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Floor Debate  
March 25, 2014

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SENATOR COASH PRESIDING

SENATOR COASH: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-ninth day of the One Hundred Third Legislature, Second Session. Our chaplain for today is Pastor Barry Williams of St. John's Lutheran Church in Madison, Senator Scheer's guest. Please rise.

PASTOR WILLIAMS: (Prayer offered.)

SENATOR COASH: Thank you, Pastor Williams. I call to order the forty-ninth day of the One Hundred Third Legislature, Second Session. Senators, please record your presence. Mr. Clerk, please record.

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

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

CLERK: I have no corrections, Mr. President.

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

CLERK: I have one item. Senator Bloomfield offers new resolution, LR527; that will be referred to the Executive Board. That is all that I have, Mr. President. (Legislative Journal page 1067.) [LR527]

SENATOR COASH: Thank you, Mr. Clerk. We will now move to the first item on the agenda, Final Reading. Members should return to their seats in preparation for Final Reading. Mr. Clerk, first item on the agenda.

CLERK: Mr. President, LR41CA on Final Reading; Senator McCoy would move to return LR41CA to Select File for a specific amendment, specifically AM495. Mr. President, I've been advised that Senator McCoy would like to withdraw AM495 and substitute thereto AM2378. (Legislative Journal page 1068.) [LR41CA]

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SENATOR COASH: Any objections? Senator Lautenbaugh. [LR41CA]

SENATOR LAUTENBAUGH: I object. [LR41CA]

SENATOR COASH: Senator McCoy, would you like to move for a substitution?  
[LR41CA]

SENATOR McCOY: Yes. [LR41CA]

SENATOR COASH: Members, the question for the body is: Shall the substitution for AM...members, the question for the body is: Shall AM2378 be substituted? All those in favor...Senator McCoy, you're recognized. [LR41CA]

SENATOR McCOY: It's a point of clarification, Mr. President. Is this moving to a vote to substitute or am I opening on...going ahead and opening on the return to Select File? I'm just clarifying where we are at procedurally. [LR41CA]

SENATOR COASH: Senator McCoy, you have a motion before the body to substitute. That is a debatable motion, so we will go to the queue. [LR41CA]

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

SENATOR COASH: Senator Chambers, you are recognized. Senator Lautenbaugh. Excuse me, Senator McCoy, you need to open on your motion. [LR41CA]

SENATOR McCOY: Thank you for the clarification, Mr. President. Members, what you have before you is an amendment, AM495, that on page 4, line 5, would strike "live, replayed, and delayed horse races" and insert "instant racing terminals" which is the nomenclature and the definition that is often used by even the proponents of this issue. I think that's important for the voters of Nebraska, if this is to go before them in November, to understand that we are talking about instant racing terminals, IRTs. In my view, slot machines with a little screen that shows a horse race. On this motion to substitute, if we get to that point with AM2378, would substitute that and change to say, on page 3 of the Final Reading copy, starting in line 14: "Nothing in this section shall be construed to prohibit (a) the enactment of laws providing for the licensing and regulation of wagering on the results of live"; it would strike "replayed"; so it would say: "live horse races, wherever run, either within or outside of the state, by the pari-mutuel method" and this is where the new language would be instated "or wagering on the results of previously run horse races on instant racing terminals." The reason that I believe this amendment is necessary, if this is to go to the vote of the people, and let me be clear, I am not in favor of LR41CA, is because I don't believe that this form of wagering is pari-mutuel wagering. Therefore, I think this amendment clarifies that we're talking

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about two different things here: pari-mutuel wagering for live horse racing, either for here in the state or for simulcasting, as we already have in our constitution, or an altogether new type of wagering--instant racing terminals that is not pari-mutuel wagering, which if the people of Nebraska so chose could make that determination, because that's in our constitution. To me we're talking about two different things here. We're talking about expanded gambling in a new...with a new product, if you will, instant racing terminals that, heretofore, hasn't been a part of wagering, gambling in Nebraska. But the second thing we're talking about here, and really the second thing we're asking, or would be asking, the people of Nebraska to vote on in November is wagering that is not, in my view, and in the definition of a number of Attorney Generals, and a number of state supreme courts across the country, pari-mutuel wagering. Now I'm sure Senator Lautenbaugh and others will stand up and say--well, yes, it is; it is pari-mutuel wagering. I don't believe it is. And so why would we not want to divide this out and say what we're really asking the people of Nebraska to do. We're really asking the people of Nebraska, if this were to go to them to vote on in November, to vote on not just an expanded form of gambling, but on a new form of wagering that is not pari-mutuel wagering. That's what this amendment defines. Now maybe the people of Nebraska think that is a good idea; I don't know. And maybe they don't. I don't. But I am but one voter. But this issue is before us this morning. And to me we're hiding the ball, if this is to go to the people of Nebraska, unless we clearly define what this is, because this is far from settled as to whether or not this is pari-mutuel wagering, far from settled. I'd like to go through again, which I've done before, an Opinion issued by the Attorney General of Maryland stating that instant racing is simply "a slot machine that attempts to mimic traditional pari-mutuel wagering." And in that Opinion, they were therefore deemed illegal horse tracks in Maryland because the law only allowed for pari-mutuel betting. The Governor of Wyoming a few years ago in a statement when he vetoed a bill that included instant racing terminals said: anyone who has actually observed these machines cannot deny the machines are entirely designed to operate exactly like a slot machine. That's what the nature of this amendment is. If we're going to send something to the voters of this state who are very intelligent people, who understand the issues that we deal with here, they talk to you, they talk to me, they talk to all of us across this state, let's at least be clear to them what we're asking them to do. We're not just asking them again about an expanded form of gambling, instant racing terminals; let's call them what they are, that's what the patents call them, if you look at the patents. But let's remind them of what we're doing here. We're asking them to add into the constitution a whole new form of wagering. That not one court that I've seen, or Attorney General, or state Supreme Court's decision has said is pari-mutuel wagering. And I might remind again, members, this is still being held up in court in Kentucky as we speak because of the problems with defining it as pari-mutuel wagering. By definition, pari-mutuel wagering is wagering on a race there at the racetrack or simulcast, wherever someone might be watching a race, in a pool. With these instant racing terminals, there is no pool. No one else is betting on this race the same time you or I might be. It's not pari-mutuel wagering. And because it's not, if this is going to be sent to the people of Nebraska, then let's define it as the

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fact that it's not. Let's make sure they understand what they're voting on. We have some awfully smart voters out there. Let's not be vague about what we're asking them to vote on if this is going to get sent to them. I'm adamantly opposed to expanded gambling. I understand there are opposing viewpoints to that. I think it has the potential to destroy our quality of life in Nebraska piece by piece. It sure has in a number of other states where divorce rates are up, crime rates are up, bankruptcy rates are way up, domestic violence, absenteeism from school, lower graduation rates for kids, all of those are statistics that you go look at states that have expanded gambling and that's what you're going to find. All sold under the auspicious of--it's more revenue, it's more revenue. [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR McCOY: But at what social cost? At what cost to the good life that we love in Nebraska that repeatedly we have said, all of us, and I think this is something all 49 of us could agree on, all of us have said we love the good life in Nebraska and we want to preserve it. If we're going to ask the people of Nebraska to vote on something, to add to our constitution, our most precious document in our state, let's be clear about what we're asking them to vote on. Let's make sure they understand fully what's at stake here. Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator McCoy. Members, there was a motion to withdraw and replace an amendment. That motion was objected to. The motion before the body is to substitute the amendment. That motion is debatable. You've heard the opening to the motion to substitute. Senator Lautenbaugh, you're recognized. [LR41CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. And I do believe we should be clear exactly what we're up to. I wonder if Senator McCoy would yield to a question. [LR41CA]

SENATOR COASH: Senator McCoy, will you yield? [LR41CA]

SENATOR McCOY: I would. [LR41CA]

SENATOR LAUTENBAUGH: Senator, I'm looking down the queue here and I see you have the amendment that you're trying to substitute one for up first and then I have two more behind it, is that correct? [LR41CA]

SENATOR McCOY: Unless something has been added to the computer while I've been speaking, Senator Lautenbaugh, I believe that is correct; I'll take your word at it. [LR41CA]

SENATOR LAUTENBAUGH: If I were to offer to you to withdraw one of my

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amendments so that if this motion fails we would just deal with my amendment and then whatever it is you're trying to substitute, would that be acceptable to you? [LR41CA]

SENATOR McCOY: Well, you have two substantively different amendments, Senator Lautenbaugh. I don't know what it is you're describing or what it is your intention is. I'd be happy to talk to you off the microphone about what your plan might be. [LR41CA]

SENATOR LAUTENBAUGH: Well, no, I think it's very simple. The amendments have been on file for quite some time. I'm offering to withdraw my first amendment. We would then go on to my second amendment. And then we would...since I understand Senator Chambers is not proceeding upon his, get to your substitute amendment directly. Would that be acceptable to you? [LR41CA]

SENATOR McCOY: I have substantive issues with both of your amendments, Senator Lautenbaugh. I think both are flawed, so no. [LR41CA]

SENATOR LAUTENBAUGH: I guess it's not really I'm asking you about the substance, I'm asking you about the timing. I'm offering to withdraw one of my two amendments; we could dispose with the...dispatch the other one, either way, and then deal with the one you're trying to substitute. We would have plenty of time to do that. Would that be acceptable to you? [LR41CA]

SENATOR McCOY: Well, I think that that can be handled in due course during this conversation, can it not, Senator Lautenbaugh, with you substituting your amendment at some point in this discussion later on this morning? [LR41CA]

SENATOR LAUTENBAUGH: I don't think you understood my question, because I think it called for a yes or no. Would you be willing, if I withdrew my first amendment, to take up your substitute amendment after my second amendment? [LR41CA]

SENATOR McCOY: Well, my amendment is in front of yours in the order of amendments, Senator Lautenbaugh. So I'm not sure what it is you're offering. So perhaps you'll have to help me understand what it is you're offering. I don't know how that is a yes or no question. [LR41CA]

SENATOR LAUTENBAUGH: Well, Senator McCoy, when did you file your first amendment here? [LR41CA]

SENATOR McCOY: I could go back on the gadget and look, Senator Lautenbaugh, it's been some time ago. [LR41CA]

SENATOR LAUTENBAUGH: Was it prior to Select File? [LR41CA]

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SENATOR McCOY: I don't recall, Senator Lautenbaugh. [LR41CA]

SENATOR LAUTENBAUGH: Was it this year? [LR41CA]

SENATOR McCOY: I'd have to go back and look. I don't have my computer sitting in front of me. [LR41CA]

SENATOR LAUTENBAUGH: Colleagues, I hope it's pretty clear what's going on here. The reason that it is so important that we stay on Senator McCoy's amendment is because his first amendment filed quite some time ago is out of order because it refers to language that is no longer there because it was filed for the purpose of delay and for filibuster. So he is seeking to substitute this amendment which normally no one would object to, but this is part of a process of trying to keep me from getting to my amendment for my own amendment, if you will, and so that is the reason for the objection. There is plenty of time to deal with Senator McCoy's amendment in due course after my amendment and in the proper order. What Senator McCoy is trying to do here is jump ahead in the line again for the purpose of delay, for the purpose of filibuster. And that is why I objected, because I actually do want to discuss my amendment and it actually is something that I want to attach to this LR. And I object to the tactic of filing one months ago... [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR LAUTENBAUGH: ...perhaps not even this year, simply to be first in line on Final Reading. And now trying to amend to put yet another amendment that won't be ruled out of order in front of it. So I would urge you to vote "no" on this motion to substitute; recognize it for what it is. This is simply part of the filibuster. Please vote "no" and help me get to my substantive amendment which does follow. I'll withdraw one and proceed on the other. [LR41CA]

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

SENATOR BLOOMFIELD: Thank you, Mr. President. Good morning, colleagues. I have mixed feelings on the gambling issue and I've made this point before and you will hear it again several times probably today. I am not opposed to sending a clean, clear bill...amendment out to the people to vote on if it is clear what they're going to be voting on. The idea that we're going to send out something disguised as horse racing when it's actually gambling, slot machines, doesn't appeal to me. I'm inclined to support changing this motion. But I'm also inclined to support, and it's going to have to be next year at this point, a clean bill to let the people decide whether or not we want to have expanded gambling in Nebraska. Senator Schumacher has mentioned several times on the floor that this amendment is not a good response. If we put it out and the people pass it, the

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opponents are going to say, my God, we just passed expanded gambling, let's not look at it again for ten years. If we put it out and the people turn it down, the opponents to expanded gambling is going to just say, my God, we just tried to do that; it didn't work, the people don't want it. Colleagues, I think we ought to make this as clear as we can if it goes out to the people. But I really don't think this is the constitutional amendment we want to send out to them. Let's get them something clean they can look at and recognize and understand without all the flourish about it. And if Senator McCoy would like the remainder of my time, he can have it. [LR41CA]

SENATOR COASH: Senator McCoy, you've been yielded 2 minutes 40 seconds.  
[LR41CA]

SENATOR McCOY: Thank you, Mr. President. Thank you, Senator Bloomfield. You know, we find ourselves I think procedurally in an interesting situation, one that after six years in this body I don't know that I've ever looked up at the board, that I can recall, and seeing the series of procedures about where we are. It doesn't happen very often. It's no secret, I don't like LR41CA. I think those that are in favor of expanded gambling in the state, at least some of them; you've heard Senator Karpisek articulate this in an earlier time at the microphone on a day that's in the past, say, well, we decided I wasn't...paraphrasing, not his exact words, let that...rather than let that be misunderstood, but paraphrasing he said something to the effect of--well, we decided not to put out the constitutional amendment to allow casino gambling because we just didn't want to deal with it on the floor. Well, I don't see this as any different. And the reason I don't see this as any different, and I see this as just as insidious as I would see that, that's me personally, is because this, I believe, is the camel's nose under the tent. Colleagues, I have the wonderful opportunity to travel the country, talk to a lot of state legislators all over the country and I will tell you, not one state... [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR McCOY: ...that starts expanding gambling ever, ever goes back. You can't put the genie back in the bottle. It doesn't happen. And I can't tell you how many times I've heard from the leaders and state legislators say, Beau, don't do it. It's not worth it. We thought it was a good idea. I'll talk about how Idaho just recently is under the same view, buyer's remorse, they wished they hadn't gone there. The people of Nebraska deserve better. This is well within the rules where we are in this conversation and Senator Lautenbaugh knows it as the Rules Chairman. Thank you, Mr. President.  
[LR41CA]

SENATOR COASH: Thank you, Senator McCoy. Senator Brasch, you're recognized.  
[LR41CA]

SENATOR BRASCH: Thank you, Mr. President. Good morning, colleagues. And I do

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stand in support of the motion and AM2378 and I also would like to see this returned to Select File. I think we need to think a minute on why we are here today even discussing this. Is it really about horse racing? The reason the horsemen brought this forward is because gates are down. Attendance is down at live racing; the purses are down. They can no longer afford to compete with other states on the attendance. So the attempt to bring in these machines that look like, act like, feel like a slot machine will take the place of a live, breathing, running, beautiful creature that we see in our pastures. Is that truly a credit to horse racing and our historic tradition dating back to centuries ago where horses were...our workers, our companions, truly...truly a part of agriculture. This is an expansion of gambling, it truly is. And what is difficult here today is that you hear from a few people whose lives and families have been broken or ruined by expanding gambling...by gambling, not here, but elsewhere. People will go to other states, lose wages; they come back here for us to solve problems. We are to look at what is problematic, not how much money...it's not about money all the time. It's about how we can help people. How did we get there with gambling? Very few people will stand up and say they lost their paycheck, they ruined their family, they lost their business. We have individuals who will stand up and speak on their behalf. We know many of their faces. They are individuals like Tom Osborne who has reached out to help thousands of young men and women through various organizations. And by expanding gambling we aren't helping anyone with a problem that is clearly a national problem and we don't want it to be a Nebraska problem. Something this morning caught my eye as I did my daily check-in with Facebook and it's still here and it's the higher standard that Semper Fi holds itself to. And I think as Nebraskans and as legislators, we can do the same. There's 11 simple points here. The first one says be technically and tactically proficient. We do our diligence here; we read the transcripts. We have public hearings. I believe we've met that task. It also says, number two, know yourself and seek self-improvement. How is an expansion of gambling seeking self-improvement? I don't see it there. Know your team members and look out for their welfare. Whose welfare are we looking out for when we are not building live horse racing but replacing it with mechanical dead races? [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR BRASCH: Thank you, Speaker. And it says to set the example. What example are we setting? It says to seek and take responsibility for your actions. Their code, 11 points here, are points of looking for a higher standard. Nebraska is the good life. It is the great life. We are truly blessed with all we have and all we can do. We have not met our potential. This is not recreation. This is something that is destroying families as we understand it and as we stand here. We should stand up to keep this from moving forward in our state and recognize that this is not horse racing, this is working with casino machines and slot machines. That's where we're turning; we're turning to that. And is it selfish for people to say it doesn't matter who gets hurt? It does matter who gets hurt. We are here to help. We are here to serve and not to harm others.

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[LR41CA]

SENATOR COASH: Time, Senator. [LR41CA]

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

SENATOR COASH: Thank you, Senator Brasch. Senator McCoy, you're recognized.  
[LR41CA]

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

SENATOR COASH: Senator Lautenbaugh, will you yield? [LR41CA]

SENATOR LAUTENBAUGH: Yes, I will. [LR41CA]

SENATOR McCOY: Thank you, Senator Lautenbaugh. Let's talk about these machines  
for a moment. Are these machines pari-mutuel wagering or not? [LR41CA]

SENATOR LAUTENBAUGH: Yes. [LR41CA]

SENATOR McCOY: How so? [LR41CA]

SENATOR LAUTENBAUGH: We've had several attorneys look at them. We've had  
Attorneys General, other states look at them. They've been found to be pari-mutuel  
wagering. [LR41CA]

SENATOR McCOY: What Attorneys General of other states have determined them to  
be pari-mutuel wagering, Senator Lautenbaugh? [LR41CA]

SENATOR LAUTENBAUGH: Off the top of my head I can't remember the specific  
states. We had that information on Select and it never came up, but they have been  
determined to be pari-mutuel. [LR41CA]

SENATOR McCOY: I don't believe that's correct, Senator Lautenbaugh. I don't believe  
that information was presented on Select. I would sure appreciate knowing what it is. I  
don't believe any Attorney General in the states have determined this to be pari-mutuel  
wagering. How, Senator Lautenbaugh, is this pari-mutuel wagering when you...when  
there is no pool for bets? How is that pari-mutuel wagering? [LR41CA]

SENATOR LAUTENBAUGH: Well, Senator McCoy, what I said previously was that it  
had...we had the information available on Select, but we never got to the actual issue,  
as is often the case on this, we wander off on tangents and delaying tactics and side

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discussions and random opinions and things like that rather than actually dealing with what is before us. [LR41CA]

SENATOR McCOY: But we're ready to send this to a vote of the people at a general election without having explored that? [LR41CA]

SENATOR LAUTENBAUGH: I'm sorry, without having what? [LR41CA]

SENATOR McCOY: Without having explored whether or not this is pari-mutuel wagering? [LR41CA]

SENATOR LAUTENBAUGH: I don't think there's anyone in this Chamber that thinks we haven't explored this issue, Senator McCoy. [LR41CA]

SENATOR McCOY: Well, let me ask this a different way, Senator Lautenbaugh. Using an instant racing terminal, if you or I were to sit down on one of the three racetracks in the country where these machines currently exist, maybe that number has changed in the last month or two, I don't know, I don't think it has. Who are you betting against? Where are the...how does that work? It's my understanding no one else is betting on that race at that moment, correct? [LR41CA]

SENATOR LAUTENBAUGH: That's not necessarily so, no. [LR41CA]

SENATOR McCOY: How would that not necessarily be so? [LR41CA]

SENATOR LAUTENBAUGH: It just may not be so. I mean, what you're saying is not necessarily true. [LR41CA]

SENATOR McCOY: Well, it's by definition either 100,000 or 200,000 historical races, races in the past. You are not betting against a pool of other bettors that are betting on that race at that point, correct? [LR41CA]

SENATOR LAUTENBAUGH: Not exclusively that race, no. [LR41CA]

SENATOR McCOY: Absolutely. [LR41CA]

SENATOR LAUTENBAUGH: Yep. [LR41CA]

SENATOR McCOY: So by definition, how is it different than using a slot machine at a casino? You're betting against the house. You may be the only one at that particular moment that is betting on that particular race, correct? [LR41CA]

SENATOR LAUTENBAUGH: Senator McCoy, that does not make that a slot machine.

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That's an entirely different animal. We've covered that extensively on what a slot machine is and what these are and leaving aside the fact that you are presented with odds and the tendencies and the history of the jockey and the horse and you can actually make an informed decision. If you can find me a slot machine where you're given the history of the peach and the history of the banana and the history of the pear and that can give you some idea on which one to pick, you let me know. But you just fundamentally will not understand what these are because you don't want to. [LR41CA]

SENATOR McCOY: No, I very much understand what these are, Senator Lautenbaugh, and I understand that. And I won't dispute having a jockey information and the horse information, that's...that I don't dispute has similarities with traditional pari-mutuel wagering and horse racing. But what is fundamentally different and what I am going to... [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR McCOY: ...continue to pursue with you is who, as a bettor sitting at a instant racing terminal, are you betting against? Is there a pool of other bettors betting on that same race either at that location or somewhere else as through simulcasting? [LR41CA]

SENATOR LAUTENBAUGH: Perhaps. [LR41CA]

SENATOR McCOY: How so? [LR41CA]

SENATOR LAUTENBAUGH: Because that race may be up in other locations. [LR41CA]

SENATOR McCOY: Where do the proceeds come from? Is it a pool of money that is placed there by those who are wagering on that race? [LR41CA]

SENATOR LAUTENBAUGH: On that specific race, specifically no. [LR41CA]

SENATOR McCOY: Exactly. Members, thank you, Senator Lautenbaugh, you just heard Senator Lautenbaugh in his own words define why this is not pari-mutuel wagering and why AM2378 is necessary for this to go forward. [LR41CA]

SENATOR COASH: Time, Senator. [LR41CA]

SENATOR McCOY: Thank you. [LR41CA]

SENATOR COASH: Thank you, Senator McCoy. Senator Kintner, you're recognized. [LR41CA]

SENATOR KINTNER: Well, thank you, Mr. President. Here we are once again talking

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about historic horse racing. I got to tell you, I've been through the wringer on this thing. When I first heard about it I was down in an office in Nebraska City and the business owner asked me about it, he had an interest in horse racing. And as he explained it to me, we're going to take historical races and we're going to replay them. Well, that's easy enough. We've already...we allow it...to vote on it the first time, why not vote on it a second time? I mean, vote...bet on it, I mean, bet on it a second time. I says, well, how are we going to do it? Well, we're just going to...disguise the horses and everything. So I'm thinking, okay, we're going to take the number off, we're going to put a wig on the horse and some sunglasses and so...so we don't know that it's Secretariat or whoever it is. I'm thinking, okay, well that sounds like fun. You know, it's like pari-mutuel betting or off-track betting and we allow that. So I'm okay with that, that's pretty neat, we can do that. If we can bet on it live we can bet on it taped--great. So I'm okay with it at that point. Well then, you know, I find out hold on here, it's in a little video terminal; they speed it up, it's...you know, it's...that crossed the threshold to me of expanded gambling. I don't take any pleasure in opposing some of my closest friends in this...political friends in this Legislature. And I got to believe that there's a lot of people back here in the Legislature behind me that are just kicking back and watching the conservatives beat the heck out of each other on this bill. And they're just sitting there like the cat that ate the canary thinking, hey, a fight and I'm not in it, how easy is that. And I, you know, I...it is like I said, this is not something that I enjoy. I don't like seeing political allies face off against each other. But that's the nature of what we've got and we're going to deal with what we have. So on this, to me it just...after looking at and agonizing and talking to friends and talking to people, it looked like...this just looks like expanded gambling to me. And the people have clearly spoken in our state several times that they do not want expanded gambling. If it looks like a slot machine and acts like a slot machine, you're not betting odds against someone else, and they're not...we're not handicapping and doing all that stuff, it's just like a game of chance. I don't think there's a lot of handicapping that goes on. You don't look at all the things you look at when you're handicapping. You know, my family is from Kentucky and that's just a great state for horse racing. It's an exciting day when the Derby rolls around or when the racing season opens up and, you know, people...they don't wear jeans there, they...sport coats and khakis and the women have hats. It's a special time of the year in Kentucky. And, you know, I grew up with that. My family is not gambling. I've never really gambled. I've been to the horse track and just sat there and enjoyed the...smoked a cigar and enjoyed the races and the people and the excitement. I was never one to want to bet on it. So I've always liked horse racing, and it kills me that the horse racing industry it's just not viable anymore. For some reason it's just not been able to attract young people. They like the Vegas-style gambling better. They just have not come around to horse racing. And we've kind of reached a truce... [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR KINTNER: ...in our society that, okay, we're going to allow horse racing, but

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gambling is going to be regulated entirely differently. And...so I've been at peace with horse racing, it's just part of the fabric of our country and the state that my parents are from, that I grew up across the river from, Kentucky. And so this has just been a tough one for me. It really has because I want the horse racing industry to do well. I want it to succeed and I want it to be part of our heritage so our kids and our grandkids can enjoy it like our parents did. And I'm going to not support historic horse racing. But, boy, I sure would like the horse racing industry. Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator Kintner. Senator Nelson, you're recognized. [LR41CA]

SENATOR NELSON: Thank you, Mr. President, members of the body. It's good to be here on a beautiful day, a little bit windy out there. I hope we don't get too windy here in the session this morning. I stand in support of the motion to substitute AM2378 for AM495 on behalf of Senator McCoy. Looking at the tube here, Senator McCoy's motion, AM495, has priority in time over the Lautenbaugh's amendments. And in my mind it certainly is acceptable to substitute a motion in the form of AM2378, as Senator McCoy has. I practice law in Omaha for over 40 years and practically all of that time my office has been at 72nd and Mercy Road, which is not very far from Aksarben Village and that development in there and where the Ak-Sar-Ben racetrack used to stand. And on pleasant summer days, I suppose maybe two or three different times, I would go over to the Ak-Sar-Ben racetrack just to enjoy the flavor of the races, the excitement of the horses running, the cheers of the crowd, so to speak. And though I'm not a gambler and I'm opposed to gambling and especially expanded gambling, at that time in my youth I did place a wager of \$1 or \$2 or \$3, just to see how I could come out. And I had very little knowledge, it was just a guess that what horse might come out. And as you would guess, most the money that I put in, how little it was, was lost. But it was still for the flavor of the racetrack. And the thing that was neat about it was all the socializing, seeing friends, and taking a little time to decide how you were going to bet. And I don't recall whether it was every 20 minutes or 30 minutes they ran a race; I think it was every half hour. And so at most you had seven or eight races and there were winners in the winner circle and it was a lot of fun. That, of course, has all changed. Ak-Sar-Ben racetrack is not there anymore. It was with the advent of dog racing and the casinos in Iowa that Ak-Sar-Ben went down. And we lost a very indelible part of our history there in Omaha. Whether it would still be there today if there wouldn't...all the types of gambling that you find in Iowa, I don't know. But it's not there anymore. But what is the difference here? Whereas we used to place a bet and see what the results were every half hour, with historic horse racing, you're talking about every 30 seconds. It's a very fast game. Let me describe how it goes. It uses a video terminal that accesses a database of 500,000 previously run horse races. The bettor puts money in the machine, selects a race, and then receives statistical information on the horses, trainers, and jockeys. The names and the racetrack are not revealed. The bettor selects three horses and presses "start." A video of the race plays revealing the winners. The bettor, if lucky, collects the

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winnings. This instant racing is legal in four other states at the present time: Arkansas, Kentucky, Oregon, and Wyoming. But this is a little bit the same argument that we had with the Keno with going from five to every three minutes. So here we're talking about 30 seconds. [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR NELSON: This is a lot of gambling. I don't know how you would have time to really analyze and figure out what three horses you wanted to bet on. Doesn't make any difference to me, it's just that in a very short period of time you can place your bet, you might win. You're probably more likely to lose, in my mind. And you've gone through I don't know how many races in just a very short period of time. And sooner or later I suppose your money is going to run out. But this is expanded gambling any way you look at it as far as I'm concerned. And I stand opposed to that. I liked the live horse racing. I understand that they are struggling. But I don't see in any way how this is going to help the racetracks or keep live horse racing alive. It's only going to lead to a lot of other problems. Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator Nelson. (Visitors introduced.) Senator Nordquist, you're recognized. [LR41CA]

SENATOR NORDQUIST: Question. [LR41CA]

SENATOR COASH: The question has been called. Do I see five hands? I do. The question is: Shall debate cease? All those in favor vote aye; those opposed, nay. Record, Mr. Clerk. [LR41CA]

CLERK: 26 ayes, 10 nays to cease debate, Mr. President. [LR41CA]

SENATOR COASH: Debate does cease. Senator McCoy, you're recognized to close on your motion to substitute AM2378. [LR41CA]

SENATOR McCOY: Thank you, Mr. President and members. Well, it's clear what it appears we're up to this morning. I think this is a substantive amendment. Opponents of my amendment, and those who support LR41CA are pretty hot to trot to get to Senator Lautenbaugh's amendments that they think are going to sweeten the pot on this issue by offering up that we can somehow persuade the voters of Nebraska that expanded gambling is a good idea because we're going to say, well, any extra proceeds will go to property tax relief and education with no definition of how it goes to them or in what form or to what funds or what process. And I'm sure there are going to be those who say, well, that's why it's a constitutional amendment, and then you have to have enabling legislation to follow that would define that. But again, the voters of Nebraska deserve to know and deserve to have all the ammunition at their fingertips, all the information at

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their fingertips to make an educated decision on something as important as this. Again, this motion is to substitute an amendment. Sure it can be debated, and that's fine, it's well within the rules. So is our process this morning. But the underlying amendment that I'm attempting to exchange AM495 with AM2378 outlines a process by which we send to the people of Nebraska the full information, if this advances, of what they ought to have. And I would challenge Senator Lautenbaugh again, bring to me an Attorney General's Opinion that says this is pari-mutuel wagering. I don't think it exists. But time after time after time after time state supreme courts and Attorneys General, including ours, have said this is not pari-mutuel wagering. It's wagering, like traditional casino wagering, but it is not the unique form of wagering for horse racing, either live or simulcast, that's been in existence for well over 150 years. That's what we're talking about here. We're asking the people of Nebraska, hypothetically, if this goes to them, two things--to authorize expanded gambling and to authorize a new form of wagering on that same expanded gambling, not pari-mutuel wagering. Senator Lautenbaugh many, many times over my six years in the Legislature, and this has to be at least the fourth time we've dealt with this issue, has said: well, if it walks like a duck, talks like a duck, it is a duck. And you can make anything look like a '57 Buick or Chevrolet or whatever he said. [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR McCOY: But you can't just call something pari-mutuel wagering and have it be pari-mutuel wagering. I'm not an attorney. I'm just a normal Nebraskan. Not that attorneys aren't normal Nebraskans, let that be not misunderstood. But I look at things in the plain English, and I think most Nebraskans do too. And if you aren't sitting in a room, or you aren't wagering with other folks on the same race, I daresay you ask just about any Nebraskan and they're going to say--it's not the same form of wagering. Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator McCoy. Members, you've heard the closing on the motion to substitute AM2378. The question for the body is: Shall the motion to substitute be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LR41CA]

CLERK: 12 ayes, 19 nays, Mr. President, on the motion to substitute. [LR41CA]

SENATOR COASH: The motion to substitute is not adopted. [LR41CA]

CLERK: Mr. President, I have a priority motion. Senator McCoy would move to reconsider the vote just taken. [LR41CA]

SENATOR COASH: Senator McCoy, you're recognized to open on your motion to reconsider. [LR41CA]

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SENATOR McCOY: Well, I'm going to continue...thank you, Mr. President, just where I left off, because, apparently, we're in a situation where we need to have some more discussion on this issue. Would Senator Lautenbaugh yield? [LR41CA]

SENATOR COASH: Senator Lautenbaugh, will you yield? [LR41CA]

SENATOR LAUTENBAUGH: Yes, I will. [LR41CA]

SENATOR McCOY: Thank you, Senator Lautenbaugh. I want to continue where we were a little earlier talking about, actually, how pari-mutuel betting works. Is pari-mutuel wagering on simulcasting and live racing...I guess by definition that would be on a race that the outcome is unknown, correct? [LR41CA]

SENATOR LAUTENBAUGH: Senator McCoy, I think I probably decided just to answer your questions in the spirit that you answered my yes or no questions earlier. So, I will tell you that our own racing commission has testified that this qualifies as pari-mutuel racing and so I'm just going to defer to his judgment on this. [LR41CA]

SENATOR McCOY: Okay, that's fine. That's well within your bounds. Thank you, Senator Lautenbaugh. Would Senator Karpisek yield, please? [LR41CA]

SENATOR COASH: Senator Karpisek, will you yield? [LR41CA]

SENATOR KARPISEK: Yes, I will. [LR41CA]

SENATOR McCOY: Thank you, Senator Karpisek, I appreciate it. As Chairman of the General Affairs Committee, I guess I'd ask you the same question. Is today when wagering is conducted on live and simulcast racing, is the outcome known or unknown when that wagering occurs? [LR41CA]

SENATOR KARPISEK: Senator McCoy, I think I will do the same as Senator Lautenbaugh, especially, earlier in the year when you wouldn't answer questions, I will defer to the racing commission of the state. [LR41CA]

SENATOR McCOY: Okay. Thank you, Senator Karpisek. I'll fill in the gaps here. The outcome is unknown, members, by definition; the race hasn't been ran yet. You can get information on how the horse has done in the past, how the jockey has done, the odds, all that, same as you can for races on these instant racing terminals. Pari-mutuel wagering occurs on races that have yet to be run. These races are in a vault, a video vault, might have been 20 years ago, 30 years ago. They are not live races. They aren't simulcast; they aren't in person. Pari-mutuel betting by definition requires those who have successfully bet on the same winning outcome share the betting pool. There is no

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betting pool on instant racing terminals, members. There's no betting pool. There's a seed pool. The facilities that have these machines, at the tracks where these exist today, there is no betting pool because in all likelihood you have one bettor betting on each one of these races. They're not betting against themselves. They're betting against the house. How is that different from traditional methods of gaming that are not allowed constitutionally in Nebraska? And if we are going to put to the people of Nebraska this issue correctly, then the people of Nebraska need to understand what we're asking them to do. I'm sure at some point here in a minute somebody is going to call the question and we can continue on with this process this morning. But I'm not going to back down on this. I wasn't part of some compromise. I wasn't part of a deal over mountain lions or prairie dogs, or whatever the heck else we've talked about this session or past sessions. You know the most vociferous critic of expanded gambling in the history of our Legislature isn't in the Chamber at the moment. And that's fine, it's well within his bounds. But I am, and you are. And someday the people of Nebraska are going to look back and say--I want to know who and when this occurred and how people voted. We all vote our conscience. We all vote our...how our districts work for the state, whatever way we vote on issues. And I wouldn't disrespect any of us for that. But I'm not backing down off the belief that I have that this is not pari-mutuel wagering. And whether the supporters of this measure want to articulate why they think it's pari-mutuel wagering or not, I'm going to continue to talk about it. There isn't an Attorney General's Opinion that says this is pari-mutuel wagering because it's not. And so if it's not, let's at least send a constitutional amendment to the people of Nebraska that explains what this is and what we're asking them to vote on...at the very least. In my mind that shouldn't be that complicated. Clearly it is, and that's fine. We have a rule book; we have rules for a reason and all but one of us voted them. Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator McCoy. (Visitors introduced.) Members, you've heard the opening on the motion to reconsider the vote last taken. Senator Brasch, you're recognized. [LR41CA]

SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues. I believe what Senator McCoy just laid out is very important information and I had taken a few notes before he even had hit the light. I was marketing director at the State Fair; I've told you that before. We had the live track there and live horse racing season. And I believe the live races are great events, they're fun events, we have stables, we have horses, we have jockeys and their families; people come in in costume with hats and things during certain events. It is a very lively, human, and horse event that took place then and takes place also throughout Nebraska and throughout our country. It was a live race. There was a winner circle. And when the horse that won the race would come in, an individual could sponsor a blanket. You could have...you present the blanket to the jockey and the rider and the family that owns those horses and you give them a bouquet of flowers; it was very festive, very real, very human. The stands would fill; the clubhouse would fill. There were individuals that did gamble, wager on horses responsibly, very responsibly.

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This is a form of gambling that is legal, live racing in our state. Let's be very clear at what we're proposing here. The next event that we would have would be in the off season is where the pari-mutuel races took place. I look at it similar as to watching a football game on TV. It is a live race taking place somewhere else. We have several tracks across the country. You are seeing real time what is happening, as it happens, and you have an opportunity to wager then. That is pari-mutuel racing. We have authorized that because it does interact with real people, real families, live horses, the horses that eat the grass, that are beautiful, beautiful creatures. Well, unfortunately the gates, the admissions, the attendance nationally has declined. There is a problem. In car racing they have sponsorships of cars, companies will come in and sponsor a car. Car racing is also an entertainment industry that people attend, that families attend. But when you look at the historic horse racing, these are past races. These are on mechanical slot machines. They are an attempt to keep gates open, but how long will that serve its purpose when the grounds no longer has to care for the stables, care for the feed, for the veterinarians, all those industries, in my belief, will shrink and continue to decline if we support expansion of gambling and historic horse racing. We will simply be feeding the machines. We will be creating problems, problems for individuals who do have gambling problems, those who can no longer pay their rent, their food, they lose jobs, they lose businesses, they lose their self-respect and dignity. [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR BRASCH: Thank you, Mr. President. I want there to be absolutely no doubt in your mind what a live horse racing is and does, live horses. Pari-mutuel racing is the televising and the re...and watching a live race taking place. And when you're going into historic horse racing, that's mechanical, that's a slot machine. That is not a horse that is being run, fed, at any point in the present; it's all in the past. So, colleagues, please consider very closely what you are supporting here today that the expansion of gambling is not a good thing for Nebraskans. Nebraskans need to set the standard that we do have the good life; we are doing well with our merits, our talents, with education, with integrity, and moving forward without gambling away. [LR41CA]

SENATOR COASH: Time, Senator. [LR41CA]

SENATOR BRASCH: Thank you... [LR41CA]

SENATOR COASH: Thank you, Senator Brasch. Senator Bloomfield, you're recognized. [LR41CA]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, we're doing a pretend help horse racing here. Again, as I've said, I don't believe it's the way we want to go. We're putting things on the ballot that are not clear. But one thing I do want to be clear of, I'm not opposed to horse racing. Back when Ak-Sar-Ben was in its heyday, I was in

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Vietnam. My mother received the "Mother of the Year" award from Ak-Sar-Ben. That was in 1967. Ak-Sar-Ben did a lot of good things. In my mind, that was one of the better things they did, but they've done a lot of good things. But if we pass this, LR41CA, in the pretense of helping horse racing, ask yourself--how much hay does one of these machines eat? Can you stuff an ear of corn in that slot or do you have to put money in there? This LR is not what it's being cracked up to be. Be very, very careful what we do here. And I would yield the remainder of my time to Senator McCoy. [LR41CA]

SENATOR COASH: Senator McCoy, 3 minutes 15 seconds. [LR41CA]

SENATOR McCOY: Thank you, Mr. President. Thank you, Senator Bloomfield. You know, off the microphone, it's my understanding that some people have been talking about, and it was even mentioned on Select File, and Senator Karpisek was gracious in his correction, I believe, on the record about a more recent Attorney General's Opinion from Kentucky, sooner than the 2010 Opinion which I have cited and will cite again here in a moment. On Select File it was talked about that there was a more recent AG's Opinion, there's not. I want to read to you in my continuing discussion on the fact that I believe this is not pari-mutuel wagering what Jack Conway, back in 2010, said about the definition of pari-mutuel wagering. And keep in mind, this is in Kentucky, the heart of horse racing in America. I've been to Churchill Downs a number of times. No matter what anybody says on this floor, I'm a fourth-generation rancher, we raised and bred horses. I love horse racing. I don't love expanded gambling. I've been to Churchill Downs a number of times; one of the most beautiful places that you will ever see, especially on race day. I don't think this is a way to preserve horse racing. To Senator Bloomfield's point, Attorney General Jack Conway of Kentucky said, and I quote, Because horse racing uses the pari-mutuel system in which bettors wager against one another instead of against the house it is unlike other forms of gambling. And then he goes on to articulate and lay out the case of why instant racing terminals are not pari-mutuel wagering. In Kentucky, the well-established practice of pari-mutuel betting requires those who... [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR McCOY: ...have successfully bet on the same winning outcome share the betting pool. This cannot occur with instant racing. With instant racing, each individual player places a bet on a different race with different horses, with different outcomes from that of all other players placing bets at other instant racing machines. And he concludes: In our opinion, because instant racing does not constitute pari-mutuel wagering, it is not permissible in Kentucky, which is why this issue to this day is being held up in court in Kentucky even as instant racing at instant racing terminals continues at several tracks there. This isn't pari-mutuel wagering, that's why my amendment is necessary to go to the vote of the people. [LR41CA]

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SENATOR COASH: Time, Senator. Senator Garrett, you're recognized. [LR41CA]

SENATOR GARRETT: Thank you, Mr. President, members of the Legislature; good morning, Nebraskans. Senator McCoy said something earlier that was a line I was going to use: if it looks like a duck, and it quakes like duck, and it walks like a duck, it's a duck. There's nothing pari-mutuel about this. This is gambling, pure and simple. I mean, we can't paint it any other way. Senator Bloomfield painted a pretty good picture of it, you know, how much hay do these machines eat? They don't eat hay, they eat currency. And having lived in Las Vegas twice for a number of years, I've seen what gambling does to people. I'm opposed to expanded gambling. The people have voted twice in Nebraska against expanded gambling. And, you know, the bottom line is, it really doesn't matter what I think, it matters what my constituents think. And my constituents are overwhelming in their opposition to expanded gambling. So, no, let's not fool ourselves about what these historic horse racing terminals are. This is expanded gambling. It's a glorified version of a slot machine and the people have spoken on a couple of different occasions and I continue to hear from my constituents, so I'll be voting with Senator McCoy here and against the expanded gambling. And I'll yield the rest of my time to Senator McCoy. Thank you. [LR41CA]

SENATOR COASH: Senator McCoy, you've been yielded 3 minutes 30 seconds. [LR41CA]

SENATOR McCOY: Thank you, Mr. President, and thank you, Senator Garrett. I'm going to read a few excerpts from a March 21 of this year article in the Idaho Spokesman-Review newspaper. You know, it was mentioned, I think, on Select File--what's going on in the state of Idaho in regards to these instant racing terminals? I am glad to say that I've gotten to know quite a number of legislators from Idaho. They're not a whole lot different from us. Senate Majority Leader, the Chair of the House Appropriations Committee, a number of these people I've become friends with; they're good people there, just like we have good people here. There's a recent article...would be just from just a few days ago--gambling...I'm going to read for a few excerpts, gambling on slot machine-like devices is coming to Greyhound Park, which is near Boise, prompting some Idaho legislators to say they were duped into approving the new form of betting last year. So they're considered pari-mutuel betting, like betting on horse races, because the risk is pooled among players around the country betting on various historical races. That concept is being challenged in court in Kentucky. Some lawmakers who have long been adverse to an expansion of gambling in Idaho anticipated a different version of betting on simulcast of horse races, not dinging, flashing machines that encourage rapid betting. Helo Hancock, the Coeur d'Alene Tribe's legislative liaison, noted that the tribe didn't take a position on last year's bill. Quote, I believe it's pretty clear that they misrepresented what they sold the legislators last year, he said. If the Legislature is okay with a full on expansion of casino gaming, there should be an open and honest discussion about it. You know, somebody is likely

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to stand up and scream "foul." But this is my opinion. It's not an accusation. [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR McCOY: I think what we are doing here and what we are potentially sending to the vote of the people is a long, slow move to expansion of gambling in the state that will ultimately end up in casino gaming. And if that is what we're after, then that ought to be the constitutional amendment that we were voting on, not this, because this is an awkward, inappropriate, likely to be challenged in court, you name it, weird back door way of getting to that, if that's what this is. We should be having a discussion here this morning on just whether or not we ought to send a constitutional amendment to the people on casino gaming. I don't know how many times I've heard proponents of that stand up and say--well, we think the vote...the minds of Nebraskans have changed since 2004. Well, if that's the case, how come we aren't having that discussion this morning? Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator McCoy. Senator Mello, you're recognized. [LR41CA]

SENATOR MELLO: Question. [LR41CA]

SENATOR COASH: Question has been called. Do I see five hands? I do. The question is: Shall debate cease? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LR41CA]

CLERK: 25 ayes, 13 nays to cease debate, Mr. President. [LR41CA]

SENATOR COASH: Debate does cease. Senator McCoy, you're recognized to close on your motion to reconsider. [LR41CA]

SENATOR McCOY: Well, here we are again, ready to take a vote in a moment on reconsidering the vote on substituting my AM2378 for AM495. I'm going to go back to what I was speaking of a moment ago. I don't believe this is pari-mutuel wagering, and I believe the people of Nebraska ought to fully understand what they are going to vote on if this advances and gets sent to the ballot in November. Again, what we're seeking, what I'm seeking to do here is to include AM2378 to LR41CA to have a bright line between live horse racing that's conducted, as we all know, by the pari-mutuel method of wagering and to draw a bright line of distinction between that and what I believe this is--new and expanded gambling under a system heretofore not allowed under our constitution because it's not pari-mutuel wagering. I'm not an attorney. I don't think you need to have a Juris Doctor degree to grasp that this isn't pari-mutuel wagering. Pari-mutuel wagering is on completed races that are ran live and simulcast. That's what the wagering is for. It's on a race. It's a better pool of wagers that are compiled together

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for that race, either in one spot or others if it's simulcasting. As I just read from the attorney general of Kentucky, that is not the case with instant racing terminals. You know, if Senator Lautenbaugh or Senator Karpisek were to answer a question of this, and I'll answer it for them since we're not to that point in the discussion, seed pools don't exist in pari-mutuel wagering on live and simulcast racing. Seed pools don't exist because you don't need them. Seed pools are a unique creature... [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR McCOY: ...used only for instant racing terminal wagering because that bettor is betting on a specific race and there is no pool of other bettors to wager and the winnings be taken from that pool. So a racetrack, a casino has to set aside a pool of money for winnings to potentially be paid from. That's not pari-mutuel wagering. That bettor is wagering against the house. I challenge anybody to stand up and explain to me how that is pari-mutuel wagering. It's not. Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator McCoy. Members, you've heard the closing to the motion to reconsider. The question for the body is, shall the last vote taken be reconsidered? All those in favor vote aye; opposed, nay. Have all voted who wish? Record, Mr. Clerk. [LR41CA]

CLERK: 14 ayes, 21 nays, Mr. President, on the motion to reconsider. [LR41CA]

SENATOR COASH: The motion to reconsider is not adopted. Next item, Mr. Clerk. [LR41CA]

CLERK: Mr. President, I have a priority motion. Senator McCoy would move to bracket LR41CA until April 17 of 2014. [LR41CA]

SENATOR COASH: Senator McCoy, you're recognized to open on your motion to bracket. [LR41CA]

SENATOR McCOY: Thank you, Mr. President and members. Well, we're going to have some more discussion about this. I know what Senator Lautenbaugh wants out of this. He wants to get to either one or both of his amendments that are filed behind mine because he wants to add to this discussion that somehow we're going to bring in that this is going to go to education or property taxes. Well, we can talk about property taxes since we have an awful lot of this session. I'm all for property tax relief. I serve on the Revenue Committee with a number of my colleagues. I have four kids. Many of you have kids and grandkids. We all want the best for education funding in our state. Time and time again we've prioritized that, even when it was very, very difficult, as we all know. If you look on your gadget, that's what you're going to see: two amendments behind mine, well, really next as you look now that Senator Lautenbaugh is desperate to

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talk about to somehow make this more palatable, either to us or to the people of Nebraska. I say this is the wrong way to go about additional funding of education and property tax relief. It's not the way to do it. The way to do it is either through the budget or through advancing legislation, one or the other or both. And I, along with others, did both. And I think we all care, as I said, hopefully, about reducing property taxes and doing everything we can to effect that from the state level and give appropriate levels of funding to educate the young people of our great state. This is a serious issue. Senator Lautenbaugh could have brought the amendment that he wants to talk about on General File. We could have talked about it on Select File. But, no, here we are on Final Reading to radically change LR41CA. That's well within the bounds. So is this discussion we're having this morning. I don't know, and we'll probably have an opportunity to talk about it at some point, I don't know how saying, well, past and beyond the traditional methods of payouts with this pari-mutuel wagering--again, I don't believe it is pari-mutuel wagering, betting--that this money will go to property tax relief and education funding. How? And again, I'm sure somebody is going to stand up and say, well, that's what enabling legislation is and that would come in a future session, next session if this were to be successfully advanced by the people of Nebraska. You know, there's going to be a lot of turnover in this body before the start of the 2015 session, and a lot of us may be here or we may not, or there may be new senators in our places. But if anybody in this body thinks that if this constitutional amendment goes forward and somehow were to get adopted by the people of Nebraska that this discussion is over, they've got another think coming. This issue isn't going away. It keeps coming back time after time after time after time. I think this discussion, if you're going to add what Senator Lautenbaugh wants to add, is best served started from the beginning and crafted in a way that presents to the people of Nebraska an appropriate constitutional amendment that really asks them to vote on what we're asking them to vote on, not a convoluted constitutional amendment that the best legislative scholars among us would have a hard time understanding what we're doing. The people in Nebraska are far more intelligent than that, far more intelligent than we're giving them credit for, if this advances in this form, in this way. I don't think this constitutional amendment should go forward. You know, people have come up to me and said, Beau, you ought to just let this go, it's a vote of the people. I've voted on plenty constitutional amendments, as we all have, some more successful with a vote of the people, some were not; some I supported coming through this body, some I did not. Senator Lautenbaugh had one a couple of years ago that wasn't successful that a good number of us supported the people of Nebraska said no to on changing our pay as senators. The reason I will not let this one go is because of what I said at the very beginning this morning. I see this as the camel's nose under the tent, very simply, and the long, slow slide to full-on casino gaming in this state, and I will not be persuaded differently from that. I think evidence of that is how, even after repeated times this body has said no to expanded gambling, it keeps coming back. How is it going to be any different if this is adopted? Do you think that's going to be the end? Will that be the stop? Will everybody throw up their hands and say, okay, we now have instant racing terminals in Nebraska,

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everything is happy and we're going to ride off into the sunset forever and ever in Nebraska with only that as expanded gaming? I don't think so. Go look at the states who have started to make that slow creep towards full-blown gambling in their states. They never go back, not one, and I'm afraid neither will we. I love it here and I think all of us do. We may have differing opinions on what makes the good life in Nebraska, but what I think we can't argue about is we think we do have a good life in Nebraska, the good life. That, the good life in Nebraska, doesn't include expanded gambling today. We might have differing opinions on what that good life means, but that's a fact. Are you willing to risk that expanded gambling means we still get to keep the good life in Nebraska the way we like it now? I'm not. This motion is serious. This discussion is serious. I think we all take it seriously. I may lose on this motion. Those of us that are against this issue may lose on this issue. [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR McCOY: I don't want the people of Nebraska to lose. Are you willing to risk that? Are you willing to gamble that, roll the dice on the good life in Nebraska? That's what I think we're doing here. I'm not willing to do that. I'm not willing to put this up to the vote of the people and let gambling interests from all over the United States descend on Nebraska and spend tens of millions of dollars to get this measure passed, because you and I both know that's what's going to happen because it's happened in the past. It's happened before. It's happened in other states. [LR41CA]

SENATOR COASH: Time, Senator. [LR41CA]

SENATOR McCOY: It will happen here. [LR41CA]

SENATOR COASH: Thank you, Senator McCoy. Members, you're heard the opening to the motion to bracket. Those members wishing to speak: Senator Schumacher, Christensen, McCoy, Brasch, and others. Senator Schumacher, you are recognized. [LR41CA]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. If you're watching the last votes, you're probably wondering what the heck is Schumacher doing voting with McCoy on changes of language. Senator McCoy makes two points, both of which are valid. Number one, betting on past horse races is not pari-mutuel wagering. What it is, is it's betting on 40,320 ordered pairs, ordered numbers, sets of eight. That's all it is. You have eight horses. They can come in, in any way of 40,320 ways. You have a computer then selecting which set of numbers people will wager on, little, if anything, to do with horse racing except that it might be associated, might, not required, with a clip of an old horse race. I wonder who owns the copyrights to that clip. But then again you don't even have to have a clip of an old horse race. You just have to have the results. The language that Senator McCoy suggested would have been more fair to the

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people. I didn't get a chance to speak before the question was called, but it would have been more fair because it would have said what we were meaning. And I think it should be that way if we send it to the ballot. The second thing that Senator McCoy said that I absolutely agree with is that we should be discussing full casino gaming. This particular measure, and I've seen the polling for the last 20 years, will not crest 40 percent of the vote, and we will hear forevermore about how people of Nebraska don't want casino gaming. Well, they don't want a limited, fragmented thing. Fifty-seven percent of them will say yes to casino gaming and keeping the money in Nebraska, but we don't do things that way. You know, there is a way we can all have the discussion we want. The General Affairs Committee has got two constitutional amendments that puts full casino gaming on the ballot. We could pull them out with 30 votes and put them on the ballot and we can do that as late as the last item of business on the last day. It would be the sensible thing to do. But we probably won't go there. Probably won't go there to save the \$400 million we're sending over to Iowa just as we didn't go to save another \$400 million a few days ago. But this is not betting on a horse race. It is betting on a computer draw of 40,320 sets of numbers. And let's be honest with the voters if we're going to put this on the ballot, but it would be more honest with the voters to give them the opportunity to speak their mind once and for all, in a clear and unambiguous way on whether or not we should keep the money in Nebraska. Thank you. [LR41CA]

SENATOR COASH: Thank you, Senator Schumacher. Senator Christensen, you're recognized. [LR41CA]

SENATOR CHRISTENSEN: Thank you, Mr. President. I appreciate the opportunity to weigh in. I support the bracket. I think it is the best thing for the state of Nebraska. I think it's the most up-front thing I've seen about this bill. I just encourage people to go look over at Council Bluffs. When you look at their dog racing, originally they put in slot machines to save the dogs. The articles that you read over there is the owners want to get rid of the racetrack; they want to keep the slot machines. So I have to ask you, what did they save over there? Were they after saving the dog races or were they after expanded gambling? I think it's obvious what the owners of the tracks want. They want the profitability of the slot machines. But Iowa hasn't voted to let them get rid of it. I like horse racing. If people want to race horses, that's fine. It's not that I'm against that industry. But I am against gambling and especially against expanded gambling that we're talking about here. And I don't believe that anything that you look at, at these machines, I am so appreciative that whether it was last year or the year before when they brought a machine in here. It solidified my vote. When you look at a 5-, 10-, 15-second clip, you just put your credit card in or the bills that you want to do, and you can just quickly bet. They let us do it down there just to experiment. You could just hit three buttons and away you go and you could do it, I forget what it was, three to six times a minute. I'm getting a funny look. I must be on the high side. But it was several times. I know it was more than once or twice. But the fact is it all depends on how many seconds they set it on. If it was truly horse racing, wouldn't you be watching the whole

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race? Wouldn't you have everybody betting on the same race? I think Senator Schumacher was exactly right. It is not horse racing. It is just eight horses and 40,000 different winning combinations set by a computer, set with a clip of a horse race. And so I agree when Senator McCoy and others have stood up and said, why aren't we having the debate on casino gambling or outright expanded gambling? I think that would be a more honest discussion of what really is going on here. Again, as I said, I don't believe our end result here is then to save the horses, and I give that example when I opened up on the dogs for a reason. The machines being set on 10-, 15-minute...sorry, 10-, 15-second clips... [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR CHRISTENSEN: ...thank you, Mr. President, is all about instant gratification. People don't like to go and sit a minute...sit for a minute or two to watch a horse race, sit for a few minutes to wait to see them set up and get the new horses and jockeys in, because we're an instant-gratification society, and they know that's what's hurting the horse race industry. They need to figure out a way, if they want to save their own industry, to speed up how they go through their horse races, how they could have them set in there and get ready to go. And I think that's what they really need to be doing if they're after to save horse racing, is figuring out ways to make it more gratifying to the people that do attend, not trying to, what I call, a slot machine... [LR41CA]

SENATOR COASH: Time, Senator. [LR41CA]

SENATOR CHRISTENSEN: Thank you. [LR41CA]

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

SENATOR McCOY: Thank you, Mr. President. I want to read from Wyoming Supreme Court decision from several years ago that I think has a lot of relevance to this discussion, because this is an issue that has been hotly contested and debated, both in court and in the legislature in our neighboring state of Wyoming. And this supreme court decision I think is very relevant to this discussion. It's part of the reason why I have this bracket motion before us this morning and why I hope this bracket motion is successful, because if this issue is going to get sent to the people of Nebraska, it ought to be sent in the right way. As Senator Lautenbaugh will remember, I'm sure, I think it was--the numbers all run together over the years--one of the previous times we discussed this issue I think back maybe it was four years ago, maybe it was five years ago, I don't recall, at one point in time Senator Lautenbaugh said to me, well, maybe I'll just put in a constitutional amendment on this. I said, well, then at least we could have that discussion. I don't support it, I'll fight it, but it would at least be a different approach than trying to do it through the Legislature, which I think was wholly and completely

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unconstitutional, and that effort has not advanced through this body for, I believe, that reason. The reason I fight LR41CA today and the other times that we faced this on this floor is because I don't think it gets to the heart of what we're talking about here. And I think this Supreme Court decision helps explain that and I'll read from it: Instant racing is a patented pari-mutuel wagering system consisting of a number of remote computer terminals connected to a central server that's located in the state of Maryland. The patent for the instant racing system is held by Race Tech, LLC, an Arkansas limited liability company. The reason that's significant is because there is a racetrack in the state of Arkansas that, faced with declining revenues and lackluster attendance, tried to think of a way to keep their family business going. I don't begrudge them that at all. So they thought up the way of, hey, maybe we can find a way to create these terminals, install them in our racetrack, and have the ability to keep our track afloat. And so they did. Now they were faced with a different situation than we're faced here in Nebraska. Their constitution was much different than ours. Didn't have the same restrictions that ours has currently, unless this constitutional amendment goes to people of Nebraska and they vote for it in numbers sufficient to get it passed. They were able to get such a measure through the Arkansas legislature and signed by a governor some number of years ago. Now... [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR McCOY: Thank you, Mr. President. Now they have branched out into several other states. The Wyoming Supreme Court concluded that this wagering was not allowable in Wyoming because it is not pari-mutuel wagering, and this time, members, not an attorney general, the Supreme Court of the state of Wyoming. The description of the instant racing gaming device--I'm reading from the conclusion of their decision--the description of the instant racing gaming device found in the patented documents makes it unmistakable that it is a gambling device. And they further concluded that... [LR41CA]

SENATOR COASH: Time, Senator. Thank you, Senator McCoy. (Visitors introduced.) Senator Brasch, you're recognized. [LR41CA]

SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues. I do believe we're having a good discussion here for clarity so we have a clear understanding of live horse races, pari-mutuel races, and historic horse races. When I asked my colleagues, so what's this all about, why are you all about this, well, I was told a group of us like to go to the track and we really want to help the horsemen and this is how we believe the horsemen will be helped. To reflect back again on live horse racing and the history of live horse racing and the stories of live horse racing, movies of live horse racing, one of my favorites is the story of Seabiscuit and it's a true story of an undersized, depression-era horse whose victories lifted the spirits of not only the team behind it but also of a whole nation, a wonderful story. My favorite line from it is: I might be small

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but...it is mighty, small but mighty. That's a wonderful, wonderful story behind it. There's the story of Secretariat, and it was a feel-good movie produced by Walt Disney Pictures. And it's about an owner, a Colorado housewife who takes over a horse racing industry from her ailing father, a predominantly male-oriented business. And this Colorado housewife and mother, she takes this horse and makes it into, I have here on my gadget, it says that she takes this male-dominated business, ultimately fostering the first Triple Crown winner in 25 years, one of the greatest horse races of all times. There's other movies and true stories of live racing and horses who were champions of all times and it's phenomenal how this happens. And then we also, when we watch a live race, we think of those champions. We think of the horse that won the race despite all the odds. There's a driving, feel-good factor in there. It's not about the money; it's about the spirit and the sport of horse racing. Let's not lose sight of that. Now when we turn to historic horse racing, this is simply clips of horse races gone by. It's about the gambling. It's about the slot. The machines are designed to produce losers, not winners. There is nothing in this other than money, the money driving the casinos, the slots moving forward. Our tracks need to have a renewed spirit, that of the Seabiscuit, that of Secretariat, that of National Velvet, that of Hidalgo. There's hundreds of true-life horse stories that would take people back to the gates, bring them back in there. These are builders of inspiration, of self-esteem, of vision, of goals, not the victory but the action, the action of a live horse race. It's not the gambling that people go see through the gates, but when you go through the doors of a casino or you're in front of a slot machine, that is clearly about the gambling. It is not about the horse, not in the least. I have a question for Senator Gloor if he will yield, please. [LR41CA]

SENATOR COASH: Senator Gloor, will you yield? One minute. [LR41CA]

SENATOR GLOOR: Yes. [LR41CA]

SENATOR BRASCH: I recall when you stood and talked about the excitement of the live racing. Is that true? [LR41CA]

SENATOR GLOOR: Yes, I'm sure that I had relayed that. [LR41CA]

SENATOR BRASCH: Would you find a historic horse race machine equivalent to the crowds, the action, what you see there in Grand Island with your live racing? Have you talked to anybody or have you used a historic machine to see is this apples and oranges or is one the same as the other? [LR41CA]

SENATOR GLOOR: I believe last year, Senator, that one was available for us to take a look at, and I did go down and take advantage of the opportunity to try one, to look at it, to make sure I understood what it looked like and how it was used. I did not hear (laugh), to answer your question, a lot of cheering and yelling or see children running around with their families. [LR41CA]

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SENATOR COASH: Time, Senators. [LR41CA]

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

SENATOR COASH: Thank you, Senator Brasch and Senator Gloor. Senator Bloomfield, you're recognized. [LR41CA]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, you'll be stunned to find out that I support this bracket motion. I know most of us have made up our minds on this. We're not really listening to debate anymore. We're sitting quietly doing what we do, hoping either we'll get to a vote or that time will run out. Well, one of the two are bound to happen. But as has been mentioned before, there were other gambling proposals in the General Affairs Committee. One of them was LR416CA. I want to read just a little bit of the language out of that that describes where the money would go: 50 percent of the money remaining after the payment of regulatory expenses shall be used to reduce property taxes; 25 percent remaining after payment of regulatory expenses shall be used for elementary, secondary education; 12 percent shall be used...I lost my spot...will be transferred to the Department of Natural Resources for water funding. I asked in committee and of the Chairman of the committee why we couldn't just ask that that money be put in the general budget and the Legislature could decide best where to use it. Well, it turns out that that is eye candy for the public. If the public thinks we're going to do great things with this, we're going to reduce their taxes, they'd be more inclined to vote for this. So it's eye candy. It's put in there to help persuade the public to vote in favor of this. Again, I go back to clarity. We cannot, it seems, put out something that is simple and clear and straightforward. This has been my issue with the gambling industry since I got here. They refuse to go to the front door of the public in Nebraska, knock on the door and say, we would like to expand gambling in Nebraska, turn the money...surplus money over to the Legislature and let them do with it as they will. We have to put on polish. We have to put on spin. We have to do things to entice the voter to believe that this is a great thing. LR416CA is the open casino gambling motion that was put in, the LR that was put in. We didn't even take a vote on it in committee because they didn't want to have to deal with it not only on the floor but in the state. Colleagues, when this group of people can come forward... [LR41CA LR416CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR BLOOMFIELD: ...thank you, Mr. President, with a clear bill that is not designed to fool the people of the state of Nebraska, at that point I will be able to support putting it out to the people of Nebraska. Until that time, I cannot and I hope that you will not. Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator Bloomfield. Senator Mello, you're recognized.

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[LR41CA]

SENATOR MELLO: Question. [LR41CA]

SENATOR COASH: Question has been called. Do I see five hands? I do. Question is, shall debate cease? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LR41CA]

CLERK: 27 ayes, 11 nays to cease debate, Mr. President. [LR41CA]

SENATOR COASH: Debate does cease. Senator McCoy, you're recognized to close on your motion to bracket. [LR41CA]

SENATOR McCOY: Thank you, Mr. President. Going to read from a couple of Attorney General's Opinions which I think are important for this stage of the discussion and for where we are in this discussion. Now back in 2010, Senator Tony Fulton and I requested an Attorney General's Opinion from our Nebraska Attorney General on this issue. It wasn't on LR41CA. It was on, at that time, LB1102 which sought, through the legislative process and through a legislative bill, to authorize these devices, these instant racing terminals. I'm going to read to you part of this decision and why I believe and why I'm disappointed that my amendment, which sought to separate out what is already allowed constitutionally as pari-mutuel wagering in Nebraska and has been for quite some time, and why that is very different from what we're talking about today. Going to read from that Nebraska Attorney General's Opinion: In summary, we conclude LB1102's attempt to authorize wagering on the results of previously run horse races through the use of instant racing terminals resembling slot machines or other video gambling devices likely does not constitute a form of pari-mutuel wagering. So, colleagues, think about what that said. That's not what we're asking, under LR41CA, the people of Nebraska to vote on. We're asking them, as it stands now, to vote on the authorization of these instant racing terminals but not on, the people of Nebraska, we're not asking them to vote for a new form of gambling, a new form of wagering, which is what this is and our very own Attorney General has articulated that. Two different issues: instant racing terminals...and we can agree to disagree on that. I don't like it; you might. That's our legislative process. But we are not clearly stating to the people of Nebraska the fact that we are asking them, if this advances, to add a new form of wagering that has not been allowed in our constitution going back an awful long time, clear back to the '30s. That's not what this constitutional amendment says. It's why I think this is subject to a whole host of court challenges if this were to go forward. The people of Nebraska deserve a constitutional amendment, to vote on a constitutional amendment that is very clear-cut in what they're asking...what we're asking them to vote on. I might not like it. You might not like it or you might like it. That's not relevant. What's relevant is let's ask them correctly what we're asking them. That's why this bracket motion is before us,... [LR41CA]

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SENATOR COASH: One minute. [LR41CA]

SENATOR McCOY: ...notwithstanding the fact that we are awaiting a lower court decision in Kentucky over whether or not this is pari-mutuel wagering, which I think is very significant for this discussion not just in Kentucky but all over the country. We should prudently wait for that decision before we move forward. Now whether that decision comes before the 17th of April or not, I don't know. If it doesn't, this issue can always be taken up again in the 2015 Session. Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator McCoy. (Visitors introduced.) Members, you've heard the closing to the motion to bracket. The question for the body is, shall the motion be adopted? All those in favor vote aye; opposed, nay. Have all voted who wish? Record, Mr. Clerk. [LR41CA]

CLERK: 13 ayes, 20 nays, Mr. President, on the motion to bracket. [LR41CA]

SENATOR COASH: The motion to bracket is not adopted. Mr. Clerk. [LR41CA]

CLERK: Mr. President, Senator McCoy would move to reconsider the vote just taken. [LR41CA]

SENATOR COASH: Senator McCoy, you're recognized to open on your motion to reconsider. [LR41CA]

SENATOR McCOY: Well, thank you, Mr. President. I'm going to continue with my discussion. I'm going to read some more from Attorney General Jon Bruning's conclusion in his Opinion on this issue: The use of instant racing terminals to wager on the results of previously run horse races appears to be impermissible. As the history of this constitutional provision indicates, it was intended to allow wagering on live horse races. I think that's significant again, members. What are we doing here? If we truly want to expand gambling in the state and we think that the will of the people has changed since last a vote was taken on, and it's been articulated by a number of those in this discussion, on a clear-cut advancement of legalized gambling in the state without several different measures on the ballot at one time, and I've heard variations on what the will of the people might be and how it's changed and maybe polls have been taken, I can't speak to the veracity of any of that. But what I can say is this. This constitutional amendment does not present such a clear-cut decision to the people of Nebraska. It doesn't even present to the people of Nebraska what we're really asking. If what we're after is expanded gaming in this state so that part of the proceeds can go to property tax relief or education funding or whatever the case may be to keep...to give a shot in the arm to the horse racing industry in our state and all the peripheral industries, farriers, those who raise hay, our farmers that raise corn, other grains, all that, then why aren't

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we having a discussion on LR416CA as Senator Bloomfield just talked about? Why aren't we going to present to the people of Nebraska a clear-cut decision at a general election this year in an election cycle that's likely to foster probably, possibly some of the highest voter turnout we've had in this state in a very long time, or at least there is that potential? Why wouldn't we present to the people of Nebraska what we're really after if that is what those who are in favor of expanded gambling want? Why are we going at it this way? What are we hoping to achieve here? Or is this a precursor for a lot of problems and for moves for every upcoming session to just expand it a little bit more, a little bit more? I'm going to continue to read from Attorney General Bruning's decision, an Opinion I should say: Finally, if LB1102 becomes law and wagering on historic horse races through instant racing terminals is approved under the legislation, then the state, absent a judicial determination that such gaming is unconstitutional, would be obligated to negotiate a compact with any Native American tribe seeking to conduct this form of Class III gaming on Indian lands located within the state. Any state authority to regulate instant racing terminals operated on Indian lands would be a matter subject to negotiation as part of the compact process. That hasn't even been part of this discussion. I don't think you're going to see in Senator Lautenbaugh's amendment, when and if we get to it, although I'm going to bring it up, the knowledge that all this is going to be open to negotiation for our Native American tribes in Nebraska. And where is that revenue going to go? And does it then become a race to who can build the nicest, shiniest facility that the most number of Nebraskans would go to, to use these instant racing terminals, these devices, under expanded gambling? And the state would lose out on that supposed mythical revenue for property tax relief and education funding. Do we really have any idea what we're up to today? Do we really? Have we really thought through what we're doing? I don't think we have. I go back to the fact, members, that if you go ask just a random Nebraskan or a number of random Nebraskans, whether it's from Scottsbluff to Neligh to South Sioux City, Auburn to Chadron, and you said, we've got one form of wagering, live simulcast racing--a lot of Nebraskans have enjoyed that pastime--do you think it's the same thing as sitting in front of what looks like a slot machine, betting on a race that could have occurred 20 or 30 years ago and you're the only one, in all likelihood, betting on it? Is that the same thing? What do you think most Nebraskans would say? No way, they aren't the same. And that's because they're not. If we want to send something to the people, let's do it the right way. The good citizens of Nebraska deserve that. They deserve to know really what they're voting on. They deserve to have all the information at their fingertips that's out there to make the best educated decision they possibly can. And I'll say this, too, while we're at it, because there was a previous senator a little while ago that said, well, it really bothered him when he sees discord among otherwise brothers in arms, if you will, among conservatives in this body or among progressives or whatever labels you want to attach, because we're nonpartisan. And I'll say this on this issue, and it's a big one, Senator Lautenbaugh and I do not agree. Same goes for a number of other senators here. But we're big enough people, and I think all of us are, that we can disagree vehemently on some issues and still agree on others, and go to battle on other

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issues on the same side. That is our Unicameral. That's why I love it. That's why I'll defend it to my grave. That's why I'm proud to go around the country saying we have the best form of government of any state legislator (sic) in America. This discussion this morning exists because of the rules of past legislators, some that are no longer here with us but are here in spirit. That's what's unique about our process is we can have a discussion like this, this morning. We can deliberate on the outcome and then hopefully we can make the best decision possible for the people of Nebraska. That's what this is about. That's why this is important. That's why this issue ought to be tabled so that we can send to the people of Nebraska a constitutional amendment that is very clear, very well defined,... [LR41CA LR416CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR McCOY: ...and presents the best possible opportunity for the good people of Nebraska to understand and to be very clear on what they're voting on. That's the very least that I think we owe them. I might not like it; you might. But it would be up to the people of our great state. You might be tired of this discussion, you might not, but it has value. It has value about our way of life. Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator McCoy. Members, you heard the opening on the motion to reconsider. Senator Christensen, you're recognized. [LR41CA]

SENATOR CHRISTENSEN: Thank you, Mr. President. Again here, folks, I hope you'll reconsider this because I think it's the best thing for the state of Nebraska not to go forth with this. The only people that are going to win in this is the media because we are going to be inundated with ads. The gambling industry has an unlimited budget and it does, it puts a strain on the people that don't believe in it. And that's the way the people of the state of Nebraska have voted the last two times it's been up. And I know in my district, it's very heavy against it, expanded gambling, against gambling in itself. So I hope you'll consider...reconsider this and vote on this bracket. I know we're getting close to the magic hour, probably 30 minutes away or so, but it's something I think we need to vote our hearts to the people of the state of Nebraska. You know again I'm going back to where I quit last time. When you look at the horse racing industry, people in America, in Nebraska are into instant gratification and that's why slot machines appeal to them. They want it to turn quickly. That's why they like crap tables. They like different things that they can turn quickly. And so that's why I believe the horse racing industry has declined. And I think they could do a better job. I haven't been to the horse races for years, probably...I know it's been over 20 because I haven't been since I've been married. But it's a situation of people don't want to sit around that long. And that industry, if they want to save themselves, need to figure out how they're going to turn the races faster. They have different length of races. They could have one track inside the other, run the outside, then run the inside. Then they could have...cut down on the time that is...it takes to get everything set up and changed. They could have the horses

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out there for the second race on the side already, just like we do in track meets with kids. We don't get one totally done before we start lining up the next one. You know, there's a number of things that industry could do to help themselves if they chose to. But when I visited with them, they just wanted to get another income stream, and I think that's what this bill is about--expanded gambling. And so again, I challenge the supporters of this bill, if you're truly into trying to save the horse racing industry, how can you make the races go faster? How can you reduce the time in between, unless you disagree with me that we're not a microwave or instant gratification society now. People like to get home from work and quickly cook something to eat. They like to quickly be able to do everything they do anymore. [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR CHRISTENSEN: Thank you, Mr. President. So I think we need to really think about our thoughts on this of what really would help the industry if that's the direction that the supporters of this bill really want to do. I just have a, was thinking, idea that it's not about saving the industry but about getting expanded gambling, and this is just the tip of the iceberg to open it up. Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator Christensen. Senator Brasch, you're recognized. [LR41CA]

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

SENATOR COASH: Senator Harms, 5 minutes. [LR41CA]

SENATOR HARMS: Thank you, Senator Brasch. Thank you, Mr. President. I'm sorry I wasn't here earlier to get involved in this conversation but sometimes things happen in your personal life that you absolutely don't have any control over. I have battled this issue for eight years, colleagues, and I've done a lot of research on this and I've looked at other states, and it's very clear what happens to the public when you expand gambling or you have casinos. We know what happens with crime. We know what happens with a wife and children abuse. We know how much more money they have to spend in regard to trying to help people who get addicted to gambling. We know that if this bill or this amendment will go to the public there will be millions and millions of dollars pumped into this great state from outside sources who want to see gambling expanded. And it will be pretty difficult for the Nebraska way of life or the Nebraskans to counter a lot of those dollars to tell the story as it truly is. So I hope that you'll just think about this very carefully. This bracket motion is important to Nebraska. We're talking about our future. We're talking about the precious dollars that we have battled over for eight years on this floor in our budget, and as this takes place and this is approved and it goes on, you will take more of those dollars that we have for education, all these other

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issues, to battle the issue of trying to help people who get addicted. You know, so many people in Nebraska and other parts of the United States gamble because, quite frankly, they have hope that they'll hit the big score, and most of them shouldn't be gambling. Most of them don't have the money to be gambling. Many of them give up their paychecks to gamble. If that's the way of life that you would like to have for Nebraska, that's what's going to happen to us, you have this choice today. This choice is in your heart of what you want to see Nebraska do, what you want to see Nebraska become. I'm strongly against gambling. I have always been against gambling. I don't think it's a healthy sort of thing to have happen. But I don't want to see our state at risk. I don't want to see more dollars in the future placed to deal with gambling. We already know, and I think the last time we had this discussion on this floor when we were talking about this legislative resolution earlier, I brought forward the issue that we now know today that we have teenagers who are into gambling that have their own bookies. Colleagues, you can't allow this to happen. The data is there. The research is there. It is showing us very clearly where we're headed. So I hope that as you think about this you'll weigh on your heart, is this what you want to have? Do you want to pour more money into trying to help people who are addicted, people who are abused, both wife and children who are abused? Is that what you want? I think that's what you'll get. There's no question in my mind about this resolution, colleagues, legislative resolution. It's expanded gambling. It's just kind of opening the door for us and the next battle will be your casino issues. But as we allow this to get established further it becomes more difficult to battle. So I hope as representatives of the people who sent you here to develop good public policy,... [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR HARMS: ...thank you, Mr. President, I want you to weigh in your heart, is this truly good policy? I don't think that it is. I think it's going to lead us down a pathway that's not going to be healthy for us, will not be good for Nebraska, and I don't think the good life for Nebraska will be here as we watch this take place. Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator Harms. Senator Nelson, you're recognized. [LR41CA]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'm glad that Senator Lautenbaugh has returned to the Chamber because I'm going to make a remark or two, mostly complimentary. I just want to state for the record, first of all, that I am in favor of the bracket motion and the reconsideration. One of the things I like about Senator Lautenbaugh is his persistence and his dedication to a cause. And I have supported him on many of those causes, in particular with the Omaha School District and other issues and things like that. He's very articulate. He makes his case. And he's attempting now to resuscitate a failing industry, and that's fine but this is an issue on

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which we just simply disagree. And my reasons for disagreement here kind of boil down to two things, economics and people, and the addiction and the problems that they can have. Several years ago, 40 Nebraska economists agreed that gambling is a bad bet and in the calculation of the costs, these were the factors they included: loss of sales and revenues and other business as spending on new gambling replaces other consumer purchases--in other words, spending on instant horse racing; related losses in jobs; related losses in sales tax revenues; costs of regulating the gambling industry; costs to businesses of increased absenteeism and the costs of productivity. So that's economic loss. And there are other costs which I'd like to address, from the increase of the small segment of the population with gambling addictions, which will include increases in crime and related expenses, such as the need for more law enforcement, judicial proceedings and incarceration; cost to businesses of related increases in embezzlements, forgery, theft, etcetera; and the costs of treatment. I think we have a number of instances, and you've heard this before finally or...and maybe this will be the final time, we'll have to see, but we know for a fact that we have been touched closely in this body by someone who was addicted to gambling, a former state senator. We know, and Senator Colby Coash knows well, that we've had to set up new regulations and guidelines for guardianships because of the fact that a supposedly trusted guardian of many wards made away with about \$300,000 a year or two ago and went to prison because of that. But that didn't bring back the money in any sense that was lost to all of those people for whom she was guardian. And it keeps increasing. And the latest, most flagrant episode, of course, is the \$4.1 million that was embezzled over a period in two and a half years from a tobacco and candy company, which was an amazing amount of money. But the person who perpetrated that admitted that it was all spent on a gambling addiction. She's already been sentenced to two and a half years for tax avoidance as a result of that, and she was just, as of the... [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR NELSON: ...14th of March, waiting to be sentenced again. And if I remember what I read in the paper just a couple days ago, she was in fact sentenced by a district judge in Douglas County to a period of I think eight to ten years, which under our present guidelines would still represent a large amount of time in prison. Her life has been ruined. A company may go under because of this. I don't know. Things of this sort touch a lot of lives. But the sad thing is the addiction touches a lot of families and children, winds up in divorce. We can try to treat this. We spend money and we allot money under the Gambling (sic) Assistance Fund to do the best we can, but my position is let's not increase the temptation. Let's not make it more easy or more accessible for people who... [LR41CA]

SENATOR COASH: Time, Senator. [LR41CA]

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

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SENATOR COASH: Thank you, Senator Nelson. Senator Mello, you're recognized. [LR41CA]

SENATOR MELLO: I'd yield my time to Senator Lautenbaugh. [LR41CA]

SENATOR COASH: Senator Lautenbaugh, 5 minutes. [LR41CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Thank you, Senator Mello. It appears at this point we're heading towards a cloture vote probably in about 20 minutes or less, and so I just wanted to give everybody a heads up that that is the intention, is to file a motion for cloture coming up. I've avoided speaking on this because, well, you help someone's filibuster when you speak during a filibuster of one of your own bills or resolutions. But I did want to give people a road map as to where we're going in the very near term here and to again address some of the things that have been said because it is important. Folks, this is a constitutional amendment. People will get to vote on it if we put it on the ballot, and I don't fear that. I don't shrink from that. I think that's the right thing to do, to just let the people decide. And I think this is entirely understandable, as written. We aren't going to get to my amendment, would have specified where the money would go, where the revenue would go, but we're not going to get there. So they'll have to trust the Legislature to appropriate the money wisely as it comes in. But understand this would allow these devices at licensed tracks only. You can't just go install these in your backyard. It doesn't work that way. And this is meant to prop up and provide another source of revenue for an important industry in our state that actually provides thousands of jobs. Those of you who have been here before have seen those people in the galleries, seen them here pleading with us to give them this additional revenue source. And I haven't gotten angry this morning really out loud, at least at the microphone, but when people stand up time after time and say, well, the industry needs to think of something different, we don't know what it is, or I support horse racing, I just don't support them having the revenue to continue operating, I'm sorry, folks, I've been hearing that for years, literally years. And you have to question whether or not people are really supportive of horse racing when they say that. And again to be clear, something I've said many times and no one has ever contradicted, problem gambling associated with horse racing is almost nil. These would be machines operated at the tracks, again. And we've heard slot machines bandied around this morning. One of the leading opponents of this handed out an article on Select File. After calling these slot machines, he handed out an article saying, okay, Kentucky has these machines but they still want slot machines. Well, now which is it, folks? Are these slot machines? Then how can Kentucky still want slot machines after having these machines? We're in sort of that Alice in Wonderland point where words mean what I say they mean, neither more nor less. These are not slot machines. This is betting on horse races that happened to have already happened. You're given the information to make an informed choice and you bet. Again, if you can find a slot machine where you can find out the

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tendencies of the cherries or the apples or the bananas to come up and make an informed choice before you pull that lever, you let me know. I don't play slot machines. I'm assuming they have cherries and bananas and apples and whatnot. Who knows? Who cares? I think that's kind of a sucker bet. I've said the same of keno. This is not keno. And keno really doesn't provide jobs, folks. Keno is everywhere where I live, but it's just something additional for the bartender... [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR LAUTENBAUGH: ...to do. This provides jobs from the track all the way down to the farm. And we're talking about the livelihood of the trainers, the livelihoods of the stable people. I guess we're not supposed to call them stableboys anymore. I've already delved into the people who grow whatever horses eat. You can tell I'm familiar with this, at that level. In any event, this is important to our economy, thousands of jobs. This would not open the door to tribal casinos. This is historic horse racing machines at tracks, not slot machines at casinos. It does not open that door. That's a red herring that we heard a little bit this morning too. Please stand with these good Nebraskans and help save these jobs at long last or at least give the voters a choice to either do that or turn their backs on them. But for once, let's not be the ones turning our backs on them. [LR41CA]

SENATOR COASH: Time, Senator. [LR41CA]

SENATOR LAUTENBAUGH: Thank you. [LR41CA]

SENATOR COASH: Senator Karpisek, you're recognized. [LR41CA]

SENATOR KARPISEK: Question. [LR41CA]

SENATOR COASH: The question has been called. Do I see five hands? I do. The question before the body is, shall debate cease? All those in favor vote aye; opposed, nay. Record, Mr. Clerk. [LR41CA]

CLERK: 26 ayes, 7 nays to cease debate, Mr. President. [LR41CA]

SENATOR COASH: Debate does cease. Senator McCoy, you're recognized to close on your motion to reconsider. [LR41CA]

SENATOR MCCOY: Well, thank you, Mr. President. Well, in line with what Senator Lautenbaugh just said, let's do talk about what's going on in Kentucky with Churchill Downs, because I don't believe we're in an Alice in Wonderland spot. Where we are in this discussion and where they are in Kentucky is this, and I talked about this on Select File. I have the article in my hand right now and I'll read excerpts from it. Churchill

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Downs is owned by a corporation that owns a number of racetracks across the country and a number of casinos. I think it's important to define and further flesh out what Senator Lautenbaugh just was talking about. Part of Churchill Downs' holding company that owns them is, as I said, a corporation that represents a variety of gambling interests, both casino and noncasino. What they have said is, hey, instant racing terminals isn't really quite enough. It's what we started with. Yeah, it was good for Kentucky. Doesn't provide the revenue we'd really like to see. We'd like to go ahead and just see slot machines and full-on casino gaming. So we're not in an Alice in Wonderland spot here. I think Senator Lautenbaugh just made the case for what I said earlier this morning. This is a slide toward full-on gaming. That's what's going on in Kentucky, which I would argue will destroy, destroy horse racing in a state that has the richest tradition of the sport and the business, the industry, bluegrass country. I've been on the highways and byways through Kentucky an awful lot, some of the prettiest country you're ever going to see, those white fences, the horse farms, the rolling hills. It's gorgeous. There's a lot of history and tradition there, just like there is in Nebraska. This issue is tearing apart the state of Kentucky and has roiled the waters in the legislature. It's been in the courts. It's been the topic of governor's races, congressional races, legislative races in Kentucky, and there's no stopping because they started that slow creep towards full-on gambling. And now you have people in the industry who wonder what they've done. I don't want that for Nebraska. I don't want us to be going through that. I don't want us to have to be spending hard-earned taxpayer dollars to defend this issue in court, and I don't think the vast majority of Nebraskans would either. This constitutional amendment ought to be tabled. This issue ought to be given some more time and it ought to be brought back to the people of Nebraska in a way that's clear-cut... [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR McCOY: ...so they have a clear understanding of what they would be voting on, not just expanded gambling with a new device, instant racing terminals that look and act like slot machines, and we can agree to disagree on that. That's what I think and I think that's what a good number of other people would think when they've seen them and seen them in action. But what we're asking of the people of Nebraska, to vote on these machines without the clear understanding that this is not pari-mutuel wagering, which is banned in our constitution. Let's be careful what we're doing. I said it earlier. I'm not willing to roll the dice. I'm not willing to roll the dice on the future of the good life in Nebraska. Are you? Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator McCoy. Members, you've heard the closing to the motion to reconsider. The question for the body is, shall the motion to reconsider be adopted? All those in favor vote aye; opposed, nay. Have all voted who wish? Senator McCoy. [LR41CA]

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SENATOR McCOY: Ask for a roll call vote, please, regular order. [LR41CA]

SENATOR COASH: There's been a request for a roll call vote on the motion to reconsider. Mr. Clerk, please read the roll. [LR41CA]

CLERK: (Roll call vote taken.) 12 ayes, 31 nays, Mr. President, on the motion to reconsider. [LR41CA]

SENATOR COASH: The motion to reconsider is not adopted. Next item, Mr. Clerk. [LR41CA]

CLERK: Mr. President, back to Senator McCoy's motion to return for amendment AM495. (Legislative Journal page 652, First Session, 2013.) [LR41CA]

SENATOR COASH: Senator Lautenbaugh. [LR41CA]

SENATOR LAUTENBAUGH: I move...I rise to suggest the amendment is out of order. [LR41CA]

SENATOR COASH: Senator Lautenbaugh, Senator McCoy, would you please come to the desk. It is the ruling of the Chair that AM495 is out of order. Next item, Mr. Clerk. [LR41CA]

CLERK: Lautenbaugh, Senator, I have AM1788, but I had a note to withdraw that one on my... [LR41CA]

SENATOR LAUTENBAUGH: That's correct. [LR41CA]

CLERK: Okay. [LR41CA]

SENATOR COASH: AM1788 is withdrawn. Next item, Mr. Clerk. [LR41CA]

CLERK: Mr. President, Senator Lautenbaugh would move to return LR41CA to consider AM1910. (Legislative Journal page 757.) [LR41CA]

SENATOR COASH: Senator Lautenbaugh, you're recognized to open on your motion. [LR41CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I would ask your support to return this amendment...or I'm sorry...return the bill for this amendment. Simply put, what it does is it provides that the revenue obtained from the historic horse-racing machines by the state would be directed towards specific purposes to be set out in the amendment...the constitutional amendment. Excuse me. It always

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becomes confusing when we have amendments rather than bills and statutes. I would ask for your green vote on this. Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator Lautenbaugh. Members, you've heard the opening on the motion to return to Select File for a specific amendment. The floor is now open. Senator Larson, you're recognized. Senator Larson waives. Senator Lautenbaugh, you are recognized. Senator Lautenbaugh waives. Senator Christensen, you are recognized. [LR41CA]

SENATOR CHRISTENSEN: Thank you, Mr. President. I turn...stand in opposition to the returning this to Select File. And looking at this amendment, I don't think it's the right thing for the state of Nebraska to do. Again, I'll go back and explain where I was before, that we're looking at expanding gambling. And I'll look at an example for you over at Iowa. They have expanded gambling over there. Yet, when we had budgetary problems in the state of Nebraska, it wasn't Iowa that had the surplus budgets. That's a heavy ag state. They're larger corn producers than the state of Nebraska. Yet, Nebraska, not having expanded gambling, had balanced budgets, had the better fiscal management. And all we get told all the time is we need to look at gambling to save schools, to save property tax, in this example, to push secondary education. It is strictly just a move to further the ability of expanded gambling, because, if gambling was the answer, Nebraska would have had the fiscal problems not the state of Iowa. And it was just the opposite. So what is the value of gambling? Everyone says about all the additional money that would come in and that the social costs aren't that bad and that the social costs are already in the state of Nebraska. Well, if that's the case, then why didn't we have the fiscal problems that Iowa did? They have the gambling money. They've got the industry. They got everything that this bill is claiming to get--more slots, more money, everything that they can to attempt to improve things. But it's not going to improve things. Iowa is a good example of it. They're a larger ag state in corn production than the state of Nebraska, and we all know in Nebraska it was agriculture that was pushing us the last four or five years through this recession. So what is it that really is the issue here? Is expanded gambling going to help the state of Nebraska? I do not believe that that will help the state of Nebraska. I think we're just sitting here spinning our wheels with one objective: trying to expand gambling. We're not trying to save the horse racing industry. I think I went through that very clearly last time. If they want to save it, they've got to make it move faster. I've thrown two ideas out there that would help the horse racing industry: speed up their races that they're running; either get a shorter track on the inside and a large one on the outside; get better organized getting the horses lined up. [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR CHRISTENSEN: Thank you, Mr. President. It's just a series of...they're trying to expand gambling instead of helping their industry. And so we just need to take

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a deep look, thoughtful look, at what we're doing here. This is not going to solve the problems of Nebraska or the horse racing industry. If it's truly about the horse racing, then they've got to address the reason it's not working. That is, it's too slow. We're an instant-gratification society. And so they've got to look at what is really important here. So I hope you guys will oppose this return to Select File for additional amendment and will just move to the cloture vote because I think it is... [LR41CA]

SENATOR COASH: Time, Senator. [LR41CA]

SENATOR CHRISTENSEN: ...that time. Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator Christensen. (Visitors introduced.) Mr. Clerk, you have a motion on your desk. [LR41CA]

CLERK: Mr. President, Senator Lautenbaugh would move to invoke cloture pursuant to Rule 7, Section 10. [LR41CA]

SENATOR COASH: Thank you, Mr. Clerk. It is the ruling of the Chair that there has been full and fair debate afforded to LR41CA. Senator Lautenbaugh. [LR41CA]

SENATOR LAUTENBAUGH: I would request that members check in. [LR41CA]

SENATOR COASH: There has been a request for a check-in. Members, please check in. Senator Lautenbaugh, all members are accounted for. Members, the first vote is the motion to invoke cloture. All those in favor vote aye; all those opposed vote nay. Senator Lautenbaugh. [LR41CA]

SENATOR LAUTENBAUGH: I'd like a roll call vote, regular order. [LR41CA]

SENATOR COASH: Mr. Clerk, there has been a request for a roll call. Please read the roll. [LR41CA]

CLERK: (Roll call vote taken.) 34 ayes, 14 nays, Mr. President, to invoke cloture. [LR41CA]

SENATOR COASH: The motion to invoke cloture is adopted. Members, the next vote is on the motion to return to Select File for a specific amendment. All those in favor vote aye; those opposed, nay. Have all voted who wish? Record, Mr. Clerk. [LR41CA]

CLERK: 29 ayes, 14 nays to return the bill for the amendment, Mr. President. [LR41CA]

SENATOR COASH: The motion to return the bill to Select File is adopted. The next vote will be on the adoption of AM1910. All those in favor vote aye; opposed, nay. Have all

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voted who wish? Record, Mr. Clerk. [LR41CA]

CLERK: 27 ayes, 12 nays, Mr. President, on adoption of the Select File amendment. [LR41CA]

SENATOR COASH: The amendment is adopted. Members, the next vote will be on the advancement to E&R for engrossing. All of those...Senator Murante for a motion. [LR41CA]

SENATOR MURANTE: Mr. President, I move to advance LR41CA to E&R for engrossing. [LR41CA]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye; opposed, nay. LR41CA does advance. Mr. Clerk. [LR41CA]

CLERK: I have items, Mr. President. Study resolutions: LR528, LR529, LR530, LR531, and LR532. All will be referred to the Executive Board. New A bill, LB1115A, by Senator Davis. (Read LB1115A by title for the first time.) Amendments to be printed: Senator Haar to LB965; Senator Conrad, LB765; Senator Ashford, LB907. Enrollment and Review reports LB699 and LB974 as correctly engrossed. Enrollment and Review also reports LB908 and LB717 to Select File, LB1048, LB759, LB810, LB674 all to Select File, some having Enrollment and Review amendments. Mr. President, name adds: Senator Ken Haar would like to add his name to LB1058. (Legislative Journal pages 1070-1079.) [LR528 LR529 LR530 LR531 LR532 LB1115A LB965 LB765 LB907 LB699 LB974 LB908 LB717 LB1048 LB759 LB810 LB674 LB1058]

Senator Wallman would move to recess the body until 1:30 p.m.

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Opposed, nay. 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?

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CLERK: I have an amendment to LB999 to be printed. That's all that I have, Mr. President. (Legislative Journal pages 1080-1081.) [LB999]

SENATOR GLOOR: Thank you, Mr. Clerk. (Visitors introduced.) Thank you, Mr. Clerk. We'll now proceed to the first item on this afternoon's agenda, Mr. Clerk.

CLERK: LB967A, no E&Rs. Senator Sullivan would move to amend with AM2547. (Legislative Journal page 997.) [LB967A]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Sullivan, you're recognized to open on your amendment. [LB967A]

SENATOR SULLIVAN: Thank you, Mr. President. Good afternoon, colleagues. It's a very simple amendment. It adds a new section appropriating funds to the Board of Educational Lands and Funds to pay per diems pursuant to the provisions of LB129 which we amended into LB967 on Select File last week. The amendment also corrects an error in the appropriations for distance education incentives for fiscal year '16. That, in essence, is the amendment, and I would appreciate your approval of it. Thank you. [LB967A LB129 LB967]

SENATOR GLOOR: Thank you, Senator Sullivan. Members, you've heard the opening on the amendment to LB967A. Are there senators wishing to be recognized? Seeing none, Senator Sullivan waives closing. The question is, shall the amendment to LB967A be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB967A]

CLERK: 26 ayes, 0 nays on adoption of the amendment. [LB967A]

SENATOR GLOOR: The amendment is adopted. [LB967A]

CLERK: I have nothing further on the bill. [LB967A]

SENATOR GLOOR: Senator Murante for a motion. [LB967A]

SENATOR MURANTE: Mr. President, I move to advance LB967A to E&R for engrossing. [LB967A]

SENATOR GLOOR: Members, you've heard the motion. All in favor say aye. All opposed say nay. LB967A is advanced. Mr. Clerk. [LB967A]

CLERK: LB660A, I have no amendments to the bill, Mr. President. [LB660A]

SENATOR GLOOR: Senator Murante for a motion. [LB660A]

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SENATOR MURANTE: Mr. President, I move to advance LB660A to E&R for engrossing. [LB660A]

SENATOR GLOOR: Members, you've heard the motion. All in favor say aye. Senator Krist, for what purpose do you rise? [LB660A]

SENATOR KRIST: Thank you, Mr. Speaker...sorry, Mr. President. And good afternoon. I had agreed with the executive branch that I needed to put something on the record while this was going forward. This particular A bill will be joined up on Final Reading, and I do not intend to confuse Final Reading with this. Essentially, it is just this: There is language in the amendment that says that they should issue this contract before June 30. It's the legislative intent that I want to not restrict the next executive branch to continue this, if possible, and there may have been an interpretation that that was the case. So I wanted to make sure legislative intent is understood. It does not restrict the next administration from continuing should they decide to do that. And I thank you for your indulgence, Mr. President. [LB660A]

SENATOR GLOOR: Thank you, Senator Krist. Members, you heard the motion from Senator Murante. All those in favor say aye. All those opposed say nay. LB660A is advanced. Mr. Speaker...Mr. Clerk. [LB660A]

CLERK: LB853A, no E&Rs, Senator McGill would move to amend, AM2552. (Legislative Journal page 986.) [LB853A]

SENATOR GLOOR: Senator McGill, you're recognized to open on your amendment. [LB853A]

SENATOR MCGILL: Thank you, Mr. President, members of the body. This amendment goes in line with an amendment brought by Senator Howard to my bill on Select File. So her bill dealt with some of the IV-E dollars coming down to our state. It does increase the fiscal note to \$515,000 in the first year and \$609,000 in the...oh, not quite \$609,000, but \$563,000 in the second year to accommodate her bill. I just ask for your support. Thank you. [LB853A]

SENATOR GLOOR: Thank you, Senator McGill. Members, you've heard the opening on the amendment. Are there senators wishing to be recognized? Seeing none, Senator McGill waives closing. The question before us is, shall the amendment to LB853A be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB853A]

CLERK: 29 ayes, 0 nays on adoption of the amendment. [LB853A]

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SENATOR GLOOR: The amendment is adopted. [LB853A]

CLERK: I have nothing further, Mr. President. [LB853A]

SENATOR GLOOR: Senator Murante. [LB853A]

SENATOR MURANTE: Mr. President, I move to advance LB853A to E&R for engrossing. [LB853A]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB853A is advanced. Continuing with Select File, Mr. Clerk. [LB853A]

CLERK: Senator, I have E&R amendments, first of all, to LB191. (ER138, Legislative Journal page 619.) [LB191]

SENATOR GLOOR: Senator Murante for a motion. [LB191]

SENATOR MURANTE: Mr. President I move to adopt the E&R amendments. [LB191]

SENATOR GLOOR: The question, members, is the adoption of E&R amendments to LB191. Those in favor say aye. Those opposed say nay. The amendments are adopted. [LB191]

CLERK: Senator Burke Harr would move to amend with AM2523. [LB191]

SENATOR GLOOR: Senator Harr, you're recognized to open on your amendment to LB191. [LB191]

SENATOR HARR: Thank you, Mr. President, members of the body. I have a simple amendment, as they all are this time of year, and this has to do with...oh, I need to pull this one. Sorry. I'm going to pull this amendment. [LB191]

SENATOR GLOOR: Withdrawn. So ordered. [LB191]

CLERK: Senator Nordquist would move to amend with AM2569. (Legislative Journal page 1060.) [LB191]

SENATOR GLOOR: Senator Nordquist, you're recognized to open on your amendment. [LB191]

SENATOR NORDQUIST: Thank you, Mr. President and members. LB191, just to refresh, would create an incentive to rehabilitate our state's historic buildings and

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communities by providing a tax credit equal to 20 percent of the expenditures made in rehabilitating a building federally or locally designated as historic or within a federally or locally designated historic district. This body considered this bill on General File a few weeks ago when it ran into a buzz saw named Senator Schumacher. Senator Schumacher expressed concerns, essentially, that the bill lacked limits and, in some cases, definition. And since that time, I've worked closely with Senator Schumacher, Senator Harr, and others, including the Department of Revenue, State Historic Preservation Office, and the Bankers Association, to improve the bill and to provide significant limits on its potential impact to our state's treasury. Specifically, as I mentioned on the record on General File, the bill, as amended by AM2569, now includes the following limits: an annual limit of \$15 million on credits; a sunset in four years; no credit or application until January 1, 2015; inclusion of political subdivisions; a limit on transferability of credits for not...for for-profit entities; and a limit on the potential carry forward of unused credits. In addition, we have clarified some of the definitions in the bill, including setting more specific criteria for the locally designated projects and local entities that seek to create a district or designate a building. So we have tightened up those criteria, as well. So essentially, the big components are: the annual cap; we shorten the program by a year to four years; and have made a number of definition clarifications. I'd appreciate your support of AM2569. [LB191]

SENATOR GLOOR: Thank you, Senator Nordquist. (Visitors introduced.) Mr. Clerk for an amendment. [LB191]

CLERK: Mr. President, Senator Burke Harr would move to amend the Nordquist amendment with AM2602. (Legislative Journal pages 1081-1083.) [LB191]

SENATOR GLOOR: Senator Harr, you're recognized to open on your amendment to the amendment. [LB191]

SENATOR HARR: Thank you, Mr. President, members of the body. Now I know what I'm doing. I want to first thank Senator Nordquist for allowing me to put this amendment on his bill, on his amendment. I wholeheartedly endorse LB191 and AM2569. This is AM2602. It is based on...was originally LB885, which was testified to in Revenue. It came out of committee, and there...it was...it did have some concerns, but I think we've addressed those, all those concerns. I know NACO is now on board on this bill. AM2602 directs the county assessors to utilize the income approach, including the use of a discounted cash-flow analysis when determining the actual value of two or more vacant or unimproved lots. County assessors have been using this method, known as the "discounted cash flow," which takes into account the holding period before a developer is able to sell a lot at market value. All counties, including Douglas, Sarpy, and Lancaster, followed this method until a recent review by Lancaster Assistant County Attorney Mike Thew in January 2013 in which he stated: Unless there was specific legislation to...otherwise that this value could not work...valuation could not work. This

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bill provides that specific legislation. Lots have been...this applies to...lots that have been platted and improved with infrastructure currently would be...are assessed at 100 percent of value even if they aren't able to be sold. According to a Lincoln Journal Star article dated August 30, 2013, in Lancaster County 3,210 residential lots and 964 commercial lots lost this discount this year; and over 1,635 owners of lots have protested the valuation change as a result. It is not feasible or reasonable for a developer to sell most of its available lots in a reasonable year. So assessing those lots at 100 percent of market value is not practical. It can take years to sell all the lots in a development, and there is no actual...no way to tell the actual value until there is an actual buyer. Both Douglas and Sarpy Counties still value available lots based on this absorption rate: the amount of time it would take to exhaust the supply of the lots on the market in any given subdivision. The unpredictability of the current property tax system hinders economic development across the whole state of Nebraska. Additionally, investment developer...development is unlikely because investors cannot accurately predict or afford annual property tax expenses, making it near impossible to accurately underwrite new developments. The change will also likely mean fewer choices of lots for those looking to build a new home, which will drive up market prices. AM2606 also provides for a petition process if the county assessor determines that the income approach does not result in an actual value of a particular project. The Nebraska Chamber of Commerce, the Lincoln Chamber of Commerce, the Douglas County Assessor's Office, the Metro Omaha Builders Association, the Realtors Association of Lincoln, the Nebraska REALTORS Association, the Home Builders Association of Lincoln, and the Lincoln Independent Business Association testified in favor of LB885. I would ask that you, please, vote...and this came out of committee 8 to 0. I ask that you, please, vote green on AM2602, and I'd be happy to answer any questions you may have. [LB191 LB885]

SENATOR GLOOR: Thank you, Senator Harr. We move to debate. Senator Schumacher, you're recognized. [LB191]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I rise in support of Senator Harr's AM2602. This was an issue that we were made aware of during the tax modernization hearings. Long and short of it: When a developer develops 100 lots and sells the first one for what he figures he's got to sell it for in order to make money, he suddenly gets taxed on the other 99 even though it may be a long, long time before those are anything other than empty lots. And this gives an opportunity to have a fair way to tax those empty lots that everyone knows is not going to sell for a long, long time and still maintain a framework in which developers can develop large tracts, which is the most efficient way to develop them. I also...as long as I'm rising in support of something...and Senator Murante is out getting a cup of coffee. He said, keep talking, because he doesn't want to delegate the power of E&R, so I will talk just a little bit on LB191 and AM2569. I'd like to thank Senator Nordquist for working with me, putting up with some of my suggestions. And I think we've come up with a bill that has a lot more

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safeguards, as well as applicability, for Nebraskans in this way to help with the funding of historic buildings in the district and infrastructure which supports them. Again, thank you, Senator Nordquist, for that. Senator Murante still isn't back, so I reiterate: AM2602 to AM2569 is a good thing, as is AM2569 to LB191. This is an example of how the Legislature can work together, bringing ideas together to make legislation better, and also a way to get valuable pieces of legislation added onto pieces of legislation that are moving through the system so that we can get things done in a very limited period of time. Senator Murante? Thank you, Mr. President. [LB191]

SENATOR GLOOR: Thank you, Senator Schumacher. Are there other senators wishing to be recognized? Seeing none, the question is, shall the amendment to the amendment to LB191 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB191]

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of the amendment to the amendment. [LB191]

SENATOR GLOOR: The amendment is adopted. We now turn to discussion on the amendment to LB191. Are there senators wishing to be recognized? Mr. Clerk for an amendment. [LB191]

CLERK: Mr. President, Senator Nordquist would move to amend his amendment with AM2606. (Legislative Journal pages 1084-1089.) [LB191]

SENATOR GLOOR: Senator Nordquist, you're recognized to open on your amendment to the amendment to LB191. [LB191]

SENATOR NORDQUIST: Thank you, Mr. President. This is just...this amendment just has a couple small technical changes, the main one being allowing the Department of Revenue to communicate, then share the appropriate information necessary with the Historical Society and the Historical Officer. And then the other two pieces are technical in nature. So this, again, just is a couple small things that we didn't catch in the drafting of the initial. Thank you. [LB191]

SENATOR GLOOR: Thank you, Senator Nordquist. Members, you've heard the opening on the amendment to the amendment. Seeing no senators wishing to speak, Senator Nordquist, you're recognized to close. And Senator Nordquist waives. The question is, shall the amendment to the amendment to LB191 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB191]

CLERK: 28 ayes, 0 nays on adoption of the amendment. [LB191]

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SENATOR GLOOR: The amendment is adopted. We move to discussion on the amended amendment to LB191. Are there senators wishing to be recognized? Seeing none, Senator Nordquist, you're recognized to close on your amended amendment. [LB191]

SENATOR NORDQUIST: Thank you, Mr. President. I'm grateful for the support of the body so far on LB191. It certainly puts us in line with the majority of the states having a program like this to help preserve the history of Nebraska, preserve the core of our communities, the historic properties that make up the core of our communities. Again, just like to thank Senator Harr and Schumacher for their work on the amendment, as well as certainly need to thank Senator Johnson for making LB191 his priority. Thank you. [LB191]

SENATOR GLOOR: Thank you, Senator Nordquist. The question is, shall the amendment to LB191 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB191]

CLERK: 27 ayes, 0 nays on adoption of the amendment. [LB191]

SENATOR GLOOR: The amendment is adopted. [LB191]

CLERK: I have nothing further, Mr. President. [LB191]

SENATOR GLOOR: Senator Murante for a motion. [LB191]

SENATOR MURANTE: Mr. President, I move to advance LB191 to E&R for engrossing. [LB191]

SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. Those opposed say nay. LB191 is advanced. Mr. Clerk. [LB191]

CLERK: LB191A, I have E&Rs, Mr. President. (ER156, Legislative Journal page 786.) [LB191A]

SENATOR GLOOR: Senator Murante for a motion. [LB191A]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB191A]

SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. Those opposed say nay. The amendments are adopted. Mr. Clerk. [LB191A]

CLERK: I have nothing further. [LB191A]

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SENATOR GLOOR: Senator Murante for a motion. [LB191A]

SENATOR MURANTE: Mr. President, I move to advance LB191A to E&R for engrossing. [LB191A]

SENATOR GLOOR: Members, you've heard the motion for advancement of LB191A. Those in favor say aye. Those opposed say nay. The bill is advanced. Mr. Clerk. [LB191A]

CLERK: LB690, I have E&Rs, first of all, Senator. (ER144, Legislative Journal page 681.) [LB690]

SENATOR GLOOR: Senator Murante for a motion. [LB690]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB690]

SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. Those opposed say nay. The amendments are adopted. [LB690]

CLERK: Senator Bolz would move to amend, AM2585. (Legislative Journal page 1050.) [LB690]

SENATOR GLOOR: Senator Bolz, you're recognized to open on your amendment to LB690. [LB690]

SENATOR BOLZ: Thank you, Mr. President. LB690, to refresh your memory, increases our capacity for home- and community-based care for our senior citizens and creates the Aging Nebraskans Task Force. The amendment does a few things that we discussed on Select File. It clarifies that the task force is made up of five legislative members who are voting members and six community members who are nonvoting members. It removes unnecessary language related to hiring staff for the task force, and it adds language related to reporting about the pace of Medicaid spending after application of the grant. Appreciate your green vote on AM2585. [LB690]

SENATOR GLOOR: Members, you've heard the opening on the amendment to LB690. Seeing no senators wishing to speak, Senator Bolz, you're recognized to close on your amendment. Senator Bolz waives. The question is, shall the amendment to LB690 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB690]

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of the amendment. [LB690]

SENATOR GLOOR: The amendment is adopted. [LB690]

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CLERK: I have nothing further. [LB690]

SENATOR GLOOR: Senator Murante for a motion. [LB690]

SENATOR MURANTE: Mr. President, I move to advance LB690 to E&R for engrossing. [LB690]

SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. Those opposed say nay. LB690 is advanced. Mr. Clerk. [LB690]

CLERK: LB690A, Senator, I have no amendments to the bill. [LB690A]

SENATOR GLOOR: Senator Murante for a motion. [LB690A]

SENATOR MURANTE: Mr. President, I move to advance LB690A to E&R for engrossing. [LB690A]

SENATOR GLOOR: A moment, Senators. Stand at ease for a moment, Senators. Senator Bolz, you're recognized to open on your amendment to LB690A. (AM2614, Legislative Journal pages 1090-1091.) [LB690A]

SENATOR BOLZ: This is a just the clarifying amendment that crystallizes the changes we made with the amendment we just passed. I appreciate your green vote. [LB690A]

SENATOR GLOOR: You've heard the opening on the amendment to LB690A. We now move to discussion. Seeing no one wishing to speak, Senator Bolz, you're recognized to close. Senator Bolz waives. The question is, shall the amendment to LB690A be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Senator Bolz, for what purpose do you rise? [LB690A]

SENATOR BOLZ: I'd like to request a call of the house. [LB690A]

SENATOR GLOOR: 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. [LB690A]

CLERK: 26 ayes, 0 nays, Mr. President, to place the house under call. [LB690A]

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 Wightman, please return to the Chamber and record your presence.

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Senator Bolz, we are able to account for all but one senator. Shall we proceed? And how would you like to proceed, call-in or roll call? [LB690A]

SENATOR BOLZ: Roll call, regular order. [LB690A]

SENATOR GLOOR: The question is, shall the amendment to LB690A be adopted? Roll call, please. [LB690A]

CLERK: (Roll call vote taken, Legislative Journal page 1091.) 32 ayes, 6 nays, Mr. President, on the amendment. [LB690A]

SENATOR GLOOR: The amendment is adopted. Raise the call. [LB690A]

CLERK: I have nothing further on the bill, Senator. [LB690A]

SENATOR GLOOR: Senator Murante for a motion. [LB690A]

SENATOR MURANTE: Mr. President, I move to advance LB690A to E&R for engrossing. [LB690A]

SENATOR GLOOR: Members, you've heard the motion for advancement. Those in favor say aye. Those opposed say nay. The bill advances. Mr. Clerk. [LB690A]

CLERK: Mr. President, with respect to LB1087, I do have E&R amendments, first of all. (Legislative Journal page 917.) [LB1087]

SENATOR GLOOR: Senator Murante for a motion. [LB1087]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB1087]

SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. Those opposed say nay. The amendments are adopted. [LB1087]

CLERK: The first amendment I have to the bill: Senator Avery, AM2558. [LB1087]

SENATOR GLOOR: Senator Avery, you're recognized to open on your amendment to LB1087. [LB1087]

SENATOR AVERY: Thank you, Mr. President. And thank you...Mr. President, I have a question first. I would like to get this amendment, AM2595, substituted for AM2558. Could we do that? [LB1087]

SENATOR GLOOR: Senator Avery, are you asking for permission to withdraw...

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[LB1087]

SENATOR AVERY: Yes. [LB1087]

SENATOR GLOOR: ...and unanimous...and substitute...unanimous withdrawal?  
[LB1087]

SENATOR AVERY: Yes. [LB1087]

SENATOR GLOOR: Any objections to the substitution? Seeing none, so ordered.  
(AM2595, Legislative Journal page 1092.) [LB1087]

SENATOR AVERY: Thank you, Mr. President. Currently, the homestead exemption for 100-percent service-connected disabled veterans is limited by both income and home value. You may remember our discussion of this bill on General File. We did not talk about the part of the law that was being changed relating to income. We did...we only talked about the homestead exemption part of that and the value of the home in the context of that exemption. LB1087 strikes both the income guidelines and the home valuation limitation guidelines. It allows 100-percent service-connected disabled veterans and their widows and widowers homestead exemptions with no limitations. That's both...you qualify both with income and with the value of your home. What I heard on the floor during General File debate was some concern that we would be providing homestead benefits to citizens who might not actually need them. So I prepared an amendment, AM2558, which we just pulled, and replaced it with AM2595 to...because the first amendment that we pulled did not do exactly what I had intended. The replacement amendment, AM2595, that I have introduced will restore all the house valuation limitation guidelines for veterans' homestead exemptions to the current statutory language found in 77-3505.02. Under the Pirsch bill, a veteran may have an unlimited income. Together with AM2595, if that veteran also has a house value above the current statutory ceiling of \$110,000 or 225 percent of the average assessed value of a single-family residential property in the county, whichever is greater, no exemption would be allowed. This is already in statute. So that is a needs-based test on the assessed valuation of the home. For a homestead valued at or above the maximum rate, the exempt amount can be reduced by 10 percent for every \$2,500 in valuation. This is also currently in statute. If the assessed value exceeds the maximum value by \$20,000 or more, the homestead is not eligible for exemption. So this is a valuation-based part of the homestead exemption law as it currently exists. And I would retain that but would not alter Senator Pirsch's income-based part of the homestead exemption. As drafted, AM2595 will not harm current beneficiaries of the homestead exemption. When I talked with Senator Pirsch about this amendment, he specifically asked that whatever I did...and he did not promise to support it, but, whatever I did, that I not harm the current benefits that veterans might qualify for. So this does not harm current beneficiaries of the homestead exemption. As a veteran, I appreciate the

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sacrifices made by service members. But I also understand the concerns of taxpayers. The public policy reasoning behind this amendment is that we want to create a need-based benefit for qualified veterans. We want to make sure that if individuals are receiving homestead exemption, that is, property tax breaks, that their homes are not well over what's considered extravagant housing. So we do not touch the income side of this equation, only the valuation of the home. I've checked with NACO, with Lancaster County and Douglas County assessors, and with the Revenue Committee, and we've received a lot of help from the Revenue Committee's tax experts. And I can tell you, they're very good at making things difficult to understand. But I think we finally did, and I do appreciate that help. They did not have any objections to the amendment as a policy proposal. And they felt that the amendment was doing what we had hoped to achieve. I also spoke with Senator Pirsch. I don't expect him to necessarily support this, but at least he knows what we're up to and what our rationale is. So with that, I would ask your support for AM2595. [LB1087]

SENATOR GLOOR: Members, you've heard the opening on the amendment to LB1087. There are senators in the queue wishing to speak. Senator Pirsch, you are recognized. [LB1087]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I do want to address this AM2595. And I appreciate that...Senator Avery in saying that he didn't want to make worse the lives of 100 percent disabled military veterans from where they are with this amendment. But I do not support it. I do not think it's the right direction to go. It...I don't think it's addressing the problem that we set out to address. And I think, with respect just to...this amendment was filed this morning, replacing the other amendment that Senator Avery had filed. And I wonder if he'd yield to a question or two. [LB1087]

SENATOR GLOOR: Senator Avery, would you yield? [LB1087]

SENATOR AVERY: Yes, I will. [LB1087]

SENATOR PIRSCH: Okay. Thank you, Senator Avery. So with respect to statutes, chapter 77-3506.03, it says, for homesteads valued at or above the maximum value, the exempt amount shall be reduced by 10 percent for each \$2,500 of value by which the homestead exceeds the maximum value and any homestead which exceeds the maximum value by \$20,000 or more is not eligible for any exemption. What...how does your amendment apply then? Can you describe with detail just exactly how you're...you had mentioned you're not touching the income levels; you're just addressing the valuation? [LB1087]

SENATOR AVERY: Yes. It would not change this, the current law, at all with respect to assessed value. And it would retain your elimination of the income qualification that you have in the green copy. So the...what I'm trying to do here is to put a limit on the amount

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of homestead exemption available to a qualifying veteran who may own a home that is a very substantial home with a lot of assessed value and limited...and limiting it in the way that the current law does. These laws are very complicated, and they've been in effect since about 1995 when we worked out the homestead exemption statute. [LB1087]

SENATOR PIRSCH: Okay. And can you then describe the differences that are embedded in your AM25...let's see, that's AM2595...the difference from the...you said you're not adding any income limitations... [LB1087]

SENATOR AVERY: No. [LB1087]

SENATOR PIRSCH: ...or restrictions at all from my bill or from the way that current law exists? [LB1087]

SENATOR AVERY: You...under your...under the green copy, if this amendment were to be adopted, you would still be able to qualify for the homestead exemption under the income side. [LB1087]

SENATOR PIRSCH: Okay. So there's no income limitations under yours. [LB1087]

SENATOR AVERY: No. [LB1087]

SENATOR PIRSCH: Okay. And then with respect to valuation differences between that which is in your amendment and that which is in my green copy of LB1087, again, what are...what is your limitation then? Previously you had said some amount, I think, at 100 percent of... [LB1087]

SENATOR AVERY: I abandoned that. [LB1087]

SENATOR PIRSCH: Yeah, 100 percent of the average assessed value of a single-family residential property. [LB1087]

SENATOR AVERY: I abandoned that particular approach because it did affect other parts of the homestead exemption, and some veterans would have been...would have lost some of the benefits they currently enjoy. [LB1087]

SENATOR PIRSCH: Okay. And so with your new approach in AM2595, what is it based off? It's not based off of, any longer, the average assessed value... [LB1087]

SENATOR GLOOR: One minute. [LB1087]

SENATOR PIRSCH: ...of a single-family residential property, correct? [LB1087]

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SENATOR AVERY: Yes, it is. [LB1087]

SENATOR PIRSCH: It is. [LB1087]

SENATOR AVERY: In fact, that's exactly what I've done, is preserved that and agreed with you on the elimination of the income qualification. [LB1087]

SENATOR PIRSCH: Okay. And then with respect then to that, are you setting...and can you describe how...is it a stairstep then of limitation? [LB1087]

SENATOR AVERY: Well, here's how it would work. Would...do we have time for me to give an example? [LB1087]

SENATOR PIRSCH: Let me see. Mr... [LB1087]

SENATOR AVERY: How much time? [LB1087]

SENATOR PIRSCH: Mr. President, how much time is there left in my... [LB1087]

SENATOR GLOOR: Twenty-five seconds. [LB1087]

SENATOR PIRSCH: I would say, probably not. [LB1087]

SENATOR AVERY: Probably not, I agree with you. [LB1087]

SENATOR PIRSCH: But I'll press my button again if you don't have it, and we'll go over that then. I'd yield the balance of my time and start my new time. [LB1087]

SENATOR GLOOR: Thank you, Senator Pirsch and Senator Avery. Senator Nelson, you're recognized. [LB1087]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'm glad that Senator Avery brought this forward, although I'm not quite clear on it because I had the same reservations when we discussed the green copy for the first time. Was there going to be no limit on the value of the property that was going to be exempt? So I'll give Senator Avery time now to give us an example if he will yield. [LB1087]

SENATOR GLOOR: Senator Avery, 4:35. [LB1087]

SENATOR AVERY: Thank you, Senator...Mr. President. Thank you, Senator Nelson. The example that I was going to give would be this way: If the assessed valuation exceeds the maximum value established in law by \$20,000 or more, the homestead is

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not eligible for exemption. This is a need-based cap. The maximum value of an assessed homestead in, let's say, a county is \$225,000. The homestead might have an assessed value of \$250,000. So the way you would calculate that, the assessed value of the homestead exceeds the maximum value in the county by more than \$20,000; in fact, it's \$25,000 over the maximum value, which is greater than \$20,000. So the conclusion is that the homestead is not eligible for the homestead exemption. That is how it would work. It probably reduced the fiscal note a bit. I can't say with any certainty how much, but it does at least subject the assessed value of the home to some need-based justification for a homestead exemption. I do not touch at all, Senator Pirsch, the income qualification that you have in the law, just the assessed value of the property. With that, I'd be happy to answer any questions that may come. Thank you. [LB1087]

SENATOR GLOOR: Senator Nelson. [LB1087]

SENATOR NELSON: Thank you very much, Senator Avery. I guess that clarified things for me. But in round-dollar figures, if the 100-percent-disabled veteran has a home in excess, I think you said, of \$228,000 valued, is...so it's...there's no exemption whatsoever. What is the dividing line there as to...and I guess there's no...it's an either-or proposition. Is that it? It's either eligible...it...for an exemption or it's not? [LB1087]

SENATOR GLOOR: Senator Avery, would you yield? [LB1087]

SENATOR AVERY: (Inaudible)...actually, Senator... [LB1087]

SENATOR NELSON: Nelson. [LB1087]

SENATOR AVERY: Actually, Senator, the...it's a graduated sliding scale that moves in increments of \$2,500 in assessed value until you reach the point where the property is...has a maximum value in excess of \$20,000 over the county average. [LB1087]

SENATOR NELSON: And the county average is determined in what way? [LB1087]

SENATOR AVERY: It's determined by the county assessor. I think in the...in Sarpy or Douglas, the valuation might be...average might be somewhere around \$165,000 to \$170,000. [LB1087]

SENATOR NELSON: So a disabled veteran, 100 percent if they had a...certainly... [LB1087]

SENATOR GLOOR: One minute. [LB1087]

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SENATOR NELSON: ...300...how much time, sir? [LB1087]

SENATOR GLOOR: One minute. [LB1087]

SENATOR NELSON: Thank you. Thank you, Mr. President...had a home valued in the area of \$300,000 for property tax purposes, that would not be eligible. [LB1087]

SENATOR AVERY: Probably not. [LB1087]

SENATOR NELSON: All right. Thank you, Senator Avery. [LB1087]

SENATOR GLOOR: Thank you, Senator... [LB1087]

SENATOR NELSON: Are we...thank you. I still...I'm in support of this. I think it's a little difficult to follow in some ways. I'll read it hereafter. But I support AM2595 by Senator Avery as making this a better bill. Thank you, Mr. President. [LB1087]

SENATOR GLOOR: Thank you, Senator Nelson and Senator Avery. Senator Bloomfield, you're recognized. [LB1087]

SENATOR BLOOMFIELD: Thank you, Mr. President. I'm going to ask Senator Avery a couple questions here in a little bit. But before I get to that, colleagues, I want you to think about the 100-percent-disabled veteran and what he may be required to have for a home in order to live. He may have had to have everything lowered or changed. If he's wheelchair bound, he may have had to make that house all wheelchair accessible. I think the \$110,000 limit is probably too low. And if Senator Avery would like to...would yield to a couple questions, I'd like to ask him some. [LB1087]

SENATOR GLOOR: Senator Avery, would you yield to questions from Senator Bloomfield? [LB1087]

SENATOR AVERY: Yes, I will. [LB1087]

SENATOR BLOOMFIELD: Thank you, Senator Avery. When you came with this...and I know you're putting in old statute here. But did you give any thought to the notion that the 100-percent-disabled veteran may have had some very special needs that had to be performed on his house which would probably raise the valuation of it? [LB1087]

SENATOR AVERY: I did take that into account, and that is one of the reasons why I left alone the income qualification. A lot of times these 100-percent-disabled veterans will qualify--in fact, in most cases they will qualify--under the...the 100-percent qualification under the income side will still be there. So the only thing that we're doing is maintaining the current law with respect to the valuation of the house itself. [LB1087]

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SENATOR BLOOMFIELD: Senator Avery, I watched...I believe it was Yankton, South Dakota, the community came together and built a new home for a 100-percent-disabled veteran. By the time they got done with it, that home was very expensive. But it was set up for a man that wasn't able to do what he would like to for himself. I would certainly hate to see a 100-percent individual lose his home because of property taxes. While you're leaving 100 percent of his income intact, there's no guarantee that that income is going to be high enough to keep him in that home. I cannot support AM2595. I do love LB1087, but I will not be able to vote for AM2595. Thank you, Mr. President. [LB1087]

SENATOR GLOOR: Thank you, Senator Bloomfield and Senator Avery. Senator Garrett, you're recognized. [LB1087]

SENATOR GARRETT: Thank you, Mr. President, members of the body. I've coined a new informal term for what we do in here, and it's called "making the simple complex." I applaud Senator Avery. I stood up here last week talking about this bill and said, I thought we were very cynical thinking that there were 100-percent-disabled veterans that would have a million-dollar homestead or a \$500,000 income. I'm still of that opinion. A lot of what Senator Bloomfield just said is absolutely true. Renovating a home: Take your standard home and, if you've got a wheelchair-bound veteran or somebody with traumatic brain injuries or things, if you've got to widen all the doors, level all the entryways and everything else, take your standard \$100,000 house, you're probably going to put at least another \$100,000 to \$150,000 into the home just to renovate it to make it accessible for somebody in a wheelchair. I kind of have to laugh. We're looking at putting limitations on the home but no limitations on the guy's income. How much income do you think a 100-percent-disabled veteran is going to make? Do you think the guy is going to be out working a job? He's going to get a disability payment, but I'll guarantee you that's nowhere near \$100,000. So, yeah, I kind of find it laughable that we're, oh, there's no limit on how much the 100-percent-disabled veteran can make. I'll just about...I'll give you Vegas odds that the guy is not going to be making anything because he's not going to be able to work. He is 100 percent disabled. So if you want to put a limitation on how much the guy makes, the veteran, the 100-percent-disabled veteran, knock yourselves out. But I think, on the homestead, again, we're not talking about people of great means here. You know, what happens if the property is on a...the homestead is on a five-acre lot or a ten-acre lot? We know what acreages cost. So, you know, the veteran could quickly exceed that homestead valuation, and then he doesn't get anything. I think we really need to take a hard look at this. I appreciate what Senator Avery is trying to do. And I stick by what I said last week: If we want to put limits on the amounts, let's do it, but let's do it smartly. And I don't think AM2595 does that. Thank you very much. [LB1087]

SENATOR GLOOR: Thank you, Senator Garrett. Senator Avery, you are next in the queue. [LB1087]

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SENATOR AVERY: Am I next? [LB1087]

SENATOR GLOOR: Senator Avery. [LB1087]

SENATOR AVERY: Thank you, Mr. President. This is...tax law is not easy, folks; and if you've ever gotten your hands dirty with tax law, you understand that. I don't envy Senator Hadley at all. But I can tell you the motivation here. This amendment is to continue to make the homestead exemption subject to some kind of valuation, assessed valuation test. And that is in current law. Current law is very, very complicated, but it is good in that it does take into account the ability to pay. And as you...the value of your home goes up, according to these ratios and the calculation formula, the amount of your assessed value goes up; so does...the amount of your exemption goes down so that when you reach the point that I just mentioned where you are more than \$20,000 over the county's assessed maximum value, then you no longer qualify. And that, with the example I gave when I was on the mike a few moments ago, could be around \$250,000 of maximum assessed value. The amendment does preserve the assessed valuation means test, which I think is a sensible way to do the homestead exemption for veterans. But it does not eliminate the income portion of the current law, which is...the green copy does eliminate that. I don't touch that part. I don't touch that at all because, had I not worked with the Revenue Department and with Senator Hadley's committee, it would not have been possible to avoid taking some benefits away from current qualifying veterans. I did not want to do that. All I wanted to do was to have an assessed valuation means test for qualifying veterans on their residence. And the income part of that we don't touch. The...you may not find this to be wholly satisfactory. But I did hear the discussion on General File that there was some concern that we were perhaps going a bit too far with the homestead exemption and that we wouldn't be able to avoid circumstances where someone could have high income, because that's 100 percent exempted in the current green copy, and could have an extremely valuable home. And in that circumstance, probably, they would not need the homestead exemption but still would qualify. That's the only thing that we were trying to do, was put a cap on the assessed-valuation qualification, not the income. Thank you. [LB1087]

SENATOR GLOOR: Thank you, Senator Avery. Senator Bloomfield, you are recognized. [LB1087]

SENATOR BLOOMFIELD: Thank you, Mr. President. Members, I'm not going to belabor this point very long, but let's look again at who we're dealing with here. We are dealing with disabled veterans, and not all disabled veterans, those who are 100 percent disabled. If any group deserves a little bit of a break, who else are you going to give it to? Thank you, Mr. President. [LB1087]

SENATOR GLOOR: Thank you, Senator Bloomfield. Senator Pirsch, you're recognized.

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[LB1087]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. Yeah, I continue to have...to oppose this amendment. I think that with respect to the stated concession that income is not to be involved here, we're dealing, let me remind you, with a 100 percent disabled service related military vets. And so that is a very extensive, significant rating by the Veterans Administration in Washington, D.C., to get to that level. And essentially from what I've been told that that means their opinion is you cannot...essentially you're not going to be productive at that level in any capacity. That doesn't mean that there aren't a few exceptions who work through the pain in some small way, but the Veterans Administration in Washington, D.C., essentially assesses you to not be productive is what I'm told at that level. And keep in mind if you're adding up various injuries, say a 10 percent disability from your leg and 10 percent shrapnel in the head, you don't add those together. Ten percent plus ten percent doesn't equal twenty percent. Could well equal 11 percent together. So it takes a lot to get to that level where you're declared to be service related 100 percent disabled. And the amount of disabilities in actuality would add up way more than 100 percent is what I've been told. So it's not much of a concession. These people are not in a capacity because of their service to this country, to the state, to the community to be able to be productive, not that they wouldn't want to be. But they've given their bodies essentially up in service of their country. So I think that with respect to the income, it's not much of a concession. Now dealing with what is left in the bill which is in the amendment, rather, that does focus on valuation of the home, I do have a number of concerns. You know, we're talking about in some cases where you're talking about the...when you're basing your...this on average valuation and saying if you're above the average valuation, you're going to be penalized and thought to be wealthy and as a result not in need of this. But keep in mind, there's a lot that goes on in the life of a 100 percent totally service related disabled military veteran. And a lot of instances, the valuation of the home, and I'll give an example here, is due to the disability. For example, when we were...we talked, our office, to a...with respect to a case in which a 100 percent disabled veteran was confined to a wheelchair because of his service and he had to have his garage connected to his house, medically, it was a necessity. You know, obviously if he was not disabled because he didn't give his service to his country, he would not have a need to have his...he would not be in a wheelchair, he wouldn't have a need to have his garage physically connected to his house for easier access. Obviously in the wintertime in Nebraska, that's absolutely necessary. So he had to construct the area...a passageway between his house and the garage. And the assessor came around and said that that's part of your house now, and so you've just essentially doubled his property taxes based on the new square footage of his home. [LB1087]

SENATOR GLOOR: One minute. [LB1087]

SENATOR PIRSCH: And so he's not living a higher lifestyle. He's just trying to get by,

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this disabled military vet, in a normal way and it doesn't make him any more wealthier or doesn't...shouldn't mean that we should penalize him or go after him to a higher degree. He was actually in this particular case because of that new valuation and the higher property taxes forced to sell his home and move to Texas because they give 100 percent exemption to 100 percent disabled military veterans. And so I just want us to know what we're doing here and be cognizant that our assumptions are not necessarily based in reality. Thank you. [LB1087]

SENATOR GLOOR: Thank you, Senator Pirsch. The Chair recognizes Senator Avery. [LB1087]

SENATOR AVERY: Thank you, Mr. President. Just a reminder that for applicants that would be those veterans who are eligible for a homestead exemption because of 100 percent service connected disability, they have to meet conditions before their eligibility would be exempted. And let me tell you that 225 percent of the average assessed value of a single family residential property in that veterans county would...if they didn't meet that standard, then there would be another standard of \$110,000 in exemption if the 225 percent was higher. So it is...we're not really taking away anything that the current veteran has. What we're doing is simply saying that we believe that it is good public policy to have some kind of means testing in the application of the homestead exemption. Means testing in this instance is determined by the assessed valuation of the house itself and not income. The veteran will, under the green copy of the bill, have 100 percent income qualification. And the only time that the amendment would affect a veteran would be if that veteran also has a house that's...meets the guidelines that I've explained. If it does, then their eligibility might be reduced or the exemption might be reduced to take into account the value of the property itself. What we're trying to do here is not take away any benefits that the veteran currently enjoys but simply to make the house itself, the value of the house, under...come under some limited means testing before it is applied. So it is not a particularly aggressive bill. It's certainly not offered in a meanspirited way. I understand and respect the service of our veterans. I am a veteran myself and I have spent a lot of my time in this body defending veterans. As Chair of the Government Committee and Veterans Affairs Committee, I have worked hard to expand at every opportunity veterans benefits. And let me tell you, this does expand them. It just doesn't expand them to the same degree that the green copy would. So I would ask you to give serious consideration to AM2595. Thank you. [LB1087]

SENATOR GLOOR: Thank you, Senator Avery. Are there other senators wishing to be recognized? Seeing none, Senator Avery, you're recognized to close on your amendment. [LB1087]

SENATOR AVERY: Thank you, Mr. President. I would let the comments I just made be my closing. Thank you. [LB1087]

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SENATOR GLOOR: Thank you, Senator Avery. Members, the question is, shall the amendment to LB1087 be adopted? All those in favor vote aye; all those opposed vote nay. Senator Avery, for what purpose to you rise? [LB1087]

SENATOR AVERY: I am going to need a call of the house and a vote in regular order, board vote. [LB1087]

SENATOR GLOOR: 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; those opposed vote nay. Record, Mr. Clerk. [LB1087]

CLERK: 26 ayes, 0 nays to place the house under call. [LB1087]

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. Senators Howard, Watermeier, Ashford, McCoy, Smith, Schilz, please return to the Chamber and record your presence. Members, the question is, shall the amendment to LB1087 be adopted? Roll call vote, Mr. Clerk, regular order. [LB1087]

CLERK: (Roll call vote taken, Legislative Journal pages 1092-1093.) 14 ayes, 11 nays. [LB1087]

SENATOR GLOOR: The amendment fails. Raise the call. Mr. Clerk for an amendment. [LB1087]

CLERK: Senator Burke Harr would move to amend, AM2589. (Legislative Journal pages 1093-1097.) [LB1087]

SENATOR GLOOR: Senator Harr, you're recognized to open on your amendment to LB1087. [LB1087]

SENATOR HARR: Thank you, Mr. President, members of the body. I'm at a bit of a quandary on this amendment. It's a question of how the legislative process works. This was originally LB348. It came out of committee 6 to 1. There were some issues with it. Last year, I was asked to pick between two bills on the floor publicly. This LB348 was on General. I had another bill on Select. So I went with the bill on Select. This is an area of law that is kind of complicated. It's tax credits. And after speaking with the Attorney General's Office, looking at the constitutionality of this, and spending a great deal and investing a great deal of time, working with all parties involved, including NACO and the AG's Office, I came up with a constitution...a change to make this more constitutional. And I believe it does that and I filed an amendment to that degree. Now that is for all intents and purposes changes the bill that came out 6 to 1. I think it makes the bill

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stronger. There are those who disagree with me and maybe they'll have a chance to talk. But this is something very important and near and dear to me. Affordable housing. Food, water, and shelter are the three most important things. As a matter of fact, we have...it's in the legislative intent for this type of legislation the importance of affordable housing. We all believe in affordable housing. So how can NACO be against this? Well, let me tell you what this does. There are three ways of valuing property. You can do comparable sales which means looking at two houses or properties that are similar and trying to come up with what you think is a fair value. There is the cost approach which is just that, the cost to build the property. And then there's a third kind called the income approach, the amount of income the property produces. As a general rule, we like to go with comparable sales because it's the fairest way to determine value. But we do have two other ways of valuing property for a reason. This is one of those reasons. So we have to encourage the federal government to encourage low-income housing, came up with the low-income housing tax credit. What that does is you have let's say two buildings right next door to each other. They're identical. For all intents and purposes, identical. The only difference is one has a tax credit on it. What's a tax credit? Well, it's money given to the developer to incentivize them to build, somewhat like TIF but not, and it's a federal tax credit, not a state, not a county, not a city. Doesn't affect our schools. In return, you receive tax credits, you receive money for having that house for 15...or that property for 15 years. You have what's called a LURA attached to the building, to the property. It's a lien against the property. A LURA is a land use restriction agreement. What's that do? It limits the amount of rent an owner can charge so that we have affordable housing. That's the idea. Now I'm not naive enough to think people are going to do this out of the kindness of their heart. They aren't. There is a profit motive involved with tax credits, approximately 8 percent per year. Pretty fat right now. Let's be honest. That's a good return. But in years with inflation, which again these are over 30, 45 years, not so great. And really you only get the money in the first 15 years, and then you have the LURA after that. So if you have two properties and you do comparable sales right next to each other, you have one property that's selling for a million dollars. The identical one with the LURA if we did comparable sales would be worth a million dollars. Well, that's not fair because that developer can't raise the rent. The guy in the marketplace building can raise the rent to make up for that higher property tax. You can't in rent restricted. That's the idea. That's the beauty of a LURA. So what happens? Well, if the value is too high and the property starts losing money, it's no different than any other business. They go bankrupt. And what happens? You lose the affordable housing. That's one problem. Two, you can't build if you don't have investors, and if we have unpredictability, people are going to look and say, we could do it that way but I'd rather put my money over here where I have a little more predictability. And so we're trying to incentivize and encourage low-income housing. So it came out of committee 6 to 1. Senator Schumacher voted against it. Went to the AG. There were some concerns with NACO about the constitutionality of this. So we looked to see, like we do with so many other things, what other states do and then worked to see what works within our uniformity clause. Working with the Attorney General's Office, we came up with this

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formula. Is it different than the bill that passed out of committee? Yes. Do I concede that? Obviously, yes. But I believe it makes the bill stronger. I believe that by doing this we provide a level of predictability within our uniformity clause so that we can incentivize affordable housing. This is no different than if you live in a rural area and you put a conservation easement on a property. You're limiting the use and you're looking...and so you might have two properties right next to each other, identical. The property tax on one is going to be lower than the property tax on the other one. That's what this is. And then you're trying to find out how to value that LURA. That's what we're doing. We're trying to figure out how to value that rent restriction on the property. Now Larry Dix sent around an e-mail to everyone earlier today regarding this. I sent a response e-mail I think that accurately reflects why this is important that we do this. You know, we do take into criteria items outside of a county. But things happen outside of a county that affect the land value of a county, no doubt about it. Corn is sold outside of a county and the value of that corn affects the value of the land if it's agricultural use. You have banks exploding, 2008, in New York City. It affected the value of our homes in Omaha and Douglas County. That's a reality, folks. We don't live in a bubble, so, and we elongated over a long period of time to create stability so that you don't have shocks up and down, up and down. But if a county assessor using this income approach decides, hey, I don't think this is fair, well, guess what. We allow them to appeal. We give them... [LB1087 LB348]

SENATOR GLOOR: One minute. [LB1087]

SENATOR HARR: Thank you, Mr. President. We give them an appeal process. I'm not trying to weigh down LB1087. I want to thank Senator Pirsch for allowing me to put this amendment on here. This is good public policy. This allows for new development of affordable housing and that property, which is already on-line, it allows it to remain on-line. Thank you, Mr. President. [LB1087]

SENATOR GLOOR: Thank you, Senator Harr. Members, you've heard the opening on the amendment to LB1087. Senator Bloomfield, you are recognized. [LB1087]

SENATOR BLOOMFIELD: Mr. President, I'd like to question the germaneness of AM2589 to LB1087. [LB1087]

SENATOR GLOOR: Thank you, Senator Bloomfield. Senator Bloomfield, Senator Pirsch, Senator Harr, would you please approach the podium. It's the ruling of the Chair that the amendment is not germane. We now turn to debate on the original bill. Senator Schumacher, you are recognized. [LB1087]

SENATOR SCHUMACHER: I'll waive my time, Mr. Chairman. I was going to address the prior motion if it...germaneness motion didn't win. Thank you. [LB1087]

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SENATOR GLOOR: Thank you, Senator Schumacher. Are there other senators wishing to be recognized? Seeing none, Senator Murante for a motion. [LB1087]

SENATOR MURANTE: Mr. President, I move to advance LB1087 to E&R for engrossing. [LB1087]

SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. Those opposed say nay. LB1087 advances. Mr. Clerk. [LB1087]

CLERK: LB1087A, Mr. President. I have no amendments to the bill. [LB1087A]

SENATOR GLOOR: Senator Murante for a motion. [LB1087A]

SENATOR MURANTE: Mr. President, I move to advance LB1087A to E&R for engrossing. [LB1087A]

SENATOR GLOOR: Members, you've heard the motion to advance LB1087A. Those in favor say aye. Those opposed say nay. The bill advances. Items for the record, Mr. Clerk. [LB1087A]

CLERK: Thank you, Mr. President. Study resolutions: LR533 through LR537. Senator Gloor would like to print an amendment to LB811. New A bill, LB464A, by Senator Ashford. (Read LB464A by title for the first time.) And that's all that I have. Thank you. (Legislative Journal pages 1098-1102.) [LR533 LR534 LR535 LR536 LR537 LB811 LB464A]

SENATOR GLOOR: Thank you, Mr. Clerk. Continuing with Select File Speaker priorities.

CLERK: Mr. President, LB1076. No E&R's. Senator Nordquist would move to amend with AM2305. (Legislative Journal page 887.) [LB1076]

SENATOR GLOOR: Senator Nordquist, you're recognized to open on your amendment. [LB1076]

SENATOR NORDQUIST: Thank you, Mr. President and members. AM2305 includes provisions from a bill that I introduced this year, LB1078, which was advanced unanimously from the Health and Human Services Committee with a committee amendment, and these provisions were included in that committee amendment. AM2305 does three key things: ensures Medicaid's reimbursement rate does not depend on the distance between a healthcare practitioner and the patient; it includes remote patient monitoring in the definition of telehealth; and allows for store-and-forward technologies to be used as it relates to telehealth. Currently, the Department of Health

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and Human Services states in their rules and regulations that telehealth services cannot be reimbursed by Medicaid if access to comparable service is provided within 30 miles. Those who provide telehealth services have indicated this regulation is a significant barrier to providing telehealth services, especially in rural areas. Health and social care providers face tremendous challenges to provide comprehensive care and support to an increasing number of people who are medically frail or have...are advanced in age with complex care needs. For many people, especially in rural areas, access to in-person services is very difficult for a wide variety of reasons, including mobility limitations, major distance or time barriers, and transportation limitations. They don't drive their own car. In fact, the state spends about \$4.7 million annually to reimburse for nonemergency transportation cost through Medicaid. These costs include vehicle operating expenses, staffing or personnel, the cost of loaded and unloaded mileage, and just wait time. There's no reason to transport medically-frail Nebraskans an additional 30 miles when the same service could be conveniently offered in their home at a cheaper cost. To help further improve the care of individuals in their home, remote patient monitoring and store-and-forward are also included and must be recognized in this amendment as a form of telehealth. Remote patient monitoring allows providers to remotely collect, track, and transmit health data from a patient's home to a healthcare provider and can facilitate communication and help engage patients in the management of their own care. The specific outcomes of remote patient monitoring include: reducing hospitalizations and health costs; improving patient knowledge, satisfaction, and clinical outcomes; and activating patients to be better...to better manage their own healthcare. In 2013, a case study analyzed three organizations, the Veterans Health Administration, Partners HealthCare, and Centura Health at home, and the results from the study done by The Commonwealth Fund showed a 51 percent reduction in heart failure, hospital readmissions, 44 percent reduction in nonheart failure hospital readmissions, improved patient understanding of self-management skills, high level of clinician patient satisfaction, and a significant savings of almost \$10,000 a patient or over \$10 million for the 1,200 patients that were monitored during a five-year period during the study. Store-and-forward is, also defined as asynchronous telehealth, involves the acquisition and storing of clinical information, data, images, any of that information, and then it's forwarded to another site for a clinical evaluation. So it's not live synchronous. It's asynchronous where you collect some piece of data or image or something and transmit it to a healthcare provider. This is critical to providing care coordination to these populations. These are some simple changes I think that will strengthen our ability to serve our Medicaid population through telehealth services. That certainly is a trend nationally that these services are being paid for by Medicaid, and we do know that private providers are also doing this on their own. And this certainly would be a step in the right direction for our Medicaid system to ensure access to appropriate services. Thank you. [LB1076 LB1078]

SENATOR GLOOR: Thank you, Senator Nordquist. Members, you've heard the opening on the amendment to LB1076. We now move to floor debate. Senator Dubas,

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you're recognized. [LB1076]

SENATOR DUBAS: Thank you very much, Mr. President and colleagues. I stand in strong support of Senator Nordquist's amendment. This is an issue that I was considering doing some work on as well. Senator Nordquist and I had some conversations and he moved forward with his bill. Last fall, the Transportation and Telecommunications Committee held a series of hearings across the state looking at the Universal Service Fund, and the Nebraska statewide telehealth network receives funding from the Universal...the Nebraska Universal Service Fund. Testifiers that came forward specifically in regards to the telehealth network emphasized that without this funding, thousands of Nebraska patients would not have been seen and the telehealth field would not have advanced. They went on to suggest that the Legislature could improve telehealth in Nebraska by mandating insurance coverage parity and allowing remote patient monitoring. And as Senator Nordquist just said, I think this amendment is a step in the right direction. Telehealth is going to become more and more important and relevant to the delivery of medical services across Nebraska and especially across rural Nebraska, and the advances that we're seeing and the things that can be done through telehealth that will allow patients to remain in their home but yet those with chronic diseases, you know, the monitoring, the ability to head off an emergency because of that monitoring and just be able to improve the overall health and well-being of rural Nebraskans, we'll just see untold benefits from it. The future is wide open as far as in the area of telehealth and what we'll be able to do to deliver these services to Nebraskans. So I really encourage the body to support this amendment. It is a great step in the right direction and improvement in our ability to take care of patients where they live and avoid those lengthy windshield times that really aren't good for the health financially or physically either. So, again, I encourage the support of AM2305. [LB1076]

SENATOR GLOOR: Thank you, Senator Dubas. Are there other senators wishing to be recognized? Seeing none, Senator Nordquist, you're recognized to close on your amendment. [LB1076]

SENATOR NORDQUIST: I would just also like to thank Senator Campbell and Michelle Chaffee and the Health Committee for their work on this issue. Thank you. [LB1076]

SENATOR GLOOR: Thank you, Senator Nordquist. The question is, shall the amendment to LB1076 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB1076]

CLERK: 26 ayes, 1 nay on adoption of the amendment. [LB1076]

SENATOR GLOOR: The amendment is adopted. [LB1076]

CLERK: Senator Campbell would move to amend, AM2314. (Legislative Journal page

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890.) [LB1076]

SENATOR GLOOR: Senator Campbell, you're recognized to open on your amendment. [LB1076]

SENATOR CAMPBELL: Thank you, Mr. President. Colleagues, AM2314 is required to correct references to the federal law. This was more than the E&R folks said that they could do. This amendment was brought to my attention by the Bill Drafters. The changes are minor but go beyond what Bill Drafters can do through the Enrollment and Review process. That being said, colleagues, I want to make you aware of a situation with regard to LB1076. We discussed this bill on General File and an updated fiscal note was issued by the Legislative Fiscal Office on March the 9th in which it said because of the changes we made on General File in that amendment, there would be no fiscal impact. And so we proceeded along that line. This morning, my office was notified that additional language may need to be amended into the bill. And then at 11:00, a new fiscal note was delivered to my office in the amount, and this is from the department, not from the Legislative Fiscal Office, but the department said unless we have this language, it would cost \$3.3 million. The Legislative Fiscal Office has not had a time to thoroughly review that nor has our legal counsel nor my staff had significant time to renew...to review this information. We will meet with the department and should the amended language be necessary as the Speaker and I talked about this prior to this afternoon, I will bring the bill back to Select File for any amended language. And we are...this is very disconcerting to come to a point at which you are on Select File and at 11:00 before a 1:30 convening you receive this information. So you have my word that I will bring it back if necessary, but I would very much appreciate your green on this amendment which takes care of the Bill Drafters' concerns. Thank you, Mr. President. [LB1076]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Thank you, Senator Campbell. The floor is now open for discussion on the amendment. Senator Campbell, there is...there are no senators in the queue. Senator Campbell waives closing. The question is, shall the amendment to LB1076 be adopted? All those in favor vote aye; all those opposed vote nay. [LB1076]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Have all voted that care to? Record, Mr. Clerk. [LB1076]

CLERK: 25 ayes, 0 nays on adoption of the amendment. [LB1076]

SENATOR GLOOR: The amendment is adopted. [LB1076]

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CLERK: I have nothing further on the bill, Mr. President. [LB1076]

SENATOR GLOOR: Senator Murante for a motion. [LB1076]

SENATOR MURANTE: Mr. President, I move to advance LB1076 to E&R for engrossing. [LB1076]

SENATOR GLOOR: Members, you've heard the motion. All in favor say aye. All opposed say nay. The bill advances. Mr. Clerk. [LB1076]

CLERK: LB851. Senator, I have E&R amendments, first of all. (ER167, Legislative Journal page 859.) [LB851]

SENATOR GLOOR: Senator Murante for a motion. [LB851]

SENATOR MURANTE: Move to adopt the E&R amendments. [LB851]

SENATOR GLOOR: Members, you've heard the motion for adoption of the amendments. Those in favor say aye. Those opposed say nay. The amendments are adopted. [LB851]

CLERK: Senator Mello, I have AM2307, but I have a note you wish to withdraw, Senator. [LB851]

SENATOR MELLO: Yes, that would be correct. [LB851]

SENATOR GLOOR: So ordered. [LB851]

CLERK: Senator Mello, AM2510, Senator. (Legislative Journal page 953.) [LB851]

SENATOR GLOOR: Senator Mello, you're recognized to open on your amendment. [LB851]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. AM2510 would incorporate one of the concepts that was included in a bill I introduced this year, LB761, that was voted out of the Revenue Committee on a 7 to 1 vote. In 2011, the Legislature passed and the Governor signed LB642 which gave the Nebraska Department of Revenue the authority to contract with private vendors to identify nonfilers, underreporters, or nonpayers of taxes. Since that time, however, the department has made no effort to exercise this authority despite numerous requests by office and others regarding the implementation of these statutory provisions. Under AM2510, the Department of Revenue would be required to enter into at least one contract to procure products and services to develop, deploy, or administer systems or

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programs which identify nonfilers, underreporters, or nonpayers of taxes by December 31, 2014. While LB761 as advanced by the committee had an October deadline, the department met with Senator Hadley and myself recently after the bill was advanced and expressed concern about not being able to meet the October deadline. AM2510 also differs from LB761 as advanced in that it gives greater flexibility to the department and the type of contract that they could enter into under the bill. Prior to the hearing on LB761, my office received a letter from the Tax Commissioner stating that the department is currently developing two separate requests for proposals to exercise authority which was give to them under the original LB642. While I'm pleased that the department plans to finally move forward on this issue, I still believe that changing the current "may" to a "shall" is needed to ensure the department carries out on the efforts to utilized these important tax enforcement tools. In the letter from Commissioner Conroy, the department identifies approximately \$96 million in delinquent taxes that are currently owed to the state. It's important to note, however, that this figure is just delinquencies known to the department and does not include delinquent or underreported taxes that could be uncovered through data mining or other efforts. Thus, it's entirely likely that there is a significant delinquencies currently unknown to the Department of Revenue. At the end of the day when tax cheats get away with breaking Nebraska law, the result is that everyone else winds up paying more in taxes. As the Legislature considers to take steps to modernize our tax system, I believe the enforcement of our existing tax laws as proposed by AM2510 will play an important role moving forward. With that, I'd urge the body to adopt AM2510. Thank you, Mr. President. [LB851 LB761]

SENATOR GLOOR: Thank you, Senator Mello. Members, you've heard the opening on the amendment. Senator Hadley, you are recognized. [LB851]

SENATOR HADLEY: Mr. President, members of the body, I'm in full support of AM2510. We have worked with Senator Mello and I think it's a very appropriate bill and I would urge your green vote on it. Thank you, Mr. President. [LB851]

SENATOR GLOOR: Are there other senators wishing to be recognized? Seeing none, Senator Mello, you're recognized to close. Senator Mello waives. The question is, shall the amendment to LB851 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB851]

CLERK: 27 ayes, 0 nays on adoption of Senator Mello's amendment. [LB851]

SENATOR GLOOR: The amendment is adopted. [LB851]

CLERK: Senator Mello would move to amend with AM2561. (Legislative Journal page 1040.) [LB851]

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SENATOR GLOOR: Senator Mello, you're recognized to open on your amendment.  
[LB851]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. AM2561 would incorporate the provisions of LB681 into the underlying bill, LB851. I'd like to especially thank Senator Hadley for allowing me to amend LB681 onto this specific bill as LB681 was not included in the consent calendar the other day. Last session, the Legislature passed two pieces of legislation which made changes to the statutes governing delinquent property taxes: LB97, which adopted the Nebraska Municipal Land Bank Act, and LB341 by Senator Wightman, which rewrote the statutes governing tax sales for delinquent property taxes. Each of these bills amended Nebraska Revised Statute 77-1807. But because they were both passed at the end of the legislative session, there was not an opportunity to harmonize the changes in the two bills. AM2561 would harmonize the language in 77-1807 so that both the changes in LB97 and LB341 are able to go into effect. Ordinarily when a section of statute is amended by multiple pieces of legislation, the Bill Drafting office works with the senators who introduced the legislation during the Enrollment and Review process to have one bill amended to reflect the changes made by the other bill. Unfortunately, since LB341 was not signed into law until after LB97 had already come up on Final Reading last year, there was no opportunity to do so. In cases where the differences between two bills are not correlated as part of the normal legislative process, the Revisor of Statutes must make a determination of whether the amendments are reconcilable. Because the amendments as passed were determined to be not entirely reconcilable, the only...the language in LB97 went into effect since it was the second of two bills to pass the Legislature last year. AM2561 amends 77-1807 to include the language that passed the Legislature in LB341. The bill also makes a change in the land bank statutes to reflect other changes to the tax sale process that were contained in LB341 but were not incorporated into LB97. Making this small change will allow both bills that passed last session to go into full effect. LB681 received no opposition testimony at the hearing and was advanced by the Revenue Committee on an 8-0 vote. Once again, I'd like to thank Senator Hadley for allowing me to add this essentially consent calendar bill to LB851 and urge the body to adopt AM2561. Thank you, Mr. President. [LB851 LB681 LB97 LB341]

SENATOR GLOOR: Members, you've heard the opening on the amendment to LB851. Are there senators wishing to be recognized? Seeing none, Senator Mello waives closing. The question is, shall the amendment to LB851 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk.  
[LB851]

CLERK: 26 ayes, 0 nays on adoption of Senator Mello's amendment. [LB851]

SENATOR GLOOR: The amendment is adopted. [LB851]

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CLERK: Senator Burke Harr would move to amend with AM2611. (Legislative Journal page 1103.) [LB851]

SENATOR GLOOR: Senator Harr, you're recognized to open on your amendment. [LB851]

SENATOR HARR: Thank you, Mr. President, members of the body. I hope you were paying attention to Senator Mello's last description of his bill because that's exactly what this is too. It's further cleanup language, but it's regards to tax certificates. When we passed LB341 and the land bank bill, there was a harmonizing issue as far as you could have a piece of property that could have two different tax certificates and it's confusing. This merely provides clarification language for that. With that, I would ask that you please advance AM2611. Thank you. [LB851 LB341]

SENATOR GLOOR: Members, you've heard the opening on the amendment. Are there senators wishing to speak? Seeing none, Senator Harr, you're recognized to close. Senator waives closing. The question is, shall the amendment to LB851 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB851]

CLERK: 28 ayes, 0 nays on adoption of Senator Burke Harr's amendment. [LB851]

SENATOR GLOOR: The amendment is adopted. [LB851]

CLERK: Senator Hadley would move to amend with AM2621. (Legislative Journal pages 1103-1104.) [LB851]

SENATOR GLOOR: Senator Hadley, you're recognized to open on your amendment. [LB851]

SENATOR HADLEY: Mr. President, members of the body, AM2621 is actually LB668, which was heard in Banking and Commerce early in January. It was voted out on an 8 to 0 vote. It had no opponents. It had two or three proponents. It was asked to be on consent calendar and of course due to the size of consent calendar it did not make it. It deals with automobiles and items that are taken into a shop for repair. There is a contract either expressed or implied that the shop will repair the item and then return the item to the person who brought it in. They will pay for the repair and it will be their item. The repair is completed. The shop or the claimant can hold the item for 90 days, then may dispose of it, of the item by sale if the person doesn't come in to pay the repair bill. They may not come in for many different reasons. The shop sends a certified letter with return receipt requested for payment to the last known address of the owner and to any lien or security interest holder of record. Thirty days after mailing, the claimant may

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dispose of the property by sale. From the sale proceeds, claimant may satisfy his lien, including reasonable charges of notice, advertisement, and sale. The balance shall be delivered to the county treasurer and the treasurer holds for five years the monies, and then they're moved into the school fund. The problem is an instance came up with a banker and we met with the bankers and the dealers that a bank was concerned about whether or not the lien on the title was released when the shop owner put the item up for sale to cover the repair. This bill merely clarifies the current practice that, yes, the lien is released, because otherwise the shop that does the repair could never sell the item because they couldn't get a release from the lien, the item would still have a lien on it. We met with the Nebraska Bankers Association and the community bankers, and both of those worked with us in coming up with this bill and they support the bill. With that, I would ask for your green vote on an AM2261 (sic - AM2621). [LB851 LB668]

SENATOR GLOOR: Thank you, Senator Hadley. Are there senators wishing to be recognized? Seeing none, Senator Hadley, you're recognized to close. Senator Hadley waives. The question is, shall the amendment to LB851 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB851]

CLERK: 30 ayes, 0 nays on adoption of Senator Hadley's amendment. [LB851]

SENATOR GLOOR: The amendment is adopted. [LB851]

CLERK: I have nothing further on the bill, Mr. President. [LB851]

SENATOR GLOOR: Senator Murante for a motion. [LB851]

SENATOR MURANTE: Mr. President, I move to advance LB851 to E&R for engrossing. [LB851]

SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. Those opposed say nay. The bill advances. Mr. Clerk, continuing with Select File. [LB851]

CLERK: LB744, no E&R's. Senator Avery would move to amend, AM2393. (Legislative Journal page 894.) [LB744]

SENATOR GLOOR: Senator Avery, you're recognized to open on your amendment. [LB744]

SENATOR AVERY: Thank you, Mr. President. This...you will remember on General File that we approved the creation of a Sesquicentennial Commission and we gave it authority to raise money and that authority included gifts and donations but did not mention gifts...or, excuse me, did not mention grants. We...this amendment simply adds

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language to the existing bill to allow the Sesquicentennial Commission to receive and expend grants as well as gifts and donations. They have already begun to contemplate that kind of fund-raising, and this will simply make it possible for them to do it legally. With that, I ask your approval. Thank you, Mr. President. [LB744]

SENATOR GLOOR: Thank you, Senator Avery. (Visitors introduced.) Members, you've heard the opening on the motion to LB744. Are there senators wishing to be recognized? Seeing none, Senator Avery, you're recognized to close. Senator Avery waives. The question is, shall the amendment to LB744 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB744]

CLERK: 26 ayes, 0 nays on the adoption of Senator Avery's amendment. [LB744]

SENATOR GLOOR: The amendment is adopted. [LB744]

CLERK: I have nothing further, Mr. President. [LB744]

SENATOR GLOOR: Senator Murante for a motion. [LB744]

SENATOR MURANTE: Mr. President, I move to advance LB744 to E&R for engrossing. [LB744]

SENATOR GLOOR: Members, you have heard the motion to advance LB744. Those in favor say aye. Those opposed say no. The bill advances. Mr. Clerk. [LB744]

CLERK: LB744A. I have no amendments to the bill, Senator. [LB744A]

SENATOR GLOOR: Senator Murante for a motion. [LB744A]

SENATOR MURANTE: Mr. President, I move to advance LB744A to E&R for engrossing. [LB744A]

SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. Those opposed say nay. The bill advances. (Visitors introduced.) Mr. Clerk. [LB744A]

CLERK: LB768. Senator, I do have E&R amendments, first of all. (ER163, Legislative Journal page 855.) [LB768]

SENATOR GLOOR: Senator Murante for a motion. [LB768]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB768]

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SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. Those opposed say nay. The amendments are adopted. [LB768]

CLERK: Senator Larson would move to amend, AM2401. (Legislative Journal page 1104.) [LB768]

SENATOR GLOOR: Senator Larson, you're recognized to open on your amendment. [LB768]

SENATOR LARSON: Thank you, Mr. President. I had a lengthy discussion with this on General File about the Brand Committee and the neglect that the executive director has had in overcharging registered feedlots for the last six years. And the amendment that I brought on General File would say that they would have to offer refunds to those feedlots that have been overpaid or had overpaid or, as I would say, overtaxed for those six years. Senator Schumacher brought up a good point that the statute of limitations is two years and that that amendment would possible be unconstitutional. And to continue to work on a method that would be constitutional and make it right to those businesses, both small and large, about the government or the state of Nebraska charging them fees that they should not have been charged, I worked to come up with a way to make it right and easier for the Brand Committee. So that's what AM2401 does and it just reads for the period between May 1, 2014, and April 30, 2016, the amount of the fee assessed pursuant to this section shall be \$650. Beginning May, 2016, it would actually go up to the \$750 that Senator Schilz is trying to do in LB268. So it doesn't look back and say they have to offer refunds to those feedlots that were overcharged. It just keeps the feedlot fee at \$650 for two years, and then it goes to \$750. Members, people will still oppose this and say that...or a few senators might oppose this and say that, you know, they were charging on inventory not capacity, not everybody was overcharged. You're right. Not everybody was overcharged, but there were a significant number of feedlots that were overcharged. And if we can't expect ourselves to follow the law that we set, and our state agencies to follow the law that we set, what kind of example are we to the people of Nebraska to say, oh, they just didn't realize they weren't doing things right for six years, so we're going to fix their mistake. Is that how we treat businesses that may be breaking the law or doing something wrong for a number of years? Is that what the state says? No. When you as an individual or you as a business might make an honest mistake, you will be punished, whether it's in fines, whether it's in, you know, court brought on you, a number of different ways, even if it was an honest mistake. But are we going to say, oh, since it's a government agency and they fell asleep at the wheel it's okay? Businesses were taken advantage of, pure and simple. They overpaid and it was wrong. This is a small token to those businesses that provide a substantial amount of money to the Brand Committee that the Brand Committee took advantage of for nearly six years. And with that, Mr. President, I'd urge your green vote on AM2401 on the simple fact that it was wrong what we did, what our state agency did, and let's show the business owners of the state of Nebraska that, yes, we realize what we did was wrong.

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Thank you, Mr. President. [LB768]

SENATOR GLOOR: Thank you, Senator Larson. (Visitors introduced.) We now move to floor debate. Senator Davis, you're recognized. [LB768]

SENATOR DAVIS: Thank you, Mr. President. I rise in support of LB768, a good bill which will do a great service to Nebraska, will expand the brand area somewhat, not in statute but through some changes which will be for the counties that border the brand area and will help livestock producers who live in that area but want to ship cattle to states where there is a brand inspection program to do so without having to haul them into the brand area, first and foremost. But I do rise in opposition to AM2401 for a number of reasons. First of all, I think this discovery took place some years ago. It took a long time for the Brand Committee to actually get a rate increase put forward, and there was an oversight not just on Steve Stanec's behalf but I believe an oversight took place with Bill Drafters here in the Capitol. So there's plenty of blame to go around with that. There's another aspect of the law that's not being followed, and that is that the Brand Committee by statute is authorized to collect on the one-time capacity of the feedlot. About 50 years ago, they decided that was just not fair to the feedlot owners because capacity is a different thing than average daily inventory. So they have been collecting on the basis of average daily inventory for a number of years. If Senator Larson wants to go back and make these folks whole, maybe we need to go back and have the feedlots have the Brand Committee whole because we're not following the law on that aspect of the bill too. In fact, the rebates to the registered feedlots would be exceeded by the revenue generated by charging at over...at full capacity, which...is Senator Schilz in the room? Senator Schilz, will you yield to a question? [LB768]

SENATOR GLOOR: Senator Schilz, would you yield? [LB768]

SENATOR SCHILZ: Yes. [LB768]

SENATOR DAVIS: Senator Schilz, when did you become aware of this issue with feedlots? [LB768]

SENATOR SCHILZ: You mean as far as the overcharging or the capacity versus inventory? [LB768]

SENATOR DAVIS: The overcharging. [LB768]

SENATOR SCHILZ: It would have been probably last year, maybe the year before that, but I think it was last year. [LB768]

SENATOR DAVIS: And you've had hearings on this when you were going to harmonize that. Isn't that right? [LB768]

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SENATOR SCHILZ: There was a hearing, yes. [LB768]

SENATOR DAVIS: Did you have anyone stand in opposition? [LB768]

SENATOR SCHILZ: In the hearing, I don't remember for sure but I don't think so. [LB768]

SENATOR DAVIS: And what organizations were represented at that hearing? [LB768]

SENATOR SCHILZ: Boy, now you're making me think a little bit. I would guess the usual suspects, the Cattlemen and others I would suppose. But I don't believe we had any...no matter who was there, I don't think there was any opposition to what we had talked about. [LB768]

SENATOR DAVIS: So there was no opposition. So would you surmise that the feedlots probably knew about what was going on and that they were aware of the discrepancy and were not unhappy with the resolution? [LB768]

SENATOR SCHILZ: I would say that you could surmise that if they didn't show up. Whether they were happy or not, they didn't feel it was a big enough deal to come in and testify. [LB768]

SENATOR DAVIS: Thank you, Senator Schilz. Just FYI, members. I have introduced an amendment also to this bill which strikes the language dealing with the one-time capacity, and we can debate that after this bill. With that said, I'd urge your opposition to AM2401. Thank you. [LB768]

SENATOR GLOOR: Thank you, Senator Davis and Senator Schilz. Senator Bloomfield, you're recognized. [LB768]

SENATOR BLOOMFIELD: Thank you, Mr. President. I'm opposed to AM2401, and this may be the shortest opposition speech you'll ever hear. Two wrongs do not make a right. Thank you, Mr. President. [LB768]

SENATOR GLOOR: Thank you, Senator Bloomfield. Senator Wallman, you're recognized. [LB768]

SENATOR WALLMAN: Thank you, Mr. President. Mine will be short. I'm opposed to the amendment as well and I'm for the bill, and Farmers Union and Independent Cattlemen and all them testified for this bill. Thank you, Mr. President. [LB768]

SENATOR GLOOR: Thank you, Senator Wallman. Are there other senators wishing to

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be recognized? Seeing none, Senator Larson, you're recognized to close on your amendment to LB768. [LB768]

SENATOR LARSON: Thank you, Mr. President. Members, just so you know, AM2401 isn't a hostile amendment to the bill and it essentially won't affect the passage of LB768. I support LB768. I support what the concept is happening in LB768. The question that we have to ask ourselves is whether or not it's right for a government agency to essentially overtax businesses across the state for six years and then us make up for that mistake. That's what is at play here. All right. When we move forward, Senator Bloomfield says two wrongs don't make a right. The Brand Committee was the wrong. The Brand Committee was in the wrong. They did not follow statute. They didn't follow statute when they were charging these feedlots. They didn't follow statute...the State Auditor's report shows they weren't following statute when they were charging investigative fees to people inside the brand area, which this bill I believe fixes that they can now. This is a committee that has an executive director that severely mismanages that committee. This isn't a wrong to the Brand Committee. This is making it right. These businesses that drive the state of Nebraska, has made the state the number one beef state in the nation, this is what we're doing because we overtaxed them. Our state agency didn't follow the law that we set in place. It's as simple as that. You know, and we hear that the Brand Committee wants or needs this money, needs X money. I sit on the Appropriations Committee. This committee that's supposedly continually hurting for money asked us for the authority to buy bulletproof vests for their inspectors last year. Brand inspectors needing bulletproof vests. It's ridiculous. So not only were they overcharging the businesses in the state of Nebraska not pursuant to our state statute, they wanted bulletproof vests. Members, let's make it right. That's what it boils down to. This has nothing...very little to do with the underlying bill. I support the underlying bill. I'll continue to support the underlying bill. The underlying bill is needed. The question is, is what...over the past six years, what was right and it wasn't right what happened. What kind of message are we going to send to the people of the state of Nebraska? That it's okay if a state agency takes advantage of you. We'll come back and fix it so the state...so, you know, it really wasn't their fault. We're sorry. Our executive director didn't know the law. The person that's supposed to be implementing the law didn't know it. Sorry. It's been six years. We'll fix it now. [LB768]

SENATOR GLOOR: One minute. [LB768]

SENATOR LARSON: All this does is for two years it keeps it what the statute says right now. Right now, the statute says we charge them \$650 per 1,000 head. This would just keep it at that \$650 for two years and then it would go to \$750 to match the rest of the statute. This is fair. This will bring in roughly the same amount of money that they've been overcharged the last six. What message do we send to the people of Nebraska? It's okay when the state overtaxes you and doesn't follow the rules that the Legislature set out. That's okay. AM2401 sends the message is, no, it's not right when the state

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doesn't follow or a state agency doesn't follow the rules that we set out for them. That is wrong. We are sorry. [LB768]

SENATOR GLOOR: Time, Senator. [LB768]

SENATOR LARSON: Thank you. [LB768]

SENATOR GLOOR: Thank you, Senator Larson. Members, the question is, shall the amendment to LB768 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Senator Larson, for what purpose do you rise? There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB768]

CLERK: 27 ayes, 0 nays to place the house under call. [LB768]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators not in the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the Chamber. The house is under call. Senators, please record your presence. Senators Burke Harr, Lathrop, Coash, Carlson, please return to the Chamber and record your presence. Senator Carlson, please return to the Chamber and record your presence. Senator Larson, your request, I believe, was for a roll call vote, regular order. [LB768]

SENATOR LARSON: Reverse. [LB768]

SENATOR GLOOR: Reverse order. Members, the question is, shall the amendment to LB768 be adopted? Mr. Clerk, call the roll. [LB768]

CLERK: (Roll call vote taken, Legislative Journal page 1105.) 19 ayes, 8 nays, Mr. President, on the amendment. [LB768]

SENATOR GLOOR: The amendment fails. Raise the call. [LB768]

CLERK: Senator Davis would move to amend, AM2610. [LB768]

SENATOR GLOOR: Senator Davis, you're recognized to open on your amendment. [LB768]

SENATOR DAVIS: Thank you, Mr. President. I wish to withdraw my amendment at this time. [LB768]

SENATOR GLOOR: So ordered. (Visitors introduced.) Mr. Clerk. [LB768]

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CLERK: I have nothing further on LB768, Mr. President. [LB768]

SENATOR GLOOR: Senator Murante. [LB768]

SENATOR MURANTE: Mr. President, I move to advance LB768 to E&R for engrossing. [LB768]

SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. Those opposed, nay. The bill advances. Mr. Clerk, items for the record. [LB768]

CLERK: Enrollment and Review reports LB364, LB679, LB802, LB803 to Select File. Senator McGill, amendments to LB998 to be printed. Enrollment and Review reports LB660A, LB853A, LB967A, LR41CA correctly engrossed. Hearing notice from Judiciary. LR538, Mr. President, is a new resolution by Senator Harr to be referred to the Exec Board. That's all that I have. (Legislative Journal pages 1105-1114.) [LB364 LB679 LB802 LB803 LB998 LB660A LB853A LB967A LR41CA LR538]

SENATOR KRIST PRESIDING

SENATOR KRIST: Next item.

CLERK: LB700 is a bill by Senator Schumacher. (Read title.) Introduced on January 8, referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB700]

SENATOR KRIST: Thank you, Mr. Clerk. Senator Schumacher, you're recognized to open on your bill. [LB700]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. LB700 was introduced at the request of the Insurance Department, and it is an effort to bring the state into the group of National Association of Insurance Commissioners' suggestion that all states that are accredited have this similar piece of legislation. It harkens back to the aftershocks of the financial crisis which occurred in 2008. Back in the 1970s, life was a bit simpler with banks and insurance companies. You could count on fairly simple agreements, a few relationships between stock and options and puts; you could speculate how things might get more complicated, but it was then simple. However, the speculation grew into reality. Corporations became corporations with subsidiaries, parent companies, bank holding companies, holding companies. Simple contracts became counterparty agreements, credit default swaps, different interagency commitments, and a whole slew of incredibly complicated financial arrangements that began to flourish as the regulatory environment of the 1980s and '90s began to give way to market capitalism and that the market will take care of itself. That particular philosophy came to a screeching halt in a few hours on September 15, 2008. The idea

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that you could leverage huge amounts of money, have arrangements between your affiliates and your subsidiaries and other companies that really didn't appear on the books but made officers and boards of directors hundreds of millions of dollars because they could play with other people's money and risk other people's money and make a commission or salary off it, all that came to a halt, and it left our regulators with a mess. One of the things that accentuated the problem was that no one knew who was really holding the bag for all this risk that was recklessly assumed by insurance company executives and boards of directors along with some of our larger banks. So, in cleaning up the mess, the National Association of Insurance Commissioners has been working with the various state regulatory bodies; they, in turn, have been working with international regulatory bodies to try to get a picture of exactly what kind of relationships exist inside of a company and between companies that are creating undue risk, so that we never again will have to worry about where the ultimate consequence of a default will end and who will be swept under by one. In order to get to the roots of that, you've got to have some type of risk assessment, and you have to have some type of confidentiality that is assured to the various private entities so that they will reveal their underbellies and you can assess, as a regulator, the risk. The purpose of this legislation is to outline requirements for an insurer or insurance group to maintain a risk management framework and complete a "own risk and solvency assessment" report to outline and summarize the risk analysis for the Director of Insurance. It is an additional tool for the director to utilize in the financial analysis of the insurer or insurance group. The requirements will be applicable to an insurer with a written premium of \$500 million or an insurance group with a written premium of more than \$1 billion to make self-assessment of the capital available to support the risks. The insurers will analyze the various risks--such as credit risk, investment risk, market risk, operational risk, for example--and provide information regarding those analyses in the report. Because we will be asking the insurers to provide proprietary information that is likely to contain trade secrets and sensitive information, it's important for this information to be confidential and privileged and not subject to subpoena or public records. The bill does grant the director the authority to utilize the information in the course of his official duties and share the information with other state, federal, and international regulatory agencies, the National Association of Insurance Commissioners, and department consultants under contract. There will be confidentiality provisions that are in this bill in order to make sure that the information gotten is frank and honest and enabling the regulators to take the actions that might be necessary to make the stable situation that we need. Due to changes in financial solvency regulation, and with the insurance industry internationally, this legislation is expected to be enacted in all the states, and it will be an accreditation standard under the National Association of Insurance Commissioners' accreditation program. The Insurance Department feels this is a very important piece of legislation so that we can maintain our accreditation with the national agency and so that we can make sure that we minimize the risk of the 2008 financial crisis repeating itself and causing the nation the great harm that our financial sector caused the country by its overreliance on debt and risk and corporate and executive

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profits and compensation. So I would ask you to advance to Select File LB700, at the request of our insurance commissioner. Thank you. [LB700]

SENATOR KRIST: Thank you, Senator Schumacher. Senator Janssen, you're recognized. [LB700]

SENATOR JANSSEN: Thank you, Mr. President and members. And I am in support of Senator Schumacher's bill, LB700. And I rise for probably a different reason, is to talk about the last vote we had, dealing with the amendment on...AM2401, Senator Larson. And the reason I bring that up is I stood up to be recognized. And I understand our...I know our Clerk is very busy, and there's a lot of moving parts here. And I did not do a good enough job of being recognized, so that's on me, because I wanted to reconsider it because I think a lot of us had a lot of questions about exactly what that entailed, dealing with the branding commission and whatnot. And so I did want to have that reconsidered. However, that time has passed. I guess Final Reading would happen on that. And I blame nobody but myself for not making enough of a commotion, if you will, to be recognized. And with that, Mr. President, I'll yield the balance of my time to Senator Larson. [LB700]

SENATOR KRIST: Senator Larson, 3:50. [LB700]

SENATOR LARSON: Thank you, Mr. President. And, on AM2401, to talk about that a little more, I've actually talked to a few members with the same concern that Senator Janssen had, in terms of not fully understanding what we were doing. I know everybody is very busy and working on a lot of other things at this time. So it's my understanding that we can't have a motion to reconsider because it's already to Enrollment and Review for engrossing. But it will be coming back on Final Reading to further talk about the issue in terms of--as I said, there were...I think there were 20 present and not votings--to talk about...and a few of them just didn't know what was happening. And everybody is very busy, and I respect that. And if you have any questions specifically to what AM2401 was, please let me know before Final Reading. I'm sure we'll have another discussion on that as we move forward. Thank you. [LB700]

SENATOR KRIST: Thank you, Senator Janssen. Senator Wallman, you are recognized. [LB700]

SENATOR WALLMAN: Thank you, Mr. President. Members of the body, I, too, want to thank Senator Schumacher for bringing this bill. But would he answer a question, please? [LB700]

SENATOR KRIST: Senator Schumacher, will you yield? [LB700]

SENATOR SCHUMACHER: Yes. [LB700]

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SENATOR WALLMAN: Thank you, Senator. When you're dealing with a foreign entity in reinsurance, like, maybe something like Allianz or something like this, does this take care of some of these problems, too, if they would happen to go broke? [LB700]

SENATOR SCHUMACHER: I don't think it takes care of any type of reinsurance problems if somebody goes broke. What it does is give the regulators a...kind of a temperature reading on whether or not something is getting hot and dangerous and whether they should take appropriate action. And it tries to trace these transactions and these deals across state borders and across international borders so that nobody is taken off guard. And if the dominoes begin to fall, they know where they're going to end up at. [LB700]

SENATOR WALLMAN: Thank you. And I do think that's very important. I have a relative that's a bank examiner. And he says Nebraska banks, as a whole, are very good, because of our oversight, and some of our neighboring states' are not quite as good. So I want to thank him for bringing this. Thank you, Mr. President. [LB700]

SENATOR KRIST: Thank you, Senator Wallman. Senator Chambers, you're recognized. [LB700]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, before I do something like I'm about to do, I would bring you to the attention of the one whose bill it is. Since discussions were had already about subjects different from the bill, I'm going to do the same. I did listen to "Professor" Schumacher, and I agree with the bill. And I had even started looking at an amendment that will be added, but it will be offered on Select File. The bill, the green copy, if you notice, has 14 pages. The amendment comprises 16 pages. This is what I call a situation where the jockey is bigger than the horse. But at any rate, what I'm going to talk about is to explain why I'm in and out of here. Things trouble me when I see something happens that perverts and corrupts the judicial system. I know there are people who see Nikko Jenkins as a monster. And they can see him as anything they want to. But when a judge will deal with a man whom he knows has mental problems, and will say that man is going to be allowed to defend himself when he's charged with four counts of first-degree murder and numerous weapons charges, that judge is making a mockery not only of the judicial system, but he is mocking mental illness. When this man went to jail, he was young. He spent ten years in the penitentiary. Much of that time was spent in solitary confinement. The U.N. says that solitary is a form of torture. He did things that are called "self-mutilation." The worst was when he made a very deep, long, jagged gash in his face, which took numerous stitches to close. Because it costs more money to treat somebody who has mental illness, the state's psychiatrist Scott Moore said he does not have mental illness, he has a behavioral problem. And whenever anybody misbehaves, "the hole" is where that person goes. So for much of the time that he was in prison, he was in "the hole." When

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he was released July 30, he is alleged to have murdered four people. The word "allegation" is used when you're talking about legal matters, because it means an accusation that has not been proved by evidence. So he is alleged to have murdered four people. When he was taken to Douglas County jail, he again was put in lockdown for 23 hours a day, which is where he stays now. The judge has access to his records. When he, before coming to the penitentiary, was at Douglas County, he was under psychiatric treatment; he was on medication. When he came down to the penitentiary, the judge who made the transfer said that he has mental problems and he needs treatment. And the Department of Corrections ignored it, and he wound up in "the hole." Now this judge, knowing that history, and even more, has said that this man is competent to defend himself. He, the judge, is named Peter Bataillon. I read the law: what the U.S. Supreme Court said in a decision it handed down in the middle of June in the year 2008, that the state can set a higher standard--and indeed it's required-- [LB700]

SENATOR KRIST: One minute. [LB700]

SENATOR CHAMBERS: ...for somebody to defend himself than to be ruled competent to stand trial. In other words, competency to stand trial does not equate to competency to represent yourself. And because of that, Judge Bataillon was wrong to say that because he found Jenkins competent to stand trial, he had to also find that he was competent to defend himself. That is not the law. That is not true. My light is on, and I should wind it up with that. [LB700]

SENATOR KRIST: Senator Chambers, you can continue. You're on your own five. [LB700]

SENATOR CHAMBERS: Thank you. Here is what I will tell the judge. I'm drafting a letter to him, and it's one of the hardest things that I've had to do. I don't want to express how I actually feel; I want it to be lawyerlike. But a murder trial is not a circus; the judge is not a ringmaster. If he does not rescind that order, he is paving the way for what I would characterize an unfunny comedy of errors played out on the stage of the theater of the absurd, except it's not a comedy, it is a profound tragedy. You do not show respect and consideration for those with mental illness by accommodating them in this way and going along with whims that show, in and of themselves when they're manifesting themselves in the courtroom, that the man is not fit to defend himself. Judges should have said something. The county attorney should have said something. Defense lawyers should have said something. But it shouldn't have been necessary, because the judge ought not to have done it. And I get sidetracked by having to undertake what is the responsibility of others. This man is on medication. Let's say he's in the courtroom, and he's off his medication. He's accompanied all the time by three deputies. He has handcuffs, he has leg shackles, and he has chains. So these he'll wear into the courtroom. If he's not on his medication and he gets agitated and he

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begins to act out, as people with his condition will do--and he's shown that he has mood swings--what is the court going to do? If he's not on his medication, are they going to say, "We will forcibly administer medication so that you can behave while you're in court defending yourself against four charges of first-degree murder"? One of the important rights that a person has is to be shielded from self-incrimination. Suppose this man is provoked by something the judge says, and he looks at the judge and he says, "Look," and uses an obscenity, "I've killed four people, and I'll kill you, M.F.-er." That is an in-court confession. An in-court confession does away with the need for the state to go forward. How is this court going to protect this man from self-incrimination, offering evidence that is detrimental? The main goal of criminal law is to ensure a fair trial. And the only way there can be a fair trial is to ensure that everybody charged with a crime will have effective, adequate representation. No court would appoint a lawyer with the mental problems of Nikko Jenkins, who is on medication, to defend somebody charged with four counts of first-degree murder. If a lawyer with those problems could not be assigned to defend somebody, how can the person with that condition be allowed to defend himself? He cannot. Is it the judge's plan... [LB700]

SENATOR KRIST: One minute. [LB700]

SENATOR CHAMBERS: ...because this is a highly political case, to egg this man into making an in-court confession, to incriminate himself? This is a travesty. And it's preparing the way, if he should be allowed to go through with this and be convicted, which he obviously will be, it will have to be reversed on appeal. Or if he acts out enough, if he refuses to take his medication, then maybe they'll declare a mistrial. Then do they start all over again? Will anything that had been said or allowed to take place in the courtroom before the declaration of that mistrial be usable in a subsequent trial? Those who want to see this man get what they think he deserves should be insisting more strenuously than I am... [LB700]

SENATOR KRIST: Senator, this is your third time. [LB700]

SENATOR CHAMBERS: Thank you. [LB700]

SENATOR KRIST: And you're recognized again. [LB700]

SENATOR CHAMBERS: ...on the judge rescinding that order. What the U.S. Supreme Court has said: a person's right under the Sixth Amendment to defend himself or herself is not absolute; limits can be placed on that right. And one of the limitations is that the person is not mentally capable of defending himself or herself. And the necessity of the criminal law, the judicial system, maintaining its integrity by seeing that a trial is fair, can overrule the right of the person under ordinary circumstances to defend or represent himself in court and require the appointment of counsel. The court can do that, and courts have done it. And, in fact, I intervened in a case down here in Lincoln during

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2008, when a man who had killed a doctor at the Regional Center was on trial for second-degree murder and Judge Merritt had said he could represent himself because the judge had found him competent to stand trial. And I'd emphasize that there's a difference between competency to stand trial and competency to defend yourself. And I wrote the judge a letter and gave it to legal authorities. And he backed away from it. Then, ironically, about two days after I had written that letter to the judge, that's when the U.S. Supreme Court came down with a decision saying the same thing: competency to stand trial is not the same as competency to defend yourself. So there's a judge who backed away from it. That's what Bataillon ought to do. There is nothing that can be gained, that advances the cause of justice, by allowing a mentally ill person to defend himself or attempt to do so. You have to be trained in the law. You have to know when to object. You have to know to make an appropriate objection. You have to defend yourself against the objections entered by the prosecution. Einstein is smart, but intelligence alone is not enough to qualify him to be a lawyer. But since he would not be found to have any kind of mental problem, they would allow Einstein to represent himself in court. But the fact that Einstein is intelligent, he would never dream of doing such a thing. So everything about Nikko Jenkins' conduct, everything about the statements he has put in writing manifest delusion, incoherence, a disconnection from reality. And whatever it makes me for saying what I'm saying, I will be that. And I'm going to write that letter. And the judge ought to be ashamed of himself. He is an embarrassment to the judiciary and to the system of justice. What ought to be done is what should have been done in the first place: the judge should leave the public defender, Tom Riley, as Nikko Jenkins' lawyer. He is going to be there as what's called "standby counsel." But suppose Tom Riley tells Nikko Jenkins, you should not say anything here, and Nikko Jenkins refuses the advice of Tom Riley. Then what? If there develops an argument between Jenkins and his lawyer...not his lawyer... [LB700]

SENATOR KRIST: One minute. [LB700]

SENATOR CHAMBERS: ...standby counsel, what then? I cannot say everything that I have on my mind, but I wanted something in the record. And maybe some of this will get back to Judge Bataillon. But I think it's one of the grossest acts of judicial incompetency that I have witnessed, and I have witnessed some bad things done by judges. Mr. President and members of the Legislature and to Senator Schumacher, as I started, I'm in support of the bill that is before us, and I intend to stay up here long enough to vote for it. Then I'm going to go back to my dungeon and undertake the work that a judge and those who are in the legal profession ought to do and have made unnecessary (sic) for me to do it. Thank you, Mr. President. [LB700]

SENATOR KRIST: Thank you, Senator Chambers. (Visitors introduced.) Seeing no one wishing to speak, Senator Schumacher, you're recognized to close on your bill. [LB700]

SENATOR SCHUMACHER: Thank you, Mr. President. Members of the body, just

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briefly, LB700 is a bill originating with the National Association of Insurance Commissioners. Its passage will be part of the accreditation system and criteria for our own Department of Insurance. It was brought at the behest of our Director of Insurance. And the public interest of Nebraskans, Americans, and even the international community will be served by it. I encourage your support in a green vote for LB700. Thank you. [LB700]

SENATOR KRIST: Members, you've heard the closing on LB700. The question is the advancement of LB700 to E&R Initial. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB700]

CLERK: 26 ayes, 0 nays on the advancement of LB700. [LB700]

SENATOR KRIST: LB700 advances. Next item. [LB700]

CLERK: LB994 introduced by Senator Campbell relating to vital statistics. (Read title.) Introduced on January 21, referred to Health and Human Services, advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB994]

SENATOR KRIST: Thank you, Mr. Clerk. Senator Campbell, you're recognized to open on your bill. [LB994]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. The purpose of this bill is to increase the amount in fees the Department of Health and Human Services may charge for issuing certified copies of abstracts of marriage and for searches of death certificates. Under LB994, Nebraska Revised Statute 71-612(1) is amended to change the fee for issuing a certified copy or abstract of marriage from \$11 to \$16. Item (5) is amended to change the fee for a search of death certificates from no more than \$2 to no more than \$3. This bill was brought to us at the request of the Appropriations Committee and you can imagine when the Appropriations Committee comes and says we'd like you to introduce a bill, the Health and Human Services Committee paid very close attention. The Department of Health and Human Services submitted a deficit request of \$600,000 in FY '14 and FY '15, transfer from the Medicaid False Claims Act to vital records. Historically, vital records has been funded solely by fees. The Governor's recommendation is to continue to have the General Fund supplement the revenue. No General Fund appropriation had ever been provided for this purpose. On further inquiry from the Legislative Fiscal Office to the department after the Governor made his recommendation, the department stated that the agency redirected General Funds beginning in FY '11, when revenues fell short of expenditures, and has continued to do so since. A \$1 fee generates \$138,000. To cover the \$600,000 shortfall in the marriage certificates, the increase would need to be \$4.35. If it's rounded up to the nearest dollar, \$5 would generate \$690,000. The current fee is \$11 for certified copies; the bill will make it \$16. The maximum fee for death certificates provided for the

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Nebraska Medical Association and any of its allied medical societies or hospital staff for death certificates is increased from \$2 to \$3. Revenue has not kept pace with salary increases, benefit costs, and other inflationary increases. The additional funding is also needed for necessary security and IT upgrades and to meet baseline minimum compliance standards and provide for a one-month cash reserve. The last time the fee was increased was in 2006 and that fee went from \$7 to \$11. The Health and Human Services Committee had a hearing on this and received information from Liz Hruska on behalf of the Legislative Fiscal Office and the Appropriations Committee. We would encourage your green vote on this bill to ensure that fees do cover the costs that are incurred. And if you look at the fiscal note, you will note that the revenue exceeds the expenditures, so we do need...the fiscal note is of importance in looking at this bill. Thank you, Mr. President. [LB994]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thank you, Senator Campbell. And, members, you've heard the opening on LB994. We now move to discussion. Seeing no members wishing to speak, Senator Campbell, you're recognized to close. Senator Campbell waives. Members, the question is the advancement of LB994 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB994]

CLERK: 25 ayes, 0 nays on the advancement of the bill. [LB994]

SENATOR GLOOR: The bill advances. Mr. Clerk, next bill. [LB994]

CLERK: LB994A, Mr. President, by Senator Campbell. (Read title.) I do have an amendment to the bill. [LB994A]

SENATOR GLOOR: Senator Campbell, you're recognized to open on LB994A. [LB994A]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. The appropriations bill carries out, obviously, what I have described where the revenue that comes in will cover the expenses and we will not have to transfer from the General Fund. So I would appreciate your green vote on LB994A. Thank you, Mr. President. [LB994A]

SENATOR GLOOR: Thank you, Senator Campbell. Mr. Clerk. [LB994A]

CLERK: Senator Mello would move to amend with AM2587. (Legislative Journal pages 1114-1117.) [LB994A]

SENATOR GLOOR: Senator Mello, you're recognized to open on your amendment to

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LB994A. [LB994A]

SENATOR MELLO: Thank you, Mr. President. Members of the Legislature, AM2587 would make two corrective changes to the state budget which were not spotted until after the budget bills were already on Final Reading yesterday. First, the amendment reduces a cash fund appropriation due to a fund balance that was overestimated and replaces it with a General Fund reappropriation, in keeping with the Appropriations Committee recommendation of not having a General Fund impact. Second, the amendment corrects a reference to the Nebraska Medical Center in the appropriation intent language for the Department of Health and Human Services. I'd like to thank Senator Campbell for allowing me to offer this amendment to LB994A as well as for the Legislative Fiscal Office staff for catching this issue over the weekend and yesterday so we could deal with this issue on General File for LB994A. With that, I'd urge the body to adopt AM2587. Thank you, Mr. President. [LB994A]

SENATOR GLOOR: Thank you, Senator Mello. Members, you've heard the opening on LB994A and the amendment. Are there senators wishing to be recognized? Seeing none, Senator Mello, you're recognized to close. Senator Mello waives closing. The question is, shall the amendment to LB994A be adopted? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB994A]

CLERK: 25 ayes, 0 nays on adoption of the amendment. [LB994A]

SENATOR GLOOR: The amendment is adopted. Mr. Clerk. [LB994A]

CLERK: I have nothing further, Mr. President. [LB994A]

SENATOR GLOOR: We now return to discussion on LB994A. Seeing no one in the queue, Senator Campbell, you're recognized to close. [LB994A]

SENATOR CAMPBELL: I want to thank everyone for their votes on the bill and for the cooperation between the Appropriations Committee and the Health and Human Services Committee. So please stay in place and vote green. Thank you. [LB994A]

SENATOR GLOOR: Thank you, Senator Campbell. Question before us, members, is the advancement of LB994A to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB994A]

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB994A. [LB994A]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB994A]

CLERK: LB811 is a bill by Senator Schilz. (Read title.) The bill was introduced on

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January 10, referred to the Judiciary Committee, advanced to General File. There are Judiciary Committee amendments. (AM2400, Legislative Journal page 929.) [LB811]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Schilz, you're recognized to open on LB811. [LB811]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. Good afternoon, colleagues. I bring LB811 today on behalf of the Attorney General, which amends the Uniform Controlled Substances Act to combat the latest versions of synthetic cannabinoids, or K2 or Spice as it's commonly known. And I'd like to thank Speaker Adams and the Judiciary Committee for prioritizing this legislation and getting it to the floor. As currently written, Nebraska law bans all but the most recent variations of synthetic cannabinoids. Manufacturers are circumventing the law by changing the chemical makeup to create legal substances. Over time, evidence that the legal...evidence that the end product is more dangerous than the original substance it is intended to mimic. The effects can be devastating. Nebraska's children are obtaining the new version of these synthetic cannabinoids and in some instances dying because of the chemical makeup. This bill will help prevent manufacturers from circumventing the ban on a yearly basis by making slight alterations. The Judiciary Committee has amended the bill with AM2400, which lowers the penalty the bill originally increased. The green copy increased the penalty because K2 is much more risky than marijuana, which it tries to mimic, and the thought the penalty needed to reflect the severity of the drug. However, I understand the committee's concerns in how that would affect first-time offenders. And with that, I ask for your support of AM2400 and LB811. Thank you, Mr. President. [LB811]

SENATOR GLOOR: Thank you, Senator Schilz. Mr. Clerk. [LB811]

CLERK: Judiciary Committee amendments, Mr. President. [LB811]

SENATOR GLOOR: Senator Ashford, as Chair of the Judiciary Committee, you're recognized to open on the Judiciary amendment. [LB811]

SENATOR ASHFORD: Thank you, Mr. President and members. And I want to thank Senator Schilz for the work he's done on this. He's spent a lot of...he and his staff have worked with the committee diligently to try to come up with, again, another piece of legislation to address this matter, which is obviously, as Senator Schilz has alluded to and has this Legislature has on more than one occasion affirmed, is a significant problem in our state. The committee felt, as Senator Schilz suggested, that the...especially for youth, that the...for possession that the penalty not be assessed as a felony case but as a misdemeanor I. Again, we want to get at the person who is selling this drug and this very dangerous substance, and we feel that leaving the penalties as they are but adopting the language that Senator Schilz alluded to, to broaden the scope

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of potential prosecution, is the right balance to make. And, you know, I don't know what this body is going to have to do over the next several years to continue to keep in front of this matter, but it is serious. So I would urge the adoption of AM2400. You will continue to have to, and the Judiciary Committee and on the floor, work on this issue as the science of developing these products evolves. So with that, I urge the adoption of AM2400 and the advancement of LB811. [LB811]

SENATOR GLOOR: Thank you, Senator Ashford. Members, you've heard the opening on LB811 and the Judiciary Committee amendment. We now move to discussion. Senator Lathrop, you're recognized. [LB811]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I'm in support of LB811 and AM2400. If I may, in the time that I've been in the Legislature and served on Judiciary Committee, we have each year taken up the new variation of K2. And basically what happened, we outlaw marijuana and so they have...some creative people have started selling something, a chemical compound, that you can get in shops and various places, presumably in Omaha too. And the chemical compounds that they come up with each year, we outlaw the latest version and then the chemists someplace that come up with this stuff come up with something that is a different chemical variation and so it doesn't meet the same definition of what we outlawed last year. And each year we come back. I think Senator McCoy has introduced this bill a couple of times. And each year we sit down and we hear the parents come in and talk about a young child, typically a teenager, that's used this stuff--it's legal because they've changed the chemical compound--and they get killed. And kids are dying using this stuff. What is different about LB811 and AM2400 is Senator Schilz has done something that I think is very creative which is tried to generally describe what we're trying to outlaw so that you can't come up with a variation in the chemical compound and get away with it again. I really hope this works. I expect it will. It will certainly make it illegal to come up with the next chemical compound variation so that we're doing something different this year, and hopefully this year it will be the last year. I really encourage your support of AM2400 and LB811. And I want to express my appreciation to Senator Schilz for looking for a creative way to get ahead of the people that would make some small variation to the chemical compound and bring us back here next year with another horror story of a young person that's used these synthetic marijuana and caused another death or a serious injury. So with that, I would encourage your support of the amendment and the bill. [LB811]

SENATOR GLOOR: Thank you, Senator Lathrop. Senator Kolowski, you're recognized. Senator Kolowski waives. Senator Harms, you're recognized. [LB811]

SENATOR HARMS: Thank you, Mr. President. Senator Ashford, would you yield just for one short question? [LB811]

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SENATOR GLOOR: Senator Ashford, would you yield? [LB811]

SENATOR ASHFORD: Yes. [LB811]

SENATOR HARMS: First, I support this bill, but I noticed that the Nebraska Criminal Defense Attorneys Association were opponents to that. Could you tell me why that? [LB811]

SENATOR ASHFORD: Yeah, basically it was the penalty provisions, Senator Harms, that... [LB811]

SENATOR HARMS: Pardon me again? What was it again? [LB811]

SENATOR ASHFORD: I'm sorry, the penalty provisions. The original bill elevated the possession of this substance to a felony, and the Criminal Defense Attorneys argued that the penalties should remain the same as they have been in the prior bill. So that's essentially...there may have been some other objections. That was the major one that I recall. [LB811]

SENATOR HARMS: Oh. Thank you, Senator Ashford. I would urge you to support the amendment and the underlying bill. Thank you, Mr. President. [LB811]

SENATOR GLOOR: Thank you, Senator Harms and Senator Ashford. Senator Schumacher, you're recognized. [LB811]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I have to express my skepticism with regard to this legislation. I hope it works, but it probably won't. If you remember two, three years ago we had before the body this whole litany of 700 different compounds, families of compounds, cousins of compounds, whatever, that was supposed to solve the problem, because anything conceivably related was going to be under the umbrella of that long list of things. This particular thing, the best that I can tell, tries to say, well, anything that has binding activity, presumably that's chemical binding activity--doesn't say it has to bind but just binding activity--in specialized cells in the brain is illegal. Not quite sure how you're going to prove that in court or what kind of expert you're going to have to call, or what else could possibly have binding activity on those particular cells in the brain. My guess is there's quite a few things, some of which we don't intend to outlaw. In fact, I'd almost be surprised if industrial hemp doesn't have a little bit of binding activity in the slightest degree with those cells in the brain. I'm also told that perhaps something like hops in beer is related enough to maybe have some activity at that point. So no matter how creative we get, the solving of our drug-related problems probably does not rest with this body trying to play catch-up or get one step ahead of the various chemists that are out there. I think that we need to direct a lot more activity outside of the criminal system in getting a handle on what motivates kids to want

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to do this. And probably we will be back again next year and the year after and the year after that as we play this chicken and the egg game with the people who want to manufacture these substances. I'm going to vote for this but I'm highly skeptical. Thank you. [LB811]

SENATOR GLOOR: Thank you, Senator Schumacher. Seeing no further senators in the queue, Senator Ashford, you're recognized to close on the committee amendments. [LB811]

SENATOR ASHFORD: I have nothing further. I would just ask the body to adopt AM2400. Senator Schumacher is right in many ways on this, and so I think again you're going to have to grapple with this as you go forward. I would again urge adoption of AM2400. Thank you. [LB811]

SENATOR GLOOR: Thank you, Senator Ashford. The question is, shall the committee amendments to LB811 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB811]

ASSISTANT CLERK: 27 ayes, 0 nays on the adoption of committee amendments. [LB811]

SENATOR GLOOR: The amendment is adopted. We return to discussion on LB811. Seeing no senators wishing to speak, Senator Schilz, you're recognized to close on advancement of LB811. [LB811]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. And I know there's concerns around of how best to move forward with this, but I can tell you this, that every year that we've brought this there have been attempts and there have been successes in changing these chemical compounds and causing more issues as we go forward. And so I understand folks' concerns on whether or not this gets us where we need to be. If there's other ways to go about it, and I know for a fact that the Judiciary Committee themselves were concerned about how this would work. And so with that, I think that we're on a continuing journey to try and figure out how to best get ahead of this because so far all we've been able to do is react to what we see that's out there, take care of those substances, and then turn around to wait and see what these folks bring back time and time again that changes it just enough to come in under the radar and be legal because we haven't specifically specified, a little redundancy there, each individual chemical that we're talking about. So I would appreciate your green vote on this on General File. Thank you very much. [LB811]

SENATOR GLOOR: Thank you, Senator Schilz. The question is the advancement of LB811 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB811]

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ASSISTANT CLERK: 33 ayes, 0 nays on the advancement of the bill, Mr. President. [LB811]

SENATOR GLOOR: The bill advances. Mr. Clerk, items for the record. [LB811]

ASSISTANT CLERK: Thank you, Mr. President. Your Committee on Enrollment and Review reports LB687, LB687A, LB712, LB714, LB739, LB757, LB758, LB777, LB766, and LB806, all to Select File. New resolutions: LR539 by Senator Campbell; LR540 by Senator Campbell; LR541 by Senator Campbell; and LR542 by Senator Campbell; LR543 by Senator Ashford; and LR544 by Senator Mello, all proposing interim studies. They will be referred to the Executive Board. (Legislative Journal pages 1117-1120.) [LB687 LB687A LB712 LB714 LB739 LB757 LB758 LB777 LB766 LB806 LR539 LR540 LR541 LR542 LR543 LR544]

Mr. President, the next bill, LB373. (Read title.) [LB373]

SENATOR GLOOR: Senator Mello, you're recognized to open on LB373. [LB373]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Three years ago, the Legislature passed LB552, the Nebraska Construction Prompt Pay Act. This original prompt pay legislation, which was advanced by the Business and Labor Committee unanimously and passed 45 to 0 in the full Legislature, sought to address the payment of contractors and subcontractors to construction projects. Unfortunately, despite the passage of LB552, many Nebraska contractors and subcontractors continue to have problems with receiving payment in a timely manner. Unscrupulous owners and contractors, often from out of state, have been avoiding the prompt pay law either by abusing retainage provisions or just chancing that the contractor or subcontractor won't file suit to enforce their rights under the act due to legal costs. LB373 would amend the Nebraska Construction Prompt Pay Act to address these issues that have continued to cause problems for small businesses in the construction industry. Following the hearing on LB373, my office worked extensively with the supporters and opponents of the bill to find common ground and the result of more than three months of negotiations was the committee amendment, AM1550. I want to thank all the interested parties for their hard work on this legislation and the amendments, particularly the Association of General Contractors, the Mechanical Contractors Association, and the Lincoln Electrical Standards Group. Senator Lathrop will address the committee amendment in more detail during his introduction, but the changes that were agreed upon generally fall into two substantive areas. First and most importantly, the amendment addresses the issue of retainage, which is a portion of the agreed upon contract price that is deliberately held until the work is substantially complete. While retainage is generally designed to assure that a contractor or a subcontractor will satisfy its obligations and complete the project, many contractors and subcontractors have reported problems with owners or

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contractors withholding retainage well beyond substantial completion. As amended, LB373 will provide a clear definition of "substantially complete" and adds new requirements to the payment of retainage. Second, the amendment addresses the ability of a contractor or subcontractor to bring action to enforce the act. Particularly for smaller construction companies, the expense of hiring a lawyer to obtain prompt payment can be prohibitive in many cases. As amended, LB373 would allow a court to award reasonable attorney fees and court costs as appropriate. LB373 was advanced by the Business and Labor Committee on a 6-0 vote with 1 member absent, and I'd like to thank Speaker Adams for designating LB373 as a Speaker priority. I'd urge the body to adopt the committee amendment and advance LB373 to Select File. Thank you, Mr. President. [LB373]

SENATOR GLOOR: Thank you, Senator Mello. Mr. Clerk for an amendment. [LB373]

ASSISTANT CLERK: Mr. President, the Business and Labor Committee would offer AM1550. (Legislative Journal page 1757, First Session, 2013.) [LB373]

SENATOR GLOOR: Senator Lathrop, as Chair of the committee, you're recognized to open. [LB373]

SENATOR LATHROP: Thank you, Mr. President, colleagues. AM1550 replaces the original provisions of LB373. The committee amendment reinstates the exemption for residential units with four or less units. The amendment additionally removes the trust account and penalty provisions. The definition of "substantially complete" is amended to reflect the definition used by the American Institute of Architects. "Substantially complete" was not previously defined and is important because it is tied to the provisions concerning retainage. Instead of limiting retainage to 5 percent of the contract price, the amendment caps retainage at 10 percent, and once the project is 50 percent complete the retainage is capped at 5 percent. The owner or owner's representative must pay the retainage to the contractor within 45 days of substantial completion. The contractor must then pay any subcontractors within ten days of receipt. The amendment clarifies that a civil action brought pursuant to the Nebraska Construction Prompt Pay Act, a plaintiff may recover reasonable attorney fees in addition to damages. I ask for your support of AM1550 and LB373. Thank you. [LB373]

SENATOR GLOOR: Thank you, Senator Lathrop. Members, you've heard the opening on LB373 and the committee amendment. Are there senators who wish to be recognized? Seeing none, Senator Lathrop, you're recognized to close. Senator Lathrop waives. The question is, shall the committee amendments to LB373 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB373]

ASSISTANT CLERK: 25 ayes, 0 nays on the adoption of committee amendments.

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[LB373]

SENATOR GLOOR: The committee amendments are adopted. We return to debate on the advancement of LB373. Seeing no senators in the queue, Senator Mello. Senator Mello waives. The question is the advancement of LB373 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB373]

ASSISTANT CLERK: 27 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB373]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB373]

ASSISTANT CLERK: Next bill, Mr. President, is LB923 introduced by Senator McGill. (Read title.) Bill was read for the first time on January 15 of this year, referred to the Education Committee, and placed on General File with committee amendments. (AM1977, Legislative Journal page 574.) [LB923]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator McGill, you're recognized to open on your bill. [LB923]

SENATOR MCGILL: Thank you, Mr. President, members of the body. LB923 is the result of thoughtful work by a group of advocates passionate about suicide awareness and prevention. I'd like to thank Speaker Adams for designating this bill as a Speaker priority and the Education Committee for advancing this important piece of legislation out without any votes of opposition. LB923 calls for the Department of Education to work with behavioral health experts in suicide prevention organizations to develop suicide prevention and awareness training for teachers, administrators, school nurses, and other appropriate personnel. One hour of training would be provided within the current framework of existing in-service training programs on an annual basis. The language for LB923 as introduced was drafted largely with input from the American Foundation for Suicide Prevention, and I want to give out a...give a particularly special shout out to Amie Nelson, who is one of their advocates who lost her sister, when her sister was just 16 years old, to suicide, and the hard work that she has put into this bill and further efforts. There are 14 other states specifically that require training for school personnel like this, although many other states encourage the breakdown of this training or encourage the spread of this training and requiring student education. Our state really does nothing when it comes to suicide prevention in our schools. I've heard from many organizations and individuals that are in support of LB923. In fact, one association actually asked to be added to the list of professionals who would be receiving this training, and that was the School Social Work Association. As you can see on the committee statement, there was much support for this bill and no opposition in the hearing. I'd like to share the extended list of associations that have shared their support: the Nebraska State Education Association, the Nebraska Nurses Association, the

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Nebraska School Nurses Association, Nebraska School Counselors Association, and of course the American Foundation for Suicide Prevention, the Nebraska State Suicide Prevention Coalition, and the School Social Work Association of Nebraska, as well as Project Everlast. Many parents and youth have reached out to my office sharing their heartfelt stories, urging support, and asking for what they can do to help. Since the hearing on LB923, Senator Kolowski and I have worked to combine LB923 and LB872 to create a package of legislation. That is what you will see in the committee amendment, AM1977. We introduced both bills with the intention of strengthening safety in our schools and potentially saving lives. I believe Senator Kolowski will be giving you an extended background of the school safety piece. In short, the adoption of the committee amendment, the intent of LB923 will be to establish a requirement for suicide prevention and awareness training for school personnel and reinstate a statewide school security director within the State Department of Education that would be responsible for overseeing that training and other security measures. I've talked with teachers in my district and I respect their dedication to educating our youth. This bill before you is part of a greater conversation happening about mental health in Nebraska and across the country. There are children facing depression and thoughts of suicide every day in our communities, and this bill is intended to potentially save their lives. One story that we heard during the committee that really stuck with me was, you know, we had someone share their story of a family member who had committed suicide but that they'd run into one of the teachers that was closest to that young person ten years later, and that teacher was still haunted enough to go visit that young...I believe it was a young woman's grave very frequently thinking that perhaps they should have seen this coming. This bill will give teachers the tools that they need to better identify and then prevent that not only loss of that young person but help them feel empowered to do something when they do see potential signs so that they aren't haunted for the rest of their lives as these young people commit suicide. I did pass around some information on my bill as well as some information on how many young people actually seriously consider suicide, and that's 14.2 percent; 10.9 percent had a plan and 7.7 percent of our youth have actually made a suicide attempt. It's a very serious issue facing our state and I ask for your support. Thank you, Mr. President. [LB923 LB872]

SENATOR GLOOR: Thank you, Senator McGill. As the Clerk mentioned, there are amendments from the Education Committee. Senator Sullivan. Senator Kolowski, I understand you're going to handle the committee amendments. [LB923]

SENATOR KOLOWSKI: Yes, I will. Good afternoon, Mr. President, members of the Legislature. LB923, with committee amendment AM1977, reinstates the statewide school security director within the State Department of Education. The state school security director will be responsible for the following: collecting safety and security plans from every school district, recommending minimum standards and encouraging them to be adopted by the State Board of Education, conducting a security assessment of every school and identifying deficiencies and recommending remedies, establishing security

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awareness and preparedness tools and training programs for public school staff and students, and establishing research-based model instructional programs for faculty, students, and parents to address the underlying causes for violent attacks in school. This is an important first step for our state to ensure Nebraska schools have safe environments. Colleagues, it's been over a year since the devastating school shootings at Sandy Hook Elementary School in Newtown, Connecticut, and we continue to hear in the news about more acts of violence occurring at schools. Across the nation, lawmakers have spent a year devising ways to prevent a similar tragedy, but only a fraction of the laws proposed in the immediate aftermath of the school shootings have been enacted. Families in schools across Nebraska are looking to their lawmakers for leadership. We need to show our commitment to keeping our students and our schools safe. When I talk about school security, I am referring to infrastructure, such as doors, locks, cameras, and walls, security staff, school resource officers, guidance counselors, and mediators, and school culture--antibullying resources, suicide prevention as has been described, and positive behavior models for teachers, reduced class sizes, reporting tools for students and staff, and conflict resolution programs. All of these measures require funding and they are crucial to maintaining a safe school that is free of violence, abuse, and fear. Regardless of geography or size, superintendents across Nebraska are facing the same dilemma of keeping students, educators, and parents safe without taking resources away from their students' education, teachers' salaries, or the maintenance of their buildings and grounds. The work of the state security director will build an important foundation of statewide collaboration and standards to help us bring additional resources to schools that are in desperate need of improving their safety and security. If the lawmakers of the state choose to do nothing...not to do anything, and God forbid that we have more school violence and tragedies, then all eyes will be on us for not taking bigger steps to protect Nebraska's youth. I urge you to vote yes on LB923. Thank you very much. [LB923]

SENATOR GLOOR: Thank you, Senator Kolowski. Mr. Clerk for an amendment. [LB923]

ASSISTANT CLERK: Mr. President, Senator Kolowski would amend the committee amendments with AM2319. (Legislative Journal page 1121.) [LB923]

SENATOR GLOOR: Senator Kolowski, you're recognized to open on your amendment to the committee amendments. [LB923]

SENATOR KOLOWSKI: Thank you, Mr. President. Good afternoon again, Mr. President and members of the Legislature. AM2319 is the result of a conversation with the Department of Education about the concerns regarding the time lines set forth for NDE to hire a school security director and the school security director to develop minimal standards...minimum standards to complete the security audits in every school district. NDE respectfully urged us to extend the time line by one year so the requirements could

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be completely...completed effectively. AM2319 does just that. I urge you to support this amendment and the underlying bill. Thank you very much. [LB923]

SENATOR GLOOR: Thank you, Senator Kolowski. Members, you've heard the opening on LB923, the committee amendment, and the amendments to the committee amendment. We now move to floor debate. Senator Murante, you're recognized. [LB923]

SENATOR MURANTE: Thank you, Mr. President. Members, good evening. I am a cosponsor on LB923. I think it's a good bill on a subject matter that is near and dear to my heart. I encourage you to support it and I thank Senator McGill for introducing it. The subject matter of the committee amendments is a little bit different, which is the creation of a security officer from the State Department of Education. And earlier this year I introduced a bill in the Education Committee which pertained to the conduct of tornado drills in schools in the state of Nebraska. We already have a number of statutes which require fire drills but nothing in the statutes that pertained to tornado drills. And the impetus behind that were a number of children from a school in my district, brought to my attention over the interim, that a school in Millard Public Schools conducted one tornado drill last year and that tornado drill was conducted on the last day of school. The kids found that to be an insufficient amount of training for the gravity of the subject matter at hand. And during the public hearing, we heard from Norris Public Schools who gave us a very hands-on, detailed account of what they had to deal with in their school district when a tornado went through their school, and it's a very tragic story. So I've spoken with Senator Kolowski on this, I've spoken with Senator Sullivan that in my view--and I will be bringing a Select File amendment--part of the duties of this state security officer needs to be ensuring that our schools are taking into account the very real threat that tornados bring. We know that the school year lasts...that the end of the school year happens to be the beginning of the tornado season and that our students need to be prepared. I think that the students that brought the attention to my issue deserve no less on the subject, and I hope that we can get something done for them this year. Thank you, Mr. President. [LB923]

SENATOR GLOOR: Thank you, Senator Murante. Senator Kolowski, you are next in the queue. Senator Kolowski waives. Senator Scheer, you're recognized. [LB923]

SENATOR SCHEER: Thank you, Mr. President. I rise in support of both of the amendments and the underlying bill. Just for clarification purposes for those that are not that attuned to the educational process, as far as LB923 and the suicide prevention, all schools do what is called in-service for their staff on periodic basis, and so this would not be an inconvenience or an impediment for local school districts to provide this type of training to their staff. They are looking for various ways to provide additional assistance to their staff and this would be one of those that would be available to them through the Department of Education. The Department of Education would be providing

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additional information to them so that they can do this type of training on an ongoing basis. The second part, which would be the amendments that would be Senator Kolowski's bill as far as a security director from the Department of Education, now this is a much needed position within the department. Over the years, the department had lost several of its directors as far as the fine arts and the safety and others. This is an attempt to put that back in. We have very real problems and pressures created within the confines of school districts over the last 10 to 15 years. Schools are not what they used to be. Our students are not having the same experience in schools that perhaps you and I did as we attended those schools. Life has changed and schools have to be able to change and reflect that and have the safety of not only the students but the staff as well, is a large concern for every district in every community that has a school district residing in it. This is a well-thought-out plan. It provides the funding and the amendments provide for that security director to have the ability to travel around the state, which is necessary. You can't do this on a webcam. You can't do it Web-based. You have to literally go in and look at these facilities to see how they are structured and how best to facilitate that individual district's needs from a security basis. So from that vantage point, it is a well-thought-out bill. It will serve school districts well. It is something that I believe school districts have looked forward to over the last several years and would be a benefit to every district, as well as the communities in the state of Nebraska. And the students certainly that will be helped either from a safety standpoint or from the suicide prevention being available so that those teachers and administrators and other workers within the school buildings themselves are more alert to the changes in the students' personalities and confines that perhaps would help save some youth at some point in time. Unfortunately, this will be one of those bills that we'll never know about the success. We would only know about the failure. And so without it, we will have failures. With it, we will have the unknown success. Thank you, Mr. President.  
[LB923]

SENATOR GLOOR: Thank you, Senator Scheer. Chair recognizes Senator Kintner.  
[LB923]

SENATOR KINTNER: Well, thank you, Mr. President. And, you know, I looked at LB923, Senator McGill's bill, and I thought that's a pretty good idea. You know, some training in suicide prevention makes sense. I like it. Now we get to the amendment here and I'm not so fond of it. I think it's the height of government folly to think that hiring somebody, put him in an office in Lincoln, let him drive around the state a little bit is going to make our schools safer. I don't think having a bureaucrat in Lincoln is going to provide security or help with security anywhere. I think local schools know what they need to do. They talk to a local sheriff and local police officers. I don't think we need to hire anyone to do this. This is just a feel-good measure. I mean you have no way of knowing if it worked or not. We will never know if this made us any safer, but I do know it will spend more money. I do know it will make government a little bigger, create the bureaucracy a little bigger. You can't tell me that hiring somebody is going to make any

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school in my district safer or any school in Scottsbluff safer or any school in Broken Bow safer or anywhere else. I mean I think this is an absolute feel-good measure that we don't need. Probably best of intentions but, you know, good intentions don't save the world and they don't save lives, but they do spend a lot of money. And, you know, this is something I think we ought to say no to. I know how hard it is for this body to say no to spending money. I understand it's the hardest thing that this body can do is say no to spending money. But when you have something as broad and undefined as this, as a security person for the state, I just couldn't think of anything too much...well, I could think of a couple things sillier than this but I don't want to name them because someone will print an amendment on it. We'll have those...we'll have to vote on those things too. But to think that we're going to hire somebody and Plattsmouth schools are going to be safer or Papillion is going to be safer or Omaha is going to be safer or Hastings is going to be safer, no way. It's not going to work. So I would encourage my fellow senators to just say no. Let your school district do what they know how to do. Every school district is different. Every school building is a little different. And, you know, my principals and my administrators and my superintendents, they know the weaknesses of their schools. They know what they need to do to protect people and they're willing to do it. I don't think we need a busybody in Lincoln telling them how to do it. So I would encourage my fellow senators to say no to this. Say no to spending more money. Say no to creating a bigger bureaucracy and say yes to letting schools fix their own problems. They're good at it. Thank you, Mr. President. [LB923]

SENATOR GLOOR: Thank you, Senator Kintner. Senator Karpisek, you're recognized. [LB923]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Would Senator Kolowski yield, please? [LB923]

SENATOR GLOOR: Senator Kolowski, would you yield? [LB923]

SENATOR KOLOWSKI: Certainly. Thank you. [LB923]

SENATOR KARPISEK: Thank you, Senator Kolowski. I was either asleep or day dreaming when you talked about your amendment. Could you tell me again what it does. [LB923]

SENATOR KOLOWSKI: On... [LB923]

SENATOR KARPISEK: It looks like it changes dates a year back. [LB923]

SENATOR KOLOWSKI: Yes, sir. On AM2319, that extends the time line by one year so that Nebraska Department of Education can put the person in place and give them time to put their first year of requirements or connections with the schools in place. We had a

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very short time line on it before. We're extending it by one year. [LB923]

SENATOR KARPISEK: Okay, and I understand that, Senator Kolowski, but I guess in my opinion this thing should have the E clause on it and we should get it going sooner rather than later. I'm not big on putting something more on schools. I know we do it a lot. But I think this is very important. So if we were not to adopt your amendment, is it just...is it doable do you think? I know the schools are going to say it isn't, but what do you think? [LB923]

SENATOR KOLOWSKI: I think they'll...if we adopt it as it is right now you're saying? [LB923]

SENATOR KARPISEK: Right, without your amendment. [LB923]

SENATOR KOLOWSKI: I think that's a very difficult challenge at this time of the year, knowing the budget cycle, getting someone hired and trying to put all that in place. That would be a bit of a challenge, sir. [LB923]

SENATOR KARPISEK: Okay, and I understand that, but we are looking at, what, August probably by the time we'd start? [LB923]

SENATOR KOLOWSKI: Correct. The first year for the person would be this...starting this summer, if this goes through, and they would have the next calendar year to make their first year impact upon their job and ask the questions of the districts. [LB923]

SENATOR KARPISEK: So that's five months from now. That seems like some time to me. And again, I don't want to...I don't even like pushing more things on the school, but I just think this is very, very important and I don't know that we should hold it up another year. If there's another how many kids that could be affected by this, I don't know that just holding things up so it can get put in place is the right thing to do. [LB923]

SENATOR KOLOWSKI: Senator, thank you for your comments. I think it's important to keep in mind that this position was at the State Department of Education. It was cut about four or five years ago during the difficult budget times. And to get it back up running is the main concern and to do that properly as far as timing is concerned is our main concern with this amendment. Also please keep in mind, school districts are not sitting at a zero place on all their security issues. They have a lot of things in place. A lot more might be done in some places to make it more difficult as far as anyone wanting to do harm to the students or the teachers or the parents involved. And what we're trying to do is simply catch up the missing time and some of the things we've learned about school security since that time to help put those in place for districts to decide what they might be able to do. Keep in mind this is not funding the schools doing those things. The schools still need to find the money to do that. [LB923]

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SENATOR KARPISEK: Thank you, Senator Kolowski. And I understand all that and again I do hate to push one more thing on the schools, especially in my district which is relatively unfunded by state money. [LB923]

SENATOR GLOOR: One minute. [LB923]

SENATOR KARPISEK: And they have to find another place to find the money and the time to put this in. But I feel it's so important that we do it now and get it moving that I just don't think dragging our feet on this another year is responsible. I do understand all the implications of that. I'm sure that my e-mail is going to get lit up by the superintendents, and it's too bad that we have to go to them, but I'll...I have more to say on the bill later. But I am very concerned about not getting this done as soon as possible. Thank you, Senator Kolowski. Thank you, Mr. President. [LB923]

SENATOR GLOOR: Thank you, Senator Karpisek, Senator Kolowski. Senator Hadley, you're recognized. [LB923]

SENATOR HADLEY: Mr. President, members of the body, would Senator McGill yield to a question or two? [LB923]

SENATOR GLOOR: Senator McGill, would you yield? [LB923]

SENATOR MCGILL: Yes. [LB923]

SENATOR HADLEY: Senator McGill, I just have a few questions. I think it's a very worthwhile bill, but from an implementation standpoint it seems to me, and maybe it's just my opinion, that one hour doesn't seem to be a lot of training on recognizing potential suicide tendencies in children, those kinds of things. In the hearing did anybody bring up that this seemed to be a fairly short period of time? [LB923]

SENATOR MCGILL: Not during the hearing. You know, we had people wanting more time. We have schools wanting less time or some of the administrators. Why we ended up with one hour is that a lot of the programs that are evidence-based are one hour in length. Like there's a program called "More Than Sad" that's out there to educate teachers. It's an hour long. It's why we aren't right now talking about just a half-hour. We needed a full hour to get that full program in. [LB923]

SENATOR HADLEY: Okay. I guess I just...if we're...well, let me ask another question before I go on. Do you have any idea what happens in Nebraska colleges and universities in teacher preparation? Do they have courses or parts of courses on teaching teachers on recognizing suicide prevention? [LB923]

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SENATOR MCGILL: I don't know the answer to that everywhere, and as far as I know, there's nothing required. [LB923]

SENATOR HADLEY: Okay. [LB923]

SENATOR MCGILL: So it's possible that that could be in some of the classes or a small part of it, but this is something that teachers would get every year on an ongoing basis for an hour. [LB923]

SENATOR HADLEY: Okay. I guess my only concern, I'm certainly in favor of the bill, I just wondered if we needed a jump-start the first year, require two or three hours the first year just to bring people up. Because if we're starting from zero in recognizing these kinds of tendencies among children, is an hour the first year, an hour the second year, an hour the third year...? That's the only thing I would put out. And I would be interested if your staff or the Education staff could find out what colleges and universities are doing in preparing teachers, if that is part of any courses or whether they come out with that or not. [LB923]

SENATOR MCGILL: I'll certainly try to get you an answer on that. And there are schools around our state that do try to address suicide prevention, either in the students or in their faculty. Moving forward, it was trying to find a time period that we felt was reasonable that the schools could incorporate in those times they already have set aside for teacher learning. [LB923]

SENATOR HADLEY: Okay. One last question, and I notice that you had a number of experts in juvenile suicide and such that I think that testified. Are there age limits that this needs to start? Or I guess I'm asking a dumb question. Is suicide in elementary children a concern or...? [LB923]

SENATOR MCGILL: You know, you would be surprised, you know, with mental health. I can talk in general about mental health. I mean the suicide risk, I would say, is more middle school. But in terms of helping these teachers still know what signs to look for I think is valuable. [LB923]

SENATOR HADLEY: Okay. One last thing and just a suggestion from what I've read about suicide in schools, that bullying seems to be at times a connection between the two, whether or not schools could connect the suicide awareness with in-service on bullying might be a way of trying to connect those two. Thank you, Senator McGill. [LB923]

SENATOR GLOOR: Thank you, Senator Hadley and Senator McGill. Senator Sullivan, you're recognized. [LB923]

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SENATOR SULLIVAN: Thank you, Mr. President and colleagues. I apologize for not being here earlier. Oddly enough, though, I was in my office having a conversation about statewide planning for education and vision. So this, certainly, legislation is very timely for what has been on my mind for the last hour. We are in a new environment. Some of these topics brought up by this legislation and the accompanying amendments probably 10-15 years ago we thought we'd never be talking about, but they are real issues that school districts are dealing with. And because of that, we need to look at them from a policy perspective. And you know when you bring up the issue of safety, it can be at different levels. We're talking about personal safety from within and from without, personal safety in terms of interacting with each other. We're talking about safety with respect to a physical plant. So there are many, many different levels. And that's why I support AM1977, the amendment that reinstates this state security director, because there are a lot of different ways to address safety and security. And admittedly, as Senator Kintner had indicated, yes, we have lots of different circumstances that have to be tailored for an individual school district. But nonetheless, I think there is value in having someone and some entity look at what all the school districts are doing, having the opportunity to share best practices, and doing some coordination all for the benefit of improving the safety and security, and from a practical standpoint in terms of even school accreditation. There is a component in Rule 10 that school districts have to meet. We need to reinstate this position with an individual who has expertise, background, and skills so that he or she, in turn, can work with school districts so that they are meeting the requirements of Rule 10. So the underlying legislation, LB923, is very valuable, speaks to pertinent concerns. AM1977 gives us the framework. I can understand Senator Karpisek's concern about urgency, let's get on with it, let's do it because these are issues that school districts are dealing with, but we also have to do it in a thoughtful manner and we have to get the right components in place. We have to get the right person in the Department of Education to help frame and develop these plans. So I think there is value in maybe going a little slower on this but, believe me, there is also great value in getting these components in place. Thank you, Mr. President. [LB923]

SENATOR GLOOR: Thank you, Senator Sullivan. Senator Kolowski, you're recognized. [LB923]

SENATOR KOLOWSKI: Thank you, Mr. President. I want to thank Senator Karpisek for his questions earlier, I think that was really important, but also Senator McGill and Senator Sullivan for their comments on this topic as we've been getting into it. I think one of the things I want to bring to the body as a whole was my own experience: 41 years in public education. We had situations where student suicides did take place. It's a very tragic situation in a school district or in your individual building when that does happen, and you rethink a lot of different things when such an experience takes place and the tragedy of that nature befalls the families in your own district. It's about the culture and climate of a building. As I mentioned, that's one of the things you think

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about, the relationships that teachers have with their students across the board, not just in their regular classes but also in their home rooms, in the nurturing over four years in a high school situation, for example, or three years in a middle school. Those are all important time periods. And kids go through a great deal of growth, a great deal of highs and lows over all those years. And the more training we do with our counselors and school psychologists about these topics, like suicide prevention, and having a positive peer culture in a building is extremely important in reducing the aspects of bullying and harassment. All those play into having a healthy, growing, positive environment for students, and that's one of the things we definitely want to encourage, not just are your doors locked properly and do you have cameras and all the rest. I also want to remind the body that we...I brought a school safety bill forward last year for the potential of raising money at the school district level with a supermajority vote of the board, and that is...did not get out of committee. So when Senator Karpisek was asking about the speed of implementation, you also must have budget to do that. And districts are doing their budgets right now for next year, and to put that in place and get that sequencing during very difficult, challenging financial times is another aspect of what they have to place within that full spectrum of their budget. And this gives them, with the amendment that we have and the timing that we have, gives them the time to put those things into place so it isn't a budget cycle and they'll be responding to a person from the state department that will assist them on a lot of these issues. So I thank you very much for the time.  
[LB923]

SENATOR GLOOR: Thank you, Senator Kolowski. Senator Christensen, you're recognized. [LB923]

SENATOR CHRISTENSEN: Thank you, Mr. President. I stand here, I'm not sure that I agree with this amendment yet, because every time we create a new director and we create a new position there's an associated cost with that. And typically, this always falls back on property tax. And once they create a position and then they want additional personnel under it. I visited with Senator Kolowski. He talked about his bill that's stuck in committee trying to authorize more property tax again for more security. And I, for one, have brought bills, too, that I agree that we need more security, but I've tried to figure out ways to do this without adding additional costs and burden to the school districts. So I, too, have a bill caught in committee too. Many people know it as guns in schools. But when you look at it, it is a local option, local decision on which teacher. The teacher has to choose to do it. And it is also...it could be restricted to only retired military, retired police enforcement, or the highly trained. And this particular bill allowed additional training above the normal concealed carry. And so there's a lot of ways of doing everything that this bill is attempting to do. And the bill that Senator Kolowski talked about he's got that wants to raise taxes to have more hired personnel there, there's other ways of doing this that needs to have equal opportunity without raising the cost, because number one complaint every senator I know of and candidate talks about that hears high property tax. So why do we want to create additional position or levy

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additional property tax to hire more personnel when it could be handled in a different direction? Even without this director, we could just have a bill that comes in, and even without guns in school. We could do a lot of what this is attempting to do without spending more money, all right? Take some of the current personnel and have them be head of that security so we're not hiring somebody. And when you go to look at security, common sense goes a long ways. A lot of schools, maybe all schools now, pretty much have it so everybody has to enter through one door. All the other doors are locked. That's common sense. Now that can be a door that's watched. And so you start looking at what can we do without expensive upgrades. There's a lot of buildings out there in western Nebraska that was built in the 1930s, 1940s, 1950s that it wouldn't be easy to go put in automatic lockdown doors. These are brick buildings. Yes, we can run pipelines on the inside, conduit on the inside, I should say, to get electric wires there and install different doors and all this expensive stuff. Or we can have the common sense that they are locked before kids get to school and they're going to enter through one common door. There's a number of things that can be done without spending a lot of money appointing a new director, spending more tax dollars that we don't have. [LB923]

SENATOR GLOOR: One minute. [LB923]

SENATOR CHRISTENSEN: So I just think you need to think about ways of commonsense management that we can do. And I do believe if you want to set up a interim study or a group to set up commonsense security protection measures, like having the doors locked so nobody can enter the back side doors without a key, like teachers and things, everybody is going to come in one door so you have an idea if anybody unusual is coming in or unusual packages. These type of things make sense, but spending additional tax dollars all the time on new positions is not always the only and best solution. Thank you. [LB923]

SENATOR GLOOR: Thank you, Senator Christensen. Senator Karpisek, you're recognized. [LB923]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I thank Senator Kolowski's staff, got me the handout from the schools saying why it wasn't...why it wouldn't work to do that this year. I guess my main thought about that was that once this bill goes into effect there just wouldn't be enough time, which brings me back to the E clause. If that's the hang-up, I think then that we could put the E clause on this pretty easily and give them more time. I don't know that waiting another year, when we're all concerned about things that could and have happened in schools, is a wise idea. I think we need it now. We needed it last year and the year before that. I do understand that the committee amendment has made this a lot bigger issue and a lot bigger bill than Senator McGill's original bill, but I think it's all good ideas. And I agree that we can't just rush into this willy-nilly, but I also agree that we don't...schools aren't

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standing flatfooted on this. They're all moving forward. And I think one hour of suicide prevention is not too much to ask at all. I think when things like this hit home, and if it's someone you know or care about or a member of your family is involved, you'll say, gosh, why didn't something...why wasn't there something in place sooner? I think most of us have been impacted by someone or something that has happened, so to wait another year, to me, just doesn't make sense. Senator Kolowski talked about budgeting right now. Great, we put the E clause on it, there you go. Again, I'm not crazy about making these schools pay more for this. I don't know that it will take a lot of money. Maybe I'm wrong, but I don't think it will be overburdensome for them. I guess if people think that that's such a...that it is such a burden, then maybe we should have put something in the budget to reimburse the schools. I don't know enough about TEEOSA to know how that would have worked. But again, I go back to my unequalized districts that don't get any money from the state anyway, or very little, I know that this isn't an easy thing for them. But again, on the other hand, they're not huge school districts with thousands of kids and thousands or hundreds of rooms and buildings. I am not going to vote for this amendment, and if the compromise or if there's a way to fix the timing, then I would be willing to put the E clause on. That's my 2 cents. I don't know why we wait. I think this should have been up a long time ago and we could have gotten it done, but I know there's always something else that needs to be up. I am very much in favor of the bill, but I think we need to do it now. Thank you, Mr. President. [LB923]

SENATOR GLOOR: Thank you, Senator Karpisek. Senators in the queue: McGill, Kintner, Bolz, and Christensen. Senator McGill. [LB923]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I just wanted to touch base on a couple of things, the first being that we were able to talk to the Department of Ed about teacher preparedness for this issue. And right now, education students do not have any requirement at the college level, while they're in school, to be getting suicide prevention training. So this is, I guess, the first line of defense for many of them is getting that training when they're on the job. The second thing I want to mention is talk of the fiscal note. My bill, even on its own, the Department of Education wanted a part-time job to coordinate the trainings, to select which ones would be approved for usage in the schools, and then let the schools make decisions about how to incorporate that into their teacher and service time and to allow for some local control there too. But we took the...when we took these two bills and as we're combining them, we are folding in the position that was the part-time position from my bill into Senator Kolowski's security person. So really, by combining the two and the duties, we're saving some money, whereas we at first brought two different bills that had their own fiscal notes and his was stand-alone and mine was. So I feel that this is also a fiscally responsible thing to do in combining these bills and the duties so that as we do come to the Legislature and ask to fund this position, it does even more than what we originally intended to do. And with that, I think I just want to add in there that when it comes to suicide, Nebraska is...the second cause...leading of cause of death for these teenagers

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or the group that's 15 to 24 or so in nature is suicide. You know, it's such a serious problem here in our school. That's higher than in other states around the country, which is another reason we need to put emphasis on this right now. Thank you, Mr. President. [LB923]

SENATOR GLOOR: Thank you, Senator McGill. Senator Kintner, you're recognized. [LB923]

SENATOR KINTNER: Well, thank you, Mr. President. And, yeah, when I was at the mike last, about a half an hour ago or so, I talked about how I liked LB923, that I thought it was a good idea to give teachers some training in suicide prevention. But then we get to the amendment here and I talked about how hiring somebody in Lincoln--and we now find that we going to combine somebody kind of overseeing the suicide prevention and the security, so I think we could probably call that person a bureaucrat and be safe in saying that--would not make anyone safer, would not save any lives, and we don't have a metric for proving that it would. But before I just say that, let me check in with Senator Kolowski. I had a nice talk with him off the mike and I assured him it wasn't personal that I oppose this. It's just that I just don't see how this would help anything. It's just another feel-good measure that's not going to save anyone. We're just going to spend some money, make our bureaucracy just a little bit bigger. And we're good at spending money. I don't doubt that there's a great desire to spend money here, but I'm not part of that desire and I'm doing everything I can to stop it. So if Senator Kolowski would yield to a question, I'd love to ask him one. [LB923]

SENATOR GLOOR: Senator Kolowski, would you yield? [LB923]

SENATOR KOLOWSKI: Certainly. Thank you. [LB923]

SENATOR KINTNER: Thanks for yielding. My question to you, and we talked a little bit off the mike, is if we hired this position, how do we measure the success of the position? [LB923]

SENATOR KOLOWSKI: Well, in our positions, setting policy is not to set the administrative parameters as to how that will be measured. That will be measured by the Commissioner of Education within his purview in his particular department and how that will be taken care of there. But how I would look at that being measured would be the number of contacts made with the school districts, what's been the connections that he or she has made to those districts, the improvements that they are cataloging and trying to make in their particular districts which will take some cost, of course, from their local districts to get that done. And those things would be part of the measurements I think you would look at, keeping in mind, and I think this is really important that everyone hears this, we're not starting from zero in all the districts. From all the way back a decade and a half ago when Columbine took place, districts have been doing a

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number of things over all these years. Can they do more? Certainly. You can, and I'll use my own...some old military language here, you can go from a soft target to a harder target by doing some very critical things with your facility as far as entrance, cameras, the lighting, landscaping, many other things, number of walls you put up, entrance into the building that would slow a person down or stop a person who is trying to do harm to someone in that facility. So I think you have to consider all those items and give that consideration when you're thinking of ways to evaluate. And that would be... [LB923]

SENATOR KINTNER: All right. Okay. [LB923]

SENATOR KOLOWSKI: ...raising the... [LB923]

SENATOR KINTNER: All right. [LB923]

SENATOR KOLOWSKI: ...boats. [LB923]

SENATOR KINTNER: We, you know, let me...I think I got that. Thank you. Let me ask you another question though. I've toured every school in my district. I've met with every superintendent. I'm on a first-name basis with every superintendent in my district, and they all seem to know exactly what needs to be done. They show me the high school and say, well, the office is back here too far, it's tough to control who comes in and out, or this is a new building, look where the office is. They seem to know exactly what they need to do and sometimes they've done it, sometimes they're working on doing it. What would this position do in these school districts where they seem to know what needs to be done? [LB923]

SENATOR KOLOWSKI: Well, I think, depending of the size of the districts, and you have a combination of districts... [LB923]

SENATOR GLOOR: One minute. [LB923]

SENATOR KOLOWSKI: ...in size. A district the size of Millard that I came from has a pupil services director. At that level, that person has a great deal of contact with a lot of different resources in our district and also the ability to bring in people that can consult and give us the input that we need from a professional view of the kind of things that we need to do at our various buildings. You have to come up with the money from your local district and decide how many projects you can work on this year, what level of projects you would want to work on. Millard's last bond issue, I believe this last year they just spent between \$4 million and \$5 million on their facilities as far as the security issues. [LB923]

SENATOR KINTNER: All right, Senator, thank you very much. Yeah, I think that every superintendent I met with knows exactly what he needs... [LB923]

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SENATOR GLOOR: Time, Senators. [LB923]

SENATOR KINTNER: ...to do. [LB923]

SENATOR GLOOR: Time, Senators. [LB923]

SENATOR KINTNER: Time? All gone? [LB923]

SENATOR GLOOR: Time, Senators. [LB923]

SENATOR KINTNER: Okay. Thank you very much, Mr. President. [LB923]

SENATOR GLOOR: Senator Kintner, Senator Kolowski. Senator Bolz, you're recognized. [LB923]

SENATOR BOLZ: Thank you, Mr. President. I would just like to rise briefly in support of both bills. I thank Senator Kolowski and Senator McGill for their good work here and I think the two are very interrelated. I think identifying students who might be troubled or needing additional assistance is a laudable goal, and I think that school security practices can help us to do that better. So perhaps one of the things that we could measure is the number of increased interventions that occur both through the work of people who are trained in suicide awareness and in school personnel who identify folks who might need that person to reach out to them. And I would also just like to briefly articulate that one of the things that I value about working in this building is that we do have professional security personnel who allow us to do our work in a safe, secure way. And so I think that they do add value to public institutions like this one and like our public schools. Thank you, Mr. President. [LB923]

SENATOR GLOOR: Thank you, Senator Bolz. Senator Christensen, you're recognized. Senator Christensen, you're recognized. [LB923]

SENATOR CHRISTENSEN: Thank you, Mr. President. First of all, I want to make clear I support making our schools the safest we can do. And if it's just brainstorming and people working together to come up with positive solutions and making it more secure and handling the situation, I'm very much in favor of it. I just don't want to see it go down the road of creating a position and then creating a budget for it and putting a bunch more onto our schools and our tax rolls than is necessary. And, you know, I just sat here reading a little bit about Sandy Hook and, you know, right at the front door he breaks a glass or shoots through the glass and breaks in, wounds one, kills two, and you know the only way to...some of the comments I give the first time I spoke, you know, was that we need to make sure everything is locked down early and things this way, and it appears that school was that way. He come in that front door. He went

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through three people and progressed on through. But my analogy that I've used for support of my bill that's in committee is the fact if one of them front three people would have had access to a gun and took care of the intruder coming in, we wouldn't have got any kids shot. It's not always what can we do or who can we...the different things that can be done in the situation. It is having all the bases covered. You know I appreciate the mention of the great security we have here in the back and I agree with that, but they are equipped. They're trained, and that is why they can handle situations. And that's the same way that my bill looked at it also. I just don't want people to think there's only one direction you can go here necessarily. I think it is good necessarily to try and make our schools as safe as they are, can be, and use commonsense things, but again question if we have to spend a lot of money doing it. Because if each school has to put in their director or we just start with a director created at the Department of Education, what are they going to require from there? That gets to be my concern, is where do we go with this? And so that's why I like to bring up the example what happened in Sandy Hook, an example of my bill and how it could have handled that situation. And the little one you don't hear much about out there in Colorado that happened that lasted just a few seconds was because somebody was carrying. And so don't rule out the possibility what I've brought to this Legislature twice. I know about three years ago it was a very difficult bill to introduce. It was very hard. This last time it was much more cordial, much more better. Even the school board administrators said, you know, we think your bill is in great form for when it does need to be passed. And there was very good discussion, they told me, on it. Even though they opposed it again this year,... [LB923]

SENATOR GLOOR: One minute. [LB923]

SENATOR CHRISTENSEN: ...it was much less forceful objection and more attentive to there is a broad difference between the schools in eastern Nebraska and the schools in western Nebraska, not only in the age of the buildings I've mentioned but also in the needs to upgrade, if you're going to go that direction, or a total different need of security to be covered out there. So I'd like to make sure that we don't rule out the possibility of looking at what my bill set up and has started some great discussion in the Judiciary Committee of the need of whether it's hired or trained personnel in schools, because I think there is several ways to achieve the ultimate goal that is being expressed here. [LB923]

SENATOR GLOOR: Time, Senator. [LB923]

SENATOR CHRISTENSEN: Thank you. [LB923]

SENATOR GLOOR: Thank you, Senator Christensen. Chair recognizes Senator Ken Haar. [LB923]

SENATOR HAAR: Mr. Chairman, members of the body, first of all, I'd like to thank

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Senator McGill and Senator Kolowski for this pair of bills and amendment. I rise in strong support of both of them. I kind of heard the implication that every school would have to hire a security person. What Senator Kolowski...well, I'd like to ask Senator Kolowski a question or two. [LB923]

SENATOR GLOOR: Senator Kolowski, would you yield? [LB923]

SENATOR KOLOWSKI: Certainly. [LB923]

SENATOR HAAR: First of all, I have to ask you if you come here every morning just looking how to spend more money. You don't have to answer that one. (Laughter) That's been implied and...could you clarify this issue. How many people are we talking about here hiring? [LB923]

SENATOR KOLOWSKI: We're talking about one person at the State Department of Education, sir, which is a replacement for the one they lost four or five years ago when the recession hit all of us very hard. [LB923]

SENATOR HAAR: And so this would have to be a person who had some knowledge and training, I assume, wouldn't it? [LB923]

SENATOR KOLOWSKI: Hopefully, yes, they'd have some background in school security and dealing with buildings, the complexity of very large schools to small schools and the range of issues that you might want to look at when you're dealing with security for those facilities. [LB923]

SENATOR HAAR: Okay, good. Well, I just wanted to clarify that point because I was sort of hearing that there was the implication that a lot of people would have to be hired. A lot of people would have to be trained. [LB923]

SENATOR KOLOWSKI: Yes, sir, that's correct. You'd...the training is ongoing. With every new form of security you would add to your building, you want to make sure your security staff and your teachers understand the full spectrum of what you'd be going through if you go from a...if you're in a lockdown or a code yellow or a code red, as we had in our district in my building. You have to know what each of those means and how you'd go about reacting to each of those, much like you would for a tornado warning or any other fire drill in your building. It's all part of what you train for. [LB923]

SENATOR HAAR: Okay. And then wouldn't you agree that...I mean there is no absolute answer to this problem that we face across the nation and... [LB923]

SENATOR KOLOWSKI: You're correct. It's a challenge. And what you try to do is, as I stated earlier, you'll want to go from a very soft target, if someone is looking at doing

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harm to a particular facility, to a very hard target, which makes it very difficult to penetrate or do the things that could be harmful to those participants. [LB923]

SENATOR HAAR: Okay. Well, thank you very much again for your amendment and thank you, Senator McGill, for the bill. [LB923]

SENATOR COASH PRESIDING

SENATOR COASH: Thank you, Senators Haar and Kolowski. Seeing no other members wishing to speak, Senator Kolowski, you're recognized to close on your amendment. [LB923]

SENATOR KOLOWSKI: Thank you, Mr. President. I really thank you for the...thank everyone for the questions they've had on this amendment and I hope you'll see the...have the insight to see where these two items do come together very smoothly as far as the position at the State Department of Education and the training that would be required for the school districts and the schools concerning suicide prevention. Both of these are real issues. They are something that we care about deeply and a multitude of things can be done to assist and bring about a better climate and culture in a building to make it a better place for all kids and all participants. Thank you. [LB923]

SENATOR COASH: Thank you, Senator Kolowski. Members, you've heard the closing to AM2319 to AM1977. The question for the body is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB923]

CLERK: 28 ayes, 1 nay, Mr. President, on the amendment to the amendment. [LB923]

SENATOR COASH: The amendment is adopted. We return to discussion on LB923 and the committee amendment. Seeing no members wishing to speak, Senator Sullivan, you're recognized to close on your committee amendment. [LB923]

SENATOR SULLIVAN: Thank you, Mr. President. AM1977 creates the position of the state security director under the Department of Education and under that position will collect school security plans and will help with identifying best practices for school districts to make them more safe. Thank you. [LB923]

SENATOR COASH: Thank you, Senator Sullivan. Members, you've heard the closing to the committee amendment. The question for the body is, shall AM1977 be adopted? All those in favor vote aye; those opposed, nay. Have all voted who wish? Record, Mr. Clerk. [LB923]

CLERK: 28 ayes, 1 nay on adoption of committee amendments. [LB923]

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SENATOR COASH: The committee amendments are adopted. We return to discussion on LB923. Senator Kintner, you're recognized. [LB923]

SENATOR KINTNER: Thank you, Mr. President. I wanted to follow up on what Senator Christensen said. You know, we hire a bureaucrat down here in Lincoln. He starts nosing around these schools, goes out west and they got a school built in 1938 or 1946 and, you know, they've got 70 students there, 60 students in the old building. And Mr. Bureaucrat comes in and says, oh, you got to build a wall here, you got to put a glass door there, got to put an intercom right there. Next thing you know, it's a couple hundred thousand dollars they don't have. I'm sure they'll tell Mr. Bureaucrat to get in his car and drive back to Lincoln. But you know what? Senator Christensen I think was right with his bill to arm school personnel. The NRA was right part of the way when they said the only way to stop an armed bad guy is with an armed good guy. Now they were wrong in wanting to get a bunch of federal money to do it, but the underlying idea was right. There is no way to stop a bad guy that wants to get in. And I think this whole idea of cowering in the corner and hoping he runs by the room is not the Nebraska way to deal with problems. Putting our head between our legs and cowering in the corner is no way to protect kids. That's not a protection plan. To have armed personnel would be a protection plan. Now I don't know if Mr. Bureaucrat we're about to hire here would like that idea or not. My guess is he likes locks and keys and intercoms and glass doors and that kind of stuff better. But if we got the right Mr. Bureaucrat, maybe we could do this better and we could make sure that we actually protect our kids rather than manage their death in a more organized way when a killer comes into the school. And so, you know, maybe something good will come out of this. But another point I want to make is that this body is absolutely addicted to spending money. They can't stop it. They can't help themselves. If there's any money anywhere, they're going to spend it. If you pull out your green status sheet, our little spending spree here has taken us down to about \$10 million left. We're going to have to make some hard decisions pretty soon about all the spending we're doing, or do you want to spend it over here, do you want to spend it over here, can we cut this down. It doesn't look like the taxpayers are going to get much of a break this year. We just can't afford to give them their money back. So we've got \$10.6 million more dollars to spend and the taxpayers are going to get the short end of the stick again. The average taxpayer is not going to get anything particularly reduced unless you fit into a special category or you're a property owner or you're retired or something. The average taxpayer that works and pays his money in taxes is going to get nothing. But we're going to hire another bureaucrat to hang out down in Lincoln. We're going to say we made those kids safe; boy, we made them safe; we got a bureaucrat down in Lincoln. I just think that we're a lot better off just giving the people their money back when we take too much money, and this body has no...absolutely no inclination to do anything of that kind. And I think that this body does not represent the people of our state very well when we're spending money like we're spending. [LB923]

SENATOR COASH: One minute. [LB923]

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SENATOR KINTNER: And it's all with the best of intentions, I understand that. I'm not casting aspersions on anyone. You know, everyone has a way to help someone. Unfortunately, it's always just with someone else's money. And I see a lot of frustration out there throughout our state that we can't find a way to cut our spending. And I think this little bit of spending we just did right here in this bill is symptomatic of all the problems we have right here in this body in that we just can't say no to spending other people's money. Thank you, Mr. President. [LB923]

SENATOR COASH: Thank you, Senator Kintner. Senator Karpisek, you're recognized. [LB923]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Senator Kintner can't help but step on another land mine, chastising the body again. Senator Kintner, would you yield to a question, please? [LB923]

SENATOR COASH: Senator Kintner, will you yield? [LB923]

SENATOR KINTNER: You know, I'd love to. [LB923]

SENATOR KARPISEK: Good. Did you vote for the airplane yesterday, a new air jet, three-point-some million dollars for the Governor? [LB923]

SENATOR KINTNER: I did not vote for a jet. I voted for a turboprop, yes, I did. [LB923]

SENATOR KARPISEK: Okay, very good. And that...so that's really going to protect one person pretty much, right? [LB923]

SENATOR KINTNER: That is a tool. It's an asset to be used by our state... [LB923]

SENATOR KARPISEK: There are lots of tools here, Senator Kintner. [LB923]

SENATOR KINTNER: ...in the business of our state. [LB923]

SENATOR KARPISEK: Whatever. Thank you. Look, it's not time to be chastising the body again. We're talking about real lives and real kids here. And if we want to talk about bureaucrats, we could find a whole bunch of them. This is talking about trying to keep our kids safe. I want to talk about Lucas Bowers, a young man from Wilber, Nebraska, that took his own life in December. That's what it means to me to spend money. I have voted for each and every one of Senator Kintner's bills that he brought here to take away a bunch of money this year out of the budget. We all did, because there were none. But yet we constantly have to hear this sort of thing. We are talking about people. I'm coaching Legion Baseball this year and hopefully Senator Kintner

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won't come down and umpire a game. But Lucas would have been my starting pitcher. He won't be because something went wrong and no one knows what. Great kid, great family, great student, probably headed to college to play some sports, but something went wrong. And if you want to walk into a small-town auditorium and see about a thousand bawling people at a funeral for a young man that should be here with us today, it's no fun. And it's senseless. And if there's anything we can do to help them out so we're not in that situation again, by God, I'm all for it. And we talk about spending other people's money here. Guess what, we all pay taxes, some of us a lot less than others. We all pay taxes and it is the state's money, obviously. I'm tired of being chastised for trying to stand up and stick up for people. I don't go out and try to rile people up and say, boy, did you see what they did today, they spent all this money and I told them not to. Bring a bill to cut these things. I will forever remember Lucas Bowers Larrington, Larrington Bowers, excuse me, and if this bill can do one little thing to help the next Lucas not end up in this same spot, I will. This is ridiculous, it is shameful to use this sort of rhetoric... [LB923]

SENATOR COASH: One minute. [LB923]

SENATOR KARPISEK: ...when we're talking about real people. I just can't believe that we would stoop to that level. This is a wonderful bill. We get off subject about arming teachers. Maybe we should; maybe we shouldn't. I don't think it's a great idea. But let's please pass this bill and stop the kind of nonsense that we've been hearing. Thank you, Mr. President. [LB923]

SENATOR COASH: Thank you, Senator Karpisek. Senator Bloomfield, you're recognized. [LB923]

SENATOR BLOOMFIELD: Thank you, Mr. President. I'm not going to take a position on LB923 until we vote on it. But I am going to take a position on how we treat each other in this body. This is not the first time members have stood up and called Senator Kintner out by name. I'm not going to chastise the senator that did it. I'm not going to scream and holler. But I do think we need to keep a little more decorum in here. Senator Kintner, as a member of this body, an elected member, has the right to say what he wants. And to jump up and get personal I think is out of line. And, colleagues, please, let's not do that anymore. Thank you, Mr. President. [LB923]

SENATOR COASH: Thank you, Senator Bloomfield. Seeing no other members wishing to speak, Senator McGill, you're recognized to close on LB923. [LB923]

SENATOR MCGILL: Thank you, Mr. President, members of the body. This is about people. And whether you are a teacher who, as Senator Kintner did refer to as cowering in the corner is not the way to protect kids, who's really trying to put themselves in a situation of danger themselves by trying to protect those kids, or you're the teacher who

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sees a struggling young person who doesn't know what to do to intervene, knowing that that young person is depressed or showing different signs, regardless of where you stand on the last heated exchange, this bill is, as Senator Karpisek said, it's about people. It's about Trinity McDonald who, here in Lincoln, took her own life in October. It's about the many people each and every one of us have known who have either tried to commit suicide or have unfortunately been successful. The brother of one of my good friends in college took his life two weeks ago. And I've had many close friends who have made this attempt before. Heck, I wish I could get this training, that we had someone here in the Legislature here to train each and every one of us on the signs of suicide and how to prevent it. But this is an absolute step in the right direction to at least get our teachers, the people who see our kids every day, more than we do, more than parents do, the training that they need and the training they need to keep them safe from bullying or from violence at school or the variety of things that Senator Kolowski's proposal will cover. It's more than just the school violence. It's a variety of other things dealing with kids' safety. It's a great proposal. It's not that much money. We're talking about \$130,000. That's what Fiscal has told me is going to go into this. Arguably, we should be putting more money into it to help the schools with the programming and to also educate our students more. This is a very reasonable proposal and one that will save lives. I ask for your support. Thank you. [LB923]

SENATOR COASH: Thank you, Senator McGill. Members, you've heard the closing to LB923. The question for the body is, shall LB923 advance? All those in favor vote aye; those opposed, nay. Have all voted who wish? Record, Mr. Clerk. [LB923]

CLERK: 30 ayes, 0 nays on the advancement of the bill, Mr. President. [LB923]

SENATOR COASH: LB923 does advance. You have items, Mr. Clerk? [LB923]

CLERK: I do, Mr. President. Amendments to be printed to LB438 and LB438A by Senator Adams. Study resolutions LR545 through LR549, all will be referred to the Executive Board. That's all that I have. Thank you. (Legislative Journal pages 1121-1126.) [LB438 LB438A LR545 LR546 LR547 LR548 LR549]

SENATOR COASH: Thank you, Mr. Clerk. We will proceed to the next item on the agenda.

CLERK: LB719, a bill by Senator Crawford. (Read title.) Introduced on January 8, referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. There are committee amendments. (AM1787, Legislative Journal page 446.) [LB719]

SENATOR COASH: Thank you, Mr. Clerk. Senator Crawford, you're recognized to open on LB719. [LB719]

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SENATOR CRAWFORD: Thank you, Mr. President, and good evening, colleagues. LB719 is part of a responsive regulations package I introduced this session to bring greater transparency, efficiency, and accountability to our rule-making process. Thank you, Speaker Adams, for selecting LB719 as one of your Speaker priority bills. Bills we pass in this Legislature are often converted into regulations that agencies enforce. Nationally, 20 percent of all economic activity is directly regulated by state regulations. The regulations, or we often in here talk about rules and regulations, shape the details of policy. And as you know, the devil is often in the details. Our laws are as effective or as burdensome as the regulations that enforce them. The current process for rule making, hearings, and reports makes it difficult for us legislators to assess the responsiveness of agencies to citizen and legislative comments on proposed changes in regulations. LB719 requires agencies to pay special attention to these comments that are made either at the hearing or submitted in writing during the comment period. Specifically, it requires agencies to prepare a report of all proposed rules and regulations following the hearing. This report includes a summary of comments raised during the hearing either through oral or written testimony, as well as a response from the agency to these summarized comments. This report will then become part of the package that agencies present to the Attorney General, the Secretary of State, and the Governor. Under this bill, a copy will also be filed with the Executive Board so that we will receive that report as well. Our rule making system, like our other public systems, should be accountable to the citizens it regulates. Our state benefits when those who are most affected by the details of the regulation have their say and are heard. Testifiers travel sometimes great distances to participate in these public hearings. The decisions made at these hearings can have serious implications for their business or personal lives, as we saw this fall during the hearing over proposed changes to Medicaid payments for childcare for children with disabilities. When they finish their testimony the only response they often receive is, next testifier, please. The comment summary required in LB719 pushes agencies, requires agencies to attend to concerns raised, and provides a useful tool for the Governor as he decides whether or not to approve these changes in regulations. A report also goes to our Executive Board, so we can be watchful of how agencies are carrying out the statutes and whether or not or how they are responding to the concerns that are raised during the hearing and comment period. What's more, LB719 provides all this without a General Fund impact. LB719 received broad support from a variety of stakeholders, including Nebraska Health Care Association, Mosaic, LeadingAge Nebraska, Nebraska Appleseed, North Platte Natural Resources District, and others. There was no opposition to the bill, and the bill advanced from the Government Committee without any "no" votes from committee members. In addition to providing additional transparency to the rule making process, LB719 strengthens the Legislature as an institution. The report required in LB719 is a useful tool for senators to assess agencies' responsiveness and justifications for their policies. This information will also help senators as they develop policy and draft legislation in response to regulations. For these reasons, I ask for your green vote on

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LB719. Thank you, Mr. President. [LB719]

SENATOR COASH: Thank you, Senator Crawford. As the Clerk has stated, there is an amendment from the Government, Military and Veterans Affairs Committee. Senator Avery, as Chair of the committee, you're recognized to open on the committee amendment. [LB719]

SENATOR AVERY: Thank you, Mr. President. The committee amendment provides that after the written report is submitted to the Executive Board, the Chair or the committee staff member of the Executive Board will refer each written report for review to the Chair of the standing committee which has subject matter jurisdiction over the issue and, if practicable, to the legislator who had the primary...or who was the primary sponsor of the bill or amendment that granted the agency the rule making authority. The language is similar to language already contained in the Administrative Procedures Act. The committee thought it was important for the Executive Board to provide a copy of the report to the Chair of the standing committee with subject matter jurisdiction on this matter and the legislator who introduced the bill that prompted the need for a new rule or regulation. The committee advanced the bill on a vote of 7 to 0, with 1 member being absent, no, sorry, present and nonvoting. There were eight opponents...proponents to this bill and no opponents. This is a minor amendment but one that improves the bill a bit, so I urge you to give this your yes vote. Thank you, Mr. President. [LB719]

SENATOR COASH: Thank you, Senator Avery. Mr. Clerk, do you have an amendment? Excuse me. Members, you've heard the opening to LB719 and the committee amendment. Floor is now open for discussion. Seeing no members wishing to speak, Senator Avery, you're recognized to close on the committee amendment. Senator Avery waives closing. The question for the body is, shall the committee amendment be adopted? All those in favor vote aye; those opposed, nay. Record, Mr. Clerk. [LB719]

CLERK: 31 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB719]

SENATOR COASH: Committee amendments are adopted. [LB719]

CLERK: Senator Crawford would move to amend with AM2066. (Legislative Journal page 654.) [LB719]

SENATOR COASH: Senator Crawford, you're recognized to open on your amendment. [LB719]

SENATOR CRAWFORD: Thank you, Mr. President. And thank you again, colleagues, and thank you to the Government Committee for their careful work on this bill and for adding the amendment, which I do think is a good addition to the bill and I appreciate

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their work on it and their support on it. AM2066 adds what was originally introduced as LB720, as it was amended by the Executive Committee, to LB719. Together, these bills bring greater transparency to the rule making process and increase the Legislature's ability to conduct meaningful oversight over regulatory agencies without adding to the state's General Fund. The book I used for a state politics class this fall had a map that ranked states based on the strength of the toolbox available to each Legislature to conduct regulatory oversight. The darker the state, the bigger the toolbox that state had for conducting oversight on the rules and regs. Guess what color Nebraska is on this map--white. This means our Legislature has one of the smallest and weakest toolboxes in the country in terms of legislative oversight with few checks on agencies' power during the rule making process. Term limits have further weakened our ability as a body to serve as a check on agencies' regulatory power. As you know, this year 17 senators will leave us due to term limits. Bills introduced by the 17 senators and passed by the Legislature will continue to be implemented once those senators are no longer in office. AM2066 helps strengthen the Legislature's ability to conduct meaningful oversight given these realities. AM2066 strengthens a complaint procedure that currently exists for senators to challenge proposed regulations on the basis of constitutionality or legislative intent. In 2005 the Legislature passed LB373, a bill introduced by Senator Pat Bourne and prioritized by Senator Deb Fischer. The amendment makes this tool more effective...this amendment makes that tool more effective in two key ways. One, it expands the procedure to existing rules and regulations. Currently, only proposed regulations are subject to this procedure. Two, this adds additional criteria as the basis of a complaint. The new criteria include whether the regulation creates an undue burden that significantly outweighs its benefit to the public, whether circumstances have changed since the passage of the statute which the rule implements, and whether the rule is duplicative or conflicts with federal, state, or local laws. Like LB719, LB720 received support from a variety of stakeholders at the bill's hearing. No one testified in opposition to the bill. And like LB719, the bill has no General Fund impact. LB719 and LB720, which is now AM2066, helps strengthen the body's ability to conduct meaningful oversight, adding useful tools to our toolbox. This also provides a tool for a bigger picture oversight. Laws and regulations often get made one by one...they do get made one by one in response to specific, narrow situations. This can lead to overlapping regulations and regulations that drift from legislative intent or that become more burdensome than were anticipated by the lawyers who authorize those regulations. In other instances the bills we pass here may play...just play out differently on the ground, especially perhaps in rural areas. When we first talked about this bill idea, we looked at several other states and other ideas that looked at something like a five-year review of all regulations. But we felt that this was a better tool than something like a comprehensive five-year review tool because AM2066 creates a tool that allows us to direct our attention to the areas of regulation that are most in need of a review. It also provides a mechanism to streamline regulations and a process to push for reconsideration and revision of regulations that may have become out of date or redundant. Already this session we have discussed the importance of regulations and

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the consequences of these regulations. These discussions include the confidentiality of inmate telephone calls made to senators' offices, and changes in regulations in regard to home healthcare. Other bills, like LB853, require rules and regulations to develop criteria for alternative responses in our child welfare system. Legislative oversight is one of the most important duties we have as senators. We need to be holding agencies responsible in the rules and regulation process and ensure that the legislation that we carry out here is faithfully implemented. LB719 and AM2066 ensure that we as a Legislature have tools we need to do this job well, so I'd appreciate your green vote on AM2066 and LB719. Thank you, Mr. President. [LB719 LB720 LB853]

SENATOR COASH: Thank you, Senator Crawford. Members, you heard the opening to AM2066. Floor is now open for discussion. Senator Wightman, you are recognized. [LB719]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. As Senator told you, LB720 was an amendment brought...or not an amendment but was a bill brought to us by Senator Crawford before the Executive Committee. The committee amendment strikes the original sections of the bill except for the provision regarding the additional criteria under which a complaint may be filed. As originally drafted, the bill would have authorized members of the public or a governing body of a political subdivision to file a complaint. With the committee amendment, only a member of the Legislature can file a complaint, as is the current law. Again, I would appreciate your vote for AM2066 and for LB719. Thank you, Mr. President. [LB719 LB720]

SENATOR COASH: Thank you, Senator Wightman. Seeing no other members wishing to speak, Senator Crawford, you're recognized to close on your amendment. [LB719]

SENATOR CRAWFORD: Thank you, Mr. President. Again, this provides a tool for...AM2066 provides a tool for the legislators to use to identify regulations and pose a complaint against the regulations and then compel the agency to respond to that complaint against an existing regulation. So I urge your support of AM2066. [LB719]

SENATOR COASH: Thank you, Senator Crawford. Members, you've heard the closing to AM2066. The question for the body is, shall AM2066 be adopted? All those in favor vote aye; those opposed, nay. Have all voted who wish? Record, Mr. Clerk. [LB719]

CLERK: 27 ayes, 0 nays on adoption of Senator Crawford's amendment. [LB719]

SENATOR COASH: The amendment is adopted. Return to discussion on LB719. Senator Krist, you're recognized. [LB719]

SENATOR KRIST: Thank you, Mr. President, and good evening, colleagues, and hello, Nebraska. I wondered if Senator Crawford would yield to a few questions. [LB719]

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SENATOR COASH: Senator Crawford, will you yield? [LB719]

SENATOR CRAWFORD: Yes. [LB719]

SENATOR KRIST: Could you just elaborate on how this is going to change...what's the realistic change that we're going to see when LB719 passes? [LB719]

SENATOR CRAWFORD: Absolutely. Well, since it's two pieces, there are two key things that change. So LB719, what it does is it requires, when agencies have proposed regulations and we go through that process, we go through that process, there's a comment period and people are able to submit written comments or attend the hearing. And then after that the agency puts in their final version of the rules, and at this point there's no way for us to know how they responded to the comments that were made in that public comment period. So what LB719 does is it requires the agency to summarize the main comments that were raised and then to publicly indicate how they responded or why they chose not to respond to the comments that were made. So that does two things. I didn't really, in my comments, emphasize one of the key things that it does is it really makes them pay attention to the comments because they have to make them public and they have to make their response to them very public. So I think that's a really key change that this creates. It creates a public transparency on the comments that were made and how the agency responded to those comments, and that gets sent not only to the Governor, so the Governor, if the Governor cares about responsiveness, the Governor can look at that, but also gets sent to us. And with the amendment in the Government Committee, it gets sent to the committee and to the introducer senator so we can see how they're being...how the agencies are being responsive or not to the concerns that are raised by the public and the stakeholders. And the second part of it now means that we can, as senators, we can identify existing regulations that we feel have drifted from legislative intent or meet those other criteria that are in the bill and lodge a complaint against that existing regulation. And then the agency must respond in a public way to that complaint about why they feel the regulation is appropriate despite the complaint we've lodged against it. [LB719]

SENATOR KRIST: Okay. And then one follow on in the time remaining: Is there a time frame prescribed for these kinds of responses? [LB719]

SENATOR CRAWFORD: LB720 does give a time frame for that response, and so that's important, too, that you have a statutory time frame for the response. [LB719 LB720]

SENATOR KRIST: So we're looking at a hearing process that results in mandatory feedback that has to be published and that has a time frame involved, and then the time frame that is prescribed after that for the actual policy or procedure changing? Do I understand that correctly? [LB719]

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SENATOR CRAWFORD: Well, just to be clear, LB719 is for any proposed regulation. You must make those public comments...must make the comments and response to comments public. LB720 only kicks in if a legislator lodges that complaint. [LB719 LB720]

SENATOR KRIST: Okay. [LB719]

SENATOR CRAWFORD: Is that so... [LB719]

SENATOR KRIST: So that's the intent or purpose or the breakdown of LB720 and LB719. Who brought this to you? [LB719 LB720]

SENATOR CRAWFORD: No one brought this to me. [LB719]

SENATOR KRIST: This is... [LB719]

SENATOR CRAWFORD: This really came out of...as a political scientist, I study public administration and so I know that oversight is really a critical role in terms of our job here. [LB719]

SENATOR COASH: One minute. [LB719]

SENATOR KRIST: I just wanted to put that on the legislative record and make sure that people understand that not everything is brought to us. Some people have minds and backgrounds and interests, and I appreciate the fact that you brought it forward. I think we've seen a number of these issues that this will indeed help. And I would yield the balance of my time to Senator Crawford, if she'd like to say anything. [LB719]

SENATOR CRAWFORD: Thank you. And I do want to correct, no one brought the idea that we need these legislative tools. We did get some assistance from Doug in Senator Lathrop's office in terms of some ideas he had...an idea he had been working on that was very instrumental in LB719. So I do want to give him credit for that as part of this debate. But this was something that we really were studying what we could find in terms of what other states did to strengthen oversight, and that was...that study then led us to introduce this package of three bills, two of which we will pass when we...if we pass LB719 today. Thank you. [LB719]

SENATOR COASH: Thank you, Senator Krist and Senator Crawford. Senator Hadley, you're recognized. [LB719]

SENATOR HADLEY: Mr. President, good evening, Nebraskans. Would Senator Crawford yield to a question? [LB719]

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SENATOR COASH: Senator Crawford. [LB719]

SENATOR CRAWFORD: Yes. [LB719]

SENATOR HADLEY: Senator Crawford, you mentioned you were a political science professor. Is that correct? [LB719]

SENATOR CRAWFORD: That is correct. [LB719]

SENATOR HADLEY: Is there any truth to the rumor that a political science professor is someone who wanted to be an accounting professor but didn't have enough personality? [LB719]

SENATOR CRAWFORD: (Laughter) There's no truth to that in my particular case, but I cannot speak for every political science professor. [LB719]

SENATOR HADLEY: Okay. I do stand in seriousness. I heard earlier the talk about term limits and such as that. I think this is a good proposal. One of the problems I think you see from a term limited process in Nebraska, two terms of four years, the learning process is a difficult process for senators to undergo. And we've lost the knowledge that comes with having some senior citizens, and we're going to be losing seven senior citizens, not in age but in times of service. And with them go a lot of information that they've gathered over the past eight years. So any kind of process that allows us to formulate that information, keep that information, have that information available I think is something that can help future legislators as they go about their duties. So I think this is a good bill and I hope that you would give us a green vote on this. With that, I would yield any remaining time to Senator Crawford, if she wishes to have it. [LB719]

SENATOR COASH: Senator Crawford waives. Thank you, Senator Hadley. Seeing no other members wishing to speak, Senator Crawford, you're recognized to close on LB719. [LB719]

SENATOR CRAWFORD: Thank you, Mr. President. I think we've had a good discussion of what these bills do. Again, it adds a comment requirement so that when proposed rules are going through the rules and regs process we will see a summary of key comments that were made and how the agency responded or their reason why they did not choose to respond to those comments. We will see that. And also, since it comes to our Executive Board, it will be posted on-line. So citizens and other stakeholders can see that as well, so that's an important transparency part of what we're passing here. And also we are passing a tool that allows us to identify existing rules and regs or instances where an agency is repealing a rule or a reg, and lodge a complaint against that existing rule or reg based on the criteria provided here, and the agency must

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respond within 60 days and that becomes public record. It's all very important in terms of making sure we have, as Senator Hadley so rightly pointed out, making sure we have a good public record and that we're keeping track of the agencies' responses so that we can be more effective in oversight and more effective in crafting statutes if we feel we need to craft statutes to respond to what's happening on the rules and reg side in our policy areas. Thank you, Mr. President. [LB719]

SENATOR COASH: Thank you, Senator Crawford. Members, you've heard the closing to LB719. The question for the body is, shall LB719 advance? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB719]

CLERK: 29 ayes, 0 nays on the advancement of LB719. [LB719]

SENATOR COASH: LB719 does advance. You have items, Mr. Clerk? [LB719]

CLERK: Mr. President, Senator Lathrop, an amendment to LB923; Senator Nordquist to LB943. (Legislative Journal pages 1126-1129.) [LB923 LB943]

Priority motion: Senator Kintner would move to adjourn the body until tomorrow, March 26, at 9:00 a.m.

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Opposed, nay. We are adjourned.