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Floor Debate
March 19, 2014

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SENATOR KRIST PRESIDING

SENATOR KRIST: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the fifty-fifth (sic) day of the One Hundred Third Legislative Session, Second Session. Our chaplain for today is Pastor Zach Anderson from Hanscom Park United Methodist Church in Omaha, guest of Senator Mello and Senator Howard. Please rise.

PASTOR ANDERSON: (Prayer offered.)

SENATOR KRIST: Thank you, Pastor Anderson. And an immediate correction for the Journal: I meant the forty-fifth day. Thank you, and I call to order the forty-fifth day of the One Hundred Third Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

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

CLERK: New resolution, LR496, offered by Senator Johnson that will be laid over. And I have a Reference report with respect to referral of LR487 to standing committee for public hearing. That's all that I have, Mr. President. (Legislative Journal pages 943-44.) [LR496]

SENATOR KRIST: Senator Christensen, for what reason do you rise?

SENATOR CHRISTENSEN: For a point of personal privilege.

SENATOR KRIST: Please proceed, sir.

SENATOR CHRISTENSEN: Thank you, Mr. President. On behalf of Erica and Sam,

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Kathy and I, we'd like to thank everyone for their prayers, their cards, flowers, visits in the time that we've had the loss of Audrey. Thank you again for the love and concern from the body. Thank you.

SENATOR KRIST: Thank you, Senator. Mr. Clerk, first item on the agenda today.

CLERK: Mr. President, the first bill on the calendar, Senator Hadley would offer LB986A. (Read title.) [LB986A]

SENATOR KRIST: Senator Hadley, you're recognized. [LB986A]

SENATOR HADLEY: Mr. President, members of the body, LB986A is the appropriations bill that is necessary for LB986. And if you remember, LB986 is the one there...we have increased the homestead exemption limits to bring more people under the homestead exemption, and we also had Senator Watermeier's bill that allowed developmentally disabled people who own their own home to fall under the umbrella also. I would encourage your yes vote on LB986A. [LB986 LB986A]

SENATOR KRIST: You've heard the opening on LB986A. The floor is now open for discussion. Senator Pirsch, you're recognized. Senator Ashford, you're recognized. Seeing no one else in the queue, Senator Hadley waives his opportunity to close. The question is the advancement of LB986A to E&R Initial. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB986A]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB986A. [LB986A]

SENATOR KRIST: The bill advances. Next item. [LB986A]

CLERK: LB987A by Senator Hadley. (Read title.) [LB987A]

SENATOR KRIST: Senator Hadley, you're recognized. [LB987A]

SENATOR HADLEY: Mr. President, members of the body, LB987A is the appropriation bill that goes along with LB987, which is the tax indexing bill. And for the first time in the history of the state of Nebraska, we will be increasing the amount of Social Security income exempt from state taxation. I would ask for your vote on LB987A. Thank you, Mr. President. [LB987A LB987]

SENATOR KRIST: Thank you, Senator Hadley. Seeing no one wishing to speak, Senator Hadley, you're recognized to close. Senator Hadley waives closing. The question before the body is the advancement of LB987A to E&R Initial. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB987A]

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CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB987A. [LB987A]

SENATOR KRIST: LB987A advances. Next item. [LB987A]

CLERK: Mr. President, LB1087A by Senator Pirsch. (Read title). [LB1087A]

SENATOR KRIST: Senator Pirsch, you're recognized to open on your A bill. Senator Mello, for what purpose do you rise? [LB1087A]

SENATOR MELLO: I can introduce the A bill, Senator Krist, if so need be. [LB1087A]

SENATOR KRIST: Senator Mello, I think we have retrieved Senator Pirsch. Senator Pirsch, you're recognized to open on your A bill. [LB1087A]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. And just for clarification, Mr. Speaker, we are on the A bill with respect to the disabled military veterans bill, correct? [LB1087A]

SENATOR KRIST: LB1087A, correct. [LB1087A]

SENATOR PIRSCH: Very good. So this is the attendant A bill that goes with the bill that this body has passed. And it's of a modest amount, as we discussed, I believe, to the tune of approximately \$400,000 per year. And with that I would ask you for your approval, your yes vote. [LB1087A]

SENATOR KRIST: Thank you, Senator Pirsch. The floor is now open for discussion. Senator Lautenbaugh, you're recognized. [LB1087A]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I really don't have any opinion on this A bill whatsoever, but I did want to explain myself. I did just file a series of amendments on all the Select File bills. So we're just not going to do that this morning before Medicaid because, based on the agenda, it says we're going to skip over those. And I want to be clear: I've got a bill, well, an amendment, LR41CA, the horse racing one. And I've been on about that for years really trying to get that across the finish line, so to speak. And we started the session on Select File and I needed a priority to get it on the floor this year. So we found one and then it finally got some floor time in March. In March it got floor time and we got past Select File. But I couldn't get it set for a certain time. Even though we knew it was going to be filibustered, even though the filibuster wasn't my idea, it was going to come up when it was going to come up on a day, so that caused some excitement as well. And now it's on Final Reading but it won't be up this week. And that bill is not the be-all...or, I should say, that amendment is not the be-all, end-all to me. But I have a priority bill. And it's funny because some have said, well, gee, how important is that horse racing amendment to

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Scott, what's he really care about this session? Well, I've given an unusual number of floor speeches on bills that didn't have anything to do...the speeches didn't have anything to do with the bills, and I don't think I mentioned horses once. But I have a priority bill that's stuck and not going anywhere. And it seems like I've tried to be...and some of you may be shocked at this, all things considered, but I've kind of been the nice guy this session. When I do start talking on a bill, I say, understand this isn't a filibuster, I'm just making a point, I'll stop. And I have stopped. I don't think I've actually filibustered anything this session. And now we're down to 15 days and it's probably time for a new approach because what I'm seeing is that if you are incredibly difficult and willing to obstruct, things seem to happen for you. Sometimes you know what's going to happen with my bill before I know what's going to happen with my bills and I'm beyond exasperated. So I can be the other Scott, which some of you remember from days of prior sessions, and that Select File stuff that we were going to do this morning we just don't have to do today and maybe never. And we've only got 15 days left and I don't have any more trials scheduled, so you can all have my undivided for the next 15 days. And some of you have priority bills left, as do I, and we're having trouble, I think, getting my constitutional amendment on Final Reading because it's got amendments on it. I wonder if everything else on Final Reading is going to have amendments on it by day's end. I did do the other way for 45 days, I think you'll grant me that, but it's probably time for that to stop because I'm running out of time by any measure you want to apply here. So plan B, again, it wasn't the first choice. [LB1087A LR41CA]

SENATOR KRIST: One minute. [LB1087A]

SENATOR LAUTENBAUGH: Thank you, Mr. President. But I do know how to do this and I guess this is what we'll do. Thank you, Mr. President. [LB1087A]

SENATOR KRIST: Thank you, Senator Lautenbaugh. (Doctor of the day introduced.) Senator Chambers, you are recognized. [LB1087A]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the cemetery bill is on Select File and it was going to come up today and I was thinking about doing an encore. But since I can't do that encore, I was going to warm up with...based on what my colleague Senator Lautenbaugh said, you can thank him for this: (Singing) Oh, the days dwindle down to a precious few. I know that. We all know it. But whose fault is it that Senator Lautenbaugh put his law practice ahead of what we do in the Legislature? It's not that there are only a few days left. And we all do our business in the way we decide to do it. The only reason that a bill on Select File will not be considered if it has an amendment is because the Speaker made that determination. When he puts out the agenda, he just doesn't have to indicate that a bill with an amendment will not be considered, it'll be passed over. And I'm glad to see that this young cub has finally picked up on something. But he's doing what he's doing out of pique, p-i-q-u-e, and that's not quite as effective as establishing a modus operandi

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which focuses on individual bills. Now in the past what I have done is to sabotage--torpedo--the consent calendar. But I'll tell you what else I've done, and it has not been done by anybody else, bar none, and nobody else would even dare try it. We had about 20-something bills on consent calendar, so here's what I did: I made a motion--and it was successful--to move every bill on consent calendar with one vote. That had never been done before, ever. It doesn't even occur to people. But in the same way that the same Mother Nature can send hurricanes, tornadoes, typhoons, she can send those delicate, gentle breezes, known as zephyrs, that are soothing, that do great things for anybody who is sensitive. So when Senator Lautenbaugh says that he's been the nice guy and now we'll see the other Scott, I am eager to see that. In the same way that 33 votes can end all debate on a bill, there is a way for the Legislature to address anything anybody does. In the past I have been holding forth on various bills and I would try to give my colleagues a hint, encouraging them to read the rule book and use their brains, that if somebody were doing what I at that moment was doing, I would go to the rule book and find a way under the rules to handle it. It's going to be easy to handle Senator Lautenbaugh. He's going to run out of gas anyway. And there is a bill he wants that he can't get handled the way he wants it. Just last session I had a bill stuck in Senator Hadley's committee. Now that bill was more tightly held than the body of Jimmy Hoffa might be held by that concrete in which he is encased right now. [LB1087A]

SENATOR KRIST: One minute. [LB1087A]

SENATOR CHAMBERS: I offered different stratagems to get it out, wanted to pull it from committee. A time was set toward the end of the morning for that discussion, and we ran out of time before I got a vote on it. I did not whine; I didn't say I was treated unfairly. I just began to think of other alternatives. I began drafting that amendment to other bills. And finally, bingo, Senator Lathrop had a bill which the Governor probably did not want, but the Governor was interested in my bill to prevent Omaha from being able to levy an extra half percent on the sales tax. So while everybody else was wondering what's going to happen and waiting for me to explode, I needed a result, so I added my amendment to Senator Lathrop's bill. And by bringing that marriage, consummating it, if you will, the bill... [LB1087A]

SENATOR KRIST: Senator Chambers, you are now on your next five minutes. [LB1087A]

SENATOR CHAMBERS: Thank you, Mr. President. That bill was passed by the Legislature and it was signed by the Governor. We have to think. There is a way to do things. Now I'm going to tell you something that you all may not have ever noticed. There are occasions when I will be doing whatever it is that I do that upsets people so much. And people will be very angry. Then before that morning has concluded, my colleagues will be laughing with me, not at me. We understand how things are done here. And sometimes we're caught off guard or by surprise, but anything allowed by the

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rules cannot be said to be illegitimate. What Senator Lautenbaugh is doing is not new. Last year, I believe it was on Final Reading, I offered a motion on every bill on Final Reading to return it to Select File for a specific amendment. And it...I did it because young Senator Larson said I talk the talk but I don't walk the walk, so I was going to demonstrate for him and those who were following him how you walk the walk. So after I had done this for a few bills and called people's attention to why, I said, now I'd like to see the hands of those who want me to stop--or shall I continue?--the hands of those who want me to end it because you understand. A forest of hands was shown, so I stopped. If Senator Lautenbaugh would read what Senator--whom I refer to as "Parson"--Carlson calls the "Good Book," he'd see a verse in...oh, Senator Carlson is here and he can tell you if I'm telling the truth or not. I won't tell you the name of the book. It's not Proverbs. It might be Ecclesiastes. But that verse says, there is no new thing under the sun--the sun--and the sun's light is shed on more than just the earth. If there is no new thing under the sun, how in the world is there to be a new thing in the Legislature after I've been here as many years as I've been here? So I'm going to enjoy watching the Senator Lautenbaugh performance play itself out. But unfortunately, if he indeed has an amendment on every bill on Select File and every bill on Select File with a motion will be passed over for today, I will not have the opportunity to do my encore on the cemetery bill. And I'll let you all know, I've been practicing. I even heard a piano rendition of that by Dave Brubeck with his group. And the phrasing, the beat, I've incorporated into my vocalization. So now you may not only say that I have a lot of courage and add "but no talent"; you may say, his talent exceeds his courage. And you know why I apply courage to singing? Bono applied that word to the President when he was addressing a group and he sang a few bars of a song that Al Green had sung. And Bono said it took courage for the President to do that since he's not a singer. And I had stated that it's my belief that there cannot be courage... [LB1087A]

SENATOR KRIST: One minute. [LB1087A]

SENATOR CHAMBERS: ...attached to an action unless the person who performs the act is fearful. I am fearful of trying to sing in front of people because I know I cannot sing well. But there is no arguing of taste; and in the same way that beauty is in the eye of the beholder, good music is in the mind of the listener. So I think what I'm going to do is turn my light on one more time. [LB1087A]

SENATOR KRIST: Senator Chambers, you are next. [LB1087A]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, see how this is done? What good would it do anybody to be offended at what is...what Senator Lautenbaugh had said he is going to do? Why should anybody be upset? If you are results oriented and you know that a certain action by you will not produce the result that you want, then why place that action? Frustration will sometimes override a person's calm, cool, collected thoughts which can flow through the brain without being

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derailed by pique, p-i-q-u-e. So I'm going to maybe help the young cub. That's what old bears are supposed to do, teach them the pitfalls. You try sometimes by cuffing in an affectionate way. But there are other times you have to let the cub bump its own nose, tumble down a hill, go into the briar patch, try to eat something that's really not edible for a bear because, they say, experience is the best teacher and some will have no other. It is enjoyable to watch somebody else on the floor of the Legislature do things that that person thinks might irritate people. For every day that is spent doing whatever, that's one day less available for what I consider to be bad legislation in some instances. I'd like to ask Senator Coash a question. [LB1087A]

SENATOR KRIST: Senator Coash, will you yield? [LB1087A]

SENATOR COASH: Yes, I will. [LB1087A]

SENATOR CHAMBERS: Senator Coash, were you sitting at your desk just now, minding your own business, more or less? [LB1087A]

SENATOR COASH: Yes, I was. [LB1087A]

SENATOR CHAMBERS: And did my request that you answer a question or two, which I'm posing now, interrupt you in what you were doing, in minding your own business? [LB1087A]

SENATOR COASH: It did interrupt me. [LB1087A]

SENATOR CHAMBERS: Did it offend you that I would do such a thing? [LB1087A]

SENATOR COASH: No. [LB1087A]

SENATOR CHAMBERS: Senator Coash, the other day when I sang or, as some people called it, serenaded, I had used on a subsequent day the notion that I would hold up a sign saying, I will not sing for money. And what did you promptly do? [LB1087A]

SENATOR COASH: I got this dollar bill out to try to pay you off to not sing. [LB1087A]

SENATOR CHAMBERS: And what did you do with the dollar bill? [LB1087A]

SENATOR COASH: I signed it. It says, Ernie Chambers, please stop singing. (Laughter) [LB1087A]

SENATOR CHAMBERS: See? See, this is how you do things. This is how we function around here. And that's all I will ask you at this point, Senator Coash, and I'll be claiming that dollar before the session is over because it'll be my compensation for not singing.

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And if you can gain something through the way...the methodology that I'm using, gain it and don't do it for nothing. So I shall observe the reactions of my colleagues. I shall observe the young bear. But here's the difference between him and me: He won't really do any work. These bills may not even be read. The title may not even be read. They'll be passed over. [LB1087A]

SENATOR KRIST: One minute. [LB1087A]

SENATOR CHAMBERS: At least, when I did it on Final Reading, I had to make a comment to the Chair and carry through on what I said. Thank you, Mr. President. [LB1087A]

SENATOR KRIST: Thank you, Senator Chambers. Senator Lautenbaugh, you are recognized. [LB1087A]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. Well, I'll just have to pay close attention and learn how to spend time, I guess. And I've got this fence at home I need painted, too, but I'm a pretty good fence painter and I don't know if anybody else would be able to paint a fence the way I can paint a fence. So we'll just have to see. Maybe somebody can prove me wrong at that too. And, Senator Chambers, I'm glad you've been taking lessons. Thank you, Mr. President. [LB1087A]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Seeing no one else in the queue, Senator Pirsch you're recognized to close on your A bill. Senator Pirsch waives closing. The question before us is the advancement of LB1087A to E&R Initial. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB1087A]

CLERK: 32 ayes, 1 nay, Mr. President, on the advancement of LB1087A. [LB1087A]

SENATOR KRIST: The bill advances. Next item. [LB1087A]

CLERK: Mr. President, with the notation on the agenda, all the Select File bills have amendments filed, therefore, LB887. It's a bill by Senator Campbell. (Read title.) The bill was presented yesterday; committee amendments were offered. When the Legislature left the issue, Senator McCoy had pending AM2331 as an amendment to the committee amendments. (Legislative Journal page 942.) [LB887]

SENATOR KRIST: Senator Campbell, very quickly, would you like to say anything about LB887? [LB887]

SENATOR CAMPBELL: Thank you, Mr. President. Colleagues, LB887 is a bill that's brought forward the Wellness in Nebraska Act that would direct the state to apply for a waiver to utilize the Medicaid expansion dollars to provide insurance and to provide

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coverage and access for the 54,000 Nebraskans who would be left behind if we do not take this action. That encompasses in great part what the focus of LB887 is. Thank you, Mr. President. [LB887]

SENATOR KRIST: Thank you, Senator Campbell. Mr. Clerk. [LB887]

CLERK: Mr. President, Senator McCoy, I understand you wish to withdraw AM2331 and offer as a substitute floor amendment...whatever the next floor amendment is, Senator. (FA268, Legislative Journal page 944.) [LB887]

SENATOR McCOY: Yes. [LB887]

SENATOR KRIST: Okay, AM2331 is withdrawn. And the floor amendment, Mr. Clerk, when you get a chance. [LB887]

CLERK: I'm putting it in the system, Mr. President. It'll be up shortly. FA268. [LB887]

SENATOR KRIST: Thank you, Mr. Clerk. Senator McCoy, you're recognized to open on FA268. [LB887]

SENATOR McCOY: Thank you, Mr. President and colleagues. What you have before you is substituting for the amendment that we last spoke about last night. This amendment, I believe, will bring up a good discussion. In AM2032, on page 24, the amendment says, beginning...starting in line 20, the committee amendment: Beginning January 1, 2016, members with incomes at or about 50 percent of the federal poverty level who are enrolled in WIN Marketplace Coverage or WIN Medicaid Coverage, except medically frail individuals or individuals with exceptional medical conditions, shall contribute 2 percent of their monthly income to the program under which they receive coverage. My floor amendment, FA268, changes this to 5 percent, which is allowable federally. I think this is necessary to make sure that there is as much buy-in for members in this program, if this were to go forward, as possible. It's my understanding this has been done in other states, and I believe that it ought to be done here. But I'll continue with what I said last night and a number of different times on the microphone yesterday by reiterating my opposition to the underlying committee amendment and to the underlying bill, LB887. Probably comes as no great surprise that one of the national leaders that I have a lot of respect for, among many others, is President Ronald Reagan. I think something he said a very long time ago, as I recall, it might have been in a speech he gave in 1964 when he said: No government ever voluntarily reduces itself in size; government programs, once launched, never disappear; actually, a government bureau...in this case we might be able to say "government program." But his quote is: Actually, a government bureau is the nearest thing to eternal life we'll ever see on this earth. I think that's pretty appropriate given our discussion. And that brings up something that I brought to the microphone last year during this discussion. You

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know, it's talked about in this bill, in this committee amendment, if the federal funding ever falls below the 90 percent threshold, that we'd have some sort of a look back, some sort of an ability to roll back these benefits. How? Members, how? It's my understanding that nine different times in the last decade, nine different times, benefits like what we're talking about have been attempted to be pulled back for lack of funding and judges have said, no, you cannot do that. That's here in Nebraska. Hasn't been part of our discussion thus far, unless I missed it. It was last year. If I'm wrong on those numbers, I'd love for somebody to correct me. I don't believe that I am. Near as we can tell, that's what we've discovered, that nine different times a judge has said, you can't pull back benefits once they have been given. That's why I brought up the words of President Reagan. I think if we go down this road we're never going to go back. And I think that comes at an enormous price for educating the children of our great state with K-12 education and higher education, of which we are all very, very proud, as we should be. My class that came in, in 2009, saw our first year some very tumultuous times. Senator Campbell knows that; I know that; Senator Nordquist, Senator Mello; all of us that came in then; Senator Hadley; and others. A special session on the budget, it was a tough, tough year. Thank goodness we haven't had a situation quite like that ever again, at least since then, nor do we want to. It was very hard on the people of Nebraska. I don't want to get into a situation again where we're faced with the inability to pull back funding if the federal government reneges on their commitment and it comes at the expense of educating the young people of our state, the future of our state, my four kids, your kids and grandkids, if it comes at the inability to cut taxes, property taxes and income taxes for Nebraskans. You know, Senator Lathrop stood on the floor yesterday and talked about, well, if a hospital were to close in rural Nebraska, it would mean people would leave our rural communities. Well, if we can't cut taxes and small businesses leave rural Nebraska and farmers and ranchers have a burden that they can't carry, people will leave rural Nebraska. This is a big deal and I think we all know it. Again, this floor amendment says that folks on this plan should have to pay 5 percent rather than 2 percent of their monthly income towards this program. I talked about yesterday my family is like a lot of families in Nebraska. I didn't ever want to get a letter from our insurance carrier saying, you no longer have insurance because of Obamacare, here is your options, they aren't very good, they're really expensive. A lot of families got letters like that. A lot of families with insurance face stifling, stifling medical expenses, even when you're healthy. I don't think this is the right way to go. I've tried to make that abundantly clear. And this amendment says you should have to pay the maximum amount that's allowable. Thank you, Mr. President. [LB887]

SENATOR KRIST: Thank you, Senator McCoy. Those wishing to speak: Senator Lathrop, Gloor, Dubas, Nordquist, Schilz, Pirsch, and others. Senator Lathrop, you are recognized. [LB887]

SENATOR LATHROP: Thank you, Mr. President. And, colleagues, good morning. Yesterday during the course of the debate I think it was Senator Smith commented on

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how polite the conversation had been and how polite the debate had been and that he appreciated the tone. And I thought about that all the way down today. I think it is always important to maintain professionalism in this body. But I'll tell you what, we're missing something, colleagues, we're missing something in this debate, and that is the passion to speak for those who are uninsured. We live in a state. There's two Nebraskas. There are two Nebraskas in the borders of this state. And there is the Nebraska where people have insurance, people like me and you. You probably get it through your employer--and thank God they do it--and you probably get it through some group or another. Or maybe you make enough money to buy it in the open market if it's not provided through your employer, but you have insurance. And I suspect that the other Nebraska, the people that don't have coverage, that don't have anywhere to go, I suspect that a number of you don't know these people. You don't know the other Nebraska that we're talking about today in this debate. I have met these people and I know these people and I've represented these people. Folks that have no insurance--I hope you're listening--people that have no insurance can't get through the door and can't get into a doctor's office. They cannot get care. The only thing they can do to get care is wait until their circumstance is so bad that they can keep a straight face and go through the emergency room door. That's how the other Nebraska lives. That's who we're talking about today, those people who can't get into a doctor's office. I met a lady--this is a true, honest-to-God story--she had a herniated disc in her back not from something I represented her for. We called around to try to find a doctor's office that would take her and do surgery. She couldn't work because her...the pain going down her leg kept her from getting out of the house in the morning. The first question, the first question for everybody, is: Who is your coverage with? Well, we can't help you. And we sort out the two Nebraskas at that question. That's the question. And so today I will tell you I think we ought to be passionate about this because here is the question that we're going to decide when we vote on LB887: whether healthcare is a privilege in the state of Nebraska. You know, we have a privilege, not a right, to own a brand-new car. We have a privilege for a lot of things that we do in this state and that we have access to because we have a good income, because we're fortunate, because we've been blessed. But today we're talking about the people who work hard, who work hard, that work for a minimum wage or work for \$15 an hour. I'm telling you they can't afford coverage. They have no access. If we say no to LB887, we are going to say,... [LB887]

SENATOR KRIST: One minute. [LB887]

SENATOR LATHROP: ...in Nebraska, healthcare is a privilege, it is a privilege and you'd better be able to afford it because, if you can't, you're done--unless, of course, you're in a group that's already covered, like the developmentally disabled. These are our constituents. You may not drink coffee with them. You may not socialize with them. But they're out there and they can't get care and they're going to emergency rooms and it's costing us a lot of money because those of us that do have insurance are still paying for them. Don't kid yourself. Your insurance premium, and maybe you don't even know

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what it is, your insurance premium includes the payment for the uninsured. [LB887]

SENATOR KRIST: Time, Senator. [LB887]

SENATOR LATHROP: Thank you. [LB887]

SENATOR KRIST: Thank you, Senator Lathrop. Senator Gloor, you're recognized. [LB887]

SENATOR GLOOR: Thank you, Mr. President. Good morning, members. A quick review: I was in opposition to Medicaid expansion last year, felt it was too simplistic. I was not part of the group that sat down and reworked, although I admire them for the effort they made and the diligence they put forward. But what they came back with is a completely different bill and one that's transformational. And I want to thank Senator Hadley who came up to me yesterday and said: This is what I hear you saying, we need to change Medicaid, Medicaid has got to be changed, LB887 is a Nebraska option towards changing the Medicaid system in ways that transform the way we deliver care, specifically primary care in this state, so that if and when the Affordable Care Act--Obamacare--goes away, we will have transformed healthcare in Nebraska to a point that it will survive beyond, whether we go to a market-based system or whatever is a successor to the Affordable Care Act, if that should come about, and we do it with a large infusion of federal money rather than using just Nebraska taxpayers' money. And I said, yes, Senator Hadley, that's exactly what I'm trying to say. Members, I know some of this debate is about the government telling us how to run our healthcare system, and I know people hate the fact that the government would come in and force us into a system that we are...may or may not like. But I'm going to tell you, the government already runs decisionmaking. This comes from my past experience of being in this business for a while. Medicare is the driver of decisions that are made about healthcare in this country. For most healthcare providers, 40 to 50 to 60 percent of their revenue comes from Medicare. And if you're representing a small hospital, it could be as high as 75 to 80 percent. Throw in Medicaid and you're talking about an even higher percentage. And Medicare drives the system. Their rules, their regulations, their oversight are what all the other payers, including the Blues and United, all gravitate to...the largest payer in any business is the one that dictates the decisions that you're going to make, so we're already in for a dime, in for a dollar, as relates to the government and the government's control. There are fewer and fewer providers in this state that take Medicaid. And for those of you who say you've talked to providers, physicians, maybe a hospital or two, who don't like this expansion, find out whether they're still taking Medicaid patients or if they've limited the number of Medicaid patients that they take. There are a few providers who continue, God bless them, to take Medicaid patients. I feel bad for pediatricians, pediatric providers, many of whom over 50 percent of their business is Medicaid because our payment is so abysmal. The Medicaid system is not sustainable as it exists. What's it going to be replaced with? This

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is an option. If it's not an option--and I say this to anybody running for a higher elected office--we will be back visiting this issue year after year after year because it's not sustainable. And it's going to fall by the wayside, it's going to struggle, and the decisions will continue to be as hard as this one is or perhaps even harder. This bill moves us towards primary care focus, the issue of coordinated chronic care, the issue of patient-centered medical homes, something this body approved as pilots, something that Senator Wightman and I worked on during the interim to get private insurers to move towards, something Medicaid actually moved to in its contracting for managed care requiring insurers who contract to move toward patient-centered medical home. Senator Schilz is correct. Senator Schilz is correct, the industry is moving toward patient-centered medical home. [LB887]

SENATOR KRIST: One minute. [LB887]

SENATOR GLOOR: But two important issues: It's not moving very quickly, number one; and number two, it's under the control of somebody other than the Legislature. Private insurers move the directions they want to. Medicaid makes some decisions. Medicare is moving towards pilots and it's moving the direction they want to. This is a Nebraska solution. It puts us in the driver's seat. It changes the delivery system under models with our oversight committee that's the way we would like Medicaid to change, and we may lose that opportunity year by year. We lose the opportunity to stay in control. We've got to change the Medicaid system. This is a Nebraska option. It makes sense for us to move in this direction because, if we don't this year, the next time we revisit this issue we'll have to do so with a lot more money that comes from Nebraska taxpayers. Thank you, Mr. President. [LB887]

SENATOR KRIST: Thank you, Senator Gloor. Senator Dubas, you're recognized. [LB887]

SENATOR DUBAS: Thank you, Mr. President. Good morning, colleagues. Yesterday there was some reference made to hardworking taxpayers who took time off to come down and share their opposition to LB887. I want to share with you a story about a hardworking taxpayer who spent the entire day here yesterday in support of LB887. And some of you might not...might know this person. Lynn Redding is from Grand Island. She is a young woman with incredible talents and abilities and is such an advocate for those with developmental disabilities. She has some developmental disabilities of her own, and so that gives her that extra insight. But she shared with the committee when this bill was introduced why she believes this is so important for Nebraskans. And she talks about, as a person with a disability and a recipient of Medicaid services: I wish to stress to you today how important access to healthcare is for people with disabilities and for those who cannot access healthcare, health insurance through their employer or the private market. My Medicaid coverage is literally a lifesaver. Without my Medicaid coverage I would not be able to afford visits to the doctor or medications. As a single,

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childless adult, were it not for my disabilities, I wouldn't qualify for Medicaid. For me, that's a grave situation. There are many people that you know and I know, for various reasons, who don't qualify for healthcare and, as a result, they have extremely limited access to healthcare--the emergency room or lack of resources to pay out-of-pocket costs. Lynn has done a great job of conveying to people the importance of having access to Medicaid services. She goes on to say that everyone deserves access to healthcare regardless of their health, social, economic, or disability status. There are Nebraskans who need healthcare right now that are forced to remain in that coverage gap. She is a tireless advocate for this issue and I appreciate her work, and she took time off from her job yesterday to share those feelings with us. LB887 could cut rural uninsured rates by half, down to about 6 to 7 percent. Rural people or people in general across this state without insurance mean providers without pay, and that only exacerbates our shortage of medical providers across this state. Doctors in rural areas receive almost 20 percent of their revenue from Medicaid. We hear a lot of talk about personal responsibility and people needing to get a job and take care of themselves, and many of the people that would benefit from LB887 are doing exactly that same thing. They're out there working multiple jobs, trying to make ends meet, being responsible for themselves and their family. This bill allows for personal responsibility as well. It has a wellness option in there. It has an option...it requires these people to pay up to 2 percent of their monthly income to help pay for this insurance. If they make nonemergency visits to the emergency room, there's a copay that's in there. So it's trying to get people into the mind-set of what it means to take care of themselves early instead of too late and going to the doctors, making sure that the doctors are getting more reimbursement than the...than they've received in the past. There is a great deal of personal responsibility built into this bill. Almost 12 percent of Nebraskans don't have any form of healthcare. That is an incredibly high number. We...as Senator Lathrop said, there are two Nebraskans that we're talking about here. For a very short amount of time, my family was one of those families that didn't have healthcare. [LB887]

SENATOR KRIST: One minute. [LB887]

SENATOR DUBAS: Thank you, Mr. President. We had some financial issues and so we let our healthcare lapse. And I'll tell you, in that short amount of time, it was the scariest time that I've had in my life. We owe citizens an up-or-down vote on LB887. We pass bills in this body every single day, but there is no question that this bill deals with the health and well-being of over 54,000 Nebraskans. We owe them a vote. You don't have to like this bill, but we owe them a vote. We owe them the respect and the dignity of saying we are for this or we are against it. Let's talk about the bill, let's move to the bill, and let's vote on the bill. Thank you, Mr. President. [LB887]

SENATOR KRIST: Thank you, Senator Dubas. (Visitors introduced.) Senator Nordquist, you are recognized. [LB887]

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SENATOR NORDQUIST: Thank you, Mr. President. Would Senator McCoy yield to a question? [LB887]

SENATOR KRIST: Senator McCoy, will you yield? [LB887]

SENATOR McCOY: Yes. [LB887]

SENATOR NORDQUIST: Thank you, Senator McCoy. The 5 percent number you've put in there, as you mentioned, was...is allowable under federal guidelines. Are you familiar with the extent of those limitations? [LB887]

SENATOR McCOY: You might have to refresh my memory, Senator Nordquist. [LB887]

SENATOR NORDQUIST: All right. So essentially we can charge low-income working individuals who would be qualified for this program up to 5 percent, but that would include 5 percent total, including premiums, cost sharing, copayments, everything. So to do your amendment, we would have to strike the provisions of the copayment requirement for inappropriate ER use. Are you comfortable with that? [LB887]

SENATOR McCOY: Well, Senator Nordquist--and this is your time, but I'm going to respond to that by saying this, and this is important for all the members to know and I may not get the opportunity to articulate this--we cannot hold anyone to copays or premiums in the first place. We can't force them to pay them. We can't deny the service. We can't force them to pay the premiums and the copays. Isn't that correct, Senator Nordquist? [LB887]

SENATOR NORDQUIST: Well, thank you for responding, Senator McCoy. It would not be accurate. We have them currently in our system. In Medicaid we have copayments right now in place, and this would just add to those. And our hospitals do seek to collect on those copayments. There may be times that they don't, but they do seek to collect them and I think do collect a fair amount of them. Senator McCoy, with this amendment, will you...would you be more inclined to support the bill? Will you support LB887? [LB887]

SENATOR McCOY: Absolutely not, Senator Nordquist, and I articulated that in my opening. [LB887]

SENATOR NORDQUIST: Thank you. Right. Great. Well, so it's clear that Senator McCoy's attempt here with this amendment is just to delay and obstruct, and he has that ability through our legislative process. But I think it's just important for all of us to know that this amendment has no policy rationale. He just wants to, again, delay and obstruct the legislative process and Senator McCoy, as I said, has the right to do that. But let's talk about the consequences of his and others' delay and obstruction on this bill. Folks,

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when this bill does not go forward this year, we are going to see rural hospitals close like we've seen in Georgia, in North Carolina, in Virginia, and in Tennessee. We're going to see that in Nebraska and there will be fingers pointed. And the votes on the board at the end of the day are who those fingers are going to be pointed at. Nebraska businesses, listen up. When you start getting hit with an employer mandate penalty because we didn't cover this population with Medicaid, Nebraska businesses are going to pay somewhere between \$11 million and \$16 million in taxes that could be avoided if we pass this bill. When you get hit with those penalties, the votes will be on the board. You'll know where the blame lies. When we start to see our healthcare work force that we're educating at our medical centers in this state bleed to Iowa and to Colorado...my wife works for a hospital in Council Bluffs. They're hiring right now because they have Medicaid expansion to offset their DSH payment losses. Our hospitals aren't going to be as lucky when LB887 comes down. When we start to lose those healthcare workers to Iowa and Colorado, the votes will be on the board. Look back at the vote, the cloture vote on LB887, and you'll know where the blame lies. When we see businesses say, I'm going to locate across the river in Iowa and Colorado, across the border in Colorado, because they have a healthy work force, they have a work force that has health coverage,... [LB887]

SENATOR KRIST: One minute. [LB887]

SENATOR NORDQUIST: ...their low-income workers are getting preventative care, I know they'll be in my business working and not facing health conditions without health coverage, when we see those businesses choose to set up in our neighboring states and not in Nebraska, we know where the blame will lie. The votes will be on the board. These are the consequences that will be real in our state, and these consequences can be avoided with the passage of LB887. Thank you. [LB887]

SENATOR KRIST: Thank you, Senator Nordquist and Senator McCoy. Senator Schilz, you're recognized. [LB887]

SENATOR SCHILZ: Thank you, Mr. President. And, members of the body, good morning. I didn't know that we would get to this quite so soon this morning. So first of all, I just want to say that last night's and yesterday's debate was very civil and it was good, I think. I think we talked about a lot of things. I'm still running down the questions that I have and I was just wondering...I was...as I looked at this, I'm trying to understand the process that we go through, how the waiver works, how the state plan amendment works, and I was wondering if Senator Campbell would yield to a question. [LB887]

SENATOR KRIST: Senator Campbell, will you yield? [LB887]

SENATOR CAMPBELL: Certainly. [LB887]

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SENATOR SCHILZ: Thank you, Senator Campbell. Good morning. And if you didn't hear me before, I was talking about the waiver process that we talked a little bit about yesterday and the state plan amendment, I think it's called. And how do those two work? Which comes first? And then how do we work through that whole process, if you don't mind? [LB887]

SENATOR CAMPBELL: Senator Schilz, a state plan amendment...the Legislature has upon time directed state plan amendments. The Governor can also put in...change the state plan because that's our Medicaid plan. That works with a checkoff of a box and a notification to CMS that you're doing a state plan amendment. A waiver is different. A waiver is saying to the Centers for Medicaid and Medicare that you wish to do something different, you wish to demonstrate or research or show that if you do a particular action differently, it will gain you a picture on the results. And CMS, the Centers for Medicaid and Medicare, then look at your waiver application and say, you know, that makes sense, we'll let them use the federal dollars to demonstrate and to look at that waiver. They're very different. [LB887]

SENATOR SCHILZ: Absolutely. And can you tell me, is the state plan amendment prescribed within the legislation as to what that would look like? [LB887]

SENATOR CAMPBELL: The state plan amendment would go into effect...would direct that we have a state plan amendment that would bring the eligible uninsured population into our regular Medicaid until such time as we would put in the waiver and have it accepted. And Iowa, I think it was about a six weeks to two months process from the time that they started, from the time that they got an acceptance. So it's not a long period of time. [LB887]

SENATOR SCHILZ: Right. But in my understanding then, what you're telling me is that the state plan amendment would basically mimic what was LB577 from last year? Is that correct? [LB887 LB577]

SENATOR CAMPBELL: It would for the first period of time until we got the waiver accepted, yes, but the importance of this bill is the waiver. [LB887]

SENATOR SCHILZ: Right. But let's be clear: That waiver is an ask, not a guarantee, correct? [LB887]

SENATOR CAMPBELL: That is correct. But knowing that the research that we've done on the five states in depth, and particularly Arkansas and Iowa, we have every confidence because many of the steps that are in LB887 have already been approved in various waivers to other states. [LB887]

SENATOR SCHILZ: Okay. Thank you very much, Senator Campbell. How much time

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do I have left? [LB887]

SENATOR KRIST: One minute. [LB887]

SENATOR SCHILZ: I would yield my time to Senator Murante. [LB887]

SENATOR KRIST: Senator Murante, 57 seconds. [LB887]

SENATOR MURANTE: Thank you, Mr. President and members. I'm not sure of all the arguments I can make in 57 seconds except to say that I've been reading through some of the documents and Senator Schilz caught me a little off guard as I was reading the handout that Senator Davis had distributed to us. In light of the document, I'm going to read this and then save my comments for later. Thank you, Mr. President. [LB887]

SENATOR KRIST: Thank you, Senator Murante. Senator Pirsch, you're recognized. [LB887]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. It's no surprise to anyone at this point I am opposed to LB887. Expanded Medicaid under Obamacare is not the correct answer for Nebraskans and I believe it's financially unsustainable and will not reach the goals promised. There is no measure in the bill to stop the program when the Washington-promised sustaining finances are unable to come through. And so I would like to at this point in time ask...I do note that there is a handout that's come out from Annette...Senator Dubas. I wonder if she's present here on the...oh, I'm sorry. Both have similar initials. I wonder if Senator Davis might yield then to a question or two if he's present, and I apologize for tearing you away from your conversation. [LB887]

SENATOR KRIST: Senator Davis, will you yield? [LB887]

SENATOR DAVIS: Yes, if I get to the right place. (Laughter) [LB887]

SENATOR PIRSCH: And thank you very much. I did receive your handout with respect to a Washington Post article. Apparently..."Utah governor unveils Medicaid expansion alternative," which is apparently based on block grants as opposed to Medicaid expansion. Is that correct? [LB887]

SENATOR DAVIS: Yes, it is, Senator Pirsch. [LB887]

SENATOR PIRSCH: And in that method, is that substantially different than the approach that's encapsulated in LB887? [LB887]

SENATOR DAVIS: I really can't speak to that, but I handed this out because I thought it was important that a very, very conservative state like Utah, which has always relied a

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lot on churches to do most of the work, is now going to expand Medicaid because they think it's the right thing to do for their people. [LB887]

SENATOR PIRSCH: Okay, so it is a...it is borne or based on Medicaid expansion and the block grants? [LB887]

SENATOR DAVIS: It's based on the same model, I believe, as some of the other states--Arkansas and I think the other state is referenced in here, maybe New Hampshire. Iowa, Iowa. [LB887]

SENATOR PIRSCH: Well, I appreciate that, and again I apologize for tearing you away from your conversation on this topic but...so at this point in time I wonder if Senator Gloor would yield to a question or two, Senator Mike... [LB887]

SENATOR KRIST: Senator Gloor, will you yield? [LB887]

SENATOR GLOOR: Yes. [LB887]

SENATOR PIRSCH: Senator Gloor, with respect to...you've spoken today about the unsustainability of the Medicaid system in its current existence. Is that correct? [LB887]

SENATOR GLOOR: Yes, I have. [LB887]

SENATOR PIRSCH: Okay. And with respect to the Medicaid system, whether or not it's expanded or not expanded, you feel that the Medicaid system is so troubled that it cannot survive in the long run, correct? [LB887]

SENATOR GLOOR: Yeah. I think metaphorically I'd say it's in a death spiral. [LB887]

SENATOR PIRSCH: Okay. Whether or not this...the expansion occurs under this bill, LB887, or not, can those...can the concepts, the underpinnings of patient-centered medical home survive independently and go forward? [LB887]

SENATOR GLOOR: They already are surviving and beginning to grow some. The challenge for us as relates to this bill is, this bill allows us to sculpt patient-centered medical homes rather than the other providers who may develop them in other self-serving ways. But, yes, patient-centered medical home can grow and thrive and is across the country. [LB887]

SENATOR PIRSCH: Okay. Well, I do appreciate that and I would yield the balance of my time to Senator Gloor if he'd choose...if he would like to use the balance of the time. [LB887]

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SENATOR GLOOR: Thank you, Senator Pirsch. And I appreciate Senator Pirsch's engagement in an important component of this bill. We have got to change our healthcare delivery system, the way we provide care. [LB887]

SENATOR KRIST: One minute. [LB887]

SENATOR GLOOR: Patient-centered medical home is something that's being embraced even by large, self-insured employers like IBM, Boeing, to name a couple. Other states have moved their entire Medicaid populations to a patient-centered medical home delivery model, all this is separate and distinct, all this long before Obamacare came about. So it's a change in the delivery model. Senator Wightman and I have worked with the private insurers to expand this. We've had Medicaid in our own state require the contract management companies to move towards patient-centered medical home models. So it's clearly growing, but it's not growing to a point where I could say it's at a level of sustainability yet; and more importantly, it's growing the way the people who are paying the bills, the private insurers, as an example, or self-insured employers are growing it. [LB887]

SENATOR KRIST: Time, Senator. [LB887]

SENATOR GLOOR: Thank you. [LB887]

SENATOR KRIST: Thank you, Senator Pirsch and Senator Gloor. Senator Hansen, you're recognized. Items, Mr. Clerk? [LB887]

CLERK: Thank you, Mr. President. Amendments to be printed: Senator Burke Harr to LB946; Senator Lautenbaugh to LB1103, LB863, LB1012, LB251, LB751, LB751A, LB660, LB836, LB1114, LB1114A, and LB946. Senator Sullivan, new A bill, LB967A. (Read LB967A by title for the first time.) Resolutions: LR497 and LR498 and LR499 are by Senator Gloor, interim study resolutions. Those will be referred to the board. LR500 is by Senator Krist. That will be laid over. LR501, a study resolution by Senator Gloor, will be referred to Exec Board. And LB502 and LB503--Senator Crawford, LB502, and Senator Gloor, LB503--those will be laid over at this time, Mr. President. Thank you. (Legislative Journal pages 944-949.) [LB946 LB1103 LB863 LB1012 LB251 LB751 LB751A LB660 LB836 LB1114 LB1114A LB967A LR497 LR498 LR499 LR500 LR501 LR502 LR503]

SENATOR KRIST: Thank you, Mr. Clerk. Those still wishing to speak: Senator Bloomfield, Kintner, Garrett, Murante, Smith, Brasch, and others. Senator Bloomfield, you're recognized. [LB887]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good morning, colleagues. I have seen nothing yet to change my position on LB887. You know, we heard a moment ago

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a plea to take this to an up-or-down vote. You know, that same thought occurred to me when we were talking about 94,000 motorcycle riders, and we couldn't seem to do that then. I am troubled by this bill, and there's no way I can bring myself to support it. And if we get to cloture, I will be voting against cloture. Thank you, Mr. President. [LB887]

SENATOR KRIST: Thank you, Senator Bloomfield. Senator Kintner, you're recognized. [LB887]

SENATOR KINTNER: Well, thank you, Mr. President. You know, we've covered a lot of ground here. Let me just kind of recap a little bit from yesterday. We know right now that our state, Nebraska, spends, oh, I don't know, about \$6,000...about \$3,000 a person. And if we go to this expanded Medicaid with a wellness program, it's going to go up to about \$6,000 a person. Now the argument is here that we are going to try to prevent stuff up...spend a little more money and prevent stuff up front. But, you know, if you look at it, you know, we're...and we're looking at the patient-centered medical home model, which I think we're going to see that if this bill becomes law or if it doesn't become law. I think Senator Gloor has spoken very eloquently on this and the promise it has for the future. But we don't need to expand Medicaid and spend a whole lot of money to bring this about. But we...to get back to trying to save money by spending all this money, it requires a coordinated care as a foundation of the model from which the primary care doctor to the specialist and everyone in between, which might bring down the overall cost from eliminating some duplication and redundancies, but it has a zero effect on the cost of preventative care. If you think about it here, the preventative care costs money too. And because it's applied to a much larger number of patients overall, it erodes the savings expected from installing the PCMH model in the first place. And doctors end up seeing more patients for less money. The patients have an army of do-gooders nosing into their personal lives, searching for disease metrics and risk factors so they can swoop in and educate them on how to eat properly, how to exercise. And the only people happy for these...about these plans are the major insurers and hospital groups who get paid to make the whole ball of wax grow. You know, this Unicameral will not only expand Medicaid using the rubric of Obamacare, but it goes much further by fundamentally transforming the way medicine is practiced in the state. Some of that's good; some of it's bad. I submit that this is going to happen anyway. We talked also yesterday about the very, very huge cost overruns here in our state. We talked about spending \$1.8 billion on our Medicaid program, combined state and federal. But more important than that, I think we talked about how Medicaid has grown out of control and it's really put a lot of states in a bad situation. Remember, since 1966 it's grown at 31,000 percent. I'm going to say that a couple times. It's not 31 percent bigger. It's not 310 percent bigger. It's not 3,100 percent bigger. It's 31,000 percent bigger. That's how much it's grown since 1966. And we have not come up with any meaningful ways to turn back the cost curve on this. And they've tried and they've tried and they've tried. And what happens on these socialized medical schemes, which is where I believe this could head if we're not careful,... [LB887]

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SENATOR KRIST: One minute. [LB887]

SENATOR KINTNER: ...is that as costs go out of control we have to start rationing, or these states and these countries that do that have to start rationing out services. And we've got to figure out who gets what service and is it worth spending money on this person versus this person, and it really brings some interesting ethical questions into the whole mix here. That's really not someplace we want to go. The last thing I want to say is I staked out my position as to where I stood on this and I'm against it. But the letters to my office have confirmed where I am. The calls to my office have come in ten to one against Medicaid expansion; the notes and letters have come in about three to one. That's not why I voted for it. I wanted...I'm going to do the right thing. But my constituents and people in the state have come and they've told me, yes, this is what works and we like our current healthcare, we like our current doctor and our current insurance company. [LB887]

SENATOR KRIST: Time, Senator. [LB887]

SENATOR KINTNER: Thank you, Mr. President. [LB887]

SENATOR KRIST: Senators, it's obvious that there are a lot of sidebars going on, and it's necessary, but could you use your inside voice when you're doing them, please? Senator Garrett, you're recognized. [LB887]

SENATOR GARRETT: Thank you, Mr. President and members of the body. Good morning, Nebraska. I want my money back. I want my money back. We hear about we need to pass LB887 in order to get our money back from the federal government. What kind of joke is that? I mean, all the billions of dollars we pay to the federal government, we act like it's Monopoly money that in order to get, you know, the money back that we pay to the federal government we need to pass LB887. I'm astounded by that. And this morning we start hearing the scare tactics, all the people, all the Nebraskans who are going to flee Nebraska to Iowa and to Colorado because we don't pass LB887. Members, we had before the Legislature here an opportunity to cut taxes for Nebraskans, which affects a much larger number of Nebraskans. Our tax environment is crippling both for businesses and for individuals, pensioners, people on Social Security, people on military retirement. They're fleeing Nebraska because of our taxes. We're going to lose a lot more people because of our tax situation than for not passing LB887. So the scare tactics, you know, I'm scared, but I'm more afraid of a \$17.5 trillion deficit. And LB887, the federal cost for this through 2020 is going to be over \$2 trillion for Nebraska alone. We are a small state. I hesitate to think what the cost to the federal government is going to be for Medicaid expansion for California, for Texas, for New York, for Florida. We have got to do our part, and our part is to be responsible taxpayers and say no to this. We've got to put an end to it. The proponents of LB887 make it

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sound like it's a panacea to all of our problems. Our medical system, none of us in here would say our medical system was perfect before, but it was not hard broke either. We need tort reform more than anything else. I defy you to watch an hour of television programming without some lawyers getting on there about this, that, or the other kind of pharmaceutical or artificial joint or something else and employ X law firm to sue for this. We need tort reform. We need to get the pharmaceutical companies in line. So there are a lot of things wrong with our medical system, but it wasn't hard broke. And LB887 is not going to fix this. I was kind of amused Senator Chambers yesterday mentioned some concerns about the lobbyists and the lobbyists talking to us and everything. I got called out by two lobbyists yesterday and both of them wanted me to vote for LB887. I couldn't believe it. I was, you know...so the lobbyists are out there all right, but they're lobbying for LB887 and they're not opposed to it. I think we need to take a stand on principle and Nebraska values and we've got to stop this foolishness and thinking that we're going to solve every problem by writing a check. It's money that we don't have. And if the federal government has money that belongs to Nebraska taxpayers, let's demand that we get it back and not via some additional program that they're going to tie us to that we'll never get out of. Again I'm reminded...I spoke to a group yesterday. Most of you know, I'm sorry if you've heard this joke before, but I'm a military intelligence officer by trade and I've always...I wish I had a nickel for every time somebody told me, military intelligence, ha-ha, you know, that's not...what an oxymoron. Well, I'm pleased to say that we finally...I finally got some relief from that because the Affordable Care Act is the new oxymoron because it is the "Unaffordable" Care Act. We cannot afford it, ladies and gentlemen--\$17.5 trillion, think about that. And we continue like hogs feeding at the trough. [LB887]

SENATOR KRIST: One minute. [LB887]

SENATOR GARRETT: We cannot continue this. Thank you, Mr. President. [LB887]

SENATOR KRIST: (Visitors introduced.) Senator Murante, you are recognized. [LB887]

SENATOR MURANTE: Thank you, Mr. President. Members, good morning. I rise in continued opposition to LB887. As we all know, the hour is rapidly approaching where we will have our vote on this subject matter, and that's probably a good thing. We have had a discussion on this issue now for over a year. It's a discussion that's certainly not been limited to the state of Nebraska. It's been a national discussion. And to the proponents, I think you've made your case well. And while I personally am unconvinced as to the wisdom of LB887, it's...your passion for the issue is clear, your motives are clearly good, and I think this is just a respectful disagreement. I think perhaps it was really good timing that I had a unique experience yesterday. One of the guests of the Legislature who is a teacher at Westside High School was my advanced-placement government teacher in high school, a very unique experience and a brief conversation. I don't know if any of you have had the fortune of speaking with your high school

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government teacher since being elected. But he came to articulate that he had...even back in the day I think he understood that I had an interest in public policy and an interest which he helped facilitate. And I'm not sure that I would be where I am today without his guidance. But he stressed to me that even on issues like this, and he didn't state his opinion on LB887 or the merits of Medicaid expansion, but that he trusted my judgment and he recalls the idealistic young person that he taught back when I was in high school. And in a number of ways I haven't yet lost that idealism. And while I hear the proponents of LB887, I think it's important to note that those of us who are in opposition are not in opposition because we don't care about those who are less fortunate or because we don't understand, but that we simply are not convinced that this course of action will do the most amount of good for the most amount of people. I think Senator Gloor made a good point when he said that the government already runs a lot of decisions in the healthcare process, in the healthcare field. And at some point I think we have to examine how well that's working for us because I can guarantee you, whether LB887 passes or fails, we are going to be back here next year with very tragic stories and very sad situations because that's the reality of life. And while it would be nice to believe that the challenges that life presents can be solved in this Chamber, I think the reality and history proves that we tend to make problems worse when we get involved. And that's a tragic truth and I wish there was a magic wand that we could wave. I wish that we... [LB887]

SENATOR KRIST: One minute. [LB887]

SENATOR MURANTE: ...the 49 of us could take some of the tragedy and the sad stories that face our citizens and through a legislative bill make it all better. But we know that it doesn't work that way, at least, I don't believe that it works that way that, at the end of the day, what does the most amount of good for the most amount of people, it's not a matter of government spending, it's not a matter of taxing the rich or any group that we deem to be unfavorable at any given moment. But when we empower the people of Nebraska to make choices and to live with them, that results in the best outcome for the most people. [LB887]

SENATOR KRIST: Time, Senator. [LB887]

SENATOR MURANTE: Thank you, Mr. President. [LB887]

SENATOR KRIST: Senator Smith, you're recognized. [LB887]

SENATOR SMITH: Thank you, Mr. President, and good morning, colleagues. I haven't had the opportunity to be on mike as often as I would like to have been on this topic. I had a chance to speak last evening and a number of people are waiting in line to speak. I know there's a number left behind me. And kind of continuing on with the thought that I had last night, how appreciative I am of the discussion we've had on this topic. We

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certainly have not had a lack of information by opponents and by proponents of LB887. So we have had lots of opportunity to hear both sides of this message and to make decisions that we believe are in the best interest of our citizens. And I think it's also great that I have not heard, I have not seen the challenging of intentions here because we all have the best of intentions for our constituents, our citizens, for the state of Nebraska. We're here for a reason. We're here to serve our constituents and to serve our state. And regardless of our viewpoints on this and our viewpoints on government, I don't think we can have our intentions challenged. And so I have a great deal of respect for all of my colleagues regardless of what side of this issue they are on. Senator Lathrop was talking a little bit earlier about two worlds. And just as there are two worlds, there are two viewpoints as to how to help all of our citizens prosper and to have better opportunities. There's the process of creating long-term opportunities to where everyone has the same opportunity to live their dream, live the American dream, and to advance and to find better employment and to create a better generation. That's what all of our families want to do is create a better opportunity for their children and for the next generation. But we also have before us LB887 that, though well-intended and though perhaps an immediate and a near-term solution, it does not...it is not in the best interest of my constituents, I believe. I do not believe it's in the best interest of Nebraska for the long term. I do not believe that it's in the best interest of our families. It does not create long-term opportunities. There's a society where we can create an environment to lift able-bodied...the able-bodied up and enable them to succeed and to live their dreams. And then there's also a part of the society that we need to provide a safety net for, those that are in the greatest need in our society, the elderly, the children, the disabled. I do not believe that LB887 provides a long-term solution for these immediate needs for those that need a safety net in our society. And it does not provide the environment for improving the well-being of the able-bodied in our state. LB887 is not the solution. And if we want to discuss opportunities that enable our citizens to improve their well-being, I think there's lots of opportunities for discussion of that on this floor but not in LB887. As I had said before, I believe that LB887 has an element of cruelty to it in that the Wellness in Nebraska plan actually puts the truly needy at great risk. [LB887]

SENATOR KRIST: One minute. [LB887]

SENATOR SMITH: Thank you, Mr. President. Nebraska's Medicaid expansion does not cover the elderly, individuals with disabilities, or even the poor or even poor children, groups that are most frequently considered among the most vulnerable. Instead, the Wellness in Nebraska plan simply expands Medicaid eligibility to a new class of able-bodied, working-age adults. Also, there's a great risk, long-term financial risk to our state. We recently discussed bonding, road bonding, and we realized that that saddled future legislators and Legislatures. It saddled our state; it saddled our citizens, families, and children and grandchildren with the unexpected. So does this, colleagues. I stand in opposition to LB887. And as we come to a vote, if it's a cloture vote, I ask you not to vote for cloture. And if we come to this bill, I ask you not to vote for this bill. There are

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opportunities ahead of us that we can help our citizens... [LB887]

SENATOR KRIST: Time, Senator. [LB887]

SENATOR SMITH: Thank you, Mr. President. [LB887]

SENATOR KRIST: Senator Brasch, you're recognized. [LB887]

SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues, friends all, and those watching this morning. The Legislature does have a responsibility and we do hear the voices of our citizens across the state and we represent those who are in our district. Several concerns have been raised as I have gone through AM2032 and the bill itself, and I'm concerned that our citizens have not had the opportunity to go through it line item with a yellow highlighter. Interesting enough is that the word "federal" is used 49 times in AM2032. The word "patient-centered medical home" is used 25 times; the phrase "Wellness in Nebraska Oversight Committee" 9 times; "medically frail" is used eight times; "exceptional medical conditions"...there are items, lines, information here that I question and I believe that my constituents also question. Are we going to just push out a bill, sign it, and see what happens? The Affordable Health (sic) Care Act was expedited. It went out. We are still learning what is happening in the Affordable Care Act. The President is extending many extensions. There are changes being done as we speak. But as Nebraskans we have a responsibility here and in this Legislature is to look closely and carefully at what we are doing, what we must do, and what we cannot do. Are we meeting the obligations and expectations with this wellness bill here? There's realities moving forward. When it talks about implementing innovative models, what is an innovative model? Are we being prudent? Are we protecting ourselves? Are we actually addressing the needs? When we talk about the home healthcare teams, we're worried that people are staying at home and not going to the doctor; but at the same time, with this bill we are going to encourage them to be home and have teams come in, physician-directed teams. I spoke with a physician in Cuming County and also one up in Blair County. They have extreme concerns about physician-directed teams--have they the medical experience to diagnose? Are they truly able to tell you that this is the treatment that you need? Are we sending someone to the wrong person?--not everything that health-directed teams are qualified to answer and to direct. That's per the physicians in our district. I'm also wondering, as I have toured and gone to facilities, our regional...region healthcare centers, that they do serve those who are underinsured and not insured, that there are clinics that are delivering services; we are funding those clinics, I believe. When we look at, you know, what can we afford, when we're tying ourselves into a federal government... [LB887]

SENATOR KRIST: One minute. [LB887]

SENATOR BRASCH: ...that's delivering promises, are we meeting expectations? I

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believe Senator Garrett made a very valid point. When I have my town halls, when I have dialogues, people are saying, where is my money, show me my money, I want my money back. We need to look at what is making healthcare expensive, what are those barriers. Insurance is not healthcare. Insurance is a provider. It's...you know, we're...we have many layers, layers almost governmental in nature, that are an expense to healthcare. I will not support LB887 as it stands or the amendment, AM2032. And, Nebraskans, please, do get your yellow highlighter out and look at what it's going to ask you to do. You will be part of a wellness plan. We will all... [LB887]

SENATOR KRIST: Time, Senator. [LB887]

SENATOR BRASCH: Thank you, President, and thank you, colleagues. [LB887]

SENATOR KRIST: Senator Campbell, you are recognized. [LB887]

SENATOR CAMPBELL: Thank you, Mr. President. Colleagues, this is likely the last time that I'll talk on LB887. I certainly would like to thank my three colleagues who cosponsored the bill and all of the supporters and certainly the staffs of all of the senators who worked on this. Sometimes we forget to mention how much work they do. I walked into my office this morning and I just thought, well, I'll take a quick look at what was in my file. And in my file this morning was a letter from a woman in Lincoln, a short, handwritten note. And I want to read you part of it. Yesterday, Senator Hadley said this is really about the number of 54,000. I believe this is really about the number one: each of the people who are facing a life in which they need access to healthcare. The woman wrote: As a couple who didn't have insurance in 2006, and at 64 years old, my husband fell down the basement steps, causing a brain injury. We didn't think anything like that would be...would happen to us. So we are now grateful that we have the homestead exemption and continue to dig ourselves out of catching up on medical conditions that we want and need without treatment for having no insurance. They waited on that treatment. We wish better for those who think it will never happen to them. In the state of Nebraska, 32 percent of Nebraskans live at less than 200 percent of the federal poverty level. People wonder why this bill is critical, why it's important: because Nebraskans living at that level, those 32 percent, that level spends 37 percent of their income on medical spending versus only 2 percent of the income spent on medical care for those who are above 400 percent of the federal poverty level. Colleagues, this is a critical issue. On the desk we passed out today another sheet for you to look at. This time it comes from the counties. It is a long sheet and in a week 34 counties responded. The counties are giving you a picture of their costs that are now being absorbed by the property tax. I hope that you take a look at it. Senator Davis has been trying to draw our attention to this fact, and I think he's done a really good job. LB887 comes down to: Are we going to be there for all Nebraskans or just for some? Are we going to have people at the door who need access to healthcare and we say, I'm sorry, we can't do that, we may not have a doctor, you'll have to wait, but I will be taken care of because I have

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insurance? [LB887]

SENATOR KRIST: One minute. [LB887]

SENATOR CAMPBELL: Colleagues, think about what that means. Thank you, Mr. President. We often say this quote that long-range planning does not deal with future decisions but with the future of present decisions. I started my talk and this bill and I read the goal of the State Planning Committee for Health and Human Services, and that goal is to design individual Health and Human Services programs that allow Nebraskans to thrive, not some, not a portion, but all. Thank you, Mr. President. [LB887]

SENATOR KRIST: Thank you, Senator Campbell. Those still wishing to speak: Senator Crawford, Wallman, Conrad, Ken Haar, McCoy, Cook, and Davis. (Visitors introduced.) Senator Crawford, you are recognized. [LB887]

SENATOR CRAWFORD: Thank you, Mr. President. We've been talking a lot about healthcare. I'm going to shift gears, pardon the pun, for just a moment and talk about automobiles. I want to talk about one time when I made a choice to try to save money and what happened and my fear that we are in a similar situation today. Several years ago, I went to the mechanic. The mechanic told me, you need a timing belt, it's going to cost hundreds of dollars. I decided, you know what, I don't want to spend that money on a timing belt and so I'll do it later and, you know, next year, later on the road I'll decide to replace that timing belt when I have more money or when I've thought about it more, when I've figured out what I want to do. So I walked out of that garage and those of you who know about automobiles will know what happens later. Later I was back in the garage, this time with thousands of dollars of repairs and without a way to work because that was my only car. Colleagues, in that case I drew a line in the sand in the wrong place. Colleagues, in that case I decided to wait at the wrong time, and that is where we are here today. I want you to understand, if you decide not to pass LB887, it is not the case that we just walk away. This is not like standing in the store and deciding whether to buy a big-screen TV or not and you walk out of the store and it's okay if you decide not to buy it. These costs do not go away. We've talked about all kinds of the personal costs, cost to counties, cost to hospitals, cost to our employers if we do not pass this bill. Those costs kick in now. Those costs are now. And so it's critically important that you recognize that that's what we're talking about. And I want to correct the record on just a couple of points quickly. I want to let you know that the growth rate over the past ten years in Medicaid CHIP spending from all sources is only 2.7 percent per year. That's an important correction to the record. I also want to tell you, when we talk about...I want to tell you that if you are concerned, again, about our most vulnerable, that they came and told us how important this bill was to them. And Michael Chittenden from the ARC told us at the hearing: LB887 will affect approximately 15,000 people with disabilities in the state of Nebraska that are currently uninsured. The LB887 doesn't cover children, elderly, or some of the disabled, because we have other programs to do

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that, but passing LB887 is critical to making sure those other programs will work. We're talking about money. It's important that my colleagues in Sarpy County know from what we have just seen--we're talking about saving taxpayers' money---if we do not pass LB887, there are over \$300,000 of money that Sarpy County will spend to cover things that could be covered instead under LB887. We have a chance to buy the tuning (sic--timing) belt. In fact, colleagues, we've all been chipping into a fund to help states buy this tuning (sic) belt. Right? And so there's no reason for us not to put the tuning (sic) belt in and allow this engine to run; and if we do not, we have serious consequences if we do not do so. And I'll yield the remainder of my time to Senator Davis. [LB887]

SENATOR KRIST: Senator Davis, one minute. [LB887]

SENATOR DAVIS: Thank you, Mr. President. I wanted to direct the body a little bit to some information that I pulled up and handed out. The first thing I want to say though is that the...there are \$36 million written off by the hospitals districts in this state every year through bankruptcy. And I want you to think about what bankruptcy involves. It's not just the hospitals that are writing off debt. It's all the other merchants that have credit out to these people. So this is a much bigger deal than the \$36 million. I visited with Senator Mello a little bit about the DSH payments, the lost revenue from the DSH payments which you heard about yesterday. I think it's \$39 million, \$36 (million), something like that. Senator Mello says, you know, that money isn't in the budget, so that's going to have to come from somewhere else. And then you'll see that I handed out some documents on county hospitals, property taxes, levies. Well, they're allowed to levy up to 3.5 cents. I don't have a list of all of them, but you can see that a lot of the hospital districts I've handed out are already levying and they're levying below that. Well, what are they going to do if they don't have revenue? Where are they going to go? [LB887]

SENATOR KRIST: Time, Senator. [LB887]

SENATOR DAVIS: Thank you, Mr. President. [LB887]

SENATOR KRIST: Thank you, Senator Crawford and Senator Davis. Senator Wallman, you're recognized. [LB887]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. In my district, 938 bankruptcies in Lancaster County, 91 of those bankruptcies, 55 are medical in Gage; 563 in this county right here, right here. And I heard a Ronald Reagan mention. Well, you know what Ronald Reagan said: Where free unions and collective bargaining are forbidden, freedom is lost. Or when they say or when we hear it's fiscal insanity to keep raising the debt ceiling, George Bush did it 7 times but Reagan did it 18 times, folks, 18 times. So what's so great about that? I thought he was an okay President. He

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was a great communicator. And so when we talk about this here, and also right here, if we provide coverage through WIN, it will create opportunities to coordinate patient care and will reduce uncompensated care. Uncompensated care creates a hidden tax on private-care consumers. Two-thousand eight, Families USA contracted with Milliman Incorporated to look at the impact of paying for care for the uninsured spread across the nonmedical...non-Medicare private insurance market. Milliman estimated an increase in premium cost for the privately insured was \$1,017. Folks, somebody is paying these bills, and it's the people that have health insurance. And why can't we see this? I don't know. Are we selfish? Absolutely. What is it the Good Book says about...at the end of a lot in the church service? Take care of the poor. I'd yield the rest of my time to Senator Mello. [LB887]

SENATOR KRIST: Senator Mello, 2:40. [LB887]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I wasn't planning on speaking this morning, but I did hear a couple colleagues today once again stand up and recite some very inaccurate or, I would say, some misleading information once again when it comes to fiscal policy. As I mentioned last night before we left the body, if you're going to stand up and say this is a bad piece of legislation because it's going to ruin our state fiscally, you have to show me and the rest of us a budget six years from now that does that because everyone knows that is not the case if you read the fiscal note. You can't stand on the floor saying this is going to...this is a financially risky scheme or this is a financial risk to public education without actually showing data to back yourself up. I won't let you do that. I can agree...I can understand and appreciate you don't support the bill. But you can't stand up and simply say...make up numbers and try to create your own fiscal note six years from now of what the state's fiscal status will look like. We haven't even finished this session let alone six years from now. And that's all I really want to remind people about is the fiscal note is what it is. It's \$61 million, colleagues, over six years, \$61 million over six years, less than a quarter of 1 percent of state spending. So if the issue...once again, if you disagree with the bill and the policy for political reasons, for policy reasons, what happened in Washington, so be it. But if you're going to try to stand on the floor and try to invent fiscal policy to fit your argument, I will stand up and try to correct you every chance I get because that is not the kind of public policy that we want to create here and, arguably, it's not the kind of debate that we want to have so we just make up fiscal information to fit our arguments. [LB887]

SENATOR KRIST: One minute. [LB887]

SENATOR MELLO: As I mentioned last night, once again, that's an argument of convenience when we try to insert less-than-accurate fiscal information and use very broad terms and analogies and slogans and talking points to make our points. So just be careful. It's okay, once again, if you oppose the bill. We're going to work on a lot of

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other things after this. But if you're going to oppose the bill, make sure you're using accurate information which is in that six-page fiscal note. The Legislative Fiscal Office, which is an independent, nonpartisan entity of this Legislature, in which they are the ones who create it, they are the ones who do the analysis, and they provide us that nonpartisan, independent perspective on LB887. Thank you, Mr. President. [LB887]

SENATOR KRIST: Thank you, Senator Mello and Senator Wallman. (Visitors introduced.) Returning to discussion, Senator Conrad, you are recognized. [LB887]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. I want to correct the record in regards to some misinformation that has been injected at the opening on this floor amendment. Quite simply, rhetoric revolving any sort of lack of a political will surrounding significant cuts ignores reality. There are pages and pages of cuts to human services and other programs that we went through during the economic downturn. Look on-line, see for yourself. Information saying that once a government program is created it never goes away, I'll give you two examples just off the top of my head. We've eliminated the Women's Commission during my time here and we've eliminated aid to cities, counties, and NRDs. Additionally, we've heard some rhetoric in relation to if we accept this it drives up the national debt or certain federal dollars are not appropriate to accept. Friends, the reality is this: Without passing LB887, we are paying twice. We have paid the federal taxes, we are paying for uncompensated care in our premiums, and we are getting nothing in return. If you have a problem with federal dollars, there is over \$2.6 billion in our budget. And I challenge you to tell us how we make up the difference if we're so concerned about the federal debt, if we're so concerned about federal dollars, because you cannot. It is impossible. So it's ridiculous to draw the line on acceptance of federal dollars when they're meant to help the working poor. We'll take them for roads; we'll take them for water; we'll take them for schools; we'll take them for ag. We will not take them for the working poor? Let's not pat ourselves on the back in terms of being civil when we're turning our backs on 54,000 working Nebraskans. There's nothing civil about that. You have an opportunity with a great economic benefit to our state to make a difference, to improve our work force, to stand up for family values and ensure all Nebraskans are valued. Opponents ask for copays, they ask for premiums, they ask for a private-sector option. Senator Campbell has delivered each of those in LB887 and it's still not enough because we want to make a nonexistent political point that hurts our state and our citizens, and that is wrong. Let me give you an example of two people from Lincoln that we're talking about that are indicative of my district: Whitney Carlson, age 26, a full-time student at UNL, relies on student loans to make ends meet, is no longer eligible under her parents' health insurance, she's not eligible for tax credits, and she's uninsured. She's worried about what happens if she gets sick and if she'll be able to finish school. Let me tell you about Amanda Gerson, age 31, also from Lincoln, worked consistently since she was 16 years old, has a variety of health problems, was recently diagnosed with arthritis on top of those. She's paid all of the costs out of pocket because she's uninsured. She doesn't

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qualify for Medicaid. She doesn't earn enough for tax credits. She also falls in the coverage gap. She's homeless because of the cost of her medical bills. She relies upon the kindness of friends and family to help her keep a roof over her head. She's working full time and she's done so since she was 16. Do not turn your back on Amanda. Do not turn your back on Whitney. Do not turn your back on 54,000 Nebraskans who need you to stand up and take a good deal when it's offered. I give the remainder of my time to Senator Nordquist. [LB887]

SENATOR KRIST: Senator Nordquist, one minute. [LB887]

SENATOR NORDQUIST: Thank you, Mr. President and members. I, too, want to stand and talk about what Senator Crawford brought up, Senator Conrad, about the misinformation on the disability population, the 15,000 Nebraskans with disabilities that would benefit from this. And why would they benefit? I'll tell you the reason. Right now we have a cap on their healthcare services. People with developmental disabilities, they can only earn 100 percent of poverty or they get nothing. We...I have heard from people who work at McDonald's who's been offered promotions and raises and had to turn them down. We have 15,000 Nebraskans with disabilities who want to work, who want to work more, who want to work for more, and we are not going to help them if we don't move forward with LB887. Thank you. [LB887]

SENATOR KRIST: Thank you, Senator Conrad and Senator Nordquist. Senator Ken Haar, you're recognized. [LB887]

SENATOR HAAR: Mr. President, I yield my time to Senator Nordquist. [LB887]

SENATOR KRIST: Senator Nordquist, 4:55. [LB887]

SENATOR NORDQUIST: Thank you, Mr. President and members. So certainly, when we're talking about that population, this is a major uplifting possibility for that population, that we have people with developmental disabilities that we don't have to keep below 100 percent of poverty, keep them working for poverty wages. We know that they have the potential to do more, and this is the opportunity for us to give them the opportunity to do more. We are holding them down with our current policy. We also heard about, well, the hospitals are already serving these people, they're already...these people are already getting care. Yeah, we know that a lot of them are in very inefficient ways. But, folks, we are forgetting the big picture here that those hospitals that are serving these people right now are doing it because they're getting DSH payments from the federal government. They are getting the DSH payments to cover people with...that are uninsured to provide the uninsured care. That's going away, \$40 million to our hospitals. They're not going to be able...not all of them are going to be able to keep serving those people, and not all of them are going to be able to even keep their doors open. The moment of reckoning is coming here on the vote, but there will be a much, much larger,

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much more impactful moment of reckoning to Nebraska communities because when we start to see, like Georgia has, with four hospitals closing in one year, rural hospitals, what do you think is happening to those communities when those hundreds of jobs...I know I've heard from hospitals in Nebraska not far from Omaha in rural communities, hospital, 25 beds, with 100 jobs in a community of a couple thousand people, and that's in Omaha or outside of Omaha, an hour or so. What do you think is going to happen in other parts of our state? That's the much larger reckoning that's going to happen if we are not successful moving this bill forward because the hospital goes with its 25 beds and its 100 jobs, there's a lot more to follow in those communities. So this is much bigger than just providing care to the 54,000 uninsured, low-income working folks. This is much bigger than offsetting the uncompensated care that we are all paying for in our premiums. This is about keeping Nebraska, Nebraska's healthcare system, and Nebraska's economy strong in the long run. Thank you. [LB887]

SENATOR KRIST: Thank you, Senator Haar and Senator Nordquist. Mr. Clerk, you have a motion on your desk? [LB887]

CLERK: Mr. President, I have a priority motion. Senator Campbell would move to invoke cloture pursuant to Rule 7, Section 10. [LB887]

SENATOR KRIST: It is the ruling of the Chair that there has been full and honest debate on LB887. Senator Campbell, for what purpose do you rise? [LB887]

SENATOR CAMPBELL: I would like a call of the house and a roll call vote in regular order. Thank you, Mr. President. [LB887]

SENATOR KRIST: There has been a request to place the house under call. The question is, shall the house go under call. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB887]

CLERK: 42 ayes, 0 nays, Mr. President, to place the house under call. [LB887]

SENATOR KRIST: The house is under call. Senators, please record your presence. All unexcused senators please return to the Chamber and record your presence. All unauthorized personnel leave the floor. The house is under call. Senator Burke Harr, Senator Harms, Senator Kintner, please return to the Chamber. The house is under call. Senator Burke Harr, please return to the Chamber. The house is under call. Senator Campbell, all members are accounted for. How would you like to proceed? [LB887]

SENATOR CAMPBELL: Mr. President, thank you, I would like a roll call vote in regular order. Thank you. [LB887]

SENATOR KRIST: Members, the first vote is the vote, the motion to invoke cloture. Mr.

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Clerk, there has been a call for a roll call vote. Please proceed. [LB887]

CLERK: (Roll call vote taken, Legislative Journal page 950.) 27 ayes, 21 nays, Mr. President, on the motion to invoke cloture. [LB887]

SENATOR KRIST: The motion fails. Debate ceases. Raise the call. Any items, Mr. Clerk? [LB887]

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

SENATOR KRIST: Let's proceed to the next item on the agenda.

CLERK: Mr. President, LB905, Senator Murante. I have Enrollment and Review amendments first of all. (ER168, Legislative Journal page 905.) [LB905]

SENATOR KRIST: Senator Murante for a motion. [LB905]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB905]

SENATOR KRIST: You've heard the motion. All those in favor aye. Opposed, nay. They are adopted. [LB905]

CLERK: Senator Mello would move to amend with AM2408. (Legislative Journal page 935.) [LB905]

SENATOR KRIST: Senator Mello, you're recognized. [LB905]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. AM2408 is a committee amendment that makes a series of changes to LB905 which are largely technical in nature. The changes in AM2408 were adopted by the Appropriations Committee yesterday and the amendment adds and changes intent language in the budgets of the Department of Health and Human Services and the University of Nebraska, as well as intent language for the replacement of the State Capitol HVAC system. I would draw the body's attention to the two changes which are substantive in nature. The second item listed in AM2408 would establish a contingency appropriation of \$7.4 million to fund a deficit resulting from a shortfall in the budget of the Supreme Court. The committee made corresponding General Fund reductions in two programs, one program in the Department of Health and Human Services, as well as a cash fund transfer from another Department of Health and Human Services entity to make up for this contingency appropriation so the changes would not have a General Fund impact on any expenditure in the budget. The sixth item listed in AM2408 would increase the TEEOSA aid by just over \$110,000 to reflect the final calculation of certified aid for fiscal year 2014-15. Keep in mind that this amount is the level of TEEOSA aid based on

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current law and it does not take into effect the impact of Senator Sullivan's LB725 which is currently pending on Final Reading. I'd urge the body to adopt AM2408. Thank you, Mr. President. [LB905 LB725]

SENATOR KRIST: Thank you, Senator Mello. You've heard the opening on AM2408. The question is the adoption of the amendment to LB905. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB905]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Mello's amendment. [LB905]

SENATOR KRIST: The amendment is adopted. [LB905]

CLERK: Senator Chambers would move to amend with AM2464. (Legislative Journal page 939.) [LB905]

SENATOR KRIST: Senator Chambers, you're recognized. [LB905]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, if you call this amendment up on your gadget, you will see the wording. You will see which figures are lined through...which one...I mean, which figures are underlined. What is going to happen if this amendment is adopted is to remove from the budget that several millions of dollars set aside to move state prisoners into the county jails. I have a philosophical objection to this, in addition to practical reasons for making this move. I'm currently having an article copied which appeared in the World-Herald, discussing the wariness of, at least, officials in Douglas County and Sarpy County about participating in this program. When you get the article you'll see underlining. You can scan it and see where some of the issues they raise go to the uncertainty about receiving the payment that the state should be willing to give or will contract to give for housing these inmates. My philosophical objection is that state problems should have a state solution. The people being discussed were sentenced to the State Penitentiary or to the state Department of Correctional Services. They should not be transferred to county jails. There are certain requirements relative to certification that jails would have to meet in order to house prisoners, period. Most of these county jails probably don't have that certification. But let's say that there would be enough jail space in the counties to siphon off 150 inmates from the current prison system. Right now, there are 1,700 inmates above the design capacity. So you take 150 from 1,700, and you have not done anything. This scheme, as I call it, was not hatched in malice. That is my opinion. But if it came straight from on high, I still would oppose it. It will have no practical, significant impact on reducing the overcrowding. The unanswered questions cannot be satisfactorily responded to. To appropriate money and make it available to be spent when there is no practical way that it can be spent, is fiscally irresponsible, in my view. If this temporary fix... [LB905]

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SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: (Gavel) [LB905]

SENATOR CHAMBERS: Thank you, Mr. President. They're not going to listen and it doesn't even matter to me, because the people who watch us will see the reasonableness of what I'm saying and wonder why this Legislature would appropriate money for something which has failed or DOA on arrival--that means dead on arrival. Prison inmates, state prisoners, are the responsibility of the state. Any liability that will accrue from how they are handled by anybody would fall on the state. I do not believe that you can legally, maybe it even rises to the level of a constitutional issue, take men and women sentenced to a state facility and put them into what amounts to a local jail. The standards are not the same. They are not going to be under the direction and control of state employees. If, on the other hand, you're going to require these county jails to set aside a certain area that is going to be incorporated into the state system, which I don't think can be done, but for the sake of the discussion that's what you're going to do; then you would have to send state employees to manage and provide for those prisoners. They could not be taken from a state facility and put in a local jail where less is available to them in the way of treatment, programming, and whatever else that would be available in the state facility. This is something that should not be done. If it's done because of fear of a federal lawsuit due to the overcrowding, no court is going to say that a temporary move to siphon off 150 of that overcrowding number of 1,700 is a significant step toward addressing the overcrowding. Tied into this scheme is the notion that a study is currently underway whose focus is on whether or not a new prison facility should be built. There was a movie called, "Build It and They Will Come." When it comes to prison, build them and they'll fill them. What is being looked at by the Judiciary Committee, what is being considered by correctional officials all over the country, would be alternatives to incarceration: probation, improving and increasing the operation of the parole system so that more people who are currently locked up will have a chance to be discharged. Under probation they would not wind up in prison in the first place. A community... [LB905]

SPEAKER ADAMS: (Gavel) [LB905]

SENATOR CHAMBERS: Thank you, Mr. President. It takes a harder substance than a wooden hammer against a wooden tabletop to crack a walnut head. So I appreciate the effort, but it's futile. The really important work that people saw as needing to be done this morning has been done. I feel it ended in a way that was unsatisfactory; but we must press right on. And what I'm saying, I'm saying for the record. Anything that will be read that I've said, I want to be coherent. I want one part to flow logically from that which preceded it. Now to pick up where I had left off. No county jail is going to be placed under the direction and supervision of state employees. They are not going to become a

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part of the state system of corrections. This is a marriage that should never occur. If you're going to try to mix oil and water, you need an emulsifier. You need something to break down the molecules of the oil small enough to mix in with the water; otherwise, even if you shake up the container that has the two, once you let it set and things stabilize, the oil is going to rise to the top and there will never be a mixture. This is something that has no rational basis when you consider what is alleged to be the purpose for it. It is not going to significantly reduce overcrowding. It is alleged to be a temporary fix. Well, if the temporary fix is to prevent a lawsuit before a new prison is to be built, you cannot give a guarantee that another prison costing over \$130 million... [LB905]

SPEAKER ADAMS: One minute, Senator. [LB905]

SENATOR CHAMBERS: ...is going to be built. I wanted to say enough so that it's clear why I am bringing this amendment. And I'm prepared to answer any questions, and I do intend to speak further on it. Thank you, Mr. President. [LB905]

SPEAKER ADAMS: Thank you, Senator Chambers. Senator Mello, you are recognized. [LB905]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I rise respectfully to oppose Senator Chambers' amendment, AM2464, and I think in conversations with both Senator Chambers and Senator Ashford, the three of us will simply have to have a...we'll have to agree to disagree in respects to what currently has been put forward in the Appropriations Committee budget proposal, and what we as a committee heard from the Department of Corrections when considering this Governor's initiative. To give a little context, the committee itself had raised a lot of questions both at the hearing of the Department of Correctional Services and when we were in our Executive Sessions, determining what would be the appropriate course to move forward in respects to utilizing county jails to ease our prison overcrowding. And I want to read a little bit just from the testimony from the Appropriations Committee that gives a little context of where we came at in regards to wanting to find out some of the information Senator Chambers raised in his opening. I asked Director Kenney, how does the movement from DCS to county jails, how does this impact their specific programming and how does this impact their specific access to mental health services, how does that impact their reentry program, moving out of DCS into the county jail process if we were to appropriate the money? Director Kenney replied, "We're looking at the less problematic inmates; we're not looking at inmates with substantial medical issues or substantial programming needs. We believe in our cursory review of almost 5,000 people in our population gives us a pretty good sample, and we believe that there are 150 inmates who would qualify as low-management, low-risk people who some might even be able to take advantage of the geographical setting. For example, depending upon where these locations might be, they may receive family visits more often,

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etcetera. While I don't have a fine point on all the details, again I'll stress that those facilities have to be up to snuff with all jail standards and other legal requirements. And we have identified in our population a number of inmates that are basically going to prison, doing their time successfully, and don't have high programming needs, and they would be the target audience for that." It was reiterated...Director Kenney reiterated it in a Omaha World-Herald article on March 15 that said, quote, the only inmates sentenced to nonviolent crimes who had good behavior records would be considered for county jails. They also would have no significant health and mental health problems, would not be involved in therapy or other rehabilitation programs, and would not be within a year of parole or their discharge date. End quote, from Director Kenney. I can appreciate where Senator Chambers is coming at with this general thought of not wanting to see state prisoners go into county jails. And the Appropriations Committee, in our deliberations, had some similar concerns with that and we reviewed some of the testimony from Director Kenney. We asked some further questions in respects to programming. And the issue I think that is still kind of the left unsaid issue is the Department of Corrections had said they can't guarantee that all county jails that qualify will take these prisoners; that they have to work out a fine-tuned plan before they will start to approach county governments on whether or not they want to accept these low-risk, low-maintenance, low-management inmates for a year, period, knowing that they're going to be coming back into corrections to finish their rehabilitation and their programming prior to their parole or release date. And the rationale was, right now our prison overcrowding capacity is at 156 percent. With this proposal that the Appropriations Committee incorporated, as well as two smaller proposals dealing with the expansion of some Work Ethic Camp beds at McCook, as well as returning some federal prisoners back to the federal government and utilizing those existing beds, this will reduce prison population by close to 8 percent... [LB905]

SPEAKER ADAMS: One minute. [LB905]

SENATOR MELLO: ...from 156 percent to 148 percent. I would be remiss to not remind the body of what the committee itself had discussed and wanted to make sure it goes on the record, which is this is a Band-Aid approach. This is by no means a long-term solution to our prison overcrowding, and by no means would I try to debate, argue, or convince members of the body that the \$5 million one-time appropriation from the Cash Reserve will be a long-term solution to our overcrowded prisons. But what we thought in respects to what we're seeing out of LB907, in the Judiciary Committee, that we needed some flexibility within the Department of Corrections and Probation Office in regards to helping LB907 work its way through of trying to divert offenders away from corrections and try to bring that prison overcrowding percentage below 150 percent so that we could move forward with what we know are going to be mid- and long-term changes... [LB905 LB907]

SPEAKER ADAMS: Time, Senator. [LB905]

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SENATOR MELLO: ...as well as what we know Council of State Government is coming to Nebraska next year. Thank you, Mr. President. [LB905]

SPEAKER ADAMS: Senator Krist, you're recognized. [LB905]

SENATOR KRIST: Thank you, Mr. President, and still good morning, colleagues, and good morning, Nebraska. This is a good amendment, and let me tell you why. I stand on behalf of my county, Douglas County, who has been lied to and cheated for jail reimbursement in the past by this Legislature and by our predecessors and by the corrections system and by then-Governors in the past. They don't trust us. And we have a track record that is not trustworthy. So when Lancaster and Douglas Counties say, we're not going to play, guess where those prisoners are going to go? They're going to go in greater Nebraska. So if you don't think you have a pony in this race, wake up. This is a Band-Aid, at best. There are liability issues that are unsurmountable and insurmountable, in my mind, and Band-Aid, at best. You know where that \$5 million needs to go? Into LB464, into juvenile justice reform. Put the money in the playpen and avoid putting money in the state pen. Let's deal with our overcrowding system through CSG, through the studies that are coming up. We're creating more problems. There are unintended consequences here. And I know you hate to hear that slippery slope, but I'm going to say it. On behalf of the late Dennis Utter, this is a slippery slope. Move that \$5 million some place where it will do some good for our kids in the juvenile justice system, because it's less expensive to spend money on them and avoid the overcrowding process that we're going to have in years to come. I respect the fact that the executive branch and corrections wants to do something to relieve the overcrowding. But I'm going to tell you that story one more time. When I visited the penitentiary two weeks ago, I heard about not enough toilet paper. Out of toilet paper for five days. Out of cleaning supplies for five days. Out of soap for almost a week. There are many other ways that we could try to solve this problem besides moving them into the other prisons and county jails around the state. Ill-conceived. I would hope that you would vote for AM2464 because it's the right thing to do. Thank you. [LB905 LB464]

SPEAKER ADAMS: Thank you, Senator Krist. Members, we are going to stand at ease for a few moments. Certainly by now you have recognized that at the back of the room there's an assortment of former senators that have returned to this Chamber, and I'd like to recognize each one of them. And I'll call them by name, and if they would come down here in the front. And once we've got them all down here, as a body, we will welcome and recognize them. First on the list, former Senator Vickie McDonald, who served from 2001 to 2009; Senator Jerry Schmitt served from 1993 to 2001; Senator Bill Burrows, who served from 1975 to 1983; Senator Carroll Burling, who served from 2001 to 2009; Senator Wayne Schreurs, who served from 1969 to 1971; Senator Carol McBride Pirsch, who served from 1979 to 1997; Senator Dwite Pedersen, from 1993 to 2009; Senator Jim Jensen, who served from 1995 to 2007; Senator Ed Schrock, from

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1990 to 1993 and then again from 1995 to 2007; Senator Gwen Howard, who served from 2005 to 2013; Senator Jim Cudaback, from 1991 to 2007; Senator LeRoy Loudon, from 2003 to 2013; Senator Elaine Stuhr, who served from 1995 to 2007; Senator Don Wagner, who served from 1979 until 1985; Senator Ernie Stuthman, from 2003 to 2011; Senator Mike Avery, who served from 1993 to 1997; Senator Elroy Hefner, who served from 1976 to 1993; Senator Howard Lamb, serving from 1977 to 1993; and finally, Senator Joel Johnson, who served from 2002 to 2009. Members, now that we have all of the former senators down here in front, I would like us, as a body, to again welcome them and recognize them. Thank you for attending. Mr. Clerk, for a motion.

CLERK: Mr. President, Senator Bolz would move to adjourn the body until...recess, excuse me, recess the body until 1:30 p.m.

SPEAKER ADAMS: Members, you have heard the motion to recess. All in favor indicate with aye. Opposed? We are in recess.

RECESS

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good afternoon, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I do. Enrollment and Review reports LB986A, LB987A, LB1087A to Select File. Enrollment and Review reports the following bills correctly engrossed: LB132, LB692, LB728, LB854, LB884, LB941, LB941A, LB974, LB974A, LB986 and LB1014, Mr. President. All those reported correctly engrossed. That's all that I have. (Legislative Journal pages 951-952.) [LB986A LB987A LB1087A LB132 LB692 LB728 LB854 LB884 LB941 LB941A LB974 LB974A LB986 LB1014]

SENATOR GLOOR: Thank you, Mr. Clerk. Members, when we recessed, we were debating AM2464 to LB905. We now return to the queue. Senators in the queue: Coash, Ashford, Hansen, Burke Harr, Karpisek, and Schumacher. Senator Coash, you are recognized. [LB905]

SENATOR COASH: Thank you, Mr. President. Good afternoon, colleagues. We've been talking about prison safety, correction officer safety, inmate safety, here's...I want to give just a brief background to the members on what Corrections has come to the

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Appropriations Committee with; what Corrections has come to the Judiciary Committee with so you can kind of understand, as a whole, what we're trying to address here. First of all, what I would tell you is that there are short-term needs, immediate needs related to overcrowding, prison safety; and when I say safety, I mean safety for everybody: people who work there, inmates who are sentenced there. Safety is of paramount to what they're trying to achieve. And what Corrections came to the Appropriations Committee with, reflected in LB905, was two requests, colleagues, two requests that go towards that short-term objective. First request was for an appropriation to allow the department to house up to 150 inmates in the county jails. And I want to be clear about something; they didn't ask for permission to do so, they don't need permission to move an inmate from a state facility to a county facility. What they asked for was funding to do that. The second thing...the second request that they came to the Appropriations Committee with was additional staffing to staff up for the additional inmates that continue to overpopulate the institutions. That request is not reflected in LB905. So we have a short-term need, colleagues, where there were two proposals put forward. One was not put forward by the Appropriations Committee; the second is being removed by Senator Chambers' amendment. And he has legitimate reasons for his skepticism of county jails to take these inmates. First of all, the county...a lot of them don't want them and that's because of us. We left them with a big bill a couple of years ago when we decided to take away county reimbursement for jails. But there may be some counties out there that would enter into this agreement, but the funding won't be there if Senator Chambers' amendment is successful. I'm not saying that this is the way that we ought to go about it. But I am saying that without something, we have a real dangerous situation on our hands and we have to figure out a way to address the short-term needs. LB907 which is going to come out...which has been advanced by Judiciary Committee and will be heard on this floor, addresses long-term needs, long-term overcrowding. But we can't talk about solving these problems independent of the other. We need short-term and we need long-term approaches. Mr. President, I would yield the balance of my time to Senator Ashford. [LB905]

SENATOR GLOOR: Senator Ashford, 1:20. You're next in the queue; I'll tell you when you're on your time, Senator Ashford. [LB905]

SENATOR ASHFORD: Thank you. And thank you, Senator Coash. We did have an opportunity to discuss this matter further amongst ourselves in the committee. And my sense is this and the way we ought to go would be as follows. First of all, I think Senator Chambers' motion should be supported. I think we should adopt the amendment...or the...the amendment, AM2464, which removes the \$5 million for county jails. That will give us sufficient time between Select and General to take a look at where that money should be best positioned. Clearly, it seems to me that the money ought to go...if we're looking at...if we're looking at short-term solutions, members, I think that...and Senator Coash is right, LB907 is probably in the intermediate solution to the longer-term solution area. So we need some immediate relief. And one of the areas that I think we should

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take a hard look at is reentry services. As we listened to the parole administration talk to us about the need to get people ready who are at their parole eligibility time, who are...who are... [LB905]

SENATOR GLOOR: Your time, Senator. [LB905]

SENATOR ASHFORD: Thank you...who are ready...getting ready to be released, that they need services to get released. And in LB907, there is some language about, which I think will be helpful, hopefully, and that is to say that every inmate, no matter whether they're getting on...getting out on parole or whether they're just simply getting out of prison, that they have a reentry plan developed for them. So if someone has been in there for 10 years, at two year before their time of release, they would have a reentry plan that would be designed along with the department. But those plans need to be implemented and those plans need dollars so that there is successful reentry. And that's one potential use. And in talking to the department, or I'm sorry, talking to the representatives of the department, it's my understanding that they need some help in that area to bulk up their reentry...part of the department to get people ready to go through parole in a satisfactory way. Senator Coash has raised some of the issues regarding county jails. It is clear that at least Lancaster County and Douglas, I can't speak for anybody else, may not even take any prisoners. So the idea of having an inmate closer to their home, if they're from Lancaster or Sarpy or Douglas or, you know, that area of the state, would not help, because, obviously, you know, if those counties don't wish to take those inmates. There are questions about standards, about, you know, what sort of...if you have somebody who is on a programming track within the prison system and they're moved into a county jail temporarily where the programming track is not there, that's a problem, it seems to me, because what we're trying to achieve here in this prison reform is to keep people on the programming track they're on. As we have heard, each inmate does have a plan when they come into the institution; that plan is important. The programming has been, in some areas, has been lacking, especially vocational education, vocational programming, very, very critical, very, very critical to how we deal with inmates as they get out of the institution. So, if these...if the resources aren't there to provide the programming now, if they are then placed outside of the institution for any length of time and it breaks up that program. Every case is different, so I don't want to make a broad brush conclusion or summary of this. I think Senator Chambers is correct in his motion...or his amendment that the \$5 million isn't going anywhere. We have time between Select and Final Reading to think about an adequate place for those dollars to go. But what is clear is that...there needs to be two tests. One is that it is...whatever we do do with those dollars that it be...that those dollars be used in a way that most effectively reduces the prison population in the short-term, but in a way that's consistent with our overall goal of reforming the prison system. And I think we can do that. I think it's going to take some thinking and some discussion with the Appropriations Committee. Let me also say, the Appropriations Committee has done a very good job with this part of their bill. This is not an easy area

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of our budget. And they have spent a great deal of time on it. I applaud them for it. But I think that the best and the most prudent policy is to have this \$5 million run parallel with LB907 so that we see where we're going as a matter of policy. [LB905 LB907]

SENATOR GLOOR: One minute. [LB905]

SENATOR ASHFORD: Thank you, Mr. President. [LB905]

SENATOR GLOOR: Thank you, Senator Ashford and Senator Coash. (Visitors introduced.) Returning to debate, Senator Hansen, you are recognized. [LB905]

SENATOR HANSEN: Thank you, Mr. President. This is a very interesting topic and I know that some of the county jails are interested in housing some state prisoners, so I called my county sheriff and asked him and he was telling me he would be willing to do it. And I...and he doesn't know any of the details, he doesn't know what the costs would be involved to Lincoln County or the reimbursement from the state. He had some questions there too, but he said he would be willing to take some prisoners from the state penitentiary on a very short-term...whatever length that would be determined. But Senator Chambers also raised this morning about a lot of questions that I had certainly not thought about, about the difference in jail standards between jails and penitentiary, corrections, and I'm sure that the state penitentiary is held to a higher standard than a jail. And I don't know how that would work transferring those prisoners to places...you know, out in the...away from the Douglas and Lancaster area because those counties don't want to participate in this. Would Senator Chambers yield for a question? [LB905]

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

SENATOR CHAMBERS: Yes, I will. [LB905]

SENATOR HANSEN: Thank you, Senator Chambers. I appreciated your comments this morning and the difference between jails and corrections. And I think you really got me to thinking whether this was a thing to do. It seemed like a simple solution for a short-term problem, but I'm not sure it is. Could you go over just a few of the things you said this morning about the difference between the jails and the Department of Corrections. I understand there is a different standard. I don't know what those standards are. But could you clarify that just a little bit...your main concern about this. [LB905]

SENATOR CHAMBERS: There is a set of standards, they call them ACA, that might be American Correctional Association, or something, that certifies these prisons. Those standards relate to the type of healthcare, the type of programming, and the things that are needed to make it a correctional facility rather than strictly penitentiary in the sense of punishment. The jails are controlled by the Jail Standards Board and these people

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set up standards, but I know for a fact they're not even observed in the jails and the Jail Standards Board does not have any genuine enforcement machinery. They don't have people who can inspect all these jails. And when problems are brought to me by the inmates, before I left here, I was getting so many of them that I persuaded the Legislature, and I'm pleased they did it, to let the Ombudsman's Office look at those problems in the same way they do the penitentiary. And now some of those problems can be shunted to the Ombudsman's Office, but now they're becoming overwhelmed. [LB905]

SENATOR HANSEN: This is in the jail. [LB905]

SENATOR CHAMBERS: So when you have two separate standards, one higher than the other, an inmate who might voluntarily agree to go to the lower standard, could wind up there and then initiate litigation for having been put in a worse situation than he or she had been sentenced to under the law. And that would, in a nutshell, be the outstanding issue. Then there are specific problems that would flow from that situation. [LB905]

SENATOR HANSEN: My...I guess the underlying thought of mine was that if the State Patrol, city police, county sheriff, arrest someone, they put them in jail in Lincoln County. They hold them until the arraignment and the trial and then if they're found to be guilty, then they become a state prisoner and are transported somewhere else. [LB905]

SENATOR GLOOR: One minute. [LB905]

SENATOR HANSEN: I mean, the jail was good enough to hold them until the trial, why would it not be a good enough place to hold them temporarily while you figure out what we're going to with prison reform? [LB905]

SENATOR CHAMBERS: Because until all of the legal proceedings are completed, they're not state prisoners. [LB905]

SENATOR HANSEN: No. [LB905]

SENATOR CHAMBERS: Once the sentencing occurs, then they go to the penitentiary. And the counties can control, to some extent, the number of people who are in their jails because the prosecutor is the one who decides to file charges; the judges are the ones who determine what level of crime the person would be convicted for; and based on those considerations, the ones who wind up in the penitentiary will always go through the local or county court system before going down to the penitentiary. [LB905]

SENATOR HANSEN: Okay, I appreciate that explanation. And I will certainly look at this issue in a different light thanks to Senator Chambers. [LB905]

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SENATOR GLOOR: Time, Senators. [LB905]

SENATOR HANSEN: Thank you. [LB905]

SENATOR GLOOR: Thank you, Senator Hansen, Senator Chambers. Senator Burke Harr, you're recognized. [LB905]

SENATOR HARR: Thank you, Mr. President, colleagues. I think we have a bit of a problem here. We have...this situation has brought to light what on its face would appear to be conflicting statutes. We have 28-105 which states that when a person is sentenced to a felony, which is what we're dealing with here, they shall be served in an institution under the jurisdiction of the Department of Correctional Services. Then you...so that's one law, then you have 83-176 and -175. And that deals with placement of a committed person and a prisoner. And they...on its face they appear to conflict with each other. And I'm doing some research on LB1044 from 1996, which deals with 83-176. But the real problem we have here, I don't think we can send prisoners to county jails. (Section) 83-176 deals with transfer of prisoners, whether or not operated by the state and may at any time transfer such persons from one place of confinement to another. If you look at that, -176 and -175 together, it's obvious the intent is that the director of Correctional Services can move within the Correctional Services within Nebraska. So you can move them from work ethic center to OCC, D&E, Lincoln Correctional Center, State Pen., wherever, within there. And then if someone requires some special services, you can move them out state. But it has to be under the jurisdiction of the Department of Correctional Services. That's first and foremost. So you can't just willy-nilly move them down to the counties. Senator Mello, earlier, also talked about certain individuals that would qualify to go the county. And what I found interesting was, those individuals that qualify to go to the county are also...it's very similar if not the same, and I'd like to hear someone who would tell me the difference is, of individuals who qualify for community corrections. And the question is: Why aren't these individuals in community corrections? Why are they going to a county jail? And I don't have an answer. And I don't know where to find the answer. Hopefully, someone behind the glass can be able to answer that question for me. But before we go and give \$5 million to our county corrections, we had better, one, make sure there is someone on the other side who wants that \$5 million. And I haven't heard of anyone who wants it. So where does that \$5 million go? What do we do with it? Second of all, can you do it? And there seems to be conflicting authority as to whether we can even do this, send them to the county jails. I have some real reservations. It seems like we're literally throwing money at a problem before we really thought it out. One thing you can do is say, hey, prisoners...and this is what we used to do, you stay at county until there is an opening in state. Nothing prevents that. But once you move them over to D&E, which is where you start, diagnostic and evaluation, I don't think you can move them back. And if you can, I invite anyone to show me the case law or statute or rules or regs that say you can do

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that. But right now, all I see is the other way. And so I'm going to go ahead a support AM2464. Thank you. [LB905]

SENATOR GLOOR: Thank you, Senator Harr. (Visitors introduced.) Members in the queue: Karpisek, Schumacher, Krist, Mello, Chambers, Coash, and Lathrop. Senator Karpisek, you are recognized. [LB905]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. When I first asked Senator Conrad this morning about what Senator Chambers was up to, she explained it to me, and I thought, well, it's a good idea in the bill. And I know there are people who are...have some very valid questions. Would Senator Chambers yield, please? [LB905]

SENATOR GLOOR: Senator Chambers, would you yield to questions? [LB905]

SENATOR CHAMBERS: Yes, I will. [LB905]

SENATOR KARPISEK: Thank you, Senator Chambers. I guess...I appreciate you saying the two different jail standards. What about...Saline County Jail houses inmates for INS and the feds. Now do you...do you see a problem if you're certified or qualified that way? [LB905]

SENATOR CHAMBERS: Senator Karpisek, the federal government can and does do what it pleases and there was a county in the western part of the state, I won't mention it because it's not my intent to derogate any county, but they had done some building counting on what they call illegal immigrants being housed in those jails and they were going to make money from the federal government. But then that whole notion fell through as far as the federal government using them, so now they have excess space that they built, not for their needs, but as a money-generator from the federal government. So when you count on the federal government doing something, and you actually go into construction, you're rolling the dice. My view is...can I give you an example, and it might give you an idea. [LB905]

SENATOR KARPISEK: Please. [LB905]

SENATOR CHAMBERS: There's a lady in Douglas County, in Omaha, she was convicted of two counts of embezzlement at different periods of time. The first one she was convicted of sent her to York. She had to come back to Omaha to be tried on the second one. She pled guilty and while waiting to be sentenced she went to the Douglas County Correctional Facility, and she asked, can I be sent back to York while I'm waiting to be sentenced because this place is horrible. She would rather be in the state facility, but because she had not been sentenced on the particular charge, she had to stay in that county until the sentencing was completed, then she would become a state

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prisoner. But the federal government can do, I guess, whatever they want to. [LB905]

SENATOR KARPISEK: Well, I guess my thought is, Senator Chambers, if the jail standards are good enough for the feds and the jail can pass that, would that not be good enough for...to house state inmates? [LB905]

SENATOR CHAMBERS: It would be a temporary holding there. No matter what a person goes to a local jail for, the idea is that it's a transient population; they won't be there long, even at Douglas County I think the average stay might be 21 days. So if you have people who are going to be there for a long time, they're not going to wind up in a county jail even for the federal government, I mean. [LB905]

SENATOR KARPISEK: Okay, thank you, Senator Chambers, for clearing some of that up. I guess my thought on this though is that as we heard that Douglas and Lancaster County probably wouldn't want to do this, but that's all right, they don't have to. I know a lot of counties will work with each other to house inmates if they have...one is overcrowded and one has some room. I guess to me that...I heard that this is a Band-Aid, and I couldn't agree more. But I think it would be a Band-Aid for a while to at least get people out of some overcrowding situations, have the executive branch draw up some parameters on this... [LB905]

SENATOR GLOOR: One minute. [LB905]

SENATOR KARPISEK: ...to see what they will or won't accept. I don't think that we want to just say any county, we don't care what kind of a facility you have, you can qualify, but there are some that have been built that are...for a jail, I guess, fairly decent. And I think that the people there are happier to be there than stuck into a big population. So I will continue to listen and many more things have been brought up that I didn't think of. But right now, I don't think I can support Senator Chambers' amendment. Thank you, Mr. President. [LB905]

SENATOR GLOOR: Thank you, Senator Karpisek. Senator Schumacher, you are recognized. [LB905]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Sure be nice if life were simple, then we would be sure we knew what we were talking about. But it's not and things are never quite crystal clear. Senator Chambers raises a very good point. Our criminal law says that all sentences of imprisonment for one year or more shall be served in institutions under the jurisdiction of Department of Correctional Services. That seems pretty simple. If it's not under the jurisdiction of the Department of Correctional Services, it's not a place to serve a sentence. We know, of course, there are certain things, for example, if a prisoner is a volunteer for work release program or if he needs to be in a hospital that that reasonably would fall outside of that. Now that law,

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best I can tell, and I haven't...my gadget isn't smart enough to go back far enough, was before 1995. In 1996, 83-176 was passed and it says, presumably after the first thing I read: Whenever a person is sentenced or committed under any provision of law to a specific facility within the department or to the custody of the warden or superintendent of the facility, he or she shall be deemed to be sentenced or committed to the department. The director may designate as a place of confinement a person committed to the department any available, suitable, and appropriate...the word is "and appropriate," residence, facility or institution, whether or not operated by the state and may at any time transfer such person from one place of confinement to another. So that would appear to give the director, assuming that came after the first statute, some wiggle room in putting him into any available, suitable, and appropriate residence, facility, or institution. And probably would cover the jail, but we don't know that for sure. This is a critical problem that we're coming up on. We know that we've got a real prison overpopulation issue. We know that we're going to have to solve it. We know that we should use every possible piece of wiggle room we have to solve it until we're willing to dig into our pockets and spend the money to either find alternative places or create a new prison. So I think, maybe, the proper thing to do on this is to advance this and ask for an Attorney General's Opinion whether or not this resolves this. We certainly don't want to blow an option while it's available to us, nor do we want to cross somebody's constitutional rights and find ourselves in another federal lawsuit that we might lose. So I think Senator Chambers has raised a very valid issue. Maybe 83-176 solves the problem for us, but I don't think we are of the pay grade, nor do we wear the long black robes to be able to make that decision here on the floor. And I'd suggest what we do is ask for an AG's Opinion and make our judgment--this is Select File, isn't it--yeah, well, make our judgment before Final Reading. Thank you. [LB905]

SENATOR GLOOR: Thank you, Senator Schumacher. The Chair recognizes Senator Krist. [LB905]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, members and good afternoon, Nebraska. I stand in support of AM2464 and the underlying LB905 in terms of the...what would remain of its content. Again, I spoke this morning about the overcrowding situation and how I believe it would be inappropriate to move them. I thank Senator Harr for doing the research. He stole my thunder. I was concerned about those two conflicting statutes. But he being the legal expert, I'll defer to his research and await to hear that. I think that Senator Lathrop had been quoted in a previous edition of one of the local papers as saying that the overcrowding situation needs to be dealt with, one, and potentially of two ways. One is finding issues that can be solved within the existing brick and mortar institutions that we currently have. The other is reaching into our pocket and spending hundreds of millions of dollars on new facilities potentially. The two of them, I don't think are companions going forward. One or the other is probably the way that we need to go. And I would support trying to solve the issue with the existing brick and mortar with some of the measures that we are talking about putting

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into place. And so I stand in support, be clear, of AM2464. The other part of this is, we've gone out of our way through three branches of government to come together and ask an independent study to come into the state of Nebraska, CSG, to come into the state of Nebraska and look at our corrections system which, admittedly, has some issues. And I think moving forward before we have that study, and we have that complete, in this way it may not be the best option. I heard Senator Schumacher, I understand that asking another executive branch for an opinion on an executive branch decision may be the way to go. I'm not sure that that's the correct question or the correct place to put the question. But I do think that the legal aspects of this in terms of the institution needs to be looked at. The last thing I will say, and I don't intend to speak again on AM2464 or LB905, but the last thing I would say is that in addition to the example I keep bringing up in my visits to the penitentiary, I'm also aware that a penitentiary and the system that we talk about in terms of moving prisoners out of, have much more capability than what, potentially, our county jails would have. And serving the population is more than just, I think, numbers. I know of two situations, one in particular I'll talk to, where a young man had surgery and the only way he was released from the hospital was with the promise that he would go back into the infirmary and spend at least one day under supervision because he just came out of anesthesia. And I don't know about you, but I've come out of anesthesia and I was pretty goofy. So putting me right back in a cell might not be the way to go. That individual went back to the penitentiary and was told there's no room in the inn; you need to go back to your cell. So handling the situation within the existing structure I don't think we've done a very good job of that as well. So, again, I stand in support of AM2464 and what's left of the underlying LB905. Thank you. [LB905]

SENATOR GLOOR: Thank you, Senator Krist. Senator Mello, you're recognized [LB905]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. And I thought I was clear, maybe, when we first started this amendment discussion that I had to respectfully rise and oppose Senator Chambers' amendment in part because the Appropriations Committee proposals itself incorporated this onetime appropriation for the use of county jails, even though we had some initial concerns in realizing that it really was a Band-Aid approach to a much bigger issue facing the administration in their lack of reforming the corrections system. But we know that there is a movement ahead in the Judiciary Committee with two bills that deal with reforming the prison system, as well as a special investigative committee that's been set up, as well as performance audit committee that's going to be evaluating the Department of Corrections. But I want to raise just a couple points I've heard. I think Senator Harr mentioned...and Senator Schumacher, a couple of others approached me off the mike, that there is...there is...can be interpreted there is some conflicting statutory language in regards to whether or not the Department of Corrections can actually do this. I know in conversation outside the glass with someone from the Attorney General's Office, they gave their preliminary

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review of this and thought it was no different than when the Department of Corrections sends an inmate to the Regional Center. And so their thought is that a regional center facility can house a state inmate, that a county jail could house one as well. So that's more of a point of clarification on what the Attorney General's Office just explained to me in regards to their interpretation. While these statutes are conflicting, they feel that it is legal for the Department of Corrections to house a state inmate in a county jail. And they use the example of a state prisoner right now being housed in the Lincoln Regional Center. With that being said, I want also to clarify a couple remarks that some colleagues may have made. If the body does move forward of adopting AM2464, I have an amendment drafted and ready to put in that we will withdraw the \$5 million appropriation, transfer from the Cash Reserve and have it go back into the Cash Reserve. The Appropriations Committee took the perspective with this specific line item that we wanted to make sure it was a onetime thing; that this was not going to be an ongoing issue the Department of Corrections came back to the Legislature saying, we need to continue to use county jails to deal with overcrowding. So the way we did that was we said we will do this, but we will use Cash Reserve funding which is onetime funding to deal with the use of county jails for the remainder of this biennium. After this biennium, that \$5 million does not show up in a financial status and it's not accounted for in future budgetary planning purposes. It's a onetime transfer for a onetime purpose and if this amendment gets adopted I will strike that money out of the General Fund and put it back in the Cash Reserve where we took it from because it was only used for this onetime special purpose. That needs to be clarified. It will not...I will fight tooth and nail if people want to try to use it for any other ongoing spending, whether it's in Department of Corrections, probation, the Supreme Court, that was the fiscal policy the committee decided on. Onetime money from the Cash Reserve for onetime uses. This is a onetime use, if it gets taken out, the money goes back into the Cash Reserve. With that being said, you know, I just read on-line the administration today politely wanted to try to remind the public that they...they don't like our budget very much, the Appropriations Committee proposal, in respects to us trying to address some key priorities. Key priorities like dealing with our Game and Parks system, dealing with water policy, job training and early childhood education, and I notice there was a story just put out that instead they think that we don't have our priorities in order because we appropriated \$25 million more than what the Appropriations Committee did two years ago in the budget the Governor signed two years ago in respects to trying to address both tax relief and state spending obligations... [LB905]

SENATOR GLOOR: One minute. [LB905]

SENATOR MELLO: ...which I think we've done a pretty good job of working in concert with the Revenue Committee in regards to the various proposals put forward. With that being said, I did have my staff do a little review of what was done two years ago in the mid-biennial budget adjustment and I'm looking at all the spending that was done two years ago that was not vetoed by the Governor and was signed into law and that was

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roughly \$177 million in new spending that the Governor signed into law, didn't veto, maybe said...groused a little bit about why we were building a new cancer center in Omaha, but he did sign all of that into law. And there was no money for property tax relief two years ago in comparison to what we have in our underlying budget now. So I just want to make sure I clear the air a little bit, colleagues, in regards to what you may read, or hear, or see in respects to what I think is a very balanced, measured approach that the Appropriations Committee put out this year in our mainline budget bill. And I think they're keeping a mindful eye of the other priorities in the Revenue Committee amongst other committees. Thank you, Mr. President. [LB905]

SENATOR GLOOR: Thank you, Senator Mello. Senators in the queue: Chambers, Coash, Lathrop, Bloomfield, and Burke Harr. Senator Chambers, you're recognized. [LB905]

SENATOR CHAMBERS: Mr. President, members of the Legislature, these lawyers know that there are various procedures the court will have in place already for dealing with what appears to be a conflict in statutes. This is called "in pari materia," statutes that may have been enacted at a different time and seem to conflict will be put together and construed as a totality to see what the dominating or predominating intent of the Legislature was. And when you have a statute that lists out specifically the types of crimes where they must be served...the punishment must be served in a state facility, that would prevail over a general statement. That one about the director being able to send people anywhere is...it allows for more than one interpretation anyway. It's a general statement. The other one that indicates and specifies which types of crimes will mandate that a person serve in a state facility will prevail. I don't care what the Attorney General's Office says, that's the office that persuaded the Nebraska Supreme Court to issue a death warrant when they couldn't carry out an execution. And the Supreme Court shame-facedly had to withdraw that death warrant. And the Douglas County District Judge who heard about this in a postconviction action said the Attorney General's Office needs to be called to account for what it did, misleading the court and the county attorney. And I'm going to call them to account by filing a grievance with the Nebraska Supreme Court Counsel for Discipline. The judges ought to do it, but they won't. The Attorney General is running for Governor. I wouldn't trust anything he says. But back to the specifics of what we're talking about here. Which department is in charge of managing the prison system? The executive department. Senator Mello knows this. If the executive department is the one that manages the prisons, and it is, and they've created this problem, you're now going to say, let them say how they'll solve it. When some people were seeking a position on the State Board of Education, the Governor said it was appropriate to ask them whether or not they supported the extension or expansion of Medicaid coverage which has nothing whatsoever to do with education. He appoints the director of Corrections. He appoints the members of the Parole Board. Why doesn't he ask the Parole Board members, are you going to do something to make sure that more people get paroled? Are you going to take a position

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which says that the only thing that prevents this person from being paroled, got no bad write-ups, has done everything available. But there are programs which the Parole Board says this person should take, but they are not available. That's not the inmate's fault. Will you parole those people? The Governor might say, well, I don't want to ask those questions. But he can ask somebody seeking a position on the State Board of Education whether that person favors the expansion of Medicaid coverage. These are questions that ought to be asked. The executive department has pitched and patched down through the years, made promises which were not delivered on. The Legislature has gone along and let this problem that we have now continue to grow. Do you think that this overcrowding grew up overnight? It has been a building. [LB905]

SENATOR GLOOR: One minute. [LB905]

SENATOR CHAMBERS: There are groups outside of government showing concern about this problem and nothing was done. And now that the Governor is on his way out the door, I don't know what his purpose is, but we shouldn't improvidently appropriate this money when nobody involved with implementing whatever this program is supposed to be, even understand what it is to be. The director has not contacted any jails; he hasn't had an examination of any of those which will determine whether or not they're suitable. And there are a couple of other things I'll say, but my time has run out for now. Thank you, Mr. President. [LB905]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Coash, you're recognized. [LB905]

SENATOR COASH: Thank you, Mr. President. Good afternoon, colleagues. I've answered a few questions on the floor to my colleagues saying, well jeez, don't you guys in Judiciary have something coming up that will help with overcrowding and the powder keg that is coming, because we are at 160 percent of the capacity? And I have to answer you honestly and say, no, we have a proposal that's going to be on this floor, but nothing in...and it's LB907, and I want to be clear, nothing in LB907 addresses immediate overcrowding needs. It addresses long-term deficiencies in the way that we have handled corrections. It addresses programing; it addresses substance abuse treatment; it addresses probation and community placement. It does nothing in the short term to release the valve on a prison population that is netting 11 inmates per month. We bear responsibility for part of that problem. This Legislature and Legislatures past have...I'll put my hand up and say I've been a part of it. We all have to get out of this body with a legislative resume and it seems that one of the bullets on the resume has to be--how did you get tough on crime? And before all of us are done, we all like to have that little bullet on our resume that says, well, I introduced a bill and got a bill passed that increased this penalty or made this a crime. The result of that has been a net increase of 11 inmates a month. We have a dangerous situation, colleagues. Sending 150 inmates to county jails is not a good solution. But it's a solution. And it's not a

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long-term solution. It's a short-term solution. I very much worry about the situation we've been put in. Senator Schumacher talked about a pending lawsuit. Absence of nothing, that's probably coming. But in the short-term, we have a powder keg getting ready to explode in our corrections system because it is too full. The best solution...I won't say that, the only solutions that have been presented to alleviate the short-term problems are now being challenged. And I don't...again, I don't particularly care for sending inmates out to the counties. But keeping them in and growing by 11 a month makes it more dangerous. And so I'm listening intently and trying to find a way to alleviate that short-term problem. If the solution that was presented and Senator Chambers would like to amend out is not the solution, we must find one. Depending on how you look at it, a year could be a very long time or it could be fairly quickly. And I think Senator Chambers has a point. We send 150 inmates out, they're going to come back. They don't get to stay out forever. But it relieves pressure to the point where we can maybe get... [LB905 LB907]

SENATOR GLOOR: One minute. [LB905]

SENATOR COASH: ...our hands around some safety issues that are very concerning to some people that I represent. And they're concerning to the people who have to do time there as well. I'm sure all of you get correspondence from inmates. I think if you sit on the Judiciary, you get maybe a little bit more. If you're Senator Chambers, you probably get many more. But I have to tell you, the only things I'm hearing from Corrections is that it is getting dangerous and it weighs on me heavily on how we address this. I supported the committee bill coming out to take a longer-term view of this. I support the long-term view. Senator Mello laid them out. We've got Council of State Governments coming in to help us out. We've got a performance audit; we've got a special investigative committee. All of those things should have been done a long time ago so that we could take a longer-term view of how we approach corrections. [LB905]

SENATOR GLOOR: Time, Senator. [LB905]

SENATOR COASH: Thank you, Mr. President. [LB905]

SENATOR GLOOR: Thank you, Senator Coash. Senator Lathrop, you're recognized. [LB905]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I'm going to support the amendment. And I want to tell you that, first of all, there's a lot of good work being done in the...in Corrections right now beginning with all three branches of government bringing on CSG. That is going to be huge. The things that are going on in LB905, LB999, and of course, we have a committee that's going to look into corrections, all those things are important. Here is the concern when we talk about overcrowding, never mind for a moment, if you will, the people who are living in the conditions that cause or

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may give rise to a lawsuit. But one of the things that make us alarmed when you get to 160 percent of capacity is the threat of a federal civil rights suit. Okay. If we create a circumstance in corrections where it is cruel and unusual because of the manner in which people are housed when they are sent to the penitentiary, you're subject to a lawsuit. Understand this though, and this is what became clear to me over the lunch hour in a conversation we had down in Judiciary Committee and that is, the overcrowding lawsuit, those federal lawsuits that deal with cruel and unusual punishment it's more than just...it's more than just the number. It's 160 percent...check that box. The other piece of it is, you're not doing anything to alleviate the problem. Well, we got a plan in place. You need to pass some of the things that are coming out of the Judiciary Committee, LB905 and LB999, and CSG needs to come in. So we're not going to check that box, but it's an element. But what makes prison overcrowding the subject of a lawsuit is the absence of services. Okay. The problem is, you get to 160 percent of capacity and you're not doing anything but housing prisoners. And that's where it becomes a problem. Now, the conditions can be bad; the air can be bad; there are a number of things that can happen with you get too many people in a small space, right? You outgrow it. Those things are there. But it's also about whether you're providing the services. And the one thing I can say, and this is a close call for me, it has been, I struggle with the decision, I'm going to support the amendment because we have maybe a chance that some of these people will get some services at the penitentiary even if they're at 160 percent of capacity. But we know when they go to the jails they're not. We don't have people that are going to transition them into...or provide services or have them go through anger management while they're in the jail, that ain't going to happen. We're just going to house them. So the circumstance...and one of the...and one of the questions I have, and nobody has given me an answer to is, are you better off in a county jail or in a prison that's at 160 percent of capacity? The one thing...there are horror stories from both, I'll just tell you that. But the one thing I do come down on is this, that in a jail, in a county jail, a well-run county jail, they're not there to get services. That's where we put people for short stretches so they're doing their time, they're doing whatever they do, reading or whatever they do, but they're not getting services. No one is giving them anger management; no one is giving them alcohol rehab there. And they might not be getting it at the prison or they might be. The prison system is a mess right now. We do need to do something about it. I'm just not sure that sending people to the jails...first of all, it doesn't make any difference in terms of whether we're going to get sued... [LB905 LB999]

SENATOR GLOOR: One minute. [LB905]

SENATOR LATHROP: ...for cruel and unusual punishment. All right? That much I've satisfied myself that that short term isn't necessary to avoid the prospect of a lawsuit. What we've done...or what we can do, bring CSG in, which we're doing, pass LB905 and LB999 and I think we immunize ourselves from a lawsuit. We put ourselves on the road towards the proper changes that need to be made in Corrections and we dodge

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the bullet. For that reason I'm going to support AM2464. Thank you. [LB905 LB999]

SENATOR GLOOR: Thank you, Senator Lathrop. Senator Bloomfield, you're recognized. [LB905]

SENATOR BLOOMFIELD: Thank you, Mr. President. I wonder if Senator Mello would yield for a question. [LB905]

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

SENATOR MELLO: Absolutely. [LB905]

SENATOR BLOOMFIELD: Thank you, Senator Mello. If we do not pass AM2464 and we do pass LB905, how soon could we expect to see even a little relief in the overcrowding situation? [LB905]

SENATOR MELLO: Well, I think, Senator Bloomfield, based on the appropriation, they would start to look to...start negotiations with county jails as soon as the budget is signed into law by the Governor, it does have an E clause. So it would...they would be able to start this current fiscal year prior to June 30, 2014, and it would carry through next June of 2015. [LB905]

SENATOR BLOOMFIELD: So while all the other things we are doing would hopefully give us some long-term relief, this would give us, probably, a little bit of quick emergency relief, is that your...? [LB905]

SENATOR MELLO: I think it's unfair to say LB907, the Judiciary Committee priority bill, doesn't give us short-term relief because I believe it does as well. I think this is something that will pass immediately and we know with the appropriation...the Department of Correctional Services can go right away and start negotiating with county jails as soon as this is signed into law by the Governor and the money is available for them to spend. So it's something that I think both have a short-term impact. But this has, probably, an immediate short-term impact within the next couple of months. [LB905 LB907]

SENATOR BLOOMFIELD: Okay, thank you, Senator Mello. Colleagues, based on that, I am not going to support AM2464. I think this gives us a little emergency relief. It's certainly not the answer, but I do think it's maybe a baby step toward that. And I would yield the remainder of my time to Senator Mello if he has anything further he would like to say. [LB905]

SENATOR GLOOR: Senator Mello, 2 minutes, 45 seconds. [LB905]

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SENATOR MELLO: Thank you, Mr. President, members of the Legislature. And thank you, Senator Bloomfield. You know, I think there can be some respectful disagreement in regards to whether or not this is the policy we should move forward this biennium in respects to dealing with prison overcrowding. I think it provides a more comprehensive set of tools for the Department of Corrections and the Legislature as we embark in multiple investigative committees and utilizing the Council of State Governments to reform an overall system. But as I mentioned in Senator Bloomfield's Q&A, I do not think LB907 is only a short...is only a long-term fix and approach to dealing with an overcrowded prison system. I worked with Senator Ashford and I appreciate the work the Judiciary Committee has done of coming together on LB907 and I think that has short-term impacts as well. So I would...I would step back a little bit if those are going to make the argument that that doesn't help deal with prison overcrowding, it does deal with prison overcrowding because it helps divert those who would be convicted otherwise away from the Department of Corrections into the SSAS Program in the State Probation Office which means we're not sending people into corrections facilities, instead we're providing alternative sentencing for them. So I think it does have a short-term impact of relieving...providing some relief to the overcrowded prisons, I just think what the Appropriations Committee's proposal of utilizing onetime funding for a onetime use of county jails to free up some space over the next year in our corrections system gives us a little bit more breathing room as a state as we start to develop more comprehensive plans in conjunction with the performance audit that's going to be done, the special investigative committee on the Department of Corrections, and the involvement of the Council State Government justice centers... [LB905 LB907]

SENATOR GLOOR: One minute. [LB905]

SENATOR MELLO: ...as they come in and work with us. Thank you, Mr. President. [LB905]

SENATOR GLOOR: Thank you, Senator Mello. Senator Burke Harr. [LB905]

SENATOR HARR: Thank you, Mr. President, members of the body. I want to clarify some things Senator Mello said. We pass the proposal, it did not add one more person to SSAS. SSAS is run through the Probation Office, it is not run through Corrections. These are probation officers, it's a type of probation. That's the problem we're running into here, folks. We have a committee and there's a reason we divide bills and we let certain members develop a specialty. In this area that specialty is by the Judiciary Committee. And under the leadership, the able leadership of Senator Ashford, we've developed a plan and we're working on it. Now all of a sudden here comes this back-door plan that isn't consistent with what the Judiciary Committee is doing. Talked to Judiciary members, the Chair, the Vice Chair, they're supporting this amendment. This is not a budget issue. It's in a budget bill. I'm not sure Senator Mello is the right person to be defending this, nothing against him, nice guy, very capable Chair, but this

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isn't his area of expertise. This is something that belongs to Judiciary. And the Judiciary Committee doesn't like it. It doesn't fit with their pattern. I wish we had time for some of you members to go back or come up and look at some of the county jails and then look at the state facilities. The state facilities are much nicer. There are more services available. It's just a fact. And the reason is, and it's not bad, the reason there are more services available is what does a county prison...county jail, excuse me, who do they cater to? And who does a prison cater to? By definition county jail is one year or less. So they're overnighters. They don't have time to provide all the service...in-depth services that we allot, that you can if you have more time in the prison system. Prisoners are in there for a longer period of time. So there are more services available to them and that's a good thing. Now there are within the prison system those we refer to as overnighters. Overnighters are those who are there for a shorter period. Maybe they're sentence is a year to 18 months. There aren't a lot of services available because there's a backlog. Maybe that \$5 million would be better served to provide services to those individuals. But I'm not going to go there. But these overnighters, these are the ones who are low risk, low-grade felonies as we call them, whether that's a DUI, a possession, maybe a shoplifting-three or more, but those individuals are the ones that we're looking to move into our county jails. Now one, not a lot of our county jails want it, but, two, we are by definition saying we're not going to provide them services. If this is a Band-Aid, it's a very poor Band-Aid. There are better ways of going about it. And I don't know if this is what Department of Corrections wanted, why wouldn't they ask for a bill separately and bring it in front of the Judiciary Committee? Why do they go to the back door and go through the budgeting process? I don't have an answer for that. But I think there are better ways of approaching. Yes, we need to fix a problem; we have a huge problem. And we're working on our problem and we have a plan and all three branches have come together with a consistent plan except for this outlier. [LB905]

SENATOR GLOOR: One minute. [LB905]

SENATOR HARR: Which, fortunately, Senator Chambers caught. I'm not sure our county jails are the answer. And so for that reason I'm still listening, but I think AM2464 is probably the way to go. Thank you. [LB905]

SENATOR GLOOR: Thank you, Senator Harr. Senators in the queue: Ashford, Karpisek and Conrad. Senator Ashford, you're recognized. [LB905]

SENATOR ASHFORD: Thanks, Mr. President. Let me just try to take us back for just a second if we could on this matter. This...the effort by the Judiciary Committee to work through this issue started back in May or June at the close of last session when Bob Houston came to me and said, we got a problem, I cannot manage the prison system the way it is now. It is finally at the point where I cannot manage it. I cannot manage it. Okay? We at that point started...the committee started a journey which has taken us for, I guess, nine months to try to come up with a plan to alleviate the problems that we

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have right now as quickly as possible. That means...that means not just shifting inmates from one place to another, but literally stemming the flow of inmates into the system in a real substantive way. And not spending money to move those people around, but to get people out and not back in. Now the question...and I wanted...let me just say this about the Appropriations Committee, they did their job. The Appropriations Committee did their job. They weren't asked to make it; they were not involved in this nine-month journey that we had in the Judiciary Committee to try to figure out the problem so we wouldn't have to build a new prison and so that we could have substantive reform that would have short-term repercussions. I think we've done that in LB907. There are 2,000 inmates that exit our system every year. And I'm going to...this is not an exact number, but there are about net 11 more that come in every year than go out. That is contra to the trend across the country now as reforms have been put into place where prison populations have gone down to the point, even in Texas where they're closing prisons. So that's what we found to be the case. Can I get a gavel. That's what we found to be the case. Okay? Now, so what are we proposing to do? First of all, yes, the county jail proposal has been out there. Heath is absolutely right. When he...he says that this proposal has been out there for a while; he and I talked about it, he's right. What happened in our investigation, and we looked at that and we looked at many, many other ideas. In talking to my own county, what they said was, I suppose we could figure out a way to take them, but we don't have the programs. The problem that we're in right now in our system is overcrowding and what is...why do we have overcrowding? Because we don't have the programs in place that stem the flow of reentry and recidivism, number one. Number two, we have not adequately funded our probation services to divert the flow of nonviolent offenders into the prison. We have 2,000 coming out. Probation is telling me, with the emergency clause in LB907, 400 inmates will be diverted from prison in the first year; that's 400, that's immediate relief. This is not immediate relief. I am very afraid...I was with Senator Mello until the people from Douglas County, the largest county with a lot of inmates in their jail, but with space, said, I suppose we could think of a way to do it, but we're not set up for state prisoners who are required to be...get adequate programming by law, by law. You can't simply take somebody, put them in another facility that doesn't have the programming and be compliant. We looked at this; we looked at this. I understand why the Appropriations Committee did what they did. It is a way of addressing an immediate issue. I get it. And I applaud what they've done in this budget. It's a great budget. [LB905 LB907]

SENATOR GLOOR: One minute. [LB905]

SENATOR ASHFORD: It's a great budget. But members, members, this \$5 million is simply moving people around. It is not making substantive change. The substantive change in LB907 will have immediate effect. We've cut LB907 back from \$25 million to \$15 million to fit into the budget. And I...and my committee, our committee, not my committee, the Judiciary Committee has done an incredibly important job, in my view, of working through these issues. Let's stick with LB907. That's the way to go, in my view.

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This is not...this is...it's not even a Band-Aid, it just doesn't make any sense to do this. You're not going to move enough prisoners. And what we should be doing is focusing our attention on reentry and diverting people from prison in the first place. And we can do it. We have the tools in place. We have the assets. They just need to be adequately funded and resourced. Thank you, Mr. President. [LB905 LB907]

SENATOR GLOOR: Thank you, Senator Ashford. Senator Karpisek, you're recognized. [LB905]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Would Senator Ashford yield, please? [LB905]

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

SENATOR ASHFORD: Yes. [LB905]

SENATOR KARPISEK: Thank you, Senator Ashford. Okay, so if we go with...is this an "either/or?" Either we get rid of this money and get LB907 or not? [LB905 LB907]

SENATOR ASHFORD: You could...no, I think...if you want to vote for the amendment...or if you want to vote for LB905 with the money for the county jails, you can certainly do that and LB907 can go on. I'm just suggesting that it's not going to make any significant change and it's \$5 million and I understand why the Appropriations Committee didn't have all that information because that's not what their job was. That's all I'm saying. [LB905 LB907]

SENATOR KARPISEK: Okay, thank you, Senator Ashford, because it seems like we're talking about "either/or" here. And I don't think that's what we're talking about. We've also talked about some of these county jails are not up to standard. Is it not up to us to decide which ones that we would use? And if we do, if they cannot deal with the prisoners and give them the reform they need, then we don't send them there. But I think that this is a way to ease up a little bit of the burden of the overcrowding so LB907 can start to work. That's how I see it. I wasn't involved in any of it, up until now. I just think that it's a way to get a little bit of the pressure off so we can start on the other things that the committee wants to do. And I think we absolutely need to move on LB907; I'm sure we will. But I want to make sure that everyone doesn't get...misunderstand this and think it's one or the other. With that, Mr. President, I'd like to yield the remainder of my time to Senator Mello. [LB905 LB907]

SENATOR GLOOR: Senator Mello, 3 minutes, 5 seconds. [LB905]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature, I wanted to clarify a couple of items. My good friend, Senator Harr, I think wasn't...didn't fully

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understand my...end of my comments the last time I was on the mike which is the changes and expansion of the SSAS Program is in the LB907 bill in Judiciary which would divert people away from the Corrections facility, it's not part of the budget. It's part of the Judiciary Committee's priority bill which, I believe, is a good process and a good short and mid-term range plot and plan to be able to move people out of the corrections system instead of diverting them to an alternative sentence. I want to clarify that because I think it is under the Appropriations purview to appropriate money to state agencies to carry out programs and/or programming needs which is what we've done here with the \$5 million appropriation to the Department of Corrections for them to carry out the program of transferring state inmates to county jails. There's not a specific bill that is needed to do this. Their argument is that they have statutory authority to do that now, so that there's not a need for a separate legislative bill that would have had gone through the Judiciary Committee to do this actual thing because it was actually proposed by the Governor as part of the Governor's budget proposal. So hopefully that clarifies, I think, some of the floor comments I heard from my good friend, Senator Harr, that this was a proposal brought to the committee by the Governor, incorporated in the Appropriations Committee recommendation and it's being utilized with their existing authority under state statute. A second issue that I'd like to raise, and I was just talking with Senator Coash off the mike, this was not the committee's first choice in regards to looking at bed space. Senator Ashford invited myself to participate in Judiciary Committee Executive Sessions as the Judiciary Committee is working their way through LB907 and LB999 and one of the areas that we saw some agreement on was the potential purchase and renovation of the Airpark jail facility out near the Lincoln airport. That facility is currently dormant and it's owned by the Lincoln Airport Authority. [LB905 LB907 LB999]

SENATOR GLOOR: One minute. [LB905]

SENATOR MELLO: But if the state wants to purchase a facility and renovate it and utilize it, we have a protocol for any capital maintenance and capital facility programming which follows a process that there has to be a request put in to do a program statement and what the needs are to actually purchase, renovate, or build a facility. That's what the Department of Corrections is doing right now with their master plan. So we couldn't just go buy a dormant jail and say we're going to rehab it because that violates our current budget process in state law. So instead, what the Appropriations Committee did is we incorporated intent language in the budget instructing the Department of Correctional Services to investigate and research whether or not that Lincoln Airpark facility is a facility we could possibly utilize in the future for community corrections and community beds for people who are transitioning out of the Department of Corrections. That's something we'll get back by the end of the year from the Department of Corrections with the adoption of LB905. Hopefully, that clarifies a little bit of what the committee looked at, thought through and researched... [LB905]

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SENATOR GLOOR: Time, Senator. [LB905]

SENATOR MELLO: ...in respect to other beds available. Thank you, Mr. President. [LB905]

SENATOR GLOOR: Thank you, Senator Mello. The Chair recognizes Senator Conrad. [LB905]

SENATOR CONRAD: I yield my time to Senator Chambers. [LB905]

SENATOR GLOOR: Senator Chambers, 4 minutes, 50 seconds. [LB905]

SENATOR CHAMBERS: Thank you, Senator Conrad. Thank you, Mr. President. Members of the Legislature, I've listened to Senator Mello I don't know how many times say how frustrated he is that people will depart from the actual figures in the budget and give statements not based on fact which are erroneous. He and others are not willing to acknowledge that those of us...let me speak for myself who have dealt with this problem for decades. I don't mean from a distance like the rest of you all. I used to visit the prison all the time. I was the one who spent...you can check the record, spearheaded the move that led to getting rid of what was like a bastille and a construction of a new prison. That was what I was doing. I was the only one doing it. The prison was segregated based on race when I came down here. I got rid of that. They had a type of segregation at York where the women were. The Legislature wasn't doing anything so I visited out there also. And I've been dealing with this problem for decades. Then the Judiciary Committee undertakes the formulation of a comprehensive program. And people stand on this floor who have not shown any interest in corrections, with all due respect to Senator Bloomfield, and will say, well, this will do some good, so we don't know what it's going to be, but it's better...you know, we'll do this. The number...and you're not going to hear it, but I want it to be in the record and people can say, why didn't they listen? The number, the actual number of excess prisoners is 1,700. Corrections and these people are talking about 150 people. You will have remaining 1,550 people and in any other situation better sense would be shown than what's being shown here. But because it's the Governor's plan, I guess so he can say that he did more than the Judiciary Committee or the Legislature to fight the problem in the prisons, there are people saying, well, we'll give it a try and they hem and haw because they know it doesn't make sense. This statute that was read earlier about the director being allowed to commit persons to any available, suitable and appropriate residence facility, those words have meaning, suitable and appropriate. That means they must meet the standard that the penitentiary has to meet and these county jails don't meet those standards. That's why I'm upset with Senator Mello. He knows better. These county jails don't meet those standards. And the county jails are interested when you call a sheriff in getting money. They're counting on how many state dollars they can get to fill up space. Some of these jails don't have cooks. They don't have a kitchen. Some of them have

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people bringing in food. You think there won't be litigation. You all will not answer the questions that some of the people in these jails are asking. Can they be returned to the prison for misbehavior? Can they? Who knows? What will constitute misbehavior... [LB905]

SENATOR GLOOR: One minute. [LB905]

SENATOR CHAMBERS: ...in a jail? Will that misbehavior in the jail qualify as a violation of the standards set by the penitentiary for imposing some kind of punishment? And if it doesn't, then the prison can't punish them. And suppose the county jail people say, well, take them back, we don't want them. Then what? They go back to the penitentiary. This is the craziest thing I have seen. It makes no sense. Are prison inmates going to be housed with jail inmates? Are you going to set up a separate location in a county jail to house state prisoners and they're treated entirely differently from the county prisoners are? And if they are, why shouldn't the county prisoners file a lawsuit? The jail is showing the standard that ought to be met. [LB905]

SENATOR GLOOR: Time, Senator. [LB905]

SENATOR CHAMBERS: Thank you, Mr. President. [LB905]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Schumacher, you're recognized. [LB905]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. We always look for the easy solution and the simple solution. You got crime, throw away the key. We never wonder what happens when the price of keys go up or you run out of keys. Well, we're close to running out of keys and maybe we've made a few plastic ones right now. It looks to me like what we have is a one-time, temporary solution to let some of the pressure out of the pressure cooker while we try to do what is right and try to rethink how we should be sentencing people and for how long we should be sentencing them, none of which are easy solutions in a time when it's always easy to fan political fires and try to grandstand on the politics of crime or the politics of Obamacare or whatever. But I think I understand what Senator Chambers is saying about trying to resolve those statutes. Provided those things are resolvable in a way that we can get ourselves just a little room for a year here, then it's not a terribly bad idea to give the executive that breathing room and, at the same time, do what we need to do in order to move ahead with some of the things that the Judiciary Committee is coming up with. I think this is a contingency plan that we may not want to eliminate at this particular point. It's one time, a one-time shot, and maybe it will help us realize that when we take the easy way out on a complex social problem we're probably going to run up against a wall. We've done it with the juvenile system. We're now in a mess with the prison system. We're going to find ourselves in a bigger mess with the medical system. And

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what is fun, what is easy, what is good rhetoric leads to these kind of problems where there is no good solution. For now I think we leave the money there and we give ourselves what little wiggle room we can, and then we get down to business of the hard decisions. And hopefully those aren't the kind of things that you just wave political wind about in a way to try to gain brownie points at the expense of long-term social common sense. I'd yield the rest of my time to Senator Chambers. [LB905]

SENATOR GLOOR: Two minutes thirty-five seconds, Senator Chambers. [LB905]

SENATOR CHAMBERS: Thank you, Senator Schumacher. Thank you, Mr. President. I cannot get out of my mind the comments made when we were talking about the expansion of Medicaid and how it's going to cost this, it's going to cost that. There are so many things that are in the form of questions that are not answered. How can those people who said those things sit here and support this kind of an expenditure? First of all, you say it's one time. For one year, \$5 million, and if there are people who will not be out of that jail when the money runs out, then they go back to the prison. You're right back where we are now, having wasted \$5 million. The Governor is not going to be in office. The Legislature once again is the butt of the joke. It was discussed while this expenditure was out there that no plan exists. The director of Corrections has not looked at any of the jails. The two biggest jails in the state don't want to be involved. They have pointed out in some jails in other parts of the state that agreements were made with the state to pay money to house state prisoners till they were sent to the penitentiary. They did it and the state did not pay off. Then they wound up repealing the law that... [LB905]

SENATOR GLOOR: One minute. [LB905]

SENATOR CHAMBERS: ...would require them to pay. Those are things in that article. I handed it out. I knew you weren't going to read it. But these are things that led the people in Lancaster and Douglas County and some of the other counties to say they don't want to deal with the state on this because the state can change its mind and it doesn't have to pay. What are you talking about when you say a quick fix? It's not going to do anything. You didn't want to do that on Medicaid. Two years from the federal government, then they might not pay. Then here you are wanting to spend \$5 million which is not going to even touch the problem. Remember, when they talked at the prisons about 150 inmates, they had contemplated Douglas and Sarpy County...I meant Douglas and Lancaster County. Those counties are off the table. So how many of that 150 will be subtracted? You are talking about... [LB905]

SENATOR GLOOR: Time, Senator. [LB905]

SENATOR CHAMBERS: ...seven...you said time? [LB905]

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SENATOR GLOOR: Time, sir. [LB905]

SENATOR CHAMBERS: Thank you, Mr. President. [LB905]

SENATOR GLOOR: Thank you, Senator Chambers. Members in the queue: Campbell, Coash, Conrad, Karpisek, and Ashford. Senator Campbell. [LB905]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. I just want to share a little different perspective here. And when I served on the Lancaster County Board, we obviously had the responsibility for the county jail, just exactly as Senator Chambers has indicated. When we were faced with having to build a new facility, we spent quite a bit of time with consultants and planning that out. When you plan for a county jail, you are planning for a mix of prisoners that are different than those of prisoners who are in a state facility. It's a different mix of people. It's a different mix of some who have pending cases, serving the overnight, what Senator Harr talked about. Some who sit out fines. I'm not sure we have many of those people left, but we did certainly. But the philosophy that you are using in a county jail in how you build it, how you run it, and that population is different. And I really do want to stand up here for the counties who have said no or who will say no, because it's a whole different population and management of a facility. And when you say \$5 million for one year and you're going to interject that population into a jail that may not have the segregation, and by that we mean you keep different populations, violent versus less violent and so forth, they may not be set up to do that. You are causing potential problems for your counties at a time when many of these counties don't...they do not need one more problem. So I hope you give serious consideration to the discussion on the floor. Thank you, Mr. President. [LB905]

SENATOR GLOOR: Thank you, Senator Campbell. Senator Coash, you're recognized. [LB905]

SENATOR COASH: Thank you, Mr. President. Good afternoon again, colleagues. I don't know what else I can add to this debate other than a few comments. And I'll agree with some...I'll tell you which comments I agree with. I think it was Senator Mello or somebody from the Appropriations Committee said, look, you relieve 150 inmates, it's not going to head off a lawsuit. And that's correct. If one is coming, it's coming, and 150 isn't going to do much good. I want to remind us all that we are not...let's at least be clear on what we're proposing here, and this goes to a comment that Senator Campbell made. We are not, with Senator Chambers' amendment, removing the ability for Corrections to contract with a county for their inmates. They can do that today. What we're doing is removing the funding to do that. So I think it's at least fair that we need to be clear that we're not prohibiting this, this action, whether or not you think it's appropriate, meets case law standard, as Senator Schumacher indicated. We are only removing the funding that needs to do that. I do want to talk a little bit about what I've

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learned about the kind of inmates who may be appropriate to go into counties, if there is such a thing. First of all, and Senator Ashford talked about this, there isn't programming in county jails to speak of. There's very little programming in the state institutions, which is what we're trying to address through LB907. But make no mistake, we're not going to provide programming to any inmate who goes to a county jail. But I will tell you this: Not every inmate who's in prison needs programming. There are many inmates who need programming and aren't getting it. There are inmates who need programming and who are. I would say it balances toward the previous. There's more who need it than can get it. But not every inmate needs programming. There's also the phenomenon that we ought to get on the record that there's a benefit to serving your time closer to your community. And not every inmate serving time in the Lincoln and Omaha area committed their crime there, but that's where they serve their time. And there is some value and it should be part of our overall reform, is how do we serve the cause of justice, in other words serve the time the judge is giving you to the best of our ability closest to the support network that you will need when you go out? Lincoln, I will tell you, has a challenge. I'll speak for my community here. Maybe Senator Campbell will echo these comments. Many times the inmates that are discharged, whether they parole or jam out of facilities here in Lincoln, don't go back to their home communities. They stay in this community. And they can be a challenge for the mental health providers. [LB905 LB907]

SENATOR GLOOR: One minute. [LB905]

SENATOR COASH: Not that they're challenging to serve, but they are certainly...the capacity is a challenge for the mental health providers and substance abuse providers and vocational services providers. Would Senator Mello yield to a question? [LB905]

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

SENATOR MELLO: Of course. [LB905]

SENATOR COASH: Thank you, Senator Mello. I know we don't have much time left, but if Senator Chambers' amendment is unsuccessful and there is an appropriation to use for counties and the department can only find 50 beds that they can find to contract for, what happens to the remainder of the money that we appropriate for that purpose? And I'll give you the rest of my time. [LB905]

SENATOR MELLO: Thank you, Senator Coash. The money stays in the program account in which we've appropriated the money. If they're unable to find enough beds to utilize the \$5 million appropriation, it stays in their budget. And then at the end of the biennium, we will relapse all the unexpended appropriations back to the bottom... [LB905]

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SENATOR GLOOR: Time, Senator. [LB905]

SENATOR MELLO: ...line and be able to utilize next biennial budget process. [LB905]

SENATOR GLOOR: Thank you, Senator Mello and Senator Coash. Senator Conrad, you're recognized. [LB905]

SENATOR CONRAD: Thank you, Mr. President. Just a few statistics to put this debate into context, and then I'm going to yield the remainder of my time to Senator Chambers. Folks, by state statute, we have an emergency in terms of prison capacity when we reach 140 percent of capacity. Friends, we've been at or above that for many years. So to act as all of a sudden we have some sort of crisis on our hand is just not the case. We have had this issue before us during most of our time in the Legislature. Now currently our capacity is at about 156 percent. If you remove the women's facilities from that, it's even higher. At best, this proposal would help to remove 150 beds, which would bring us down to about 150 percent over capacity. Thus, we still are 10 percent over the emergency threshold. So any sort of misguided belief that this is going to mitigate all of our liability in relation to a potential capacity lawsuit I think needs to be carefully investigated. And don't forget for one second the fact that Douglas and Lancaster County have already indicated that they're unlikely to cooperate, and they have the largest opportunity to help us meet that goal of 150 beds. So the mitigation, if any, is going to be very, very small. With that, I'd yield the remainder of my time to Senator Chambers. [LB905]

SENATOR GLOOR: Three minutes twenty-five seconds, Senator. [LB905]

SENATOR CHAMBERS: Thank you, Senator Conrad. Thank you, Mr. President. I'm glad Senator Conrad brought those statistics to you because you may have heard her saying it because it was a different voice articulating these points. The legislators...the Legislature's Judiciary Committee deals with policy, not one time, one year, luck, hope, pray, expenditure, or setting aside of \$5 million. If that money lays in a pool somewhere dormant, it's not money that could be put into facilitating the comprehensive plan that the Judiciary Committee is working on and large portions of which have been formulated. The conservatives are the ones who supposedly talk about looking at the long-range view. If I could give an analogy of somebody with a bad toothache, and you go to the drugstore and the pharmacist gives you some preparation that you can put on the tooth or on the gum to temporarily relieve the pain but tells you, you need to go to a dentist. And you go to a dentist and you have an abscess so bad that the dentist says, I have to give you some antibiotics and work on correcting this situation before I can even get to extracting this tooth, which is what you need. What we have being presented to us today is that we don't need to look at the underlying issue, which the Judiciary Committee, as a matter of fact, is doing. It's formulating a comprehensive plan, which has never been done before. It is practical. The three branches of government have

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agreed to work on this. And all of a sudden, out of nowhere, here comes Senator Coash and Senator Bloomfield, well meaning, saying, well, let's just roll the dice. And even though the two biggest counties don't want to be involved, we don't know that any of the county jails are certified suitable to receive these inmates. The director himself, when talking about the kinds of inmates, said none of them will have significant mental... [LB905]

SENATOR GLOOR: One minute. [LB905]

SENATOR CHAMBERS: ...or behavioral problems. He didn't say we will get those who have none; they won't be significant. Knowing that such a large percentage of the inmates have mental problems of one kind or another, you are not going to be able to find the number that they say they're going to put to these places who will not have some of these problems. And the county jails are not equipped to deal with them. But with all of that aside, it is incomprehensible to me to hear this Legislature say this is a one-shot thing, it's not going to solve the problem, it's not even going to go any distance toward significantly alleviating it, and maybe you'll find 50 beds, you might not find any, but do it anyway and hope. That's not the way the Legislature should operate and I am frustrated. Thank you, Mr. President. [LB905]

SENATOR GLOOR: Thank you, Senator Chambers and Senator Conrad. Senator Karpisek, you're recognized and this is your third time, Senator. [LB905]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I think that everyone is trying to do the same thing here, trying to work on the overcrowding situation and trying to make sure that people get the services that they need, absolutely. Now we're talking about sending them to a county that we think probably doesn't have the facilities that they need or the programs, but let's not fool ourselves again. We've seen that we don't have the programs within our penitentiary system that we should have. Again, I did not know that this was the Governor's idea. I did not really know much about it until I asked Senator Conrad this morning. I think that everybody probably knows where they're at on this now. I guess that to me it's still a way to do something. Maybe, as Senator said...Senator Chambers said, doing something isn't always better than doing nothing, but I don't know that this hurts. I don't know that this hurts to move some low-level offenders that don't need a lot of programs for a while, and I think a lot of that could be done in regulation. And so maybe we're getting the cart before the horse to doing this. I don't know. I guess I just thought that it was a good idea to try to relieve some overcrowding and try to get the ship righted for our system. I guess that either way, to me, will be good as long as we're working forward. So I think that we've gotten into kind of an argument here over which way to go, but we still want to get the same place, which is a good thing. I still don't think that I will support the amendment, but I hope that as we go on, that we're still going to get to where we need to be and that is improving our system. And if Senator Ashford would like the remainder of my time, I

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would yield it to him. [LB905]

SENATOR GLOOR: Senator Ashford, 2 minutes 30 seconds. You are next in the queue... [LB905]

SENATOR ASHFORD: Thank you. And I'll... [LB905]

SENATOR GLOOR: ...and I'll let you know when you're on your time. And that would be your third time also, Senator Ashford. [LB905]

SENATOR ASHFORD: Great. And I will...thank you. And I will be quick and maybe get through in the 2 minutes. First of all, I think Senator Karpisek makes a wonderful point. This body is, I know, committed to addressing this issue, I have absolutely no doubt about that, from the Appropriations Committee to every member certainly of the Judiciary Committee. Let me just try to again, let me take this attack here for just a bit. Our initial proposal for prison reform, and we talked about it at the retreat, was \$25 million. And in the \$25 million we had included significantly more resources for reentry, meaning Parole reentry officers going into the prison to work with inmates as they get ready to go out so that they will have a pathway to a job or a pathway to a house and so forth and so on. I thought and still think that is an integral part of the system and it will...when we started with this, in this journey, I call it a journey because it has been a long time in working through this and a lot of effort by my staff and by the committee. When we talked to Bob Houston in June, what the concern was is not enough people were getting...that were eligible for parole and not only eligible for parole but ready to be paroled could not be paroled, and the reason they could not be paroled is because we didn't have the services in the institution and outside of the institution to create that runway or pathway to safety so that Esther Casmer and the Parole Board had difficulty in releasing them. That's why the prison population is at 156 percent really. That's the real immediate problem. Because Bob Houston, when we went through the...in 2010, when we went through the budget process, Bob Houston came to us and said we are going to expedite paroles. Well, they couldn't do it. Even though paroles are more expeditious, are faster now than they were, they still can't get up to the standard they'd like to be because there isn't enough money in there to get the Parole, the staff and the programming at the last stages of incarceration in place. So when we put...the Appropriations Committee appropriately...Heath and I have spent a lot of time together, more than I'm sure he'd like to spend with me, on the phone and together on this, said, can you get this down...and I talked to the Governor about this, can we get this down to \$15 million? We got it down to \$15 million. [LB905]

SENATOR GLOOR: Your time. [LB905]

SENATOR ASHFORD: Thank you. We got it down to \$15 million. Now we got it down to \$15 million by pulling out a significant amount of money from the Parole side, the

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reentry side. We did keep, in LB907, a reentry...create what's called a reentry officer to kind of coordinate the effort. They need staffing. They desperately need staffing at the corrections system for getting people out that are...as has been suggested. There are a number of--Senator Coash said this--there are a number of inmates that don't need a lot of programming. They can get out--in fact, I would suggest, probably the majority need some programming--but can get out in a more efficient, quicker manner, but we don't have the resources in the system to get them through the system, to get them out. We took that money out to get to \$15 million so that we could spend money on SSAS, great programs through the Probation, and SSAS programming on the Parole, expanding the number of day reporting centers to Scotts Bluff and to other...Madison County or wherever. We've done that because we know that there are rural issues involved in prison reform so we've done that, but we sacrificed what would have had an immediate impact on the prisons. For \$5 million, we could staff and resource the reentry programming so that when somebody reaches 80 percent of their sentence, they're going to have a reentry plan that's going to be properly resourced. They're going to be told where their vocational opportunities are. They're going to be told where their housing is--it doesn't happen now--where medical treatment could happen. Now we don't...Medicaid would have made a big difference. It didn't pass and that's just the way it is. That was the vote this morning. But that would have helped. But by not...by taking that money out, that \$5 million...for \$1 million we could...150, we could blow past 150 inmates in six months if we had the resources in Parole. Senator Coash is absolutely correct. There are...that's the problem. Half our prisoners or offenders are nonviolent and a significant number of our inmates shouldn't have been there in the first place. They should have been diverted. But the 150 number is just a number. It's just a number. We can blow past that number if we adequately fund the preventive side of SSAS and the Probation side and the Parole side. We know how to do it. I can tell you exactly where the money ought to go. We could do it for half the \$5 million. We could up staff the department and give them the resources they've told us they need to do reentry. So I think this really...I'm not suggesting the Governor is wrong or right. I'm just suggesting that we've got \$5 million sitting there. It could go into programming right now to get people out and not recidivate. They recidivate because they have no place to go. They don't have a job. We're dealing with a population, they may not need a lot of programming but there is a certain degree of dysfunction or they wouldn't be in prison. You know, so we had it there. We had the money there and we took it out because the Appropriations Committee rightly said, and they should say, let's get, you know, for budgetary reasons, let's get this number down, so we sacrificed on the reentry side. This \$5 million, I'll tell you, it wouldn't take \$5 million. A lesser amount of money could be allocated to get a lot more than 150 people out and, more importantly, out so they won't come back in. With these 150, we're just moving them around. Thank you, Mr. President. [LB905 LB907]

SENATOR GLOOR: Thank you, Senator Ashford. Senator Conrad, and this is your third time, Senator. [LB905]

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SENATOR CONRAD: I'll yield my time to Senator Chambers. [LB905]

SENATOR GLOOR: Senator Chambers, 4 minutes 55 seconds. [LB905]

SENATOR CHAMBERS: Thank you, Senator Conrad. Thank you, Mr. President. Members of the Legislature, what is being done here is raising false hope, raising false expectations that are being given to the public. With all of the talk of the need for prison reform and the public has no understanding or awareness of what is being done, with all of the fanfare about this \$5 million, the fact that it's a big number will make people think a great deal is going to be done, that somehow the counties have bought into this and now they're a part of prison reform; their expertise is going to be used. And nothing could be farther from the truth. The truth is that those advocating the expended...the setting aside of this money know nothing about what is going to happen, and when it falls apart a lot of them are not even going to be here to pick up the pieces like I've had to do so many times when what I offered was rejected. Last year, I think it was, I tried to get some money restored to the budget of the Auditor, and I argued, in my mind, learnedly and well, and that motion failed. But then you know what happened? Senators began to think about it and they said that was the wrong vote; we should have done that. Then Senator Schumacher came along and got a resolution that said next year we will make this money available. You reject what I say because you reject me. You reject what I say now and I will wager that I probably know more off the top of my head than anybody on this floor knows off the top of his or her head about the correctional system and the problems. I've dealt with it. I'm not saying, like Senator Karpisek, well, one thing is as good as the other; they're both going to get us where we want to go. No, that is not true. And when you don't find the counties that meet these standards, these prisoners cannot be put in those jails. And these county jails don't meet those standards. I want to ask Senator Mello a question. [LB905]

SENATOR GLOOR: Senator Mello,... [LB905]

SENATOR CHAMBERS: Senator Mello,... [LB905]

SENATOR GLOOR: ...would you yield? [LB905]

SENATOR MELLO: Of course. [LB905]

SENATOR CHAMBERS: ...are you aware of any county jail that meets these ACA standards? [LB905]

SENATOR MELLO: I believe in a conversation, Senator Chambers, that I know Senator Ashford had and myself had with former Director Bob Houston this summer that there was a hand...I want to say there were seven jails statewide that met the basic

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certifications that would have to be met before they could transfer any state inmates to county jails. [LB905]

SENATOR CHAMBERS: I'd like to ask Senator Ashford. Senator Ashford, what is your take on that issue of the number of certified jails or those who meet the certification requirements? [LB905]

SENATOR GLOOR: Senator Ashford. [LB905]

SENATOR CHAMBERS: Would you say that into the mike? [LB905]

SENATOR ASHFORD: One, the Douglas County Jail is the only one that meets the federal standards. [LB905]

SENATOR CHAMBERS: Members of the Legislature, for the sake of argument, let me give the higher number of seven. Divide 150 by 7 and how many inmates would have to go into each jail? These are the realities that you will not look at. I don't know what to say or how to say it, but if you think that rejecting this amendment somehow is going to hurt me, that's not true. I'm trying to keep this Legislature, of which I'm a part,... [LB905]

SENATOR GLOOR: One minute. [LB905]

SENATOR CHAMBERS: ...from being embarrassed. We are putting this money aside knowing that it is not going to do what you are telling the public it's going to do. Then you'll say, we never said it was going to do that. But that's what you are saying by all of these miscellaneous comments in support. Senator Karpisek won't be back. He doesn't have to worry. He can forget this soon as he leaves here this evening. I won't forget it, not just because I'll come back but I genuinely care about what happens to people who are placed in state custody. Believe it or not, I care about those people who have to watch those who are placed in state custody. I'm concerned about the problems created for those who run these prisons when the Legislatures, because it's not just one, will put in mandatory minimum sentences, long sentences, say that certain sentences cannot be served at the same time of others but must be served consecutively, and you have people growing old in prison. [LB905]

SENATOR GLOOR: Time, Senator. [LB905]

SENATOR CHAMBERS: Thank you, Mr. President. [LB905]

SENATOR GLOOR: Senator Mello, you're recognized. [LB905]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I want to start off because I appreciate the floor dialogue between Senator Chambers, Senator

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Ashford, and others. As I mentioned at the beginning of this debate, a lot of issues and concerns were raised in the Appropriations Committee about this specific proposal. There was not a uniform...there was not uniformity amongst the nine members immediately in the sense that this is absolutely the best path that we have to take. But as we worked through our own process in the Appropriations Committee and had extensive dialogue about what the Appropriations Committee's role in this, in part because we can't guarantee that bills in other committees will pass. We could not guarantee that LB907 or LB999 would pass this session. We don't have that kind of authority and power that makes the determination of whether other bills in other committees get to pass or don't get to pass. And so while obviously I'm a cosponsor of both bills and I think there is good policy in both bills, that's the determination made up by the entire Legislature. So what the Appropriations Committee was presented was this proposal given to us by the Governor that said we need to utilize county jails for a short-term easing problem of our overcrowded prison system. Senator Chambers is right. There are some unanswered questions that I can't give the full answer to because I'm not the one creating the program, neither are the other eight members of the Appropriations Committee. And arguably, none of the 49 of us are the ones creating the program. The Department of Corrections has the authority now to do this. They could do this right now without this appropriation. So if this appropriation goes away, Department of Corrections could continue to still do this within their existing appropriation. The thought was we know that they are strained right now on a variety of levels and this was one way to provide some easement in regard to the current overcrowding crisis. Now my good friend and colleague, Senator Ashford, I felt was starting to talk himself into ways that we could spend the \$5 million as attached to this amendment. I appreciate the work that the Judiciary Committee and Senator Ashford did in regards to making LB907 fit within fiscal parameters of balancing out priorities within the Revenue Committee, the Education Committee, the budget as a whole, and Judiciary Committee. But the money that we're talking about in Senator Chambers' amendment, if this passes, I have an amendment that I will file on the Cash Reserve bill to take the money back out of the General Fund and put it into the Cash Reserve, because if we want to do more programs, which I think there are programming advancements and enhancements and expansions in LB907, those are ongoing General Fund dollars, colleagues. That's not utilizing one-time Cash Reserve money for an ongoing expense, and that's a general fiscal policy that we've tried to remain very true and steady as a committee on, is that we utilize the Cash Reserve for one-time purposes. The same reason I publicly have said we would not use the Cash Reserve for ongoing tax cuts is the same reason we won't use ongoing Cash Reserve for more spending in the Department of Corrections or Probation. That fiscal policy is an overall fiscal policy, both on revenue and spending, and I've got to remain true to that in regards to what the Appropriations Committee, as a group, decided what was the best path forward for our long-term fiscal policy. So I can appreciate my friend and colleague, Senator Ashford, wanting to see more investments made in fixing a broken corrections system. I join him in that effort. LB907 I think is a great start to do that. But we're not going to solve all of

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these problems this legislative session, and we know that. [LB905 LB907 LB999]

SENATOR GLOOR: One minute. [LB905]

SENATOR MELLO: The Council of State Governments will come in and over the next two to four years we will embark, in three branches of government, in a complete overhaul of our corrections system, likely an overhaul in regards of our sentencing through the judicial branch, as well as looking at our parole system, reentry programming, a very comprehensive justice reinvestment model. This amendment Senator Chambers has brought, I agree, he's raised questions that I can't give specific answers to because I am not the Department of Corrections. The Appropriations Committee makes the determination to make an appropriation to an agency. They already have this authority. They said at the committee and after the committee hearing that they don't have a final plan yet. Why? Because they're not going to make a final plan unless they get the appropriation. Because if this doesn't pass, they've got to find another way to deal with a prison right now that's at 150 percent...156 percent of capacity. [LB905]

SENATOR GLOOR: Time, Senator. [LB905]

SENATOR MELLO: Thank you, Mr. President. [LB905]

SENATOR GLOOR: Senator McGill, you're recognized. [LB905]

SENATOR MCGILL: I yield my time to Senator Ashford. [LB905]

SENATOR GLOOR: Senator Ashford, 4 minutes 50 seconds. [LB905]

SENATOR ASHFORD: Thank you, Mr. President. And Senator Mello is...well, here's what I would suggest, is that had the Department of Corrections been working with the Judiciary Committee since June, and there was a need for additional space and there was one-time money of \$5 million available, then that's where they should have come. That's where they should have come, because we struggled with a couple of things. For example, how do we develop mental health? Thirty-one percent, and I think that's a small number, of our inmates are diagnosed as mentally ill. There are inadequate medical health facilities in our system. But there are...there have been proposals, and Bob Houston talked to us about them, of increasing mental health facilities. As we struggled through that issue, as we struggled through that issue, Senator Seiler brought to our attention the idea of the Hastings Regional Center. Now if you want to find a one-time-only use of that money, \$5 million to the Hastings Regional Center to get that mental health facility up and going quicker is going to make an awful lot more...it's going to be a better use of that money, a much better use of that money than spending \$5 million on this project. There's one ACA accredited jail in the state of Nebraska and

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that's in Douglas County. Douglas County does not want to take these inmates. They do not want to take these inmates. That means there are zero jails in this state that are ACA accredited. Lancaster County...it's a three-year process to be accredited by the ACA. Lancaster County is going to be accredited. They have a brand new facility. They will be accredited but they're not accredited now. They cannot take inmates now. My problem is not that everybody...that there's no bad faith in proposing this. The department is not in bad faith in proposing. I'm not...there's no evil here. What I'm trying to suggest to you is that there is a much better use of this \$5 million, a much better use of this \$5 million that can be used as one-time-only money. I mean I don't have all the answers, Senator Mello, as to how that money can be used in a one-time-only basis. I get the...I served for six years on the Appropriations Committee. I get the idea of sustaining dollars over the future in a one-time-only expenditure. I get that. But there are needs in that system today that could be where that \$5 million can be used on a one-time-only basis. So I think what we should...let me get...summarize by concluding with the way I started. We have, between now and Final Reading, we have time to think about the utilization of that \$5 million. I am...I am not casting any aspersions on anybody. As Senator Karpisek has suggested, we are all trying to do the right thing. I get it. I think we all are. I just don't want to spend...put \$5 million in today, where it's very dubious that it's going to be utilized, and have that money as one-time-only money not be expended in some way, shape, or form on increasing mental health services or other needed reforms in the criminal justice system. So again, I would conclude this debate, and I don't know, there may be other speakers. I would conclude just by saying Senator Chambers' amendment gives us the freedom, again, as the committee, which is how we've dealt with these issues for many, many months, to think... [LB905]

SENATOR GLOOR: One minute. [LB905]

SENATOR ASHFORD: ...about, to think together and bring back to this body other ideas and work with Senator Mello and work together to come up with ideas that we can all buy into. That's what I'm asking you to do because I think it's prudent. I think it's a conservative use of our money. It is prudent. It is allocating resources in a comprehensive, collaborative way. It's not a bad thing. It's just that it's not that thing. It's not the county jail thing. It may be some other thing. But by working together, I think we can come up with a better utilization of those dollars. Thank you, Mr. President. [LB905]

SENATOR GLOOR: Thank you, Senator Ashford and Senator McGill. Senator Bloomfield, you're recognized. [LB905]

SENATOR BLOOMFIELD: Thank you, Mr. President. I think Senator Mello has made it abundantly clear that if this \$5 million doesn't go where it's designated in LB905, it's gone. It's not there to be utilized for something else. So all the dreamy-eyed talk about, well, we can do this with it, we can do that with it; the money goes away. It goes back to the Reserve. And while I'd just love to have it back in there, I believe putting it toward

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the process that Senator Mello has laid out, if it can't be used, if it is not used, the money is still available to us next year. It doesn't rot. It doesn't spoil. It's still there. And if I'm mistaken in that, I would like Senator Mello to explain that to me in the remainder of my time, which he can now have. [LB905]

SENATOR GLOOR: Senator Mello, 3:45. [LB905]

SENATOR MELLO: Thank you, Mr. President. And thank you, Senator Bloomfield. I won't use really any of the time. I think Senator Bloomfield captured what I hopefully said last time on the mike. As much as my good friend and colleague, Senator Ashford, would like to see one-time money used for ongoing expenses right now, that is a policy that I can't support and I will have to actively work against, because the reality is this is a fiscal policy that Appropriations Committee has taken in respects to both tax issues and spending issues. I know that the reality is a lot of us will be leaving here at the end of this legislative session, and the reality is we may not be here when the next recession comes, when revenues get volatile and start to go down. That's why we've taken the fiscal path we have of protecting the Cash Reserve to stem against future economic downturns, to stave off future tax increases, and that includes not using tax...Cash Reserve for tax cuts and tax changes and/or ongoing spending items. There's a reason we use the Cash Reserve exclusively for this one item, because it's a one-time item. The Department of Corrections doesn't get this money next biennium. They know that. It's laid out in the budget; it's a one-time use of money. I don't see how you do that with ongoing programs for inmates in Corrections. We're trying to do that in LB907, which is a good bill, a bill that should pass and starts us in the right direction. But we're not going to spend \$25 million on prison reform issues this year because we know when Council of State Governments comes in, we will have to probably make an investment after they come back and give us recommendations over the next two to four years. So while the \$15 million fiscal note with LB907 is a start in regards to fixing our prison system, I'm under no illusion that we're going to have to put more money in to fix this broken system. I would rather, though, take a more cautious fiscal approach to that and let's see what we do first with LB907, then we go forward, because that's ongoing spending, colleagues. It's ongoing spending, not one-time use of Cash Reserve Funds to backfill a hole in an agency or one-time programming, because we know it's going to be ongoing. So while I appreciate and applaud the leadership of my colleague, Senator Ashford, his committee staff, the Judiciary Committee, and all of their work over the interim, the fall, this session on the prison reform bills that we're going to hear in the next couple of weeks, I want us to pass them. We need to pass them. But we need to stick with our fiscal policy that the Appropriations Committee laid out in our budget that we discussed on General File, which Cash Reserves...the Cash Reserve can only be used for one-time items. We're doing that with what we have in our budget and I'll oppose trying to utilize it for any other purpose except the purposes that we've laid out. [LB905 LB907]

SENATOR GLOOR: One minute. [LB905]

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SENATOR MELLO: Thank you, Mr. President. [LB905]

SENATOR GLOOR: There are no senators remaining in the queue. Senator Chambers, you're recognized to close on your amendment. [LB905]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, this is the last opportunity I have to try to convince you that this amendment should be adopted. Senator Karpisek said correctly we all want the same thing. Here's where there's a disconnect, apparently: Some of us have knowledge about how to get there and others don't. And those who don't have knowledge say that what they're recommending is as good as those who have knowledge and have worked in the field. Senator Karpisek knows about making sausage and doing other things with meat. He's an expert. Now I could tell him I've eaten more hotdogs so I know more about hotdog making than you do. He'd say, well, no, it doesn't work that way. So I'm telling him, he eats the hotdogs, I make the hotdogs when it comes to Corrections. I wish he would accept that. The Governor brought this to us. The Governor has the staff to have looked at the jails that would be available. The Governor has the staff to have gotten the information to counteract everything that I'm saying. But it shows no respect for this body--give them anything and if something is wrong, let them bear the burden. On the airplane last time, Senator Dubas told us, stop, let's not do it this way. Senator Krist wanted the Governor to take a position on some things and he said, let the Legislature do it, I'm not going to say anything. And the Legislature took the bull by the horns, so to speak, did a study and wound up coming to a conclusion about what ought to be done with an airplane, once again acting wisely and deliberately, like a Legislature should. I don't know what else to tell you, but I can tell you this much. There are some people in the media and some people out there who are aware of the work being done by the Judiciary Committee, the kinds of programs that won't be adequately funded, Probation staff. Even the Omaha Police Department was trying to find out how many Probation officers there are to see if they are overburdened. So people are looking at this. And what will be the conclusion is that they set aside \$5 million to do something and nobody knows if there are any county jails that meet the standards, nobody knows if a single jail will. And Douglas County has already said they're not interested. Lancaster County said they're not interested. Nobody has a plan. The Governor has no plan. The Chairperson of the Appropriations Committee will acknowledge they don't have a plan. There are questions they can't answer. There are questions that are not answered. This should not be done. And if you do it anyway and it turns out that there's not a single county jail that's suitable, are you going to say, like Senator Karpisek, well, we were trying to do the right thing; and even though we're in the Legislature and we should inform ourselves before we do something, we just didn't know but we meant well so accept that? It's not acceptable to me. As a member of the Legislature, I have an obligation, to the extent that I can be successful, in trying to keep us from doing things that make us look foolish and unreasonable. And to lay aside this money when nobody on this floor... [LB905]

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SENATOR GLOOR: One minute. [LB905]

SENATOR CHAMBERS: ...can assure that it will be used in the way that the Department of Corrections told you they'd like to use it, anything of a derogatory nature that would be used to describe what we will have done would be justified. And I bet if some of you were talking to these Rotary Clubs and others, you wouldn't present something like this, so half-baked where you couldn't answer a question and tell them, nevertheless, I'm going to vote to lay aside \$5 million. You wouldn't do it there because you want to impress them with how intelligent and reasonable you are. We have a chance to do the right thing here. And if this is such an important program and if indeed the Department of Corrections can do it anyway, let them do it. We don't have to be the fall persons. Mr. President, I will ask for a call of the house. [LB905]

SENATOR GLOOR: Thank you, Senator Chambers. There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB905]

CLERK: 27 ayes, 0 nays, Mr. President, to place the house under call. [LB905]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator McGill, please record your presence. Senators Lautenbaugh, Larson, Smith, please return to the Chamber and record your presence. Senator Chambers, all members are accounted for. How would you like to proceed? [LB905]

SENATOR CHAMBERS: Machine vote. [LB905]

SENATOR GLOOR: Senators, the question is, shall the amendment to the committee amendment to LB905 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Regular order, sir? Mr. Clerk. [LB905]

CLERK: (Roll call vote taken, Legislative Journal pages 952-953.) 16 ayes, 22 nays, Mr. President, on the amendment. [LB905]

SENATOR GLOOR: The amendment fails. Mr. Clerk for an amendment. Raise the call. Items for the record, Mr. Clerk. [LB905]

CLERK: Thank you, Mr. President. I have a new A bill. (Read LB994A by title for the first time.) Senator Smith, an amendment to LB965 to be printed; Senator Karpisek to LB946; Senator Mello to LB851. Senator Garrett offers new resolutions, LR504 and LR505; those will be laid over at this time, Mr. President. (Legislative Journal pages

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953-955.) [LB994A LB965 LB946 LB851 LR504 LR505]

Mr. President, Senator Lautenbaugh would move to amend LB905 with FA269. (Legislative Journal page 956.) [LB905]

SENATOR GLOOR: Senator Lautenbaugh, you're recognized to open on your amendment. [LB905]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. This will be a familiar amendment, I believe, to many. What this amendment does is something that we discussed on General File. This removes...again, seeks to remove the payment for the railroad compact. We had a discussion again on General File and at that time I'd indicated I would not file any amendments to LB905 and did not. That was Senator Bloomfield's amendment. But I told him at the time he was correct. We have no obligation to pay these funds. Senator Schumacher initially pointed that out to me in statute, and I reviewed it as well and I believe that to be correct. You'll recall this is a compact for passenger rail in the Midwest. We have not, what you would call, actively participated for many, many years, and by the terms of the compact we have to approve any annual dues assessment, and we've not. And also by the terms of the compact, if we don't pay, the remedy is for them to suspend us and they just never have. So there's been this mythical accrual of dues and this budgeted amount represents a partial payment that I believe we have no legal obligation to pay. I do agree that this should be addressed with us repealing the statute that puts us in this compact, but in the meantime I think we should take this out of the budget. And again, as I said on General File, we are not talking about all the money in the world, to say the least, but that really isn't the issue. The issue is I don't think we owe the money. And we've talked about this I think every year I've been here and we're still in the compact and we're still talking about this money. And it's too late to actually introduce a bill to take care of this unless we suspended the rules--the horror, the horror--and did something like that. So we're not going to do that. So we're stuck with it again. And this was described on General File as some sort of an obligation and it was horrible that we're shirking it. We don't have this obligation. We need to remove it from statute and call it good. Thank you, Mr. President. [LB905]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Members, you've heard the opening on the amendment. Senators in the queue wishing to be heard: Bloomfield, Mello, Dubas, Chambers, and Hadley. Senator Bloomfield, you're recognized. [LB905]

SENATOR BLOOMFIELD: Thank you, Mr. President. I turned my light on not necessarily to address FA269. I have a little something else I want to say about LB905, but I will reserve that until we have dealt with FA269. I did withdraw my original amendment. I didn't want to create a great burning of time, but that doesn't seem to be an issue anymore. So at this point I will agree to support Senator Lautenbaugh's

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amendment and we'll just see where it goes. But I do want to speak a little bit about Game and Parks. I have an amendment drawn up that would remove half of the funding that we're going to give Game and Parks. I don't intend to drop that amendment but I do intend to talk about it a little bit as soon as we've dealt with this amendment. Thank you, Mr. President. [LB905]

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

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Like on General File, I rise in opposition to FA269. We'll review, I guess, some of the arguments for and against. The reality is this: The reason the Appropriations Committee chose to move on this is because we are statutorily a member of this compact. We did receive physical bills from the Midwest Rail Compact in respects to past dues that we owe under statute. The reality is if Senator Lautenbaugh, Senator Schumacher, or anyone else wants to make the legal argument that we don't owe this money and set us up possibly to be sued by the Council of State Governments in regards to them trying to get the \$60,000 in back dues we owe when they are willing to negotiate with the state of saying you could pay \$30,000 in back dues and pay the dues for this biennium; if you want to leave, pass a bill to remove yourself from the compact next biennium, that's an option. And that's the option we chose. We know the likelihood there will be a bill to withdraw us from the compact next legislative session. Senator Hadley will probably get up and speak. There was a bill that was to withdraw us before and it never came out of the Transportation Committee. But yet, even though that bill didn't pass, the Legislature decided not to pay its bills. And the issue that was raised is we walk a dangerous path of making a decision of whether or not we want to selectively choose what bills we want to pay and what bills we don't want to pay, and if we're statutorily obligated to pay them or not statutorily obligated to pay them. If we want to spend hours in regards to hashing out that political legal debate, we can, but the reality is Senator Dubas, who brought us the bill, said exactly this: We could easily remove ourselves from the compact. There was no bill to do that this year. But we still have this payment that is owed. So it's only right for the Legislature and the state of Nebraska to pay our back dues, and if we want to remove ourself from the compact, we can do that next year. But I would rather not see us have any legal action taken against us or trying to incite some kind of legal action with the Council of State Governments' Midwest Rail Compact over \$60,000, \$30,000 in past dues and \$30,000 for this biennial dues. The reality is we have had senators participate in this compact. They can't vote but they've been active participants still of being able to go to conferences, participate with the compact in regards to the advocacy of trying to expand passenger rail, I'll remind people, existing passenger rail. I know there are some who think this is an Obama high-speed rail issue. It's not. It's the existing Midwest Passenger Rail Compact that we have existing rail that cuts through the entire state that we have people who utilize. And that is really what this is really about. And I can respectfully disagree with Senator Lautenbaugh in regards that we

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don't need to do this and there's no ramifications if we don't do it. I don't think, colleagues, we should be testing that because I think it starts setting the precedent that if we selectively want to choose to pay certain kinds of healthcare providers, well, we can selectively choose to do it because maybe statute is a little vague. Maybe there's not an actual repercussion based on an existing legislative bill we passed in years past. I think this is a \$60,000 appropriation to take care of past dues at a discounted rate, and we know here in this body, those of us coming back, that this issue will be in front of us next year where we know someone will introduce a bill to take us out of the compact. That's a policy conversation we can have then. I think it's...the responsible thing to do is to pay our bills, our past-due bills, and if we want... [LB905]

SENATOR GLOOR: One minute. [LB905]

SENATOR MELLO: ...to address this issue, to introduce a bill next year to take us out of the compact and we go from there. Thank you, Mr. President. [LB905]

SENATOR GLOOR: Thank you, Senator Mello. Senator Dubas, you're recognized. [LB905]

SENATOR DUBAS: Thank you, Mr. President. I have in front of me an invoice and a letter. The letter was sent to Mr. Steve Maraman, finance administrator, Department of Roads, state of Nebraska. In that letter it says this is a reminder that payment of dues to the MIPRC is a contractual obligation, pursuant to the statute under which Nebraska adopted the compact. The letter further goes on to state what we owe in total. The invoice has fiscal year 2010, past due \$15,000; fiscal year 2011, past due \$15,000; fiscal year '12, past due \$15,000; fiscal year 2013, past due \$15,000; and then for fiscal year 2014, to bring us current, \$15,000; for a total of \$75,000. An invoice, my understanding is, an invoice has always been a bill, at least that's the way my business takes care of them. We have negotiated with the compact. They have agreed to lower the dues to \$60,000. They want us to continue to be a part of the compact. That's not what we're discussing today. We are discussing today whether we pay our bills. We went through this on General File. I guess we get to go through it again on Select File. I will read to you from the statute, 74-1601, "Article IX, Withdrawal, Default, and Termination. Withdrawal from this compact shall be enacted by a statute repealing the same and shall take effect one year after the effective date of such statute. A withdrawing state shall be liable for any obligations which it may have incurred prior to the effective date of withdrawal." If any member state shall at any time default in the performance of its obligations, assumed or imposed, in accordance with the provisions of this compact, all rights, privileges, and benefits conferred by this compact or agreements hereunder shall be suspended from the effective date of such default. Unless such default shall be remedied under the stipulations and within the time period set forth by the commission, this compact may be terminated with respect to such defaulting state by affirmative vote of a majority of other commission members. Any

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such defaulting state may be reinstated, upon a vote by the commission. Again, they have wanted us to remain a member of this compact, so they have been willing to work with us. They've come forward. They've been willing to reduce our dues. As it was stated, legislation was introduced several years ago to withdraw from the compact. It never even advanced from committee. We are still a member of the compact. I'm not going to argue the legalese or the legal merits of contract law. That's totally out of my bailiwick and way over my head. But I'm just going to look at it from a very simple perspective. We have statutes that says we're a member of this compact. We have dues. We have bills that have been sent to us. We're talking about \$60,000, okay? I think it's simply the right thing to do--we pay our bills. We always talk about we don't spend money we don't have, but does that mean because we only pay the bills that we want to pay? I just don't think it works that way. I think this is a pretty, straightforward thing. We have a bill that's due. It's been negotiated down. The next Legislature can come back and take official action, withdrawing us from the compact. It can be all over and done with, either way: You make the decision to stay in or you make the decision to stay out. I guess each one of us has to make the decision whether this is the right or the wrong thing to do. [LB905]

SENATOR COASH PRESIDING

SENATOR COASH: One minute. [LB905]

SENATOR DUBAS: For me, it's the right thing to do, pay our bills, move on. Thank you. [LB905]

SENATOR COASH: Thank you, Senator Dubas. Senator Chambers, you are recognized. [LB905]

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senators Schumacher and Senator Lautenbaugh are wrong on the law. That statute, which is the law governing this Legislature, gives two ways to be terminated. One, you shall enact a statute. If you don't keep up your dues, and I'm paraphrasing, then your privileges are suspended until you pay. And you may be terminated if a majority of the members vote to do so. Those are the only two ways. The majority have not voted to do so. Failure to pay dues does not remove the state from that compact. It says you shall. So what Senator Schumacher and Senator Lautenbaugh are saying is disregard the statute. But I will show you where they have some precedent. I'm only going to speak on this twice in case I need that time to say what I have to say. John Marshall was a Chief Justice of the United States Supreme Court a long time ago, and he virtually created what has come to be known as judicial review; namely, that the Supreme Court has the right to review acts of Congress to see whether or not they comply with the Supreme Court...I meant with the Constitution. And if they don't, they will be ruled unconstitutional by the Supreme Court and they are of no effect. Well, there was a dispute between John

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Marshall and a guy who was President named Andrew Jackson. Now I might be tricking you, so check it on Google. I could have my facts all wrong. And there was a dispute about a national bank and John Marshall reached a decision, and the President of the United States said, John Marshall has rendered his decision, let him enforce it. I don't know that any compact would go to the lengths of suing a state like Nebraska, because the shame and embarrassment ought to be enough. There is such a thing as honor, and if people on this floor don't know the meaning of it, look it up in the dictionary. Honorable people don't try to find a way to skirt the law so they don't have to carry out what the law clearly says. But let's say that the law doesn't require what it clearly does. There is a moral obligation on this state. Harking back to what we just talked about on my amendment, I'm going to read from an article that appeared in the Omaha World-Herald March 15: Besides that, said Chairwoman Mary Ann Borgeson of the Douglas County Board, counties are still weary over contracting with the state to house inmates because of an unfulfilled pledge to cover such costs in the past. We've not had a very good experience with the state on jail reimbursement, she said. Now all of a sudden they say they want to contract with us and say they will pay for it, but that can change in a heartbeat. About 15 years ago, the state agreed to reimburse counties for the costs of jailing those charged with state crimes and awaiting trial, but the state never fully funded the program. Counties never fully got the \$70 per day that was promised. Eventually, due to the state budget problems, the reimbursement plan was repealed in 2009. That's how the state gets out of paying what it promised by contract to do. Officials in Lancaster... [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR CHAMBERS: ...County estimate that they are owed \$3 million in back payments. If the state law had not been repealed five years ago, the county projects it would be owed \$8 million. There's definitely a negative taste left with that. Now the state has shown that it will not pay its debts. Where is the honor? Where is the honor? You've got all these conservatives here and they don't want to pay their debts. Read the law for yourself, Senator Bloomfield. Don't take what Senator Schumacher said, who doesn't want to pay debts. Don't take what Senator Lautenbaugh said, who doesn't want to pay debts. Now he's going to lead the rest of you like lemmings. And you know why I'm glad I'm speaking now? Because you will vote not to pay your debts, just like you made that stupid vote the last time. And I'm going to ridicule you when you can't find a county jail, but that's past. I could have read that information during that discussion, but I knew... [LB905]

SENATOR COASH: Time, Senator. [LB905]

SENATOR CHAMBERS: ...what Senator Lautenbaugh was going to do. Thank you, Mr. President. [LB905]

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SENATOR COASH: Thank you, Senator Chambers. Senator Hadley, you're recognized. [LB905]

SENATOR HADLEY: Mr. President, members of the body, I'd like to take you back to January 4, 2012, Second Session. LB747 introduced by Hadley, District 37; committee, Transportation and Telecommunications. A bill for an act relating to railroads; to withdraw from and repeal the Midwest Interstate Passenger Rail Compact; and to outright repeal Sections 74-1601, 74-1602, and 74-1603, Reissue Revised Statutes of Nebraska. Be it enacted by the people of the state of Nebraska. I brought a bill to get us out, 2012; couldn't get it out of committee, couldn't get it voted out of committee. So we have acted. It may have been one of our committees, but we acted to remain in this compact. This was not voted out of committee. It was not voted upon on the floor. So to me, I think we not only have a moral but maybe a legal obligation, because we made an action to stay in by not getting out. I think we need to pay these dues. This is the state of Nebraska. We owe it. Let's pay it. If we don't want to be in we can bring a bill, get out. That's absolutely fine. But we, back in 2012, we had people that didn't want to get out but they didn't want to pay either. Well, that doesn't seem to be the right way to do it, so I will oppose FA269. I think it's time we pay our bills; then decide whether we want to be in it or not. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Hadley. Senator Harms, you're recognized. [LB905]

SENATOR HARMS: Thank you, Mr. President. Colleagues, I rise in opposition of this amendment. We belong to the compact. We owe the compact the dollars. It should be an embarrassment to us that we're having this conversation in this body. We need to pay our bills. No more money than this is, we owe it to our public, we owe it to everyone that's on this floor to make sure that we fulfill our legal responsibilities here. If you don't want to be in the compact, pay your bill and get out. I can tell you right now if I was going to be returning, I would introduce legislation and get us out of the compact, bring it to the floor and you can decide what the heck you want to do with it. But I'm embarrassed and would be disappointed if you walk away from this, colleagues. We owe the money, no more money than it is, and we've got the money to pay for it. We should be ashamed of ourselves even having the discussion. Let's pay our bills and let's forget the compact. Next year, someone here on the floor that's coming back, introduce legislation and then have your discussion to get out. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Harms. Senator Johnson, you're recognized. [LB905]

SENATOR JOHNSON: Thank you, Mr. President. I'll address the amendment, FA269. I don't know all of the history of when we got in the compact and...but I do totally believe we have an obligation to pay. Senator Dubas commented that they want us in the

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compact. I know that's not one of the discussions, but I think we should probably stay in the compact, at least have a seat at the table. If it ever comes to fruition and they start talking about it going across Nebraska to get out to Denver, I think we want to have a seat at that table. We're not going to have a very good seat if we haven't paid the bill. Are they going to invite us in at that point with help? No, they're going to bring us back and say, hey, you didn't pay your bill, you pay this and maybe a little extra and we'll let you have a seat at the table. First of all, we need to pay our bills; we need to pay the invoices that are there. And at another time we will talk about whether we need to be in the compact or not. I was interested in Senator Hadley's comment that by no action we stayed in. It sounds to me like we voted to stay in by not taking action; thus, we created another bill. I'm not in support of FA269. Thank you. [LB905]

SENATOR COASH: Thank you, Senator Johnson. Senator Chambers, you're recognized. [LB905]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm going to read from the compact what Senator Dubas read, then comment again. The caption, "Withdrawal, Default, and Termination. Withdrawal from this compact shall be by, shall be, by enactment of a statute repealing the same and shall take effect one year after the effective date of such statute. A withdrawing state shall be liable for any obligations which it may have incurred prior to the effective date of withdrawal." That's a flat statement and it's mandatory. If any member state shall at any time default in the performance of any of its obligations, assumed or imposed, in accordance with the provisions of this compact, all rights, privileges, and benefits conferred by the compact or agreement hereunder shall be suspended from the effective date of such default as fixed by the commission, and the commission shall stipulate the conditions and maximum time for compliance under which the defaulting state may resume its regular status. "Unless such default shall be remedied under the stipulations and within the time period set forth by the commission, this compact may be terminated with respect to such defaulting state by affirmative vote of a majority of the other commission members. Any such defaulting state may be reinstated, upon vote of the commission, by performing all acts and obligations as stipulated by the commission." Only two ways under your law, under you Nebraskans' law, the Nebraska way, from what these candidates for Governor have said, is to do what the law says. The law says you shall pay. The only two ways to get out of the compact is to pass the statute, which Senator Hadley attempted to do unsuccessfully, or by a majority vote of the other commission members, and such a vote was not taken. You all are being misled. You're being bamboozled by Senator Lautenbaugh. Let him read the language of the compact. He said that he has done it. I think he said that. And I will tell you what I will do right here. If he can show a third way to be terminated and not have to pay your debts, then I'll eat my words. I won't eat the paper that the words are written on. This says clearly that any obligations owed at the time of the termination the state is still liable for. So they could attempt to enforce that, but, in my view, I doubt that they would. If a state is so

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dishonorable then let it be that way. But as somebody said earlier, they didn't introduce it by the words I'm going to introduce it with--the Nebraska way. I'm going to say that, then add what was said: The Nebraska way is to get the benefits and not pay. The money is owed and it ought to be paid. I think Senator Bloomfield did the right thing when he withdrew his amendment. And I don't know that he understood the legal implications of the language in the compact. But that's all that I will have to say at this point, and I'm going to reserve my third time to speak in case I need to respond to one of the other principals who are trying to persuade you to do this. Now I haven't heard... [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR CHAMBERS: ...Senator Schumacher say anything today, so maybe I ought to not implicate him in this particular discussion. And I don't believe that Senator Lautenbaugh's motion is going to be successful. When he did all the supportive talk on Senator Bloomfield's, I said if that's what you believe, you ought to pick up the amendment and offer it. And that's when he said he'll promise not to offer any amendments on General File. And then we had a little discussion and he said he'd offer it on Select, which he's doing. But he's as wrong here as he was then. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Chambers. Senator Wightman, you're recognized. [LB905]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. We've had conversations of this for the last three or four years. Actually, our office, from the Executive Committee, wrote a letter back June 13, 2011. The dues for the Midwest Interstate Passenger Rail Compact have been funded in previous bienniums, and it was, by a General Fund appropriation of about \$15,000 or of \$15,000 to the Department of Roads. After that, the Department of Roads quit funding the project, as it's been told to you by several of the previous speakers. We have never taken any action to get out. We've never had a bill that got before the entire Legislature to get out. I think there's no question that the money is owing. I agree with Senator Chambers and previous speakers that the money is owing at the present time. So I strongly support that we do not pass FA269, that we do make payment, and then next year's Legislature make a decision as to whether they want to formally withdraw. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Wightman. Senator Lautenbaugh, you are recognized. There are no other lights in the queue. There are now. You're recognized. [LB905]

SENATOR LAUTENBAUGH: Thank you, Mr. President, and that one is really on you, I

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think. But simply put, this is just a matter of legal interpretation as to whether or not it's owed or not. And I agree with Senator Schumacher's opinion that since there's language in there that says that the amount to be assessed by this compact has to be approved by us, there's two parts to it, annually assessed by them and approved by us, and it's something we've never approved, I mean we aren't just liable for whatever they would choose to assess us. We have to agree to it, and we've never done that. I mean I think the example that Senator Schumacher used on General File was what if they said your bill this year was \$2 million. Would we all be standing here saying, well, we didn't withdraw, I guess we owe them \$2 million? I don't think we'd be hearing that. So you're saying, well, that would be unreasonable. Well, does it say in there that, well, as long as it's reasonable we owe it? No. That is the point of this. There is a two-part trigger, if you will, before the obligation arises. They assess it, we basically approve it. We've never approved. So here we are having this discussion again, and I won't belabor it. You're probably thinking, well, that foursome already teed off, but I won't belabor it further than to say we just disagree over whether or not this is an obligation that is actually owed, and I don't think it is. And in years past we've heard people argue, well, they could come after us for the money. Well, that argument isn't being made anymore. Now it's being presented as more of a moral thing, and I'm telling you, I don't see it. And to say we've accepted the benefits, well, I think we...well, I don't even know what those are, to be honest. Yes, we should clearly withdraw. But if somehow we have been noncompliant by not paying this, they should have suspended us, which is their remedy, and they haven't ever done that. So here we sit in this weird sort of standoff where we won't act and they won't act, and there seems to be just a little bit of money accruing every year. And the question is, do we really owe it and does anybody expect us to pay it? They seem to have no expectation of payment. That should be a suggestion as to whether or not they think we really owe it. We don't believe they'd ever try to get the money--another indication as to whether or not we actually owe it, I would submit. And again, this is not all the money in the world, I understand that, but we just have a fundamental disagreement over whether the money is actually owed. I don't hear a lot of disagreement as to whether or not we should get the heck out of this thing. I think we need to. We should have last year. We should have the year before. It's long overdue. Well, we need to stop getting the benefit of the membership in this thing, getting the painfully hypothetical benefit of membership in this thing and go so we can stop having this discussion. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Lautenbaugh. Senator Chambers, you're recognized. [LB905]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Lautenbaugh is unsuccessfully trying to do what the Nebraska Supreme Court referred to derisively as play the lawyer. There is a specific provision in the compact that tells you how to withdraw. And even if you do it in that fashion, then it takes effect one year after you've done it. They presumed they were dealing with intelligent, honorable

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people. I think both of those traits are in absence, based on what Senator Lautenbaugh is saying. Who, in his or her right mind, would think that this compact is going to say, you owe \$1 million? Now maybe Senator Lautenbaugh and the people he runs around with do such insane things. But when you're dealing in a certain professional relationship with people where everybody is deemed to be honorable, you don't have to put a gun to the head of people to get them to do what they should. We have laws imposing duties but we don't put a penalty. And I handed out a copy of that World-Herald editorial that was written because agencies which are mandated by statute to issue reports are not doing so. Well, then the Legislature obviously didn't intend that they do it because they didn't put a penalty in place. No. The Legislature thought you're dealing with honorable people who, once their duty is expressed in statute, will carry it out. But you're not always dealing with honorable people. I understand that in certain parts of the state a person's word means something. You don't even have to put it in writing, Senator Bloomfield, and you don't even have to shake hands. When you give your word, it's your word. And the one you give your word to is not going to come up later and say, in Nebraska, if a contract is not in writing, it's not a contract. That's the way they operate out there? All that stuff they've been telling me about the Nebraska way is just a lie? That's what I've been told? All of these preachments by the conservatives, of which Senator Lautenbaugh and his followers are, talk about personal responsibility, not just those things that are mandated by law under pain of being punished but the things which an honorable person will do, which an honorable person, based on his or her honor and ethical principles, would be obliged to do. When you take that oath for this office, it tells you that you're taking it without what is called mental reservation. In other words, you let these words come out of your mouth but in your mind is the determination that you don't really mean them. That's what a mental reservation is. And when you swear an oath with that mental reservation, you are swearing a false oath. And we're being told to be false. And anybody who is false in a particular of this magnitude can be deemed to be false in all things. Google that statement and see who made it. I'm paraphrasing somebody. One of my colleagues, the day after we had this first debate, had stood on the floor and said I had made comments about conservatives in general and he wanted to make it clear that not all conservatives are like that, or what conservatives really do or whatever. If he wants to repeat it, he can say it. [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR CHAMBERS: But I know that this offering by Senator Lautenbaugh will be resoundingly rejected. I'm glad the debate was had today so you can know what manner of man you're dealing with. I've never told you don't pay your debts or there's a way around this; even though you gave your word, you didn't put it in writing so you don't have to deliver on it. Sometimes it's hard not to feel morally superior in here, but I don't feel that way today. If I felt the emotion of sadness, I would say that what we're doing today or what we're being asked to do is enough to make somebody sad, but

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sadness is not in my lexicon of feelings. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Chambers. Seeing no other lights on, Senator Lautenbaugh, you're recognized to close on your amendment. [LB905]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. It always fascinates me that a discussion such as this can devolve to the level of almost personal attack. I mean this is a question of a legal interpretation as to whether or not we owe something to an Interstate Compact. And what you're being told is we have a moral obligation and that we should trust, if I understood Senator Chambers' argument correctly, we should trust the states to be nice to each other, and they would never overcharge us. So that the language in there about how we have to agree to the dues before we actually owe them, well, that doesn't really mean what it says it means, you're supposed to ignore that. Those words were just added presumably because the bill was too short when it was originally passed. They said, well, by gosh, we need more words. So it just came to me that he was arguing it was a legal obligation...or I'm arguing it's a legal obligation. I'm not sure how to interpret the note. But that's the issue: Does the debt arise or not? It's not a question of whether or not we should pay our debts; it's whether or not the debt exists. Does it arise if we never agreed to the sum? And to make the argument, well, it's foolish to say they would never overcharge us, really? It's foolish to say that other states would never try to take advantage of old Nebraska? Well, I think those words are in there for a reason. We're supposed to be able to agree to the dues or vote with our feet. And again, we didn't agree to the dollar amounts. We don't owe it. This isn't a question of whether or not we should pay our debts. This isn't some lofty question of honor. This is just whether or not the debt ever arose, not whether or not we should pay it. And I'm telling you, from a legal interpretation, as I see it, we don't owe it. The debt did not arise. I'm not saying we should sneak out of here and not pay it. I'm saying the obligation was never incurred. Now if Senator Johnson votes the other way, I'm not going to stand up here and question his moral fiber or say he's foolish. I'm going to say he disagreed with me. And you know what? That's okay, because this is not that big a deal. But...and I just picked on Senator Johnson because he's standing there on the wrong side of the room, curiously, but there he is. You sit over here, Senator Johnson. Again, this is not one of those things where I'm going to lose sleep over it, but I'm telling you, as I read it, we don't owe it. And if we don't owe it, we shouldn't pay it. And that's not us getting away with something. I think that's us giving life to all the words within the plain statute, plain language of the statute, and giving voice to what the statute actually says. If you disagree, people are free to disagree, but I'm telling you that's how I read it. And I'm beating a dead horse here, I recognize that, but that's how I read the law. We're not trying to get away with something. The obligation was never created. Thank you, Mr. President. So I'd urge you people to vote green on this amendment and remove this from the budget. Now thank you, Mr. President. [LB905]

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SENATOR CHAMBERS: (Microphone malfunction)...roll call vote. [LB905]

SENATOR COASH: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB905]

ASSISTANT CLERK: 25 ayes, 1 nay to go under call, Mr. President. [LB905]

SENATOR COASH: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. Unauthorized personnel please leave the floor. The house is under call. Senators Ken Haar, McGill, Nordquist, Lathrop, Ashford, Garrett, and Davis, please return to the Chamber and record your presence. Senators McGill, Ken Haar, Davis, and Garrett, please return to the Chamber and record your presence. There has been a request for a roll call vote. Members, the question before the body is, shall FA269 be adopted? Mr. Clerk, please read the roll. [LB905]

CLERK: (Roll call vote taken, Legislative Journal page 956.) 3 ayes, 34 nays, Mr. President, on the amendment. [LB905]

SENATOR COASH: FA269 is not adopted. Raise the call. [LB905]

CLERK: I have nothing further on the bill at this time, Mr. President. [LB905]

SENATOR COASH: Senator Bloomfield, you're recognized. [LB905]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I mentioned this earlier. I had an amendment drawn up to remove half of the funding in here in LB905 for Game and Parks. I'm not happy with the amount of funding we're putting in there. The reason I'm not happy with Game and Parks is their continuation of purchasing farmland, taking it off the tax rolls, and making it part of our state parks system or just sitting on it and not doing anything with it. I have decided not to drop the amendment because I don't want to burn up a bunch of time. But I do want the folks in here to know what Game and Parks is about. They tell us this is a one-time funding fee to get them started back to where they need to be. The particular piece of land I'm talking about up in Dixon County, it's in Senator Larson's district now--it was mine at one time, is no longer--is about 1,200 acres. Take that times \$10,000 an acre. It was irrigated farm ground. You have \$12 million. That would go quite a ways toward fixing the roads in the park system, mowing the grass, the things they tell us they don't have the money to do. I'd like to ask Senator Mello a question if he would yield. [LB905]

SENATOR COASH: Senator Mello, will you yield? [LB905]

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SENATOR MELLO: Of course. [LB905]

SENATOR BLOOMFIELD: Senator Mello, you and I have talked several times about this off of the mike. [LB905]

SENATOR MELLO: Yes, extensively. [LB905]

SENATOR BLOOMFIELD: And I asked you if you thought Game and Parks would be back next year asking for more money. What was your reply? [LB905]

SENATOR MELLO: My understanding, Senator Bloomfield, is with what the Appropriations Committee did in the mainline budget bill and that in conjunction with what the Revenue Committee did with Senator Hadley and Senator Avery's combining their bills into Senator Avery's priority bill, that provides them enough funding both short-term funding with what we do in the budget and a long-term funding stream with what the Revenue Committee did to help deal with their ongoing deferred maintenance backlog of roughly \$45 million. [LB905]

SENATOR BLOOMFIELD: Okay. It was my understanding in our discussions that you said they told you they would not be back in the next two years. Is that correct? [LB905]

SENATOR MELLO: That is correct. My understanding is they will not be coming back next biennium asking for another budget request for appropriations for their deferred maintenance projects. That's correct. [LB905]

SENATOR BLOOMFIELD: I would ask you to use a little more politically correct language than you used when you told me what you would do if they did come back, but would you express your opinion on that? [LB905]

SENATOR MELLO: I would be very disturbed if after what the hard work the Appropriations Committee and the Revenue Committee did to help deal with this ongoing state problem, I would be extremely disturbed if the Game and Parks Commission came back next year to ask for more funding on top of what we've already committed in this budget and what the Revenue Committee has committed long term to the Game and Parks Commission. [LB905]

SENATOR BLOOMFIELD: Would you oppose any extra funding? [LB905]

SENATOR MELLO: You know, right now, Senator Bloomfield, I wouldn't support adding more funding in. But once again you never know what could happen. I don't want to say if the Mahoney State Park, let's say, was for god forsaken blown up or burnt down that they wouldn't come back and say they needed funding to do something like that. I don't want to say...I want to never say never, but I would be strongly advising them after this

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year that they need to let... [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR MELLO: ...the bills that came out of Revenue Committee if that passes and is signed into the law by the Governor, they let that funding stream work before they come back to the Legislature and ask for any more funding in the near term. [LB905]

SENATOR BLOOMFIELD: So I have to assume now that certain parts of their anatomy are now safe. [LB905]

SENATOR MELLO: I guess that would be correct. [LB905]

SENATOR BLOOMFIELD: Thank you. Colleagues, I intend to ask for a study over the summer to see where and how Game and Parks spends their money. I have said before I think this is a poorly managed organization. We need to look into it. They have no reason to own irrigated farm ground. They pulled the irrigation wells out, said it was a wetland. Lo and behold it wasn't all that wet. They had to put new wells back in to try to flood it. It now grows up to weeds. I think we need to look hard at Game and Parks. [LB905]

SENATOR COASH: Time, Senator. [LB905]

SENATOR BLOOMFIELD: Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Bloomfield. Senator Conrad, you are recognized. [LB905]

SENATOR CONRAD: Thank you. Good afternoon, colleagues. Briefly, I don't intend to hit my light again but I did not have an opportunity to visit about this issue on General File due to some other budgetary deliberations. But I would be remiss if I did not take a moment to highlight the historic appropriation of \$1.8 million to support pediatric cancer research at UNMC that was based upon a citizen initiative. I want to personally thank the Ahlschwede family, the Lewis family, the Peters family, the Gates family, the Zart family, and countless others who have assisted with this effort in sharing their family's brave and courageous stories in terms of how their children have battled cancer--some are winning; some have lost that fight. But the common bond that each of these families rallied around when we developed this proposal was the fact that there is much more that can be done and should be done when it comes to making advancements in relation to pediatric cancer. Friends, I can tell you in eight years in the committee this was by far one of the most emotionally powerful hearings that we had an opportunity to be a part of, and it was also one of the most inspiring not only listening to the family's courage but to the amazing medical scientists from our own UNMC who came down

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and shared their vision for making strides in the battle against pediatric cancer. And I want to just briefly share with you a quote that pediatric oncologist Dr. Don Coulter of UNMC shared with our committee. He said, and I quote: In 1927, H.G. Wells wrote that the motive that will conquer cancer will not be pity nor horror; it will be curiosity to know how and why. The families of Nebraska facing childhood cancer do not want our pity, but they deserve our support. The funding proposed in this legislation would allow us to continue unraveling the how and why of cancer, and will lead us to new medicines that can provide hope to the families of our state, unquote. Folks, this is at best symbolic. It's a \$1.8 million appropriations derived from the fact that Nebraska's population is approximately \$1.8 million (sic). It is an important step forward. It is a historic step forward. It is an opportunity for us to put aside petty partisan differences and to do something positive together for Nebraska's children. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Conrad. Senator Bloomfield, you're recognized. [LB905]

SENATOR BLOOMFIELD: Thank you, Mr. President. Aside from the farmland I'm talking about in Dixon County, former Senator Loudon, when he was in here today, told me they bought a bunch of pasture ground out in western Nebraska. No where near any other park. They just thought they should have it. We need, in my mind, and I'll grant you sometimes that's a little crowded, we need to see where they are spending this money. Why are they acquiring more parkland when they can't take care of what we have? There are a lot of questions need to be asked of this organization. And, again, I intend to bring a resolution asking for a study to get that information. I'm going to ask for your support in that. If we have an out of control group that is acquiring more and more acres thinking that this body is going to come back to them and throw them more money to do maintenance that they should have been doing for the last 20 years, hopefully they're sadly mistaken. Thank you, colleagues. [LB905]

SENATOR COASH: Thank you, Senator Bloomfield. Senator Harms, you're recognized. [LB905]

SENATOR HARMS: Thank you, Mr. President, colleagues. I do want to comment on the pediatric cancer. I've been on the Appropriations Committee, finished up my eighth year, and I would have to tell you that when the doctors came, the doctor...the people who testified before the Appropriations Committee, it was pretty gut-wrenching. And I was alarmed to learn that we are either second or third, I don't remember exactly, in the nation in pediatric cancer. And, colleagues, for those of you who are returning, I would like to encourage you to pay a lot of attention to this. That's a pretty high ranking and they even have it narrowed down to a particular location in Nebraska that they're going to start to look at very carefully. They have more young patients come from that particular area that have pediatric cancer. It's something that we need to pay a lot of attention to and we're most fortunate, colleagues, to have a University of Nebraska

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Medical Center and the cancer research tower that they are building. We are becoming one of the nation's leaders in cancer research. And if you ever get the opportunity to go and talk to some of the researchers, you will find some of the brightest researchers that America has joining the University of Nebraska Medical Center to help us with the issues that we have not only in pediatric cancer but all the other kinds of different types of cancers that we have that we're confronted with. So this particular funding is kind of a pioneer project that we've taken on because we believe that we need to place that emphasis on this type of cancer and for our children. So I hope you'll pay some attention to this and I hope that you'll ask for reports about how we're progressing with the pediatric cancer. And eventually we will be able to have a complete analysis done of Nebraska geographically by city, by location, what type of cancer we have and whether it's more prevalent there than it is in other areas. We know that it is now with this limited information we have with pediatric cancer. It's a worthy goal that we have and I was pleased to have a part of this. Senator Conrad was the leading senator to bring this forward to the Appropriations Committee, and I was proud to be a part of this, proud to support it. And I think for Nebraska, you can be proud that we are starting to focus greater and more time on cancer. Colleagues, we have a lot of cancer in Nebraska and there's probably lots of reasons and hopefully through the research we will find that it's probably more than just genetics that each of us carry. It plays a role. But it has to do with something with the locations where we are. I had a mother who died of cancer, a lymphoma cancer. So as a son I became very sensitive at that time to the issue and we had gone to many different consultants, specialists, in addressing this issue. And what my wife and I finally decided after going through all this, and after my mother passed away with lymphoma, that we were a product of what we drink, what we breathe, what we eat, and our genetics. And somewhere along this line we've got to make that connection because when it comes to the children and the testimony that we saw in the Appropriations Committee, it will definitely have an impact on your heart. [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR HARMS: Thank you, Mr. President. It definitely had...it definitely pulled on my heart. And I hope that as those of us who have an interest in this leave, that you as colleagues that will be returning will pick up this banner and make sure that we stay abreast with this. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Harms. Senator Ken Haar, you're recognized. [LB905]

SENATOR HAAR: Mr. President, members of the body, the implication that there is bad behavior on the part of the Game and Parks Commission is something I would like to object to. If there is a committee to do the study, I'd like to serve on that committee. I am on the Natural Resources Committee where we approve new appointments to the Game and Parks and also reappointments. And I am always impressed with the quality

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of the candidates and the time commitment that they bring to this. So I'd just like everybody to know that there is some of us who have a great deal of respect for Game and Parks. And, again, if there's that study, I'd like to be on that committee. Thank you very much. [LB905]

SENATOR COASH: Thank you, Senator Haar. Senator Karpisek, you're recognized. [LB905]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I just quickly want to stand and say that my dentist is on the Game and Parks board. And so maybe the next time I go in if I say something nice he won't hurt me so much. But I do think that the Game and Parks, for the most part, does a very good job. I think that probably the biggest issue is money and the amount of money that they have to deal with to try to keep all the parks up. I will admit when I came here one of my top goals was to try to help improve the park system because I have been to Kansas parks. I've been to South Dakota parks. And honestly I've enjoyed most of theirs more. Of course some of theirs that are right on the border are their best looking ones, probably their best parks. And compared to some of ours that are not our showcases, like Mahoney. But there are a lot of people that use these parks. It's good time to have parents and kids go out and use these parks. We need to keep them up. We might not all agree how they try to get their money in hunting fees or other ways, but they are doing a good job with what they have. I think that they...if I could change what Senator Bloomfield is talking about, I would say I'd give him double what we have in the budget. But I may put some sort of an amendment on that saying but not for buying more land unless that it is for a certain reason. I don't know the situation really that Senator Bloomfield is talking about, but I do feel that we already have enough parks that we aren't able to keep up. So why go out and get more. I'm sure there's more to it than that, but I think we need to work on what we have because we do have some really, really nice parks. But last year they closed some up early and that really caused a lot of angst in my area for closing those areas. They're low maintenance the way they were. I think a lot of people do maintenance on them by themselves. So I was not in favor of that. I understand the reasons why they did it because of the budget. But I do want to just throw in my support. And, Dr. Pinkerton, when I come in, get out the really good gel. Thank you. [LB905]

SENATOR COASH: Thank you, Senator Karpisek. Seeing no other members wishing to speak, Senator Murante for a motion. [LB905]

SENATOR MURANTE: Mr. President, I move to advance LB905 to E&R for engrossing. [LB905]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Opposed, say nay. LB905 is advanced. Next item, Mr. Clerk. [LB905]

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ASSISTANT CLERK: Mr. President, on LB906, there are E&R amendments. (ER171, Legislative Journal page 908.) [LB906]

SENATOR COASH: Senator Murante for a motion. [LB906]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB906]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. E&R amendments are adopted. [LB906]

ASSISTANT CLERK: Nothing further on the bill, Mr. President. [LB906]

SENATOR COASH: Senator Murante for a motion. [LB906]

SENATOR MURANTE: Mr. President, I move to advance LB906 to E&R for engrossing. [LB906]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Opposed say nay. LB906 is advanced. Next item, Mr. Clerk. [LB906]

CLERK: Mr. President, LB130. Senator, I have Enrollment and Review amendments, first of all. (ER169, Legislative Journal page 909.) [LB130]

SENATOR COASH: Senator Murante for a motion. [LB130]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB130]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Opposed say nay. The E&R amendments are adopted. [LB130]

CLERK: I have nothing further on the bill, Senator. [LB130]

SENATOR COASH: Senator Murante for a motion. [LB130]

SENATOR MURANTE: Mr. President, I move to advance LB130 to E&R for engrossing. [LB130]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Opposed say nay. LB130 is advanced. Next item, Mr. Clerk. [LB130]

CLERK: LB949. Senator, I have E&R amendments. (ER170, Legislative Journal page 913.) [LB949]

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SENATOR COASH: Senator Murante for a motion. [LB949]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB949]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Opposed say nay. The E&R amendments are adopted. [LB949]

CLERK: I have nothing further on that bill, Mr. President. [LB949]

SENATOR COASH: Senator Murante for a motion. [LB949]

SENATOR MURANTE: Mr. President, I move to advance LB949 to E&R for engrossing. [LB949]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Opposed, nay. LB949 does advance. Next item. Do you have items, Mr. Clerk. [LB949]

CLERK: I do, Mr. President. Senator Krist offers a new A bill, LB660A. (Read LB660A by title for the first time.) Senator Christensen, LR506 and Senator Janssen, LR507. Senator Mello, LR508. (Legislative Journal pages 957-958.) [LB660A LR506 LR507 LR508]

Mr. President, LB987. No E&Rs. Senator Janssen would move to amend with AM2458. (Legislative Journal page 939.) [LB987]

SENATOR COASH: Senator Janssen, you're recognized to open on your amendment. [LB987]

SENATOR JANSSEN: Thank you, Mr. President and members. AM2458 to LB987 would address a final concern that I and the other members of the Tax Modernization Committee heard over the past interim study on our state's tax policy. AM2458 would provide a modest military retirement income benefit exemption from state income taxation. Specifically, newly retired military service persons within two years of their retirement from the military may make a one-time election to exclude 40 percent of their military retirement benefit for seven consecutive taxable years beginning with the year in which the election is made or may elect to exclude 15 percent of their military retirement benefit income for all taxable years beginning with the year in which they turn 67 years of age. Last session, I introduced and prioritized LB75. It would have excluded military retirement benefit income from state income taxation up to a much larger amount. Over the course of the two legislative sessions, I have worked with fellow members of the Revenue Committee as well as the Tax Modernization Committee to reach a compromise on this much needed tax reform effort. As a result, AM2458 is the end result of many months, if not years, of negotiations and compromise. It is a modest

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military retirement benefit income tax exemption. It does not go nearly as far as I would prefer, but I accept the committee's compromise. You will notice that it is a prospective measure. Only persons who retire in the future or who have retired within the last two years of the effective date of this act will be eligible to make the election. Again, I wish this amendment went further and applied to previous retirees, but I accept this compromise. I would like to thank the members of the Revenue Committee for hanging in there with me as we worked through this issue. I'd also like to recognize and thank Senators Crawford, Kintner, Krist, Smith, including past senators, Senator Cornett and I believe Senator Price and possibly even Senator Kopplin as I looked back at it who introduced or cosponsored bills that addressed our military retirement taxation problems. And I'm hopeful that in the coming years this Legislature will take a look back at this bill and I think it'll work out well and I think we can probably add additional retirees to it. Nebraska is only...is one of only eight states that provide no preferential treatment for military retirement benefits. We need to remedy this situation in order to retain our current military service persons and recruit new military retirees to our state to nurture and grow our budding defense contractor industry and other industries that depend on the expertise of retired military persons. Colleagues, this amendment is an economic development proposal as well as a military service person recognition and thanks initiative. To conclude, we heard about this issue over and over again during the Tax Modernization Committee's work over the last year. It is important for our state and economy to make progress in this area. It is a modest proposal. It may not be perfect, but sometimes perfect is the enemy of good and I believe this is good and I'll accept this compromise as a good-faith effort to make inroads into modernizing our state tax policy. Thank you for your support. [LB987 LB75]

SENATOR COASH: Thank you, Senator Janssen. Members, you've heard the opening to AM2458. Members wishing to speak, Senators Crawford and Krist. Senator Crawford, you are recognized. [LB987]

SENATOR CRAWFORD: Thank you, Mr. President. I would like to echo Senator Janssen's thanks to the Revenue Committee for voting out a military retirement tax bill. This is an important piece of modernizing our tax system and it is very important at this time when we have so many military retire...so many people who are leaving the military to be attentive to making sure that we're able to recruit the military people who are retired in the military into our work force. I appreciate that the committee recognizes the importance of that recruitment element. I am disappointed that it does not provide tax relief for those military retirements who have already chosen to live and work in Nebraska. It does not help us retain the military retirees who have already made a commitment to our state and our communities. And so that's very important work that remains to be done, and I'm sure we'll have further discussions on that. But this is a step in terms of making sure we have a tax system that pays attention to trying to recruit new military retirees to our state. Thank you. [LB987]

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SENATOR COASH: Thank you, Senator Crawford. Senator Krist, you're recognized. [LB987]

SENATOR KRIST: Thank you, Mr. President. Good afternoon or good evening, colleagues, and hello, Nebraska. I want to thank Senator Janssen and the Revenue Committee for bringing it forward. There have been a host of folks who have been involved with this over the past few years and it solves one of my immediate problems, and that was everyone asked me, don't you have a conflict of interest bringing this forward. (Laugh) I don't anymore. So there you have it. This is truly a step in the right direction and something that needs to be done now. And I agree with Senator Janssen. My hope is that we come back here every year and take a look at where we are and kind of the reverse of a sunset. We look at trying to make sure that we're doing the right thing every year, and if we can add to the process or reevaluate the process and make it better, I think I'll be here for the next four years to try to do that as well. So thank you, Senator Janssen. Thank you, Revenue Committee. And I hope if you're listening out there in TV land, the veterans are getting their first step forward. Thank you. [LB987]

SENATOR COASH: Thank you, Senator Krist. Senator Garrett, you're recognized. [LB987]

SENATOR GARRETT: Thank you, Mr. President, members of the body. I, too, would like to echo my thanks to Senator Janssen and the Revenue Committee and also Senator Kintner, Senator Smith, Senator Crawford, Senator Janssen, for bringing bills trying to, you know, get a bigger hunk of military retirement exempt from state income tax. I'm reminded of the old adage, how do you eat an elephant; one bite at a time. This is...we'll take whatever we can get one step at a time. But I've got firsthand experience. I know military retired people that retire out of Offutt Air Force Base and move across the river just to escape the state income tax. So, again, not a perfect bill by any stretch of the imagination, but we'll take what we can get at this point. And I'd like to thank everyone involved for their efforts. Thank you, Mr. President. [LB987]

SENATOR COASH: Thank you, Senator Garrett. Senator Kintner, you're recognized. [LB987]

SENATOR KINTNER: Well, thank you, Mr. President. I want to thank Senator Janssen, the Revenue Committee for moving this forward, all of the senators that Senator Janssen, Senator Garrett just mentioned for working on this. I think last year there were seven bills. We came back this year with three or four, maybe five more bills. Obviously if there was this many bills being brought forward by senators, there's a problem. And this is a modest first step in addressing the competitiveness of our state with other states in terms of taxing retirees, military retiree's benefits. And I assure you and I want to assure the veterans out there we're coming back for more. And I think that starts by holding a line on spending in the future. We can hold the line on spending, we can start

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to work our taxes down. And this is a good first step and I once again thank Senator Janssen and all the other senators and I assure the veterans out there we're coming back for more. Thank you. [LB987]

SENATOR COASH: Thank you, Senator Kintner. Senator Hadley, you're recognized. [LB987]

SENATOR HADLEY: Mr. President, members of the body, I will be very brief. We spent a great deal of time this summer and this fall with the Tax Modernization Committee made up of a lot of hardworking people that spent a lot of time, and I just want to quickly run through the things we heard about that you have done something about this session. I think it's pretty impressive. First, the military retirement. I appreciate Senator Janssen bringing that. I appreciate Senator Crawford, Senator Kintner, being on this. We heard about it. We're doing something. We indexed the tax brackets. We talked about that could be in ten years \$100 million savings to the taxpayers of Nebraska. For the first time ever people are going to have part of their Social Security exempted, a higher level than the federal government does. We increased the homestead exemption to keep people in their homes. We have the military disabled bill, the 100 percent from Senator Pirsch, that will exempt 100 percent of their property taxes. We have the 100 percent for the developmentally disabled that own a home. We have the property tax credit fund was \$25 million. One, two, three, four, five, six, seven bills that we talked about this summer, we heard from the people that we did something about. We'd all like to do more, but we are constrained about the resources we have in the state of Nebraska. We have to balance the budget. We have to do the right thing. But we did make a start. So I want to thank the Tax Modernization Committee. I want to thank the Revenue Committee and those people that brought the bills, and I want to thank you for voting these bills out and showing the citizens of Nebraska that we do care. Thank you, Mr. President. [LB987]

SENATOR COASH: Thank you, Senator Hadley. Senator Nelson, you're recognized. Seeing no other members wishing to speak, Senator Janssen, you're recognized to close. Senator Janssen waives closing. The question for the body is, shall AM2458 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB987]

ASSISTANT CLERK: 36 ayes, 0 nays on the adoption of the amendment, Mr. President. [LB987]

SENATOR COASH: AM2458 is adopted. [LB987]

ASSISTANT CLERK: Mr. President, I have nothing further on the bill. [LB987]

SENATOR COASH: Senator Murante for a motion. Excuse me, Senator Chambers,

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you're recognized. [LB987]

SENATOR CHAMBERS: He can make his motion first. [LB987]

SENATOR COASH: Senator Murante for a motion. [LB987]

SENATOR MURANTE: Mr. President, I move to advance LB987 to E&R for engrossing. [LB987]

SENATOR COASH: Members, you've heard the motion. Senator Chambers, you are recognized. [LB987]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'd like to say a few words on this bill. Thank you very much. [LB987]

SENATOR COASH: Thank you, Senator Chambers. Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB987 does advance. Next item, Mr. Clerk. [LB987]

ASSISTANT CLERK: Mr. President, LB814. I do have E&R amendments. (ER154, Legislative Journal page 785.) [LB814]

SENATOR COASH: Senator Murante for a motion. [LB814]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB814]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Next item, Mr. Clerk. [LB814]

ASSISTANT CLERK: Mr. President, Senator Avery would move to amend with AM2248. (Legislative Journal page 818.) [LB814]

SENATOR COASH: Senator Avery, you are recognized to open on AM2248. [LB814]

SENATOR AVERY: Thank you, Mr. President. AM2248 updates the definition of an all-terrain vehicle and the definition of a utility-type vehicle. The bill allows for titles to be issued for new products that don't currently fit the ATV or UTV definitions in our statutes. This was brought to our attention by Polaris, which is a major manufacturer and employer in the state of Nebraska. The proposed ATV definition increases the weight limit from 900 to 1,200 pounds and updates the tire terminology by inserting non-highway tires to allow for non-pneumatic tires that apparently is state of the art work now in this field. In the utility-type vehicle, the definition, the bill strikes the weight and

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width ranges, simply keeping the current maximum weight of 2,000 pounds and a maximum width of 74 inches and updates the tire terminology to include non-highway tires. The ATVs and UTVs that have been modified or retrofitted with aftermarket parts are not eligible for a registration in this state, and that is made clear in this amendment. The amendment also authorizes county treasurers to collect all sales taxes on ATVs and UTVs bought outside the state of Nebraska when those vehicles are required to be...have a certificate of title in this state. If the sales and use tax is not collected in the state of purchase, the county treasurers will collect that state here in Nebraska or that tax here in Nebraska. If the tax is lawfully paid in the state of purchase are less than the tax imposed in this state, the county treasurer will collect the difference as a condition of getting a certificate of title in Nebraska. This amendment incorporates provisions of LB982 drafted by and sponsored by Senator Dubas. We believe that it will broaden the definition to bring the current statute more in line with what is being produced in the state in the ATV and UTV category. Also, the collection of sales taxes response to a question that Senator Carlson brought up in our debate on this issue on General File. So I would urge you to help us with this amendment with a green vote. It does broaden the definition. That will probably bring a little bit more money into the treasury or to the development fund that is being set up by LB814 for the Game and Parks Commission. We believe also that the clarification of language relating to the sales taxes collected were not collected in other states for these vehicles. We believe that is necessary and I just would point out that we took the language in the current statute from the Department of Motor Vehicles with respect to cars. We took that statute and transferred it word for word to apply to ATVs and UTVs. So when you go to the amendment and you read that language, that is the same as the current statute relating to cars. With that, I will end and ask for you to support this and move it on to Final Reading. Thank you, Mr. President. [LB814 LB982]

SENATOR COASH: Thank you, Senator Avery. Members, you're heard the opening to AM2248. Senator Dubas, you're recognized. [LB814]

SENATOR DUBAS: Thank you, Mr. President. I would just like to rise and thank Senator Avery for incorporating LB982 into LB814. LB982 is pretty simple, straightforward. It was just bringing statutes in line with the type of vehicles that are now available for people to buy. There have been a lot of changes, improvements, etcetera, in ATVs and UTVs, the non-pneumatic tires. We've had the opportunity to see what those tires look like so that it makes it a lot easier for all-terrain driving. And so, you know, the portion of the bill...the portion of LB982 that is in LB814 simply deals with that updating of those definitions and bringing those in line with the types of ATVs and UTVs that are available for purchase. And I encourage the body to support the amendment and the underlying bill. Thank you. [LB814 LB982]

SENATOR COASH: Thank you, Senator Dubas. Senator Hadley, you're recognized. [LB814]

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SENATOR HADLEY: Mr. President, members of the body, I just stand completely in support of AM2248 and LB814. It included my bill, LB813. I want to echo exactly what Senator Avery said. This is not a new tax. It's just a new collection system and we hope and we really feel that it will result in an increase in tax because it is now the county treasurer that will be collecting the tax on new vehicles and also the use tax on ATVs and UTVs that are brought into the state. So, again, I ask for your green vote on this amendment and on the bill, LB814. Thank you, Mr. President. [LB814 LB813]

SENATOR COASH: Thank you, Senator Hadley. Senator Bloomfield, you're recognized. [LB814]

SENATOR BLOOMFIELD: Thank you, Mr. President. Would Senator Avery yield for a question? [LB814]

SENATOR COASH: Senator Avery, will you yield? [LB814]

SENATOR AVERY: Yes. [LB814]

SENATOR BLOOMFIELD: Senator Avery, that description sounded a lot like my lawn mower. We're not going to go that route, are we? [LB814]

SENATOR AVERY: No, we're not. [LB814]

SENATOR BLOOMFIELD: This is not intended to be lawn mowers, golf carts, or various other items like that I assume. [LB814]

SENATOR AVERY: ATVs, all-terrain vehicles, UTVs, utility vehicles, that's...and they're defined in current law and we are just updating this language to reflect changes in the design of these vehicles. [LB814]

SENATOR BLOOMFIELD: Okay. I just wanted to make sure we weren't giving Game and Parks my lawn mower taxes. [LB814]

SENATOR AVERY: Your lawn mower is safe, sir. [LB814]

SENATOR BLOOMFIELD: Thank you. [LB814]

SENATOR COASH: Thank you, Senator Bloomfield. No other members wishing to speak, Senator Avery, you're recognized to close on your amendment. Senator Avery waives closing. The question for the body is, shall AM2248 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB814]

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ASSISTANT CLERK: 29 ayes, 0 nays on the adoption of the amendment, Mr. President. [LB814]

SENATOR COASH: AM2248 is adopted. [LB814]

ASSISTANT CLERK: Nothing further on the bill, Mr. President. [LB814]

SENATOR COASH: Senator Murante for a motion. [LB814]

SENATOR MURANTE: Mr. President, I move to advance LB814 to E&R for engrossing. [LB814]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Opposed, nay. LB814 does advance. Next item, Mr. Clerk. [LB814]

ASSISTANT CLERK: Mr. President, LB814A. There are no E&R amendments. I do have an amendment from Senator Avery, AM2258. (Legislative Journal page 800.) [LB814A]

SENATOR COASH: Senator Avery, you're recognized to open on AM2258. [LB814A]

SENATOR AVERY: Thank you, Mr. President. AM2258 is an amendment that updates the original amendment because of anticipated changes in the amount of money that LB814 will generate. The new numbers are \$3,149,883 instead of the \$2,567,000 in the 2014-15 fiscal year. It also amends the \$2,680 to \$3 million...that's wrong, that's \$2,680,000 to \$3,709,383 in the fiscal year 2015-16. The revenue estimates were received from both the Game and Parks Commission and the Department of Revenue for the purpose of this fiscal note, the average of these two estimates are used. The change reflects the additional sales anticipated under the bill and the amendment we just adopted. With that, I would ask for you to support AM2258. Thank you. [LB814A LB814]

SENATOR COASH: Thank you, Senator Avery. Members, you've heard the opening to AM2258. Seeing no members wishing to speak, Senator Avery is recognized to close. Senator Avery waives closing. The question for the body is, shall AM2258 be adopted? All those in favor vote aye; those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB814A]

ASSISTANT CLERK: 27 ayes, 0 nays on the adoption of Senator Avery's amendment. [LB814A]

SENATOR COASH: AM2258 is adopted. [LB814A]

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ASSISTANT CLERK: Nothing further on the bill, Mr. President. [LB814A]

SENATOR COASH: Senator Murante for a motion. [LB814A]

SENATOR MURANTE: Mr. President, I move to advance LB814A to E&R for engrossing. [LB814A]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Opposed, nay. LB814A is advanced. Next item, Mr. Clerk. [LB814A]

ASSISTANT CLERK: Mr. President, LB867. I do have E&R amendments. (ER155, Legislative Journal page 785.) [LB867]

SENATOR COASH: Senator Murante for a motion. [LB867]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB867]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Opposed, nay. E&R amendments are adopted. Next item, Mr. Clerk. [LB867]

ASSISTANT CLERK: Next amendment, Senator Nelson, AM2223. (Legislative Journal page 862.) [LB867]

SENATOR COASH: Senator Nelson, you're recognized to open on AM2223. [LB867]

SENATOR NELSON: Thank you, Mr. President and members of the body. AM2223 adopts LB1043, which is a bill I introduced this session to provide an exemption from the documentary stamp tax for deeds donating property to public charities. LB1043 advanced out of the Revenue Committee with an 8 to 0 vote and it simply reflects the fact that good public policy does not tax charitable gifts. And I want to thank Chairman Hadley of the Revenue Committee with his green light as far as amending this amendment onto LB867. Nebraska Revised Statutes Section 76-901 imposes a documentary stamp tax on transfers of real property within the state. When a deed is presented to the register of deeds for recording, the grantor must remit a tax in the amount of \$2.25 for every \$1,000 of the real property's value. However, Section 76-902 provides no less than 24 exemptions from the stamp tax, including an exemption for all deeds distributed pursuant to a will, for all transfer on death deeds, and for deeds between spouses or between a parent and child without consideration. AM2223 is a commonsense addition to LB867 because it would harmonize the documentary stamp tax with public policy regarding the way we treat charitable donations. It would exempt deeds transferring real property without actual consideration therefore to nonprofit organizations exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code to the extent that such organization is not a private foundation as

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defined in Section 509(a) of the Internal Revenue Code. This exemption would reflect fundamental public policy that treats charitable donations as tax reducing or at least nontaxable events. The people of our state should be free to make inter vivos donations of real property for charitable purposes without having to pay an extra tax. This amendment would have several additional benefits. For example, because Nebraska already exempts deeds executed under a will or by intestate succession and because it exempts transfer on death deeds, this amendment would give property owners more freedom to make transfers of real estate to public charities during their lifetimes. Additionally, it would bring Nebraska into closer harmony with surrounding states, Iowa and South Dakota, for example, where they have a similar real estate transfer tax but they exempt all transactions that lack consideration. AM2223 would simply exempt real property transfers without consideration when the beneficiary is a public charity. AM2223 is good tax policy. Our public charities provide aid for the poor, the sick, the hungry. They play a critical role in providing public assistance where the state cannot intervene. Nebraska should not tax donors who make inter vivos gifts of real property to public charities. Colleagues, it's just that simple. I urge you to adopt AM2223. Thank you, Mr. President. [LB867 LB1043]

SENATOR COASH: Thank you, Senator Nelson. Members, you've heard the opening to AM2223. The floor is now open. Senator Schumacher, you are recognized. [LB867]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I rise briefly to voice support for AM2223. It clears up a little bit of anomaly in our law. Our law right now provides that if you die and leave somebody a piece of real estate in your will, you don't have to pay this \$2.25 per \$1,000 value recording fee. However, if you want to give them a gift before you die and see the grin on their face, it cost you the recording fee. This clears that up and makes it very clear that gifts, dead or alive, to charities do not have to pay this documentary stamp tax. Thank you, Mr. President. [LB867]

SENATOR COASH: Thank you, Senator Schumacher. Senator Hadley, you're recognized. [LB867]

SENATOR HADLEY: Mr. President, members of the body, I'll be very brief. This did...this was a bill in front of the Revenue Committee and it did pass out eight to nothing with complete 100 percent support. So I do agree that it should be a green vote on this amendment to LB867. Thank you, Mr. President. [LB867]

SENATOR COASH: Thank you, Senator Hadley. Seeing no other lights on, Senator Nelson, you're recognized to close on the advancement of AM...the adoption of AM2223. [LB867]

SENATOR NELSON: Thank you, Mr. President. I want to thank colleagues Senator Schumacher and Senator Hadley for their comments, otherwise I think the bill speaks

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for itself and I would urge the body to adopt AM2223 at this time. Thank you, Mr. President. [LB867]

SENATOR COASH: Thank you, Senator Nelson. Members, you've heard the closing to AM2223. The question for the body is, shall AM2223 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB867]

ASSISTANT CLERK: 33 ayes, 0 nays on the adoption of Senator Nelson's amendment. [LB867]

SENATOR COASH: AM2223 is adopted. You have an amendment, Mr. Clerk. [LB867]

ASSISTANT CLERK: Senator Nordquist would offer AM2262. (Legislative Journal page 877.) [LB867]

SENATOR COASH: Senator Nordquist, you're recognized to open on AM2262. [LB867]

SENATOR NORDQUIST: Thank you, Mr. President and members. AM2262 is essentially the committee amendment that the Revenue Committee voted out for LB150, which came out of committee with seven positive votes. The purpose of that bill is really to level the playing field for natural gas as a transportation fuel in our state, whether it's compressed natural gas or liquid natural gas. I certainly subscribe to the all-of-the-above approach to developing an energy portfolio in our state that includes domestic sources of fuel, renewable fuels, but certainly the use of natural gas as a transportation fuel should be a part of that. And this is an issue I've worked on since getting elected to the Legislature. There are essentially three components to the LB150 or what's now in this committee amendment. The first is a tax issue that just affects the city of Omaha. Right now, MUD pays the city of Omaha a 2 percent tax on their gross...a 2 percent fee on their annual gross revenues from the sale of water and gas, and this is in lieu of property taxes. So MUD doesn't pay the city of Omaha property taxes. They pay just a 2 percent charge. Well, that's added on top of any...the gas tax, if you will, the equivalent gas tax for CNG or LNG, that 2 percent is added on top of it. So it makes it, again, less competitive because of the additional tax. This would...for right now, it would be about a \$12,000 net loss of income to the city of Omaha. Mayor Stothert has submitted a letter in support of removing the tax when the purchase is for natural gas that's used for vehicular fuel. The next section, which is Section 6 of the amendment, is specifically for liquid natural gas and it would equate liquid...the energy equivalent of liquid natural gas to that of diesel. Right now under current statute, both compressed and liquid natural gas are related to gasoline. Well, compressed natural gas tends to be a replacement for gasoline. Liquid natural gas tends to be a replacement for diesel. So we took the industry standard of what the energy equivalent is for liquid...what would be a gallon equivalent of liquid natural gas and made that equivalent energywise to a gallon of diesel fuel. There is no liquid natural gas being sold

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in the state right now, so this would be...would not have a fiscal note. And then the final portion, which is in Section 11 on the amendment, page 3, basically says any energy used to compress the natural gas would be exempt. And, again, this is a small...this would have a small impact to the state. Right now, there would be a tax on that energy. I believe it's going to be in the neighborhood of about \$2,400 to the state and about another \$600 statewide to any cities that the energy is being used in to compress the natural gas for CNG vehicular purposes. So this just addresses three small tax items to ensure LNG and CNG have a little more of a level playing field for the treatment of that taxation. Thank you. [LB867 LB150]

SENATOR COASH: Thank you, Senator Nordquist. Members, you've heard the opening to AM2262. The floor is now open for discussion. Seeing no members wishing to speak, Senator Nordquist, you're recognized to close on your amendment. Senator Nordquist waives closing. The question for the body is, shall AM2262 be adopted? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB867]

ASSISTANT CLERK: 28 ayes, 0 nays on the adoption of the amendment. [LB867]

SENATOR COASH: AM2262 is adopted. Next amendment, Mr. Clerk. [LB867]

ASSISTANT CLERK: Senator Hadley would move to amend with AM2449. (Legislative Journal pages 959-963.) [LB867]

SENATOR COASH: Senator Hadley, you're recognized to open on AM2449. [LB867]

SENATOR HADLEY: Mr. President, members of the body, AM2449 is basically a technical amendment. The reason for this amendment, it provides a clear time line on the quarterly payments under the Sports Arena Facility Financing Assistance Act. It shifts from estimated payments to what it requires to reconciliation at the end of the year to quarterly payments after actual receipts are collected. As was discussed on General File, the bill only accelerates the payments to a city under this act. The total aggregate amount distributed to a city will not change under this amendment. Only when the payments are made. If this...when this amendment is adopted, we will pass over the A bill because as historically has been done in any case in modifications to the A bill will be calculated only after an amendment is adopted and the bill moves. Again, this does not change the totals at all. It just changes the timing of the payments under the Sports Arena Facility Financing Act. And I would appreciate your green vote on AM2449 and LB867. [LB867]

SENATOR COASH: Thank you, Senator Hadley. Members, you've heard the opening to AM2449. The floor is now open for discussion. Seeing no members wishing to speak, Senator Hadley, you're recognized to close. Senator Hadley waives closing. The question for the body is, shall AM2449 be adopted? All those in favor vote aye; those

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opposed vote nay. Record, Mr. Clerk. [LB867]

ASSISTANT CLERK: 36 ayes, 0 nays on the adoption of Senator Hadley's amendment. [LB867]

SENATOR COASH: AM2449 is adopted. [LB867]

ASSISTANT CLERK: Nothing further on the bill, Mr. President. [LB867]

SENATOR COASH: Senator Murante for a motion. [LB867]

SENATOR MURANTE: Mr. President, I move to advance LB867 to E&R for engrossing. [LB867]

SENATOR COASH: Members, you heard the motion. All those in favor say aye. Opposed say nay. LB867 does advance. Members, we will pass over LB867A. Next item, Mr. Clerk. [LB867]

ASSISTANT CLERK: Mr. President, LB1001. There are no E&R amendments. I do have an amendment from Senator Wallman, AM2316. (Legislative Journal page 866.) [LB1001]

SENATOR COASH: Senator Wallman, you're recognized to open on AM2316. [LB1001]

SENATOR WALLMAN: Thank you, Mr. President. AM2316 would replace the bill. During the initial debate on LB1001, there was some confusion as to who can grow industrial hemp. Under the farm bill, it only allows for research and pilot programs. There are two bills that will allow for commercial growers, but they have not passed as yet. So we just thought it would be best to tighten down this bill and make it clear that we're mirroring what is currently allowed by the federal government. I also want to make it clear this is not a noxious weed. It is not on the federal or state list. I know that was brought up during the initial debate. We also believe that the amendment will clear up any confusion as to if this falls under this tax stamp. We met with the Department of Ag recently. I know that they're okay with this amendment. We also met with a Sheriffs' Association representative and explained the amendment to him, and I'm hopeful we were able to ease their concerns. So I appreciate all my colleagues support this year and I know there is a knee-jerk reaction to industrial hemp, but this is truly, truly about ag and allowing Nebraska to keep up. Thank you, Mr. President. [LB1001]

SENATOR COASH: Thank you, Senator Wallman. Members, you've heard the opening to AM2316. The floor is now open for discussion. Senator Hansen, you're recognized. [LB1001]

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SENATOR HANSEN: Thank you, Mr. President. Senator Wallman, would you yield to a question? [LB1001]

SENATOR COASH: Senator Wallman, will you yield? [LB1001]

SENATOR WALLMAN: Yes, I would. [LB1001]

SENATOR HANSEN: Senator Wallman, we have seen what's going on in Colorado and some of it's bled over into Nebraska. Does your bill...I mean, it says a secondary college, would that be UNL Department of Ag, the Agronomy Department, something like that? [LB1001]

SENATOR WALLMAN: Yes, it would, Senator. [LB1001]

SENATOR HANSEN: So the state of Nebraska...okay, I get questions on both sides of this. I mean, I've gotten some e-mails both sides. So we...sounds like the state of Nebraska is going to legalize growing hemp and the University of Nebraska is going to experiment with it. They're going to grow it on their land. Sweet! (Laughter) Thank you. [LB1001]

SENATOR KRIST PRESIDING

SENATOR KRIST: Thank you, Senator Hansen. Senator Bloomfield, you're recognized. [LB1001]

SENATOR BLOOMFIELD: Thank you, Mr. President. I think Senator Chambers was right a while ago when he said the days dwindle down to a precious few. And after that response, maybe that's a good thing. Colleagues, I'm in full support of the amendments that Senator Wallman has brought forth on this. As you remember, Senator Wallman wasn't feeling real well the day this was introduced and there were some questions that probably weren't answered correctly. This opens us up to where we can do the research, and when something better is allowed by federal government we will be in position to take advantage of it. Please support AM2316 and the underlying bill. Thank you. [LB1001]

SENATOR KRIST: Thank you, Senator Bloomfield. Seeing no one else in the queue, Senator Wallman, you're recognized to close on your amendment. [LB1001]

SENATOR WALLMAN: And I want to thank my staff Jeni for working on this and the people that helped and all the people in here, and I'd appreciate a green vote. [LB1001]

SENATOR KRIST: You've heard the closing on AM2316. The question is the advancement on AM2316 to LB1001. All those in favor vote aye; opposed, nay. Have all

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those voted that wish to? Please record, Mr. Clerk. [LB1001]

ASSISTANT CLERK: 35 ayes, 0 nays on the adoption of Senator Wallman's amendment. [LB1001]

SENATOR KRIST: Amendment is adopted. [LB1001]

ASSISTANT CLERK: Mr. President, I have nothing further on the bill. [LB1001]

SENATOR KRIST: Senator Murante for a motion. [LB1001]

SENATOR MURANTE: Mr. President, I move to advance LB1001 to E&R for engrossing. [LB1001]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. It advances. Mr. Clerk. [LB1001]

CLERK: LB1001A, Mr. President. Senator Wallman would move to indefinitely postpone the bill. [LB1001A]

SENATOR KRIST: Senator Wallman, you are recognized. [LB1001A]

SENATOR WALLMAN: Yes. [LB1001A]

SENATOR KRIST: Senator Wallman, could you explain or elaborate why you're making the motion? [LB1001A]

SENATOR WALLMAN: Oh, well, we don't need the bill now that being as the university is involved in this here, so we don't feel we need any A bill on this bill. [LB1001A]

SENATOR KRIST: Senator Mello, you're recognized. [LB1001A]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. With the adoption of the amendment on the previous underlying bill in LB1001, Senator Wallman's office worked with the Fiscal Office in respect to the underlying A bill and they suggested that this was a way to dispose of the A bill since it won't be needed since the body adopted the underlying amendment in the previous bill. So you can IPP the A bill and the bill will move forward because there will be no fiscal impact. Thank you, Mr. President. [LB1001A LB1001]

SENATOR KRIST: With that explanation, we have heard the opening on the motion to indefinitely postpone. All those in favor, aye; opposed, nay. Please record, Mr. Clerk. [LB1001A]

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CLERK: 32 ayes, 0 nays, Mr. President, on the motion to indefinitely postpone the bill. [LB1001A]

SENATOR KRIST: Motion passes. Next item. [LB1001A]

CLERK: Mr. President, LB560. Senator, I do have E&R amendments pending. (ER161, Legislative Journal page 856.) [LB560]

SENATOR KRIST: Senator Murante, for a motion. [LB560]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB560]

SENATOR KRIST: You heard the motion. All those in favor, aye. Opposed, nay. Done. [LB560]

CLERK: Senator Lathrop would move to amend with AM2391. (Legislative Journal page 918.) [LB560]

SENATOR KRIST: Senator Lathrop, you're recognized. [LB560]

SENATOR LATHROP: Thank you very much, Mr. President and colleagues. You'll remember when this bill came up, Senator Schumacher and I had a debate on...this is the pay stub bill. And Senator Schumacher had a concern about the language in that he thought it would require when it said "the hours worked," that it would require that somebody who doesn't keep time begin to keep time, and it would create a number of problems. After we moved this bill on General File with the language that Senator Schumacher did not appreciate and tried to amend, we agreed on an amendment. This is that amendment. Instead of saying that the pay stub needs to reflect the hours worked, it would be the hours for which the person was paid. And that actually takes care of the concern Senator Schumacher had. And I would encourage your...it essentially does everything else the same as represented during General File debate on LB560. And I would encourage your support of AM2391 and moving LB560 along. Thank you. [LB560]

SENATOR KRIST: Thank you, Senator Lathrop. Senator Schumacher, you are recognized. [LB560]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. I want to extend my thanks to Senator Lathrop who recognized what I was trying to say in this rather "inartful" way and came up with a very good solution. I encourage the adoption of AM2391. Thank you. [LB560]

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SENATOR KRIST: Thank you, Senator Schumacher. Seeing no one else wishing to speak, Senator Lathrop waives closing. The question is the adoption of AM2391 to LB560. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB560]

CLERK: 33 ayes, 0 nays on the adoption of Senator Lathrop's amendment. [LB560]

SENATOR KRIST: Amendment is adopted. [LB560]

CLERK: I have nothing further on the bill, Mr. President. [LB560]

SENATOR KRIST: Senator Murante for a motion. [LB560]

SENATOR MURANTE: Mr. President, I move to advance LB560 to E&R for engrossing. [LB560]

SENATOR KRIST: You've heard the motion. All those in favor, aye. All those opposed, nay. It advances. Mr. Clerk. [LB560]

CLERK: LB560A. I have no amendments to the bill, Senator. [LB560A]

SENATOR KRIST: Senator Murante for a motion. [LB560A]

SENATOR MURANTE: Mr. President, I move to advance LB560A to E&R for engrossing. [LB560A]

SENATOR KRIST: You heard the motion. All those in favor, aye. Opposed, nay. It advances. Next item. [LB560A]

CLERK: Senator, I have E&R amendment pending to LB853. (ER162, Legislative Journal page 884.) [LB853]

SENATOR KRIST: Senator Murante for a motion. [LB853]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB853]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. Adopted. [LB853]

CLERK: Senator Coash, I have AM2396, but I have a note you wish to withdraw that, Senator. [LB853]

SENATOR COASH: Yes, Mr. Clerk. [LB853]

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SENATOR KRIST: Withdrawn. [LB853]

CLERK: Senator Coash would move to amend with AM2441. (Legislative Journal page 918.) [LB853]

SENATOR KRIST: Senator Coash, you're recognized. [LB853]

SENATOR COASH: Thank you, Mr. President. Good evening, colleagues. AM2441 has a few components that I'll walk through. For the most part, it is a technical and clarifying amendment, but it also represents a few things that I wanted to put into the bill to strengthen it after working with Senator Mello and others. So here are the changes. With "alternative response," and let me just...a brief overview of what "alternative response" is, as we discussed on the General File amendment. It allows for another response for child welfare in cases where there is no danger to the child; however, there is no need for an investigation. The first change that you will see in this amendment is adding alternative response records to something that can be reviewed for the Child and Maternal Death Review Act. Since we are adding another type of report, we need to add that to this section of law so that it can be reviewed by that particular committee. That was the first change. The second change: it strikes a section where...and inserts another section where a report can be made to the Legislature electronically, so that we can receive that electronically and don't have to waste a bunch of paper to do that. There is a technical amendment to allow...the original language suggested that all of these cases would be reviewed by a Review, Evaluate, and Decide Team prior to the alternative response assignment. This is language that was in the bill prior to enacting what we call the "red team." And because we don't plan to review all of the cases, only certain cases, we needed to clean up that language. In addition to the report that comes to the Legislature, we made a change on Page 9 of the amendment to say that the age of the child would be part of the aggregate report to the Children's Commission and to the Legislature. So those are the small, technical changes that I wanted to make. And I also want to make a few things clear in the record, because I've worked with Senator Mello on this issue between now and Select, and I wanted to make sure that a couple things were in the record to identify legislative intent with regard to alternative response. First of all, if law enforcement saw...first of all, law enforcement, should they want a report--they get them anyway--but law enforcement can have any report that they want. If a county attorney wants to see these reports, all they have to do is ask for it. If a child advocacy center wants to see a report, all they have to do is ask for it. This is a very transparent process, and we want to make sure those who are in a position to review these cases have the opportunity to see that. And so we want to make sure the record is clear that they can see those reports. If one of those cases is...if law enforcement sees a case that goes through alternative response, they can do their own investigation independent of the alternative response. Nothing about the bill or this amendment changes law enforcement's role in any way. They still have the power and the duty to

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investigate any case that they see fit. I want to make it clear on the record that having a case go through an alternative response does not mean law enforcement is precluded from investigating on their own. With that, I would urge your adoption of AM2441 and would answer any questions. Thank you, Mr. President. [LB853]

SENATOR KRIST: Thank you, Senator Coash. You've heard the opening. Those wishing to speak: Senator Mello. And, Senator Mello, you are recognized. [LB853]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I rise in full support of AM2441. And, more importantly, I'd like to thank Senator Coash for his due diligence and his extensive work on addressing some issues that I raised earlier in the session in regard to some skepticism I had about alternative response. One, some skepticism I had in regard to the fiscal nature of what the program was going to be doing...or the approach was going to be doing in HHS, which we addressed in some private meetings, as well as ensuring that as we move down the alternative response pathway, that there was adequate oversight and accountability measures put in every possible way of this pathway, moving forward, to protect vulnerable young children. And I think Senator Coash went above and beyond in regard to doing his due diligence: the hard work on digging into the issue, answering the questions I had, negotiating in regard to some language that we wanted to see in regard to the underlying bill. This amendment, as Senator Coash mentioned, is some technical changes that we talked about that we wanted to see in respect to the Child Death Review Team and in the Child Death Review Report, as well as making some cleanup, technical language changes as well that...I can't say enough positive things about the hard work that was done to bring, I think, alternative response to the position it is today, with some more technical changes that provide once again some more additional oversight, some more additional review in the unfortunate case that there ever is a child death again in the system. Senator Coash did a great job, I think, of providing some more of that legislative intent that we had talked about in regard to conversations we had with child advocacy entities and law enforcement. And I really want to thank him for his due diligence and hard work with this amendment and the underlying bill and urge the body to adopt it. Thank you, Mr. President. [LB853]

SENATOR KRIST: Thank you, Senator Mello. Seeing no one wishing to speak, Senator Coash, you're recognized to close on your amendment. [LB853]

SENATOR COASH: Thank you, Mr. President. And thank you, colleagues. I'll just take this closing as an opportunity to reiterate how much of a culture change this bill represents. And I think Senator Krist has talked about this on numerous times on the mike, and others. We need to see a real sea change in the way that we deal with children who are at risk and how we help families stay together. This amendment, the alternative response that is under it, is a small part of that change. And it's a part of how we are going to change the way that we do our business when it comes to dealing with

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these families. Not every family needs to be torn apart because of problems within that family. This concept, this bill, is going to keep families together. And it's no small feat. And I appreciate Senator Mello's comments. I would be remiss if I didn't acknowledge those that worked with me on this. I have a Judiciary Committee that worked with me, very supportive. A lot of stakeholders came together on this. When we started down this road, there was a, as there should have been, a healthy dose of skepticism whether or not this could work in our state, this could work under the current system. And it took a year, but we got people turning their eye to the future, focusing on what's best for children. And for that reason, we are where we are today, and I was happy to lead that effort. I thank Senator Mello for working with me on this. And I urge your adoption of AM2441. Thank you, Mr. President. [LB853]

SENATOR KRIST: Thank you, Senator Coash. Members, you've heard the closing on AM2441. The question is the adoption of the amendment to the bill. All those in favor, aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB853]

CLERK: 33 ayes, 0 nays on adoption of Senator Coash's amendment. [LB853]

SENATOR KRIST: The amendment is adopted. Next item. [LB853]

CLERK: Senator Howard would move to amend with AM2397. (Legislative Journal page 903.) [LB853]

SENATOR KRIST: Senator Howard, you're recognized. [LB853]

SENATOR HOWARD: Thank you, Mr. President, colleagues. AM2397 is an amendment to incorporate parts of my bill LB790 into LB853. First, I want to thank Senator McGill and Senator Coash for graciously allowing me to bring this amendment. The purpose of AM2397 is to ensure a high-quality, consistently trained child welfare work force. AM2397 would require the same initial training program for all child welfare case workers, whether they work for the Department of Health and Human Services or for private contractors. This will enable us to draw down Title IV-E dollars for initial training of all case workers and ensure consistency across the state. In addition, the training must promote evidence-based, family-centered practice that utilizes the least-restrictive approach for children and families. Each trainee must complete a formal assessment before assuming responsibilities to ensure competency. The amendment also requires that DHHS create a formal system for measuring and evaluating the quality of initial training, which has never been done before. Again, AM2397 incorporates provisions of LB790 into LB853. LB790 was unanimously voted out of the Health and Human Services Committee, and there were no opposition testifiers. I urge your green vote on AM2397. Thank you, Mr. President. [LB853 LB790]

SENATOR KRIST: Thank you, Senator Howard. Would you like to close on your

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amendment? Senator Howard waives closing. You've heard the opening and closing on AM2397. All those in favor, aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB853]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Howard's amendment. [LB853]

SENATOR KRIST: The amendment is adopted. [LB853]

CLERK: Senator, I have nothing further on the bill. [LB853]

SENATOR KRIST: Senator Murante for a motion. [LB853]

SENATOR MURANTE: Mr. President, I move to advance LB853 to E&R for engrossing. [LB853]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. It advances. Next item, Mr. Clerk. [LB853]

CLERK: LB967, Senator. I do have E&R amendments. (ER177, Legislative Journal page 917.) [LB967]

SENATOR KRIST: Senator Murante for another motion. [LB967]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB967]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. It advances. [LB967]

CLERK: Senator Ken Haar would move to amend the bill with AM2462, Mr. President. (Legislative Journal page 932). [LB967]

SENATOR KRIST: Senator Haar. [LB967]

SENATOR HAAR: Mr. President and members of the body, AM2462 was introduced on behalf of the Nebraska Board of Educational Lands and Funds, BELF. That board has responsibility...substantial financial responsibility. It manages over 3,000 agricultural leases worth over \$1.2 billion a year and manages 556 oil, gas, and uranium leases. The money from this rental and these leases is divided up and goes to the schools. It's not a part of TEEOSA. Every student in the public schools gets part of this money. Now, when we were all trying to cut money, this board agreed to give up their per diem, which for 30 years had been \$40 per meeting. We believe and the board believes that it would be only fair since there are 30 other boards that receive substantial per diems, ranging

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from \$20 to \$250, so in fairness...to give that per diem back to the board members. The board members currently are Charles Ward from Valentine, Martin Demuth from Hastings, Glenn Wilson Jr., from Grand Island, James Vokal from Omaha, and Jim Hain from Omaha. There is no fiscal fund impact; the funds are paid out of receipts to the School Lands and, as you can see, amount to about \$11,000 total a year out of a yearly revenue of \$48 million. The director actually came and talked to each of the members of the Education Committee personally. And there was no opposition. The Education Committee advanced the bill with 7 ayes and 1 present and not voting. The board meetings are held once a month, and people are required to come to Lincoln. They give a great deal of their time. They're skilled people to carry out their mission. And again, in fairness, I think it's only fair that we should restore a per diem to these folks of \$50 per meeting. Thank you very much. [LB967]

SENATOR KRIST: Seeing no one wishing to speak, Senator Haar, you're recognized to close on your amendment. Senator Haar waives closing. The question before the body is the adoption of AM2462. All those in favor, aye; opposed, nay. Have all those voted that wish to? Senator Haar. [LB967]

SENATOR HAAR: Mr. President, I'd like a call of the house. [LB967]

SENATOR KRIST: There's been a request for a call of the house. The question is, should the house go under call? All those in favor vote aye; all those opposed, nay. Please record, Mr. Clerk. [LB967]

CLERK: 27 ayes, 0 nays to place the house under call. [LB967]

SENATOR KRIST: The house is under call. Senators please record your presence. Those unexcused senators please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Carlson and Senator Schilz, the house is under call, please return to the Chamber. Senator Schilz, please return to the Chamber; the house is under call. Senator Haar, all members are accounted for. How would you like to proceed? [LB967]

SENATOR HAAR: I'd like a roll call vote in regular order, please. Thank you. [LB967]

SENATOR KRIST: Mr. Clerk, there's been a request for a roll call vote, regular order. [LB967]

CLERK: (Roll call vote taken, Legislative Journal pages 964-965.) 25 ayes, 5 nays, Mr. President, on the adoption of the amendment. [LB967]

SENATOR KRIST: The amendment is adopted. [LB967]

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CLERK: I have nothing further on the bill, Mr. President. [LB967]

SENATOR KRIST: Senator Murante for a motion. [LB967]

SENATOR MURANTE: Mr. President, I move to advance LB967 to E&R for engrossing. [LB967]

SENATOR KRIST: You have heard the motion. All those in favor, aye. Opposed, nay. It advances. Raise the call, please. Items. [LB967]

CLERK: Thank you, Mr. President. A new A bill: LB853A, by Senator McGill. (Read LB853A by title for the first time.) Senator Hadley has an amendment to be printed to LB1067. (Legislative Journal 965-966.) [LB853A LB1067]

Senator Gloor would move to adjourn the body until Thursday, March 20, at 9:00 a.m.

SENATOR KRIST: You have heard the motion. All those in favor, aye. Opposed, nay. We are adjourned until tomorrow morning.