it a lot more this session I would surmise. But please don't be misled and please don't be led down the path of saying somehow this amendment doesn't mean what it says or that it's somehow unclear or that it should be drafted differently, because if anyone had any real concerns about that, I can promise you they wouldn't have come up with them on the floor. And I can promise you if I ever stand here and say to you, I have a problem with this provision in your bill, and you say to me, well, if I change that, will you vote for it, I'm going to say yes or no. I may very well say, no, I still hate your bill, but this makes a bad bill better, or I will say, yes. But if you hear me say, well, now we're dealing in hypotheticals, I don't know how to answer that, then you know the answer. Nothing you can do will make any difference and I will pledge to you I'm not going to say that to any of you. I'm either going to tell you I'm going to vote for it or I'm going to tell you I'm not going to vote for it or I'm going to tell you that I like the amendment and that's good enough or not. But when you see someone raising issues and they're each brought in separate amendments and filed on Select File, you have to really wonder if these amendments are made to actually address any real deficiency in the bill or if they're just a delay tactic. I would submit they're just a delay tactic. And I see no constitutional issues with the constitutional amendment. Again, that sounds almost insane to say, but it's a constitutional amendment. There's no defect in it as it sits. There's nothing that needs to be addressed from a technical aspect before it could go before a vote of the people. I would ask you to vote against the bracket motion and against the recommit motion and vote to advance this and vote for cloture when the time comes. Thank you. [LR41CA]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Senator Krist, you're recognized. [LR41CA]

SENATOR KRIST: Thank you, Mr. President. Good morning again, colleagues, and hello, Nebraska. To be clear, I don't know where I stand on LR41CA. I will not vote for the recommit and I will not vote for the bracket. I'm still trying to maintain an open mind. However, the red herrings, as they were called, being thrown up I will address, the difference between "the" and "a." In a real-life example such as horse racing, the pool size often extends over millions of dollars with many different types of outcomes. So a definition is, there is no "the" definition of pari-mutuel. It can be defined in different ways. Sometimes the amounts paid out are rounded down to the denomination interval.

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In the United States and Australia, for example, 10 cent intervals are used. The rounding loss is sometimes known as breakage and is retained by betting the agency. The above description, one of those options, "a" option,...description of the mechanics of the pari-mutuel wagering would suggest that it is impossible for the wagering company, or the "house," to lose money; not so, as the commission is deducted before the payouts are calculated. However, in rare circumstances, it is possible for the horse (sic-house) to lose money in an event the situation can occur. So you see, it's a programming issue and it's the way you use the formula. It is algebraic summary, if you get on-line and look at it, it's  $W, \text{ sub } T, \text{ equals the sum of the number over the frequency, which equals } 1, \text{ times the...times } W, \text{ sub } T$ . Now if you're a calculus wizard or an algebraic wizard you'd be able to tell me how that works into the formula. But there is not one definition of pari-mutuel. There are several definitions of pari-mutuel. So to say "the" or "a" reminds me of a discussion, what is the definition of "is?" Strategy in comparison with independent bookmakers, unlike in many forms of casino gambling, casino gambling meaning a slot machine straight, in pari-mutuel betting, the gambler bets against the other gamblers, not the house. The science of determining the outcome of the race is called handicapping. Does that sound familiar? If it is possible for a skilled player to win money in a long run at this type of gambling, but overcoming the deficit produced by taxes, the facility's take, and the breakage is difficult to accomplish and few people are successful at doing it. Whatever...in any state that has...is employed this method of the historic horse racing machines, the gambling commission or the horse racing commission directs the rules of the machine. There's no argument in my mind. This is a gambling machine that is employing pari-mutuel operations. So, to the point, "a," "the," "is," "is," I invite you to get on-line. This is pari-mutuel betting, you can read all about it. You can see how it can be tweaked, differentiated from casino-type gambling; let's talk about facts, let's talk about specifics, and let's talk about whether we want to give the citizens of the state of Nebraska that elected you the option to vote on LR41CA. Thank you, Mr. President. [LR41CA]

SENATOR CARLSON: Thank you, Senator Krist. Senator Lautenbaugh, you're recognized. [LR41CA]

SENATOR LAUTENBAUGH: Question. [LR41CA]

SENATOR CARLSON: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LR41CA]

CLERK: 25 ayes, 2 nays, Mr. President, to cease debate. [LR41CA]

SENATOR CARLSON: The debate does cease. Senator Chambers, you're recognized to close on your amendment to bracket until May 30, 2013. [LR41CA]

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SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I never vote in favor of ceasing debate. I never vote in favor of cloture. I never vote to get rid of or suspend the Final Reading of bills. Everything, I think, needs...that needed to be said has been said. I look at this as a trial balloon. We can get an idea of where the body stands on this bill. You're not going to have to have the issue before you of whether it's appropriate to vote in favor of or against a recommit motion. This is a motion to bracket the bill. If you favor the bill, you ought to vote against the bracket motion. If you don't favor the bill, you ought to vote for the bracket motion. Then each side has a way of determining where we stand. I'll ask for a call of the house, Mr. President; then I'll take a machine vote. [LR41CA]

SENATOR CARLSON: There has been a request for a call of the house. All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LR41CA]

CLERK: 33 ayes, 0 nays, Mr. President, to place the house under call. [LR41CA]

SENATOR CARLSON: Thank you, Mr. President (sic). The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Cook, Nordquist, Pirsch, and Lathrop, and Avery, the house is under call. Senator Burke Harr, the house is under call. Senator Nordquist, the house is under call. Senator Chambers, all have been accounted for, how would you like to proceed? [LR41CA]

SENATOR CHAMBERS: (Inaudible) vote. [LR41CA]

SENATOR CARLSON: Members, the question is, shall LR41CA be bracketed until May 30, 2013? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LR41CA]

CLERK: 14 ayes, 24 nays, Mr. President, on the motion to bracket the bill. [LR41CA]

SENATOR CARLSON: The motion is not adopted. Mr. Clerk, are there announcements? [LR41CA]

CLERK: There are, Mr. President. [LR41CA]

SENATOR CARLSON: The call is raised. [LR41CA]

CLERK: Thank you, Mr. President. Your Committee on Agriculture, Chaired by Senator Schilz, reports LB69 to General File; LB435 to General File, and LB15 indefinitely postponed. Enrollment and Review also reports LB6 to Select File with Enrollment and Review amendments (also LB479). I have an amendment to LB590 to be printed;

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amendments to LR41CA to be printed. I have a communication from the Governor. (Read re LB7, LB21, LB24, LB28, LB29, LB32, LB36, LB39, LB40, LB67, LB78, LB135, LB137, LB147, LB156, LB164, LB173, LB180, LB207, LB207A, LB209, LB210, LB213, LB214, LB250, LB279, LB290, LB311, and LB336.) Senator Bolz offers LR91, that will be laid over. Name adds: Senator Nordquist to LB470; Senator Mello to LB77; Senators Nordquist and Mello to LB104. (Legislative Journal pages 651-653.) [LB69 LB435 LB15 LB6 LB479 LB590 LB7 LB21 LB24 LB28 LB29 LB32 LB36 LB39 LB40 LB67 LB78 LB135 LB137 LB147 LB156 LB164 LB173 LB180 LB207 LB207A LB209 LB210 LB213 LB214 LB250 LB279 LB290 LB311 LB336 LB470 LB77 LB104 LR41CA LR91]

Mr. President, Senator McGill would move to adjourn the body until Tuesday morning, March 12, at 10:00 a.m.

SENATOR CARLSON: Thank you, Mr. Clerk. Members, you've heard the motion. All in favor say aye. Opposed, nay. Motion carried; we are adjourned until Tuesday morning, March 12, at 10:00 a.m.