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Transcriber's Office

Floor Debate
April 11, 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-ninth day of the One Hundred Third Legislature, First Session. Our chaplain for today is Senator Brasch. Please rise.

SENATOR BRASCH: (Prayer offered.)

SENATOR GLOOR: Thank you, Senator Brasch. I call to order the fifty-ninth day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

ASSISTANT CLERK: No corrections this morning.

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

ASSISTANT CLERK: Just one announcement, Mr. President, that the reports that have been filed electronically for the past week are available through the Legislature's Web site. (Legislative Journal page 971.)

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

ASSISTANT CLERK: Mr. President, the first bill, LB579, introduced by Senator Karpisek. (Read title.) The bill was read for the first time on January 23, referred to the General Affairs Committee. That committee reports the bill to General File with committee amendments. (AM663, Legislative Journal page 743.) [LB579]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Karpisek, you're recognized to open on LB579. [LB579]

SENATOR KARPISEK: Thank you, Mr. President, and good morning, members. LB579 would provide the Nebraska State Patrol with 15 new troopers, which would allow for additional resources for liquor control enforcement. The Liquor Control Commission expressed the need for additional troopers in its legislative letter. This need is a result of the increasing number of liquor licenses combined with the reduction in number of State

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Patrol investigators. There are currently 477 sworn officers, which is the lowest number since 1986. Since then, the number of alcohol licenses has dramatically increased. There are 1,306 more annual licenses, and 3,763 more special designated licenses, commonly referred to as SDLs, today than in 1986. In other words, there were approximately 345 licenses per investigator in 1986, compared to approximately 605 licenses per trooper today; approximately 19 SDLs per investigator in '86, compared to 443 today. In 1987, 12 investigators were transferred from the Liquor Control Commission to the State Patrol, and today roughly nine are tasked with liquor enforcement. The commission has about a \$30 million revenue and a \$1 million budget, but this bill would not increase the commission's budget. We're talking about troopers under the State Patrol doing liquor enforcement. This bill is intended to help the Liquor Control Commission keep up with the increased number of liquor licenses, but also to help the State Patrol by providing it with much needed funding for additional troopers. I believe the State Patrol is doing a tremendous job with the resource that it has, but those resources aren't where they need to be. The intent of LB579 is to have a total of 15 State Patrol troopers who would spend a majority of their time enforcing the Liquor Control Act. The exact relationship between the Patrol and the Liquor Control Commission regarding these 15 troopers would be spelled out in a memorandum of understanding between the two entities. These troopers would not be under the direction or supervision of the Liquor Control Commission. I did have a bill that would do that last session, but this not that bill. There's been some misunderstanding on that. But after maybe rereading the bill, people have realized that. The agreement between the two would simply spell out an understanding between the Liquor Control Commission and the State Patrol as to what the troopers' responsibilities will be. The hope would be that if any issues came up later, that the first step would be for the Liquor Control Commission and the State Patrol to work it out through the memorandum of understanding before having to come back to the Legislature. This is because I do not feel that we should be micromanaging the State Patrol, nor the Liquor Control Commission. My understanding as to how this would likely be implemented is that the State Patrol would assign a total of 15 troopers, experienced in enforcing the Liquor Control Act, to spend a majority of their time doing just that. The State Patrol could then have a new basic recruit class to hire 15 new troopers for whatever the needs the Patrol has. I believe that this bill will not only help address the commission's enforcement concerns, but will help address the State Patrol's general needs as well. My focus, as Chair of the General Affairs Committee, has been to better professionalize all levels of the alcohol industry. An important part of professionalizing the industry is to ensure that there is adequate enforcement, and I do believe that LB579 would do just that. Thank you, Mr. President. [LB579]

SENATOR GLOOR: Thank you, Senator Karpisek. As the Clerk stated, there are amendments from the General Affairs Committee. Senator Karpisek, as Chair of that committee, you're recognized to open on those amendments. [LB579]

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SENATOR KARPISEK: Thank you again, Mr. President, members of the body. The committee amendment was that 15 troopers was too many for the budget but that ten would be a number that we could bring to the floor. The committee amendment reduces the number of troopers in LB579 from 15 to 10. Again, as I said, that number is what we felt comfortable bringing to the floor. And with the budget issues, I more than understand that ten could be a negotiable number, if any at all. And that's up to the body. I really wanted to have an opportunity to speak to the situation. I don't think a lot of people quite understand how the enforcement works, that it's the State Patrol that has the troopers and the Liquor Control Commission that regulates. So this would just give the Patrol more officers to do more time enforcing liquor laws. And with that, Mr. President, I will take any questions from the body. Thank you. [LB579]

SENATOR GLOOR: Thank you, Senator Karpisek. Members, you've heard the opening on LB579 and the accompanying committee amendment. We now turn to floor discussion. Senator Krist, you are recognized. [LB579]

SENATOR KRIST: Thank you, Mr. President. And good morning, colleagues, and good morning, Nebraska. There are many things that this bill is, but there are very clearly a few things that it is not. It is not reinstating a permanent assignment of a State Patrol officer under the direct control of the Liquor Commission. It is not that. It is a shared responsibility between the State Patrol and the Liquor Commission to enforce liquor control, and that the number of bodies that is required to perform that task should be the decision of the commission and the State Patrol. We should not direct nor should we in statute go back to a time, and there was a time, when an officer belonged directly to the commission. It's better economy of scale and it's better management if those law enforcement officers are available, indeed, to do a myriad of tasks and jobs to enforce the laws across the state, but are dedicated in some ways by a memorandum of agreement, MOA, LOA, between the commission and the State Patrol. I hope that distinction is clear, both from the introduction by our Chair, Senator Karpisek, and made very clear by these words. It is legislative intent to put officers in place to enforce the laws across the state of Nebraska, and to allow the commission and the State Patrol to dedicate a certain portion of those, that time of the law enforcement officers, to oversee liquor control. Thank you, Mr. President. [LB579]

SENATOR GLOOR: Thank you, Senator Krist. Senator Larson, you are recognized. [LB579]

SENATOR LARSON: Thank you, Mr. President. If Senator Karpisek would yield to a few questions... [LB579]

SENATOR GLOOR: Senator Karpisek, would you yield? [LB579]

SENATOR KARPISEK: Yes, I will. [LB579]

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SENATOR LARSON: Senator Karpisek, I was looking at this bill last night and the fiscal note, and I saw, I think, the current fiscal note is right around \$1.3 million, but I'm guessing that's probably for the green copy. Do you have an updated fiscal note, what ten troopers would be? [LB579]

SENATOR KARPISEK: Senator, you are correct, that is on the 15. I do not have an updated fiscal note because it would not be redone until this bill would move. However, from Fiscal Office I have an estimate of roughly \$100,000 per trooper in FY '13-14, and about \$868,000 in FY '14-15. [LB579]

SENATOR LARSON: So about \$1 million the first year and about \$800,000 after that, rough...\$860,000 the second years. [LB579]

SENATOR KARPISEK: Yes, \$870,000... [LB579]

SENATOR LARSON: \$870,000. [LB579]

SENATOR KARPISEK: ...actually closer. And again, that's an estimate from Fiscal, but that I appreciate very much. [LB579]

SENATOR LARSON: I can appreciate the estimates and we obviously all continue to work with Fiscal Office on a number of our bills, so I appreciate that, Senator Karpisek. And I guess I rose a few times in this session, as a member of the Appropriations Committee, and I've heard other members on the floor rise with concerns about the budget and where we are and the money that we're going to have to spend on the floor. And we all have to start deciding--and I've heard Senator Lathrop say it--where our priorities are. You know, I have a few priorities. I really like Senator Dubas' sale of replacement parts sales tax exemption. Senator Lathrop's wind bill will heavily affect my district. That's something that I've committed to, to the wind developers in my district. And I see on the sheet, Senator Lathrop's priority has roughly a fiscal note of almost \$5,600,000. Senator Dubas' has a fiscal note of \$6.8 million the first year, and \$9.2 million. So we have to start deciding where our priorities are. And I can understand the importance of this issue, but, again, as a member of Appropriations, I'd just like to express to everybody, we only have a limited amount of dollars. And, you know, bringing it...even, you know, if you bring it down to two troopers, that's only \$200,000 and...but again, that \$200,000 all of a sudden takes away, possibly, Senator Adams' priority bill that provides priority and community schools and operating councils that has a fiscal note of \$400,000, or that \$200,000 maybe takes away Senator Hadley's priority bill. We have to decide what our priorities are because there's not enough money for everything. That \$200,000 takes away Senator Crawford's priority bill maybe. And the \$1 million, the ten troopers, definitely will take away some priority bills. So I'd just like to express caution. I understand the possible need. But we as an Appropriations

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Committee obviously are ramping up to Day 70, when the budget is introduced. There's only going to be so much money. We have to be very concerned and, in economic times like this, we have to watch our budget growth. This will be ongoing spending. Just we discussed yesterday judges' salaries. We have the \$2 million the first year, but it's going to be ongoing spending after that. This is going to be ongoing spending. They're going to be state troopers. They're going to be housed within the state troopers. They're going to get ongoing 2.5 percent raise that we continually will commit, or we will commit so much to their retirement fund. This will be ongoing for a long time. So I just want to make sure the body realizes. Look at the 2013 priority bills, how much things cost, and let's start deciding where our priorities are. [LB579]

SENATOR GLOOR: One minute. [LB579]

SENATOR LARSON: If we move it, we can move it to Select File, and maybe we see how much we're spending when the budget comes out and these things start to die on Select File. But I just say it's a lot easier to start weeding them out here on General File. Thank you, Mr. President. [LB579]

SENATOR GLOOR: Thank you, Senator Larson. Senators in the queue: Nelson, Scheer, Karpisek, Johnson, Schumacher, and Bloomfield. Senator Nelson, you are recognized. [LB579]

SENATOR NELSON: Thank you, Mr. President, members of the body. I have a couple...a few questions for Senator Karpisek, if he will yield. [LB579]

SENATOR KARPISEK: Yes, I will. [LB579]

SENATOR NELSON: Thank you, Senator. Senator Krist referred to a myriad of tasks that the State Patrol has to perform in enforcement of the Liquor Control Act. Just for the edification of the body, could you tell me what those tasks are, what they have to do? [LB579]

SENATOR KARPISEK: Well, they have to go out and investigate the establishment that is either putting in for a license or an SDL, a specially designated license. They have to run background checks on them. They have to see if there's been any other violations, those sort of things. Then they also go out if there's complaints against a license holder. If there are any findings, of course, then there are charges filed and those sort of things. [LB579]

SENATOR NELSON: Does it take a special type of training to do that? [LB579]

SENATOR KARPISEK: I would say, yes, but not like a yearlong training. But part of my reason for bringing this bill is that I think that the people who do deal in this should be

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trained and do this the majority of their time. [LB579]

SENATOR NELSON: Well, why cannot local law enforcement officers, such as the sheriffs and the police, handle those responsibilities when it's an administrative type of investigation, background checks and things like that? I know background checks perhaps are handled by the State Patrol, but why does the State Patrol have to do the whole ball of wax here? Why can't it be done by local law enforcement? [LB579]

SENATOR KARPISEK: And the locals do do some of it, because most of these have to come through a city council first or a county board. But I guess, in my opinion, is because it's a state license and sometimes when we see those sort of things happen, there can be things that maybe are overlooked and shouldn't be, or if there's a violation going on and maybe the wrong person is sent out locally to look at it. I'm not trying to discredit local law enforcement at all, but I think it's just a state job that needs to be done. But obviously, the local people do it too. [LB579]

SENATOR NELSON: All right. Well, here...and I thank you, Senator. And I, you know, I think the amendment is a good thing--ten. But...and I'll continue my question here of you. I'm just going to state, I'm asking the question why. It takes a lot of training for a State Patrol officer and we're saying in this bill that they're going to do other things in addition to enforcement of the liquor enforcement laws. It takes a lot of training. We invest a lot of money in State Patrol. I think they have more important things to do than enforcement here. I think it probably is a waste of their time. Why don't we let local law enforcement handle most of this; if there are some really serious situations, a few Patrol officers? Let the State Patrol do the things that they are originally supposed to do--enforcement of our traffic laws, investigations of criminal matters and things of that sort. Here we are adding perhaps, I hope, no more than ten Patrol officers and, yes, it will help them. But this seems to be, to me, kind of a backdoor approach to getting more people on the Patrol, taking more training, more cost than we would have to deal with, with just local law enforcement that are already doing part of this. That's a broad-reaching question,... [LB579]

SENATOR GLOOR: One minute. [LB579]

SENATOR NELSON: ...but could you address that? [LB579]

SENATOR KARPISEK: I will, and thank you. Number one, the Liquor Control Commission is tasked with upholding these laws, so I would say that it's the state who is tasked with investigating. I had a bill last year that would have put these investigators under the Liquor Control Commission, as they were prior to 1987, and that was widely rejected. So that would have helped out a little bit. And I agree, Senator Nelson, that, yes, I don't know that this is a backdoor approach to get more troopers, but it is an approach to get more troopers and to have a professional level of alcohol enforcement

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from the state. [LB579]

SENATOR NELSON: Well, thank you, Senator. I appreciate that answer. And I would agree, it needs to be out from underneath the agency, but I don't know that it has to be with the State Patrol. These are the reason I'm asking these questions. Perhaps others will expand on them. [LB579]

SENATOR GLOOR: Time, Senators. [LB579]

SENATOR NELSON: Thank you very much. [LB579]

SENATOR KARPISEK: Thank you. [LB579]

SENATOR GLOOR: Thank you, Senator Nelson,... [LB579]

SENATOR NELSON: Thank you. [LB579]

SENATOR GLOOR: ...Senator Karpisek. Senator Scheer, you're recognized. [LB579]

SENATOR SCHEER: Thank you, Mr. President. Would Senator Karpisek be open to a conversation? [LB579]

SENATOR GLOOR: Senator Karpisek, would you yield? [LB579]

SENATOR KARPISEK: Yes, I will. [LB579]

SENATOR SCHEER: Senator, just...and I'm looking at AM663 and although it doesn't show up there, I'm assuming that will be part of it. And it talks about the ten patrolmen. In it, it also says the majority of their time will be in the process of the liquor control duties. Was there any thought of, if only half of their time is that, that we would just utilize five people rather than the full complement of ten? [LB579]

SENATOR KARPISEK: Again, the number that we brought out here was ten, is negotiable. I want to talk about the issue. I would like to just get more, if you will, full-time Liquor Control Commission investigators. [LB579]

SENATOR SCHEER: Well, I'm not necessarily saying that five would work. I guess what...perhaps let me rephrase. These new Patrol individuals, I'm assuming they will be disbursed in the whole area of the state, not necessarily based out of one office. So would... [LB579]

SENATOR KARPISEK: Correct, probably by region and the troop, by troops. [LB579]

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SENATOR SCHEER: So the need for ten perhaps is because of the disbursement around the state. It wouldn't do any good to have five individuals, three in Omaha and three in Lincoln, having the travel time going around the state to do the additional enforcement. Is that...? [LB579]

SENATOR KARPISEK: That would be part of it, to come out of the troop. And of course, where there's more population there's more liquor licenses, hence, more need for enforcement. [LB579]

SENATOR SCHEER: And because of the 50 percent or the little bit more than 50 percent of their time dedicated to this, that then would allow those additional Patrol people to pick up some additional time in just their normal law enforcement duties. Would that be correct? [LB579]

SENATOR KARPISEK: Well, my thought is it would be 80 percent. We just didn't want to put that into statute. We want to let the two agencies deal with that between each other. Mainly, that would be because if there is an accident, a major happening, that the liquor enforcement people, the troopers, wouldn't just say, well, I can't do that because I only do alcohol. Say if they see another illegal activity going on, they could also do that. Say they're in a bar, I don't want to take all your time, Senator Scheer, but they see...they're in a bar doing a check. They see someone selling drugs on the other end of the bar. They would go and make that arrest. So again, that's where we're not saying 80 percent of the time you have to do this. [LB579]

SENATOR SCHEER: Okay, and one final question: Do you know, and if not, if you could find out, if the Patrol is at its full complement of FTEs? I mean are we looking at an agency that is locked as far as employment so that the additional...partial additional enforcement would be above and...would these ten be above and beyond where they're capped, perhaps, if they're FTEs or...? [LB579]

SENATOR KARPISEK: Well, they have 477 right now which, like I said, is the lowest number of troopers since 1986. So they are spending their budget, but, in my opinion, they could use more troopers. [LB579]

SENATOR SCHEER: Okay. So part of this is just additional funding, that's they're not... [LB579]

SENATOR GLOOR: One minute. [LB579]

SENATOR SCHEER: ...they have not...there is no level that they are exceeding as far as employment of troopers. They are just lacking the resources. [LB579]

SENATOR KARPISEK: Correct. [LB579]

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SENATOR SCHEER: Okay. Thank you, Senator Karpisek. Thank you, Mr. President. [LB579]

SENATOR KARPISEK: Thank you, Senator Scheer. [LB579]

SENATOR GLOOR: Thank you, Senator Scheer and Senator Karpisek. Senator Karpisek, you are next in the queue. [LB579]

SENATOR KARPISEK: Thank you, Mr. President. And thank you, body, for the good questions. This has been vetted through the State Patrol and the Liquor Control Commission. We've had numerous meetings between the two. I don't want anyone to think that this is any sort of micromanagement of either of those agencies. And as Senator Nelson asked about does the Patrol need to be doing this, they are doing it right now. They have been since 1987. Right now, roughly nine FTEs are assigned to liquor enforcement. Is that enough? I don't know. I don't feel that it's enough. We have other bills that talk about minors buying alcohol, overserving, all these other sort of issues. I would like to have more people, more boots on the ground that do this a great majority of their time, deal with the license holders and are very professional and good at what they do. I'm not saying that the people we have doing it now are not good at that, but I think that they're stretched thin. And I don't think that we can actually go in and make face-to-face contact with liquor license holders as frequently as we should. There's a lot of training that we always talk about. I just think that if the license holder knows that there are people around, that they're watching maybe a little closer, get to know their person a little better, that I think they'll be a little more careful. This is nothing but to try to make the industry, the liquor industry, more professional. It gets a lot of bad raps, sometimes deservingly so. I would like to see it not get those bad raps, hopefully have a safer climate for this industry and also to help out the State Patrol, because I do think that they need more troopers. I do think that they are understaffed right now. Again, I in no way am saying they're not doing a good job. I know that most people would be glad to have more troopers in a different area of the state than where they are. However, we have them for a reason. This would help out the enormous amount of work that they have to do. Like I said, today we have 1,300 more annual licenses than we did in 1986, and 3,763 more special designated licenses, and we are as low on troopers as we've ever been. We used to have 12 inspectors under the commission; now we have roughly 9 troopers that handle this expansion. So again, I know the budget issues. I can't thank Senator Larson enough for standing up and speaking on that. We've heard it from Senator Mello. We've heard it from Senator Lathrop and many others, and I could not agree more. And we are going to have to make some tough decisions. [LB579]

SENATOR GLOOR: One minute. [LB579]

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SENATOR KARPISEK: I wanted to bring this up and talk about it because, if going forward, I would like to get some extra troopers for liquor control enforcement. And down the road, when I'm not here anymore, I hope when the budget looks a little better we can increase the State Patrol's funding. Thank you, Mr. President. [LB579]

SENATOR GLOOR: Thank you, Senator Karpisek. Senator Johnson, you are recognized. [LB579]

SENATOR JOHNSON: Thank you, Mr. President and colleagues. I sit on the General Affairs Committee and heard the discussion, and I remember most of that. I did have some questions relating to that but our previous speakers have addressed some of those. But I supported it to bring it out to the floor and especially when I realized or felt that there was going to be an amendment to reduce the number. The questions I had that I think have been pretty well answered is the relationship between the Patrol that are involved in liquor control and the...what I talk about as state troopers out on the road and in other investigations. And I believe I understand that, the mix now of time. I also probably believe that the Nebraska State Patrol is somewhat understaffed, so that answered that question. The second question I have is, and not totally answered yet, is the relationship between the State Patrol and our county and city law enforcement people. I was a little bit familiar with that when I sat as a mayor, but I...there's a couple areas that I do have a question, and maybe if Senator Karpisek would yield to a question, I would appreciate it. [LB579]

SENATOR GLOOR: Senator Karpisek, would you yield? [LB579]

SENATOR KARPISEK: Yes, I will. [LB579]

SENATOR JOHNSON: I, as mayor, I sat on the committee whenever they met with Project Extra Mile, and they were involved in, of course, teenage anti...policies relating to teenage drinking and used to have the checks that went out and the sting, I guess is maybe better defined. What is the relationship between the liquor control officer, State Patrol, and the local agencies in developing one of those stings, and who's in charge of that? [LB579]

SENATOR KARPISEK: I think, Senator Johnson, that's a very good question. And as being a mayor, you probably were more involved with that than I was. I think local law enforcement is usually involved with that, but I know sometimes the State Patrol will work with those groups also. Hopefully, when the State Patrol comes in, that they would let the local enforcement know, but I know that that isn't always the case because, as you know, maybe in a small town the phones start ringing pretty quickly when someone comes to town. [LB579]

SENATOR JOHNSON: Thank you. Yeah, I think there is a network that sends the

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signals out. I also believe that sometimes maybe coming through the State Patrol might be a little bit more undercover and might not be as recognizable to some people as they, you know, bring on the younger people to come in and start the sting. So I'm still mixed on that relationship and I will do some more research on that. I guess my underlying concern here is the understaffing of the State Patrol in general. And I would comment in kind of my closing, the community that, when I was in college, talked about they had seven churches and seven bars. That same community now has 13 churches and five bars. So I believe that community is heading in the right direction. Thank you. [LB579]

SENATOR GLOOR: Thank you, Senator Johnson. Senator Schumacher, you are next in the queue. [LB579]

SENATOR SCHUMACHER: Thank you, Mr. Chairman, members of the body. Senator Larson points out an interesting figure, \$100,000 a year to put these...apiece to put these ten patrolmen in the field. Make no mistake about it, if the State Patrol is short of help, we ought to give them the help they need for law enforcement, for fighting criminal elements. On the other hand, \$100,000 a year, as Senator Nelson points out, for simple regulatory work is way overspending. If we need regulators to go in and check whether they have their liquor license posted, whether or not they're keeping their tax records straight, to count the number of beer...bottles of beer on the wall, that can be done with someone who is not trained in life-and-death situations and, as I understand this, expected to perform in life-and-death situations 20-30 percent of the time. That seems to be a tremendous misallocation of public resources that we train, that we arm, that we buy protective clothing for, give special vehicles to, to run around and do what essentially is a regulatory function, much the same as which the Department of Revenue does when it regulates something like pickle cards. I think that to spend this money for this regulatory function just simply is not the smartest way to do things. Now maybe they want to do these things to have these people trained in undercover investigations and being able to plant hidden microphones on people and do that kind of cloak-and-dagger stuff that's justified in heavy-duty drug cases. Maybe they want to do that simply to run these sting operations, which they find a young person who is 20 years old, looks 25, and send them into a bar in a busy time of...in an evening situation to lie to the bar owner and then sting them. And if that's the case, I certainly cannot support more stings of good-minded, innocent people trying to do their job and make a living, particularly in some of our small communities. But that aside, I think that we do not need to spend this kind of money on a simple regulatory function and we do not need to have somebody, who is assigned a regulatory function, need to go through the training and the arming and the equipping and the uniform and all that, because we expect them to drop something at a moment's notice and go fight real criminals. So if we need more money for the Patrol, if we need two extra officers for the Patrol because we're going to give 80 percent of this ten officers, which would leave two officers for the Patrol, then I'm all in favor of bringing the Patrol and true law enforcement and true

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crime fighting up to full steam. But we don't need to spend this kind of money and this kind of equipment on something that is simply designed for liquor regulations. Particularly what we have not heard yet today is that the regulatory force that we have out there now is somehow dropping the ball. Sure, there may be special designated licenses that are up, but what are those? Those are community days, those are charities trying to raise an extra buck, and they've learned that if they get a special designated permit and they put a snow fence up around the church and sell a little beer, that they can have a better church bazaar. We certainly don't need armed, uniformed officers with bulletproof vests and big powerful guns walking around at those things to make sure that some kid doesn't get a can of beer. I think that ten is way too many. It's a misappropriation of resources. And we need to pare this down somehow in order for it to be palatable. Thank you. [LB579]

SENATOR GLOOR: Thank you, Senator Schumacher. Senator Bloomfield, you are recognized. [LB579]

SENATOR BLOOMFIELD: Thank you, Mr. President. Senator Karpisek has mentioned several times that the number ten is not sacrosanct. We started out at 15; we amended down to 10 in committee. I heard Senator Scheer mention five. I think any number we get, and that's what the body needs to decide, is if we are going to do anything first, and then how much. But we apparently eagerly voted to increase the judges' salaries considerably yesterday, but yet we can't lay out \$100,000 per individual for more protection for the people of the state of Nebraska. Something seems to be a little bit amiss here. But be that as it may, there is a number somewhere that should be met to increase this force. I know nobody likes to look in their rearview mirror and see a highway patrolman sitting back there, but it does give you a little satisfaction when you're in small town Nebraska and there's a Highway Patrol car sitting in town. You know they're around then and that there is protection available if something has gone away. We don't see them all that often out in the rural communities. Having a few more out there, even if they're there visiting the local watering hole to make sure things are all right, if that vehicle is parked out front, people realize they're around. So give that a little thought. Let's find a number we can agree on and let's do something here. Thank you. [LB579]

SENATOR GLOOR: Thank you, Senator Bloomfield. Senator Krist, you're recognized. [LB579]

SENATOR KRIST: Thank you, Mr. President. Good morning again, colleagues, and good morning again, Nebraska. I don't often disagree with Senator Schumacher, but in this particular case I'll use his points to make mine. Let's add up all the responsibilities of these guys who are standing in the back and out the back door and are guarding the Governor and are giving us tickets and enforcing the laws and writing the...helping, helping enforce what statutes we write on alcohol enforcement. And remember back,

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flash back to a year ago when I tried to bring to your attention that those compliance checks being run all over the state were stings and were out of control, and particularly in Omaha, who didn't understand what a compliance check was supposed to be. It is the State Patrol that helps us enforce the Liquor Commission statutes. They are the ones who set the parameters for what a compliance check should and should not be, and when they don't pay attention to the local people, and, Senator Nelson, directly towards your point, when they don't enforce what a compliance check is supposed to be and help those parameters be understood, those local authorities do stings, and we complain about it. We can write all the statutes we want to, but unless somebody enforces those statutes the way they're intended, we're out of control. So we had 15 officers that were federally funded. And we're not in the business of replacing federal funds, but those federal funds have gone away and we're going to lose 15 slots, FTEs, Senator Scheer, that were there. So if you want to know what the quality of the force is, in terms of quantity, we're already 15 down. That's kind of where the first number came from. And Senator Bloomfield is absolutely right, it was 15. And then we said, that's too much because we have to be mindful of the money that we need to spend, so we pared it down to ten. And Senator Bloomfield is absolutely right. Ten I don't think is an appropriate number. What the appropriate number is we'll decide between now and Select, but we need to do something because we have indeed decreased the number. If you remember a couple of years ago when we had a visitor come through...actually, we had a visitor come through that Senator Coash helped eliminate from the Chamber just a few days ago. But we had somebody walk through this back door who could have been a threat, and we didn't have anyone in this Chamber, except for the Red Coats, to do anything about it. We asked for additional security; there they are. So when you add up all the responsibilities of all these finely trained State Patrol and all the tasks that come upon them, where do we start asking them to draw the line? The Governor doesn't need what the Governor needs? The Legislature doesn't need what the Legislature needs? The Liquor Commission can go do their own thing; who's going to enforce the statutes? We have a decision to make and it is about money, again. It always is. What is the appropriate number of people to add back to the security of this state, to law enforcement in the state, the State Patrol, within reason, within our needs? This was a joint request, if you will, that came from the State Patrol and from the Liquor Commission to help do that job. We need to decide on the appropriate number. But to say they don't need to do that because they're carrying big guns,... [LB579]

SENATOR GLOOR: One minute. [LB579]

SENATOR KRIST: ...that does the whole thing an injustice. Thank you, Mr. President. [LB579]

SENATOR GLOOR: Thank you, Senator. Senator Coash, you are recognized. [LB579]

SENATOR COASH: Thank you, Mr. President. Colleagues, if you look at the committee

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statement, you'll see that I did not...I declined to vote LB579 forward, and I want to put on the record some of my reasons for that. Senator Karpisek has worked I think his whole time on the General Affairs Committee, and certainly as Chair, in professionalizing the liquor industry. And where he has taken the industry to where it is now has been a pretty cool thing to see, and I've been proud to be a part of it in my four and a half years serving on that committee. And what he's brought now is a way to help with the enforcement of the Liquor Control Act, which has taken somewhat of a backseat to other law enforcement duties. So he brought LB579 in an effort to put at the forefront of the Legislature and the State Patrol one of the duties that they do have, which is liquor enforcement. And it is an important duty, but it's not the only duty of law enforcement, and that's where my hang-up was. And we have the Liquor Control Act which has to be enforced. State Patrol also has a responsibility in some of the administrative duties with licensure. And where I landed and the reason I declined to vote LB579 forward is this. We are so low on troopers that have to do so many things other than liquor control enforcement, and it became a priority for me, a priority decision for me. If we're going to add troopers, where do we want to add them? And Senator Karpisek, as Chair of the committee, he's got to advocate for more...for what he understands the industry needs. But what I tried to do was take a more of a 50,000-foot view and say, we have lots of law enforcement needs that struggle to be met because of the lack of resources. And I wanted...I want more troopers. And the troopers came in and they asked for more capital construction, fixing some vehicles, fixing some radios, which are certainly vitally important to their work of law enforcement. But when you look at the preliminary budget, and Senator Larson helped me dig through this, they didn't ask for more troopers. I would like to see more troopers. I am of the opinion that if we can get more troopers, we need to have them doing all kinds of law enforcement. I will continue to work with the committee and with law enforcement to try to find ways to engage more enforcement, whether it's through the State Patrol or through local law enforcement, but that's where I landed. We got a lot of things we're trying to work on this year, a lot of things that cost money, and I didn't want this to get in the way of some of those other things. The liquor law enforcement, in my opinion, certainly could be better. There are some underserved areas where licensees are not checked. But as we...sitting on that committee for as long as I have, you don't hear the kind of licensees falling through the cracks that cause a lot of harm that you hear... [LB579]

SENATOR GLOOR: One minute. [LB579]

SENATOR COASH: Thank you, Mr. President,...you don't hear the falling through the cracks because of the lack of enforcement that you might hear compared to falling through the cracks with child welfare, for example, and how we don't have the resources to deal with that. So for me, it became a resource issue. It is not that more liquor enforcement couldn't be helpful, but that was my...the reasons that I declined to vote LB579 forward. And I appreciate the discussion. Regardless of where this bill goes, I think it's helpful for the body to understand that we do have a lot of responsibilities we

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put on the troopers. This is one of them. And they're getting it done but they are struggling to get it done. And this is an attempt. Maybe this time isn't right. And I would urge the body to continue to listen to the discussion and make their own decision. Thank you, Mr. President. [LB579]

SENATOR GLOOR: Thank you, Senator Coash. Senator Brasch, you are recognized. [LB579]

SENATOR BRASCH: Good morning, President and colleagues. I am looking very closely at this. I do know our troopers, they are in great demand in all our communities, in our rural communities. They're stretching their resources. We're stretching our resources here too. We do have a finite amount of dollars to use. Federally, I realize they're losing funding. And again, ten people--can we commit to that payroll moving forward should the economy take a decline? Two years ago the state agencies, the troopers, there were...I realize the ones in our areas, they were losing a day of pay. Agencies were losing a day of pay. Should things change, you know, how do we handle payroll for ten individuals with families? And we are treading very cautiously moving forward. I wonder if Senator Karpisek would please yield to a question. [LB579]

SENATOR GLOOR: Senator Karpisek, would you yield? [LB579]

SENATOR KARPISEK: Yes, I will. [LB579]

SENATOR BRASCH: Thank you, Senator Karpisek. I am curious. Is it coming to the Liquor Control for a request through the state troopers or how did this end up here? They are short troopers. And is it troopers needed specifically for liquor control? [LB579]

SENATOR KARPISEK: This came from the Liquor Control Commission, in their letter to us. And the Patrol has been helpful, but as I understand it, it was not a request by the Patrol. [LB579]

SENATOR BRASCH: And they did not have anyone testify. Is that not allowed or...? [LB579]

SENATOR KARPISEK: Well, we both might have our thoughts on that. I would have allowed them to testify. [LB579]

SENATOR BRASCH: Okay. And thank you. And then the other question is, on funding of the state troopers, do they not have their own budget to work with? If they are short men and women in their agency, do they have another channel besides the Liquor Control Commission? [LB579]

SENATOR KARPISEK: Oh, absolutely, they have their own budget. They are a code

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agency. And I'm not on Appropriations so maybe someone on that committee would tell us more. I think a lot of it, Senator, is that the budget is tight and everyone, especially code agencies, are trying to stay within their budget and maybe even decrease rather than ask for increases right now. That's my opinion. [LB579]

SENATOR BRASCH: Right. Thank you, Senator Karpisek. I have no other questions. Again, I need to put some more thought into this. And knowing that we are going to be losing federal funding and losing troopers, that is a concern, a huge concern. But my concern is, why is it not being requested, or is it being requested already through that agency for loss of personnel? And if there is someone on the Appropriations Committee that can address if there is legislation for their budget, I would like to see them hit the light and come on mike. Thank you, Mr. President. Thank you, colleagues. [LB579]

SENATOR GLOOR: Thank you, Senator Brasch. Senator Crawford, you are recognized. [LB579]

SENATOR CRAWFORD: Thank you, Mr. President. And I'd like to thank Senator Coash for his insight from being in the committee and dealing with this issue up close, wise comments, as usual. His comments echoed some of my concerns, which is I am concerned that we support the state troopers, but the emphasis on putting that money into liquor license, liquor enforcement doesn't seem to me to rise to the level of many of the other demands that we have before us in this budget year. So while I'm concerned that we make sure that we support those that we ask to protect us, the emphasis here of directing that money to troopers for liquor license control doesn't seem to me to be as high a priority as some of the other needs that they may face or some of the other tasks that they do for us. So I just wanted to echo my appreciation to Senator Coash for his analysis of the situation and indicate my concern about the bill is really from that standpoint, is a concern about where we're directing our resources, with all of the competing demands, and to echo my appreciation and support for all the work that the troopers do in so many ways in our state, and whether or not this specific appropriation focus for trooper responsibility is...rises to the level of some of the other demands we have, like supporting our foster parents and many of the other issues that we have before us in this budget. Thank you. [LB579]

SENATOR GLOOR: Thank you, Senator Crawford. Senator Mello, you are recognized. [LB579]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I apologize for getting up late on LB579 in regards to addressing some of the fiscal issues that have been raised, both by Senator Karpisek and other members of the body. Obviously, reading the fiscal note with the green copy of LB579, there's a General Fund appropriation to hire more State Patrol officers for liquor control enforcement. In speaking with Senator Karpisek, he fully understands that the number that is currently in

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the bill, as originally introduced, more than likely would not be the final number of officers that the body would ultimately accept, understanding that, as I mentioned multiple times, we have \$185 million worth of senator, Speaker, and committee priority bills. And every senator's bill has to be flexible in regards to narrowing down those fiscal costs of trying to make as many projects and initiatives move forward. I understand AM663 moves the number of officers from 15 to 10. That number, once again, is flexible. Senator Karpisek understands that. Other members who have approached me as well understand that the number may fluctuate as well. It's been brought to my attention that it's been discussed on the floor today of what has the Appropriations Committee done in the preliminary budget in relationship to the State Patrol's budget. Ultimately, the State Patrol did not request any new troopers in this year's biennial budget. In the preliminary budget, the Appropriations Committee did not appropriate any more funding for any new troopers for the State Patrol. There was a bill brought forward to us by Senator Coash that would appropriate money for two troopers that came through our committee for a specific division of the State Patrol. But the Patrol themselves, which is a code agency and answers directly to the Governor, did not request any additional troopers for this biennial budget process, nor did the committee appropriate any new funding for troopers at this point in time for any...for this biennial budget. Most of the appropriations that is in the preliminary budget right now for the State Patrol is basic operations cost, increases for new equipment, new vehicles, new technology, and ultimately an increase in their motor fuel...motor vehicle fuel usage in the sense of higher gas prices. That essentially is what has been put in the preliminary budget for the State Patrol at this time. If there's any further questions, I'll do my best to answer them. But I want to make sure to explain to the body that Senator Karpisek understands that this process is fluid; that while the amendment takes it down to ten, that number may be reduced further as we move along debate, if the body so chooses to move LB579 to Select File, because ultimately every senator has to be willing to be flexible with their budgets...or their A bills associated with their bill for us to be able to get as much work done this session, with what we know will be a limited amount of money for any new spending initiatives through A bills on the floor. Thank you, Mr. President. [LB579]

SENATOR GLOOR: Thank you, Senator Mello. Senator Bloomfield, you are recognized. [LB579]

SENATOR BLOOMFIELD: Thank you, Mr. President. Just a little brief reminder: If you have a certain task to be done, you have a given number of people to do it. You add a few more people to that list; that releases some, gives you more time to do the other thing. So if we hire some more Patrol to work with the alcohol people, that should release some more time for other patrolmen to go about the duties that we all know they need to do. So to say that this is all going to go for alcohol control, it frees up other people too. So kind of keep that in mind as you make up your mind where we need to go. And remember that number ten is not cast in stone. [LB579]

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SENATOR GLOOR: Senator Schumacher, you are recognized. [LB579]

SENATOR SCHUMACHER: Thank you, Mr. Chairman, members of the body. I always get a bit nervous when I hear that the State Patrol is lacking in personnel or the possibility of it. And a loss of 15 troopers is a big deal. I think that so far what I've learned is maybe we need to address that. And even though I'm sure in these conservative times we have to be conservative, but I'm almost hearing a case being made for five troopers and simply letting it in the discretion of the superintendent where to deploy them. If they've got extra time and extra resources, then go send them out and check on liquor licenses. But if they're needed for law enforcement and drug enforcement and those kind of things, then deploy them there. To micromanage the patrol and tell them that they've got to pick out some officers and dedicate 80 percent of their time to...or whatever majority of their time to checking liquor licenses seems not to be a wise way to do this. Would Senator Mello yield to a question? [LB579]

SENATOR GLOOR: Senator Mello, would you yield? [LB579]

SENATOR MELLO: Absolutely. [LB579]

SENATOR SCHUMACHER: Thank you, Senator Mello. Senator Mello, if we just wanted to add X number of officers to the Patrol and let it in the discretion of the superintendent where and how to deploy those resources, is that something that would be done at the Appropriations Committee level with us...without us having to pass a specific piece of legislation? [LB579]

SENATOR MELLO: Senator Schumacher, I believe that can be done probably in a variety of different ways, through the annual budget process that we go through, the...well, when we create the biennial budget as well as next year when we do the midbiennial adjustments. That could be done through the Appropriations Committee. As I mentioned, Senator Coash brought a bill to the Appropriations Committee to appropriate funds for officer...for new officers in a certain division, which could be done. It's very similar. LB579 is somewhat of a similar bill. But the reality is it had maybe a different focus and it was drafted in a way that dealt more with the Liquor Control Commission and less in regards to a flat-out appropriation. But as we have in front of us today, it's a very similar bill in front of us that is what we could do through the appropriations process. [LB579]

SENATOR SCHUMACHER: So basically, we could...if this body wanted to, as part of the budget process, add funding for five troopers, leaving their role in the discretion of the superintendent, we could do that with an amendment to the budget as it comes through? [LB579]

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SENATOR MELLO: Yes, Senator Schumacher, we could. Ultimately, as you'll hear when we pass the budget ultimately, we take those kind of issues into consideration. And ultimately, since this bill wasn't brought to our committee, it's something that our committee hasn't taken in consideration, because the bill was in the General Affairs Committee. It was a policy decision that was made to focus on appropriating funds for a specific purpose for these officers. But once again, the Legislature has the ability to do a variety of things and one of those powers is to be able to change the state budget that comes out of the Appropriations Committee to appropriate funds for a certain purpose. I think the unique thing is...and that's essentially what LB579 that Senator Karpisek's bill does, though, is it's prioritizing funding for a specific purpose of what these officers or troopers would do in comparison to just appropriating money to the State Patrol for whatever purpose they deem, because the reality is...and I'll let Senator Karpisek speak for himself. My understanding from the Fiscal Office is that if... [LB579]

SENATOR GLOOR: One minute. [LB579]

SENATOR MELLO: ...that the colonel would not just do this on their own. [LB579]

SENATOR SCHUMACHER: Thank you, Senator Mello. It seemed to me that we're...the Patrol knows its obligations, one of which is to check liquor licenses and some of this liquor enforcement. It would seem to me that we have no business micromanaging the work force of the Patrol. And if they need some extra personnel...it looks like they may. And I'm not sure if we could do it with a floor amendment here because this is maybe in the wrong section. But at any rate, we just give them enough funding for five extra people and let the superintendent decide whether he wants to...how much percentage of the time should be in liquor enforcement. Thank you, Mr. Chairman. [LB579]

SENATOR GLOOR: Thank you, Senator Schumacher. (Visitors introduced.) Continuing with floor debate, Senator Brasch, you are recognized. [LB579]

SENATOR BRASCH: Thank you, Mr. President. And I would also like to ask Senator Karpisek to yield for another question. [LB579]

SENATOR GLOOR: Senator Karpisek, would you yield for a question? [LB579]

SENATOR KARPISEK: Yes, I will. [LB579]

SENATOR BRASCH: Thank you. And I haven't had a...I was just getting my calculator out. But when I'm looking at the \$1-million-plus fiscal note, is that divisible by 15? You know, what is the cost per trooper here so we know in our...what we're talking about? Or is it administrative? You know, what does that cover? Is it divisible by... [LB579]

SENATOR KARPISEK: That is, Senator. The fiscal note is for the green copy of the bill,

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which was 15. We wouldn't get a new fiscal note on the amendment until it was passed, but an estimate from Fiscal Office would be, FY '13-14 would be roughly \$100,000 per trooper, and FY '14-15 about \$890,000 (sic) per trooper. [LB579]

SENATOR BRASCH: Okay. And does that amount also include benefits as well? Is that just strictly salary or... [LB579]

SENATOR KARPISEK: That does include everything, Senator,... [LB579]

SENATOR BRASCH: Everything. [LB579]

SENATOR KARPISEK: ...including maybe a new vehicle, new whatever else they need. And I do want to say that also Retirement Committee has...did run this through the actuary, and the actuary said that it would be a negligible impact on the retirement plan. And in my opinion, if you get new troopers in, younger ones, it would maybe even actually help the plan. [LB579]

SENATOR BRASCH: Okay. Thank you. And, Senator Karpisek, when...tell me about the federal legislation again that will take away...what is the exact number of...? Is it their existing staff? Are they looking at losing specifically? [LB579]

SENATOR KARPISEK: As I...it was 15 people, Senator, and it was Byrne dollars, which as I understand was mainly geared toward drug enforcement. And as I do understand from the Patrol, that those positions have been absorbed now through attrition or maybe a little movement. [LB579]

SENATOR BRASCH: Okay. Thank you. So currently, even with this federal legislation, there are not officers at risk of losing their jobs, because it's absorbed. Correct? [LB579]

SENATOR KARPISEK: It has been or will be absorbed, but I could be misstating, but I think it has been absorbed. [LB579]

SENATOR BRASCH: And any...\$100,000 per officer moving forward is what we're looking at to predominantly work on liquor control enforcement. [LB579]

SENATOR KARPISEK: Any sort of...these people would be troopers, and I don't want to take all your time, Senator, but they would be troopers, probably current troopers moved over into that position. So...but then others would be hired. So we're looking at roughly \$100,000 this year, roughly \$900,000 (sic) next year, per each. [LB579]

SENATOR BRASCH: Very good. Very good. And currently, do they have an idea--I'm certain they do--but how much time per officer is spent on liquor control, how much is dedicated? [LB579]

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SENATOR KARPISEK: We do not know that. I would envision roughly 80 percent, but I am not trying to micromanage the Patrol. So there would be an agreement between the Liquor Control Commission and the State Patrol. And the next amendment up would talk about just that. [LB579]

SENATOR GLOOR: One minute. [LB579]

SENATOR BRASCH: Okay. Very good. I am interested in learning how much currently is allocated towards liquor control. I believe that's an important number when we're looking at filling any needs, so... [LB579]

SENATOR KARPISEK: We have, roughly, nine inspectors right now, Senator Brasch. [LB579]

SENATOR BRASCH: Very good. Thank you. I have no other questions. And I do appreciate your bringing this bill forward. We need to look at what the needs are and what we can do moving forward, whether it's through Liquor Control Commission or through the State Patrol. Thank you. [LB579]

SENATOR GLOOR: Thank you, Senator Brasch. Senator Coash, you are recognized. [LB579]

SENATOR COASH: Thank you, Mr. President. [LB579]

SENATOR GLOOR: This is your third time, Senator. [LB579]

SENATOR COASH: Thank you, Mr. President. I wanted to expand on my earlier comments a little bit. Senator Mello, who followed, discussed another bill that I brought. I don't believe that Senator Karpisek is trying to micromanage the Patrol. What he's doing is saying we have a need and we've got to fulfill that need. So he brought LB579. As Senator Mello mentioned, we lost a couple of troopers who were out there doing enforcement with regard to child pornography. And we lost those troopers, or they got absorbed, and so I brought a bill to the Appropriations Committee to fulfill that need. And that's what we do here. We have to respond to the needs of our constituents. I saw a need for more troopers to replace the troopers we lost that were out there going after some real bad guys who would use children and abuse them. Senator Karpisek is bringing a bill to increase liquor law enforcement because we've lost troopers there. And I want to be clear, my opposition to moving LB579 forward wasn't because I thought my idea that I put in Appropriations was a better idea. I was trying to fulfill a need; Senator Karpisek is trying to fulfill a need. And then it's an interesting thing that's come up a couple times on the mike where the troopers themselves, and maybe each...and you got to remember the troopers don't get to decide whether they need more colleagues on

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the road. That's a call for the Governor. But the agency itself did not ask for more troopers when they went in front of the Appropriations Committee. And I find that something that we have to wrestle with, because we're the ones that hear. You sit on General Affairs, you hear about the need for liquor law enforcement. If you are interested in children's issues, you hear about the lack of troopers who can investigate child sex crimes, and that was the bill that I brought. And so we're out here trying to wrestle with the various needs of law enforcement and who can provide them. And the agency who came in front of this Legislature, through Appropriations Committee, and said, no, we're doing fine with the numbers that we have, which is a little troubling because I think if you talk about where they...if you get down in the weeds with the day-to-day operations of what a trooper does, for example, you'll find that they have to do what we do, which is prioritize. And they have to decide how, you know, the troop leaders and the superintendent have to decide where best their limited resources are used. And what I found on General Affairs over the past couple years is that law enforcement, liquor law enforcement is certainly a duty that they fulfill but it's not as high a priority as other things. And we leave that discretion to the superintendent, and I don't fault the superintendent for making those tough decisions. That's what he's there to do. He's got to decide where his troopers are best utilized. But we do have needs in law enforcement. We have need for more troopers. Whether they go to liquor enforcement, child sex crimes investigation, we need all of that. But I think it's curious that the department, you know, the agency came and said, no, we don't need any more troopers. Maybe they're telling us they don't want to get in the way of other initiatives that the Legislature has. [LB579]

SENATOR GLOOR: One minute. [LB579]

SENATOR COASH: Maybe they're telling us that they can get it done the best they can with the numbers that they have. But here we are. We've got a lot of needs for law enforcement, not a lot of money to go around, so we have to make some tough decisions. And so where I landed, and to be clear, is that I'd like more troopers. I'm not going to try to tell them exactly where to go, although I did with a bill and it's, I don't think...and it didn't come out of the Appropriations Committee. And if we can get more troopers, I think that's a discussion that we have to have on a larger scale with regard to our troop numbers. Thank you, Mr. President. [LB579]

SENATOR GLOOR: Thank you, Senator Coash. And, Senator Coash, you do have another turn remaining. (Visitors introduced.) Senator Schilz, you are recognized. Senator Schilz waives. Are there other senators wishing to be recognized? Seeing none, Senator Karpisek, you're recognized to close on the committee amendment. [LB579]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. This has been a very good discussion this morning and a lot of...I think we've asked a lot of good

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questions and uncovered a couple questions that probably need to be answered by other branches of government. I do want to say and thank Senator Bloomfield. He mentioned that I've been saying \$800,000 per trooper going on. I have one too many zeros--be \$80,000 per trooper going forward. So roughly \$100,000 per year per trooper in FY '13-14, \$80,000 per year '14-15. And thank you, Senator Bloomfield. That does make quite a difference, doesn't it? Again, general counsel of...legal counsel of the Retirement Committee has said, and I thank her for reminding me twice, that the actuary said that there would be negligible impact on the plan. The amendment, again, goes from 15 down to 10, and I'm fine with that. And again, we can talk, I hope, between now and Select File on that number. And that number, again, will involve the budget. And Senator Mello and I have been in communication since this bill was put in, so this did not surprise him. He knows that it's in. I know that it's a matter of how much we can do. But nine is the number that we are using now. I want everyone to remember that this is not new...something new we're taking on. We have nine. I would like to have more. And maybe that number would not be ten by...determined between the State Patrol and the Liquor Control Commission. Of that ten, it might not be all ten moving over and doing this, but I would hope that that would be the number, 10 to 12 total, of doing this. Fifteen would be optimal. This isn't a hard, fast number. I appreciate being able to get up and talk about this bill. I considered not even bringing it to the floor because I know that it's going to be the budget that determines a lot of this. However, I think a lot of it needs to be talked about and the entire body know about. I thank Senator Coash for bringing up his bill that he has for...in Appropriations Committee for trying to help. I completely support what he's trying to do there and I'm sure he understands the money part there too. These people are troopers, as I see this. And as talking and helping...the State Patrol helping us through this bill, they would probably be troopers who are experienced in this line of work doing this more full-time, hopefully clearing up some room for new troopers to come in and do the sort of jobs that we think of troopers as doing--chasing around, wrestling bad guys. I do think it's important that we get some, and I would appreciate your vote to at least move... [LB579]

SENATOR GLOOR: One minute. [LB579]

SENATOR KARPISEK: ...AM663 from 15 to 10. Thank you, Mr. President. [LB579]

SENATOR GLOOR: Thank you, Senator Karpisek. Members, the question is, shall the committee amendments to LB579 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB579]

ASSISTANT CLERK: 26 ayes, 1 nay on the adoption of committee amendments, Mr. President. [LB579]

SENATOR GLOOR: The amendment is adopted. Mr. Clerk for an amendment. [LB579]

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ASSISTANT CLERK: Senator Karpisek would move to amend with AM997. (Legislative Journal page 969.) [LB579]

SENATOR GLOOR: Senator Karpisek, you're recognized to open on your amendment. [LB579]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. This amendment is meant to clarify what I mentioned earlier as to how the additional troopers would be hired and assigned. My understanding of how this would likely be implemented is that the State Patrol would assign a total of ten members experienced in enforcing the Liquor Control Act to spend a majority of their time doing just that. The State Patrol could then have a new basic recruit class to hire ten new State Patrol members for whatever needs the State Patrol may have. This amendment doesn't make any substantive changes to the bill but merely clarifies the intent of the bill. I think that this is the piece that takes away any micromanaging that we may be concerned about because it assigns ten members and there are currently roughly nine. Thank you, Mr. President. [LB579]

SENATOR GLOOR: Thank you, Senator Karpisek. Members, you've heard the opening on the amendment to LB579. Senator Larson, you are recognized. [LB579]

SENATOR LARSON: Would Senator Karpisek yield? [LB579]

SENATOR GLOOR: Senator Karpisek, would you yield? [LB579]

SENATOR KARPISEK: Yes, I will. [LB579]

SENATOR LARSON: So with AM997, essentially right now there's only roughly nine people doing the Liquor Control Commission enforcement right now. [LB579]

SENATOR KARPISEK: Correct. [LB579]

SENATOR LARSON: And with this amendment you'd really just be adding...you'd be designating that ten people have to do it. [LB579]

SENATOR KARPISEK: Actually, Senator, I don't know that it even says that it has to be that. This would let the Patrol and the commission work out how they would do it. [LB579]

SENATOR LARSON: So...I guess in the opening of your amendment the reason that I question it, you said that it would designate ten people to do Liquor Control Act and it would free up ten more people to be hired by the State Patrol to do whatever the State Patrol wanted. So I'm just trying to follow it through if that is what you're actually doing.

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So there's nine doing it now. Your amendment would say that ten has to do it and then they could hire ten other people to do whatever. [LB579]

SENATOR KARPISEK: You are absolutely correct. And if I wasn't clear in that, I apologize because I would say that I probably wasn't. But you are absolutely correct. Nine now, ten or more if that's how the Patrol wants to do it, along with the Liquor Control Commission; and they negotiate or work out however they're going to do that. [LB579]

SENATOR LARSON: So essentially what AM997 does is only adds one person to the Liquor Control body and lets a new class of ten troopers be hired. [LB579]

SENATOR KARPISEK: It does. It kind of stops the slide. We started with 12 in '87. Now we're down to nine. This would say it's going to be ten at least and allow ten more to be hired if it's in the budget for the State Patrol. [LB579]

SENATOR LARSON: So we're setting ten in statute then. [LB579]

SENATOR KARPISEK: Correct. [LB579]

SENATOR LARSON: Is there a number set in statute now? [LB579]

SENATOR KARPISEK: No, there is not. [LB579]

SENATOR LARSON: Well, one thing that concerns me about setting a number in statute, again speaking as a member of the Appropriations Committee, is the budget goes in cycles, up and down, up and down. And when we start setting a number of troopers in statute, that means as an Appropriations Committee if we want to...if the State Patrol has to offer cuts or we have to do something, it's my understanding then if we're setting it in statute it would take a statutory change to take a Liquor Control Commission State Patrolman off if AM997 goes. Correct? [LB579]

SENATOR KARPISEK: That is correct. We're trying to stop the slide to any lower than ten. [LB579]

SENATOR LARSON: Again, members, as a member of the Appropriations Committee and that sees how the budget process works, that's worrisome because my view, and other committee members might disagree with me, but my view is that we have to have the ability to be fluid within our budget and look at each code agency individually and say, you know, they have ten members doing liquor control. Can they get by with nine? Can they get by with eight? And when we start setting specific numbers in statute that the State Patrol has to have ten people doing this, it's very concerning. And I can't support AM997 for that matter. Because not only will it hamstring this body with the ten

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new State Patrol members, which I'm not saying the State Patrol doesn't need a ten-people class, but again we start looking at those 2013 senator priority bills and \$100,000 or a million dollars roughly for those ten and then the fiscal note next year, and obviously it will be a continuing appropriation. But we're talking about putting into statute... [LB579]

SENATOR GLOOR: One minute. [LB579]

SENATOR LARSON: ...ten people and so we as a body have to come back and change that statute in a down cycle to say, well, they only need eight. And honestly I look at it another way if there's ten people that have to be doing this and we go into a downturn, it will be the Patrol officers, the highway patrol officers that are getting cut because the State Patrol will say, well, statute says we have to have these ten, but we have to cut, you know, so much in our budget to fit what the Appropriations Committee is going to have us. They statutorily can't take it from here. They're going to take it from the troopers that are making the roads safer. And I'm not saying that liquor control isn't an important thing, but I think we as a Legislature and as an Appropriations Committee has to have the ability to maneuver in terms of looking where the cuts are best placed. And by putting this in statute, we're not being able to look at where...we'll be hamstringing ourselves in the future of where our cuts will be best placed. Again, that's my opinion. Other members of Appropriations might disagree with me. But I appreciate what Senator Karpisek is trying to do with the amendment. [LB579]

SENATOR GLOOR: Time, Senator. [LB579]

SENATOR LARSON: Thank you. [LB579]

SENATOR GLOOR: Senator Schumacher, you are recognized. [LB579]

SENATOR SCHUMACHER: Thank you, Mr. Chairman, members of the body. Would Senator Karpisek yield to some questions? [LB579]

SENATOR GLOOR: Senator Karpisek, would you yield? [LB579]

SENATOR KARPISEK: Yes, I will. [LB579]

SENATOR SCHUMACHER: Senator Karpisek, thank you for yielding. And after Senator Larson's comments, I thought I understood what we were doing here, but I'm now not sure. Your particular amendment here says that the commission will enter into an agreement with the Patrol in which the Patrol shall hire up to ten new people. So step one, they go out and can hire up to ten new people. [LB579]

SENATOR KARPISEK: Correct. [LB579]

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SENATOR SCHUMACHER: Okay. Then step two, they will designate ten people who will spend a majority of their time in liquor enforcement. Now is that ten more people or just one more person since we have nine already? [LB579]

SENATOR KARPISEK: It would be one more person, but it might not be the nine that are working in it now. [LB579]

SENATOR SCHUMACHER: Okay. Well, the bill does not say designate ten new people. So what we're really down to talking about in this whole bill is one person for liquor enforcement; 80 percent of his time is going to be spent on liquor or somewhere, a majority of his time. Is that what we're talking about--one person? [LB579]

SENATOR KARPISEK: No. Well, one more person than we have now, Senator Schumacher. But there is no percentage right now of how much the nine, because it's roughly nine, of those are spending in liquor enforcement. It could be much less. [LB579]

SENATOR SCHUMACHER: Of the nine, do a majority of them or is a majority of their time in liquor enforcement? [LB579]

SENATOR KARPISEK: I can't say that it is. I don't know that. But again, it isn't nine people. It's nine hours, nine FTEs' worth of time. [LB579]

SENATOR SCHUMACHER: Okay. So we're not talking about individuals here. We're just talking about FTEs. Is that right? [LB579]

SENATOR KARPISEK: The way it is now. My intent would be ten FTEs so it's the same people doing the same job every day. [LB579]

SENATOR SCHUMACHER: For at least 51 percent of the time. [LB579]

SENATOR KARPISEK: Correct. And I would like to say more like 80 percent but, again, I don't want to tell the Patrol and commission how much that should be or will be. [LB579]

SENATOR SCHUMACHER: So if we were to strike ten in your particular amendment and substitute five in both of those places, would we then be cutting the number of people that are working on liquor enforcement? [LB579]

SENATOR KARPISEK: No, because it would still be up to the Patrol to decide how many would be there, but at least five would be doing it that majority of the time. [LB579]

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SENATOR SCHUMACHER: What's your thoughts in regard to substituting five where we see ten in your amendment? [LB579]

SENATOR KARPISEK: I would rather have six if we're going to go down because of the troops where they're headquartered out of. [LB579]

SENATOR SCHUMACHER: Okay. I should have started with four. That way we could have compromised at five (laugh). Thank you... [LB579]

SENATOR KARPISEK: Oh, no, I would have went with six no matter what, Senator. That would be the point. And I would rather do that going to Select so we can sit down with everyone. And right now I think I would be absolutely fine with that, but I would want to run it past everyone again, the Patrol and the commission, before agreeing because I don't want to micromanage them. [LB579]

SENATOR SCHUMACHER: Okay. Thank you, Senator Karpisek. It almost looks like we're talking a net of one person's worth of time even though what we're talking about is identifying ten people in this particular amendment. [LB579]

SENATOR GLOOR: One minute. [LB579]

SENATOR SCHUMACHER: I have to agree with Senator Karpisek. We probably need to do some work on this and get things ironed out. But certainly if we need more patrolmen, then that's something that we should seriously consider. Thank you. [LB579]

SENATOR GLOOR: Thank you, Senator Schumacher. Senator Krist, you are recognized. [LB579]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues and Nebraska. Senator Chambers has been the voice of continuity in some cases, giving us history, giving us perspective. Sometimes we don't like the perspective, but it's always been good to hear the history and how we got to where we are. So I would ask you between now and Select to give credence or give concern to this: In 1987, in 1987 there were 12, 12 dedicated officers that helped in the enforcement of the Liquor Commission statutes--1987, 12 officers were dedicated to this proposition. Then Governor Kerrey decided that that was not a good use of 100 percent of an officer's time so he took them out from the immediate control of the Liquor Commission and put them in the State Patrol. Now if I was on the Liquor Commission when that happened, I would have put a memorandum of agreement in place that said this is how my enforcement is going to happen and this is the appropriate number of people that I need, not full time but part time. That was not done, but that's why we're in the slide or in the position that we're in right now. What Senator Karpisek and our General Affairs Committee is asking is to

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reevaluate the appropriateness of a part-time State Patrolman enforcing our liquor control statutes. In 1987, that ratio of officers to licenses was 1 to 300. So in 1987 there were 12 officers, each one of them the ratio being 1 to 300 current licenses, liquor licenses in the state that they had to enforce. That number is double today. There are 600. So the ratio currently at nine, at nine part-time officers is 1 to 600. So as we evaluate the appropriateness of a part-time officer doing the job of enforcement of our liquor control statutes, we also have to analyze what that workload has come to. And Senator Karpisek wisely is asking you to allow between now and Select, State Patrol and Liquor Commission to arrive at an appropriate number and dedicate 51 percent of X number of officers to liquor enforcement, law enforcement. There are approximately 425 State Patrolmen today, plus or minus a few. And we're asking that a portion of the job that they do, which is liquor enforcement, be dedicated to a certain group who know what they're doing, who have been taught how to do it, and help our other political subdivisions around the state enforce the statutes. Consider if you will that no number up here is in concrete and should be addressed as part of our concerns for where to spend the money as we end up this session. Thank you. [LB579]

SENATOR GLOOR: Thank you, Senator Krist. Senator Chambers, you are recognized. [LB579]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I was going to put a motion up there so I could be sure and talk. I wanted people to say what they had to say on this bill, but I've read a very disturbing article in the paper this morning, and I'm going to read it into the record, then have some comments about the Bureau of Alcohol, Tobacco, Firearms and Explosives and the Nebraska State Patrol. It's on page 1 of this morning's Lincoln Journal Star: Man says he sold to cops, subhead. Accused arms dealer told ATF agent law enforcement were frequent customers. The article is by Jonathan Edwards. The 35-year-old Lincoln man facing federal gun running charges told undercover ATF agents he routinely dealt with Nebraska law enforcement officers out of his southeast Lincoln home. "Cops come in all the time to sell and buy firearms and other stuff," Ashley Gerbig, G-e-r-b-i-g, said according to the 33-page search warrant affidavit ATF special agent Paul White filed last month to get a warrant to search Gerbig's one-story brick house at 6209 Deerwood Drive. White went to Gerbig's house on February 26 amid a yearlong sting and said he inspected an HK USP .40 caliber pistol that was lying on a pool table, the affidavit says. Gerbig told White a Nebraska State Patrol trooper sold him the handgun, his duty weapon, along with two other firearms for cash. It's illegal for troopers to sell their duty weapons which are state property, but the Patrol never has issued an HK USP .40 caliber pistol as a duty weapon Patrol spokeswoman Deb Collins said Wednesday. Troopers have carried Glock pistols since 1991, she said. A trooper caught selling or buying weapons from a gun dealer who did not have a federal license would get in trouble, but the accusations would have to be proved, Collins said. "There would be consequences," she said, adding that she didn't know what they would be. The ATF has

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not alerted the Patrol that one of their troopers may have sold his or her duty weapon or that the bureau is investigating Gerbig's claim, Collins said. Special Agent Trista Frederick declined to say whether the ATF is investigating. Gerbig's father, Stanley Gerbig, had a federal license to sell guns for 13 years until 2010 when the Bureau of Alcohol, Tobacco, Firearms and Explosives revoked it, saying he had violated the federal Gun Control Act several times. The next year Ashley Gerbig applied for a license, but agents denied the request, saying their investigation that he, too, violated the act. Collins, the State Patrol spokesperson, declined to comment on Gerbig's specific statement about buying a duty weapon from a Patrol employee, saying it would be inappropriate because it's an active case. Digressing for a moment, she did not say who is conducting this active case, ATF or the Patrol. Continuing with the article, during another meeting two and a half weeks earlier, White said he saw a man enter Gerbig's house to return ammunition magazines. The man was dressed in what looked like a police uniform and Gerbig told White he frequented the business. Agents searched Gerbig's home March 19 and seized 678 firearms,... [LB579]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: One minute, Senator. [LB579]

SENATOR CHAMBERS: ...including rifles, handguns, shotguns, and AR-15s. They also took 13 grenades, mortar rounds, and other explosives from the one-story brick house. Then it goes on to say that he was indicted. I'm concerned that ATF has not conducted this investigation as it should. If they think a Patrol person was involved, they should be investigating. The Patrol had been notified. They should be investigating. And if a Patrol officer is purchasing or selling to an unlicensed dealer, the consequences should be firing. This appearance of law enforcement people, federal and state, protecting wrongdoing officers is wrong. Leaving that cloud over their head by saying, we cannot say whether we're investigating is insane in my opinion. I'm going to do what I can, not today, but to delay this bill until I hear something from the State Patrol. And maybe I will do it today. [LB579]

SPEAKER ADAMS: Time, Senator. [LB579]

SENATOR CHAMBERS: Thank you, Mr. President. [LB579]

SPEAKER ADAMS: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR124 and LR125. And, Senator Chambers, you are next in the queue. [LR124 LR125]

SENATOR CHAMBERS: Thank you. Mr. President, let me tell you why I'm so disappointed. If it were the Omaha police, I'd say the rats are just doing some more nibbling. I believe the Omaha police are playing a part in making guns available to

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young black men in my community, and I've said it: The chief doesn't care, ATF never talks to me, the FBI, nobody. But our kids are getting these high-powered new guns, not something you put together with wire and duck tape. And somebody knows the source of those guns, and I believe the police know and I think they are implicated in this. But I'm so disappointed in the State Patrol because I view that organization as the flagship law enforcement agency in this state. They are not going to jeopardize an investigation by saying they are investigating. They're not exposing anything. All they are doing is reassuring the public that in the same way we would tell you that we got a complaint that there was a gun runner out there and we're investigating it, we have a complaint about one of our officers, and we are investigating the complaint. An investigation is not a declaration of guilt. But when you are so sensitive that you cannot say you're investigating, then I have one of my colleagues saying get ten more of these people. How do I know they might not be gun runners? And if they are, we can't be told by the Patrol that they will investigate. ATF apparently, from what the spokesperson said, did not alert the State Patrol. Well, they work together. How did the news media see the need to put this in the paper and alert the Patrol? And if the only information that this Patrol spokesperson had was obtained from the news media, then the news media is performing a better law enforcement function than law enforcement agencies. I have no respect for the Bureau of Alcohol, Tobacco, Firearms and Explosives. I've contacted them, not an acknowledgement. Just like I criticize my colleagues on the floor, I don't owe it to a federal agency to let them get away with what they apparently are trying to do now. If you're trying to track down guns, it's like a spider web, from the hub. If it's a circular web, those strands go in all directions. And if you have somebody dressed like a cop, why don't you assign somebody to follow that lead and see if there's gun running in the police department? If you have evidence presented of the possible involvement of a state trooper, evidence the word itself doesn't mean necessarily that it's valid. That's why you refer to certain things as allegations. Evidence is given, but it's unproved. When it's unproved, it's an allegation but it still constitutes evidence. They would take what was presented in this story and investigate a private citizen if they wanted to. Let's say it were me. I've been investigated by the FBI and nothing approaching anything like this have I ever even been slightly associated with. But you got a state trooper, maybe more, at least one cop, maybe more. The Lincoln police are not investigating. State Patrol is not investigating. ATF is not investigating. And you're supposed to be blinded by the fact that this guy had 678 guns. That's bad. [LB579]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: One minute. [LB579]

SENATOR CHAMBERS: But if those whose job it is to uphold and enforce the law and they're on oath to do so and they do not do it, who will call them to account? Who will police the police other than me? Who will patrol the Patrol? Who is going to look at ATF? Is everybody afraid? Has nobody a voice, nobody a tongue? You were listening

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and talking plenty when you were talking about giving them more people, but this is of no interest to you, is it? And it's why black people, poor white people, and other nonwhite people say there's a lot of baloney going on down here because you talk about everything except those things that affect our community. So that's why I have to talk long, loud, and strong; and I'm going to do it, and I'm going to start attacking these bills. Then by the eternal, as Andrew Jackson is supposed to have said, I'll get your attention then I bet. Thank you, Mr. President. [LB579]

SENATOR GLOOR: Senator Chambers, you are next in the queue. [LB579]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I don't want the State Patrol to be...look at me, I'm talking. I don't want the State Patrol's image or reputation to be sullied. In the same way, I spoke about how essential it is to have an independent judiciary competently doing the work of those whose job it is to interpret and apply the law. We need some law enforcement agency to whom people can look with confidence and trust. I cannot tell you how good the feeling was that I had when I was informed by various officials that the State Patrol would participate in the investigation of that horrendous police misconduct in Omaha that was put on YouTube and broadcast around the world. And that's the only reason, by the way, anybody was interested. Otherwise, the local police would have denied it; the chief would have said we had no evidence because it has already been found that the officers were in the process of manufacturing a cover-up. I was glad that the State Patrol would be involved because of the confidence that I have in them, knowing that not every officer is going to do his or her job as he or she should. But whenever you have an organization with a large number of people, not all are going to behave as they should, even in the ministry, even in the Catholic Church, even in the church that I was forced to be in when I was a child. And I saw a lot of wrongdoing because children are invisible when adults are doing their wrong. But when I find out that the Patrol has information that may implicate one of their officers in illegal conduct and they cannot even say we're going to investigate or we are investigating, I now wonder if the ATF and the State Patrol work so closely together that one is Jesse James, the other is Frank James and one hand washes the other and they have to look the other way. Then perhaps because there are occasions when the State Patrol and the Omaha police work together, the same thing is happening. There is a lot of posturing before the public, a lot of the right things being said to deceive somebody such as myself and others. And behind the scenes they're winking and nodding and saying, we take care of each other. Cops don't rat out other cops. There is a duty we owe to each other. This concept of blue line of silence is more than just a word, more than just a phrase, more than just a maxim. Don't worry, fellas; we've got to make it look good for the public, but we're going to make some strategic errors along the way and you'll slip out of the net. That's what I think is going to happen now. And I'm going to watch them like a hawk. But so what if I do? Suppose I discover something? Where can I go for redress? I'm looking for something clean, and the one who I go to has hands dripping with sludge and oil and other filth. And I'm going to take

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a pristine, pure garment and put it into the hands like that? How can they say that if you seek equity you must come with clean hands? But the one whose job it is to dispense what you find at equity has dirty, soil-contaminated hands? You all are too comfortable in the presence of this. So I'm going to do to your bills what I feel is being done to my community and then you'll pay attention. [LB579]

SENATOR GLOOR: One minute. [LB579]

SENATOR CHAMBERS: And you'll say why is Ernie doing it? I'm going to say because your cops are doing it and you don't care, I don't care about you. You wait till that school aid bill comes up. I had told the Speaker I would like to talk to him about it. I don't need to talk to him now because I know what I'm going to do. Have you got 33 votes? Have you? The only one who's exempt from this is Senator Mello because I already promised him that that bill on the land bank is safe from me, and I stick by my word, unlike my colleagues. Watch me. And I'm going to start on the next bill. Thank you, Mr. President. [LB579]

SENATOR GLOOR: Thank you, Senator Chambers. The Chair recognizes Speaker Adams. [LB579]

SPEAKER ADAMS: Thank you, Mr. President. Members, just a couple of announcements. At 11:00 as you can see on the agenda, we will move on to LB44 and that will be...the plan is that will be the last bill for today. I'd like to take that to some conclusion today if that's going to be possible. On Tuesday morning when we reconvene, LB577, which is Senator Campbell's bill on Medicaid, will be the first bill up, and we will begin our debate on that. Next week, for your planning purposes, on Tuesday the 16th and on Thursday the 18th we will plan to try to adjourn between 5:00 and 5:30. On Wednesday, we'll go the 6:00, 6:30 route. Thank you, Mr. President. [LB579]

SENATOR GLOOR: Thank you, Speaker Adams. Mr. Clerk for some announcements.

ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Business and Labor reports LB141, LB476, LB536 all to General File. Your Committee on Judiciary reports LB51, LB233, LB151, LB161, LB483 to General File, some with amendments. Your Committee on Agriculture reports LB647, LB544 to General File. Committee on Judiciary reports LB289 and LB441 to General File with committee amendments. New resolutions: LR148 by Senator Johnson and others; LR149 by Senator Lathrop and others; and LR150 by Senator Lathrop and others. Those will be laid over, Mr. President. And that's all that I have at this time. (Legislative Journal pages 972-986.) [LB141 LB476 LB536 LB51 LB233 LB151 LB161 LB483 LB647 LB544 LB289 LB441 LR148 LR149 LR150]

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SENATOR GLOOR: Thank you, Mr. Clerk. (Visitors introduced.) As the Speaker mentioned, members, we now move on the agenda to LB44. Mr. Clerk. [LB44]

ASSISTANT CLERK: Mr. President, LB44 was introduced by Senator Ashford. (Read title.) The bill was read for the first time on January 10. It was referred to the Judiciary Committee. That committee placed the bill on General File. The bill has been considered previously, at which time the committee amendments were adopted, along with an amendment from Senator Carlson. At the present time, Mr. President, I do have a motion pending. [LB44]

SENATOR GLOOR: Senator Ashford, would you review the bill, the status of the bill, for the membership, briefly, please? [LB44]

SENATOR ASHFORD: I will be very brief. The body has agreed to a sentencing range for juveniles who have been convicted of a 1A felony of 40 to life and after, obviously, a couple days of discussion, and it's a fair resolution of this matter and I urge that we adopt it. [LB44]

SENATOR GLOOR: Thank you, Senator Ashford. Mr. Clerk for a motion. [LB44]

ASSISTANT CLERK: Mr. President, the next motion I have is from Senator Chambers. Senator Chambers would move to indefinitely postpone the bill. [LB44]

SENATOR GLOOR: Members, we will begin debate on LB44. Senator Kintner, your light is on. Senator Kintner, you are recognized. [LB44]

SENATOR KINTNER: (Inaudible). [LB44]

SENATOR GLOOR: Thank you, Senator Kintner. Senator Lathrop, you are recognized. [LB44]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I stand to urge your support of LB44 and to vote for the bill. Thank you. [LB44]

SENATOR GLOOR: Thank you, Senator Lathrop. Senator Chambers, you are recognized to open on your motion. [LB44]

SENATOR CHAMBERS: Mr. President, members of the Legislature, circumstances alter cases. Circumstances have changed. The case has been altered. I want to withdraw that motion. [LB44]

SENATOR GLOOR: Seeing no objection, so ordered. [LB44]

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ASSISTANT CLERK: Mr. President, I have nothing further on the bill at this time. [LB44]

SENATOR GLOOR: Senator Ashford, you are recognized to close on LB44. I'm sorry, Senator Ashford. We now return to debate on LB44. Are there members wishing to be recognized? Senator Chambers, you are recognized. [LB44]

SENATOR CHAMBERS: Mr. President and members of the Legislature, I had made a forceful declaration of what I was going to do about every bill. I have information that changes my mind. I'm not going to tell you what it is, but my mind has been changed. I'm going to support this bill because it's the only thing on the table. I do not like the 40-year minimum sentence. Senator Ashford and I have talked about it. And he knows I don't like it and I made it clear on the record that I don't like it. But we don't always get what we want, and some people don't get what they deserve. When a bill is presented we all know that it may not be in the form, when it comes to be read on Final Reading, that it held when it was first introduced. I take this whole issue very seriously. And I'm not going to repeat everything I said the other day. But I had been given an expectation of what we, who are on the committee, would fight for. And that was that 30 years which I thought should not have been there. But when people who are serious and sincere about an issue such as this can reach a consensus on something that may not be what I want but it's better than what could be done, I'm not going to stand in the way of it. So the 30 years was what I was prepared to defend. And I pointed out how, at one point, I was even willing to depart from my view about mandatory minimums and settle on supporting a mandatory minimum of 20 years. That blew up. Senator Carlson then threw a line. There was a song, Senator Ashford, being sung, and this guy said, show me a sign and I'll throw you a line. Senator Carlson threw Senator Ashford a line, and Senator Ashford, being attacked from all angles--and by him I meant the bill--felt that any way out is the way to be taken. So he took that way out and, before we broke for what people call a lunch hour, he indicated that he would go along with what Senator Carlson was offering. And Senator Carlson was offering the 40-year minimum. That offering by Senator Carlson suddenly took on the aura, the status, and majesty of a pronouncement by the Pope, ex cathedra--or ex "ca-thee-druh," (phonetic) however you choose to pronounce it. It was untouchable because it had become infallible. Now if I were to act in accord with what I genuine believe, it would be to let this bill die and let the courts handle it. But I won't do that. I will just say that I don't like the form of the bill. And because I don't like the form of the bill I will not vote for it, I will not speak for it, and I will say that it is not what it ought to be, it is not what it could be. [LB44]

SENATOR GLOOR: One minute. [LB44]

SENATOR CHAMBERS: But the prosecutors are like predators. And when they think they have their way, then they're not going to yield. But they're not like the predator of the magnitude of a tiger. The tiger is a predator because the tiger can bring down prey. However, there are little jackals, little jackals with sharp teeth, unable to bring down

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prey. So they follow behind the tiger and pick up the tiger's leavings. Were I to analogize the prosecutors to a category of predators, it would be the little, sharp-teethed jackals. [LB44]

SENATOR GLOOR: Time, Senator. [LB44]

SENATOR CHAMBERS: Thank you, Mr. President. [LB44]

SENATOR GLOOR: But you are next in the queue, Senator. [LB44]

SENATOR CHAMBERS: There is a poem that Rudyard Kipling wrote called "The Ballad of East and West." And you all have heard the first verse: Oh, east is east and west is west, and never the twain shall meet, till earth and sky stand presently before God's judgment seat. But there is neither east nor west, border, nor breed, nor birth, when two strong men stand face to face, though they come from the ends of the earth. And there was a border thief who had stolen the favorite mare of a colonel, British colonel, there to oppress the people. And the colonel's son was going to chase down the border thief, and they had an encounter. And during their encounter there were all of these majestic statements expressed in the clever way that Rudyard Kipling could do. And one of the lines talked about the little jackals that flee so fast were feasting all in a row. That's what the colonel's son had said, and he had referred to the border thief as a dog. And the border thief said, no talks shall be of dogs, said he, when wolf and gray wolf meet. And it wound up with the colonel's son developing respect for the border thief, and he allowed the border thief to keep the mare as his father's gift. But the word, the line I want you to pay attention to if you pay attention to anything: The little jackals that flee so fast and feast all in a row. And they feast when what they're feasting on cannot fight back. They wouldn't feast on me, and they'd know that they'd have a different type of foe to deal with. My name is not on the bill as a cosponsor and, certainly, not the chief sponsor. If you haven't detected it so far, I feel a great sense of displeasure. But I have to consider where I am, what I'm dealing with. Can I expect water to rise above its level? I cannot. Can I expect people who don't have my disposition and temperament to behave as though they do? I cannot. Will a turtle ever be considered the king of the jungle? Turtles are smart though. There was a turtle sitting on a fence post, a large fence post. And the turtle was beginning to feel the heat of the day because the sun, in following its arc across the sky, Senator Schumacher, was almost at its zenith, and that produced great heat. And that turtle in that shell began to feel it. So a guy was walking past and he had a fishing pole over his shoulder. And some of you all have heard this before. And if you haven't heard it, you've heard something like it. And so the guy stopped and looked the turtle in the eye. And turtles could talk in those days or this guy could speak turtle, but they communicated. And the guy asked the turtle,... [LB44]

SENATOR GLOOR: One minute. [LB44]

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SENATOR CHAMBERS: ...what are you doing up there? It's so hot. The turtle said, a bad fellow put me up here and I can't get down. But if you will set me down, I'll grant three wishes. So the guy didn't even hesitate. He set him on the ground, then the turtle started ambling away. And the guy said, wait a minute, you promised to grant me three wishes. And the turtle said, fool, if I could grant wishes, you think I'd have been sitting on top of this fence post? Thank you, Mr. President. [LB44]

SENATOR GLOOR: Thank you, Senator Chambers. Seeing no further senators wishing to speak, Senator Ashford, you are recognized to close on the advancement of LB44. [LB44]

SENATOR ASHFORD: Thank you, and thank you, Senator Chambers, for your comments. When we started this debate we were given a stricture by the United States Supreme Court, and the stricture was this: A state is not required to guarantee eventual freedom as it relates to juveniles who are...have committed capital crimes of premeditated murder but must provide some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation. By making youth and all that accompanies it irrelevant to imposition of that harshest prison sentence, such a scheme poses too great a risk of disproportionate punishment. And that scheme, where the option is only life imprisonment without parole, is unconstitutional. The court went on to say, but given all we have seen...all we have said in Roper and Graham, the two cases we discussed the other day, and the decision about children's diminished culpability and heightened capacity for change, we think appropriate occasions for sentencing juveniles to this harshest possible penalty--that being life imprisonment without parole--will be uncommon. And as I have stated and many of you have stated that there may very well be an occasion where the harshest penalty is appropriate, where life imprisonment without parole is an appropriate sentence, it's going to be rare because we've given judges the tools to construct a sentence that reflects the factors set forth in this case. I want to thank everyone who engaged in this debate. These are difficult debates. These are very difficult debates. And it's...and I can tell you, as we worked through the matter in the Judiciary Committee, it was just as difficult, just as challenging. I'm very appreciative, as I have said on this floor many times over the last seven years, of Senator Carlson. This isn't the first time Senator Carlson, after asking questions that he thinks about because he writes them down and reflects upon them, got up and offered us a compromise or a suggestion of how we could meet the standards set forth in the Miller case. And this body rightly accepted Senator Carlson's suggestion. And so I'm very thankful to him for his willingness to interact on this issue. And then, finally, of course, again I want to thank the Judiciary Committee for its work on this bill and all the bills. We do have the most bills every year, and a lot of them are just as difficult as this one. So we have a great committee and a great team, great staff. So with that, Mr. President, I would urge that we advance LB44 to E&R Initial. [LB44]

SENATOR GLOOR: Thank you, Senator Ashford. And, members, you've heard the

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closing on LB44. The question before us now is the advancement of LB44 to E&R Initial. Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB44]

ASSISTANT CLERK: 30 ayes, 2 nays on the motion to advance the bill, Mr. President. [LB44]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB44]

ASSISTANT CLERK: Mr. President, I have one item. Your Committee on Judiciary would report LB107 to General File with committee amendments. (Legislative Journal page 986.) [LB107]

And I have a priority motion. Senator Wightman would move to adjourn until Tuesday, April 16, at 10:00 a.m.

SENATOR GLOOR: Members, you have heard the motion to adjourn until next Tuesday at 10:00 a.m. Those in favor say...(recorder malfunction).