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Floor Debate
April 10, 2013

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SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the fifty-eighth day of the One Hundred Third Legislature, First Session. Our chaplain for the day is Senator Bloomfield. Please rise.

SENATOR BLOOMFIELD: (Prayer offered.)

SENATOR GLOOR: Thank you, Senator Bloomfield. I call to order the fifty-eighth 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.

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

CLERK: I have no corrections.

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

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

SENATOR GLOOR: Thank you, Mr. Clerk. Members, we'll now proceed to the first item on the agenda. Mr. Clerk.

CLERK: Mr. President, LB585, a bill by Senator Smith relates to the Learning Communities. Senator Smith presented his bill late yesterday afternoon, Mr. President. Senator Sullivan presented the Education Committee amendments. Those amendments are pending. (AM832, Legislative Journal page 846.) [LB585]

SENATOR GLOOR: Senator Smith, would you give the body a brief review of where we were with your bill when we adjourned last night. [LB585]

SENATOR SMITH: Yes, indeed. Thank you, Mr. President, and good morning, colleagues. LB585, as amended with AM832 that we were discussing yesterday when we concluded the session, there are three provisions of the amendment to the underlying bill. One is transportation. The Learning Community school districts currently

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spend about \$3.2 million a year transporting open enrollment students. LB585 would alleviate some of these transportation costs by requiring districts to pay only for those qualified students who are transferring from one district into another district that shares a contiguous boundary. The district would not pay for students who jump districts, and districts would not...would have the option, but would not be required to pay for students who transfer to schools within their own home district. The second component of the amendment deals with levy authority. LB585 reduces the levy authority for capital projects from 2 cents to 1.5 cent, and makes allowances for the operation of elementary learning centers with a 1.5-cent levy. Under LB585 and the amendment, we would add early childhood education programs for children in poverty as an allowable program to access these funds. The difference from the other programs operated under these funds is that the early childhood programs would be preschool programs developed and administered by the school districts, not the entities contracting with the elementary learning centers. The changes made with this levy variance would result in a net reduction of the Learning Community's taxing authority by 1 cent, roughly \$4.7 million. And then finally, provisions for early childhood development, one of the most important components of the bill is the early childhood education programs for children in poverty. The primary purpose of the Learning Community was to close the achievement gap and to provide a positive education experience for all children, regardless of family income. LB585 and the amendment puts the focus on early childhood education programs for children in poverty. Thank you, Mr. President. [LB585]

SENATOR GLOOR: Thank you, Senator Smith. And, Senator Sullivan, you're also provided an opportunity to review the committee amendment for the body. [LB585]

SENATOR SULLIVAN: Thank you, Mr. President, and good morning, colleagues. I think Senator Smith did a good job in reviewing the components of the amendment, which essentially replaces the underlying bill. I think it's also important to note that this proposed amendment does not change the governance structure of the Learning Community Coordinating Council, but, as he outlined, it addresses really three broad areas: the early childhood education, allowing not only the Learning Community Coordinating Council but also the advisory committee made up of the member school...of the superintendents of the member school districts to focus more on early childhood education and a redirecting of some of those levy funds to accomplish that; it more carefully defines some of the parameters for when the free transportation needs to be provided; and then also providing that additional authority not only to the Learning Community Coordinating Council but the advisory committees to how they're going to direct those additional levy dollars to early childhood programs. Thank you. [LB585]

SENATOR GLOOR: Thank you, Senator Sullivan. Members, you've heard a review of LB585 and the committee amendment, AM832. We now return to floor debate. Senator Krist, you are recognized. [LB585]

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SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues, and good morning, Nebraska. I was presiding yesterday during most of this debate and I'm happy that I now have an opportunity to speak on the subject. I, too, like Senator Avery, am very complimentary to the Education Committee for wrapping up a very difficult subject matter and trying to make the Learning Community's functional capability, along with the individual school districts, function better within the community structure. I think that is what this bill does. Senator Kintner talked yesterday about those districts that may or may not want to be in the community. I submitted a bill, LB9, introduced a bill, LB9, to the Education Committee on that notorious day of Learning Community bills and mine specifically spoke to the transportation function, which is now contained in LB585...I'm sorry, in the amendment, AM832, and the underlying LB585. It was very important to the districts that I represent, to OPS and also to Bennington, and it was brought to my attention actually by OPS and by Westside. The functionality of how this amendment and bill changes the transportation requirements gives local control, more local control, let me say that again, more local control back to the districts so that they can transport folks who need to be transported and are not forced to transport those folks who are not. I think it's the right thing to do. Now in all cases, both OPS and Bennington, along with Westside, who I don't represent but as part of the state of Nebraska I must be concerned with, in all cases the superintendents said, it does not prohibit me from continuing to transport but it doesn't force me. And my estimate for Westside and OPS was near a \$7 million savings, but again, an elective savings. The superintendents can make that decision. So again, I applaud the Education Committee. AM832 is a wonderful compromise and a consolidation or a compilation of those things that they heard, those issues that they heard that day, and I will support AM832 and the underlying LB585. Thank you, Mr. President. [LB585 LB9]

SENATOR GLOOR: Thank you, Senator Krist. Senator Kintner, you are recognized. [LB585]

SENATOR KINTNER: Thank you, Mr. President. You know, yesterday we were...as we started talking about Learning Community and Senator Sullivan, Chairman Sullivan, said something I'm not sure everyone heard, but said your district too could be thrown into a Learning Community. Senator Bloomfield, did you hear that? Your district could be put into a Learning Community. Senator Schumacher, your district could be put into a Learning Community. You could be stopped when you're working out at your club or at church and have people complain about it. Anyone here thinks that you can't be put in the Learning Community, you can be put into a Learning Community. You can have the same unpleasant experience as the taxpayers living in Sarpy County. If you think it can't happen to you, it can happen to you. Some...a little more effort by the do-gooders and you could be forced into it too. Now you know back in the '80s, I'm old enough to remember, we talked about the Iron Curtain. If you remember, there was a wall that went through right through Berlin, the Berlin Wall, and the job of that wall was to keep people inside. People wanted freedom and people would risk their life to jump over or

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tunnel under that wall for freedom. Well, now we have an "Iron Curtain." Unfortunately, the people in my district in Sarpy County are on the wrong side of the wall. They're inside and they want out. You know, in 1986 President Reagan stood at the Brandenburg wall (sic) with Helmut Kohl, the Chancellor of Germany, and he said, Mr. Gorbachev, tear down this wall. Well, I say to Chairman Sullivan and the Education Committee, tear down that wall; let my people go. They don't want to be a Learning Community. If it was so good, if it was such a great program helping so many people, schools would want to be in it; they'd want to be participating. But they want out. Taxpayers want out. Schools want out. They don't want to be in Learning Community. And you know, I think to force school districts into something they had no vote on, that the school boards had no vote on, the parents had no vote on, the taxpayers had no vote, I think tells you something about what we're trying to do here. It's a well-meaning program. We gave it a good try. We've got a failed Learning Community that hasn't accomplished what they said it was going to accomplish. I don't doubt that it's accomplished some things, but it hasn't improved the test scores, hasn't improved the learning gap, and that's what it was for and we haven't done that. So, Mr. President, I say let my people go. And I thank you for your time. [LB585]

SENATOR GLOOR: Thank you, Senator Kintner. Senator Campbell, you are recognized. [LB585]

SENATOR CAMPBELL: Thank you, Mr. President. And good morning, members of the Legislature. I stand today in support of the bill and the underlying amendment, and want to just add a few comments with regard to early childhood education and the importance of it. I am so pleased to see the emphasis in this bill on early childhood education for children in poverty. We know that a child without quality early childhood education will go to school with maybe a vocabulary of 500 words, whereas a child who has had a good, quality early childhood will go to school with a vocabulary of words in the thousands. It is so important for school readiness that a child have a good beginning. And we are seeing, from the research and particularly from a seminar that a number of senators attended early on in the session, the scientific information that backs up the quality and importance of early childhood education. And so I certainly do commend the committee and Senator Smith for this emphasis. This has also been an emphasis in the Health and Human Services Committee and we have several bills that we are looking at. This is now also an emphasis in the business community and business leaders across the state are coming together and advocating for good, quality early childhood education. It goes to show that an emphasis in the state of Nebraska can be shared by a number of committees in the Legislature. And I very much appreciate the Education Committee and I know that the Appropriations Committee has been working on this issue, and I appreciate it. It can make a great difference in the years to come for children. Thank you, Mr. President. [LB585]

SENATOR GLOOR: Thank you, Senator Campbell. Chair recognizes Senator Price.

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[LB585]

SENATOR PRICE: Good morning, Mr. President, members of the Legislature and Nebraska, of course. All of you know where I stand on this, but when I walked in this morning I heard the dulcet tones of Senator Kintner talking about the Berlin Wall and it brought back a lot of memories. I was there. I've been to the wall. My brother was stationed in Berlin for approximately seven years, raised a family there. I have family who's actually from there, a little bit distant. And I was there when the wall fell. I thought it was a rather poignant image if not a strong one. But when we talk about the Learning Community, to expand on things, I have to be honest with you. Ladies and gentlemen, I would wish that what we did with the Learning Community and ESUs is take away their taxing authority. We have way too many political subdivisions with taxing authority. What I'd rather see is all those dollars go directly to the district. Why do we have to have so much adult supervision? I think that all the dollars, and I would hope that the LB613 process where we look at taxes and taxing laws, that we'd also look at that aspect of how we mete out all those tax dollars. It's my understanding that the concept of the construct of an ESU, which is represented in a state like South Dakota, they do not have taxing authority. They run it like a business. The tax dollars go down to the school district; the school district sends dollars up to the ESU commensurate to the services they're trying to secure. So if I need one-third of an FTE, full-time equivalent, for a special speech program, in other words, I don't have enough students to warrant a full body all the time, then that's where the ESU comes in. They provide services that are necessary for education. There's no doubt that we need them. But what will happen is that the school district would say, I'll send the dollars necessary for that one-third of an FTE up to the ESU and they will pool the money and then when they have enough and they have all the pool, they secure that labor that they need. And it could work the other way around. They could secure the labor, then send them a bill, either way. But the ESU does not become a taxing authority. Colleagues, Nebraskans, when we identify a challenge or a problem or a need in this state, regardless of what it is and what avenue it's in, what that means is we the State Legislature, whatever political subdivision you're in, commit resources to solving and meeting that need. When we ship those resources over, we cannot ship resources or dollars without oversight. What happens then? Eventually, oversight grows so big, it's bigger than the problem or the challenge we were trying to meet. So I would challenge in the LB613 process that we evaluate why do we give taxing authority. I'm not arguing the number of dollars. I'm not arguing or questioning the need. What I am saying is that the business rule is not very efficient because by having that taxing authority at the ESU and the taxing authority at the Learning Community, all I'm doing is I've separated the dollars but now I have more dollars needed because I have overheads, naturally. And we don't necessarily...I don't believe that we have the accountability that we need to have. [LB585 LB613]

SENATOR GLOOR: One minute. [LB585]

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SENATOR PRICE: Thank you. But going on and finally...and we're getting down into that accountability aspect, in the Learning Community, it is beyond my comprehension why \$100,000 or so was spent on a lactation counselor for ten students. Yeah. That's what we're doing with our education dollars. That's what we're doing with tax dollars that we're commandeering from people all within the Learning Community. If it was for English for a Second Language, no qualms. If it's sending the young folks out there to Lauritzen Gardens, no qualms. I have a challenge in that one area and the oversight for that, and that's why I rise here. I'll support this, but we need to have that discussion and it needs to be a part of LB613 and a study not only how we generate tax dollars, how we forgive and exempt... [LB585 LB613]

SENATOR GLOOR: Time, Senator. [LB585]

SENATOR PRICE: Thank you. [LB585]

SENATOR GLOOR: Thank you, Senator Price. Mr. Clerk for a motion. [LB585]

CLERK: Mr. President, Senator Chambers would offer a bracket motion. He would like to bracket the bill until June 1 of 2013. [LB585]

SENATOR GLOOR: Senator Chambers, you're recognized to open on your motion to bracket. [LB585]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, obviously I intend to take this motion off the table. I'm going to support the bill. But also, as a person who was here during all of the negotiations, if you want to call it that, I want some things put into the record. At one point, Omaha, OPS, was going to argue, on the basis of an existing state law, one city, one school district. There were certain suburban districts that came into existence because they did not want busing and they did not want their children to go to school in OPS with black children, so they moved into the suburbs and formed their own school districts. But some of those districts were within the boundaries of the city of Omaha. When OPS said that because so much of the tax base was going to the western part of the city and OPS had the largest number of school children in the state, something had to be done to get adequate funding. So what they were going to do was invoke that law and they were talking about going to court to get a declaratory judgment backing them up because the law stated it. The suburban people got frantic. And what would have happened, the parts of their district that were outside of Omaha could have remained theirs. But it's like a circle and there are several people standing around it and their toes are inside the circle. Well, you have a blade that's going to go around the perimeter of the circle and anything within the reach of that blade would be cut off, so they would lose certain school buildings, they would lose certain structures that they could tax, they would lose certain students. It was a very complicated issue. I was consulted about what the OPS board ought to do and whether

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I thought they could win. I had a meeting with then-Superintendent John Mackiel and I indicated to him that the Legislature is not going to repeal that bill, because some senators had said that's what they would do. And once I gave Mackiel that assurance--and their lobbyist, their current lobbyist was at that meeting--they then went out and rubbed it in the faces of some of the senators and the term they used was "the big man," "the big man" is on our side now, you're not going to repeal the bill so you have to talk to us. There was no talk. The superintendents were snarling at each other like angry dogs over the fence. Something had to be done to bring about some kind of discussion. Senator Raikes and others came up with the idea of a Learning Community, and that is the structure within which all this debating occurred. I can't say it all on this opening, but I'm trying to give an overview. Then I'm going to ask the Speaker a question or two, if not this time, the next time I speak. We're making a record now so I want some things to be in that record. There were boundary disputes among the districts. They said that if we can resolve these boundary disputes without going to court then we're on board with the Learning Community. That was a part of the deal. Senator Deb Fischer and your current Lieutenant Governor, then-Senator Heidemann, came to me and I told them that the rural areas are losing state aid because the part based on student numbers is diminishing because you're losing numbers, but if you will support what I'm trying to get done in Omaha I will help you get some money for the rurals in disregard of the fact that they should lose money. They loved it. But when they went to these groups who were negotiating, I never went to these groups because I had my own agenda and I have to do it my way, the urban people...and I'm not giving names except Heidemann and Fischer because they were key actors. Senator Fischer came to me, she said, Ernie, they're not going to go with the deal. So here's what I told them, and this is what Senator Fischer said. I told them, you may tell me, Senator Fischer, you're not going to go with the deal, but Ernie wants it; tell Ernie. And none of them came to me. And Senator Fischer came back and said, they're going to go with the deal. So the rural people got something out of the deal. The suburban schools, including Senator Kintner's, got something out of the deal. Let me see who else. Oh, there was a per diem that was put into the bill because the people on that Learning Community were not going to be like members of a school board where you just come and sit around and a superintendent states an agenda and it's rubber-stamped. If you read the legislation, there was much hands-on work that the members of that Learning Community Coordinating Council had to do, and I know because I was there four years. I worked harder on that council than I do on the floor of this Legislature. We were just starting with a brand new political subdivision. It was created from the ground up, out of whole cloth, no blueprint. It had never been done in the country and all of the disparate groups were in on the deal, all of them. Otherwise, how could it pass? If the district Senator Kintner is ranting about who want to back out of the deal now felt that way, the bill couldn't have passed. If the rural people that Senators Heidemann and Fischer were against it, it couldn't have passed. Around the country, they were remarking, even in The New York Times, how a black senator in a predominantly rural state could get a lot of white conservatives to agree to dismember OPS and create three districts. That's a

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separate issue which would take too much time. But nevertheless, I got something out of it too. You talk about a lot of time being spent on a bill. There were meetings in the Legislature, there were activities in the Education Committee, there were meetings outside of the Legislature. I even went to some of them where superintendents and the Governor may have even attended. So for these Johnny-come-latelies who don't bother to read history, which is something I rant about around here, quote Reagan without even knowing what he's talking about, I know the hard work that went into that. And there were a lot of people sweating blood and I was in a position to pull the linchpin and destroy the whole thing. When all of the pieces were in place, and Senator Flood was here at that time, I asked the main participants, did they mind if I attended a press conference they were going to have announcing the existence or the creation of the Learning Community. They breathed a sigh of relief and said they wanted me there--but nobody...you know that story about belling the cat, nobody would bell the cat--so they were very relieved, and I went to the press conference. Questions were put to me and I explained that when I'm in somebody else's house as an invited guest, I follow the rules of those whose house it is. So I asked those who had convened the press conference, do you all mind if I answer questions that are being put to me? They said, no, and they appreciated it. Because once my opposition was gone, people knew that it would go. So that's the role that I played. Because I had such a critical role to play, along with others who worked extremely hard, staff members scurrying around who should have gotten an increase in salary, did all that work, it was put to me that I should serve on the Learning Community. I said I'll tell you what I will do. I'll put my name on the ballot but I'm not going to spend a penny, I'm not going to campaign, and if the people who live far outside of the community in which I live, primarily white people, my...I was counting on them to vote against me. Because I told people that if I ran for the electric chair I wouldn't have to worry about it because they couldn't vote yes for anything where my name is concerned. What happened, when the votes came in I got more actual votes than anybody else who was running for the Learning Community, and some of them spent thousands of dollars and campaigned and had organizations. So to my great chagrin and disappointment, I was elected. [LB585]

SENATOR GLOOR: One minute. [LB585]

SENATOR CHAMBERS: But Senator Kolowski can confirm that I attended all the meetings. I worked hard. I tried to master things that I was unfamiliar with. And because of the work that was being done, that per diem was justified. It was not really pay. Then Deb Fischer broke faith, when I was not here, and persuaded the Legislature to do away with the per diem. But she didn't agree to give up the extra money in state aid that I had gotten. The ones who voted with her did not want to go back to the boundary disputes that had been resolved. They got the deal. Then when Senator Raikes had died and wasn't here, I no longer was here, they broke faith with the agreement that they made. I have not broken faith ever when I entered a deal with somebody. And Senator Kintner's remarks are what brought me up here and made me speak, because I

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was going to stay out of the discussion. Thank you, Mr. President. [LB585]

SENATOR GLOOR: Thank you, Senator Chambers. Members, you've heard the opening on the motion to bracket. Speaker Adams, you are recognized. [LB585]

SPEAKER ADAMS: Thank you, Mr. President. Members, as you know, I don't often get up and speak on these issues and I certainly wasn't going to today. But having been, along with Senator Ashford and Senator Chambers, Senator Avery, in on the creation of this entity and having served in the capacity of Education Committee Chair for four years and trying to refine and to work with this experiment of ours called the Learning Community, I felt compelled to say a couple of things. And if Senator Chambers has questions for me, I'll be glad to try to answer them. And I speak only for myself. I don't believe that the Education Committee or Senator Raikes went looking for this problem, this problem of boundary disputes, of finance, of achievement gap. It came to the Legislature my first year in the Education Committee. It came to us. And despite all the complexities in statute and all of the history that Senator Chambers has accurately described, let me cut to what I believe the core of this entity is. We had boundary disputes. And it wasn't just...it was not just OPS saying, we're going to Millard and we're going to Elkhorn and Westside is not going to be anymore. There were boundary wars that had been going on between Papillion and Bellevue for years. And South Sarpy, a large district in land and not many students, you had Papillion and Bellevue looking over their southern boundaries saying, as subdivisions grow we're going to expand our school district, and South Sarpy was yelling for help. And so we froze the boundaries. That was the first thing that happened. When the boundaries were frozen, in my way of remembering it, number two was the common levy. It was not designed to rob any school district of valuation. Certainly it did to some extent. It balanced things. But I've also watched the finance numbers over the last four years, and maybe I'm missing something, money really hasn't moved all that much between districts. Nobody got rich over this deal; they didn't. And you know, in my opinion, what the common levy did more than anything else, and I know that it doesn't feel like it at times, it made 11 school districts...it was designed to make 11 school districts try to talk to one another. I mean that's pretty simple, just to get them to talk to one another and recognize that though they had their own students to be responsible for, they also should feel some degree of responsibility for the other students in the other school districts around them. Now I've heard it said, not just here on the floor but, believe me, four years as committee Chair, I heard it said all the time, the benchmark is the achievement gap; the Learning Community isn't working unless the achievement gap is narrowing and it's not, therefore, the Learning Community is failing. In my contention the Learning Community was never about the achievement gap. Now this is the old school teacher talking, but you're going to solve the achievement gap. It is not going to be in the Learning Community Coordinating Council. It's not going to be in the Millard or the OPS or the Ralston School Board chambers. It's going to be in the classroom. That's where the achievement gap gets resolved. So what did we do here? Well, what I'm hoping we did

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was to solve boundary disputes, solve some finance issues, and maybe take those infrastructure issues... [LB585]

SENATOR GLOOR: One minute. [LB585]

SPEAKER ADAMS: ...off the table so school districts can get about the business of doing what we intend for them to do, which is to close that achievement gap. Have we created the ideal model? Heck no. We've struggled with the issue of transportation. I think we have found a way to get that moving in the right direction in this bill. We struggle with the issue of governance and probably always will, and maybe next time around that gets talked about, open enrollment, the list goes on. This is not the perfect entity, but I believe when you shave off the top of it and you get to the bottom of it, boundaries have been resolved. And that common levy creates some sharing, hardship. I understand that. It forces some cooperation. Oh, by the way, I've also heard it said, well, the Legislature imposed this on us, why don't we do it in other places in the state? Oh, we do. [LB585]

SENATOR GLOOR: Time, Senator. [LB585]

SPEAKER ADAMS: Darn it. (Laughter) [LB585]

SENATOR GLOOR: Thank you, Senator Adams. Senator Chambers, you are recognized. [LB585]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, maybe we'll have one of those handing off the sticks to each other, but I'm glad that I don't have to try to cover everything. And I'm a realist. I believe that everything Senator Adams says will have far more credibility than anything that I say. I'm a realist. You can relate to the fact that he did not have a dog in the fight, as I did, because I've been one of the most strident, consistent critics of OPS, not just now when people became aware of it. Before I was married, before I had children, before my children were in the schools, people came to me when one of their children had been assaulted by a teacher physically, and I would leave the barbershop and go to that school. And because the superintendent...they used to have something like truant officers. That person would be at that school. The teacher would have been removed, and the principal would have a story for me about how they admit that the teacher was wrong, that teacher would never come back, and appropriate action would be taken. Which meant nothing, I know, other than to remove that person from an irate black man who felt that in the neighborhood where I lived, in the schools where our children attended they were not going to be assaulted by these white people. So I've had a long negative history with OPS. It was difficult for me to serve on the Learning Community. It's not my disposition. It's not my temperament to sit around at those kinds of meetings and proceed in the way those kind of groups operate, and I constantly made that gripe known. But unlike some of my

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colleagues who will leave the floor when things don't go their way, I did not boycott a meeting. I was at the subcouncil meetings. I was a member of one of the subcouncils. I was at every board meeting, unless I couldn't get there for a very important reason, and I only missed two or three during four years. I had better attendance probably than most of the people on that council and I told them, had I not made an agreement with the people who sent me here that I would serve four years, I would quit tonight. You would never see me again. I don't like having to be odd man out all of the time, trying to persuade you not to do foolish things. It even reached the point where I had to tell them, you all are the experts on education, I'm the expert on politics, listen to me and learn, understand that you're operating in a political milieu and the decisions that you take are going to be very carefully and critically scrutinized. Listen to what I'm trying to tell you, which they generally did not. But I did not quit. I still read through all those papers that they sent us, all the reports, and I contributed and on occasion, to be frank and honest, some of the positions that I would advocate would be taken. I'm saying this to indicate that it is not a bowl of cherries to serve on a brand new political subdivision where there is no parallel or paradigm in the country or anywhere and you receive questions from other parts of the country about how this entity came into existence and asking for advice about how they might do the same thing. [LB585]

SENATOR GLOOR: One minute. [LB585]

SENATOR CHAMBERS: It was really an experiment that shocked people because it originated in a backward state like Nebraska. It was like an oasis. It was like something that came down from heaven and sat right in the middle of this intellectual desert, Senator Janssen, to show the way. And I'm going to talk about the achievement gap and how that was not the purpose of the committee, the council, but how we were trying to set some pilot programs in motion to show what could be done if the school districts would accept these ideas. Thank you, Mr. President. [LB585]

SENATOR GLOOR: Thank you, Senator Chambers. Chair recognizes Senator Kolowski. [LB585]

SENATOR KOLOWSKI: Thank you, Mr. President. And good morning, fellow Senators. Good morning, Nebraska. I thank Senator Chambers and Senator Adams for their comments and the historical background and bringing us up to the point where the Learning Community came into existence and the work that was done. I also want to thank Senator Chambers for the four years of service that we shared together on the Learning Community. It was a growth experience for both of us. We went through a great deal of effort and time spent in those early years when nothing was in place and building all the aspects of the Learning Community to make that happen. And we're very proud of the effort and time we spent on that and it was a lot of work. Senator Adams and I have historical background together. We're both Social Studies teachers and we go back 40 years when we were both with the Nebraska Council for the Social Studies,

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when he was in York and I was in Millard, and I really appreciate the fire and the brimstone that I heard and the background from both speakers, both Senator Chambers and Senator Adams, with what they are able to deliver. And I thank you for that historical background, which Senator Chambers reminded us of many times over his four years to give us that anchor, that root of what we're all about. For the entire body, I do want to make sure that you know that the annual report for 2012 is available. The entire Education Committee did receive that and it is available to any senators that would like to have that for their own edification. On some of the programs that were asked about or the achievement gap that was discussed, I would like to touch base on a couple of areas that last summer, in the Learning Community report for 2012 into February '13, when it was given, the areas of concern and areas of activity with over 7,000 to 8,000 students last summer and a little over \$4 million spent in these particular areas. Extended learning, we had the Bellevue Public Schools, Catholic Charities, Completely Kids, Douglas County West Community Schools, Girls Inc., Millard Public Schools, Omaha Area Health Education Center, Omaha Public Schools, Salvation Army, and Springfield Platteview Community Schools. Over 3,700 students were served in that area, worth \$1.1 million for extended academics and summer school opportunities for those kids. A number of districts also were involved in the Kindergarten Jump Start Program, very popular and very active, over 1,200 students in that area with Educare, Elkhorn Public Schools, Omaha Public Schools, and the Papillion-La Vista District for over \$500,000. And also we had a great deal of family support activities going on because we're active in and doing models for replication. As you heard both Senator Chambers and Senator Adams talk about, it's not about taking over any school district but having models that can be replicated that they can use and have success with as we were doing various models. The entire budget for the Learning Community is just a little over \$5 million a year. The 11 school districts in the Learning Community have a \$1.2 billion total budget. In no way, shape, or form is the Learning Community looking to take over any district, any territory, or any other responsibility besides... [LB585]

SENATOR GLOOR: One minute. [LB585]

SENATOR KOLOWSKI: ...those stated in the law to give us the background to have models for replication that could be of benefit to many programs in the metro area or anywhere else in the state. We're very proud of the gains that we've made. It is about whole child and about whole family. That's different than a lot of situations you'll find with education. And the gains we are...the Learning Community has made and will continue to make are showing the results. And Senator Chambers is correct, we have been noticed and written up in a number of different venues across this country at this present time, and two researchers, one from Missouri and one from the University of Texas, are both heavily involved in the continued watch of the success of the Learning Community and it will continue to do so. Thank you very much, Mr. President. [LB585]

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SENATOR GLOOR: Thank you, Senator Kolowski. Members in the queue: Ashford, Janssen, Chambers, Price, and Bloomfield. Senator Ashford, you are recognized. [LB585]

SENATOR ASHFORD: Thank you, Mr. President. I'm not going to belabor the history of this any more than just a bit. I do want to, though, reflect a bit on what Senator Chambers said, Senator Kolowski, and what the Speaker has just said--the issue of achievement gap and what we do with...here in this Legislature. And I can tell you that when we had the issue before the Education Committee, Senator Raikes, of course, was Chair and Senator Adams and I were involved with Senator Raikes in writing, as well as Senator Howard, in writing this law, writing the bill. And in fact, I remember well--and I don't recall Senator...whether Senator Chambers was at any of these meetings, I think he had left the Legislature, he had at that time, but I know Senator Adams was--when we would meet at the Flying J. In fact, maybe half of the bill was written at the Flying J with Senator Raikes coming from his...with his...well, overalls, I guess, on, and coming to the...and his hat, his seed hat, coming to the Flying J and drinking one cup of coffee for about two hours. He was a very frugal guy. And I'd say, Ron, would you like something to eat or is there anything you'd like, and, no, this coffee is fine, you know, this is good coffee. I said, yeah, but you've just had one cup of coffee for two hours; how can you...how can anybody just have one cup of coffee for two hours? And he'd sit there nursing that cup of coffee. And we had a yellow pad out and we'd be drawing this thing up and he'd say, yeah, this is...my wife is going to kill me if we don't get this right. (Laughter) And we all remember Ron's wife and she cared so deeply and does today about early childhood education and was such an inspiration, I know, to Ron to become part of this. And I have a picture of Ron on my desk in Omaha and...that I proudly have there and always will because I think that we were so fortunate in Omaha to have Ron, a rural senator from Lancaster County, as our Education Chair during that time because he cared so deeply about the problem. He cared so deeply about the children. And of course, he was a scientist, an agronomist, and he could construct in his head far into the future things that I...would take me quite a while just to write down on a yellow pad to even digest, to begin to digest. But what he was after...and Senator Chambers is absolutely right. There is no silver bullet. There is no absolute victory in this. This is an ongoing process. And Speaker Adams is absolutely correct as well when he says to us that this was not about the achievement gap. And I don't know how many times I heard that from Speaker Adams in our discussions in the Education Committee, and Senator Avery as well saying this is not about the achievement gap directly because it is about the instructors. It's about the teachers. It's about creating a platform. It's about removing the conflict. It's about removing the conflict so that the school districts could do the job that they are entrusted to do and that the teachers in the classroom could do the job that they are entrusted to do. And it was an experience,... [LB585]

SENATOR GLOOR: One minute. [LB585]

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SENATOR ASHFORD: ...a life experience for me working with my colleagues on the Education Committee and most particularly with really a legend, in my view, Senator Raikes, and listening to Senator Chambers, I think at that time really from afar because he wasn't in the Legislature but...and then became part of the Learning Community. Well, actually, he was when we did the first bill. And it was really an experience I will never forget. And reflecting what Senator Adams...Speaker Adams has said, I think we rose to a level in this Legislature that happens maybe only once in a great while but it happened in this case. So I applaud this Legislature and this institution for...and, of course, Senator Raikes for his leadership in getting us to where we are. Thanks. [LB585]

SENATOR GLOOR: Thank you, Senator Ashford. Senator Janssen, you are recognized. [LB585]

SENATOR JANSSEN: Thank you, Mr. President, members. Senator Ashford, I always laugh, just as kind of an amusement point, when one of us senators gets up and says, I'm not going to belabor the point, and the next thing I hear is "one minute" and then "time." (Laugh) So I think that's kind of funny, not anything of what you had to say. Senator Chambers would, Mr. President, would Senator Chambers be willing to answer a question? [LB585]

SENATOR GLOOR: Senator Chambers, would you yield? [LB585]

SENATOR CHAMBERS: Yes. [LB585]

SENATOR JANSSEN: Senator Chambers, I apologize. I told you earlier in this session that I would check on you daily, because every day I go back to Fremont people say how's Ernie doing. And so publicly, so they can see, how are you doing today? [LB585]

SENATOR CHAMBERS: Quite well, thank you. [LB585]

SENATOR JANSSEN: Thank you, Senator Chambers. I wasn't going to get involved and I really don't think I'm going to get involved in this debate on the Learning Community. It's a much more entangled issue than I'm going to get into this morning. I'm supportive of LB585. Despite Senator Avery coming up and telling me he helped draft it, I'm still in support of that particular legislation. I'd like to point out something during debate that came up that I heard, and I do this with somewhat of a reluctance because Speaker Adams said it, somebody I have great respect for obviously. But what troubled me is, as he was speaking, he said, the achievement gap, there's an achievement gap that can't be solved. And I'm not going to...I'm paraphrasing here, but the achievement gap has to be solved in the classroom. I think the achievement gap is going to be solved not in a committee room, not in a classroom. The achievement gap

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will be solved in the family room, and that's something we need to keep our eye on through this whole discussion. I'm going to leave you with that. It's the last time I'm going to speak on this bill. It's actually the first time. I didn't even plan on speaking on it and I don't want to hear "one minute" and "time," because I said I don't want to belabor the point. Thank you, Mr. President. [LB585]

SENATOR GLOOR: Thank you, Senator Janssen. Senator Chambers, you are recognized. [LB585]

SENATOR CHAMBERS: Mr. President, members of the Legislature, at another time I will deal with what Senator Janssen said about the achievement gap being settled in the family room. I know some things that he doesn't because my children attended Lothrop School where they didn't have adequate textbooks, where they had poorly trained teachers, where they had substitutes constantly being shuttled in and out of a child's classroom. I saw this. It doesn't happen in his schools. And they do not say in a white school area that the parents have to educate their children before they come to school, but I will go into that at another time. Because I was so critical of what the Learning Community was about and not achieving, people thought, who were members of the Learning Community, that I would try to destroy it when I came down here. My criticisms were designed to provoke them to do more. I'm impatient but I'm also realistic, as I pointed out. I knew, probably better than everybody on that council, that you cannot take a brand new political subdivision and have it do with those few people on that board, who couldn't even get a per diem, what the school system that had been in existence for decades had not done. OPS has not corrected the achievement gap. And one other comment directed at what Senator Janssen touched on, without it being directed at him: Until you can...when you have an effect and there are several possible contributing causes, you begin to eliminate those possible causes until you get to the one without which you would not have the effect. Until we can remove the school system as the cause of what is going on in terms of the achievement gap, I will continue to blame the school system, just as I would not blame patients who come to the hospital ill when they leave worse than when they came. And I don't think anybody would accept a hospital's proposal that anybody who comes to this hospital must be well before he or she can be treated in the hospital. Senator Adams did make some very good points, which I will not repeat. I can understand why some of the people speaking now speak the way they do, because they're not familiar with the history of how the Learning Community came into existence. They have no awareness of how hard the work is that they undertake and that they do accomplish. I would never put forth an effort to cripple the Learning Community, despite the fear that I put into my fellow...then fellow council members. They needed to have a club over their head as others do. But those are the people who have borne the heat of the day. Have you considered how poorly the Legislature does its work? Who in here would say abolish the Legislature? I wouldn't even say that. We need the instrumentality and we need to try to get people who more capably carry out the functions of a legislator. But to destroy the entity that offers the

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possibility of doing so much good is a mistake. So I'm letting the cat out of the bag for those people who still remain on the Learning Community Coordinating Council. It is not my intent at any point while I'm in... [LB585]

SENATOR GLOOR: One minute. [LB585]

SENATOR CHAMBERS: ...the Legislature to try to harm the Learning Community Coordinating Council or the Learning Community itself, except that I did not want to burden down Senator Smith's bill. I was thinking about offering an amendment to restore the per diem. It was not an exorbitant amount when you look at the amount of work that those council members actually do. They left jobs, they left families, and whatever else they thought was important to spend time having to deal with somebody like me. That's what some of them thought was the hardest part of the job. But I think now that I'm gone, just like when I left the Legislature for four years, they see a value that I had, a contribution that I made. But when you're taking the bad-tasting medicine, all you can think of is how unpleasant that medicine... [LB585]

SENATOR GLOOR: Time, Senator. [LB585]

SENATOR CHAMBERS: ...is tasting. You said time? [LB585]

SENATOR GLOOR: Time, Senator. [LB585]

SENATOR CHAMBERS: Thank you, Mr. President. [LB585]

SENATOR GLOOR: Thank you, Senator Chambers. Senators remaining in the queue: Price, Bloomfield, and Murante. Senator Price, you are recognized. [LB585]

SENATOR PRICE: Thank you, Mr. President, members of the body. Well, looks like we almost have a self-filibustering bill here, but I'll be quick about it so we hopefully won't go there, because I do support the bill. And to talk to what Senator Adams said about we're making a record here, and so we heard that the Learning Community wasn't about the achievement gap and so it makes me wonder why isn't it an education thing. I mean I can be a little more complex or understanding that it's a subordinate component to education. But again, achievement gap is, as Senator Janssen has said and Senator Chambers has said, a complex thing. There's no one silver bullet, a panacea that will fix it. But I will assure you that there is some truth to both sides. And there is some need within a family; unfortunately, there's not always a family structure and there aren't those things there. So that being said, I'm thinking about adding on Select File an amendment for discussion that would talk about limiting the wraparound services to those 21 and under. I believe that when we talk about tax dollars in education, I believe those tax dollars, particularly in the K-12 arena, should go to K-12. And if we want to talk about wraparound services for extended family members or family members

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outside that range, then that's probably where private dollars can come in and other institutions. It isn't that those services aren't necessary. I just don't believe they're in the direct purview of education dollars that taxpayers' dollars are going to go to those senior family members. We have other dollars that are gathered to deal with this. Let's bring those in. Let's make that a revenue stream instead of that revenue stream coming out of the Learning Community dollars, and that way we would free up, if there are dollars being used right now. If they're being committed to above 21 individuals, well, that would free up dollars to give to those students in the classroom. That would free up for the programs and the modeling and that way we're making sure that we're focusing the dollars. So as Senator Chambers said, I do not want to abolish it. And as Senator Adams said, we come back in many areas, and particularly in this one, and we continue to polish the rock to get this new concept and construct working, not only just how we see it should work but how the citizens see it should work. Thank you, Mr. President. [LB585]

SENATOR GLOOR: Thank you, Senator Price. Senator Bloomfield, you're recognized. [LB585]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good morning, colleagues. When Senator Adams ran out of time, he was about to explain how a similar thing is used in the small rural school districts. I'm going to yield the rest of my time to Senator Adams, in hopes that he will continue down that line to inform us just what goes on there. I have learned more about the Learning Community in the last two days than I had in the two years I was here previously, and I want to thank the members that I've talked to off the mike for that. And again, Senator Adams can have the rest of my time. [LB585]

SENATOR GLOOR: Senator Adams, 4 minutes, 20 seconds. [LB585]

SPEAKER ADAMS: Thank you, Senator Bloomfield. I'm trying to remember back where I left off and I lost my zip. I think the question was, is there a similar model elsewhere? Well, there's no question but what the Learning Community is far more complex than what you're going to see in anyplace else in the state. However, however, we don't have very many of these, Senator, but we do have in statute what is allowed for, called a unified school system. And a unified school system, as we recrafted it here about three years ago, I brought the bill, what it allows for is a kind of engagement device for school districts, for smaller school districts. And the essence of it is they all maintain their individual identities, just like the 11 do in the Learning Community; they all retain their boundaries, as they do in the Learning Community; they all retain their school buildings and their staff, just like they do in the Learning Community. But yet in our unified structures in rural Nebraska, we draw a big line around the outside of it and all the property value is used to support all the schools within that unified district. No, I'm not going to stand here and tell you that a unified structure is a perfect entity any more than I'm going to stand here and tell you that the Learning Community doesn't have more

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things that need to be looked at and reevaluated. But there is something of a model elsewhere besides the metro area, but again I would tell you the issues there were far more complex. Whereas schools in rural Nebraska have the choice as to whether they want to create a unified district, it's a different scenario in the metro. We were under a totally different situation. But that's kind of a comparable model that I would give you. And I don't want to take up all the time, but I simply want to leave it with this. In the four years that I chaired the Education Committee, there wasn't a year but what we didn't do something, maybe not enough, maybe too much, but we didn't do something to try to refine this model. And I have said it throughout those years and I will continue to say it, if there is something we need to fix to give this thing a shot at success, then let's do that. And I think Senator Smith's bill is a huge step in that direction. Is it the final step? I would doubt it. But it's a step in the right direction of making some fixes to give this thing a shot. Thank you, Senator. [LB585]

SENATOR GLOOR: Thank you, Senator Bloomfield and Senator Adams. Mr. Clerk for an announcement. [LB585]

CLERK: Mr. President, Urban Affairs will have an Exec Session underneath the north balcony now; Urban Affairs, north balcony immediately.

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Kintner, you're recognized. [LB585]

SENATOR KINTNER: Well, thank you, Mr. President. I want to thank Senator Smith for his hard work in trying to address some of the problems of the Learning Community. You know, and I know that there was real problems that were seeking to be addressed in the Learning Community. It was a sincere attempt to think outside the box, and I love thinking outside the box to fix a problem. But I will also say this: Everything that we do in terms of education policy should be geared toward achievements. Yes, we want to fix the achievement gap. If we're trying to play around with diversity, which I think this does, that is to better educate kids. Everything that we do needs to be judged by our kids getting a better education. Are they scoring better on tests? Are they doing better on the ACT? Are more going to college? Are more graduating? Those are the only measures we have for any type of program. Now I'd tell you with the Learning Community, and I thank Senator Kolowski as he explained to me, and the CEO also of the Learning Community, explained to me some of the programs that they do. And I'm not saying they're not worthy programs, but every one of those programs ought to be handled within HHS. You know, they're social programs; they're not educational programs. A lot of them are. Some of them are. It's a pretty big net. But we always got to ask ourselves, are kids achieving more? Are they doing better in school? That needs to be what is the gauge of anything that we do. And I think this has been a great discussion. I want this discussion. We need to continue to have this discussion. And once again, Senator Smith, thank you very much for your hard work. And thank you, Mr. President. [LB585]

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SENATOR GLOOR: Thank you, Senator Kintner. Senator Ken Haar, you're recognized. [LB585]

SENATOR HAAR: Mr. President, members of the body, I was not in the Legislature when the Learning Community was formed and my...I've learned a great deal about it since I've been in the Legislature for four years. And my only criticism is that the Learning Community needs to get the word out of all the great things that are happening, and I think the discussion today is part of that. I want to talk about families. Senator Janssen brought up that the most important education happens...starts with the family, and I buy into that to a great extent. And there are some really great programs when you educate kids, especially in high-risk families where you have to include the families. I'll talk about several of those. One is Educare. There are two sites in Omaha right now where they take kids, my understanding is, at six months old or younger and put them in classrooms with...obviously, there are different kinds of classrooms. One of the requirements for Educare in Omaha and the new one that's being built in Lincoln is that parents cooperate. Parents have to participate. The waiting list is long for those wanting to get their kids into Educare and one of the requirements is that parents participate, and they do. One of the features of the learning center is called family support of Learning Community Family Liaisons. And much of the work with the family liaison in north and south Omaha is done through Lutheran Family Service and then there's another group called Communities in Schools, and they bring parents in and talk about parenting. Families are important. Parents don't always know what good parenting is. We had one father come in and testify, it was on this bill or one of the others on the Learning Community, and he thanked the Learning Community because he had gone to those classes and he said, I am a different parent. And he said, I will always be a different parent. He said, now I read to my children, now I sit down and help them with their homework. He said, I am a different parent. And this was the result of this thing called Learning Community Family Liaisons. It's really easy to say, hey, parents are such an important part of education but there's money for that somewhere else. Well, what the Learning Community is doing is important and it's an important expenditure of that money. And I think that we in this society have to recognize that to educate children we have to involve the parents and in some cases that means teaching them how to parent. And so I again want to thank Senator Smith for bringing this bill. I think the Learning Community is a great Nebraska invention and I think it's going to be getting better and better. And one of the reasons that education will improve is that we're taking education to the parents. Thank you very much. [LB585]

SENATOR GLOOR: Thank you, Senator Haar. Are there other senators wishing to be recognized? Seeing none, Senator Chambers, you're recognized to close on your bracket motion. [LB585]

SENATOR CHAMBERS: Thank you, Mr. President, and then I'm going to pull the motion. If the discussion had gone far afield and the subject was not being addressed, I

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would have just pulled it right away because it's my prerogative to do that. But people were saying things that I think need to be in the record and I have a couple of items that I need to touch on briefly. I'm always irritated when somebody says what Senator Janssen said, and the fact that I used the word "often" means that he's not the only one who says it. People speak in cliches and they think in stereotypes. When the issue boils down to nonwhite children suffering on the wrong end of an achievement gap, they talk about parenting and home life. But when you put America's achievement on a global scale and America as a nation scores very low educationwise, they don't say bad white people's parenting. The majority of children in the American schools are white. The majority of teachers are white. So America is doing so poorly when compared with the rest of the world because white parents are not educating their children at home and white teachers are not educating them at school. Look how shallow things would be here if I were not in this body to tell you these things and force you to look at them, but that's what I intend to do and I'll continue to do it. I look at the fact that some people resent Latinos or people who speak Spanish coming into their communities. And they call it their community, but it's really the Native Americans' land which was expropriated and taken from them, and nobody considers it. But think of all these little children who are bilingual. How many white children, black children, American children, period, are bilingual? Senator Kintner is probably not bilingual. I know that I'm not, even though I took every Spanish class made available at Creighton University. It was my unrelated minor and I got A's. I passed all of the classes. But they did not have a language laboratory where we ever spoke it. I could read it. I could write it. And there was a teacher from Puerto Rico who taught and she wanted me...she would pay me, because I was a student and a man of no means by no means, that she translated government documents and she would pay me to do that work. That's how proficient I was in Spanish, but I had no fluency. You have to hear a language spoken by people who speak it, and then you begin to catch certain things, nuances that you don't when you get it from reading literature, writing out exercises in class and so forth. But I have a profound respect for anybody who can speak more than one language. That's why even when I'm being very critical of various popes, when I find out how many languages they can speak then that takes them a notch higher just in that area. When we say that the Learning Community is not primarily aimed at resolving the achievement gap, that's not saying there's no interest in doing it. The Learning Community was not given the tools with which to do it. We did not have teachers, we did not have classrooms, we had no curricula, and these are the things that you use to address an achievement gap. But what we did do was to make money available in the Bellevue School District, OPS, to fund innovative programs, which in my mind the schools should have been doing on their own but they were not. So we were willing...they were willing, over my... [LB585]

SENATOR GLOOR: One minute. [LB585]

SENATOR CHAMBERS: ...objection--I didn't want OPS to get a penny but I knew they'd get it anyway because I'd be outvoted--after-school, during-school, before-school

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programs, summer programs that dealt specifically with academics. And when people came to try to get money from the Learning Community, they had to establish, through documentation, what kind of academic offerings they would provide. We didn't want children warehoused. We didn't want it all to be recreation. But there could be a well-rounded program where they're not just sitting at a desk, looking at a book but dealing with children the way we want to be treated. We don't want to sit at these desks all day. We don't want to give all our time dealing with things related to legislation. So when a child spends all day in a classroom, then after school has to spend additional time, let us consider how much or how little concentration we ourselves have. [LB585]

SENATOR GLOOR: Time, Senator. [LB585]

SENATOR CHAMBERS: Thank you, Mr. President. And I will withdraw that motion. [LB585]

SENATOR GLOOR: Thank you, Senator Chambers. Seeing no objection, so ordered. Members, we now return to discussion on LB585 and the Education Committee amendment, AM832. Are there senators wishing to be recognized? Seeing none, Senator Sullivan, you're recognized to close on the committee amendment. [LB585]

SENATOR SULLIVAN: Thank you, Mr. President. And just briefly, as I had stated several times, AM832 really is the new version of LB585. It represents many hours of collaboration and communication, cooperation arriving at these details that makes some changes, some very positive changes to features of the Learning Community and moves us, I think, in a very good direction of continuing to improve this grand experiment. Thank you. [LB585]

SENATOR GLOOR: Thank you, Senator Sullivan. Members, you've heard the closing on committee amendment AM832 to LB585. The question is, shall that committee amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB585]

CLERK: 37 ayes, 0 nays on adoption of committee amendments. [LB585]

SENATOR GLOOR: The committee amendment is adopted. We return to discussion on the advancement of LB585. Seeing no senators wishing to speak, Senator Smith, you're recognized to close on the advancement of the bill. [LB585]

SENATOR SMITH: Thank you, Mr. President. And thank you, colleagues, for participating in the discussion of this bill on the floor today and also yesterday. I've had a number of you come up to me late yesterday and this morning and tell me that you appreciated the explanation of the Learning Community and the education that was provided on the origins of the Learning Community. I thank Senator Chambers and

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Senator Adams--and, Mr. Speaker, it was good to hear you on the microphone, it kind of brought back old memories of when you were chairing the Education Committee and I know you're very passionate about education--Senator Ashford, Senator Avery, and the others that were here for the origins of the Learning Community and who have been a big part of it over the years. I do believe that this bill is a good compromise. I do believe that it benefits the taxpayers. It helps to make the Learning Community more efficient, more effective. There was one piece of it that I just wanted to make mention of in my closing and that's the early childhood provision of the amendment to LB585, and I just wanted to...again, these programs for early childhood development are basically preschool programs that are run by the individual school districts. Early exposure to education has been proven to be vital to a child's positive development and educational success, regardless of whether the child continues to a two-year college, a four-year college, or they enter into a trade program. I think these early years are very, very critical and I think this addition to the bill and to the statute I think is going to be very effective going forward. Colleagues, once again, I thank you for your time and your engagement on this topic. I ask you to vote green on LB585. Thank you very much. [LB585]

SENATOR GLOOR: Thank you, Senator Smith. Members, the question is the advancement of LB585 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB585]

CLERK: 42 ayes, 0 nays, Mr. President, on the advancement of LB585. [LB585]

SENATOR GLOOR: The bill advances. We move forward with General File, LB97, Mr. Clerk. [LB585 LB97]

CLERK: Mr. President, LB97, by Senator Mello. (Read title.) The bill has been considered on the floor. Committee amendments, as offered by the Revenue Committee, have been adopted. Mr. President, at this time I do have other amendments pending to the bill. [LB97]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Mello, would you refresh the body's memory on LB97, with the adopted committee amendment? [LB97]

SENATOR MELLO: Yes, I would. Thank you, Mr. President and members of the Legislature. LB97 would enable the creation of a land bank in cities within Douglas and Sarpy Counties. A land bank is a public authority created to efficiently acquire, hold, manage, and develop vacant, abandoned, and tax-foreclosed properties. And the concept of land banking has grown significantly, nationwide, over the last few years. As we discussed on General File, my office worked tirelessly over the interim with interested parties to draft the language in LB97. In addition to the city of Omaha and Habitat for Humanity, we worked extensively with business organizations in the Omaha

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area, including the Greater Omaha Chamber of Commerce and the Omaha Board of Realtors, as well as statewide organizations, like the Nebraska Bankers Association, the Nebraska Statewide Property Owners Association, and Nebraska realtors. The committee amendment was adopted, as we discussed, on General File and further addressed concerns of businesses that invest in tax sale certificates. And with the adoption of that amendment, those businesses now support the underlying bill. Much of the discussion on General File revolved around the language allowing a land bank to participate in the tax foreclosure process both by investing in tax sale certificates and by purchasing properties at tax foreclosure sales. Existing state statute allows other political subdivisions, such as cities, villages, school districts, drainage districts, and even irrigation districts, to purchase tax sale certificates within their corporate limits. Given this existing statutory authority, there is no reason not to give land banks the same authority, as long as the full amount of taxes, interest, and costs owed are paid. As we also discussed on General File, there is a significant problem that occurs when out-of-state investors bid on tax sale certificates, then elect not to foreclose on a property after the owner fails to redeem them, essentially, walking away from the property. The end result is the practice is that hundreds--even, possibly, thousands--of properties in Douglas County wind up going through the tax foreclosure process multiple times, often spending more than a decade in limbo. Without a land bank having the ability to use an automatic bid at the tax sale certificate's sale, properties whose back taxes owed greatly exceed fair market value will continue to cycle through that process, further deteriorating and creating a drain on surrounding neighborhoods. As you'll see by the committee's statement, LB97 has the support of a broad spectrum of organizations in the Omaha area. Most importantly, it has strong support from the Omaha business community. My office worked with, pretty much, every conceivable business sector and industry that could be affected by the land bank operations, is how we came up with the ultimate committee compromise that was adopted. There is an amendment that I have put forward, AM926. It addresses several concerns raised by members on the floor on General File debate. I'll address those changes shortly when that amendment comes up. Thank you, Mr. President. [LB97]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Thank you, Senator Mello. Mr. Clerk, are there amendments? [LB97]

CLERK: Mr. President, there are. Senator Chambers had FA42, but I have a note he wishes to withdraw. Mr. President, Senator Mello would move to amend the bill with AM926. (Legislative Journal page 932.) [LB97]

SPEAKER ADAMS: Senator Mello, you are recognized to open on your amendment. [LB97]

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SENATOR MELLO: Thank you, Mr. President and members of the Legislature. AM926 is designed to address several concerns that were raised on the floor when we last discussed LB97, as well as two technical issues that have come up in the meantime. First, the amendment addresses Senator Chambers' concerns regarding the membership of the land bank board. As we discussed previously, the goal of the land bank is to address vacant, abandoned, and tax-delinquent properties, the vast majority of which are in the Omaha area, east of 72nd Street. While I cannot speak specifically for Senator Chambers, his main concern, which I also share, was that the board might not be representative of the affected communities which the land bank is tasked to improving. Under the amendment language, a land bank created by a single municipality would continue to have a seven-member board but would be required to have at least one member from each of the city council districts within the municipality. In the event of a joint land bank created by interlocal agreement, the board would have to have at least seven members, with at least one member from each city council district within the largest municipality that created the land bank and at least one member from each of the other municipalities. Joint land bank boards would have to have an odd number of members, and both type of boards would still have to have basic requirements that were included in LB97. This language ensures that the board involving the city of Omaha would include representation from the communities of north and south Omaha that would greatly be impacted by the land bank activities. I'd also like to thank Senator Murante, who ultimately helped develop this initial concept for us to help address Senator Chambers' concerns. Second, AM926 addresses Senator Smith's concerns about the potential size of a land bank by adding new language in Section 8 of the bill. With this language, a land bank could not hold a legal title to more than 7 percent of the total parcels located within a municipality or municipalities that created the land bank. This percentage was reached in negotiations with Senator Smith and with the input of both the city of Omaha and the Greater Omaha Chamber of Commerce. Third, AM926 clarifies the interaction between the five-year, 50 percent lookback of property taxes collected on properties transferred from a land bank to private ownership and existing tax increment financing projects. As introduced, LB97 provides for a waiver of the five-year, 50 percent lookback by a land bank in the event that a piece of property in an existing TIF district...the amendment clarifies that property tax revenues on a property that is part of an existing TIF project would be directed towards repayment of the TIF bonds and would not remit to the land bank unless otherwise agreed upon by the city and the land bank. Finally, AM926 clarifies the sales-exempt status of a land bank as it relates to equipment purchases. This issue was brought forward to my office by the Revenue Committee legal counsel and committee staff, which we're very appreciative of. While Section 9 of the bill provides that a land bank's income and operations are exempt from all taxation by the state and political subdivisions, current statutory language that creates a sales tax exemption for purchases made by a political subdivision specifically lists each type of political subdivision which is entitled to that exemption. The amendment simply adds land banks to that list. Because of the change to the sales tax statute, the Legislative Bill Drafting

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Office also recommended that the bill be amended to include an operative date that lined up with the start of a quarter, for tax quarter purposes. Since the bill does not contain an emergency clause, the amendment includes an operative date of October 1, 2013, which is the start of the next tax quarter following when the bill would otherwise have been effective, in early September. With that, I would urge the body to adopt AM926. And I would like to close, briefly, once again, of thanking Senator Chambers, Senator Smith, Senator Schilz that also raised some similar concerns that Senator Smith did in regards to the ultimate size concern of the land bank. I am appreciative of them willing to work with my office and work with the interested parties involved to come up with what we feel is a consensus amendment both to address the board membership issues that were raised, as well as the total limitation of parcels that a land bank can acquire with that. Once again, I'd urge the body to adopt AM926. Thank you, Mr. President. [LB97]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thank you, Senator Mello. Members, you've heard the opening on AM926. We now move to floor discussion. Senator Chambers, you are recognized. [LB97]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, despite all my criticisms of community chairpersons and other things, a bill like this could not be completely fashioned appropriately in the confines of a committee. There are so many moving parts that it could not be avoided, having members of the Legislature raise issues. Senator Mello is so easy to work with, and both of us were busy, that all of my concerns could not be addressed at this stage. But he and I have agreed that, at least as far as my interests are concerned and the things that I have questions about, we will work between the time the bill moves and the time it comes up again on Select File. That being the arrangement that we have, a lot that I might have said ordinarily on a bill of this kind I will not say. But I do think it should be kept in mind and it should be in the record: We recognize that this which is being created by the Legislature, this land bank, is a very ambitious undertaking. Everybody, based on the way Senator Mello has presented it, has an opportunity and an invitation to participate in producing a final product. And it's not often that I will laud a senator for doing, simply, what a senator should do. But I'm aware of how much work he has put into this already and I want to assure him, by saying it on the mike, that I have no intention to slow the bill down, to cripple, or minimize in any way the good work that it can be done. I don't believe there is any other entity, I don't believe there is any collection of politicians in Omaha who could bring about the result that this land bank can achieve if it operates in the way intended. And that's all that I have to say on this bill, now and forever, I hope. If Senator Mello and I can work everything out, then you won't hear my voice on this bill anymore. Senator Kintner, stop smiling. He's about to stand up and give a standing ovation, either to me or Senator Mello. That won't be necessary, Senator Kintner. Thank you, members of the

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Legislature. [LB97]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Ashford, you are recognized. [LB97]

SENATOR ASHFORD: Thank you, Mr. President. And I, too, stand in strong support of AM926 and LB97. I cannot even conceive of a more important piece of legislation for Omaha than what LB97 is. Having spent numbers of years, 10 years--I don't even...can't even recall--working with affordable housing in Omaha and dealing with the issues that this bill addresses, this effort and...by Senator Mello, certainly, his staff, and those in Omaha who have spent time on it is addressing in a bold way a problem that has...so plagues us, it is such a wart on our city's ability to address the issues of poverty, and how it affects housing, I cannot tell you. The idea that the vision of building in our especially...most specifically, in our inner cities, a new housing, way to live, a new way to live, new housing, those things that are built around housing, whether it's schools or gardens or retail or to create vibrancy. It's interesting, one of the projects that I worked on it...when I was executive director of the Omaha Housing Authority was the Love's Jazz Museum on 24th Street, on 24th and Lake. It is the start of a renaissance in north Omaha that cannot be stopped. Just a couple of weeks ago, the Carver Bank building, which is near the Love's Jazz Museum, an old bank in north Omaha on Lake Street, was opened as an art space. And the crowd that was there--and it was quite a crowd--was a diverse crowd from the entire city--art community, business community--congregating at this...at the Carver Museum. I just can't tell you how important those kinds of projects are to our city and to reigniting what is such an important, important part of our city, north of Cuming. I remember when we did the Ernie Chambers Court on 16th Street, thinking about how this is going to reignite 16th Street. Sixteenth Street is a wonderful boulevard that goes from Cuming Street all the way to Locust Street and, actually, further than that. And it has vistas, views of the river and views of Iowa. And it is a wonderful opportunity for our city to have this land bank in...the idea of a land bank in north Omaha and other parts of the city and to have citizen participation and how housing develops and how the other benefits that come from new housing and renovated housing and the absence of vacant lots and dilapidated housing is just...it's a dream come true for me and...as it was when we did Ernie Chambers Court, which, literally--I think I've mentioned this before--Ernie Chambers Court was called Strehlow Terrace. Strehlow Terrace was the first luxury apartment building in Omaha. It was built in the 1890s, designed by the architect who had been the architect of the Trans-Mississippi Exposition. And he designed this wonderful place called Strehlow Terrace where the wealthy of Omaha lived and worked downtown. Well, it became a horrible place, a dilapidated, drug-infested, crime-infested place. And we were able to totally renovate that. We had a team that worked tirelessly to renovate those buildings into Ernie Chambers Court. [LB97]

SENATOR GLOOR: One minute. [LB97]

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SENATOR ASHFORD: So now we have the makings of a 16th Street thoroughfare. So with this land bank, we're going to be able to build on what's happened on 24th Street and 16th Street, and it's exceedingly exciting. Senator Mello and his staff have spent days and weeks on this. They should be highly commended for their efforts. It is a wonderful opportunity for our city to do great, great things in those areas of town that have been left behind in so many ways. Thank you. [LB97]

SENATOR GLOOR: Thank you, Senator Ashford. Chair recognizes Senator Smith. [LB97]

SENATOR SMITH: Thank you, Mr. President. And during one of the recess days this year I had the opportunity of seeing many of the properties that would be part of a land bank acquisition and improvement. And I've seen firsthand that there is a tremendous need, and I do applaud Senator Mello for bringing forward this bill. I do believe, in concept, that this is very much needed in our communities. And I just wanted to thank Senator Mello for working with me in a compromise of putting a cap on the total assets, if you would, of the land bank. Senator Mello worked very hard on working out a compromise on this. I do appreciate him bringing this forward and the amendment. And I just want to stand in support of the amendment to LB97, and I also support the underlying bill. Thank you, colleagues. Thank you, Mr. President. [LB97]

SENATOR GLOOR: Thank you, Senator Smith. Are there other senators wishing to be recognized? Seeing none, Senator Mello, you're recognized to close on your amendment. [LB97]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. A brief recap: AM926 changes the board membership in regards to ensuring that the land bank board would have a geographically diverse board membership when it's created. It also puts an asset limit in regards to the number percentage of parcels that a land bank could ultimately hold at one point in time. It also clarifies a couple tax-related issues, one on tax increment financing, in regards to ensuring that, if a land bank property is sold and it's within a TIF district, that the property taxes, the 50 percent, five-year lookback would not go to the land bank. It would go to pay off the TIF bond. And the last component was a tax clarification brought forward by the Revenue Committee staff of ensuring that, because a land bank is a political subdivision that would be tax exempt, we clarify that in statute, as well as change the operating date to meet the tax quarter, the first tax quarter, starting in October, 2013. With that, I'd urge the body to adopt AM926. Thank you, Mr. President. [LB97]

SENATOR GLOOR: Thank you, Senator Mello. The question is, shall the amendment to LB97 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB97]

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CLERK: 28 ayes, 0 nays on adoption of Senator Mello's amendment. [LB97]

SENATOR GLOOR: The amendment is adopted. [LB97]

CLERK: I have nothing further on the bill, Mr. President. [LB97]

SENATOR GLOOR: Thank you, Mr. Clerk. Discussion continues on the advancement of LB97 to E&R Initial. Senator Smith, you are recognized. Senator Smith waives. Seeing no senators in the queue, Senator Mello, you're recognized to close on the advancement of LB97. [LB97]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. Once again, I want to thank Senator Chambers, Senator Smith, as well as the other...Senator Schilz, who also had raised similar concerns as Senator Smith did in helping work through some issues that were brought forward both on the membership, as well as on the asset limits, ultimately. Ultimately, part of the concerns that were raised by Senator Chambers...I do want to give special thanks to Senator Murante. He initially came up, when we were discussing this last time on General File, with the concept that, ultimately, his bill deals with...directly after LB97 on the agenda. And we, ultimately, took language he offered us to help start the process to address some of Senator Chambers' concerns. So I am very appreciative of that, that work Senator Murante did for our bill that bleeds in a little bit to his priority bill as well. Colleagues, I don't want to go above and beyond, essentially, I think, what Senator Ashford just said. LB97 is a unique tool that could be available for Douglas and Sarpy County to deal with what we know is a very pressing issue in the eastern part of the city of Omaha, where we have over 15,000 vacant and condemned properties that have a dramatic impact in north and south Omaha primarily, in regards to poverty, in regards to dilapidated housing and, ultimately, declining property values that, no doubt, has a dramatic impact on a variety of other issues we discuss in this Legislature. My hope is that LB97 is a tool that we are providing municipalities to help start to move forward any public-private partnership model with private philanthropy and the business community to help focus on redeveloping the needed housing in commercial areas in the eastern part of the city of Omaha, primarily, that we know is, at this moment in time, in great need of support, in great need of redevelopment. I think...I appreciate Senator Chambers' warm comments. And I know we have some questions that me and him have to go through a little bit further still on...between now and Select File. And I look forward to continuing the dialogue with Senator Chambers and doing my best to help answer any questions he has. And if there's further changes that may need to be made, we will make those changes. And I appreciate his willingness to continue to work with me on this bill because, ultimately, I think, we see the impact this can have in the eastern part of Omaha. And it will, ultimately, have an impact on our property taxes and what's being collected for local political subdivisions where, as you look at the fiscal note, there's a

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possibility that it would increase property taxes collected by Omaha Public Schools, by the various other taxing entities in the eastern part of Omaha which, hopefully, will have an impact, ultimately, of reducing, possibly, some of the state assistance somewhere down the road if redevelopment occurs the way that we initially had planned it could happen if LB97 is successfully implemented at the local level. With that, I'd urge the body to adopt LB97. Thank you, Mr. President. [LB97]

SENATOR GLOOR: Thank you, Senator Mello. Members, the question before the body is the advancement of LB97 to E&R initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB97]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB97. [LB97]

SENATOR GLOOR: The bill advances. Mr. Clerk, we continue with General File. [LB97]

CLERK: Mr. President, if I might, there is a meeting of the Business and Labor Committee at 11:00, in Room 2022, Business and Labor at 11:00, in 2022.

Mr. President, LB646 is a bill by Senator Murante. (Read title.) The bill was introduced on January 23, referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. There are Government Committee amendments pending, Mr. President. (AM613, Legislative Journal page 737.) [LB646]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Murante, you are recognized to open on your bill. [LB646]

SENATOR MURANTE: Thank you, Mr. President and members. LB646 is a bill which pertains to the election of the directors of the Omaha Public Power District. Currently, OPPD is an eight-member board. Three of those members are currently elected by district, and five of them are elected at large in an area that is generally the city of Omaha. LB646 was advanced from committee with no negative votes. What it proposes to do is to take those eight members and have all of them elected by district, instead of three by district and five at large. And the reason for that is pretty simple. As we in the Government Committee began to study the differences in election results between subdivisions which elect their leaders at large versus by district, we found a disturbing trend. In the case of the city of Omaha, every political subdivision who elects their leaders by district has at least one person of color, one minority elected as a leader to its board. There are two political subdivisions which elect their leadership at large, one of which is OPPD. And not only do they not, at the moment, have any people of color on their board, but they have never elected any minority to their board in their history. We in the Government Committee felt that that was a systemic problem that had to be changed by state law. What we found was that statewide...nationwide, when political subdivisions are elected by district, the benefit is dependent on two important variables

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when we're talking about racial inclusion. One is the percentage of the population which is minority; and, two, it is the concentration of those minorities within a political subdivision. Earlier this year, last week, I believe, this Legislature advanced a bill by Senator Seiler which proposes to do what is, essentially, the exact opposite of what LB646 does, but it does it for first-class cities. And I support that bill and I don't believe that the two concepts are in competition with each other. And the reason for that is pretty simple. The city of Omaha has a very large minority population, 25 percent of its population. And the city of Omaha is a very segregated community, unfortunately. The consequence of that is, when we elect leadership at large, minorities have a very difficult time getting elected to leadership positions and, as such, it has never happened in the history of the Omaha Public Power District. LB646 seeks to change that. There is an amendment coming. You'll notice on your committee statements that OPPD testified initially in opposition to this bill. They came down and met with Senator Avery and myself in an attempt to convince us that LB646 was not the way to go. But through extensive negotiations, they are now supportive of the bill with the amendments that are to follow. We believe this is an important bill. How we elect our political subdivisions, the method by which we choose our leaders to be elected says a lot about who we are. It says a lot about our values. We have identified a problem with LB646. We believe LB646 is the solution to that problem. I encourage your support for LB646 and would be happy to answer any questions that you may have. Thank you, Mr. President. [LB646]

SENATOR GLOOR: Thank you, Senator Murante. (Visitors introduced.) As the Clerk stated, there are committee amendments from the Government, Military and Veterans Affairs Committee. Senator Avery, as Chairman of that committee, you're recognized to open. [LB646]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. This is AM613. This amendment strikes all of the original sections of the bill and replaces it with the following provisions. By December 1, 2013, the board of directors of a public power district with a service area containing a city of the metropolitan class--which, of course, is the Omaha Public Power District--will divide the district into eight election subdivisions. The boundaries of the existing election subdivisions in which one member resides will be preserved. In other words, the boundaries of the north, south, and suburban subdivisions of OPPD will remain the same. The board of directors will divide the remaining existing subdivisions into...which more than one member resides, into the same number of election subdivisions as there are members residing in such subdivisions. In other words, the metropolitan subdivision of OPPD will be divided into five areas. All of the subdivisions will be composed of substantially equal population and compact and contiguous territory. The board will assign each member holding a position on the board of the effective date of this act to represent a numbered election subdivision for the remainder of the term of office for which the member is elected. The terms of members representing the election subdivisions numbered one, two, and three will expire in January 2015. The terms of members representing subdivisions four and

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five will expire in January 2017. And the terms of members representing the subdivisions six, seven, and eight will expire in January 2019. After each federal decennial census, the board of directors will create new boundaries for the eight election subdivisions. The board will follow county lines wherever practicable and subdivisions will be composed of substantially equal population and compact and contiguous lines. The committee advanced the bill with the committee amendment on a vote of 6-0 with two members present and not voting. I can tell you and just reiterate what Senator Murante said in his opening, that we did have substantial contact with, discussions with, OPPD members. And we worked this compromise out. It was, of course, not easy. But we got it done and we think it is now something that you would find an improvement on the current situation. And I urge you to support this amendment and the underlying bill. Thank you, Mr. President. [LB646]

SENATOR GLOOR: Thank you, Senator Avery. As the Clerk stated, there are amendments to the committee amendments. (AM894, Legislative Journal page 908.) Senator Murante, you're recognized to open on your amendment. [LB646]

SENATOR MURANTE: Thank you, Mr. President. Members, this is the amendment which, if adopted, allays the concerns of the Omaha Public Power District Board and gets...earns their support. I would like to take a moment to thank Senator Avery for all of his work on this bill. He has gone above and beyond the call of duty for a committee chairman. Yes, Senator Karpisek. (Laughter) He has put in an intense amount of hours, along with his committee staff, and I thank him for it. What we're doing with this amendment is, essentially, saying...is we are making the...we are allowing OPPD to elect their membership by district, but on their own volition. We are making it permissive and not mandatory. What they came to us and said was that their board had considered it, they see the value of district elections, but they don't want to be forced to do it. They want us to encourage them to do it, and that's what we're doing by this bill. Also, what we're doing is staggering terms such that, in 2014, there is not a complete overhaul of the Omaha Public Power District Board. No current elected member or appointed member of the OPPD Board will have to run for election earlier than they otherwise would have, which was important to us to make sure that there is a level of continuity on the board and that there's not one dramatic overhaul, one sweeping change, in one year. So that's what we're doing with this amendment. I have heard some concern expressed from my committee members that making the language permissive could open the door such that they could change their mind once this Legislature adjourns. I can tell you I find that to be very unlikely. The OPPD Board has already passed a resolution declaring their intent to elect their membership by district going forward. They have written a letter to the Government Committee letting us know their intent. If they were to back out now, I would be very, very surprised. So we have accomplished our fundamental goal which was to elect their directors by district. We have sat down in good-faith negotiations and what we think makes all parties happy. I encourage your support to AM894, the underlying committee amendment, LB646. Thank you, Mr.

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President. [LB646]

SENATOR GLOOR: Thank you, Senator Murante. Members, you have heard the opening on LB646, the committee amendment, and the amendment to the committee amendment. We now move to discussion. Are there senators wishing to be recognized? Seeing none, Senator Murante, you are recognized to close on your amendment. Senator Murante waives. The question is, shall the amendment to the committee amendment to LB646 be adopted? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB646]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Murante's amendment. [LB646]

SENATOR GLOOR: The amendment is adopted. We continue in discussion. Seeing no senators wishing to speak, Senator Avery, you're recognized to close on the adoption of the committee amendment. [LB646]

SENATOR AVERY: Thank you, Mr. President. Just briefly, let me point out that the amendment we just approved includes permissive language. We have assurances from OPPD that we do not need to require this. They will do it. They've already started a process. With that, I would urge you to advance this bill as amended. Thank you. [LB646]

SENATOR GLOOR: Thank you, Senator Avery. The question, members, is, shall the committee amendments to LB646 be adopted? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB646]

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB646]

SENATOR GLOOR: Committee amendment is adopted. We move to discussion on the advancement of LB646 to E&R Initial. There are no senators wishing to be recognized. Senator Murante, you are recognized to close on the advancement of LB646. [LB646]

SENATOR MURANTE: Thank you, Mr. President. And, members, I appreciate your thoughtful consideration of LB646 and would appreciate your green vote. Thank you. [LB646]

SENATOR GLOOR: Thank you, Senator. The question is the advancement of LB646 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB646]

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB646. [LB646]

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SENATOR GLOOR: The bill advances. Mr. Clerk. [LB646]

CLERK: Mr. President, LB362 is a bill introduced by Senator Avery. (Read title.) The bill was introduced on January 18. It was referred to the Natural Resources Committee. The bill was advanced to General File. I do have committee amendments and amendments to those committee amendments, Mr. President. (AM455, Legislative Journal page 764.) [LB362]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Avery, you're recognized to open on LB362. [LB362]

SENATOR AVERY: Thank you, Mr. President. This bill is not popular and I know that. And I want to thank the Natural Resources Committee for the hard work they've put in on this and the courage that they displayed in voting it out. This bill seeks to resolve a \$43 million problem that we have with respect to Game and Parks and the Nebraska park system, and I will talk about that \$43 million in a few minutes. It...the bill, LB362, replaces the \$25 Game and Parks annual permit fee with a \$7 fee which would be assessed to certain passenger vehicles at the time of registration with the Department of Motor Vehicles. It is estimated that, with the exemptions listed in AM455, which we will talk about later, that Game and Parks would generate close to \$12 million with this new legislation, which is about \$6.4 million over the current revenue generated by park permits. The bill does not change current law regarding nonresidents, who will continue to pay the permit fee of \$25 and the \$5 fee for daily permits. LB362 makes your valid, eligible Nebraska license plate your state park entry pass. AM455 exempts a number of vehicles from the registration fee and, I'm sure, we'll have discussion of that later. All funds collected under this act will be credited to the State Park Cash Revolving Fund for use in the parks engineering and construction division, except that 2 percent of the total funds collected in 2014 will be credited to the Department of Motor Vehicles for programming and implementation of this act. We worked very closely with the Department of Motor Vehicles to figure out what were the appropriate exemptions and to figure out a way for them to implement this act. Let me just make a few comments about the history of our state park system. We first started paying attention to outdoor activity with legislation passed in 1901 that authorized the regulation of fishing and hunting. And in 1978, the park permit system was authorized by the Legislature to meet a critical need for funds for improvement and maintenance of the state parks. For the past 35 years, however, citizens have expressed an interest in eliminating the mandatory park fee and finding alternative, sustainable funding for our state parks. You will recall that, in 2011, Senator Dave Pankonin managed to get a bill passed to raise the state park fee from \$20 to \$25. We passed that with 40 votes to override the Governor's veto. Today, I am offering a new funding mechanism that will allow the Game and Parks Commission to start to attack deferred maintenance and handicapped-accessible needs in the park system. This new funding mechanism will

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provide a sustainable funding source for Game and Parks and perform the duties...and allow them to perform duties that they are statutorily required to do under Chapter 37 of our statutes. Approximately 70 percent of the Game and Parks ongoing, day-to-day operating maintenance budget comes from the park permit sales system. About 30 percent comes from the General Fund. Last year, General Funds accounted for just \$9.3 million of the budget. And the commission's budget was, I think, somewhere around \$72 million. And state support has, for some time, been flat. It has not been increasing. It has not been meeting the needs of the park system and the permit system is not keeping up with those needs either. In the past two years, Game and Parks have been forced to give away five state parks to counties for maintenance by rotary clubs and Boy Scout clubs because they can't afford to keep them. In fact, one occurred just recently, and that's Champion Mill. The big problem is this, folks: In addition to their daily operation and maintenance needs, our parks have over \$30 million in backlogged, deferred maintenance on basic infrastructure that has pressed many of them to a point of near closure. We're talking about the need for such things as a new septic system at Ash Hollow State Historic Park in Lewellen and replacing of an aging dock at Calamus State Recreational Area near Burwell. Also, a big part of the need at Game and Parks is a federally mandated Americans with Disabilities Act that requires upgrades in excess of \$13 million. So we have a \$43 million problem that is very unlikely to be dealt with adequately through the General Fund. And we know...and if you look at a handout that I just had passed around, we know that the permit system is not producing the kind of revenue that the department needs. The ADA upgrades include renovations at Platte River State Park. They have a great need for renovating the bathhouses at the swimming pool. And by the way, this facility is used by the city of Louisville as their municipal pool. We have ADA compliance issues at Bowring Ranch State Historical Park near Merriman. We have an extensive system, and it's in disrepair. Nebraska has over 80 state park facilities. The system consists of 8 parks, 11 historical parks, 64 recreation areas, 2 state recreation trails. That's over 140,000 acres of land and water available for public use. It's a large operation. It is complex and diverse. It has some 1,600 buildings, 8,800 miles of roads, 11,000 campsites, 500 septic systems, 8 water towers, 6 swimming pools, on and on, and they are in desperate need. According to the 2011 National Association of State Park Directors statistical report, we reported over 12 million visitors to our state parks, making the state parks' ranking 17 in the top 25 most popular tourist attractions in Nebraska. I believe, with this legislation, that more people will attend these parks because it will... [LB362]

SENATOR GLOOR: One minute. [LB362]

SENATOR AVERY: What did you...? I'm sorry, Mr. President. [LB362]

SENATOR GLOOR: One minute, Senator. [LB362]

SENATOR AVERY: All right, I'll put my light on. According to the Department of

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Tourism, total annual spending has an impact on tourism in Nebraska. That spending is about \$3.7 billion, generating over \$580 million in annual tax revenue, supporting 44,000 Nebraska jobs. The idea of adding the Game and Parks charge during registration at the DMV is not unique. In fact, Michigan and Idaho have already implemented versions of this. I think it's time for us to take a serious look at some alternative funding. This is one. Let me just say this before I run out of time. If you don't like this...and, by the way, none of us like it, I don't like it. [LB362]

SENATOR GLOOR: Time, Senator. [LB362]

SENATOR AVERY: But if you don't like this, come up with another idea. [LB362]

SENATOR GLOOR: Time, Senator. [LB362]

SENATOR AVERY: Thank you, Mr. President. [LB362]

SENATOR GLOOR: Thank you, Senator Avery. As the Clerk stated, there are amendments from the Natural Resources Committee. Senator Carlson, as Chair of that committee, you are recognized to open on the amendment. [LB362]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. The committee amendment, AM455, clarifies the vehicles that would be exempt from the motor vehicle registration fee and makes technical adjustments to allow the Department of Motor Vehicles to administer their duties under the bill. As Senator Avery indicated, the hearing was held on February 7. There were 14 positive testifiers, 1 negative, which was the Nebraska Chapter of the Association of General Contractors, and one letter of opposition from the New Car Dealers Association. I know there's opposition to LB362, and that's okay because that's a freedom of our system. I also want you to be aware that the committee did not take this bill lightly. There was much discussion and much time given to LB362. And I think that I'm speaking for every committee member in saying that everyone believes that Game and Parks must be adequately funded, and they're not adequately funded now. The committee discussed possible alternatives. None seem to be the solution. We talked about an increase to the current \$25 fee. We talked about having a voluntary entry on the Nebraska income tax return for contributions to Game and Parks. We are open to better ideas. Now Game and Parks has a problem. They're in charge of the treasures of our state, our state parks. Currently, the \$25 sticker fee for the year or \$5 daily fee is bringing in about \$5.5 million annually. That's not enough. Senator Avery has gone well into the need for additional revenue because of the rehabbing needs, the updating needs, the remodeling needs. And this, as he indicated, adds up to well over \$40 million. The \$7 fee would provide about \$12 million, which would be about a \$6 million increase each year to deal with the over \$40 million need for updating and the requirements for ADA. The \$7 fee would do away with the park sticker. So it is important to understand and know that low-income

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families could access our state parks through their paying the \$7 fee. Access would cost them \$7, instead of the current \$25 annual fee or \$5 daily fee. Senator Dubas, who is a valued member of the Natural Resources Committee, has told the committee she would filibuster LB362. I understand that, and she has every right to do that. But you are asked to weigh in on this discussion. If you don't believe that Game and Parks should be adequately funded, please say so. But if you want another way, please suggest the other way. And I would ask the body to direct its discussion on the concept of a \$7 fee on vehicle registration or another method of funding. I look forward to and hope we have a meaningful discussion on a challenge that needs a good solution. Thank you, Mr. President. [LB362]

SENATOR GLOOR: Thank you, Senator Carlson. Mr. Clerk for an amendment. [LB362]

CLERK: Mr. President, the first amendment to the committee amendments is from Senator Dubas. Senator, I have AM820 in front of me. (Legislative Journal page 831.) [LB362]

SENATOR GLOOR: Senator Dubas, you're recognized to open on your amendment. [LB362]

SENATOR DUBAS: Thank you very much, Mr. President and colleagues. I fully understand and am sympathetic to the needs for additional, sustainable financial resources for our state park system. As a member of the Natural Resources Committee for my entire tenure in the Legislature, so far, I have worked with Game and Parks to support their efforts and appreciate all of the work that they do to take care of our parks and everything else that they deal with. I fully supported the nominal increase in the park permit, which we passed. Our state parks rely heavily on cash funds for their budgeted needs. But with that being said, I cannot support LB362. I believe there are some constitutional issues with this bill in regards to the exemptions that are included. Several decades ago, we had a statewide vehicle inspection program. It was challenged in court and lost because it created exemptions that were not related to the purpose of the program. That program was deemed unconstitutional, again, because of the exemptions that were put in place. One of the exemptions dealt with farm vehicles and how did you relate exempting farm vehicles from an inspection or an older vehicle from an inspection. Isn't that what you wanted it for? So I have some questions about the exemptions that were put in place. Specifically related to this amendment, we're talking about exempting handicapped registrations. One of the issues that Senator Avery addressed as needing serious attention in the parks is handicapped accessibility. So why wouldn't we want to include handicapped registrations to help support those needed improvements in the parks? Nebraska currently ranks among the highest states in the nation with our vehicle registration and vehicle taxes. I just e-mailed out to you a chart with that information and showing where we rank nationally. Looking at total registration fees, we rank seventh, with an average cost of \$306 per vehicle. We've had

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bills introduced in the recent past that would have placed a \$10 motor vehicle tax on vehicles over the age of 14 years. That user fee would have gone directly to help support our roads. When we were looking for additional resources to support roads, this was a bill that was put out there as an option. We couldn't even get it discussed in committee, let alone get it out to the floor for discussion, because it was viewed as an increase in a tax or an additional fee. This would have been a user fee, as I said, that would go directly to our roads. Now we're proposing an increase of \$7 on the majority of our vehicles to support something that has no direct correlation to what the money would go to. This bill will eliminate a state park permit, a direct user fee. It will eliminate that. What happens when \$7 is no longer enough? Where will we look for those additional dollars? Another increase on vehicle registrations? Perhaps, eliminating some of the exemptions that we're talking about? If this bill passes and it's challenged in court and loses, we'd no longer have a park permit in place. Where will they get their income then? Thirty percent of our state parks budget comes from General Funds. Seventy percent comes from cash funds or user fees. We just passed a modest increase in the park permit and now we're back looking for another source of funding. We give \$1.50 from each vehicle registration to our park systems right now to use for recreational roads. This generates over \$3 million for our parks. I think there's a correlation that can be made there. One of the concerns was dealing with the park permit, acquiring the park permit, that, you know, they're having them man the stations at the parks. It's not always easy to find someone. If you don't get a park permit fee when you come in, there...you know, the employees of the park have to go around and make sure that everybody has their park (sic--permit). But it was referenced that out-of-state park users will still be required to have that permit, that (inaudible). So we're not necessarily eliminating those employees or the need for those employees at the entrance of the parks. For the day users, it's my understanding that over 30 percent of our day users are out-of-state visitors, which we certainly appreciate and encourage their use of our parks. But I think we've got some...we have some issues there. We have 309 funding for building and maintenance. Over the last, at least, four years, over \$2 million has been given to Game and Parks for use in their parks for building and maintenance. I believe that, again, I think this discussion is very important, and I understand why we're having it. We need to elevate and shine a light on what our parks systems need and what it's going to cost. But I think any new solutions that may come forward through the course of this debate will be so very different than what we're talking about that it will require either a recommitment to committee or a whole new bill, in and of itself, to have appropriate input from all of the stakeholders. I know that Game and Parks has conducted a survey looking specifically at what types of other funding options are there available. This is the only one that I'm aware of that they put forward. So it would be interesting to know what other ideas were presented through that survey and, in particular, why was this the only option chosen. I think this would be a great topic for an interim study for the Natural Resources Committee to conduct. Several years ago, the Transportation and Telecommunications Committee did a very in-depth roads funding interim study. They went across the state. They looked at every option

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out there and weighed the pros and cons. And I think this topic certainly rises to that level of importance, to really go out and look at what the needs are, understand what the financial obligations would be for them, and then try to figure out what's our best way of approaching meeting those needs financially. So I think...I don't believe this bill should go forward. Instead, I believe that it...after the course of our conversation has gone on today, I think we should seriously consider this as an interim study. It's my understanding also--and I hope some Appropriations Committee members will weigh in on this--that they have, through the budget process, provided for an additional \$1.7 million in this budget cycle for capital improvements so, as a state, we are not turning a blind eye to this issue. We recognize how important our state parks systems are. They do contribute in a very major way to our economy. They bring in...not only provide means of recreation and entertainment for our own citizens, but they're an attraction for those from out of state too. And we want to bring people into our state and highlight our beautiful natural resources and what we have available to them. But I, again, just really struggle with the direction that we're going in trying to find a solution to this. So in regards directly to AM820 and the exemption for handicap fees, I'll go back to what some of the major needs of the parks are, in relation to handicapped accessibility. And so making the correlation between why would we exempt handicapped registrations then, when many...or when there are needs in our parks to help our handicapped citizens enjoy our parks to the fullest extent. [LB362]

SENATOR GLOOR: One minute. [LB362]

SENATOR DUBAS: So, you know, these, in a nutshell, are the concerns that I had. I certainly raised them with my fellow committee members in letting them know where I was coming from. I've had conversations with Senator Avery to let him know where I was coming from and recognized it's good for us to have this conversation. But I really do not believe that we should support LB362 or the committee amendment. And let's really step back, after a conversation on this bill, and take a good, comprehensive look at what will it take to make sure that our parks stay or improve the condition of our parks so that they continue to contribute to our economy. Thank you. [LB362]

SENATOR GLOOR: Thank you, Senator Dubas. (Visitors introduced.) Members, you've heard the opening on LB362, the committee amendment from Natural Resources, and the amendment to the committee amendment. We now move to floor debate. Senators in the queue: Larson, Hadley, Schilz, Chambers, Coash, Avery, and others. Senator Larson, you are recognized. [LB362]

SENATOR LARSON: Thank you, Mr. President. I rise today in support of LB362. District 40 has a number of great state recreation areas and parks--Ponca, Niobrara, Lewis and Clark State Recreation Area. Ashfall Fossil Beds sits right on the edge with Senator Sullivan and Atkinson Lake State Recreation Area. LB362 will help ensure that these parks and state recreation areas are funded and have the money they need to continue

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to be sure that our parks are competitive and that our facilities are up to date enough to attract people not only across this state, but those and others that come to Nebraska and help our tourism budget. As a senator that has a district that sits along almost 200 miles of South Dakota border, we have to be competitive with what South Dakota, especially in my area, is doing, to ensure that we are attracting not only Nebraskans to our parks but, also, South Dakotans. One of the closest facilities for my hometown, O'Neill, to go to is Lake Francis Case. Lake Francis Case isn't in Nebraska. It is excellent facilities, a large, dammed lake that offers water sports, cabins, and a number of other activities for people to go to. Like I said, Lake Francis Case is not in Nebraska; it's in South Dakota. Lewis and Clark State Recreation, however, part of it is in Nebraska, and it's not that much farther. But instead, many of my constituents, because of the facilities, go to South Dakota. And I think that's an important aspect that we need to look at when we're looking at something like LB362, to close the gap and keep people in Nebraska and spending their money in Nebraska. Also, I'll touch, real quick, as a member of the Appropriations Committee, I've seen the difficulty that Game and Parks faces in terms of funding. Senator Dubas brought up that about 30 percent of the Game and Parks funding is General Funds and the rest of it is through their cash fund. We struggled in committee on how much General Funds to give them to ensure that they are competitive and do...are meeting the needs that they need to meet. I think the Governor, wisely, this year requested an extra million dollars for McConaughy and \$750,000 for...or a million for Mahoney and \$750 (thousand) for McConaughy, I think, are the numbers. And I think that was a wise decision. We need to build the infrastructure in these parks, and we need to make sure that they can attract people. And I think the extra cabins at Mahoney and campground at McConaughy are very beneficial, will bring people to those parks. And I'd like to see another...more cabins at Ponca, I'd like to see more campgrounds at Niobrara, to help those rural communities of Ponca and Niobrara and Center, Knox County, Dixon County bring people to rural Nebraska. And that's what the parks do. And so today I rise in support of LB362, and I'd urge my colleagues to do as well. Thank you. [LB362]

SENATOR GLOOR: Thank you, Senator Larson. Senator Hadley, you are recognized. [LB362]

SENATOR HADLEY: Mr. President, members of the body, I, too, rise in support of LB362. This is my fifth year in the body. And one of the common themes over the five years is that we have a tendency, at times, to bash cities. You know, the cities aren't doing what we want them to do or they're going off on some tangent or we need to set them straight. But you know what the cities do that...correctly, what they do that's right, is that they have free parks. Right? I grew up in Lincoln. I can remember many of the bicycle rides to Pioneers Park, to sit at the foot of the Indian out there, to climb the hills. And I happened to Google Lincoln's parks. The print is so small and I'm getting harder to read, but their goal is to have a park within one-half mile walking distance of each resident in the community. They have 125 parks in Lincoln, with more than half of them

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identified as neighborhood and miniparks. Parks and Recreation also cares for 4,000 acres of natural green space. They do this out of their General Fund. You know, it's interesting that they're doing something that we're not willing to do at a state level. We're not willing to support our parks at the level, I think, we should to allow the citizens of Nebraska free access to parks, the same way the cities allow free access to parks in the cities. Is this the right way to fund it? Well, maybe, if someone has a better way of doing it, I'm certainly willing to listen. But I think this is one way of doing it. I think the overall goal should be that our park system, state park system, is open to the citizens of Nebraska on a no-charge basis. Thank you, Mr. President. [LB362]

SENATOR GLOOR: Thank you, Senator Hadley. Senator Schilz, you are recognized. [LB362]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Sorry, I got caught up in a conversation on the side there. I want to stand in support of LB362 for a number of reasons. But, quite honestly, to talk about it in the few years that I have sat on the Natural Resources Committee, this issue has been around that whole time. As Senator Dubas said before, yes, we did vote an increase in. But at that time, we had conversations with the Game and Parks folks and said, look, you know, this is not taking care of what you need, you need to find another way to fund what goes on at the state parks and the state recreation areas. This is an idea to do that. Now we may talk about whether it raises the...and there's no doubt that you're going to have to pay for this on your registration. But the thing is, is that we have \$46 million in deferred maintenance. We have parks and recreation areas that are in desperate need of repairs. Where do we do this? Where does this come from? How do we move forward and cover the state's parks and natural areas? Remember, they belong to all the people of the state of Nebraska, not just the ones that pay the permit fees. So let's talk about fairness and equity there. While I understand and I fought with myself for quite a while in coming to the conclusion to support this, I believe that it's either something like this, another idea that works and gets Game and Parks the money they need or, honestly, folks, it's time to start making lists of properties and parks that the state of Nebraska and Game and Parks can start winding down and getting rid of so that they can manage with the money they have. And I think we're to that point. In fact, when I...when we talked about this in committee, that was a point that I brought up, because we have been arguing about this for quite a while, we have been looking at different ways of doing this, we have been trying to find solutions for Game and Parks. Unfortunately, we're back at the table again because we haven't found the right mix, we haven't found the right way to accomplish this. But, like with everything else, if we can't pay for it and we don't have the money to do it, then come on over, I've got a sheet of paper here. Let's start whittling down the list. Let's start finding out which of those properties aren't needed by Game and Parks or aren't a priority, and then let's start taking care of business that way. Thank you, Mr. President. [LB362]

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SENATOR GLOOR: Thank you, Senator Schilz. Senator Chambers, you are recognized. [LB362]

SENATOR CHAMBERS: Mr. President, members of the Legislature, to be blunt, I hate this bill. I'm not Sir Galahad, but Senator Dubas shall not stand alone in trying to fight this monstrosity. Senator Dubas, the job of a knight in the old days, when the damsel was in distress because of a dragon, that knight had an obligation to slay the dragon. And it's appropriate that I use the term "knight" because knight, if you drop the "k," refers to that which is dark. Look at my complexion, the dark knight, and we're going to ring down the curtain on this bill. This is extortion. I have not been in favor of using license plates for anything other than identification. I do not want the Department of Motor Vehicles to become a cash register to hustle money for Game and Parks and compel people to put \$7 additional dollars down when they can barely pay the cost now that's required. And for Senator Schilz to stand up here and talk like he talked surprises me, but I guess it really shouldn't. He did give the solution: Just find some of those properties that Game and Parks is willing to let go of and let them go. What do you all always say about citizens? Cut back on the spending. While I was here before, I staved off numerous attempts to raise the park entry fee. I'd like to ask Senator Schilz a question or two. [LB362]

SENATOR GLOOR: Senator Schilz, would you yield? [LB362]

SENATOR SCHILZ: Yes. [LB362]

SENATOR CHAMBERS: Senator Schilz, do you care about the people of Nebraska? And I know you do, but this is for the record. [LB362]

SENATOR SCHILZ: Yes, sir, Mr. (inaudible)...Senator Chambers. [LB362]

SENATOR CHAMBERS: Do you think the parks relate to the natural beauty of Nebraska, as has been described by somebody else earlier? [LB362]

SENATOR SCHILZ: When they are taken care of, absolutely. [LB362]

SENATOR CHAMBERS: Do you think every citizen of the state should have access to those locations? [LB362]

SENATOR SCHILZ: You know what? I think that that is probably preferable, yes. [LB362]

SENATOR CHAMBERS: If there are people who can't pay the entry fee, are they allowed to enter these areas? [LB362]

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SENATOR SCHILZ: I think, if you look at it, there are certain days when there is park amnesty that you can do that, yes, but not...I don't think you can all year long, no. [LB362]

SENATOR CHAMBERS: So you are not bothered by the fact that some of these areas that should belong to the public and the people at large should be restricted, in terms of some people who lack the means to participate. You're all right with that, aren't you? Because that's the way the system is now. [LB362]

SENATOR SCHILZ: You know, and I was just going to say, having to deal with the system as it is now, you do what you can. Overall, if we would want to look at alternate ways of paying for this... [LB362]

SENATOR CHAMBERS: No, I just want the answer. You're all right with the way it is now though, correct? [LB362]

SENATOR SCHILZ: Well, I'm in support of this bill, so I am not all right with the way it is now. [LB362]

SENATOR CHAMBERS: I meant of some people not being able to go into the parks because they can't afford it. That part doesn't bother... [LB362]

SENATOR SCHILZ: No, not necessarily. I think everyone should...we need to find ways to pay for these parks so that everyone can have access. [LB362]

SENATOR CHAMBERS: Okay. Okay, thank you. [LB362]

SENATOR SCHILZ: Yeah. [LB362]

SENATOR CHAMBERS: Members of the Legislature, I'd like to ask Senator Larson a question, if he's here. [LB362]

SENATOR GLOOR: Senator Larson, would you yield? I do not see Senator Larson. [LB362]

SENATOR CHAMBERS: Well, I'm going to go ahead and say some of the things that I have in mind. We are going to have plenty of time to talk about this bill. It is unworthy and it ought not be enacted. Really, it is extortion. It is saying that, in order for you to license your car, you're going to have to pay out of your pocket for something you don't even want to be bothered with. But the Legislature, because it has the power to do it, is going to impose this on you. I hear people running around here, talking about cutting the income tax. And you're going to take what little some people have that must go for an essential--and driving a car, for some people, is essential--and take \$7 so other people

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can recreate, so they can go have fun, they can take their family, their friends, their campers, go to the--what do they call it?--cabins. You think I want to pay \$7 for somebody to go where I cannot afford to go because you've got a Game and Parks Commission gaming the people? This is one of the most atrocious bills I have seen, and I will fight it, I will fight it, I will fight it. And we only have to go until 3:00 today. And I'm going to see how many days the Speaker wants to put a bill like this on the agenda. But I assure you that, even if my colleague decides that she may have other, more important things to do, I don't. [LB362]

SENATOR GLOOR: Time, Senator. [LB362]

SENATOR CHAMBERS: Thank you, Mr. President. [LB362]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Coash, you are recognized. [LB362]

SENATOR COASH: Thank you, Mr. President. At the introduction of the committee amendment, Senator Carlson said and others on the mike have said, hey, I don't like this but if you've got another idea we're all ears. And he said that before this bill made it on the agenda and I appreciate that opportunity. And so what I would ask my colleagues to do, if you pull up the Chamber Viewer you're going to see an amendment that I filed, AM986. And it's buried under several of Senator Dubas' amendments and so I don't know if we're going to get to it today, but it is another idea and it is another approach and I'm going to explain that to you. My amendment takes the committee amendment in Senator Avery's underlying bill and changes it completely in this way. It says that no longer will the \$7 fee be mandatory, but it does make the Department of Motor Vehicles a vendor. And it allows the Department of Motor Vehicles to issue a park permit at the same time they issue your registration if you so choose. So the way that it works...should my amendment be adopted and eventually become law is that you would go to register your vehicle, and when you did that they would ask you if you'd also like a park permit. And if you say yes, you will write one check for the cost of the registration plus \$25 which is the current cost of the permit. You will then get the permit and your registration at once. This will certainly not get to the amount that the underlying bill will get to, but it may help. And it may be that one piece of convenience that gets people to buy the permit and take advantage of our parks. I, like others who have spoken, am a supporter of Game and Parks, supporter of our parks, and I think \$25 for unlimited access for a year is about the best deal that a family can get. Think about that. \$25. You can go anytime you want. You can go everyday for \$25. It's a good deal. What the Game and Parks has a need to do is to get more people to buy those and to try them out. And this isn't unheard of. There's a similar thing that happens when you go get your license initially or get it renewed. When you go get your driver's license, they'll say would you like to register to vote if you're not registered, and you're able to do that. So I think my amendment...and I wanted to turn my light on so that in response to some of

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the statements that we need ideas and I just want to let you know that I brought one and it's worthy of discussion and it may be a way forward to help the parks out but not put a burden on an already burdened registration. Colleagues, our registration is fourth highest in the nation. That is a lot. I talked...you talk to people from different states who come here and have to register their vehicles, they can't believe how high the registration is. Well, it is high. And \$7 doesn't make us go into third but it gets us \$7 closer. [LB362]

SENATOR GLOOR: One minute. [LB362]

SENATOR COASH: Thank you, Mr. President. It's expensive to register your vehicle in our state. Seven dollars makes it even more expensive. And I appreciate the approach Senator Avery's...I appreciate the intent that Senator Avery has. I appreciate the intent the Natural Resources Committee has. And I took the challenge of a new idea and I brought it forth and I would ask my colleagues to take a look at it. And given the opportunity, maybe we'll weigh in on that later today. Thank you, Mr. President. [LB362]

SENATOR GLOOR: Thank you, Senator Coash. Mr. Clerk. [LB362]

CLERK: Mr. President, new resolutions: LR146 is by Senator Schumacher; LR147, Senator McGill. Both those will be laid over at this time. Senator Kolowski would like to print an amendment to LB299. An announcement that the Agriculture Committee will have an Executive Session at 1:10 this afternoon in Room 2022. The Ag Committee at 1:10 in Room 2022. (Legislative Journal pages 958-960.) [LR146 LR147 LB299]

And, Mr. President, I have a priority motion. Senator Price would move to recess the body until 1:30 p.m.

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

RECESS

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Record, Mr. Clerk.

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

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

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CLERK: I don't have anything at this time, Mr. President. Thank you.

SPEAKER ADAMS: Members, we will continue on with General File, LB362, and we have an amendment to the committee amendment and we left off with Senator Avery in the queue. Senator Avery, you are recognized. [LB362]

SENATOR AVERY: Thank you, Mr. President. In my opening I had a few things that I wanted to say that I didn't have time to get in, so I wanted to use a little bit of this time for that. I heard many people say that what we need is to keep the parks funded by users fees, that if I don't use the parks then I shouldn't have to pay a fee. My answer to that is that we're talking about a state treasure, a state asset that is enormously important to our economy. In fact, you could make the argument that this is an economic development issue. If we don't find a way for sustainable funding for our parks system, they are going to fall into disrepair, in fact many of them already have. And that means that fewer and fewer people will use the parks and that will have an economic cost. Right now the state parks add not only social benefits but they add billions of dollars in economic value to our local communities, to our citizens. In fact, tourism in Nebraska is the number three industry in the state and the parks system contributes a great deal to that. This new funding mechanism that I am proposing in LB362 is not popular as I said in my opening. Frankly, I don't like increasing fees. I don't like paying fees. But there is one reality we need to keep in mind. We cannot do everything that needs to be done in this state on the cheap. And I know that that is harsh perhaps, but that is a fact. If we value this state system, if we want to preserve it, we want to improve on it, you can't do it on the cheap. We have to be able to find a way to fund this important system of parks. If we pass this legislation, we will eliminate the challenging task of finding the point of sale vendor and paying the high entry fee that they now have to pay. And that entry fee, by the way, is probably prohibitive for a lot of families that are looking for a casual weekend outing at a lake or camping out overnight. This is an affordable way to give all the families in this state access to our parks year round. Everyone will share a minimum of the burden. But the state itself will have a maximum of economic return. This is a policy decision we have to make. I haven't yet heard of any creative alternatives to this bill. I know that Senator Coash worked hard on his amendment, but I can't see how that will add to the income that the parks...that the Game and Parks Commission needs to do the work that needs to be done on these parks. We're talking about at a \$7 fee, \$6,461,000 and some change added to the income that the state currently receives. That's probably not even enough for the long term, but at least it puts enough revenue in the hands of Game and Parks to go to work on the deferred maintenance and it's a... [LB362]

SPEAKER ADAMS: One minute. [LB362]

SENATOR AVERY: ...large deferment, and to do what they need to do to bring the state into compliance on the Americans with Disabilities Act. This bill was not conceived

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without some pain. It did not get out of the committee without a lot of work and a lot of soul searching and a lot of discussion about what can we do otherwise. What else can we do to help the parks system other than this bill? Nobody likes these fees. Nobody wants to do this. I'm saying to you that this is a necessity. If we don't, the parks will be the victim and so will the state generally. Thank you, Mr. President. [LB362]

SPEAKER ADAMS: Thank you, Senator Avery. Senator Brasch, you're recognized. [LB362]

SENATOR BRASCH: Thank you, Mr. Speaker, and good afternoon, colleagues. I want to thank Senator Avery for bringing LB362 forward, and I am on the committee and he's correct as soul searching did take place. I thought long and hard. I talked to constituents about this. Game and Parks came to my office during the interim and I told them I would have to think about it. I'll have to visit with others and get a public pulse. And the majority of our district, majority of people beyond our district, they were supportive of this. And I was, for the new people here, one of the very few people here that stood up on mike and said we cannot increase our park fees by \$5. I was adamant. And the reason for that is I realize that we have 60 percent of our children and families that, you know, are in poverty. I realize the value of \$5 for those who don't have \$5. But when I look at this bill and wanting people to go to our parks, wanting people of all ages to go to our parks, I thought that if I'm lucky enough to have one car and I have to pay \$7, that's a lot less than \$30 to go to the park. And if I'm really lucky and maybe we have two cars, that's \$14. I still don't have to come up with that \$30. And parks are important. Like education, we use taxes to pay for public education. And I'll tell you what, our parks, you learn a lot there too. You learn something by the sound of a bird singing. You learn something there from the sound of children laughing. You learn something there from rolling hills, from the flowers, from the arboretums, from everything that the state that we have invested into our parks and we cannot afford to lose that. The gadgets that Senator Chambers refers to, gadgets are plentiful. Our kids have them in they're hands. They fight over the gadgets. I want them to fight over our parks. I'm not a senator that believes that we should turn our farms into trails and reservoirs and parklands, I'll tell you that, but what we do have, we have a responsibility to care for so future generations can come there. I talked to elderly people about this bill thinking would it be hardship on them. Oh, please, do that because on a nice day I'd love to just pull into a park. I'm quoting a constituent from Washington County. And I don't want to run into X, Y, Z Store. I don't even know where to get that park permit. And if I drive in there and nobody is in there, then I'm looking over my shoulder. Am I going to go to park jail by the park police? Boy, if you would take that away that would really help. So I talked with all spectrum, all the people that I could find, because I was concerned because I stood up on mike and said \$5 is important and I did not vote on it. And, again, I'm not supporting the \$30. But if you're telling me it's only \$7 and you can go to a park... [LB362]

SPEAKER ADAMS: One minute. [LB362]

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SENATOR BRASCH: ...that's phenomenal. There are things we can learn about being a family in park. We work on making a living, but we need to work on making a life as a society, as a community. And we need to learn to relax at times. Parks are a value. It's not just for fun. You can have fun doing other things. You can have fun skateboarding. But in a park you learn to look at life differently, a little bit like being on a farm. You learn what is life. You learn what is creation. We must take care of our parks. So I do rise in support of this and I did think about it very often. Thank you, senators. I also ask you for your support. [LB362]

SPEAKER ADAMS: Thank you, Senator Brasch. Senator McCoy, you're recognized. [LB362]

SENATOR McCOY: Thank you, Mr. President and members. Would Senator Carlson yield, please? [LB362]

SPEAKER ADAMS: Senator Carlson, would you yield? [LB362]

SENATOR CARLSON: Yes, I will. [LB362]

SENATOR McCOY: Thank you, Senator. As chair of the committee, and I know you and I have both had the benefit of my first four years in the Legislature I had the opportunity to serve with you on the Natural Resources Committee which I no longer serve on. In fact, I sat next to you for at least two of those four years that I recall. Both you and I had the opportunity to discuss and be part of the committee back when we had LB421 which was two years ago which was our friend and former colleague Senator Dave Pankonin's priority bill as I recall that session that I think both you and I voted for as I recall. Would that be...do you remember that the same way? [LB362]

SENATOR CARLSON: That's the fee increase? [LB362]

SENATOR McCOY: Yes. [LB362]

SENATOR CARLSON: Okay. Yes. [LB362]

SENATOR McCOY: And I think both of us, as I recall, voted to override the Governor on that same bill later on that session which many of us did with some amount of thought that went into it. I guess my...one of my questions would be, what has changed, Senator Carlson, if you know since that happened two years ago with Game and Parks, because at the time the discussion was that this was going to, I don't want to say be the silver bullet to solve the funding problems for Game and Parks, but it was supposed to really, really help the situation. Did it help or what's changed in the two year...well, not even quite two years since that happened? Maybe you'd like to elaborate a little bit on that if

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you would. [LB362]

SENATOR CARLSON: Well, I'm sure that obviously it's helped. We went from, I believe, \$20 to \$25 and we had a lot of discussion in making that change. If that source of funding currently brings in about \$5.5 million and we had what amounted to a 20 percent increase, then that's probably brought in an additional million dollars. I don't recall too much conversation a couple of years ago on the remodeling, rehabbing, updating, and ADA challenges that they face. And of course since that time that's what they've gone into, studied, and brought this figure that's between \$40 million and \$50 million to get that done. And I can certainly see how the \$20 to \$25 increase in fee was not going to handle those challenges. [LB362]

SENATOR McCOY: As I recall and I went back and looked at the old file that I had from LB421 two years ago, I think, if I'm reading it correctly, at the time Game and Parks said there was \$34 million worth of delayed maintenance. I don't know how much of that was for Americans with Disabilities Act, ADA, requirements, but it was a substantial amount. And at the time that LB421 was proposed, voted on, advanced, Governor vetoed it, we overrode the veto, that was supposed to really help with that situation. And so what you're saying is now it's \$40 million to \$50 million two years later and there's been some studies that have happened between the current situation and two years ago that would change that number of delayed maintenance and ADA requirements? Is that what I'm understanding? [LB362]

SENATOR CARLSON: Well, my thought was that the upgrade in facilities was in the \$30-million range and then the ADA requirements were on top of that. I don't remember whether we distinctly discussed those a couple of years ago. And at that time I didn't put the pencil to it like I would be doing today. But obviously if that's bringing in a million dollars additional and you're going to have increased costs year after year... [LB362]

SPEAKER ADAMS: One minute. [LB362]

SENATOR CARLSON: ...that additional million is not going to go very far toward satisfying the \$30 million or \$40 million or whatever it is we're talking about on upgrading and ADA requirements. [LB362]

SENATOR McCOY: And the last question maybe I'll have at this time on the mike, Senator Carlson, would be, why did we not have another...let me rephrase this, why wasn't there a bill brought to just increase park permits again, which is what's been done in the past, this time around which has happened periodically? I think the last time prior to 2011 was 2007 that the park permits went from \$17 to \$20 as I recall. Why didn't we just have a request to raise the park permit fee again? [LB362]

SENATOR CARLSON: Well, I'd have to ask Senator Avery that because the Game and

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Parks brought their bill to him. But if you go from \$17 to \$20 and \$20 to \$25 and a couple of years later that's not doing what you had hoped it would do... [LB362]

SPEAKER ADAMS: Time, Senators. Senator Johnson, you're in the queue. [LB362]

SENATOR JOHNSON: Thank you, Mr. Speaker and members of the body. My first year on the Natural Resources Committee, but I have been a purchaser of park permits for many years, probably since it began. And I agree with everybody that was on the committee that we did discuss a lot of the issues, the main one being we need to come up with funding. We did talk about the bill that was presented and the concerns we had with that. I expressed several concerns, some of those are addressed in the amendment, the AM455. Not all of them were addressed because we have some families that have multiple vehicles and they would be paying \$7 times so many. But still \$7 times four vehicles is \$28, so that's pretty much in line with the permit. So we...I guess I leave it at that. I don't think there will be any amendment to change that. I would ask if Senator Dubas would yield to a question. [LB362]

SPEAKER ADAMS: Senator Dubas, would you yield? [LB362]

SENATOR DUBAS: Yes, I will. [LB362]

SENATOR JOHNSON: Okay. Thank you. The e-mail that you sent out gave a listing that Nebraska is number seven, I believe, in the list of highest vehicle registration fees. And can you answer the question, maybe it's three parts, what's all included in that number? [LB362]

SENATOR DUBAS: I had several charts that I could have sent out. This one is total registration fees state-by-state comparison. Some of the other charts I had were total registration fees that included personal property tax, sales and local fuel tax, etcetera, but this was just the registration fees. [LB362]

SENATOR JOHNSON: So Nebraska, seeing that \$306.10 on that chart, would include our vehicle taxes. [LB362]

SENATOR DUBAS: Correct. [LB362]

SENATOR JOHNSON: And the others on the chart basically include the same type of tax. [LB362]

SENATOR DUBAS: They're all...yes, they're all comparable. Yes. [LB362]

SENATOR JOHNSON: Okay. So we are comparing apples to apples and that's very positive. At least we can look at it and make a good comparison. But it does point out

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another concern. If we're number seven on the list, we have issues with high vehicle taxes compared to some of the other states, and some of the other states around us, some are on both sides of us. But as we do a tax study, there's concerns that they're already high so do we need to throw this into the mix to make sure that's part of a tax study. This Thursday night I'm going to be making a presentation to our city council on adding another park within the city of Wahoo. And I think we're going to have to look at our priorities. I think maybe from the state's standpoint we have to look at some of our priorities in some of our state parks as to how many we can maintain. We did look at some other options that were discussed. One of the other options for Game and Parks was to commercialize some of the activities that occur around our lakes and around our parks. Maybe Game and Parks sponsoring some things and charging fees, doing retail business there and being in charge of that. That has worked in one park at least. That takes another whole structure for Game and Parks to work through in order to raise some money. I don't think it will raise the money that we need to in order to solve our overlaying problem. Senator Coash's bill...or amendment makes it voluntary. It makes it very convenient for those people that are probably already going to buy a permit. They can add it on there and they don't have to find a place to go buy a park permit. But it doesn't alleviate the problem that the Game and Parks has is that they still have to staff the post there in order to check to see if you have a park permit or not. So I just see some issues out here that we're probably not going to get solved unless we come up with something better, something different. I believe that... [LB362]

SPEAKER ADAMS: One minute. [LB362]

SENATOR JOHNSON: Thank you. I believe that LB362 is a good approach to this. Another bill that's being discussed, and that's LB517 which is studying water, and I believe down the road we will need to figure out a way to store more water. We're going to be building more reservoirs. We're going to have more lakes. Somebody is going to come up and say, Game and Parks, you need to make this into a recreation area and we're going to have to add more lakes or more parks to the park system, and that just makes the problem bigger. So we have to look at this with a big picture eventually so it's not going to go away today. Thank you. [LB362 LB517]

SPEAKER ADAMS: Thank you, Senator Johnson. (Visitor introduced.) Mr. Clerk for an announcement. [LB362]

ASSISTANT CLERK: Mr. President, I do. Judiciary Committee will hold an Executive Session in Room 2022 at 2:00.

SPEAKER ADAMS: Senator Dubas, you're recognized. [LB362]

SENATOR DUBAS: Thank you very much, Mr. Speaker and colleagues. First of all, I'd like to thank those who have stood up in support of what I'm trying to do here and the

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points that they've made. I would like to especially thank Senator Chambers for his comments this morning. Although I think I'd like to do a switch on that analogy that you made. Rather than me being your damsel in distress and you being my knight in shining armor, how about you be my Ronald Reagan and I'll be your Margaret Thatcher? We can partner up and go after this. (Laugh) Thank you, Senator Chambers. As I stated in my opening, I understand that we've got some real serious issues as far as funding for our parks system. And our parks system is an extremely important part of our state's economy and we have some wonderful parks. But I just have real issue with going this direction with our funding. There's been some references to, you know, how city parks are taken care of and basically that they're free parks. Well, there is no such thing as a free park. They're going to be paid for in some fashion, so whether it's through a user fee or General Fund dollars or tax dollars of some kind, there's money that goes into taking care of these parks. So I guess that's the decision we have to make here as far as our state parks go. What kind of financial resources do we feel we are comfortable with providing for our parks? We are providing General Fund dollars for our parks. Thirty percent of the funding that goes into our state parks comes from General Fund dollars. So we haven't completely turned our backs and we are providing General Fund dollars for it. We're also giving them money from motor vehicle registrations to help with their roads. So they're getting over \$3 million from motor vehicle registrations right now. They received over \$2 million from 309 funds. Those are maintenance funds that can be used for capital improvements with an emphasis on issues dealing with handicapped accessibility. I think Senator Avery brought this point up about the fact that this discussion is highlighting the need for financial resources and that they aren't adequate right now. Our General Fund dollars are shrinking. The pie is shrinking. And so we are going to have to prioritize more about what we are willing to fund out of those General Fund dollars. And because we have so many priorities that do need financial resources, this bill represents, I think, what we will be seeing more of in the future. We're going to be looking at other resources to provide those financial needs. This is still a tax. You can...it's a fee. It's...you can call it whatever you want, but it's a tax and it's a tax that anybody who has a motor vehicle will be paying. Whether they decide to use the parks or not, they will be paying this money. So, you know, let's not fool ourselves into thinking that it's anything else. My understanding is the list of exemptions that are presented in the amendment did not come from DMV. My understanding is that, you know, Game and Parks went and sat down and went through what we do require motor vehicle registrations on right now and kind of, I guess, went through and decided what they felt would be appropriate exemptions. I would like to note there's a pretty good list of groups that oppose this bill and the amendment and includes the Lincoln Chamber, the state chamber, automobile manufacturers, the Associated General Contractors, New Car and Truck Dealers, Petroleum Marketers, American Council of Engineers, and Farm Bureau. [LB362]

SPEAKER ADAMS: One minute. [LB362]

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SENATOR DUBAS: One of the exemptions that are included in this amendment is an exemption for farm truck vehicles. With that exemption in there, Farm Bureau is saying we don't believe that this is a good idea. They have concerns with putting this fee in general on motor vehicle registrations even though the majority of their members would probably be exempted from this particular fee. So it's a policy discussion. It's something that we do need to give a great deal of attention to. That's why I think the idea of turning this into an interim study is the way that we should go because we do need to step back and take a broad-based, comprehensive look at what do our parks really need? What is it going to cost us to meet those needs? What are the short-term and long-term goals for what we're trying to meet through our parks? And then what's the best way to get there? [LB362]

SPEAKER ADAMS: Time. [LB362]

SENATOR DUBAS: Thank you, Mr. President. [LB362]

SPEAKER ADAMS: Senator Bloomfield, you're recognized. [LB362]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I stand absolutely opposed to LB362. We have funded our parks for years, though be it maybe inadequately, with the users paying for the parks primarily. To switch that over to anyone who happens to want to license a vehicle in the state of Nebraska I believe is wrong. If you're in financial hard times, you can live without going to the park. Most of Nebraska can't live without at least one motor vehicle and in many cases two if there are two people employed. There is an abject unfairness in forcing people to pay for the park that have no chance of using it. In addition to that, if you visit our border towns, South Sioux City is a fine example in Dakota County, Newcastle in Dixon County, drive through town, see how many vehicles are licensed across the border. There are a great number of people licensing their vehicles out of state now because our license fees are so ridiculously high. If we add \$7 more onto this license, there are going to be more of them go across the border. When we get our licensing fees reasonable, those people will come back and license their vehicles here. Supply and demand is supposed to take care of things. It would appear to me, right now, if we don't have the demand for these parks, then we're oversupplied. Maybe it's time that some of this surplus parkland was sold off and put back onto the property tax roles. If we have parks that aren't being used, why do we pay for them? Let's turn them back into revenue-generators instead of revenue-eaters. There are many, many reasons to oppose this bill and I'll agree with most of them. Thank you. [LB362]

SPEAKER ADAMS: Thank you, Senator Bloomfield. Senator Davis, you're recognized. [LB362]

SENATOR DAVIS: Thank you, Mr. Speaker and colleagues. I just received an e-mail

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note from a constituent of mine which I thought I would read to the body before I make my points. He says: LB362 stinks. It's nothing more than a shift in funding that takes the burden off the actual users. If they must shift funding for state parks, then put a tax on ammunition and fishing bait. It will come closer to filling the costs of the actual users. I think that probably is what I would like to rise to say. I think we've got some great parks and a lot of them are in my district. We do have a lot of deferred maintenance, but this is just not the way to do it. And if you look through the list of exemptions, we're exempting a lot of people but we're not exempting the 82-year-old lady who's driving a '92 Chevy car and barely gets by. You know, we're not exempting the poor. Those people are going to be paying but we're going to be exempting farm plates and military plates and commercial plates. So where's the fairness in that? But I've been thinking about the bill and I sympathize with Game and Parks. And so I half in jest said the other...a few minutes ago, you know, what we need to do is look at casinos. We'll just put casinos at every one of our parks and we'll have so much revenue we won't know to do with it. Senator Schumacher even liked that idea. (Laughter) But if I could ask Senator Hadley to yield to a question. [LB362]

SPEAKER ADAMS: Senator Hadley, would you yield? [LB362]

SENATOR DAVIS: Senator Hadley, you're the chair of the Revenue Committee, so it would be possible for the body to construct a bill which would permit increased sales tax at the state parks or an increased occupation tax there? [LB362]

SENATOR HADLEY: Yes. I think that would certainly be within our realms of what would be the possibility that we could do, sure, for a funding mechanism. [LB362]

SENATOR DAVIS: And so, you know, while you can look at it as a tax and in some respects it is a user fee because that's the price you pay for using the services. Is that correct? [LB362]

SENATOR HADLEY: That could be, yes. [LB362]

SENATOR DAVIS: So thank you, Senator Hadley. With that said, I would urge the body to not support this bill, but to maybe consider coming back next year with a proposal like that which would give Game and Parks the authority to assess some of these new taxes on the services that they provide and see if we can't solve the revenue problem that way without hitting the elderly grandmothers and the poor because they really can't afford it. Thank you. [LB362]

SPEAKER ADAMS: Thank you, Senator Davis. Senator Harms, you're recognized. [LB362]

SENATOR HARMS: Thank you, Mr. President and colleagues. I originally signed onto

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this bill because I really believe that Game and Parks needs some help. And we see it, you know, every year in regards to the Appropriations Committee, know the issues, I think, fairly well about the funding aspect of it. When you look at tourism in general, it ranks third in the amount of money that we bring in. It's one of our biggest industries that we have. And it seems like to me that we ought to be able to find a way that would be less hurtful to some people in finding...to fund Game and Parks. They generate a lot of money, the tourism does. It brings in over \$3.7 billion. It's got 44,000 jobs that it creates. And it's a huge resource for us. And so the question then comes to my mind is what is the best way to deal with this issue? Well, you have this proposal. You can take the park sticker and you can increase that. You could go to the General Fund and maybe do that and raise more dollars for the General Fund. But I can tell you when we do that after seven years, you're going to give something up on one side to get to the other. Where I live there are three major recreational areas: Wildcat Hills, Minatare Lake, and then you go north to Fort Robinson. Those are very heavily used and we're seeing a lot more pressure put on those parks because people don't have the money. They don't have the money to pull their boats or their trailer or just to go camp. Whatever discretionary money you have right now in this economy is gone. So that's the other issue you have to look at. And I think what Senator Chambers brought out earlier kind of made me think. I think he's probably pretty close to being correct. And that is \$7 doesn't seem much to us in here, but \$7 for some people is a lot. And I'm not speaking against this bill. I'm just telling you when I listen to everything and I've heard the discussions, I'm not sure whether or not Senator Dubas' idea about doing a study and finding another way to do this might be a better choice. But I do know we have to do something with our Game and Parks. It's important to us. And if we have to give some of those up, then we need to give them up. But it is important for us and for where I live it's critical for us because there's not many places to go and there's not many opportunities for the recreational sides of things. It's big business for our particular region. I'd like to make sure that that stays healthy. I'd like to make sure that we fund them appropriately. Then the question is, how do we do this? Is this the best solution? If this is the policy decision you think you want to make, I can support that. But my question then is, is it the right decision to make? Is there a better way to do this? And I don't know whether...I don't know the answer to that question, colleagues. I just know that we have to find a way to not allow our parks to grow up in weeds. Some of the recreational areas we've given away are areas that just were not huge, not really well-used, but they were terribly maintained. Game and Parks just couldn't maintain them, couldn't keep the weeds down, couldn't take care of them, couldn't maintain them. And a lot of our parks are struggling with being handicapped accessible. So I guess what we have to decide is what is your priority. What do you want? As colleagues in here, what is your priority for this next... [LB362]

SPEAKER ADAMS: One minute. [LB362]

SENATOR HARMS: Thank you, Mr. President. What is your priority for this great state?

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Does this fit in? If it does, then what is the solution for the funding of it? Until I see something better or you're willing to maybe do a study, I'm going to stay with the \$7. But I think Senator Chambers was correct, that I know that there will be people who struggle with that. It's hard to pay the registration fee now. When was the last time you bought a new car and you've gone in and paid that? It's staggering. You can pay \$700, \$800, to \$1,000 just quick as possible. That's really what we're confronted with, and so what is the policy that you want? What's the best way to maintain our parks? And how can we come to a solution that fits what this great state needs? Thank you, Mr. President. [LB362]

SPEAKER ADAMS: Thank you, Senator Harms. Senator Ken Haar. Senator Ken Haar. Senator Karpisek, you're recognized. [LB362]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. When I came here, one of the biggest things I wanted to do was to help the Game and Parks. I've had campers, gone to the parks, have gone with the family and very much enjoyed it. I've also gone to Kansas and South Dakota quite a bit, and even for a couple of years didn't buy a Nebraska park sticker. The Game and Parks need help, but to me this is not the way to do it. Just because it's an idea doesn't mean it's the right idea. I don't have the silver bullet so I don't want to stand up and say, oh, there's a million other ways to do it because I haven't come up with it yet in seven years. And I do give Senator Avery credit for bringing something forward to get the discussion going. However, I cannot say that everyone that drives a vehicle or operates a vehicle or registers should pay \$7. My grandfather drove until he was 92 so he could get to town and get his groceries, two miles. I don't think he needs to pay \$7 to go to a park that he won't go to. It does have to be user fees somehow. And I know nobody wants to close their park, but maybe we have too many. I don't know. And I know that the Game and Parks has done a very good job of using the money that they have. I don't want anyone to go away from here thinking that I'm saying that Game and Parks is doing something wrong because I don't think they are. But I just don't think that this is the way to go about it. And if we're doing license plates, why not do cell phones? Why not do tax on soda pop? Oh, wait, we already had that. I don't know, but there's got to be something else, some other way that we go about it. I do support an interim study, although I don't usually support them because sometimes things don't happen. But I think on this one something has to happen. I've also gotten a lot of e-mails, gotten yelled at when I'm trying to get groceries a lot of times. A lot of people have a lot of vehicles, too, and you have to get them licensed or most cities will have them towed, which I think is a good thing because nobody needs to have 20 vehicles in their front yard...not...they still have them; they're just licensed at least. Also with the amendments, I don't...I haven't read them all over, but what I have heard that farm machinery, so someone with a farm plate and a big expensive pickup could pull in there for nothing. That doesn't work. If we talk about user fees, maybe it's on camper license plates. I don't know. Maybe it's...I don't know what it's on but, again, I think that's why we need to talk about it. I do, again, give Senator

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Avery credit for trying. I just think he missed by quite a ways. And I cannot support the bill. Thank you, Mr. President. [LB362]

SPEAKER ADAMS: Thank you, Senator Karpisek. Senator Gloor, you're recognized. [LB362]

SENATOR GLOOR: Thank you, Mr. President, and good afternoon, members. I, too, have met with Game and Parks, supported the park fee increase several years ago. I've had conversations with constituents. Shopping at Ace Hardware over the weekend, a former employee came up and thought this was the greatest idea since they put barbs on hooks, and said he hopes I supported it. And then we talked about two things. One is, I asked he and the other constituent who contacted me, do you pay for park fees already? Do you have a sticker? Oh, yeah. Have for decades. Then we talked a little bit about the cost associate with registering a car. And with both constituents their issue of being enamored of this cooled dramatically. Still in support, but didn't realize that we had registration fees that already had plenty piled on top of them. So, you know, I'm still here listening and thinking about this. I love our parks. I love all parks. I hike and bike and hunt and have cross-country skied in parks in this state and especially in states like Minnesota and Wisconsin. And one of the things I liked about this bill and the additional revenue it would dump in is we might be able to do something with, and I talked to Game and Parks about this, the Cowboy Trail which many of you recognize is the abandoned rail line that would run and runs through most of the northern part of this state. People who bicycle in other states that I run into ask me about the Cowboy Trail because they've heard about it, would like to know that it was in a state of repair that would allow it to be used as we'd hoped it to be able to be used from one end of the state to the other, and I have to tell them no, it isn't. When I have gone to other states and biked, I've been amazed at the amount of revenue that gets pumped into small towns that otherwise would have nothing going for them except the amount of traffic of people who go through that are using bicycles or hiking or snowmobiles in the winter. So I understand that. And then I took a look at the state of Minnesota. Where did they get their money for their parks? They have some spectacular parks, which is the reason quite a few of us go up there to use them. Recently, they developed some money with a constitutional amendment (laugh) that channeled some additional money to their parks department. They get royalties, camping fees, park permits, sale of park merchandise, snowmobile trail permits, watercraft surcharge, nongame donations such as the chickadee checkoff on your state tax form. Senator Avery, I think one of the things you missed here is coming up with something as clever as the chickadee checkoff. Maybe park it in the parks or something like that would have helped this bill a little bit. They get general fund contributions from the state of Minnesota. And the natural resources department also gets receipts that come from the registration of recreational vehicles, not cars, automobiles, but recreational vehicles--watercraft, snowmobiles, all-terrain vehicles, and off-road vehicles. Those of you who spent any time in Wisconsin and Minnesota in the winter know they have more snowmobiles than we have cars, tractors,

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trucks, bicycles, tricycles. There are a lot of snowmobiles. A lot of money comes from that. So, you know, here we've got a state that has a great park system that has found it appropriate to tap into various and sundry sources of funds without any hesitancy and have a great, great, great parks to show for it. And yet I'm still not convinced. I have my own concerns... [LB362]

SPEAKER ADAMS: One minute, Senator. [LB362]

SENATOR GLOOR: ...thank you, about the appropriateness of this use and ask myself, having run a hospital, could we not put a fee to fund the results of Senator Price's 9-1-1 study on recreational...on vehicles because so many car accidents require calling 9-1-1. Is that an appropriate use? How about the State Patrol? I don't know that I see the end of it, and that's the reason that I'm struggling with my love of parks and my concern about setting precedent here in a way that just puts off to another day a decision that ought to be made very directly. Let's appropriate the funds to get our parks upgraded. So I'm still listening and will continue to listen it appears for quite some time. Thank you, Mr. President. [LB362]

SPEAKER ADAMS: Thank you, Senator Gloor. Senator Lautenbaugh, you're recognized. [LB362]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I will start by saying some kind words about Senator Avery. It's a very different year, I realize some of you are thinking. But, no, I understand exactly what he's trying to do and this is a real problem. And I always get frustrated. I've had bills where I've been trying to offer a solution to an industry, let's say for example, and people say this is the wrong solution. And I say, okay, well then what's your solution? Well, I don't know but, by god, this is the wrong solution. But with that said, this is the wrong solution. I'm a big fan of user fees as a mechanism for forming or for funding government activities. This is the polar opposite of that. You're making the nonusers, which would be the vast majority of people, fund this and I don't see the justice in that. It seems fairly regressive to me. Since a car is a necessity, basically, I can't agree to this funding mechanism for this. And I understand a lot of what Senator Gloor was just saying, that I have some fundamental problems with...you know, I didn't know that a part of our license fee, until I got down here, went to the public schools. But we're always looking for roads funding, but part of our car licensing or car taxes goes specifically for the public schools, I don't understand that. I don't understand the nexus between this and the parks. I don't understand in Omaha why the parking tickets go to the public school fund, because then you have a parking patrol that collects or tickets in the most inefficient way possible because they're never going to get the money anyway. It all goes to the public schools. So the public schools can't oversee it even though they get the money, and Omaha gets to do it however they want, driving pickup trucks around the courthouse when they could just walk around and ticket people more effectively. But there's a disconnect there

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and those are the things that happen when, and no I didn't get ticketed at the courthouse for those of you who are wondering and smiling and thinking is this a personal axe I'm grinding. This week I did not get ticketed at the courthouse. But there's a disconnect there. And Senator Avery's motives on this are as pure as pure can be, but I cannot support this mechanism. I think there's a fundamental fairness that's lacking here and I can't be on board with this. I don't want to necessarily take eight hours on it either. My initial thought was to file some kind of a motion as sort of a test vote and if there's not 25 votes to keep this thing alive, well then fine we can stop and I may still do that. But I know people wanted to discuss this. I've tried to be respectful of...and Senator Dubas and I discussed this and others and I know there are people who support this. I just will not ever be one of them. And I don't want to stand here and threaten to talk this to death. I'd rather just get it to a test vote sometime in the 35 minutes we have left today and see where we stand because I don't know if I'm on an island here. Yesterday we heard talk of claques. I have no idea what a claque is. I know what a clutch is and I know what a clique is, but I don't know what a claque is. I don't know if I'm a claque of one. I think that was a Chuck Norris movie, a claque of one. I don't know if I'm a claque of one or if there are others in my claque today, but I can't support this. Thank you, Mr. President. [LB362]

SPEAKER ADAMS: Thank you, Senator Lautenbaugh. Senator Chambers, you're recognized. [LB362]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. I would like to talk about this for eight hours. And if my friend Senator Dubas, if her vocal chords tighten up or her throat gets dry and she doesn't feel like carrying on, that's when I'm supposed to come in and pick up the burden. And my friend "Parson" Carlson is, I think, doing some vote counting to see if there would be 30 votes to override the Governor, but he's got to get 33 votes to shut me down first. So it might be possible to do what some people with bad bills have done: persuade people not to listen to the advice that I give. If you don't like the bill, don't vote for cloture. It's like me talking to that wall. They vote for cloture. Then they vote against the bill and then wonder, well, why do we have to keep talking about the bill. Well, if you had not voted for cloture, the bill would have been dead. So they'll probably vote for cloture, 33 people, although 8 people support the bill. Thirty-eight people will vote for cloture. Time comes to vote to move the bill and it looks like the board is on fire. All red votes except eight green votes. It doesn't make sense based on the way I think. Maybe I watch too much Star Trek. Got too...somebody wrote and said I should not pronounce enamored as enamored but enammered (phonetic). I'm grown and I can pronounce words the way that I want to, and when they know what word I'm talking about it's clear that I've communicated. But I think we're in a set of circumstances where it's necessary on occasion to take everybody through the agony of an extended debate as an object lesson. Senator Avery is going to receive from me what he's received from everybody else. Senator Avery is an honorable man. He is a good man. He is a well-meaning man. But he just happens to be wrong. He got

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on the wrong horse. Instead of getting on Seabiscuit, instead of getting on Silky Sullivan, which is the name of a horse actually, he got on Stewball and he's going to suffer the fate of somebody who likes the way a horse looks, but forgets what the role and function of this particular horse is when the horse steps on this particular track. This bill should have no chance to go anywhere. "Parson" Carlson has read many times and has probably said it, Jesus indicated the poor you have with you always. But I didn't see where he added, and it should be your job to make sure that they remain poor and that you add to that number. I am talking about people who genuinely are poor. When they get in that...all right, here's the way the cars go. You have a jalopy, you have a rust bucket, but if you're at the high end, you have a rattillac. You can barely keep enough fuel in it to get to work and to get home. And then people, as my good friend Senator Brasch who's rolling in dough says, well, what's \$7? What's \$7? You go find somebody at a shelter or somebody on the street because they're too proud to go to a shelter, pockets empty, and the only thing emptier than their pockets would be their belly... [LB362]

SPEAKER ADAMS: One minute. [LB362]

SENATOR CHAMBERS: ...and you offer that person \$7, that person might say let me kiss your hand. When you have plenty, it's hard to conceive of somebody not having anything. There's another verse that said: to the full soul, even honey is bitter; but to the empty soul, every bitter thing is sweet. My job is to make sure that those who have no voice on this floor, due to the inability to elect somebody of their choice, is to be that voice. I'd know I'd like somebody to speak for me if I couldn't speak for myself. But I'm so prideful I wouldn't want anybody to do that. I wouldn't ask anybody to do it. And we should not make poor people lose even the shred of pride and self-respect they may have... [LB362]

SPEAKER ADAMS: Time, Senator. [LB362]

SENATOR CHAMBERS: ...by begging us. Thank you, Mr. President. [LB362]

SPEAKER ADAMS: Senator Avery, you're recognized. [LB362]

SENATOR AVERY: Thank you, Mr. President. We have had some conversations off the mike, those who are supporting this proposal. And we expect that if we get another opportunity to debate this after we go off this bill at 3:00 that we may have some new ideas to bring to this body for consideration. It could be a blend of this proposal and some other ideas that we have been kicking around. I don't want to give up on it because I do think that the objective is worth pursuing. And I am willing to hang in here for the full eight hours if necessary, and I understand the English language well enough to know that I have been given a message that it will be necessary to go the full eight hours. I do want to address something that Senator McCoy brought up when he was on

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the microphone earlier. And it had to do with increasing...I believe it was the idea of perhaps increasing permit fees or doing more to sell permits. What happens when you look at the proposal before you, it adds \$6.4...actually rounded it's \$6.5 million to the Game and Parks Commission and that is \$6.5 million above what is generated today by the permit system. So in order for you to sell enough permits at the current \$25 per permit, to make up \$6.5 million you'd need 258,461 new permits in order to equal the amount that is generated by this proposal. That's not likely. I've been looking at some numbers over the history of the park system fee...the permit system in place, and they average, over the past decade or so, in permits sales has been around 420,000 to 450,000. It is not going to happen that we will go to 258,000-plus if we stick with the permit system. The permit system is not able to sustain the needs of the park system, it's just not possible. And I think that we are going to have to come up with some creative ways, perhaps combining the permit system with this idea of a registration fee on vehicles in order to find the money that the park system needs. We will continue to work on that and I look forward to additional debate on new ideas please. Thank you, Mr. President. [LB362]

SPEAKER ADAMS: Thank you, Senator Avery. Senator Schilz, you're recognized. [LB362]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. I just want to pick up where Senator Avery left off. You know, and if you look at that and you see just how big the numbers have to be to make this work, it's...you really do know and you can tell and it's proven that it just doesn't look like the permitting system is working, obviously, the way we need it to, and to make it work would require either such a large increase in the fee or such a large increase in the number of people buying at the current price that it's not even possible. We heard Senator Davis earlier and it sparked an idea in me, but I just sat down and started doing the numbers and I...you know, it's been a long time since I've bought a dozen worms to go fishing. Planning on trying to do that a little bit more this summer. But if you pay \$5 for a dozen worms, I don't know if that's right or not, and you put a half cent sales tax on it, you'd have to have 44 million dozen worms sold to make up the...\$11 million not the \$12 million. As fishing permits, if you just take that for the \$11 million: 7,719,000 fishing permits. We've got 1.8 million people in the state. Maybe we could make each one of them buy three, huh? Hunting permits are 15 million that you'd have to sell. So I think that what we see as we start to look at this as a whole, and maybe this is what Senator Avery is talking about, you know, maybe there's another way to do this. I'm not sure. But I know maybe it becomes part of the whole. Maybe what we're talking about here needs to be a part of a bigger project so that no one sector, no one area is getting hit too hard. And then Senator Chambers questioned me earlier about whether or not I believe that all the people of the state deserve to have access to those parks. And I told him, and I was honest with him, that yes I do. That's why those parks are there so that the people of Nebraska can enjoy them, can utilize them, because being outside and being amongst nature and doing those kinds of things

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is very important to a healthy lifestyle, very important to healthful living here in the state of Nebraska. And we need to make sure that not only are they taken care of but that everyone has access and everyone can use what belongs to everyone in the state. Thank you very much, Mr. President. [LB362]

SPEAKER ADAMS: Thank you, Senator Schilz. Senator Dubas, you're recognized. [LB362]

SENATOR DUBAS: Thank you very much, Mr. President. This has been a good discussion and I think it's been an important discussion for us to have. And I could have very easily put up an IPP or a bracket motion right out of the gate because I so strongly oppose this bill, but I didn't because I understand we need to have this discussion. So I put my amendments up, my motions up, trying to make the point about we're creating these exemptions and how do these exemptions correlate to what we're doing with the registration fees. And while we haven't talked much about the amendments, that was the intention on my amendments to point out those constitutional questions about there's got to be a connection between the exemption and what you're trying to achieve. So I didn't go the kill-it-immediately route because I recognize the importance of this discussion, and it deserves serious consideration and it deserves a very thoughtful approach. And we did have conversations in Natural Resources Committee about what other ideas are, but it's such a big problem it deserves much more than, you know, a 15-, 20-, half-hour, 45-minute discussion. It deserves a very well-thought-out approach. In 2009, the Transportation and Telecommunications Committee did just that approach when they were looking at the roads funding issue. And I'm holding in my hand the LR152 report which is a great report that outlines the problem and then what potential solutions there are to address that problem. And I think that's what we need to do. In all honesty, I don't believe that we can do that kind of a thoughtful approach through floor discussion and debate. I do believe this needs to have a great deal of time invested into it coming forward with recognizing what the problem is and then what are potential solutions. I know that there are some discussions and some ideas that are being tossed around with a potential to come back with a different approach. I'll tell you right now, I will oppose anything that includes a vehicle registration unless we can directly correlate that fee on the registration to the parks and the parks usage and those who are using the parks. There won't be an easy solution to this problem because it involves money and it's where do we come up with that money whether it's through General Fund dollars or additional fees or something like that. It's going to involve a decision on the part of the Legislature just like the very same conversation we had when we were talking about the water study. It's going to take political will on the part of this body to decide are our parks important, and if they are, then what are we willing to do to invest in our parks' future. This is an idea and I know it's been said that if you don't like the idea, come forward with something of your own, and in all honesty I don't have an idea. But I am very willing to be a part of a committee process or whatever it takes to sit down and over time look at what is it that we need to do. And if we can come up with

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something...I haven't heard hardly anybody in here who said they don't believe that our parks need funding. We all recognize that our parks need funding. It's what are we willing to do to fund it. So I think once we put in the time and energy and consideration into what are our options, that's something we could all get behind and we could move forward as a legislative body with our idea and go out and talk to our constituency and explain to them, this is the solution we've come up with collectively. This is why we believe it'll work. This is not a collective solution, colleagues. [LB362]

SPEAKER ADAMS: One minute. [LB362]

SENATOR DUBAS: It's out there--thank you--and I'm glad we're having this discussion. But this is not the way for us to go. This is...you know, Senator Davis' reference to, you know, the grandmother or, you know, people who are on fixed incomes or low incomes or those families who are working multiple jobs just trying to make ends meet. Even if they can go use the parks, quite often once you get into the parks it's going to take additional money if you want to enjoy some of the horseback riding or some of those things. So you may get into the park for nothing but it's still going to take finances to enjoy some of the amenities in the park. So, you know, if there's further discussion going on, you know, I'm certainly not going to be opposed to that. But I just believe very strongly that this deserves, very much like our tax study that we're going to do, very much like the water study, it's going to take a very concerted effort on the part of this body to step back, address the problem, and find a solution that we can... [LB362]

SPEAKER ADAMS: Time, Senator. [LB362]

SENATOR DUBAS: ...collectively support. Thank you. [LB362]

SPEAKER ADAMS: Senator Bloomfield, you're recognized. [LB362]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, we were asked for ideas on how to do things better. I suggested earlier that maybe we sell off some excess property that the parks have or are in the process of getting. I also heard from Senator Wallman what I thought was a very good idea, and I see he neglected to turn his light on to bring it forward. He suggested the possibility of a golden age permit into these parks maybe when you reach 65. Say for \$150 you buy a lifetime permit into the park. That generates instant cash. They can catch up with the money they're behind. If you have the funds to do that and you figure on living more than six years, you're dollars ahead. Let's look at that kind of stuff. Let's not tax people that can't afford the tax and don't use the parks. I've heard there are going to be amendments coming to, hopefully, lower this down to a \$4 or \$5 fee. You can amend it down to 10 cents, I will still oppose it. This does not need to be funded on the backs of people that can't afford to go to the park in the first place because they can't buy gas to put in the car that they paid the extra \$7 to license. I would yield the rest of my time to Senator Lautenbaugh if he'd like

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it. [LB362]

SPEAKER ADAMS: Senator Lautenbaugh, you're yielded 3 minutes, 24 seconds.
[LB362]

SENATOR LAUTENBAUGH: Thank you, Mr. President, and thank you, Senator Bloomfield. And I do want to be clear and I was mindful of Senator Dubas' comments as well, I do want to solve this problem and I do believe there's a way and I do believe we can find the money and, more to the point, I do believe that it's very important that we both support Game and Parks and our parks undeniably. And I don't think we can do that 100 percent with user fees. I recognize that. But I also don't think you make the jump from user fees to one of the more regressive ways of funding the balance. And that remains what is proposed in the bill as introduced. Out of deference to Game and Parks and Senator Dubas and Senator Avery and others, we will not try to kill this bill today. I don't think anyone else will and I won't either. We'll apparently just stop talking about it pretty soon. And I know there will be efforts to improve it and build a coalition. I don't ever see myself supporting it if it continues fund...contains funding as it goes forward from the source that's contemplated now. I just...I cannot support that. It's just...there's no connection, there's no nexus. And, once again, it's a regressive tax on something that is very important to a lot of people who will never benefit from this. And we can discuss the indirect benefits of, you know, a happier society by having parks and I know that and I know going down that road leads to a justification for almost everything we may want to do at any given time. And I don't want to try to go that far to justify this. There is a value to the state maintaining the parks. There's a value that's greater to the users for using the parks, so it's correct that they should fund some of it themselves. It's correct that the state should support it, but this remains the wrong mechanism and I can't support any version of this particular mechanism going forward. I'll be interested to see what comes out of the discussions after we leave this bill at 3:00 and if it ever comes back again. But I...and I'll try to be part of the solution to the extent I can, but I just have a real problem with what's proposed here and I can't support it as is or any version of it that... [LB362]

SPEAKER ADAMS: One minute, Senator. [LB362]

SENATOR LAUTENBAUGH: ...would include...thank you, Mr. President, or any version of it that would include this mechanism of funding that's contemplated in the introduced bill. I would...thank you, Mr. President. [LB362]

SPEAKER ADAMS: Thank you, Senator Lautenbaugh. Senator Brasch, you're recognized. [LB362]

SENATOR BRASCH: Thank you, Mr. Speaker, and thank you, colleagues. I do rise again in support of LB362. If there are other thoughts on how we can preserve our

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parks, this is important. We are at a critical time. I do support the fee from conversations I have had with listening and talking meetings since I learned of this situation during the interim last summer. And when Senator Davis read from his constituents, I went to my e-mails and I also have constituents that have written in. And this one says: Dear Senator Brasch, parenthesis, Lydia. I received a copy of LB362 in regards to adding a \$7 fee on vehicle registrations so that all Nebraskans can have access to our Nebraska state parks. I think this is a wonderful idea. Having traveled the plains states with my Lewis and Clark travels in the last ten years, I've seen many different parks in many different states. Nebraskans have some of the finest parks and great places to spend our summers with our kids and grandkids and learn of the great history of Nebraska. Yet I can cross the Missouri River and I go to Iowa and other states where their state parks are for free. Our state historical parks are some of the most important but lack infrastructure funding. Nebraska has some of the most important history of opening up the West yet has continued to neglect our wonderful state historical parks and opportunities for more tourism dollars and economic development. I fully support this and I think it would be a great step forward to increase the use of our parks and the ability of Nebraska Game and Parks to have a solid plan for funding infrastructure into the future of our parks. This is a constituent from Oakland. I have others, and I'm just going to touch base on this one. And it says: Dear Ms. Brasch. I'm writing to urge you to vote for LB362. This constituent talks about the importance of our state park system, and they are a volunteer at Fort Atkinson State Historical Park. And I'll read: And I feel strongly about the need to support these venues, especially the historical parks because they are falling into disrepair and have no way to generate revenue, in parenthesis, such as Mahoney. I've personally dedicated myself to raising money for Fort Atkinson because the state has continued to cut support and we can hardly maintain the property. Please support this. There are more like that. I did have another one where a person is very concerned about the \$7 fee because they have 14 registered vehicles. And maybe that's a situation that we need to address. But, again, it's not as Senator Chambers says. Senator Brasch is not rolling in money or dough, in dough. I'm not...I've had a job, employment since I was 12 years old and have always had a job. And Mr. Brasch would tell you that since I became senator... [LB362]

SPEAKER ADAMS: One minute. [LB362]

SENATOR BRASCH: ...he's disappointed that I have asked for his checkbook now (laugh) because I've always had my employment. And what I am looking at is the value of our parks for that person who does not have \$30 in their pocket, but \$7 would allow them and their children to have the education beyond books that our parks can contribute to a lifestyle that you can only read about in a book perhaps. But to take those children there, to be retired and be able to just pull into the park on a whim at the spare of the moment on a beautiful day, that's priceless. Again, I encourage you to support our parks. We'll look at ways to help those people where they don't have \$7 in their pocket. We'll continue...Senator Chambers said maybe they can work... [LB362]

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SPEAKER ADAMS: Time, Senator. [LB362]

SENATOR BRASCH: ...for their \$7 for something. Thank you, Senators. I appreciate your consideration. [LB362]

SPEAKER ADAMS: Senator Schumacher, you're recognized. [LB362]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. Two numbers jumped out at me in our discussion today. One was all we're talking about is \$6,461,000. Relatively a small number even though we have an impossible task of how we're going to raise it if we stay within the paradigm of how do we tax and fee. The second number was somewhere around \$40 million of undone maintenance that should have been done. That tells me that somebody is not operating this show as a business. We have an extremely valuable capital asset in those parks, at least we think they're valuable. If they're truly valuable, they will convert into cash flow if we properly market them. We live in a very different world than many people in this country. We're rather isolated. The great repression, and I said repression, not recession, the great repression left us fairly unscathed because we are a simple agricultural economy. But our world has moved on nationally. Senator Chambers is right. There are many people skating by that the 7 bucks would mean something significant to. Our middle class has basically been spinning its wheels for 20 years, but life is really good at 1 percent and a fraction of 1 percent where most of our wealth is accumulating. I look at these parks and I ask myself the question, when was the last time that this system, this capital asset, was marketed to the people who attend the major private universities and the not-so-major, but excellent private schools on the coast, where if they were marketed, like those schools on the coast market to the rest of the world at \$10,000 a week for a special session, if they were marketed in conjunction with the university credit hours would not sell equally as well as spending a month in Brazil poking around on the interior looking at anthills. And there are people that have plenty of money to spend the \$10,000 to do that. Or how about spending a month on a glacier, dropping into crevices and seeing if you can crawl your way out of a 40-foot deep crevice. There are people that spend money there. Or travelling Europe. We are not marketing this asset properly. We can market, I'm perfectly convinced, a \$12,000 session for...with an attached college credit of some kind to that particular market. We haven't even tried. Yet, I think you will find that if you do approach that market there is interest. Where else are you going to find an experience like that? It's got to be done in quality fashion. It's got to be done with some quality education spun onto it. But it's a great place for a rich kid to spend a summer. It's a great place to learn about the Midwest and maybe even attract attention to our state because most of those folks probably think of Nebraska as my college mates at Georgetown thought of it back in the 1970s, let's see, there's a country, there's the East Coast, some mountains, Chicago out there, a big hangy-down thing called Texas... [LB362]

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SPEAKER ADAMS: One minute, Senator. [LB362]

SENATOR SCHUMACHER: ...another mountain, and California. And that's the United States. I think if we can expose ourselves to that market and that market to us, we may have many, many beneficial side effects. And while that doesn't do anything today to solve a problem of \$40-million boondoggle in back repairs, it is one of the things we need to think about. This is a terrific capital asset. It should make us money. If it doesn't, we should get rid of it. And we should just plain market what we have. Thank you, Mr. Speaker and members of the body. [LB362]

SPEAKER ADAMS: Thank you, Senator Schumacher. Senator Smith, you're recognized. [LB362]

SENATOR SMITH: Thank you, Mr. President, and good afternoon, colleagues. I wanted to thank Senator Avery for his concern about our parks. And I've heard a lot of the comments here, and I appreciate those concerns about the parks, their well-being, and some of the capital improvements that are needed. And I did support this bill in committee, after some original reservations, and the reservations I had in committee were not unlike what I heard expressed on the floor. And the reason I do stand in general support of this bill is because I do see the need for these capital improvements. And I'm struggling like many of you are, I've heard your comments, I'm struggling to understand what other mechanisms there are for us to find the funding needed for these capital improvements for our parks. I heard Senator Schilz speak and from his comments it triggered some thoughts, and maybe there is a compromise here somewhere. For example, maybe the appropriate place to have a registration fee is on recreational vehicles and other permits and, at the most, having some type of a nominal charge on some of the other vehicles. But I would...I do appreciate what it sounds to be some level of willingness to find some way of providing this funding for the parks. And so with that, I yield the remaining of my time. Thank you. [LB362]

SENATOR COASH PRESIDING

SENATOR COASH: Thank you, Senator Smith. Members, as the agenda states, we are now going to move to the 3:00 division, Speaker priority bills, Watermeier division. Mr. Clerk, next bill. [LB362]

CLERK: Mr. President, may I read one item? Your Committee on Health and Human Services reports LB578 to General File with committee amendments attached. (Legislative Journal pages 961-962.) [LB578]

Mr. President, LB232 is a bill offered by Senator Lathrop. (Read title.) The bill was introduced on January 15, referred to the Judiciary Committee. The bill was advanced

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to General File. There are committee amendments pending, Mr. President. (AM200, Legislative Journal page 620.) [LB232]

SENATOR COASH: Thank you, Mr. Clerk. Senator Lathrop, you're recognized to open on LB232. [LB232]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good afternoon. The salary of the Chief Justice and the judges of the Supreme Court are established in state law; and as a result, a bill is typically introduced every couple of years to consider changes to these salaries. Currently, the salary of the Chief Justice and the Supreme Court judges is \$145,614. This salary went into effect July 1, 2012. The salaries of the other judges in Nebraska are based on the salary of the Supreme Court and so the salary of the Chief Justice impacts any of the judges of the state of Nebraska. For example, the salaries of judges on the Court of Appeals is set at 95 percent of the salary of the Supreme Court. The salary of the judges of the district court, separate juvenile court, and the work comp are 92.5 percent of the salary of the Supreme Court; and the county court is 89 percent of the salary. When I introduced LB232, I didn't include any amounts in the bill so that the Judiciary Committee could discuss what they thought would be an appropriate salary increase. As you will hear when the Judiciary Committee amendment is introduced, the committee decided on 5 percent increases in each of the next two years. At the hearing before the Judiciary Committee, LB232 was supported by the Supreme Court, the State Bar Association, the County Judges Association, and the Nebraska District Court Judges Association. I support the increase in the salary of our judges in Nebraska and would ask for your support of LB232. I might make a couple of comments in addition to my prepared remarks. It is important, colleagues, for us to take care of the third branch of government. These are the folks who serve in the courtrooms across the state. They are not permitted to participate in the political process. They don't get to campaign for senators or for governors. They serve, and in order for us to get the best and the brightest, it is important that our salaries be competitive. I will also tell you that this salary increase isn't tied to an agreement with the district court judges or with the judges regarding their retirement, and Senator Nordquist is going to speak to that. But understand that 5 and 5 comes after several smaller raises, and in 2011 there was no raise. The judges have agreed to this increase in exchange for removing the sunset provision on a deal that helps take care of their retirement account. As I said, Senator Nordquist will discuss that when he has an opportunity to speak after me. I will also tell you that the Supreme Court saved, by filling vacancies in the various courts across the state, had saved, I think, about \$191,000, something on that order, in its budget, which was taken back by the Revenue Committee, put into the General Fund. And while I can't stand here and say we're going to pay these raises from a cash account, they effectively saved money by being more efficient, slowing down...filling some of the vacancies so that effectively they've paid for at least the first year or year and a half of the raises. So with that, I would encourage your support of LB232 and the amendment you'll hear Senator Ashford introduce

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momentarily. Thank you. [LB232]

SENATOR COASH: Thank you, Senator Lathrop. As the Clerk has stated, there is a committee amendment. Senator Ashford, as Chair of the committee, you're recognized to open on AM200. [LB232]

SENATOR ASHFORD: Thank you, Mr. President. Senator Lathrop has accurately described the process of determining salaries for the various judges in the state, from the Supreme Court down to the county court and Workmen's Compensation Court. The committee amendment, AM200, would simply replace the XX in the bill with dollar amounts to effect a 5 percent increase in 2013 and another 5 percent increase in 2014. And that's the extent of AM200, and I would urge its adoption. [LB232]

SENATOR COASH: Thank you, Senator Ashford. Members, you've heard the opening to LB232 and the committee amendment. The floor is now open for debate. Senator Mello, you are recognized. [LB232]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. As we discuss the fiscal note on LB232, I need to provide a little context and a little history of how we got here to both the bill and, ultimately, the committee amendment. Per the biennial budget process, the Supreme Court has, over the last two years, saved money in their budget in regards to not filling vacancies on judges with the hopes of utilizing this savings that they keep in their budget for a judges' salary increase. Ultimately, the way the budget process works is that when an agency saves money over a two-year period and they wish to utilize that money moving forward, they ask the Legislature to reappropriate those funds to their agency budget, which goes back into their budget but does not affect, ultimately, the request...the dollar amount that they request through the budget process. Essentially it's one-time money that they get to carry over from year to year. Most agencies do this, and over the last few years the Legislature and the Governor both have reappropriated the use of those funds year over year, in part because of the budget constraints and, ultimately, the recession that the state went through and the budget crisis went through over the last four-year period. The Supreme Court saved roughly the exact amount in their budget through not filling vacant judges' positions as the fiscal note that's attached with the committee amendment on LB232. Part of the process in which the Appropriations Committee operates is that, and this is something that has been tried before, which, ultimately, we do not do, is when a bill is in another committee that you try to fund an A bill, so to speak, through the appropriations budget request of an agency. That was essentially what the scenario we have here. The courts asked us to reappropriate the funds from the savings that they have done on vacant judges, and they wanted to use those vacancy savings to pay for the A bill associated with LB232 and just not do an A bill. Ultimately, we can't do that. And so in part with negotiations with the Retirement Committee, because we have the judges' retirement issue next as well as with Senator Ashford and Senator Lathrop in the

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Judiciary Committee, as well as with the Supreme Court, we've come up with what we thought was an option for the floor to debate and discuss. Is that the Appropriations Committee would not reappropriate the dollar amount, which is roughly the same exact dollar amount in the A bill of this bill in front of us, we would instead not reappropriate that money and lapse it to the General Fund. And then I would get up here today, as I'm doing now, and inform the entire body that by lapsing that money that they had saved specifically for this bill, we then leave it to the entire Legislature to determine whether or not we wanted to use the money that that agency saved to pay for this, if we wanted to do it through our current legislative process which would require a passage of a bill and a passage of an A bill. Ultimately, I explained this to Senator Lathrop and Senator Ashford, the money for this bill has been saved to pay for it, for this two-year biennial budget process. In two years from now, though, the General Fund would pick up the remainder of those salary increases since we would be paying for it for one-time dollars this biennial budget from savings the Supreme Court had accumulated within their budget. That's a policy decision we as a Legislature have to make and determine whether or not we want to give a judges' salary increase... [LB232]

SENATOR COASH: One minute. [LB232]

SENATOR MELLO: ...using one-time funds for this biennial budget, then pick up those increases the next biennial budget two years from now. I really...I hope I explained that process well enough, and I'm more than willing to speak a little bit more on the mike. But ultimately I appreciate Senator Lathrop and Senator Ashford and the Supreme Court and the Chief Justice and all interested parties working on this to provide this opportunity to discuss this issue in a more global context. And ultimately, as I mentioned, the Appropriations Committee did not allow that reappropriation to go through to the Supreme Court so their money that they had saved now is available for the floor to make the determination of where that money should be spent. With that being said, I appreciate the work that everyone has done, and I'll answer any further questions anyone may have. Thank you, Mr. President. [LB232]

SENATOR COASH: Thank you, Senator Mello. Senator Nordquist, you are recognized. [LB232]

SENATOR NORDQUIST: Thank you, Mr. President and members. And I'll be brief in my comments, partly because we can get to the more substantive nature of this discussion on the next bill, LB306. But essentially, the agreement that we worked out between the Judiciary Committee, the Appropriations Committee, and the Retirement Committee includes a package of these two bills, as Senator Lathrop said, the salary increase, but also in the corresponding bill, LB306, is an attempt to address the funding shortfall in the judges defined pension plan. There were sunsets, two sunsets in place, one on a court fee but also one on a contribution increase that was put in place in 2009. That was scheduled to sunset. The judges have agreed, in principle, to remove that

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sunset as long as it is coordinated with the salary increase. And from my perspective, I think that is a reasonable deal both for the level of increase in their salaries, but also to help us address the funding shortfall of the defined benefit plan. And as I said, I will get into more details about that. But I just rise in support of this under the construct of an overall agreement. Thank you. [LB232 LB306]

SENATOR COASH: Thank you, Senator Nordquist. Senator Burke Harr, you're recognized. [LB232]

SENATOR HARR: Thank you, Mr. President and members of the body. Our judiciary are the third branch and they do a fine job, and I do think it's important that we keep their pay commensurate with private sector so that we can continue to get good members. Unfortunately, as stated earlier, they are not allowed to politic. But I think every judge to a T would tell you that they don't do it alone, that they have good staff, courthouse personnel that make their job easy. Just like we as state senators have staff to make our job generally easier. And if we're giving a 5 percent pay raise to our judges, I think as we look at our budget I think it's important that we make sure that the courthouse personnel keep track and keep up with their percentage of increase. And so when we have the overall budget, I would hope that we would have a 5 percent increase for these individuals. These are hardworking individuals who aren't always compensated as well as judges, but nevertheless, their job is equally as important. They are the face when citizens deal with the judiciary branch and with the courts. So I think their job is as important or more important, at times much more important. They're the ones that have to deal with the angry citizens. But I support LB232 and the underlying amendment AM200, and I would just ask that you keep that in mind--the staffers. Thank you very much. [LB232]

SENATOR COASH: Thank you, Senator Harr. Senator Lautenbaugh, you're recognized. [LB232]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I always try to be mindful of the committee report and committee statement, who supports a bill. And if I've said at this mike, once, I've said it a hundred times: If it's good enough for the State Bar Association, then by god, it's good enough for me. And then to add my friends Senator Lathrop, Mello, and Nordquist, I can't ever recall disagreeing with any of them, so. But that said, this...everything they have said has been correct. This is an important thing to do. By national standards, certainly our judges' compensation is not keeping pace, I believe, and this is entirely warranted. And it was through a process of negotiation and give and take that takes some of the sting out of this, and I applaud that. And this is the right thing to do and I do support this. Thank you, Mr. President. [LB232]

SENATOR COASH: Thank you, Senator Lautenbaugh. Senator Chambers, you are

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recognized. [LB232]

SENATOR CHAMBERS: Mr. President and members of the Legislature, you know I often bring or sound a discordant note, and that's what I have to do today. But I'm going to vote for the judges salary increase. When the Chief Judge came before the Judiciary Committee, I had mentioned some bad actors among his colleagues who sit on the bench. But I told him it would be inappropriate for me to try to take vengeance against them by denying a raise to other judges who are doing their job. And the majority of them must do their job at least competently or the system would collapse. It would implode. That has not happened. Although if a person gets a decision from a judge which he or she does not want, then to that person maybe the whole system is worthless. But that's a part of what happens when you are in a line of work where the only thing you deal with are conflicts. You cannot, in Nebraska if you're a judge, entertain an action if there is not a legitimate controversy. You must have two sides which genuinely oppose each other. There cannot be a collusive suit where there is really no opposition between the two, but they pretend there is in order to get it before a court to get what amounts to an advisory opinion which is a thing not given by the courts in this state. If the court becomes aware of that, then they can dismiss the action because it is not a legitimate controversy. However, there are some very bad apples. And Michael Jackson said, "One bad apple don't spoil the whole bunch, girl." Well, that generally is true. But it can sour the few people who come in contact with these judges and they are the only point of contact these people have with the judicial system. There is one such judge in Omaha, and I'll call her name: Liz Crnkovich. And there are various names that lawyers, other judges, and victims who have to come before her. She is bullying, obnoxious, overbearing, rude, supercilious, and hateful. Good lord. If you would take the first letter of each of those words, you'd come up with the word "boorish." Do you see how fate has a way of giving corroboration? I think this woman has done so poorly on the bench that it would behoove the Chief Justice, who is the chief administrator of the courts, to commission a judge or a group of judges or a referee to review the activities of this person. She is a juvenile judge. When people come before that person, they are in fear and trembling anyway, because courts are not friendly places, whether you are the defendant or the plaintiff. And when you have a judge who is going to treat you like dirt, and it's widely known and the Chief Justice will not do anything about it, then I think some accountability has to rest on his doorstep. This year I support this. I'd like to ask Senator Lathrop a question. [LB232]

SENATOR COASH: Senator Lathrop, will you yield? [LB232]

SENATOR LATHROP: I'd be happy to. [LB232]

SENATOR CHAMBERS: Senator Lathrop, on the basis of what this bill says... [LB232]

SENATOR COASH: One minute. [LB232]

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SENATOR CHAMBERS: ...there will be an increase this year; then for two years, at least a 5 percent. Is that what I understood? [LB232]

SENATOR LATHROP: That's true. [LB232]

SENATOR CHAMBERS: Thank you. And I will not go against that deal. I agreed to it. But after that second year expires, if the Chief Justice doesn't do something better, then I am going to take it out every time they try to get a salary increase. Thank you, Mr. President. [LB232]

SENATOR COASH: Thank you, Senator Chambers. Senator Wallman, you're recognized. [LB232]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Remember that song, "Here Come the Judges?" Well, the judges, I'm not saying they don't earn their salary; but public employees in many other instances do not get a 5 percent raise, especially when they make over \$100,000--and two years in a row. So I'm going to listen to the debate very carefully on this, and as I did the last time we had this in front of us. So it's our duty and it's our job, I guess, to also reevaluate our system. And we seem to set the school board numbers and all these things right in here, and how far are we going to go? And 5 percent for two years in a row. I would like to ask Senator Lathrop a question. [LB232]

SENATOR COASH: Senator Lathrop, will you yield? [LB232]

SENATOR LATHROP: Yes, I would. [LB232]

SENATOR WALLMAN: Thank you, Senator. Do we have a shortage of judges as of now? [LB232]

SENATOR LATHROP: Senator Wallman, we do not have a shortage of judges. But for the Governor to be able to select the best judges from a pool, the process is people apply. There's a vacancy. People apply. There is sort of a citizens' filter there that sends--citizens and lawyers and judges---send names to the Governor. The Governor chooses. In order to have good applicants and good people for the Governor to choose from, it's important that we pay a salary that respects and is competitive with what they could be making at their previous employment. [LB232]

SENATOR WALLMAN: Thank you, Senator. And I'll be listening very carefully. Thank you, Mr. President. [LB232]

SENATOR COASH: Thank you, Senator Wallman. Senator Bloomfield, you are

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recognized. [LB232]

SENATOR BLOOMFIELD: Thank you, Mr. President. It will come as no great surprise to most of you, I opposed the attempt to get the senators a raise. We had a bill in Government that sought to give the Governor and the constitutional officers a raise. I opposed that. At the risk of getting a 90-day sentence for my next parking ticket, I'm going to continue that. I'm going to oppose this bill too. Not because it's not deserved. For the same reason we shouldn't have had the raise and the people have made that clear, and I don't think the constitutional officers should have had the raise, we simply don't have the money. The judges have set aside some money to take care of the first year, we're told. But going on down the road there's going to be more years. And I do have a question I'd like to ask Senator Lathrop if he would yield. [LB232]

SENATOR COASH: Senator Lathrop, will you yield? [LB232]

SENATOR LATHROP: Yes. [LB232]

SENATOR BLOOMFIELD: Thank you, Senator Lathrop. This money that's set aside to pay for this first year, does that cover just the Supreme Court, or does that cover the whole trickle down? [LB232]

SENATOR LATHROP: First, it is...it's not set aside because they can't...it's not...the court is not an agency like Health and Human Services. [LB232]

SENATOR BLOOMFIELD: Right. [LB232]

SENATOR LATHROP: It's a separate branch of government. Appropriations Committee took the money that the Supreme Court, that administers the courts, they saved...they took that money back into the General Fund. It is equal to what the additional cost of the...or what the pay raises would cost over a two-year period. [LB232]

SENATOR BLOOMFIELD: For the full trickle down or for just the... [LB232]

SENATOR LATHROP: I believe so. Yes. [LB232]

SENATOR BLOOMFIELD: Okay. Thank you. And I'd yield the rest of my time to Senator Larson. [LB232]

SENATOR COASH: Senator Larson, 3 minutes. [LB232]

SENATOR LARSON: Thank you, Mr. President, and thank you, Senator Bloomfield. As I was listening to the debate and remembering what we did on Appropriations in terms of lapsing the reappropriation and bringing it back so the floor could decide on this, I

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thought Senator Chambers brought up a very interesting point in terms of we're using--and Senator Mello touched on this--we're using roughly close to \$2 million that the Supreme Court saved to give the judges this increase. Now that \$2 million covers it for these two years. If Senator Lathrop would yield to a question, I'd appreciate it. [LB232]

SENATOR COASH: Senator Lathrop, will you yield? [LB232]

SENATOR LATHROP: I will. [LB232]

SENATOR LARSON: Thank you, Senator Lathrop. So the reappropriation that the Appropriations lapsed will cover the two years of the budget essentially, these two years, correct? [LB232]

SENATOR LATHROP: It's actually not a reappropriation because we can't do that with a different branch of government... [LB232]

SENATOR LARSON: Well, we pulled... [LB232]

SENATOR LATHROP: ...like you could Health and Human Services. [LB232]

SENATOR LARSON: Yes. [LB232]

SENATOR LATHROP: But your point is the same. [LB232]

SENATOR LARSON: Yes. [LB232]

SENATOR LATHROP: The money that the Supreme Court saved by being efficient and by other means, will cover the first two years. There will be some out-year expenses because they're going to be making more. It's not a 5 and 5 for two years only. [LB232]

SENATOR LARSON: And that was my next question. When we give them this raise, it stays in place unless the Legislature goes back and essentially gives them a pay decrease, correct? So in the out bienniums, we will see this essentially when the judiciary comes, Agency 5 comes to the Appropriations Committee, there will be another \$2 million on every out-biennium budget moving forward. [LB232]

SENATOR COASH: One minute. [LB232]

SENATOR LATHROP: These will be part of the new base cost of judges salaries going forward. [LB232]

SENATOR LARSON: All right. Thank you, Senator Lathrop. And I just kind of wanted to

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clarify that. Again, I think Senator Mello did a great job of explaining that, and it raises concerns. I think Senator Lautenbaugh also brings up great points in the fact that our judges, we need to have competitive salaries. But as a member of the Appropriations Committee, I always try to be very cognizant of where we are going to be, two, four, six years down the road, and wanted to make sure that, again, as Senator Mello tried to describe, that we have it paid for the first two years; we don't have it...or it will just be in the Judiciary Committee base, so it will be \$2 million less that senators have to spend in two years on their floor bills. We've heard that a lot this session: What are we spending our money on now? [LB232]

SENATOR COASH: Time, Senator. [LB232]

SENATOR LARSON: Thank you. [LB232]

SENATOR COASH: Thank you, Senator Larson. Senator Seiler, you are recognized. [LB232]

SENATOR SEILER: Thank you, Mr. President and members of the Unicameral. I'd like to reinforce what Senator Lathrop said. If we're going to continue to keep our eye on the ball, not the judges in office right now but the future judges, to get a good lawyer to give up his practice and move to the bench is going to take some money. And this salary is a start to keep it in line. Right now, you can hire all the lawyers you want for \$50,000 coming out of law school. We just hired three last week, so...or excuse me, two. I don't want to spend on one we didn't hire. But two for \$50,000. I heard this morning that the loans that the students coming out of law school have is about \$150,000. So if you're starting out at that position and you want to get the top cream of the crop to go on the bench, you're going to have to pay these kind of salaries. So I think you need to keep the future judges in mind when you're looking at these salaries. Thank you very much. [LB232]

SENATOR COASH: Thank you, Senator Seiler. Senator Burke Harr, you're recognized. Senator Chambers, you are recognized. [LB232]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I must take advantage of opportunities which are presented to me. I had intended to write a letter to the World-Herald. They let you write an essay called "Another Point of View," or something like that. But I was very disappointed in a position that the Chief Justice took not many days ago. There was a case involving an illegal immigrant. The statute says that before a noncitizen enters a plea of guilty or no contest, nolo contendere, which means, in effect, that you're not saying you're guilty but there's enough evidence where they might be able to convict you. But a plea of no contest carries the same consequences as guilty, generally speaking. The advisory that the court is required to give such a person is contained in a statute which anybody who can read would

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understand. It says before such a plea is accepted by a court, that individual must be given this advisory, that a plea of guilty or no contest may result in your being deported. A district judge in Douglas County, named Michael Coffey, who is very arrogant, he does anything he wants to. The Supreme Court is afraid of him. The Judicial Qualifications Commission is afraid of him. So he decided he was not going to give this advisory, and the man was sent to prison. Then his lawyer filed an appeal, and the appellate court, the lower courts going along with the program said, well, no, that advisory not being given doesn't matter because there were taped conversations between this man and members of his family where he acknowledged that deportation was likely to occur after his plea. So the state wanted to indicate that despite the fact that the judge violated the law, it should make no difference because this man knew the consequences of such a plea, therefore he should not be allowed to withdraw that plea and enter a plea of not guilty. Well, a majority of the Supreme Court...it was only a majority because the Chief Justice dissented, they tried to explain it in as basic a way as possible that what we have here is a statute, and they quoted the statute and they said it has two elements that the defendant must prove in order to be allowed to withdraw a plea. First of all, that he is a noncitizen and that he could be deported if he entered this plea. And the court must give that advisory that if you enter such a plea, deportation can occur. The judge didn't give it, so the Supreme Court sent the case back so that the man could withdraw his plea and enter a not guilty plea. And the Chief Justice admitted and agreed with what the majority had said,... [LB232]

SENATOR COASH: One minute. [LB232]

SENATOR CHAMBERS: ...that the law states that you must give this advisory and that same statute mentions the consequence if you don't give it, which is that the person may withdraw that plea of guilty or no contest and enter a not guilty plea. But the Chief Justice wanted to do something which I'll have to talk about the next time I'm recognized. [LB232]

SENATOR COASH: Thank you, Senator Chambers. Senator Nelson, you're recognized. [LB232]

SENATOR NELSON: Thank you, Mr. President and members of the body. As a member of the Appropriations Committee, I want to make some comments and ask some questions, perhaps, just for purposes of clarification. First of all, I do appreciate the work that our Supreme Court is doing and the other judges, in particular our Chief Justice and his efforts to conserve money in practically all the programs where he particularly can and also the nature of the work that he's doing. And I think the fact that the court has worked very, very hard to save money by not filling vacancies and doing other things, I think that's commendable. But I think we have to take a look at the figures here just so we're aware of what we're doing. And to that end I want to ask Senator Lathrop a question, and we'll be coming up on the A bill pretty soon, I suppose, but I

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want to get this out of the way first. If Senator Lathrop will yield. [LB232]

SENATOR COASH: Senator Lathrop, will you yield? [LB232]

SENATOR LATHROP: Yes. [LB232]

SENATOR NELSON: Thank you, Senator Lathrop. What is the justification for a 5 percent raise each year so that we're raising, say, a \$150,000 salary by 10 percent at this time over the next two years? [LB232]

SENATOR LATHROP: That takes two years. Exactly. Two...well, several reasons. One is that you need to have competitive salaries to draw good lawyers into the position, leave their law practices or leave the prosecutor's office if that's where they're at, to sit on the bench--first reason. The second reason is they have had, for the most part, it looks like 2 percent raises. They had in '11, no raise; in '12, a 2 percent raise. They're due. The third thing is that there is an agreement with the judges that if they receive the raise that is proposed in this bill, that they will allow the sunset, which helps in their retirement account, they are going to make contributions longer, I believe, to their retirement account. They had struck a deal where they agree to pay more money into the retirement account and that was supposed to sunset this year. The next bill you're going to hear is sort of the consideration for this, which is they're going to...we're going to take the sunset provision out of the retirement bill and they will continue to contribute more than they are obliged to, to their retirement. Those would be the three reasons. [LB232]

SENATOR NELSON: So out of the salaries that they receive, they are making a contribution toward their retirement. Is that correct? [LB232]

SENATOR LATHROP: They're making a contribution of an additional 1 percent to their retirement. [LB232]

SENATOR NELSON: And do you know what the percentage, overall percentage, is right now that they're contributing? [LB232]

SENATOR LATHROP: I don't have it right now. [LB232]

SENATOR NELSON: All right. [LB232]

SENATOR LATHROP: You might ask Senator Nordquist that on the next bill. [LB232]

SENATOR NELSON: Okay. In addition to the salaries they're receiving, all of the judges, there are also health benefits that are paid for by the state? I mean they're... [LB232]

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SENATOR LATHROP: Yeah, I believe that's true, and they have a retirement. [LB232]

SENATOR NELSON: All right, fine. So I'm just...I just want to bring out some figures here. At the present time, over the next two years of the biennium, our entire bill for judges, just for salaries alone, is \$42,500,000, and that doesn't include the Work Comp Court. So it's a considerable amount that we're paying out. [LB232]

SENATOR LATHROP: It is. [LB232]

SENATOR NELSON: And the other thing that I would like to...thank you, Senator. Time and again, and I support the bar and I understand where the bar association is coming from, they want to support the judges and we all do... [LB232]

SENATOR COASH: One minute. [LB232]

SENATOR NELSON: ...but within a reasonable amount. We have a parade of witnesses coming in saying that we've got to keep these salaries, we've got to keep getting them higher if we're going to attract attorneys to leave their practices. Now if what we heard from Senator Seiler that a starting attorney is \$50,000 and maybe, you know, in 15-20 years you're making \$150,000, you also have a lot of overhead in an office and I think commonly we know that in the practice of law 40 percent at least is going to go for overhead. So we're talking about attorneys in private practice that have to pull in probably a gross of \$350,000-400,000 if they're going to come up with a salary like this, plus the benefits that the judges are coming. So I just have to say for the record I don't buy that argument all the time. I think we have plenty of applicants for the judiciary that come, you know, from maybe the center. They're not the top dollar lawyers, they're not the low bottom dollars, but I still have to be persuaded that we have... [LB232]

SENATOR COASH: Time, Senator. [LB232]

SENATOR NELSON: ...to be increasing salaries to this extent. Thank you. [LB232]

SENATOR COASH: Thank you, Senator Nelson. Senator Chambers, you're recognized. [LB232]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, picking up the thread where I left off, and I'm saying this for the record, everything we say, as we know, is recorded and transcribed, and I want this a matter of public record. The Chief Justice accepted an argument by the incompetent prosecutors that because they could show that this man knew he would be deported, it wasn't necessary for the judge to give that advisory required by statute because the man could not show that it

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prejudiced him in any way. That means deprives you of a right or results in an injustice. The majority said, we are dealing with a specific statute and the statute lays out clearly what the defendant must prove, and if he proves that you must allow him to withdraw his plea if he files such a motion, and that's what was done in this case. There is nothing in the statute that says he or she must show that he or she was prejudiced. And this is not what the court said, but it's what I say: The duty was placed on the judge. The Legislature placed a duty on the judge and stated what the consequence is if the judge doesn't carry out his duty and the Chief Justice of the Nebraska Supreme Court said it shouldn't matter what the Legislature said; I think that an additional element should be added which is not in the statute and the state should be allowed to show that this person was not prejudiced because he already knew. And the majority said it doesn't matter what he knew. The Legislature made it clear what the judge has to do and laid out the consequences. That was met and they ruled in favor of the man. The Chief Justice said that he felt the reasoning of the California Supreme Court in a case similar to this one was persuasive, that prejudice should have to be shown. It doesn't matter if every court in this country and around the world said something different. The law was clear and a judge is bound by the law and the majority said when there is a statute involved and we are construing that statute, we are not to read anything into that statute which is not there, and we are not to read anything out of that statute which is there. And prejudice is not one of the elements of this statute, and the Chief Justice is simply wrong. He knows that. Their ethics require a judge to take continuing judicial education. The Code of Judicial Conduct places that responsibility there because it's a Supreme Court rule, and the Chief Justice knows it. But he says, in effect, you can ignore the law if you're a judge and there should be no consequence. We will just read the law and change what it says to make this wrongdoing judge correct. And not only will that wrongdoing judge be rendered correct, the Chief Justice will go along with his wrongdoing and ask the rest of the court to go along, and in effect, we will negate a statute enacted by the Legislature. But you go before that court where you're charged with violating a law and you say I don't think the law should say what it says,... [LB232]

SENATOR COASH: One minute. [LB232]

SENATOR CHAMBERS: ...it should say such and such. The court is not going to say we look at what the law should say, we look at what the law does say. And the law is the law, unless it's a judge. Now I know this is my third time, but I started on this amendment so that I can finish what I'll have to say when other elements of the bill come up for discussion before us, and I don't have to offer motions. Thank you, Mr. President. [LB232]

SENATOR COASH: Thank you, Senator Chambers. Senator Bloomfield, you are recognized. [LB232]

SENATOR BLOOMFIELD: Thank you, Mr. President. I was just going over a couple

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numbers here, and you know, the increase that we're wanting to give the Chief Justice, and he's a fine fellow, but after two years the increase that we give him is roughly \$3,000 a year more than we make. There are people on this floor also where we're told that we can't get good candidates here because they don't pay enough. Looking around this room, I don't believe that argument holds water. I had five opponents when I ran. I don't know how many of you came in here without any opponents, but I don't believe this outlay of money is necessary at this point in time. When the state totally recovers from the recession we've come through and we have a little surplus money, that's the time to give state employees and highly paid officials, such as the Supreme Court Justice, a raise. Now is not the time. I really don't have much more to say on this. I just can't support it. Thank you. [LB232]

SENATOR COASH: Thank you, Senator Bloomfield. Seeing no other lights, Senator Ashford, you're recognized to close on the Judiciary amendment. [LB232]

SENATOR ASHFORD: I would waive closing, Mr. President. [LB232]

SENATOR COASH: Senator Ashford waives closing. Members, the question before the body is, shall the Judiciary Committee amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB232]

CLERK: 31 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB232]

SENATOR COASH: Committee amendment is adopted. We return to discussion on LB232. Senator Chambers, you are recognized. [LB232]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature. As they say in the trial court, I'm making a record. It may have been in the 1600s when a man made a statement which I'll paraphrase: Ignorance of the law is no excuse. This is stated not because every man, in fact, knows the law, but such a plea would be made by every man, and no man could successfully counter it. The Chief Justice would have us to say "ignore-ance"--and I'm going to spell that for the sake of the transcribers, i-g-n-o-r-e hyphen a-n-c-e. Ignorance of the law is no excuse but "ignore-ance" of the law by a judge is. And now back to ignorance of the law. Let's assume the judge was ignorant of the law and the prosecutor was ignorant of the law. You'd have to say ignorance of the law is no excuse except for a judge and a prosecutor who is a lawyer, both of whom are presumed to know the law and are required to know the law and are required to be proficient in the law and obey the law. But this judge didn't. And what the majority of the Supreme Court said, this burden doesn't just fall on the judge. If you had a competent prosecutor interested in preserving the validity of a plea, that prosecutor should have spoken up to make sure that the judge gave the advisory. And in the courtroom they knew, the judge and the prosecutor, that the statute says before the

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advisory is given to try to cover their rear end the prosecutor put on the witness stand the lawyer who represented the man during the trial, and this lawyer testified that he had informed the man of what could happen, namely that deportation was likely. And the majority says, so what? That doesn't excuse the judge. The judge's responsibility is set by statute, not what anybody else told this person. It has nothing to do with what this person knew. The judge didn't do what he should and the statute says that entitles the person to withdraw the plea and that's what's going to be done here today. Why did the Chief Justice do that? I'll tell you what, if he had done it before I had entered the deal with the Judiciary Committee and the judge sitting there, I don't know whether I'd have a different opinion on this salary increase. They're talking about the best and the brightest, and here the Chief Judge may be presumed to be the best and the brightest. He's at the acme, he's at the pinnacle, he's the top, he is the paradigm and everything comes down from him, and that's why we give the Chief Judge that salary and then everybody gets a lesser amount, because they are of a lesser standing than the Chief Judge. And the Chief Judge said that when one of these best and brightest does not obey the law, change the law. The Chief Judge said it. And he wants this increase. I don't blame him. Everybody wants more money. But there ought to be accountability. Who will judge the judge? Who will police the police? Who will watch the watchers? Who will even talk about it in the way it should be? Well, I will. But who listens to me? Being realistic, I know a lot of people listen. [LB232]

SENATOR COASH: One minute. [LB232]

SENATOR CHAMBERS: And the Chief Judge might be listening right now, and if he's not, somebody will tell him what I said and if nobody tells him, there will be a transcript. And I'm very displeased and I'm disappointed. I know what they tell you in law school about the dignity and integrity of the legal profession. Thank you, Mr. President. I'll turn on my light again. [LB232]

SENATOR COASH: Senator Chambers, you're recognized. [LB232]

SENATOR CHAMBERS: Thank you, Mr. President. What I intend to do is hand out bits and pieces of things I've done in courts to show that I have won cases, that I read the law and I play by the rules. I abide by the law and I win decisions. And I'm going to hand some of them out, and you all don't have to read them but you're curious so you will read them. But at any rate, when you're in law school they tell you about the necessity of having a competent, independent judiciary. The Code of Judicial Conduct has a statement to that effect, that not only must a judge do what is right, but it must appear to be right. Caesar's wife must be above suspicion. The judge must be above suspicion. And what I'm talking about is what the Chief Judge wrote in his dissent. You can get a copy of it and read it. He admits everything that the majority said, but because to abide by the law would allow a person who entered a plea to withdraw it, he said, change the law and add another element. The Chief Judge. They wouldn't let a lawyer get away

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with that. But when you are the one who is deemed to be the one to make the law, then you can do no wrong. And when everybody is afraid of you, then you presume on that and you bring the judiciary into disrepute. And if a lawyer does something that brings the legal profession into disrepute, that lawyer can be disciplined. But not a judge. Because the judge is above the law unless somebody such as me can put together such an airtight case that literally no air can escape, and I did get a judge thrown off the bench against whom others had filed complaints and they were disregarded. But when I come with a case, I make it impossible for them to ignore it. And when they issued their findings, it followed and paralleled the case that I had laid out, because I went to court employees who had been victimized by this judge; the testimony of judges in Douglas County who had been victimized. I think Senator Ashford's brother may even have been victimized by this judge by some of what he called pranks. But I was the one who beached the whale and I'll go after those judges. But that's not my job. And I'm going to hand out an editorial written some years ago by the Lincoln Journal Star which says you think that I was a part of the system and that it was my job to oversee what judges are doing, especially those who misbehave. And then it mentioned some of the complaints I filed, some of the judges who had been disciplined as a result. So don't talk about the best and the brightest being the ones who are getting these jobs, because I know otherwise. And I know some whose reputations are so notorious and the Chief Judge knows and he won't do anything about it. I shouldn't have to be the one to do it. He has the authority and judges can file complaints themselves. And there's such a thing as willful ignorance. And you know what that means? A person deliberately turns his or her eyes away so that they can say they did not see something and therefore not be culpable for failing to act... [LB232]

SENATOR COASH: One minute. [LB232]

SENATOR CHAMBERS: ...when they ought to act. That willful ignorance which judges will ascribe to a person who had a duty to carry out and did not do it, but it doesn't apply to the judges. They who judge are not judged by anybody. And if a salary were to be viewed as an index to how competent somebody is, then I don't know whether they should get a salary increase. But we are looking at a branch of government. And I have one more time to speak, Mr. President. [LB232]

SENATOR COASH: Thank you, Senator Chambers. You are recognized. [LB232]

SENATOR CHAMBERS: When you have a democracy or a republican form of government, a representative form of government, or a representative democracy, whatever term you want to apply to the way America is governed, you have to have a genuine independent judiciary. The judges must administer the law without fear or favor. People should have confidence that if there is unfairness everywhere else in society, there is one sanctuary where that will not be the case and that would be the Hall of Justice rather than a hall of horrors. And unfortunately, for many people, it is the hall of

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horrors, and those who are in that profession know who the monsters are, but they will not do anything to self-police. So I have to do a lot of work. I have to talk to disgruntled people. I have to review what they tell me. I have to make a determination of whether I think there's validity to it or not. Then I have to go through a great amount of trouble, collecting and writing cases, writing a brief, and then filing a complaint on behalf of somebody who feels they have nowhere to turn despite the contempt which is held toward me in this state. When somebody has a problem with a judge, they have to come to the one for whom they hold the greatest contempt, because they really know where they have to go to get what they want. It is correct to say, and I'll say it in my own way, that when you have a position where great responsibility is found, the salary annexed to that position should not depend on who is occupying it at a given time. You look at what the office is supposed to be about, the duties that are supposed to be discharged, and you offer a level of compensation that is suitable for a person in that position discharging duties at the level required. And you make that salary available and you hope that there are people who, even if they are making much more money, would say that the amount of this salary does make it possible to live comfortably, take care of a family if you have a family, take care of a sweetie if you have a sweetie, any significant other or others, plural. But whatever it is, it's enough that you're getting so you can continue living that lifestyle. And then you pay that person the money. And the person then is expected to discharge the duties at that high level. And if that is not done, then you bounce that person and there's somebody else willing to take it. But if you want to have a democracy that functions, you must have a judicial system in which the public has confidence. Despite the fact that we all know that every judge is only human, all of us are only human, but that they're going to have some flaws, they're going to make missteps, mistakes, and even do like the Chief justice, bone-headed stupidity incarnate. But you still have to make do with the best that you can get. And what you have sitting on the bench now, benches, you have to say it's the best that you can get because it's all that you've got. So I say pay them. I say give the 5 percent increase the next year and the next year. But the reason I say that, if for no other reason, I entered the deal. [LB232]

SENATOR COASH: One minute. [LB232]

SENATOR CHAMBERS: And I believe in abiding by that. I do not think it's an exorbitant amount. I don't want to see the judges have to come to the Legislature like somebody with a tin cup and beg. I don't want to see them maybe cripple the way the judiciary operates by refusing to appoint judges where they're needed in order to recoup that salary that would be paid and put it in a pot and say, we didn't fill these positions; we cut off here, we cut off there; and now that we've accumulated enough money, give us a salary increase. I think the court is behaving in a way that is not admirable when they do that. But the Legislature bears some of the responsibility and I think we can start assuming some of it, at least now; and we'll let the future take care of itself because, Senator Lathrop, sufficient unto the day is the evil thereof. Thank you, Mr. President.

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[LB232]

SENATOR COASH: Thank you, Senator Chambers. Seeing no other members wishing to speak, Senator Lathrop, you're recognized to close on the advancement of LB232. [LB232]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I did not turn my light on, but I did listen. I want to remind you that we're not choosing the salary of a bureaucrat who's down in a state office building looking through files and performing some narrow function. We're talking about members of the bench. This is a separate branch of government and when we deal with their salary, it is a special time in the Legislature, because they count on us to do the right thing. We're not talking about these numbers may not be what you made when you were making a living before you got here or when you leave here. When we choose men and women to serve on the bench, to become judges in this state, we take them not from the beginning of their career or at the very end of their career, but typically in the pinnacle of their career. And I will tell you, I know many of these men and women and they are making more than this before they go to the bench. They do it out of a sense of service and they have a trust with this branch of government that when they serve the people of the state, we will see to it that they receive reasonable compensation. This bill does that. It makes up for it. They've done it. It is with an agreement that they will compromise on the retirement which you'll hear Senator Nordquist talk about next. I would encourage your advancement of LB232. Thank you. [LB232]

SENATOR COASH: Thank you, Senator Lathrop. Members, you've heard the closing to LB232. The question before the body, shall LB232 advance? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB232]

CLERK: 26 ayes, 2 nays on the advancement of LB232. [LB232]

SENATOR COASH: LB232 does advance. Next item, Mr. Clerk. [LB232]

CLERK: LB232A by Senator Lathrop. (Read title.) [LB232A]

SENATOR COASH: Senator Lathrop, you're recognized to open on LB232A. [LB232A]

SENATOR LATHROP: Very simply, this is the A bill for the judges salary, and I would encourage your support for all the reasons we discussed on LB232. Thank you. [LB232A LB232]

SENATOR COASH: Thank you, Senator Lathrop. Members, you've heard the opening to LB232A. Senator Chambers, you're recognized. [LB232A]

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SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, you heard all of the things that I said, all the criticisms, all of the negative things. I'm not in the pocket of the judges or the judicial system. I want that clear. But I have always been a strong advocate of paying an adequate salary to people who have a hard job to do. I'm against the death penalty, but judges pronounce that sentence. Judges terminate parental rights. Judges deprive people of their freedom pursuant to a sentence they impose. It can run from probation where your freedom is just limited to a number of years which amounts to a sentence that will result in your dying in prison. A dispute between two neighbors, because one's dog barks too loud, a dispute among several neighbors because some people do not want to conform to one of those covenants that says you cannot have your house painted a certain color or you cannot have a certain ornament in your yard, the kind of issues that a lot of us would say, I don't even want to hear it. But the judge must. And even though the county judges get the lowest salary, and maybe you have the least competent people there because I know what...I can hear the wheels turning in some people's head, yeah, you pay them what they're worth and you overpay them. Let me say it my way: The only ones who have to make a decision are the judges at the trial court level. They have to decide one way or the other. They cannot escape it. I don't care how close the issue is; I don't care how disreputable and lacking in credibility the witnesses on both sides are. That person is the point, the tip of the spear, and must make a decision. And the appellate judges have something to work with when it comes to them. First of all, somebody else has made a decision already. But in order that they don't have to go through the same agony that the deciding judge at the trial court had to do, the courts will start almost every opinion by saying, the court is not going to reweigh the evidence. The court is not going to determine the credibility of witnesses. The court is going to leave that to the trial judge because that person observed the witnesses, their demeanor as they testified, and so forth. So they lift off their shoulders the biggest burden of all, the sifting and sorting through all this mishmash and trying to stay alert. But nevertheless, those are the types of decisions they have to take while judging. And any of us who is going to have a controversy will have to go to a court and be before some judge or somebody is going to hail us into a court before a judge. And as Senator Lathrop pointed out, these are not functionaries. They are not people carrying out ministerial duties that are itemized, one, two, three, four, five six, cross this t, dot that i. A lot of times they have to fly literally by the hems of their garments. I won't say the seat of their britches. But that's what they're confronted with. And this is the A bill. I will support it. There was a period when the constitutional officers could not get a raise, so I had said I will carry the bill and get them a raise. [LB232A]

SENATOR COASH: One minute. [LB232A]

SENATOR CHAMBERS: And in the same way that President Nixon was the one who could thaw relationships between the United States and Russia, I who had disputes, bitter disputes with practically everyone of the constitutional officers, was the one with

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enough credibility to not only get the bill passed but to override the Governor's veto. So as Senator Lathrop said, we're talking now about what we as one branch of government should do to protect the integrity and dignity of another branch. So obviously I'm supporting this bill. [LB232A]

SENATOR COASH: Thank you, Senator Chambers. Senator Nelson, you're recognized. [LB232A]

SENATOR NELSON: Thank you, Mr. President and members of the body. Let me start by saying I have no problem with the performance of our judges or the fact that they need a good salary, just compensation, because I agree with Senator Chambers, they have a very hard job. There isn't any question about that. They should be adequately compensated. But I'm not going to support this A bill at this time because I still have some questions about that, and let me tell you what the questions are, the judges...or the considerations or the reservations are. The judges, as I understand it, the Supreme Court, at least, through their hard efforts have saved about \$1.3 million for the first year of the biennium, and we won't know until the end of this year how much it's going to be saved. But let's say it's another \$1.3 million or \$1.6 million. That comes to about \$2.8 million. And through the procedure that we've talked about, if they've saved that much money, fine. Then that's what they're entitled to as far as I'm concerned. But when I add up the figure here in this A bill, not including Work Comp Court, which is another program, for the amounts that go for salaries alone, I come up with \$3.36 million. So there's a variance there. So that's going to have to be made up with General Funds unless we find a way to lapse that entire amount and break even. But I still have questions about that and I don't think that's been satisfactorily answered. One thing I will say is that if we...I want to make two comments, that I was mistaken in saying that in addition the state has to pay insurance premiums for health insurance. That is paid out of the salaries. I verified that, so they are paying that. They're also going to be making some concessions as I understand it, and we'll probably hear from Senator Nordquist about additional money they're going to be paying toward the retirement fund, and I heartily endorse that. I think that needs to be done and I think we all need to...all of the various agencies, if we're going to do something about retirement and get that huge amount, that shortage that we have, or get that under control, the state may have to do something. But also the judges and all the other state employees are going to have to do their part. The other comment I have, I think the statement was made, well, we can cut the judges salary down the road. Well, I don't think we can do that constitutionally. I don't think that you can ever really cut a judge's salary, and I might ask Senator Lathrop, if he's familiar with that, at least while they're in office. Senator Lathrop, would you want to comment on that? [LB232A]

SENATOR COASH: Senator Lathrop. [LB232A]

SENATOR LATHROP: I don't know if anybody has ever tried that, and I don't know if

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there's a law prohibiting it. But it would take at least a statute. We'd have to change the law with respect to their salary if somebody had that kind of a notion. [LB232A]

SENATOR NELSON: Well, I do believe...thank you, Senator Lathrop. I do believe that there's protection there. So that we in Nebraska, just because we happen not to like what the decision of the Supreme Court is, we can't make a move at least at that time to cut salaries. And that's kind of a side bar to what we're talking about here. I just want to give my reasons for why I am not going to support the A bill as it stands right now. Thank you. [LB232A]

SENATOR COASH: Thank you, Senator Nelson. Senator Davis, you are recognized. [LB232A]

SENATOR DAVIS: Thank you, Mr. President and members of the body. Just rising in support of the bill. But more than anything, I wanted to say that I have never thought of Senator Chambers and President Nixon in the same voice, so I guess maybe we ought to think of Ernie Chambers as Ernie Nixon now, since he's comparing himself to that person. Thank you. [LB232A]

SENATOR COASH: Thank you, Senator Davis. Senator Chambers, you're recognized. [LB232A]

SENATOR CHAMBERS: Thank you, Mr. President. And it shows how little regard they have for Senator Davis, but he would have said Senator Nixon. But I appreciate it. Members of the Legislature, there was a time in this state when they had a position known as a justice of the peace. And do you know how the justice of the peace got his salary? Got a cut out of the fines that would be levied. So there was a financial incentive placed on the justice of the peace to find somebody guilty or whatever the finding was, because I didn't see them as judges and what they had I didn't see as a court. But nevertheless, that was a kind of a checkbook-type of justice, and the one meting it out had a financial interest in arriving at a certain decision. While I've been in the Legislature, there have been successful bills passed over my opposition to increase various court costs and fees in order to be a setoff against a salary increase for the judges and to operate the courts. I objected because despite my criticisms of America, of the state of Nebraska, of the Legislature, the legislators, and the judges, the system should maintain a certain integrity and no branch of government should be required to raise the money necessary to allow that branch to function and carry out its duties. My argument always was based on the notion that the General Fund is the receptacle into which all of the revenue that comes to the state is placed. And out of that fund should go the costs of the government itself. And since the courts represent one of the three branches, they should not have to try to persuade the Legislature to tack on an additional \$1 to every traffic ticket, \$5 for every filing, when there could be no correlation shown between that extra money and what was involved with whatever that money was

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attached to. So I understand what Senator Nelson is talking about. And the thing that opened the door for him to make his observations was the statement or assertion made that the courts, through efficiency, had generated a certain amount of money that was not spent, that could be used as a setoff against a salary increase. I don't think that point should have had to be made. Whether they could account for money that would be a setoff or not, we should determine what a fair and just level of compensation it is, and we should appropriate that money from the General Fund. How many times have you heard anybody say the Governor should find some kind of way to bring businesses here that bring in more tax money so that the Governor's Office can be funded? Never. Who has said that the Legislature has to create new types of taxes and keep them in a discrete location so that they will represent the tax money generated by the Legislature to pay the cost of the Legislature? Then why should we take...I say the Legislature is the most powerful branch. We are. But if you ask me the most essential branch, I would have to say that its the judiciary. Justice can be considered by some people a strange word. Justice as a concept is really so elusive that nobody can adequately define it. [LB232A]

SENATOR COASH: One minute. [LB232A]

SENATOR CHAMBERS: So sometimes using Occam's razor, you use the simplest approach to say what you're trying to say. So justice, simply stated, could be giving a person his or her due. And that says it all while really not saying anything, but it conjures up in the mind of a person the meaning that you're trying to arrive at. I'm not trying to delay the bill, but I want to help make a record. Thank you, Mr. President. [LB232A]

SENATOR COASH: You are recognized, Senator Chambers. [LB232A]

SENATOR CHAMBERS: Thank you. I would like to ask, Mr. President and members of the Legislature...and let me get that statement correct. Mr. President and members of the Legislature, I would like to ask a question of Senator Nelson if he would respond. [LB232A]

SENATOR COASH: Senator Nelson, will you yield? [LB232A]

SENATOR NELSON: Yes, I will yield. [LB232A]

SENATOR CHAMBERS: Senator Nelson, accepting your presentation, what would have to happen in order for you to support this bill? What would you have to be shown? [LB232A]

SENATOR NELSON: I would have to have the figures clarified and make sure that mine were not in error when I think we've got a variance of between the \$3.3 million increase

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and the \$2.8 million savings. If I'm wrong on that, then I would support it. But I don't think my figures are incorrect. [LB232A]

SENATOR CHAMBERS: Okay, that's why I said based on what you said. Let's say your figures are correct. Why would that lead you not to support the bill if...let me ask a preliminary question. Is it your contention that before judges receive an increase, they should be required through their activities somehow to generate enough savings... [LB232A]

SENATOR NELSON: No. [LB232A]

SENATOR CHAMBERS: All right. [LB232A]

SENATOR NELSON: No, not at all. [LB232A]

SENATOR CHAMBERS: So that's not what it is. What difference does it make if the figures don't match? [LB232A]

SENATOR NELSON: It makes a difference to me because we're only going to have a certain amount of money on the floor of \$16 million, \$18 million dollars, and if have to come up with an additional amount here out of General Funds to make up the difference, then I object to that. If the judges are willing to go with the actual savings here and this is what they want and this is what the agreement is, then I'm fine with that. But at this point I'm not satisfied with what's set forth here in the A bill, and we have no fiscal note at this time because we didn't know, you know, what we were going to do on the floor at this time. So we don't have any figures set out by the Fiscal Office as to what the accurate figures are right now. [LB232A]

SENATOR CHAMBERS: But whatever the fiscal note turns out to be, whatever the actual figures are, you would feel compelled to vote against this bill if whatever those figures turn out to be, the amount it would take to fund the salaries were less than the amount realized through these efficiency savings, you would not be able to support the bill. Is that what you're saying? [LB232A]

SENATOR NELSON: (Inaudible.) I mean if it turns out that we're going to have put more and we're going to have to take it out of the General Funds, then I think we ought to talk about that. [LB232A]

SENATOR CHAMBERS: But that doesn't necessarily mean after our conversation that you would oppose the bill. [LB232A]

SENATOR NELSON: That's true. [LB232A]

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SENATOR CHAMBERS: Thank you. And I think your vote is very important. Thank you, Senator Nelson. That's all I have of you. Members of the Legislature, what I'm really trying to get across is now in the realm of theory if you want to place it there. What do we mean when we say three branches of government? And some people use the term coequal, which I don't accept. The Legislature is paramount. But let's say they're coequal and that each branch operating the way it should is essential to the government as a whole, carrying out its duties and responsibilities which would be to achieve the greatest good for the greatest number of the people over which the government is going to preside. If that's what it is, then what we have to do is figure what it takes to operate that government, then find the wherewithal to make it available. I doubt that there's anybody on this floor who has a car that will get as many miles as mine will when it's operating at optimum value. [LB232A]

SENATOR COASH: One minute. [LB232A]

SENATOR CHAMBERS: And that's about 44 point something miles per gallon. And I have 502,000 miles on my car with the original engine. So when people say, when was the last time you bought a car, I don't even want to think about it. But here's what I'm getting to. I took care of that car and that car takes care of me. If we take care of the actual, necessary costs of government, the government can do what it is supposed to do and the citizens are the beneficiaries. And in case I forget when times come for a vote, I want to have a call of the house. But I'll ask for that at the appropriate time. [LB232A]

SENATOR COASH: Thank you, Senator Chambers. Senator Nelson, you are recognized. [LB232A]

SENATOR NELSON: Thank you, Mr. President and members of the body. I have a question or two for Senator Chambers if he will yield. [LB232A]

SENATOR COASH: Senator Chambers, will you yield? [LB232A]

SENATOR CHAMBERS: Oh, yes, I will. [LB232A]

SENATOR NELSON: Senator Chambers, will you share with us what the make of the car is that you own? [LB232A]

SENATOR CHAMBERS: It is a Honda Civic, and I got it in 1999. [LB232A]

SENATOR NELSON: 1999. So that's 12-13 years old now, is that about right? [LB232A]

SENATOR CHAMBERS: Right. And it sure...it purrs like a kitten. [LB232A]

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SENATOR NELSON: Thank you. You've taken good care of that car. [LB232A]

SENATOR CHAMBERS: Oh, yes, I have. I cherish the car and I take better care of it than I do myself, because I make sure the oil change occurs when it should, and all of the minor repairs are done. But I need to get an eye exam and I've been putting it off, and I also need a colonoscopy, but I'm going to take care of those things too so that I can be around as long as my car. [LB232A]

SENATOR NELSON: And you never drive more than 55 miles an hour on the interstate. [LB232A]

SENATOR CHAMBERS: Senator Nelson, you've stopped interrogating and gone to meddling. [LB232A]

SENATOR NELSON: Thank you, Senator Chambers. I have a question for Senator Nordquist if he will yield. [LB232A]

SENATOR COASH: Senator Nordquist, will you yield? [LB232A]

SENATOR NORDQUIST: Yes. [LB232A]

SENATOR NELSON: Senator Nordquist, I think it's important to know and I'm going to ask you this question, where does the bulk of the money come for the judges retirement fund? [LB232A]

SENATOR NORDQUIST: The bulk would come from court fees, which is the equivalent of the state being the employers contribution to the plan. [LB232A]

SENATOR NELSON: All right. So the retirement fund for the judges is basically funded by court fees. [LB232A]

SENATOR NORDQUIST: I wouldn't say...I wouldn't say...basically it's the judges contribute 7...on average, there's floating rates depending on when they were hired and how long they've been employed. But on average, they contribute 7.26 percent of their salary to the plan. I believe the state, ultimately, depending on the year and the unfunded liability of the plan, I think it's about...we contribute about 260...250 percent--I'll double-check that with the staff. But about 250 percent of what's paid into the plan comes from court fees and then the judges salary, their share, their contribution makes up the rest. [LB232A]

SENATOR NELSON: Two hundred and fifty percent of what? [LB232A]

SENATOR NORDQUIST: Two hundred and fifty percent more than...so essentially the

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employer match. We often talk about the employee contribution and the employer match. A lot of times it's 100 percent, but the state does contribute significantly more than the employee, about 250 percent, 2.5 times. [LB232A]

SENATOR NELSON: So Senator Chambers was talking about his opposition over the years to using court fees for that purpose. So, but here we are. We are using court fees to pay for part of the pension and the judges are making up the rest. [LB232A]

SENATOR NORDQUIST: That's right. And the next bill will discuss both aspects of that, the employee contribution, that going up; the court, well neither are going up I should say, but we're removing sunsets to prevent them from going down to previously established rates in statute. Sometime the state just, you know, kind of floats. If there's an unfunded liability, sometimes we make plan changes to address the unfunded liability. Ultimately, the liability for the plan falls on the state. And if we don't make plan changes, then we have to use General Funds to meet that liability. [LB232A]

SENATOR NELSON: All right. Thank you, Senator Nordquist. Thank you, Mr. President. [LB232A]

SENATOR COASH: Thank you, Senator Nelson. Seeing no other lights, Senator Lathrop, you're recognized to close on LB232A. [LB232A]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I appreciate your patience through the discussion. It's been important. It is important because we are taking care of the other branch of government, and that's when they have to trust that we'll take care of them. This bill is the A bill to the judges salary, which we've already passed. I would appreciate your support. And to the judiciary that's watching, we appreciate your service. Thank you. [LB232A]

SENATOR COASH: Thank you, Senator Lathrop. Senator Chambers. [LB232A]

SENATOR CHAMBERS: I would ask for a call of the house. [LB232A]

SENATOR COASH: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB232A]

CLERK: 27 ayes, 0 nays to place the house under call. [LB232A]

SENATOR COASH: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Sullivan, Kintner, and Pirsch, please return to the Chamber and

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record your presence. Senator Conrad and Senator Avery, please return to the Chamber and record your presence. Senators Sullivan and Avery, please return to the Chamber and record your presence. Members, you've heard the closing to LB232A. the question before the body is shall LB232A advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, there's been a request for a record vote. Record, Mr. Clerk. [LB232A]

CLERK: (Record vote read, Legislative Journal pages 962-963.) 32 ayes, 0 nays, Mr. President, on the advancement of LB232A. [LB232A]

SENATOR COASH: LB232A does advance. Raise the call. Next item, Mr. Clerk. [LB232A]

CLERK: Mr. President, may I read a few items first?

SENATOR COASH: Mr. Clerk, items.

CLERK: Urban Affairs reports LB66 to General File with amendments. Senator Coash amendment to LB362 to be printed; Senator Chambers to LB362; Senator Christensen to LB522. (Legislative Journal pages 963-966.) [LB66 LB362 LB522]

LB306, the next bill on General File offered by Senator Nordquist. (Read title.) The bill was introduced on January 17, referred to the Retirement Systems Committee, advanced to General File. There are committee amendments, Mr. President. (AM457, Legislative Journal page 620.) [LB306]

SENATOR COASH: Thank you, Mr. Clerk. Senator Nordquist, you're recognized to open on LB306. [LB306]

SENATOR NORDQUIST: Thank you, Mr. President and members. LB306, and a corresponding bill, this year were introduced, and that was LB229, introduced to address funding shortfall in our judges' retirement plan. Coming in as of the actuarial analysis that was conducted at the end of the last fiscal year and presented to the Retirement Committee in November. We would had to have combined \$560,000 shortfall in the plan for the...for this upcoming biennium, of which we're constructing a budget for. The bill, as we have talked about in the previous bill as part of a larger package to address judges salaries. As it originally introduced, LB306 had two components. The first would have eliminated a July 1, 2014, sunset on an additional 1 percent member-contribution rate. It also had a component which would have changed the amortization method for calculating the unfunded actuarial liability from level dollar to level percent of pay. And that is an actuarial accounting method change and it had an operative date of July 1, 2013. Back in 2009, in the middle of a difficult market performance of 2008 and 2009, we came to an agreement with the judges at that time;

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they were willing to contribute an additional percent of their pay toward the plan and they have agreed to extend that additional 1 percent on top of their contribution rates permanently in agreement with myself, Senator Mello, Senator Lathrop, and others at the same time that we would move forward with the 5 percent judges salary. So that was the underlying bill. There is a committee amendment and a second amendment that I filed to this bill. That is all on the underlying bill. Thank you. [LB306 LB229]

SENATOR COASH: Thank you, Senator Nordquist. As the Clerk has stated, there are committee amendments. Senator Nordquist, you're recognized to open on AM457. [LB306]

SENATOR NORDQUIST: Thank you, Mr. President. Again, the committee amendment is fairly simple. We initially moved out LB306 and removing the amortization change that will be coming forward in LB553. We thought it was a more appropriate vehicle for that. So that is the only change in the committee amendment to this bill. Thank you. [LB306 LB553]

SENATOR COASH: Thank you, Senator Nordquist. Members, you've heard the opening to LB306 and the committee amendment. The floor is now open for debate. Seeing none, Senator Nordquist, you're recognized to close on the committee amendment. Senator Nordquist waives closing. Members, the question before the body is, shall the committee amendment to LB306 be adopted? All those in favor vote aye; all those opposed vote nay. Senator Nordquist. [LB306]

SENATOR NORDQUIST: Mr. President, I request a call of the house. [LB306]

SENATOR COASH: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB306]

CLERK: 25 ayes, 0 nays to place the house under call. [LB306]

SENATOR COASH: House is under call. Senators, please record your presence. All unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Schilz, please check in. Senator Ashford, please check in. Senators Conrad, Harms, Chambers, and Kintner, please check in. The house is under call. Senator Scheer, please check in. Senators Wightman, Conrad, Harms, Kintner, and Chambers, please return to the Chamber and record your presence. Senator Nordquist. [LB306]

SENATOR NORDQUIST: Mr. President, can we just proceed with call-ins? [LB306]

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SENATOR COASH: Thank you, Senator Nordquist. Members, question before the body is shall AM457 be adopted? All those in favor vote aye; all those opposed vote nay. [LB306]

CLERK: Senator Price voting yes. Senator McGill voting yes. Senator Burke Harr voting yes. Senator Ken Haar voting yes. Senator Johnson voting yes. Senator Ashford voting yes. Senator Smith voting yes. Senator Seiler voting yes. Senator Avery voting yes. [LB306]

SENATOR COASH: Record, Mr. Clerk. [LB306]

CLERK: 26 ayes, 0 nays on the committee amendments. [LB306]

SENATOR COASH: Committee amendments are adopted. I raise the call. Next item, Mr. Clerk. [LB306]

CLERK: Senator Nordquist would move to amend with AM624. (Legislative Journal page 706.) [LB306]

SENATOR COASH: Senator Nordquist, you're recognized to open on AM624. [LB306]

SENATOR NORDQUIST: Thank you, Mr. President, and I'll just advise the members this probably won't take very long either. The bill incorporates LB229, which was the second component of the judges' retirement plan that we introduced in 2009 when we increased the member contribution. We also at that time increased the court fee that goes to the judges' retirement plan from \$5 to \$6. At that time we had put sunsets in for both the member contribution and the court fee to return back down 1 percent on the member contribution, \$1 on the court fee in 2014. This removes those sunsets and keeps the court fee going to the judges' plan and the member contribution at the higher levels which will help us through this biennium address any unfunded liabilities. Thank you, Mr. President. [LB306 LB229]

SENATOR COASH: Thank you, Senator Nordquist. Members, you've heard the opening to AM624 to LB306. The floor is now open for debate. Senator Brasch, you're recognized. [LB306]

SENATOR BRASCH: Thank you, Mr. President. And, colleagues, I had visited with Senator Schumacher saying that I've been watching, but not voting on salary increases and retirement. At this point when the climatologists are telling us that we potentially could have a drought, an economy that again we may be back to where we were a couple of years ago looking at where we can cut, where we can cut, where we can cut. And I'm curious on...you know, these funds; I haven't worked for state government for over 20 years and most private companies don't have matching funds and things like

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that. Whether this is something that we must do at this point in time? Again, just a statement here. Vote...I know the committee studied this; I know thought has been into it, but again, as we look at retirement plans, salary increases, and things like that, we are going to need our General Fund to be stable. We are going to need to be prepared for a downturn in our ag economy should this drought continue. Just saying. And I thank you for your attention at this point. And thank you, Mr. Speaker, I have no other comments here. [LB306]

SENATOR COASH: Thank you, Senator Brasch. Senator Price, you are recognized. [LB306]

SENATOR PRICE: Thank you, Mr. President. I couldn't refuse the bait. We talked about climatology, how many of you believe in the next weather forecast? Thank you. [LB306]

SENATOR COASH: Thank you, Senator Price. Seeing no other lights, Senator Nordquist, you're recognized to close on AM624. Senator Nordquist waives closing. The question before the body is, shall AM624 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB306]

CLERK: 28 ayes, 0 nays on the adoption of the amendment. [LB306]

SENATOR COASH: AM624 is adopted. Returning to discussion on LB306, Senator Price, you're recognized. [LB306]

SENATOR PRICE: Thank you, Mr. President and members. In the jocularly of the last statement, I want to make sure that Senator Brasch knew that there was no slight towards her, even though there has been no call made between the two of us. But it is one of those things, obviously, I have a lot of passion and experience in (inaudible) so I wanted to make that part of the record and say publicly that it was nothing meant toward Senator Brasch whom I have nothing but the utmost respect for. So thank you, Mr. President. [LB306]

SENATOR COASH: Thank you, Senator Price. Seeing no other members wishing to speak, Senator Nordquist, you are recognized to close on the advancement of LB306. [LB306]

SENATOR NORDQUIST: Thank you, Mr. President. With the changes we've adopted, it will, essentially, eliminate, barring any unforeseen market downturns at this point, any unfunded liabilities for the next biennial budget. Senator Nelson did have a question about contribution rates, I'll just...for those that are interested, judges hired prior to 2004 contribute 6 percent of their salary for the first 20 years of work and then 4 percent after that. After 2004, they contribute 8 percent of their salary and 4 percent after that; or if they were hired before 2004 and have a joint survivor benefit they contribute 8 percent

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for the first 20 years and 4 percent after that. This change will now keep an additional 1 percent on top of that. So if judges hired since '05 will be contributing 9 percent of pay on average. The actuary says, amongst all the judges, it averages out to about 7.28 percent of pay is what is contributed. Thank you. [LB306]

SENATOR COASH: Thank you, Senator Nordquist. Members, you've heard the closing to LB306. The question before the body is, shall LB306 advance to E&R Initial? Those in favor vote aye; those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB306]

CLERK: 28 ayes, 0 nays on the advancement of LB306. [LB306]

SENATOR COASH: LB306 is advanced. Items, Mr. Clerk. [LB306]

CLERK: I have nothing at this time, Mr. President, thank you.

SENATOR COASH: Next item, Mr. Clerk.

CLERK: Mr. President, LB589, the next bill, Senator Watermeier, (read title). The bill was introduced on January 23; referred to the Transportation and Telecommunications Committee. The bill was advanced to General File. I do have an amendment to the bill, Mr. President. [LB589]

SENATOR COASH: Thank you, Mr. Clerk. Senator Watermeier, you're recognized to close on LB...to open on LB589. [LB589]

SENATOR WATERMEIER: Thank you, Mr. President. We did consider putting this on consent agenda, so maybe that's a hint; maybe it will go that easy. Members of the Legislature, the purpose of LB589 is to clarify existing law applying to operators of gas and hazardous liquid pipeline facilities regarding to exemptions from the requirements of the One-Call Notification System Act in the event of emergency conditions involving a pipeline leak. LB589 exempts bar-test surveys addressing an emergency condition in response to a reported or suspected leak from triggering the One-Call Notification requirement. Excavation to repair or verify a leak would require notification, but would not have to wait for the location of other underground facilities to be marked. LB589 creates immunity from civil penalties, but not from strict liability for damages caused by either the bar testing or the repair excavation. Under current law, the One-Call Notification System requires an excavator to contact a center at least two full business days before commencing on excavation giving time for the other underground facilities to be marked. Since this is not realistic in an emergency situation, the law states that these requirements do not apply to emergency conditions. LB589 attempts to clarify what is required of a gas company in an emergency condition in relation to bar testing and repair excavation. The definition of a bar test survey is taken from language used in

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South Dakota. It is a procedure used to determine whether a gas leak exists. It involves the use of a hand probe that does not conduct electricity to make small holes in the ground around the pipe route. The air is then tested using a gas detector. Bar testing is done under two types of circumstances. Routine bar testing is performed annually to test the integrity of the line. And emergency bar testing is performed when a natural gas leak has been reported. LB589 addresses the second circumstance. Under LB589, bar testing under emergency conditions would be exempt from the One-Call Notification requirement and would not have to wait for the location of other underground facilities to be marked. Any gas leak presents an emergency condition that demands immediate attention. Furthermore, the risk of damaging other underground facilities with the use of a non-conductive hand probe is minimal. LB589 does not alter the requirement that routine bar testing must comply with the One-Call Notification requirements. Regarding excavations under emergency conditions to repair the leak once it is verified, LB589, as introduced, required an operator to give notification, but it did not have to be prior to the excavation undertaken to address an emergency condition. I will be offering an amendment to require that the operator must give notification prior to the excavation. But it does not have to be given at least two full business days in advance, nor do they have to wait for the location of other underground facilities to be marked. These exemptions are triggered when the bar testing or the repair excavation is deemed necessary by the operator of the gas pipeline to address an emergency condition. The bar testing and repair excavation must be performed by either the gas pipeline operator or its employees or a qualified excavator under the contract with the operator. If the gas pipeline operator strikes another underground facility and causes damage, the operator will be immune from civil penalties as in the case under any emergency situation which arises through no fault of the excavating operator. However, the operator would not be immune from strict liability for damages. This means that the gas pipeline operator would still be automatically responsible for damages caused by hitting another underground facility. If the gas pipeline operator, through its own fault, caused the leak in the pipeline in the first place, then it will still be subject to civil penalties under current law. In summary, LB589 clarifies existing law and codifies current practices regarding the responsibilities of natural gas companies in addressing emergency conditions caused by a gas leak. LB589 allows natural gas utilities to take immediate action to verify and repair gas leaks which can endanger the public and property. Such leaks are unpredictable and demand urgent action to protect the public safety. There was no opponent testimony at the public hearing and the bill advanced from the Transportation and Telecommunications Committee with no dissenting votes. There is no fiscal impact associated with LB589. Thank you, Mr. President. [LB589]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Thank you, Senator Watermeier. Mr. Clerk, is there an amendment? [LB589]

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CLERK: Mr. President, Senator Watermeier would move to amend with AM348. (Legislative Journal page 789.) [LB589]

SPEAKER ADAMS: Senator Watermeier, you are recognized to open on your amendment. [LB589]

SENATOR WATERMEIER: Thank you, Mr. President. I offered AM348 at the public hearing as I mentioned. This amendment simply requires the operator to give notification prior to the excavation in emergency conditions. However, it does not have to be given at least two full business days in advance, nor do they have to wait for the location of other underground facilities to be marked. With this amendment there was no opposition to the bill at the public hearing. I still urge your support for this amendment and the advancement of the bill. Thank you, Mr. President. [LB589]

SPEAKER ADAMS: Thank you, Senator Watermeier. Senator Dubas, you're recognized. [LB589]

SENATOR DUBAS: Thank you, Mr. Speaker. I just would like to, for the record, this amendment that Senator Watermeier has introduced was brought to the attention of myself before we advanced it from the committee. But strictly due to an oversight on my part, did not get introduced as a committee amendment. It's strictly technical in nature, so it doesn't really impact the substance of the bill. But just wanted to kind of publicly apologize to Senator Watermeier for my oversight and hope that the Legislature will support the amendment as well as the bill. Thank you. [LB589]

SPEAKER ADAMS: Thank you, Senator Dubas. Senator Watermeier, there are no other lights on in the queue. You're recognized to close on your amendment. Senator Watermeier waives his closing. The question is, shall the amendment to LB589 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB589]

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of the amendment. [LB589]

SPEAKER ADAMS: The amendment is adopted. We now move to discussion on the bill. Senator Watermeier, there are no lights on. You're recognized to close. Senator Watermeier waives closing on LB589. The question is, shall LB589 advance? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB589]

CLERK: 25 ayes, 0 nays on the advancement of LB589. [LB589]

SPEAKER ADAMS: The bill advances. Next bill on the agenda, Mr. Clerk. [LB589]

CLERK: LB242 is a bill by Senator Howard. (Read title.) Introduced on January 16,

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referred to the Executive Board, advanced to General File. I have no amendments to the bill, Mr. President. [LB242]

SPEAKER ADAMS: Senator Howard, you're recognized to open. [LB242]

SENATOR HOWARD: Thank you, Mr. President, members of the body. Today I bring you LB242, a bill to ensure that regulations are promulgated in a timely manner. LB242 is a follow-up to LB617, a bill introduced by Senator Mello. Before I get to LB242, I think it might be helpful to get a basic understanding of what Senator Mello's bill did and what still needs to be done. Senator Mello's bill became law in July, 2011. And so in current law, agencies are required to share proposed regulations at a public hearing within one year of the statute's effective date and subsequently promulgate those regulations within a year of that public hearing. In most cases, this means that the agency must complete the regulations process in two years. If an agency does not adopt regulations, they must submit an explanation of their failure including the reasons for the delay; any changes in law that would facilitate promulgation, and the date they expect the regulations will be promulgated. The agency must report this information to the Legislature's Executive Committee and to the committee with jurisdiction over the subject matter. Additionally, each year by July 1, agencies must report to the Performance Audit Committee the status of all pending regulations that have not been adopted. If the regulations are required in response to a bill containing an appropriation, the agency must explain to the Performance Audit Committee what that money has been used for and what staff are doing while the regulations are pending. By all accounts, this law has been very successful. Legislative Performance Audit testified in a neutral capacity during the committee hearing that only one agency has failed to meet the timeliness requirements. My bill, LB242, addresses a category of regulations that Senator Mello's bill did not apply to. The statutory requirements I outlined a moment ago are only applicable to regulations promulgated in response to bills passed after Senator Mello's bill went into effect. This means that there's nothing in law that requires reporting, let alone timely promulgation of regulations that have been languishing in the administrative ether for years. To address these regulations and to give greater teeth to the requirements that are in law, LB242 would automatically trigger a public hearing if regulations are not promulgated within three years of the effective date of the enacting legislation. This bill may sound like a dry process bill, but at its core it's a matter of whether or not the Legislature is an effective branch of government. If the Legislature is to do the work we were sent here to do, crafting policy, we must be certain that the agencies entrusted to enforce that policy will also do their jobs. When those agencies fail, we must be able to hold them accountable, especially when appropriations are involved. Moreover, if there is a legitimate problem keeping an agency from passing regulations, this Legislature must have knowledge of the issues so that adjustments can be made and those barriers addressed. This is not simply a bill about the legitimacy of the Legislature however, a stable and predictable regulations process is essential for Nebraska businesses to operate effectively. An industry who is aware of legislation, is

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involved in the process, and relies on the knowledge that changes are coming, cannot be made to wait 10 years for an agency to do its job. In fact, it was for this very reason that several professional organizations testified in favor of LB242. These included, among others, the Nebraska Chapter of the National Association of Social Workers; the Nebraska Intellectual Disability Service Providers; the Nebraska Cattlemen; and the University of Kearney. The committee also received letters of support from the Nebraska Pharmacist Association and the Volunteer Firefighter Association. There were no dissenting testifiers. LB242 was advanced unanimously from the Executive Board and I thank Senator Wightman and the members for prioritizing this bill. I have passed out a memo from Martha Carter with the Performance Audit Committee which outlines regulations which are still pending from 2009, as well as the reasons for the delay in promulgation. These regulations are from the Crime Commission, the Public Service Commission, and the Department of Health and Human Services, some of our most basic functions of government. For an example of why we need LB242, I'll refer to the issues surrounding the Uniform Credentialing Act. The Uniform Credentialing Act is in existence to protect the public's health, safety and welfare and provide for the efficient, adequate and safe practice of such persons in the healthcare field. And these professions range from cosmetologists to emergency medical services to funeral directing and embalming. Right now out of the 61 regulations related to the Uniform Credentialing Act, only 23 have been completed and for some of them the statutes went into affect over five years ago. LB242 is a commonsense solution to a regulatory backlog. We've talked on the floor this session about the difficulty that part-time legislators have in holding full-time bureaucrats accountable. This bill gives us the ability to make sure the laws we pass are effectuated and gives our constituents the knowledge that something will be done when failures occur. Thank you for your consideration of LB242. [LB242]

SPEAKER ADAMS: Thank you, Senator Howard. The floor is now open for debate on LB242. Senator Price, you are recognized. [LB242]

SENATOR PRICE: Thank you, Mr. Speaker, members of the body. I just wanted to rise and commend Senator Howard. You have no need for trepidation. I absolutely and wholeheartedly, emphatically support what this bill is doing for all the reasons she said. There can be nothing more frustrating, to sit in this body for five years, to do the work that is put before us and to find out that there's been no action taken behind it. It reminds me of a comment I heard on the campaign trail about how politicians rule and bureaucrats reign. And with the passage of this type of legislation, that evens the tables a little bit and I very much appreciate it and thank Senator Howard for this bill. Thank you, Mr. President. [LB242]

SPEAKER ADAMS: Thank you, Senator Price. Senator Howard, there are no other lights on. You are recognized to close. Senator Howard waives closing. The question before the body is the advancement of LB242 to E&R Initial. All those in favor vote aye;

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all those opposed vote nay. For what reason do you rise, Senator? [LB242]

SENATOR HOWARD: May I have a call of the house? [LB242]

SPEAKER ADAMS: There has been a request to place the house under call. Question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB242]

CLERK: 23 ayes, 0 nays to place the house under call. [LB242]

SPEAKER ADAMS: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor, the house is under call. Senator Howard, how do you wish to proceed? [LB242]

SENATOR HOWARD: Machine vote with call-ins. [LB242]

SPEAKER ADAMS: Senator Howard requested call-in votes. Mr. Clerk. [LB242]

CLERK: Senator Chambers voting yes. Senator Mello voting yes. Senator Nelson voting yes. Senator Brasch voting yes. [LB242]

SPEAKER ADAMS: Record, Mr. Clerk. [LB242]

CLERK: 26 ayes, 0 nays to advance the bill. [LB242]

SPEAKER ADAMS: The bill advances. I raise the call. As per the agenda at 5:00 p.m. we move to Select File, priority bills. Mr. Clerk, LB203. [LB242 LB203]

CLERK: Mr. President, LB203, Senator, I have Enrollment and Review amendments pending. (ER32 Legislative Journal page 817.) [LB203]

SPEAKER ADAMS: Senator Murante. [LB203]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB203]

SPEAKER ADAMS: You've heard the motion. All those in favor say aye. Opposed. LB203 advances. Senator Murante for a motion. [LB203]

SENATOR MURANTE: Mr. President, I move to advance LB203 to E&R for engrossing. [LB203]

SPEAKER ADAMS: Members, you've heard the motion. All those in favor say aye.

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Opposed. Now LB203 advances. Mr. Clerk, the next bill. [LB203]

CLERK: Mr. President, LB528. Senator, I have no amendments to the bill. [LB528]

SPEAKER ADAMS: Senator Murante. [LB528]

SENATOR MURANTE: Mr. President, I move to advance LB528 to E&R for engrossing. [LB528]

SPEAKER ADAMS: You've heard the motion. All those in favor say aye. Opposed. LB528 advances. Next bill, Mr. Clerk. [LB528]

CLERK: Mr. President, LB158. Senator, I have Enrollment and Review amendments. (ER38, Legislative Journal page 905.) [LB158]

SPEAKER ADAMS: Senator Murante for a motion. [LB158]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB158]

SPEAKER ADAMS: You've heard the motion. All those in favor say aye. Opposed. The amendments are adopted. [LB158]

CLERK: I have nothing further on the bill, Senator. [LB158]

SPEAKER ADAMS: Senator Murante for a motion. [LB158]

SENATOR MURANTE: Mr. President, I move to advance LB158 to E&R for engrossing. [LB158]

SPEAKER ADAMS: Members, you have heard the motion. All those in favor say aye. Opposed. LB158 advances. Next bill, Mr. Clerk. [LB158]

CLERK: Mr. President, LB388; Senator, I have Enrollment and Review amendments. (ER37, Legislative Journal page 906.) [LB388]

SPEAKER ADAMS: Senator Murante. [LB388]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB388]

SPEAKER ADAMS: Members, you've heard the motion. All those in favor say aye. Opposed. The amendments are adopted. [LB388]

CLERK: I have nothing further on the bill. [LB388]

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SPEAKER ADAMS: Senator Murante for a motion. [LB388]

SENATOR MURANTE: Mr. President, I move to advance LB388 to E&R for engrossing. [LB388]

SPEAKER ADAMS: Members, you've heard the motion. All those in favor say aye. Opposed. LB388 advances. Next bill, Mr. Clerk. [LB388]

CLERK: LB629, Senator, does have Enrollment and Review amendments. (ER39, Legislative Journal page 906.) [LB629]

SPEAKER ADAMS: Senator Murante for a motion. [LB629]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB629]

SPEAKER ADAMS: You've heard the motion. All those in favor say aye. Opposed. The amendments advance. [LB629]

CLERK: I have nothing further on the bill, Senator. [LB629]

SPEAKER ADAMS: Senator Murante for a motion. [LB629]

SENATOR MURANTE: Mr. President, I move to advance LB629 to E&R for engrossing. [LB629]

SPEAKER ADAMS: Members, you have heard the motion. All those in favor say aye. Opposed. LB629 advances. Next bill, Mr. Clerk. [LB629]

CLERK: LB271, Senator, does have Enrollment and Review amendments. (ER41, Legislative Journal page 927.) [LB271]

SPEAKER ADAMS: Senator Murante for a motion. [LB271]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB271]

SPEAKER ADAMS: You've heard the motion. All those in favor say aye. Opposed. The amendments are advanced. [LB271]

CLERK: I have nothing further on the bill, Senator. [LB271]

SPEAKER ADAMS: Senator Murante for a motion. [LB271]

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SENATOR MURANTE: Mr. President, I move to advance LB271 to E&R for engrossing. [LB271]

SPEAKER ADAMS: You've heard the motion. All those in favor say aye. Opposed. LB271 advances. Next bill, Mr. Clerk. [LB271]

CLERK: Mr. President, LB79 does have Enrollment and Review amendments. (ER44, Legislative Journal page 929.) [LB79]

SPEAKER ADAMS: Senator Murante for a motion. [LB79]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB79]

SPEAKER ADAMS: You've heard the motion. All those in favor say aye. Opposed. The amendments are adopted. [LB79]

CLERK: I have nothing further on the bill, Senator. [LB79]

SPEAKER ADAMS: Senator Murante for a motion. [LB79]

SENATOR MURANTE: Mr. President, I move to advance LB79 to E&R for engrossing. [LB79]

SPEAKER ADAMS: You've heard the motion. All those in favor say aye. Opposed. LB79 advances. [LB79]

CLERK: LB79A, Senator, I have no amendments to the bill. [LB79A]

SPEAKER ADAMS: Senator Murante for a motion. [LB79A]

SENATOR MURANTE: Mr. President, I move to advance LB79A to E&R for engrossing. [LB79A]

SPEAKER ADAMS: You've heard the motion. All those in favor say aye. Opposed. LB79A advances. Next bill. [LB79A]

CLERK: LB612, Senator, it does have Enrollment and Review amendments. (ER43, Legislative Journal page 929.) [LB612]

SPEAKER ADAMS: Senator Murante for a motion. [LB612]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB612]

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SPEAKER ADAMS: You've heard the motion. All those in favor say aye. Opposed. The amendments are adopted. [LB612]

CLERK: I have nothing further on the bill, Senator. [LB612]

SPEAKER ADAMS: Senator Murante for a motion. [LB612]

SENATOR MURANTE: Mr. President, I move to advance LB612 to E&R for engrossing. [LB612]

SPEAKER ADAMS: Members, you've heard the motion. All those in favor say aye. Opposed. LB612 advances. Next bill. [LB612]

CLERK: LB263 does have Enrollment and Review amendments. (ER48, Legislative Journal page 939.) [LB263]

SPEAKER ADAMS: Senator Murante for a motion. [LB263]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB263]

SPEAKER ADAMS: You've heard the motion. All those in favor say aye. Opposed. The amendments are advanced. [LB263]

CLERK: I have nothing further on the bill, Senator. [LB263]

SPEAKER ADAMS: Senator Murante for a motion. [LB263]

SENATOR MURANTE: Mr. President, I move to advance LB263 to E&R for engrossing. [LB263]

SPEAKER ADAMS: Members, you have heard the motion. All those in favor say aye. Opposed. LB263 advances. Next bill. [LB263]

CLERK: LB55, Senator, I have no amendments to the bill. [LB55]

SPEAKER ADAMS: Senator Murante for a motion. [LB55]

SENATOR MURANTE: Mr. President, I move to advance LB55 to E&R for engrossing. [LB55]

SPEAKER ADAMS: Members, you've heard the motion. All those in favor say aye. Opposed. LB55 advances. Next bill. [LB55]

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CLERK: LB265, Senator, it does have Enrollment and Review amendments. (ER47, Legislative Journal page 948.) [LB265]

SPEAKER ADAMS: Senator Murante for a motion. [LB265]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB265]

SPEAKER ADAMS: Members, you have heard the motion. All those in favor say aye. Opposed. The amendments are adopted. [LB265]

CLERK: I have nothing further on the bill. [LB265]

SPEAKER ADAMS: Senator Murante for a motion. [LB265]

SENATOR MURANTE: Mr. President, I move to advance LB265 to E&R for engrossing. [LB265]

SPEAKER ADAMS: Members, you have heard the motion. All those in favor say aye. Opposed. LB265 advances. Next bill, Mr. Clerk. [LB265]

CLERK: LB230, Senator, I have Enrollment and Review amendments first of all. (ER42, Legislative Journal page 929.) [LB230]

SPEAKER ADAMS: Senator Murante for a motion. [LB230]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB230]

SPEAKER ADAMS: You've heard the motion. All those in favor say aye. Opposed. The amendments are adopted. [LB230]

CLERK: Senator Murante would move to amend with AM985. (Legislative Journal page 955.) [LB230]

SPEAKER ADAMS: Senator Murante, you are recognized to open on your amendment. [LB230]

SENATOR MURANTE: Thank you, Mr. President and members. This is a pretty simple amendment really. I demonstrated some concern and opposition on General File. I've worked with Senator Karpisek on these concerns and I have to say that he demonstrated a lot of class and a lot of character, in my book. I know that's shocking, Senator Chambers. But, basically, what this amendment does is...my concern is that if we create additional hurdles and additional regulations for out-of-state shippers to ship alcohol into Nebraska that they're not going to do it anymore. What my amendment

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proposes is to say that the Liquor Control Commission will issue a report to the General Affairs Committee on July 1, 2014, to, basically, let us know the impact of this legislation. And if it does have the negative impact that I fear, it will allow us to do something about it. It's something that I worked on with Senator Karpisek and I would appreciate your support. Thank you, Mr. President. [LB230]

SPEAKER ADAMS: Thank you, Senator Murante. Senator Karpisek, you are recognized. [LB230]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. Senator Murante and I did work on this. And I consider it a very friendly amendment. I feel that the Liquor Control executive director could give us this at any time. However, I know Senator Murante feels better with it in the bill and I think it is important that we do know if this law...or if this bill would make a drastic difference in the amount of shippers coming to the state that we do need to know that and change it because that is not my intent at all. So I appreciate his help on it and the kind words for a change from someone on that side of the room so close to the middle. And I would appreciate your support. Thank you, Mr. President. [LB230]

SPEAKER ADAMS: Thank you, Senator Karpisek. Senator Murante, there are no other lights on. You're recognized to close on your amendment. Senator Murante waives his closing. The question before the body is the adoption of AM985. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB230]

CLERK: 26 ayes, 0 nays on adoption of Senator Murante's amendment. [LB230]

SPEAKER ADAMS: The amendment advances. [LB230]

CLERK: I have nothing further on the bill, Mr. President. [LB230]

SPEAKER ADAMS: Senator Murante for a motion. [LB230]

SENATOR MURANTE: Mr. President, I move to advance LB230 to E&R for engrossing. [LB230]

SPEAKER ADAMS: Members, you've heard the motion. All those in favor say aye. Opposed. LB230 advances. Next bill. [LB230]

CLERK: LB495, I do have Enrollment and Review first of all, Senator. (ER46 Legislative Journal page 947.) [LB495]

SPEAKER ADAMS: Senator Murante for a motion. [LB495]

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SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB495]

SPEAKER ADAMS: All those in favor of advancing the E&R amendments indicate by saying aye. Opposed. The amendment advances. Mr. Clerk. [LB495]

CLERK: Senator Mello would move to amend with AM971. (Legislative Journal page 954.) [LB495]

SPEAKER ADAMS: Senator Mello, you are recognized on your amendment. [LB495]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. AM971 would appropriate \$10,000 a year to the Military Interstate Children's Compact based on a bill that was brought forward to the Appropriations Committee by Senator Price. I believe it's LB432 which Senator Price brought to our committee. Ultimately, it was...I would say to some extent, I will take partial fault in regards to trying to help him draft the bill and we got our wires crossed and the way the appropriations bill was worded came to us using General Funds instead of dollars in the Education Innovation Fund. In part when Senator Price brought an amendment last year that we worked on to appropriate \$27,000 from the Education Innovation Fund to this multi-interstate compact for military children and their families. Ultimately, as I just said, there's \$27,000 currently in the Department of Education's budget this year to cover the cost of that compact. Ultimately, the state statute we passed last year changed that to do a one-year appropriation. Senator Price brought the bill back of saying we don't need to continue the \$27,000 appropriation, but we do need to do \$10,000 based on the population of military students and their families in the state of Nebraska. I spoke with Senator Sullivan in regards to this issue coming out of the Appropriations Committee moving into the Education Committee's realm just for posterity sake. The Appropriation Committee did support, took a vote in committee to support the advancement, essentially, of this issue from our prospective to the Education Innovation Fund. While we did not take action...I should say while we did not pass the bill out of committee which is not normally what our process does, we did vote, there was no dissenting...I should say no "no" votes against this effort to appropriate \$10,000 out of the Education Innovation Fund for this specific appropriations request. And with that I'd ask the body to adopt AM971. Thank you, Mr. President. [LB495 LB432]

SPEAKER ADAMS: Thank you, Senator Mello. Senator Price, you're recognized. [LB495]

SENATOR PRICE: Thank you, Mr. Speaker, members of the body. In following up with that, again I did bring the bill to the Appropriations Committee because that was where it was indicated that it should go. We found in hindsight that it should go to the Education Committee. And, basically, what this does is we found through the Military Education Compact, for those who don't remember, this is to help the children of military members

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when they move. Unfortunately, they don't always move at a nice time that's convenient for the children and those children will move in the middle of the year; they will move in the middle of their high school or grade school years. And this helps lessen the impact. It helps for the transfer of the credits and it helps them to integrate into their new school district. And I would remind the body that that applies across Nebraska with our Guard Reserve and, of course, the active duty component that is very pronounced in my area. The result of time is that we've been able to better define and clarify the need. Where before we thought it was \$27,000; we've learned now is \$10,000. That's \$1 per child; one trip for the administrator, and some money for when and if there were challenges that needed to be addressed by the commission on the part of Nebraska, whether the student who left or a student who is coming in. So with that I would ask for your support in the advancement of AM971. Thank you. [LB495]

SPEAKER ADAMS: Thank you, Senator Price. Senator Avery, you're recognized. [LB495]

SENATOR AVERY: Thank you, Mr. President. I just wanted to remind all of you that this compact is important and our participation in it is important. And let me remind you that back in 2008 the Government Committee set up a task force to study the base realignment and closure process and to help prepare Nebraska for the next round...base realignment and closure. We were concerned that we may not be well positioned to survive such a review of our bases and our military assets. We know that this is about a \$3 billion industry in the state of Nebraska. And we had a number of proposals, many of which were passed by this body to prepare us for this next round. This was one of them. We patched things together in order to get a little money for it at that time. This is a good amendment and I urge you to vote for it because it now puts some permanent money into helping us facilitate membership in this compact. Thank you, Mr. President. [LB495]

SPEAKER ADAMS: Thank you, Senator Avery. Senator Mello, there are no other lights on. Do you wish to close? [LB495]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I appreciate Senator Price's further explanation and I appreciate Senator Sullivan working with me in regards to helping rectify this issue of the appropriations for this specific project and specific request and compact that currently is being funded out of the Education Innovation Fund. And if we adopt AM971, it would continue to be at a much lesser amount. Thank you, Mr. President. [LB495]

SPEAKER ADAMS: Thank you, Senator Mello. You've heard the closing on the amendment. All those in favor indicate aye; all those opposed nay. Record, Mr. Clerk. [LB495]

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CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Mello's amendment. [LB495]

SPEAKER ADAMS: The amendment is adopted. [LB495]

CLERK: I have nothing further on the bill, Mr. President. [LB495]

SPEAKER ADAMS: Senator Murante for a motion. [LB495]

SENATOR MURANTE: Mr. President, I move to advance LB495 to E&R for engrossing. [LB495]

SPEAKER ADAMS: You've heard the motion. All those in favor say aye. Opposed. LB495 advances. Next bill. [LB495]

CLERK: LB495A, no Enrollment and Review. Senator Mello would move to amend with AM990. (Legislative Journal page 968.) [LB495A]

SPEAKER ADAMS: Senator Mello, you are recognized to open. [LB495A]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. AM990 simply changes the A bill to incorporate the \$10,000 appropriation for the Interstate Compact that we previously adopted on the underlying bill, LB495. With that I would urge the body to adopt AM990. [LB495A LB495]

SPEAKER ADAMS: You've heard the opening. There are no lights on. Senator Mello? Senator Mello waives closing. Question before the body is the adoption of the amendment. All those in favor indicate aye; all those opposed nay. Record, Mr. Clerk. [LB495A]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Mello's amendment. [LB495A]

SPEAKER ADAMS: The amendment is adopted. [LB495A]

CLERK: I have nothing further on the bill, Mr. President. [LB495A]

SPEAKER ADAMS: Senator Murante for a motion. [LB495A]

SENATOR MURANTE: Mr. President, I move to advance LB495A to E&R for engrossing. [LB495A]

SPEAKER ADAMS: Members, you have heard the motion. All those in favor say aye.

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Opposed. LB495A does advance. Mr. Clerk. [LB495A]

CLERK: Mr. President, an amendment to be printed, Senator Karpisek, to LB579. Senator Mello would like to add his name to LB161 as a cointroducer. (Legislative Journal page 969.) [LB579 LB161]

And I have a priority motion. Senator Kolowski would move to adjourn the body until Thursday morning, April 11, at 9:00 a.m.

SENATOR ADAMS: You've heard the motion to adjourn. All in favor indicate by saying aye. Opposed. We are adjourned.