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Floor Debate
April 01, 2009

[LB121 LB218 LB292A LB340 LB396 LB407 LB408 LB430 LB449 LB463 LB464A
LB464 LB477 LB489A LB511 LB517 LB532 LB551 LB555 LB586 LR78 LR79]

PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-third day of the One Hundred First Legislature, First Session. Our chaplain for today is Pastor J.O. Baumgartner from Bluffs Trinity Lutheran Church in Fremont, Nebraska, Senator Janssen's district. Would you all please rise. []

PASTOR BAUMGARTNER: (Prayer offered.) []

PRESIDENT SHEEHY: Thank you, Pastor Baumgartner. I call to order the fifty-third day of the One Hundred First Legislature, First Session. Senators, please record your presence. Please record, Mr. Clerk. []

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

PRESIDENT SHEEHY: Are there corrections for the Journal? []

CLERK: I have no corrections, Mr. President. []

PRESIDENT SHEEHY: Are there messages, reports, or announcements? []

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

PRESIDENT SHEEHY: Thank you, Mr. Clerk. (Doctor of the day and visitors introduced.) We'll now move to the first item under legislative confirmation report. []

CLERK: Mr. President, I have three reports all from the Education Committee. Senator Adams, the first report I have is the Nebraska Educational Telecommunications Commission; three appointments, Senator. (Legislative Journal page 844.) []

PRESIDENT SHEEHY: Senator Adams, you're recognized to open on your first Education Committee confirmation report. []

SENATOR ADAMS: Thank you, Mr. President. Mr. President, could you tell me which group are we dealing with first? []

CLERK: The Educational Telecommunications Commission: Stan Carpenter, Kim Dinsdale, Clay Smith. []

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SENATOR ADAMS: Yes, thank you. Mr. President and members of the body, the Education Committee held confirmation hearings the other day and we have three groups of appointees this morning. This first group is for the Nebraska Educational Telecommunications Commission, and we have three appointments to that commission. Stan Carpenter--Stan is the chancellor of the state colleges, Kim Dinsdale from Grand Island, and Clay Smith, all of whom the committee thought were very well qualified for these positions and they're excited to get started. With that I would ask for our confirmation. []

PRESIDENT SHEEHY: Thank you, Senator Adams. You have heard the opening of the first confirmation report from the Education Committee. Seeing no requests to speak, Senator Adams, you're recognized to close. Senator Adams waives closing. The question before the body is on the adoption of the first legislative confirmation report. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal pages 869-870.) 37 ayes, 0 nays, Mr. President, on the adoption of the report. []

PRESIDENT SHEEHY: The confirmation report is adopted. Next Education Committee report. []

CLERK: Mr. President, Senator Adams' second report, Board of Trustees, Nebraska State Colleges. (Legislative Journal page 844.) []

PRESIDENT SHEEHY: Senator Adams, you're recognized to open on your Education Committee confirmation report. []

SENATOR ADAMS: Thank you, Mr. President and members of the body. We have two appointees that the Education Committee held hearings on and asked a lot of good questions, and their responses were good. First of all is William Roskens to the Board of Trustees of the Nebraska State Colleges, and Michelle Suarez to the Board of Trustees of the State Colleges. Very qualified people, and again, anxious to get started. Thank you, Mr. President. []

PRESIDENT SHEEHY: Thank you, Senator Adams. You've heard the opening of the second Education Committee confirmation report. Seeing no requests to speak, Senator Adams, You're recognized to close. Senator Adams waives closing. The question before the body is on the adoption of the Education Committee confirmation report. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal page 870.) 39 ayes, 0 nays, Mr. President, on the report. []

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PRESIDENT SHEEHY: The Education Committee confirmation report is adopted. We'll now move to the third Education Committee confirmation report. []

CLERK: Senator, the third report involves an appointment to the Coordinating Commission for Postsecondary Education. (Legislative Journal page 844.) []

PRESIDENT SHEEHY: Senator Adams, you're recognized to open on your Education Committee confirmation report. []

SENATOR ADAMS: Thank you, Mr. President. This will be the last of the appointees from the Education Committee. This is to the Coordinating Commission for Postsecondary Education. There was one opening and the committee held a hearing and we had an opportunity to question and to speak with the appointee, John Winkleblack. And I would ask for the confirmation. []

PRESIDENT SHEEHY: Thank you, Senator Adams. You've heard the opening to the third Education Committee confirmation report. Seeing no requests to speak, Senator Adams, you're recognized to close. Senator Adams waives closing. The question before the body is on the adoption of the Education Committee confirmation report. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal page 871.) 41 ayes, 0 nays on adoption of the third report, Mr. President. []

PRESIDENT SHEEHY: The third Education Committee confirmation report is adopted. We will now move to LB532 under 2009 senator priority bills, Price division. Mr. Clerk. [LB532]

CLERK: Mr. President, LB532, a bill introduced by Senator Price. (Read title.) The bill was introduced on January 21 of this year; referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. There are committee amendments, Mr. President. (AM678, Legislative Journal page 736.) [LB532]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Price, you're recognized to open on LB532. [LB532]

SENATOR PRICE: Good morning. Thank you, Mr. President and members of the body. LB532 proposes to give Nebraska counties the authority to enact ordinances. Before a county could enact an ordinance, the bill would require county boards to hold a public hearing on each proposed ordinance and allow for public review and input before an ordinance is enacted. Municipalities would retain jurisdiction within the city limits, and counties would be able to enforce enacted ordinances by assessing fines and penalties

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for violations. I introduced this bill to address a number of public safety issues and inefficiencies that I have learned about and experienced while living in Sarpy County. As my colleagues may know, there are five cities in Sarpy County and these communities do a fantastic job of providing services and protecting residents. However, there are tens of thousands of people living in Sarpy County and Douglas County that do not reside within the city limits. And while cities have an active role in managing the growth and extraterritorial jurisdiction, individuals living in the ETJs do not have access to the same services or protections as their counterparts within the city limits. The reason is simple: Residents living in the ETJ do not pay property taxes to the city, and therefore the city does not enforce its ordinances in these areas. I mention this, not to insult cities, but instead to point out the problem this bill attempts to resolve. Let me give you a few examples of situations that I have witnessed in my neighborhood. I live in a SID south of Bellevue. In one case, a neighbor's house was on fire but, because of the narrow streets and the way cars were parked on the streets, fire trucks had a difficult time responding to the fire in my neighbor's home. In another case, emergency responders wasted valuable time finding a passable route to attend to a neighbor who was having seizures. In both situations enforcement of sensible parking policies would allow emergency responders to pass through narrow streets while allowing the residents to continue parking on the streets. Another example is repeated fire alarms. As home security and business alarms become more common, the number of false alarms has also increased. Within the city limits, city officials can penalize owners for repeat false alarms by issuing a fine. The only option county officials have is to ask the owner to address the problem with the alarm system and hope for the best. False alarms are wasted time and resources that are already in short supply for fire and sheriff departments across the state. These are the types of issues I'm trying to resolve with this bill, and while my experience and reference is related to Sarpy County, this is also an issue for other counties in Nebraska. In past sessions, senators from Lancaster and Madison Counties have introduced similar bills to meet local controls and concerns. As drafted, LB532 would expand its authority of counties in Nebraska; however, you will soon hear about an amendment that was drafted with the assistance of all interested parties to focus the scope of the bill on the issues important to counties and to the safety of the public. Since the committee hearing on LB532, I've worked with all these groups who testified in support and opposition to draft an amendment that Senator Avery will introduce. My priority with the amendment is to address public safety issues that have been identified and that I believe are sensible and responsible. Currently, there are 37 states that have some form of home rule or ordinance authority, so this is nothing new. And finally, let me remind my colleagues and those watching the debate, this bill is permissive. What makes sense in one county may not be necessary for the other counties in the state. LB532 and the committee amendment do not require counties to enact ordinances. I ask for your support on the Government Committee amendment to LB532 and I would urge that you move this forward with a green light. Thank you, Mr. President. [LB532]

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PRESIDENT SHEEHY: Thank you, Senator Price. You have heard the opening to LB532. As was stated there is a Government, Military and Veterans Affairs Committee amendment, AM678. Senator Avery, you're recognized to open on AM678. [LB532]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. AM678 becomes the bill. It strikes the original sections of the bill and replaces it with the following provisions. Counties may regulate by ordinance for the following issues: parking as it relates to snow removal and access by emergency vehicles; two, counties may regulate, by ordinance, motor vehicles; three, they may regulate, by ordinance, graffiti; four, they may regulate, by ordinance, false alarms caused by an emergency alarm system; and finally, public indecency. Any ordinance adopted by the county will be enforced by a fine not exceeding \$500 and recoverable costs and attorney fees or other penalties adopted by ordinance. The committee amendment also outlines the procedures for adopting ordinances, including public notice requirements, when an ordinance will be read and received into evidence in all courts without further proof. The requirements of reading the ordinance by title and how ordinances are published once adopted. To adopt any ordinance, the amendment requires a concurrence of a majority of the whole number of the board members must be required. No ordinance will go into effect until 15 days after the adoption of such an ordinance. Finally, these provisions will not be exercised within the limits of any incorporated city or village, nor within the area of which a city or village has been granted or is exercising such powers. That's an important amendment I think. We'll talk about that. At such time as a city or a village exercises control over an unincorporated area by the adoption of an ordinance, the ordinance will supersede any similar ordinance of the county. Those are the principal amendments to LB532. I just want to add that Senator Price worked very hard on this, and I want to commend him for pulling off what I thought at the time would not be possible, and that is he got together with the stakeholders, as we say, or the contending parties, the people who were at each other's throats on this, and he worked out a compromise. The compromise is contained in this amendment. He managed to bring together the Nebraska Association of County Officials, the League of Nebraska Municipalities, the Nebraska Farmers Union...excuse me, that's the Farm Bureau--big difference--; the Nebraska County Attorney Association, the Nebraska Realtors Association, Sarpy County officials and the United Cities of Sarpy County. Now I have to tell you that I didn't know that Senator Price had those negotiating skills but he pulled it off and I'm sure he will discuss some of those discussions with you. The committee advanced the bill on a 7-0 vote with 1 member present but not voting. I urge you to adopt the committee amendment and the underlying legislation. Thank you, Mr. President. [LB532]

PRESIDENT SHEEHY: Thank you, Senator Avery. You have heard the opening of the Government, Military and Veterans Affairs Committee amendment AM678. Mr. Clerk, do you have an amendment to committee amendment on your desk?' [LB532]

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CLERK: I do, Mr. President. Senator Friend would move to amend the committee amendment. Senator, I have AM898 in front of me. (Legislative Journal page 866.) [LB532]

PRESIDENT SHEEHY: Senator Friend, you're recognized to open on amendment to committee amendment AM898. [LB532]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. Back during the state Republican convention I got a chance to meet Senator Scott Price. Of course, I got a chance to speak about it, about meeting him and what a great guy he was. I hadn't met him yet. I was talking about what a great guy he was and I called him Greg. Look, I know his name now and he's a friend of mine. But we're going to take some time this morning on this legislation. I've got two amendments up. This particular amendment, AM898, and the ensuing amendment were to give me an opportunity, not to get on TV and to make myself either look better or look worse than I already have this session, but it's to talk about the policy; to talk about the policy of what we're doing or what we're intending to do here. Because, see, policy discussions can be separated from our friendships out here. I don't...it goes all the way back, seven years. I don't know that there's anybody that I've worked with that I said, you know what, I wish I hadn't worked with that person; that person lied to me; I don't like that person. It just doesn't happen. I'm not going to go over that again. I'm done talking about that. This bill is a bad idea. It's bad policy, all right? And it's not just bad policy; it's bad because it's convoluted and the stakeholders that Senator Avery pointed out and sat down with Senator Price, they're wrong. The stakeholders are flat out wrong. This is not a filibuster. I would have attached 20 amendments if that was the case. If I wanted to force Senator Price into a 33-vote situation. It would have been easy because I could have come up with 20 legitimate...by the way, these two amendments are not necessarily that legitimate. The first one, this one, for example, strikes the enacting clause or at least that was the intent. The second one was to actually drop the fine from \$500 to \$50. They're superfluous. I mean, it doesn't really matter whether these amendments are adopted or not adopted. If the first one is adopted, the bill is dead. If the second one is adopted, the bill for all practical purposes is dead again because nobody is going to want to even bother to find anybody to try to drum up 50 bucks in revenue. I could have recommitted the bill to committee. I'll talk about that later. We could bracket it later on. Do whatever you want. I mention that it's bad policy and it's confusing, and I'm going to need some time so let me touch on a few of those. It's bad policy because we're expanding the authority of government. It's as simple as that. I inherently don't like if we can boil it down to something that simple or that high level. I don't like that idea. I don't like it at all. Now I've done it in here. Over seven years, I've done it. Not raising my hand and saying, oh boy, I'm proud of it. I'm saying it hits me and it's fairly distasteful. There is absolutely no question about this. This bill expands the role of government. We are offering counties the opportunity to do something they don't do now, and that's create ordinance...we're creating ordinance authority for them. By the

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way, cities already have this authority. And part of the convoluted nature of this bill indicates that there's going to be head butting, mark my words. You pass a bill like this in the form that it's in, we'll be back in a year or two years or three years to fix it. That's nothing against Bill Drafting; it's nothing against the people that created this. I'm telling you this will have to be fixed because it will not work. Historically, counties operate by resolution in Nebraska. It doesn't mean we can't change that but we better...if we're going to change it, we better do it right. Cities historically operate by ordinance. They can produce resolution. They do it. They give them to us. They give them to the federal government. They give them to all kinds of other organizations...government entities and organizations. They operate by ordinance in this state. That's what we've decided. And as a Legislature, we've taken a hundred years to create statutes that indicate how they're going to regulate and how they're going to manage that ordinance authority. Now, in a four-page bill--I believe it's about four pages--now in a four-page bill we're going to create ordinance authority for a county? Uh-uh. It doesn't work that way. Every year we change the ordinance authority for cities. Every year. Do you know how I know that? Because I've been here seven years and all of that time has been spent on urban affairs. We do it every year. That's how I know this is going to have to be fixed. Take it a step further: It's going to have to be fixed because it's convoluted by nature. If I can't convince you of this in a certain period of time--and it's not going to be until noon, I don't think--if I can't convince you of this idea then Senator Price can take off and you can run forward and expand the role of government, which we've all done here. My point is, you'll have done it and you'll have done it to the detriment...to the detriment, not just of Sarpy County and the cities in Sarpy County, but of the whole state. Let me start. I was wondering if Senator Price would yield to a couple of brief questions. [LB532]

PRESIDENT SHEEHY: Senator Price, would you yield to questions? [LB532]

SENATOR PRICE: Absolutely. [LB532]

SENATOR FRIEND: Thank you, Senator Price, and thank you, Mr. President. In Section 1, Senator Price, (1) regarding parking, why are we only...why only access for emergency vehicles to commercial and residential areas? What about...does this exclude industrial areas? [LB532]

SENATOR PRICE: Senator Friend, as you pointed out, we did pick to do it in residential areas, and particularly again because of the safety issues. Also because of the roads in these areas are very narrow as opposed to commercial areas, in generality. Also, in bringing all the parties together to come out with consensus--again you saw the diverse group--to come out with consensus and to meet the primary need, that is of the citizens residing in their private dwellings. That's why we chose to keep it in this narrow scope. [LB532]

SENATOR FRIEND: Okay. All right. Thank you, Senator Price, and that's a...I like that

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answer and that leads me to this: That's part of the problem. Remember when I said the stakeholders were wrong? They are. You can't do that. Why specify any sort of area? Why do that? That's a rhetorical question. You can't do that under these circumstances. In Section 1(4) regarding the false alarms, for example, I could ask him...by the way, members of the Legislature, I can sit here and grill Senator Price until noon. I've got 12 items here that I've drummed up. It's not to make him look bad or anything else. I'm not going to ask him those questions. I'm going to go through these. These are a problem. Regarding false alarms caused by an emergency alarm system in Section 1(4), members of the Legislature what does that mean? Would it include--and Senator Price alluded to this in his opening--would it include an alarm that results from a home smoke detector that has a malfunction? Have you seen some of the home smoke detectors we have now? Would it include that, that are tied to ADP systems and stuff like that? Look, in Section 6 it purports to limit county jurisdiction to areas outside of city limits and their extraterritorial zoning jurisdiction. Does the alarm offense relate to the location of the alarm? From a centralized system that is located inside a city or received in a city like a dispatch center which would be located inside a city? [LB532]

PRESIDENT SHEEHY: One minute. [LB532]

SENATOR FRIEND: Or would it be where the alarm originates? Or would it be from where the fire department that responds is located or even a sheriff's office that responds? Would it...from inside the county seat or also in a city? The county seat is in a city, right? I'm going to run out of time on this opportunity. I'm going to touch briefly on all of these, and when we're done...look, I welcome some feedback on this because I'm telling you there are way far more issues and far more confusion than I think anybody is really expecting from a bill like this. The intent is good. I understand Senator Price's intent. I like it. I'm telling you, this bill doesn't do it. I'll start again in a minute. [LB532]

PRESIDENT SHEEHY: Time, Senator. [LB532]

SENATOR FRIEND: Thank you. [LB532]

PRESIDENT SHEEHY: Thank you, Senator Friend. The cookies being handed out to you this morning at your desk is in celebration of Senator Lathrop's birthday. Senator Lathrop, happy birthday. You have heard the opening of the amendment to committee amendment AM898 to AM678 to LB532. Members requesting to speak are Senator Friend, followed by Senator Wightman, Senator Gay, Senator Janssen, Senator Stuthman, and others. Senator Friend, you're recognized. [LB532]

SENATOR FRIEND: Thank you, Mr. President. I know I don't have as much time, I probably won't be able to get through all of these but I welcome the discussion on this and bear with me. Let's take public indecency in Section 1(5). It's already a state offense. We are adding confusion here. 28-806 in Revised Statutes, 28-806, public

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indecenty and the penalty associated with that. A person...let's skip to "(b) An exposure of the genitals of the body done with intent to affront or alarm any person; or..." blah, blah, blah, on down the road. Look, what we're doing is we're taking criminal code...we're taking criminal code here and we're transferring it over to a different section of revised statutes, civil code. Now if you do that you need definitions associated with it. There are no definitions in this bill of public indecenty or nudity. The nudity and the public indecenty definitions are in our criminal code. Are we to adhere to those? And by the way, how do you know if somebody is on a golf course--let's be fairly crass here. I'll try to be diplomatic and I'll try to be...you're on a golf course and you have to relieve yourself. Is that public indecenty? According to our criminal code, it is not because of what I just read, correct? An exposure of the genitals of the body done with the intent to affront or alarm any person. Do you think a golfer has the intent to affront or alarm any person by doing that? I don't think so. I've never golfed with Senator White but I'm telling you that's not usually the way it happens. Now definitions need to be laid out. There are all kinds of situations in this bill where we need definitions and we don't have them. I'll get to that in a little while if I have time. Let me skip to the game-ending situation here for me. In Section 7--because I don't have much time and there's a slew of lights on--in Section 7, as this is written in AM678, Section 7 negates the whole bill. Members, this excites me. I don't know why. Section 7 negates the whole bill. It makes the bill null and void. Now you would say, well, Friend, just get rid of Section 7. Members, I would have to go through every section and fix this. There are 20 problems and I don't have enough time to go through them. Section 7 says this: The powers conferred by Sections 1-6 of this act shall not be exercised within the limits of any incorporated city or village. Members of the Legislature, the powers conferred in this bill deal with the enactment of ordinances. The county board acts from within a county seat which is an incorporated city, (laugh) therefore the county board cannot enact ordinances because it acts within an incorporated city. Members, if you put this in here it blows the whole bill away. Now you would say, well, that's simply fixed. I reiterate: Members, I cannot go through and fix this whole bill. I've got tons...I've got all kinds of stuff here. Shall I do it? I think we have a couple choices, all right? And I haven't talked to Senator Price about this. I think we can sit down with Senator Flood and talk about if there's a way to fix this bill. I'd be happy to be part of that discussion, along with the research analysts and the staff that I have in Urban Affairs. [LB532]

PRESIDENT SHEEHY: One minute. [LB532]

SENATOR FRIEND: I know this was not my bill. I know it didn't go through Urban Affairs. But these are legitimate problems, folks. So a bracket motion goes up on this later on? You know, I told Senator Price I wouldn't do that. I'm not going to try to kill it. I'm not going to try to filibuster it. He shouldn't...hey, by the way, members of this Legislature shouldn't have to require 33 votes to get bills passed. I've always believed that, and...nor should Senator Price. But at the risk of sounding redundant, this is a power play by Sarpy County and this is a bad idea, because we're not just affecting

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Sarpy County; we're affecting the whole state. We've got 92 other counties that this would apply. How would you like to be a sheriff in Cherry County and you have to address an abandoned vehicle situation 45 miles away for a \$500 bill? Not cost-effective. I look forward to hearing the discussion, members. That's about all I have right now. [LB532]

PRESIDENT SHEEHY: Time, Senator. [LB532]

SENATOR FRIEND: Thank you. [LB532]

PRESIDENT SHEEHY: Senator Wightman, you're recognized. [LB532]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. I have some questions that I would like to ask Senator Avery. [LB532]

PRESIDENT SHEEHY: Senator Avery, would you yield to questions? [LB532]

SENATOR AVERY: Yes, I will. [LB532]

SENATOR WIGHTMAN: Senator Avery, you have a major amendment to LB532, the committee amendment that replaces the bill. Is that correct? [LB532]

SENATOR AVERY: Yes. [LB532]

SENATOR WIGHTMAN: And you came up with about four or five...five items, I guess, that they could...a county could regulate by ordinance, at least it appears that in Section 1. Is that your under...? [LB532]

SENATOR AVERY: That is correct, and a county would not have any authority to go beyond that. [LB532]

SENATOR WIGHTMAN: How did you determine the four areas or five areas that you thought the county should be able to regulate as opposed to all of the other areas that they might have regulated under Senator Price's original bill? [LB532]

SENATOR AVERY: My understanding is that these were the areas where all the interested parties could agree. For example, in the hearing the Farm Bureau was concerned about ordinances that might restrict farming and they agreed to this language. The other interested parties also agreed to restrict it to these categories--five. [LB532]

SENATOR WIGHTMAN: Now I listened to Senator Friend's various questions that he posed with regard to the amendment, and some of those had to do with whether this is

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a criminal or a civil penalty or regulation. As I understand it, you are creating no criminal act, is that correct? [LB532]

SENATOR AVERY: Well, I think Senator Friend was concerned about item 5, public indecency, including public nudity. The way that's defined in law, now it is a crime. This would give counties the authority to pass ordinances that would regulate public indecency beyond the current statute. [LB532]

SENATOR WIGHTMAN: But again it looks like we're probably talking about some sort of a civil regulation as opposed to a criminal penalty, is that...although there is a \$500 penalty provided. [LB532]

SENATOR AVERY: That is correct. [LB532]

SENATOR WIGHTMAN: And I guess it is called a fine so probably it is criminal in nature? Or can you tell me that? [LB532]

SENATOR AVERY: Well, it's not classified as a misdemeanor or a felony. I presume it would be a civil fine. [LB532]

SENATOR WIGHTMAN: And that's one of the things I'm concerned about here is we aren't defining very closely what would be civil, what would be a criminal violation; maybe not even designating whether it's a civil or a criminal violation. The word fine would certainly indicate...and we talk about offenses that it might be, but then we're talking about recovering attorneys fees, as well. It seems to me there is some real clarity problems as to exactly what we're creating here. The parking, I guess I can understand that better if it is just a civil penalty. Perhaps motor vehicles. We get pretty close to nuisances there. I think nuisances are defined probably by state law. Graffiti is an area that we are talking about a criminal penalty this year. We probably...may already have criminal penalties but we're defining it more closely this year. Then we get into false alarms. And I really have some difficulty understanding this one. It says counties may regulate by ordinance false alarms caused by an emergency alarm system. Are we talking about somebody who would, as a prank,... [LB532]

PRESIDENT SHEEHY: One minute. [LB532]

SENATOR WIGHTMAN: ...call in a false alarm? Or can you tell me what you're--thank you, Mr. President--what you're attempting to address by that false alarms? [LB532]

SENATOR AVERY: I'd like to address an earlier question, first, that you asked me, because I've clarified that. The penalties here in the amendment are consistent with current law relating to what cities can do with ordinances. And this does not change that. It just expands it to allow counties to do the same thing. Now your last question

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relating to false alarms, I'm going to have to kick that one over to Senator Price, if you don't mind. [LB532]

SENATOR WIGHTMAN: Okay, and I think my time is about up so I will turn my light on and talk again on this later. Thank you. Thank you, Senator Avery. Thank you, Mr. President. [LB532]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Gay, you're recognized. [LB532]

SENATOR GAY: Thank you, Mr. President. I rise in general support of the bill. I think it's a good bill and the reason why I say that, there may be opportunities that we can take to improve the bill. That's fine if Senator Friend wants to point some out. The idea that we're...if you vote for this bill you're expanding government, look on your agenda one time. I mean, everything we do here deals with some form of either expanding or contracting government, so that's what we're here to do. So that just doesn't wash, to me, that part of it, and I agree with him. And I commend Senator Friend because he's always done a good job of watching limited government. But when I scan this fifty-third day of the legislative agenda, I think that argument should be off the books. The reason why I think this is a fairly good bill and something we need to seriously consider, is because in many counties that are quickly growing, Sarpy being one of them, the sanitary improvement districts make up more than the whole...than the largest community in the county. So all the residents that are in these sanitary improvement districts, there's no way. A city will grow into the county. So to have an ordinance...and the way I understand this, is this amendment was after a discussion with several interested participants of how you get to what should we put in here. So if Senator Avery would yield to a question? [LB532]

PRESIDENT SHEEHY: Senator Avery, would you yield to questions? [LB532]

SENATOR AVERY: Yes, I will. [LB532]

SENATOR GAY: Thank you, Senator Avery. When I look at the statement of intent here, I see the whole committee voted for the bill. Did they vote for the original bill or the bill with the amendment? [LB532]

SENATOR AVERY: With the amendment. [LB532]

SENATOR GAY: Okay. Then I look at the opponents. Monday I had lunch with the mayor of La Vista and Papillion, which is part of the United Cities of Sarpy County. And I don't want to speak for the whole United Cities of Sarpy County, but we had talked about this bill, in particular. And with the narrowness of the bill now, I'm not saying that they love it to death but they think this is a much, much better bill the way it's drafted.

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The question to you would be, when you picked those five different sections, how did you come to those five particular ordinances? Was that a committee amendment or...? I mean, it's a committee amendment... [LB532]

SENATOR AVERY: They came out of negotiations and discussions with those interested parties I mentioned earlier, Senator Gay. [LB532]

SENATOR GAY: Senator Price put that together then? [LB532]

SENATOR AVERY: Yes, he did. [LB532]

SENATOR GAY: Okay. Then I'll...and I'll hit my light again. But what I'm saying, on some of these, these issues, narrowly defined, it can be used in a county that needs it. But a county, as Senator Friend pointed out, Cherry County may not want to adopt these ordinances. When you hear about local control, is that local control or not? Just say no then if you don't want to do this. But those counties that need it--and I'm going to...you know, we'll see what others say. I think the members have to decide could this be useful. One of these on the motor vehicles defined and parking, right now we had an issue in Transportation on cities couldn't even enforce that. Well, don't you think it's not a problem in a county? It's a problem in a county, as well, so I think it's up to those counties to decide, if this gets passed, what you can and can't do. If they don't think it's a reasonable solution for a more rural county, then don't enact this. So Senator Avery, can you go over it again, how...if a county were to take this up. You need a majority or a supermajority of the board? [LB532]

SENATOR AVERY: No, you don't need a...well, I think all the members have to agree. If you go back to my opening comments, I'm pretty sure that was...that's in the amendment. But the whole point here is that the only way we could get all the interested parties to agree was to limit the scope of ordinance authority. And these seems to be the ones that... [LB532]

PRESIDENT SHEEHY: One minute. [LB532]

SENATOR AVERY: ...the only ones that we could all agree on. I did get a clarification though on the false alarms. Did you raise that issue, Senator? [LB532]

SENATOR GAY: No, but you can go ahead and address it if you want. [LB532]

SENATOR AVERY: This...the concern here is with the ATD-type false alarms where you have the sheriffs going out repeated times because the wind blew your door open and set off the alarm, and this would allow the counties to pass ordinances regulating that and could impose fines if you have multiple false alarms. It occurs in cities right now. [LB532]

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SENATOR GAY: It occurs in Omaha, I believe, right now as well. So, yeah, you're (inaudible). So in an urban setting...what I'm saying, in an urban setting this bill could be very useful. How it's drafted, you know we're looking at that, and I'm hearing Senator Friend talk about many of it. But I do believe that when you look at the statewide potential of this... [LB532]

PRESIDENT SHEEHY: Time, Senator. [LB532]

SENATOR GAY: Thank you, Mr. President. [LB532]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Janssen, you're recognized. [LB532]

SENATOR JANSSEN: Thank you, Mr. President and members of the body. I'd like to clarify one thing. I think that...I thought I heard Senator Gay say that it came out of committee...I guess it did come out unanimous. I was there. I did not vote on it. I probably should have voted against it. I told Senator Price that I did not intend to support this. I was very up-front with him on this. And that's odd because Senator Price and I agree on just about everything when it comes to government matters. This was one that I just could not get over the expansion of government. And I do think that is a good pedestal to stand on when you talk about the expansion of government. So in the future I probably need to vote no in committee on that to indicate that it wasn't such smooth sailing. But out of deference to my friend in committee, I kind of remained silent and just should have probably voted no. You know, when you talk about counties opting out of this, you know, you can say that that's local control. I know that's a big buzzword. It's going to come to these counties. Somebody is going to show up at these county boards. They're going to want to have an ordinance passed that says this or says that. They're going to be mad at their neighbor. They're going to want to stop an adult entertainment place out in the middle of the country. If you want to stop those things, let's make a state law to do that. Let's don't try to go around this and do county laws here, and we've got a city ordinance here, a county ordinance there. To me, it really struck at me yesterday when we were having floor debate on all the...Senator Lautenbaugh brought this up, is Nebraska has more elected positions or relatively more than anybody. I don't remember his exact words. He would know. He's a former election commissioner of Douglas County. And I don't necessarily think that's a good thing and I don't think it's a good thing to add additional powers to all of these different elected bodies, especially powers that they have not had before. Senator Price has done a great job in getting with the people and really taking a lot of the teeth out of this, which I appreciate. But it still really doesn't make a whole lot of sense for me to even go down this road and do this. Just because somebody is elected doesn't mean they always make...well, it certainly doesn't mean they make the right decisions. As I pointed out yesterday, we had a community college board accepting bids on contracts that were

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actually 40 percent higher and \$113,000 more expensive. So more is not good and this is definitely an expansion of government. I do have a question...I would actually...I wanted to ask an attorney, and today, since it may be one of his last days, I'd like to ask Senator Pirsch to yield to a question. [LB532]

PRESIDENT SHEEHY: Senator Pirsch, would you yield to questions? [LB532]

SENATOR PIRSCH: I will. [LB532]

SENATOR JANSSEN: Senator Pirsch, good morning. [LB532]

SENATOR PIRSCH: Good morning. [LB532]

SENATOR JANSSEN: Can you kind of go back through the...you were talking about the criminal and civil violations, and clear that up for me? I want to gain as much knowledge from you as I can before you leave us today. [LB532]

SENATOR PIRSCH: Well, thank you very much. Just in general, the distinction between...there's criminal penalties and then there's civil penalties. Two separate things ordered by separate types of courts. And criminal penalties have the potentiality to immediately, if you're act...you can impose a criminal penalty that can include jail time or it can include a fine or it can include both. And but it doesn't mean that it's necessary civil just because the potential...the penalty is just a fine. In that case it would be termed an infraction and so... [LB532]

PRESIDENT SHEEHY: One minute. [LB532]

SENATOR PIRSCH: And so in this case, you know, if it's a \$500 fine, that would be termed an infraction if that's the only penalty. [LB532]

SENATOR JANSSEN: Thank you, Senator Pirsch. I appreciate that clarification. I always get hung up on that and I'm fortunate, I guess, to sit around some attorneys over here. I just want to go back to the fact that this is an expansion of government. I don't think they need to have this. Senator Price did a wonderful job of limiting that and saying what exactly can be done. I don't have much time left but I'll give Senator Price a quick crack at the microphone. Thank you. [LB532]

PRESIDENT SHEEHY: Senator Price, 20 seconds. [LB532]

SENATOR PRICE: Senator Janssen, thank you very much for your time. I appreciate it. And by the time I get done with the salutation we'll be done, so in the interest of time I will yield. Thank you. [LB532]

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PRESIDENT SHEEHY: Thank you, Senator Price. Thank you, Senator Janssen. Further members requesting to speak on AM898 to AM678: Senator Stuthman, followed by Senator Price, Senator Louden, Senator Adams, Senator Avery, and others. Senator Stuthman, you're recognized. [LB532]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. On the surface I am supportive of this bill, and the reason I say that is because as serving as a county board member I do feel there are times when there should be given the ability of a county board that they should be able to regulate by ordinance on certain issues. But in going over this bill and studying this amendment which is the bill, one of the things that I have a real concern with is the fact that, you know, with motor vehicles, abandoned motor vehicles on public property, I think there is something already that's in place that addresses that. We've had, you know, the sheriff identifies the vehicle on public property on a county road, and then after so many days they can remove that or request that it be removed. The situation that I'm really concerned about is the fact that vehicles on private property. Let's say a county would pass an ordinance, you know, that vehicles need to be removed from a residence or from private property because it's unsightly to certain individuals, and it probably they say it creates a problem of rats or anything like that. But I think the fact that, you know, who is going to be the one that determines, you know, when that has to be removed from private property? And maybe I would like to ask a question of Senator Price. [LB532]

PRESIDENT SHEEHY: Senator Price, would you yield to questions? [LB532]

SENATOR PRICE: Yes. [LB532]

SENATOR STUTHMAN: Senator Price, in listening to what I was bringing up, a fact that if you've got a residence and maybe they have six, seven, or eight or ten cars, that whenever they trade, get a new vehicle, they just abandoned the one that they used to drive and it sets there and it's kind of unsightly, and the county adopts an ordinance to have these vehicles removed. Some people call them junk yards or something. But how is that going to take place when the fact is that it's on private property and who's going to be the one that says, you know, at this point five cars is too many to have on your property, or ten cars, and this vehicle has never been moved for five years and it's on private property, what type of a method is going to have to occur to remove these or attempt to remove these? [LB532]

SENATOR PRICE: Thank you, Senator Stuthman, and I'm glad you asked that question because that will give me an opportunity to address, I believe, a host of questions that fall in the same vein. What we're doing here is we're giving...we're working to give the authority to counties that our city brethren have right now. Cities have found a way to do this very thing. They've found a way to identify and to define what will be acted on and what won't. What we're trying to do is give the underpinning of that authority to the

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counties. We're not sitting here, spelling out you shall do it when there are three cars, if there are two Fords, if there are three Toyotas. We're not getting to that degree of specificity because we can't do that until they have the authority. So the first thing is to give them authority to do it, and then as we say in the middle sections here where we talk about that authority, all these ordinances will have to be brought up before the county board, have a public hearing, and they, those local people, make that definition. [LB532]

SENATOR STUTHMAN: Okay, thank you, Senator Price. The fact is that it gives the county the authority... [LB532]

PRESIDENT SHEEHY: One minute. [LB532]

SENATOR STUTHMAN: ...the authority to pass an ordinance and to regulate by an ordinance. And by doing that, that regulating by an ordinance makes it enforceable. You know, a resolution is nonenforceable, and I think that does it. But counties do not have to participate or have to adopt any ordinances. In my opinion, they can go as they are today. They don't have to adopt anything. They can continue as they have in the past. The good part, I think, about this bill is that it gives the county an opportunity to regulate by an ordinance, you know, but they don't have to. They don't have to. And I think that is a positive part about this, you know, and every ordinance that is adopted by a county, you know, must have a public hearing, and, you know, the public can voice their opinion on that. And then it is voted on by the board. You know, there's a lot of opposition, I'm sure, that the county board will not pass an ordinance like that. [LB532]

PRESIDENT SHEEHY: Time, Senator. [LB532]

SENATOR STUTHMAN: Thank you, Mr. President. [LB532]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Price, you're recognized. [LB532]

SENATOR PRICE: Thank you, Mr. President and members of the body. First, let me say--first and foremost, that is--that I appreciate Senator Friend's remarks, comments, his diligence, his paying attention, and I'll take a moment to tell you why that matters. Yesterday we had the privilege and the pleasure of hosting 60-plus fourth graders from Gretna Elementary. And when I spoke to them at lunchtime, they asked questions, and as is often the case, out of the mouths of babes, they asked me, Senator Price, why isn't everybody paying attention? So I had the opportunity to tell them how busy we were. And then they said, Senator Price, why aren't they all there? And I had the opportunity to tell them how busy we were and we have sickness and we have issues that come up that we have to deal with. But it was a very good observation. And Senator Friend exemplifies what these children were striving to see from their leaders,

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and that is that being there and being attentive as he is on this bill. So Senator Friend, thank you very much for your interest and your edification on this issue that I bring before the body. Now, to go to talk to issues, what I would like the body to remember is this is a permissive piece of legislation. We are not dictating from the high castle, thou shall do this or thou shall not do something. We're giving them the opportunity should they wish to enact. We're not saying you must do this and give you an opportunity to opt out. We're saying, if you can get the people of your county together and you can have them agree on something in a majority and convince a board, and those of you who have sat on county boards know that isn't always the easiest task. As a matter of act, earlier this year we passed something along to help Lincoln in their high-growth districts, and we put a caveat on there that they had to get a supermajority of their board as it were. So again, this is not anything draconian in nature. It is very permissive. Now some of the questions that come up are on false alarms and there's some questions on wording, and we're going to work through that. But I'd like to bring to your attention that in Sarpy County--and, oh, by the way, the reason I bring up Sarpy County is it's a county I represent but it is something that applies across the board. There were 1,760 false alarms in Sarpy County last year. Again, 1,760. If they send a responder to each one of those, that's taking away resources. And what happens a lot of times is these are repeat false alarms, as they were, because the sensitivity on the alarms or maybe they're faulty, and when it's one time you want to go out there, you want to respond. But just like the boy who cried wolf too many times, but we don't have that ability to say, well, we think it's a false one; we don't want to respond. We have to respond to all of them so we're expending resources, so we want to encourage people to go ahead and take care of their alarms systems. To break it down, false alarms in noncorporate areas for January through March 2009, we're already up to 783. One hundred seventy-two of them were businesses; 175 were businesses...or residential; and 436 were fire false alarms. We don't have the liberty to say which one we pick and choose, but we do have the ability, like our brethren in the cities, to bring people to a greater sense of responsibility to those resources that we're committing to respond by saying, if you can't seem to find a way to fix this false alarm, there'll be a fine. Oh, now all of a sudden I found my sensitivity... [LB532]

PRESIDENT SHEEHY: One minute. [LB532]

SENATOR PRICE: ...alarm adjustment; we're going to do that. So again, we chose...and to talk why maybe that this is so narrow in scope. We chose this because when we had 11 people representing various concerns in a room this is what we were able to come up with that kept public safety in mind. Again, I didn't bring this forward because I just had a feeling I wanted to talk for awhile; I brought this forward because people are in danger and people have challenges outside of cities. And I would remind you there are over 100,000 people in the two counties alone, of Douglas and Sarpy County that do not enjoy the safety and provisions afforded to the folks in the city. Thank you, Mr. President. [LB532]

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PRESIDENT SHEEHY: Thank you, Senator Price. Senator Louden, you're recognized.
[LB532]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I looked this amendment over, which becomes the bill, I have some concerns because you're all talking about the good parts of the idea, which I believe the idea probably fundamentally is good. But one thing that you've got to remember, the counties, you're giving them the authority to regulate by ordinance. You're giving them authority to make rules and laws more or less on their own. And my understanding is, at the present time, they have to work with laws in statute. So you're going into an altogether different phase. And as Senator Friend had pointed that out, this is something altogether new, different, and I would question whether you want to go that route. Now there's...I understand what you're trying to do with the five issues you have here because, oh, like your motor vehicles, as defined, that doesn't say a thing about these old trailer houses that are parked in fields, and that's happening on a large scale in several areas, some in my district, some in there if you travel some of the highways in there south of Gering, why, there's probably a 40-acre patch out there that they're just pulling old trailer houses in and parking them side-by-side. I don't see anything in here that says anything about trailer houses. They've tried to set it up so it wouldn't have anything to...farm machinery is supposed to be deleted. On the other hand, when you talk about vehicles on private property, I can remember when they started Carhenge up there and there was quite a to-do over that, and that was one to be declared junk on that thing, and they wanted to have a fence put around that to start with. So if there would have been an ordinance at that time, Carhenge might have been dead in the water before it ever got started. Now they're pulling like 80,000 people a year or something to stop in and look at thing for whatever reason they have. There's...as you go down to the public indecency, why yes, they have some...they'll have some kind of a strip bar that will move outside of a city limit and set up in a county. And at the present time I guess there isn't much to be done. But if there's problems like that, that should be taken care of in state statutes or someplace else. I don't see where giving the authority for ordinances to the counties is going to solve a lot of these problems in the long run. First of all, you've got 93 counties; you could have 93 ordinances. And you've all read about other states that have these funny rules as you go from one county to the next. And this, to me, is what you're actually setting yourself up for. You got your 93 counties, you've got your five issues right here that you're concerned about. So now you multiply that, you're talking about 445 or 450 different ordinances that could be scattered around the state of Nebraska. And then as time goes on there will probably be somewhere or another to work on it. I agree that there's something needs to be done. There's places where people pull in and buy some property and start dragging junk in for years. We have some of that when we drive over to Scottsbluff. It's a real eyesore. Some of the junk gets to blowing off the property. When it does that then there is something that can be done, but otherwise if they keep it all on their property, why, there's nothing that says you can't...you have to

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look at it when you go by, I guess, is the way the law understands that. So the idea, I support the idea, but I think the bill is written entirely wrong. I think this should be done some other way. Should have been done in statutes or something. And I understand, like you talk about Sarpy County, actually Sarpy County probably, what I've seen of it, isn't that much rural anymore. It's mostly all... [LB532]

PRESIDENT SHEEHY: One minute. [LB532]

SENATOR LOUDEN: ...urban all down to a few acre plots or something like that. Something like that should be written, if they have to have rules there's no reason why something can't be done in statutes for those type of counties to control what they have. Perhaps they need to have a different form of government rather than what they have. Perhaps they need to have a city/county combination government. This might cure a lot of that if they had something like that. So with that I can't support the amendment nor the bill the way it was written. I think this is something that we're going into that is totally out of reason at the present time. I think it has to be thought along a lot farther along these lines than what we have been. Thank you, Mr. President. [LB532]

PRESIDENT SHEEHY: Thank you, Senator Louden. (Visitors introduced.) Resuming floor discussion on AM898 to AM678, we have Senator Adams, followed by Senator Avery, Senator Campbell, Senator Friend, and others. Senator Adams. [LB532]

SENATOR ADAMS: Thank you, Mr. President and members of the body. Senator Price, would you yield to a question? [LB532]

PRESIDENT SHEEHY: Senator Price, would you yield to questions? [LB532]

SENATOR PRICE: Yes. [LB532]

SENATOR ADAMS: Senator Price, in the first two years here I served on the Government Committee, and this issue continually came to us and we had lengthy discussion on it and it looks to me like some of the same opponents probably showed up again. And on the summary that you handed out to us you list the groups that you have worked with. Given the amendment that's on this bill that's come from the Government Committee, I'm assuming...you worked with the Farm Bureau, you worked for the League of Municipalities, and I really commend you for that because that's what this place is about. You've got to get people at the table. So in light of this amendment, now what does Farm Bureau say about county ordinance? What is the League of Municipalities saying? [LB532]

SENATOR PRICE: Thank you, Senator Adams. Right now...well, first if you'll allow me, when I came forward with the bill with no restraint and no restrictions what that allowed me to do was reset the table to find out all the people who had all the issues. So then

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once those individuals were identified and had the opportunity to be identified, we got together and we worked on it. So that list of people that you see there on the outline, those are all the people who are supporting what we have written down here today. [LB532]

SENATOR ADAMS: So they're now supporting this concept as amended. [LB532]

SENATOR PRICE: Yes. [LB532]

SENATOR ADAMS: Okay. And again I want to commend Senator Price for that because in the two years that we worked on this in the Government Committee, we didn't have that kind of resolution. And that causes me to lean a little more in favor of this although I've got to tell you, Senator Price, I opposed this for two years in the Government Committee. And Senator Friend has brought up the principled issues that I still struggle with a bit here. It's the old story and I know I'm oversimplifying giving Sarpy County and its demographics and the SIDs, when people move out of...they choose to move out of municipalities, I think part of what they are doing is moving away from that ordinance power: the ordinance power that says you have to scoop your sidewalk, the ordinance power that says that you can't leave the car sit. You know, there's a host of different things that cities have ordinances for that counties don't. And if you think back, Senator Friend had made a good point: We've never had county ordinance power. And it's all about demographics and it's about the authority of government. And though--and I'll say it for about the third time--though I applaud Senator Price for getting all these folks together and coming to a point where maybe we have agreement, and we can say what I'm about to say about every bill, I'm afraid we're opening a Pandora's box here. And we can...honestly, we could say that about every bill that comes before us. I know that. But this is a very significant shift in government and what government does when we say to counties, you can do these kinds of things. The situation in Sarpy County, if we could draw a line, I suppose, around the county, we could say that the situation is unique. We have all these SIDs. Let me ask you another question, Senator Price. The SIDs, why are they not annexed and resolve these issues? [LB532]

SENATOR PRICE: Senator Adams, thank you. That's a great question. From the observations of a person who lives in a SID and relatively new to the whole concept of having only lived in them for ten years, it just seems to me that cities have that option, but why would they assume that debt load? I take it that it's more of a business model. Yes, you can move out there. We do the SIDs so we have planned and structured growth without taking on the debt and I believe that's the reason why. Once that debt is paid off and it's a moneymaker, then we annex that money. And only have to look at a place like Elkhorn or somewhere like that. Once it's a moneymaker, we go ahead and annex it. But I don't want to get caught up in the whole annexation/nonannexation. I'm just trying to address providing the opportunity for public safety to folks that live in the SIDs and in the county. [LB532]

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SENATOR ADAMS: Thank you, Senator Price. And I kind of anticipated that answer. I appreciate that. I'm not going to belabor this but aside from the fact that Senator Price has worked out some very tangled up details here, there's still a fundamental issue of ordinance power and SIDs and the value of SIDs. And it... [LB532]

PRESIDENT SHEEHY: Time, Senator. [LB532]

SENATOR ADAMS: Thank you, Mr. President. [LB532]

PRESIDENT SHEEHY: Thank you, Senator Adams. Senator Avery, you're recognized. [LB532]

SENATOR AVERY: Thank you, Mr. President. I would like to remind my colleagues that the reason why this bill was brought before the Government Committee really goes back to a Supreme Court case in 2002. That case involved DLH, Inc., doing business as Coaches Sports Bar and Grill v. Lancaster County Board of Commissioners. The court ruled...and this, by the way, involved county authority to pass resolutions and whether or not those resolutions were binding as law. The court held that statutes had to clearly give a county the ability to regulate through resolution. It was interpreted by many to mean that resolutions don't have quite the force that ordinances do. And we were asked to consider this legislation, and you're right, Senator Adams, we did do this previously in the Government Committee. In response to this case, the...I suppose we could add these five areas of jurisdiction here that we are proposing with ordinances to the 22 areas that counties now have where they can regulate by way of resolution. But the counties concluded that they needed more punch, I suppose is the word, behind these resolutions, and making them ordinances would give them that extra punch. I would also like to address some comments that Senator Friend made on the mike awhile ago, when he referred to this legislation as convoluted. That means complicated, intricately involved, coiled up, or formed into a twisted shape. He's talking about our bill here, Senator Price, as coiled up and formed into a twisted shape. (Laugh) I don't take offense to that. I just would like to ask Senator Friend if he would yield to a couple of little questions. [LB532]

PRESIDENT SHEEHY: Senator Friend, would you yield to questions? [LB532]

SENATOR FRIEND: As long as they are not convoluted questions. [LB532]

SENATOR AVERY: (Laugh) How about a coiled and formed into a twisted shape question? [LB532]

SENATOR FRIEND: Fair enough. Good. [LB532]

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SENATOR AVERY: Could you point out in the amendment, since that is the bill, a couple places where we have convoluted language? [LB532]

SENATOR FRIEND: Sure. Section 1 specifies that ordinances are to be enforced by a fine not exceeding \$500 for each offense, correct? [LB532]

SENATOR AVERY: Correct. [LB532]

SENATOR FRIEND: It talks of recoverable costs and attorneys fees, correct? [LB532]

SENATOR AVERY: Right. [LB532]

SENATOR FRIEND: Where in the bill does it define recoverable costs and attorneys fees? [LB532]

SENATOR AVERY: Those are determined by the attorneys, as I understand it. Attorneys have fees. They charge the fees that it would allow for the recovery of some of those. [LB532]

SENATOR FRIEND: I would argue that that's convoluted because I would argue that in a lot of our statutory authority we dictate what that is or we at least define it. That's one thing. Or...well, it's your time. [LB532]

SENATOR AVERY: Well, I don't see that as convoluted. It says any ordinance adopted by the county shall be enforced by a fine not exceeding \$500... [LB532]

SENATOR FRIEND: Senator Avery, you don't see that as convoluted because you're not the one trying to implement that law. [LB532]

PRESIDENT SHEEHY: One minute. [LB532]

SENATOR AVERY: Well, counties now implement laws all the time...or resolutions. They don't have the authority to make laws but they implement resolutions. They have county attorneys, they have sheriffs to enforce these resolutions. And the county attorneys and sheriffs know what their responsibilities are. [LB532]

SENATOR FRIEND: So are you implying that a resolution and an ordinance are akin according to statutory law in Nebraska? [LB532]

SENATOR AVERY: No. I just mentioned the 2002 case where the court said that the statutes had to clearly give a county the ability to regulate through resolutions, and counties do not think that they have adequate authority now. [LB532]

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SENATOR FRIEND: Fair enough. But I'm telling you when a city has the authority to go in and dictate what a recoverable cost is for an attorney or what a recoverable cost is, in general, a lot of that is defined for them. [LB532]

SENATOR AVERY: I don't recall that that's defined in law. I may be wrong. [LB532]

SENATOR FRIEND: For that city. [LB532]

SENATOR AVERY: But I think that recoverable costs are determined by courts. [LB532]

PRESIDENT SHEEHY: Time, Senator. [LB532]

SENATOR FRIEND: Thank you. [LB532]

PRESIDENT SHEEHY: Thank you, Senator Avery. Thank you, Senator Friend. Senator Campbell, you're recognized. [LB532]

SENATOR CAMPBELL: You know, sometimes...thank you, Mr. President--I'm sorry--and colleagues. Sometimes things happen and you really can't...the coincidence is unbelievable. Senator Avery introduced into this discussion a court case involving whether the counties had a power by resolution. It's ironic that I should be the next speaker because this court case involved Lancaster County and I happened to be the chairman of the county board at that point. And I never thought when I went on the county board that I would spend a great part of my time talking about topless bars, but that is exactly what we did. Cheetah's was a topless bar and it was in the county and the neighbors, including the Nebraska Regional Center, and businesses, came to the county board and said, do something about this; this is not a business that we want for our children, for the patients who were at the regional center. And the county board found itself with the only power in hand of a resolution. And that resolution went to the court and said that's not good enough. When Senator Price introduced this bill he came to me and I said I certainly support the concept of counties having an ordinance power. I think particularly in the larger counties, in Lancaster we don't have SIDs but we do have a great amount of acreage developments and so we have run into problems in some cases of being able to deal with junk cars, and yes, some parking issues. So I understand Senator Friend's concerns and maybe there are ways to address those in this bill, but the concept of counties having ordinances is important. When I used to teach about county government when I went out to every group I could speak to, I always said that counties are the arm of state government. They're only given as much power as, obviously, this body gives them. To say that this is expanding on the power of government is probably not accurate in the sense that you would be giving counties the ability to be responsive to problems that arise in which they are now powerless to address with any specificity as outlined by the court case. Thank you, Mr. President. [LB532]

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PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Friend, you're recognized. [LB532]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I actually thought I'd get a chance to talk a little more because I thought you guys would be bored and not really interested in discussing the subject matter. I guess I was wrong. Senator Avery brought up a couple good points, or at least one: What's convoluted about this bill? That's a pretty general statement. Section 2 specified...let me go into it. Section 2 specifies that notice of the ordinance must be published at least twice in a newspaper published or of general circulation in the county. A newspaper of general circulation in the county. This could be a World-Herald or the Journal Star. It could be a newspaper that publishes daily, too. The last publication must not be less...this is what..this is the legislation now...must not be less than five days before the public hearing on the adoption of the ordinance, thus both published notices must be made within less than a week of the public hearing. This section also specifies that at least one public hearing must be held before the adoption of an ordinance. But Section 4 specifies that three-fourths of the board may vote to suspend the requirement of the three readings of the ordinance on three separate days if they vote to suspend that the ordinance shall be moved for final adoption. City ordinances typically receive their public hearing on the second reading. So does the statute actually require a public hearing or can that requirement be suspended by vote to move to a final reading? I'd like the definition of convoluted read again because I think that fits, okay? I think that fits. Do we require a public notice or don't we? Well, can a county board vote to remove that type of requirement or can't it? In Section 3, county ordinances shall be...it says...it says county ordinances shall be adopted pursuant to rules and regulations as the county board may provide, etcetera, etcetera. Senator Avery and I were talking off the record on this. Counties...let me make this clear. We need this in statute but we don't have it. Counties have no authority to adopt rules and regulations. County boards don't have that authority. We have to give it to them and we're not doing it with this bill. Members of the Legislature, this bill is the epitome of convoluted. I will have that argument until 5 o'clock this afternoon if we have to. (Laugh) I can't...Section 7 raises a ton of questions. How is any individual supposed to know if he or she...members, put yourself in this situation. How is any individual supposed to know if he or she is under the jurisdiction of a city or a county? There's people in Omaha who don't know who their state senator is. (Laugh) You think I'm kidding? They don't. How are they supposed to know? I want to know, based on this bill, how you're supposed to know whether you're in a city or a county? And by the way, do you think that those particular people know whether they're in the city's extraterritorial zoning jurisdiction? Do you think they know that? County jurisdiction can be read as extending into boundaries of a city if a city is not exercising the powers granted by this statute. In other words, if there is no city public indecency ordinance in operation, the county... [LB532]

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PRESIDENT SHEEHY: One minute. [LB532]

SENATOR FRIEND: ...could exercise that jurisdiction in a city. It's not clear if a city's act of extending its extraterritorial zoning jurisdiction would actually remove county authority. That's not clear in this bill. Shall I say to you...shall I be redundant? Convoluted is the least of the problems with this bill. The biggest problem with this bill, the main...did you say one minute about 30 seconds ago? [LB532]

PRESIDENT SHEEHY: Thirty seconds. [LB532]

SENATOR FRIEND: Thank you. The biggest (laugh) problem with this bill is you have to implement it if you're a county. Senator Stuthman is under the delusion that if a county gets this power that they won't use it. Ha, ha, ha, ha, ha, ha, ha, ha. They'll use it, they will use it. Mr. President, I'd like to withdraw AM898. [LB532]

PRESIDENT SHEEHY: AM898 is withdrawn. Mr. Clerk, we'll move to the next amendment to committee amendment. [LB532]

CLERK: Mr. President, Senator Friend would move to amend with AM899. (Legislative Journal page 866.) [LB532]

PRESIDENT SHEEHY: Senator Friend, you are recognized to open on amendment to committee amendment, AM899, to AM678 to LB532. [LB532]

SENATOR FRIEND: Thank you, Mr. President. And thank you, members of the Legislature. I'm not trying to offend Senator Avery, I'm not trying to offend the Government Committee. I'm certainly not trying to offend Senator Price and the work that he's done with the stakeholders on this legislation. I understand what he's gone through. I even said on occasion, I understand the problem because I sat in Government the last two years and I've heard this bill both times. I understand there's a problem. When you identify the problem you have to provide an appropriate solution. When you provide the appropriate solution, you got to make sure that it's functional. The stakeholders have realized that this is an appropriate solution. What the stakeholders haven't injected into this is that you got to go apply it. The city has to apply it. The county has to apply it. And when they do, when they do apply it I'm telling you it's dysfunctional. In Section 3 of this bill, on page 2, line 16 and 18...by the way, let me step back. This amendment would actually reduce the fine from \$500 to 50 bucks. Let me address that for one quick second. I mentioned this earlier. You think a deputy who's been given the order, lives in Sheridan County, lives in Cheyenne County, Cherry, they have limited resources. We're not necessarily with this bill, and this is a little off the subject, we're not necessarily giving counties with this bill more taxing authority. But remember at the very beginning of this I said we're expanding government. Members of the Legislature, you mark my words, if they're going to try to go out and they're going to

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try to create ordinance...I mean they're going to go in and the board creates that ordinance authority based on our blessing, which is what it would be, it's going to cost that county more to do its job. Are counties strapped? All I hear out here on a daily basis is how counties are getting hammered. Property taxes are too high. Do you really think that if we adopt this bill, I'm not being overly dramatic here, okay? Because I've been dramatic before. I know the difference between trying to grandstand and actually making a point because I've done both. And I can grand...I'm not being modest, I can grandstand with the best of them. I can say nothing for 20 minutes and make you believe that I really care about it. That's not what I'm doing here. You really think that the counties are being strapped and hammered? Do you think that they're going to enjoy this? Once the county attorney and the county board has made the decision that those deputies and that sheriff's department is going to have to inject themselves into situations that they haven't been injected into before? Members of the Legislature, this is not just a Sarpy County bill. And what you have to think about is what this is going to do to a person sitting out in Cherry County, to a board that is in Cherry County who now suddenly has this gift of the Magi ordinance authority. Because believe me, (laugh) the three wise men are knocking on the door and their handing this county the gift of the Magi, there it is, gold, frankincense, and myrrh. Trust me, they'll use it. And they will use it in an appropriate manner but then they'll have to implement it. And then I can tell you that once that happens, two years from now, like I mentioned earlier, you're going to have people in here saying, abuse of authority, you better start rewriting that...you better start rewriting those statutes. Now I don't know, I'll be gone, right? Senator Harms, you won't be. Senator Price won't be. He'll have this headache for five years that he's here. Senator Nordquist will have it, Senator Janssen, Senator Wightman, all you guys are going to have to deal with this again. And, okay, maybe you want to. Good, good luck. I'm telling you we have an opportunity here to not make Senator Price and not make the Government Committee and not to make Senator Avery look like they didn't do their work. There was due diligence here. He did what he needed to do. The stakeholders did what they needed to do. I'm telling you it's wrong, we can't do this. Section 3, page 2, lines 16 through 18, when ordinance are published...when ordinances are published in a book or pamphlet form, purported to be published by authority of the county board, the ordinance need not be otherwise published. Note the shift from plural ordinances to singular ordinance. In Section 5, page 4, lines 1 through 5, "all...ordinances shall, within fifteen days after they are adopted, be...published in some" sort of "newspaper published or" for "general circulation...within the county, or in pamphlet form, to be distributed or sold." Boy, that seems a little bit convoluted to me. Remember what I addressed earlier? Now they're saying you don't necessarily have to publish it in a newspaper. You can publish it in a pamphlet form to be distributed or sold. I'm not sure I understand that. I'm not the sharpest guy that ever came down the pike. I'm having a little issue with that one right there. Further, in Section 5, lines 5 through 8, the act specifies that when the ordinance fixes a penalty or forfeiture, which is not authorized, which is not an authorized penalty in Section 1, by the way. Section 1 of the bill authorizes all of the ordinance situations. The ordinance must receive a newspaper

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publication for at least one week in the manner described in the section. (Laugh) That's what I'm saying, folks. Members, I don't...if I'm sitting on a county board or if I'm a county attorney, I'm reading this and I'm going, I don't know what to do with it. You've given me power and I don't know how to wield it. You've given me the gift of the Magi, but I'm not the Messiah and I can't do anything with it. Where do I go? Who do I talk to? Oh, wait, I'm the county attorney; I need to interpret that. What happens if you get sued? Interpret that, too? (Laugh) Look, here's something funny. Not funny strange. Well, yeah. Not funny ha-ha; funny weird. (Laugh) In our statute, Section 25-2703--cities and villages, there is a statute that says: Cities and villages; prosecution of complaints;...how you file with the court. Listen, this is important, I think. "Any city or village attorney may sign and prosecute complaints in the county court for any violation of any ordinance of the city or village for which he or she is attorney. After January 1, 1974, no city or village may prosecute complaints for violations of ordinances unless such city or village has on file with the court a current copy of the ordinances of such city or village. Subject to guidelines provided by the State Court Administrator, the court shall prescribe the form in which such ordinances shall be filed." Members, I don't know long that took me to read, but understand something. There is nothing in this legislation that matches that at all. Is this nit-picky? Maybe. You need to tell a county attorney what type of authority that county attorney has. We've done it with the cities. Remember, remember I said, we've taken 100 years before we had a Unicameral we created the authority for the cities and the villages to do what they needed to do ordinancewise. Now we want to create it for a county, the infinite wisdom of 49 people in this Legislature to create it for a county in this short of a period of time. And we've forgotten this. County attorneys don't just make up laws. [LB532]

PRESIDENT SHEEHY: One minute. [LB532]

SENATOR FRIEND: Members of the Legislature, county attorneys don't sit around and go, wow, you know what, it would be really a cool idea if we could incarcerate half of this county because they're all deadbeats. Oh, there is a niche or there is a catch. Lincoln hasn't given us the authority (laugh) to do that. We...in this bill we have not given a county authority...a county attorney the authority to do what a city attorney can do ordinancewise. Now you will say, oh, once again, Mike Friend, you brought up a point that can be amended. You know what, members of the Legislature, I said from the outset I can't amend this whole bill. I can't fix it. We can go until 5 o'clock, I can talk about all the problems that are in here. And that defines convoluted, that defines troublesome, and that defines an implementation issue. That's my point. Thank you, Mr. President. [LB532]

PRESIDENT SHEEHY: Thank you, Senator Friend. You have heard the opening of AM899 to AM678. Members requesting to speak: Senator Wightman, followed by Senator Cornett, Senator Gay, Senator Haar, Senator Janssen, and others. Senator Wightman, you're recognized. [LB532]

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SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. I have some comments. First, I'd like to ask Senator Friend a question, if he would yield. [LB532]

PRESIDENT SHEEHY: Senator Friend, would you yield to questions? [LB532]

SENATOR FRIEND: Yes, as long as I don't get offended. (Laugh) [LB532]

SENATOR WIGHTMAN: Senator Friend, you talked about sometimes you were trying to make a point and sometimes you're grandstanding. I just wonder if there would be anyway you could give a signal to the rest of the Legislature when you change from one to the other. (Laughter) [LB532]

SENATOR FRIEND: I can answer that or was it rhetorical? [LB532]

SENATOR WIGHTMAN: Thanks. Well,... [LB532]

SENATOR FRIEND: Yeah, I'll give you a big signal. [LB532]

SENATOR WIGHTMAN: Good, good. Okay. (Laughter) Okay, I appreciate that. I have some questions for Senator Price, but I'll discuss the issue a little bit first. I do support the concept of this legislation. We had a situation out in Dawson County, two or three years ago, that may have given rise to at least some of the impetus for this bill. We had a juice bar out near Cozad, Nebraska. They had nude waitresses. They really had a great crowd among some of the older high school kids. The county tried to figure out a way to regulate that particular business and could find nothing that would allow them to regulate it. Since then the business has failed to succeed. It had great success initially. And I know they're very interested in something that would allow them to regulate. Whether this is the best vehicle, I'm not sure. Senator Avery refers to the 2002 Supreme Court case that probably gave rise to this bill. And I can understand that there probably is a need. Whether the same could be done by statute, and I think Senator Friend and maybe someone else has referred to that, that maybe these things could be done by specific statute. But it probably would still require the county commissioners or county governing body to act. I think there are a number of questions with regard to the proposed LB532 as amended by the...or that would be amended by AM678. One of the...and I'll ask Senator Price at this time if he would yield. [LB532]

PRESIDENT SHEEHY: Senator Price, would you yield to questions? [LB532]

SENATOR PRICE: Yes. [LB532]

SENATOR WIGHTMAN: Now, Senator Price, I visited off the mike with you about some

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of the five areas in which the counties would be allowed to have ordinances. And one of those I mentioned is number 4, false alarms caused by an emergency alarm system. I think that would need a lot of rewording, because I believe you told me, if I'm correct, that this came about as a result of a lot of loud alarms that triggered false alarms from businesses or other people within the county. Is that correct? [LB532]

SENATOR PRICE: Senator, I could barely distinguish what you were saying. But you asked about false alarms in a county? [LB532]

SENATOR WIGHTMAN: Yeah, item number 4. What do you intend to regulate by that item? [LB532]

SENATOR PRICE: Right, thank you. And we did talk off mike about that. The concept is again, the mechanical function of the alarms having a sensitivity threshold and setting those accordingly so that if it's at a home and a cat sets it off or at a business and again it's sensitivity. So it's not again about people calling in a false alarm, it's that a mechanical response threshold is so low that we're expending resources, and that those alarms can be adjusted. [LB532]

SENATOR WIGHTMAN: Okay. That answers the question. I don't know whether you're regulating false alarms or whether you're regulating the alarm... [LB532]

PRESIDENT SHEEHY: One minute. [LB532]

SENATOR WIGHTMAN: ...the alarm itself. [LB532]

SENATOR PRICE: Right. And thank you. And again, on Select we can always make sure that that wording does reflect how you've articulated it. [LB532]

SENATOR WIGHTMAN: I think there probably need to be some changes. And I think Senator Friend addressed one of those that probably is legitimate, that talks about the powers cannot be exercised within the limits of any incorporated city or village. And since all of the courthouses would be located in a city or village, I think that needs to go to probably enforcing the ordinance that was adopted rather than exercising the power. Does that make sense? [LB532]

SENATOR PRICE: Senator Wightman, I would absolutely defer to your knowledge on these matters. Again, we did have this drafted up with the framework of existing... [LB532]

PRESIDENT SHEEHY: Time, Senator. [LB532]

SENATOR PRICE: Thank you. [LB532]

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PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Cornett, you're recognized. Senator Cornett. [LB532]

SENATOR CORNETT: Thank you, Mr. President. I would like to ask Senator Price a question. But before I do, I would like to say that in concept I very much support this idea. Living in Sarpy County we are part of the metropolitan area. And we do, unlike Senator Campbell, use SIDs. So right in the middle of the city you will find pockets of county. I used to live in an area that was an SID that was county, and right across the street was the city. We could not get our streets plowed because they did not have the authority to have emergency snow removal routes. Across the street if our neighbor had false alarm calls, they could be charged after a certain number of false alarm calls for services. In the county we do not have that. Senator Price, would you yield to a couple of questions? [LB532]

SENATOR PRICE: Yes. [LB532]

SENATOR CORNETT: Are you aware, I believe it was brought to our attention, I believe Senator Friend said, define what fees were for service calls. Do you have the ordinances in regards to the power of the cities to levy ordinance...or to fine for violation of ordinances? [LB532]

SENATOR PRICE: Senator Cornett, what I have in front of me is 17-505, ordinances, rules, regulations, enactment, and enforcement. And it does talk to, in addition to special powers, cities of the second class and villages shall have the power to make all such ordinances. And it goes on and on. And at the end it says here, for that classification that all ordinances "by inflicting fines or penalties for the breach thereof, not exceeding five hundred dollars for any one offense, recoverable with costs." [LB532]

SENATOR CORNETT: So they can charge people for having false alarms, correct, under this statute? [LB532]

SENATOR PRICE: Under the current proposed statute? [LB532]

SENATOR CORNETT: Yes, the cities, you know, the cities. [LB532]

SENATOR PRICE: Oh, yeah, yeah. Yes. Currently under this, yes, cities. And I would remind everybody that none of this was language that was crafted up over a cup of coffee and a donut. Rather, it was taken from existing statute for cities. Thank you. [LB532]

SENATOR CORNETT: Senator Price, can you explain a little bit how particularly Sarpy County is laid out with the county and the city abutting one another. And the inability of

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the county to be able to enforce laws directly across the street from the city, but it's the same neighborhood in regards to public indecency, in regards to snow removal, and in regards to false alarms. [LB532]

SENATOR PRICE: Thank you, Senator Cornett. And that is a mouthful there to say because that is actually what we're trying to do here. I have here at my desk, and I don't have one for everybody because in saving money, a color copy here, where you can see the five cities of Sarpy County and you can see their ETJs. And you can see when you look at the city and you look at...there are, as I think someone said earlier, that we don't have very much urban space within Sarpy County. And I would, I don't want to say take issue, but I would argue with that. There's plenty of urban area. I know it, I walked it to get this job. And I will tell you there's plenty of urban area out there. We have one of the largest feedlots in the state in that area. So I would hesitate to say that we don't have any area. But again, what we see here is growth. The fastest... [LB532]

PRESIDENT SHEEHY: One minute. [LB532]

SENATOR PRICE: In the fastest growing county in the state we see a lot of growth. And we see a lot of economic growth. And, you know, as we know the growth cycle in cities and they spread out and they start taking more. And what we're really seeing here is a lot of people moving into Sarpy County, a lot of these SIDs areas, again over 50,000 people. And again, if you want to come up and look at the map I have here, you can see color coded what exactly we're dealing with. To the extent even in the Chalco area, in the north part of the county, which has no ETJ and no city, and it's purely county with many thousands of people living in private residences. Thank you. [LB532]

PRESIDENT SHEEHY: Thank you, Senator Cornett and Senator Price. Senator Gay, you're recognized. [LB532]

SENATOR GAY: Thank you, Mr. President. Just follow-up on Senator Cornett's comments. In Section 7 of the...when a city adopts these ordinances and they exercise this control over the unincorporated areas, the authority of the city will preempt the authority of the county. So the cities could grow right into the county. This is just not a Sarpy County bill I don't think, as I said earlier. Senator Friend says, well, if you're putting it on the books, they're all going to go rush to do this. Who are we kidding? I disagree with that. This is limited to five things and it's parking, abandoned and junk vehicles, graffiti, false alarms, and public indecency. Now if they have a problem, which you heard from other senators I get a problem here, I get a problem there, I've got a problem in Madison County, wherever, you don't know when you're going to need this. All you're saying in this bill is allowing them the opportunity to do that. Is it convoluted how they do this? Not necessarily. The same language was put in to pass this ordinance as you would on a city council ordinance, the way I understand it from talking to the Government Committee's attorney. So it's drafted the way it needed to be drafted

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in order to make it work. And now is that wrong? I don't know. Publishing it in a local paper, of course, you got to do that for public meetings and notification. But the idea that the counties are just going to rush out and get this done without any public input or in some vacuum is wrong. And I don't know if that's what he meant, but that's the way I interpreted what he was saying. The county is going to look at it, thoughtfully consider, thoughtfully consider whether they even need to do this. They may...I doubt they're going to go and rush and do all five of these things right away. Maybe one county will, maybe they will. I haven't talked to them lately to see. But when they need one of these, one of these tools they would have the tool in their kit to do it. Right now they don't. An example I had one time on the county board when you're talking about an SID in some of these larger counties we're talking 600 to 700 homes in an area. It's a large amount of people living in this area. So it's not just like a house here and a house there, we're going to go out and say, hey, remove that junk. You're talking large areas. Now as other counties, as you go around the state you'll adjust it to your county. If you're getting homes on the outskirts of the town that some day will be annexed into the community then they probably want this ordinance authority somewhat so that at least there's some consistency of I'm putting an expensive home right outside the community or homes, and I want some kind of regulation, I would assume. Not that people are dying for regulation. I'm not saying that, you know. But I think at some point this is very, very limited. And that's the reason why others came around to the amendment, and I'm talking to AM678, that they came around and said, hey, okay, we can agree on that. NACO, I was visiting earlier, there's 37 other states that allow this, so this is not some new idea here. Just because we haven't gone there yet doesn't mean we shouldn't. So I do think it's very selective of what Senator Price is asking for in this bill and how it can be used. And you've heard examples. Another quick example, if I can, this is more of the abandoned and junk vehicles. I had a situation one time in our county. It took nine months to get this removed. And we knew every night lights were going on in this junk area, and it was an old mobile home kind of thing, decrepit, all this. Every night lights were going on. Well, the good idea, what was happening in that at night, back when we had a meth problem which is still out there, but we had our suspicions. We couldn't do anything about it. Took nine months to clear that up. So there are cases here, it's just not as easy. A resolution is, boy, we'd sure like to have this done. An ordinance actually allows you to go and get something done. Now the fines up to \$500 it says here, they're not going to charge somebody \$500... [LB532]

PRESIDENT SHEEHY: One minute. [LB532]

SENATOR GAY: ...to go on an alarm. The way the cities do it now, the way I understand it, and Senator Price can, if he gets more time later, he can talk to this. But you know, you get a couple of warnings. It's the constant we've been to this place nine times. But the county is going to decide, hey, three, four times and then we're going to fine you so you do something about it. But that's for them to decide. And they aren't going to decide it without some public input and some thought. So I think we need to

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give, when we talk about local authority, and is it a buzz word, I don't know. But when I look at it I do think they can make good decisions. And, you know, we don't have the...we don't always make the greatest decisions here. But they can make good decisions and we just need to allow them to do that. They're elected officials, just like we are. And I think by allowing them this authority they won't abuse it and they won't...and they won't even use it unless they have a need to. So thank you, Mr. President. [LB532]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Haar, you're recognized. [LB532]

SENATOR HAAR: Mr. President, members of the body, I rise in support of LB532. First of all, I think this is just happening. And we're going to have to deal with it more and more in the future. The distinction between cities and counties is blurring. And I see that especially between, you know, in the Omaha area, but even in the Lincoln area. And so some of these kinds of problems, when I dealt with my district there were people out in the county who were worried about junk cars but they really can't do anything about it. So I see this as a good step forward. We talk so often in this body about local control. And I think that local control is key to all of this. It allows for the counties to assume some abilities they don't now have but that's local control. If the citizens don't like it they can take that prerogative and elect different people to the county boards. Now I do have a question for Senator Price. [LB532]

PRESIDENT SHEEHY: Senator Price, would you yield to questions? [LB532]

SENATOR PRICE: Yes. [LB532]

SENATOR HAAR: Okay. Question for you, Senator Price. I think Senator Friend has raised some good issues. But I take it that you're willing to work on this distinction between resolutions and ordinances and make that work a little bit better? [LB532]

SENATOR PRICE: Any work we need to do to move this forward, to take care of public safety, yes, I am willing to work on that. [LB532]

SENATOR HAAR: Okay. And I have some other questions but we've talked about those. And thank you very much. [LB532]

SENATOR PRICE: Thank you, Senator Haar. [LB532]

PRESIDENT SHEEHY: Thank you, Senator Haar. Other members requesting to speak on AM899 to AM678, Senator Janssen, followed by Senator Price, Senator Wallman, Senator Karpisek, Senator Friend, and other. Senator Janssen, you're recognized. [LB532]

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SENATOR JANSSEN: Thank you, Mr. President, members of the body. I wanted to get up again. I'm listening to the debate fairly close this morning, maybe not so much on the amendments. I didn't like the bill below it so I'm glad we're having this debate. But I did tell my friend, Senator Price, that I wouldn't get up and rail on his bill. In this case, I don't even know if it's his priority bill. But I wanted to give him some time to kind of fire back a little bit and speak loudly if he would like to. So with that, I will yield the balance of my time to Senator Price. [LB532]

PRESIDENT SHEEHY: Senator Price, just over 4 minutes. [LB532]

SENATOR PRICE: Thank you, Senator Janssen. Thank you, Mr. President. And the news I just received, the news I received on the floor has told me that I need to be very, I need to be vociferous and aggressive in defending my bill. Now this is going to be fun because I want to go to old school days and I can't do that anymore. I don't have weapons and tools at my disposal. So...but we don't need that. We have words and words are very powerful as is the pen. Ladies and gentlemen, what we are trying to do here is new, is different, and does cause...people have concern because it is new and it's different. But its time has come. We can see by the amount of interest on the floor that people do support this. And what we need to do perhaps is to polish the rock. And if that's what we need to do and we do that all the time on bills of significance, then we will polish the rock. But we don't get to polish it if we don't send it forward. There's going to be a motion perhaps made here following to bracket this bill. And I have been told that if we bracket this bill today it will die. And when we do that...you do something like that you are telling the citizens of Nebraska, you're telling the people in the counties, you're telling the people in the SIDs, you're telling them they don't matter. Because right now what we're looking at is it only matters if you live in a city. We've heard people say that there will be a rush to pass these ordinances and a rush to gather money. I choose to believe in the good faith and good nature of the people of Nebraska. I choose to believe in the elected officials in Nebraska to do the right thing. We are not doing the right thing if we allow people to continue to live in some form of danger, like they do in some SIDs when you cannot get an emergency vehicle to their house. It will be on your conscience and on your hands. When you can't drive that large vehicle up a road because you wanted to change a "this" to a "that" or a "thee" to a "the," "happy" to "glad." Let us work on this. Let this go forward. Let this be something that we can stand behind and be proud of. And I'm willing to do that work. If that work is required, we're going to do that work. People will wonder why is this so narrow in scope. It's narrow in scope so it does get to go forward, that public safety and public needs are met. This is not just about urinating on golf courses. This is about people's houses burning down, people falling down in seizures, this is about things like in Lancaster County when somebody comes and does something, you have no authority because those in the white castle on the high hill refuse. Let us not be known as a Legislature that was afraid of change, feared to go forward. Let us work together as we have on many bills. We pass bills along to

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help children, and we pass bills along to help various subdivisions of government. Let us move forward to help the people of Nebraska. Let them have their voice heard, let them be protected. Let's not just say that if you live in the city you can have protection. [LB532]

PRESIDENT SHEEHY: One minute. [LB532]

SENATOR PRICE: But if you don't live in the city, thank you, Mr. President, that if you don't live in a city, well, it's your tough luck. Too bad for you. You want protection, come live in the city. You chose to live out there so you're in the wild, unprotected areas. And we choose not to let you have this ability. We are not saying you must, we are not advocating that there's going to be hundreds and hundreds of ordinances in other states where we've given this authority to the states, and the states have given it to the counties. They have not seen a deluge of ordinances as has been suggested. What we are asking for here, what I am asking for and imploring the members of this body is to give good consideration, to take to heart that I will work with those who have concerns to make and polish this rock. But kid you not. If there is a motion to bracket, that motion will kill this bill. And you will be helping to put a submissive hole... [LB532]

PRESIDENT SHEEHY: Time, Senator. [LB532]

SENATOR PRICE: Thank you. [LB532]

PRESIDENT SHEEHY: Thank you, Senator Price. Mr. Clerk, do you have a motion on your desk. [LB532]

CLERK: Mr. President, I have a priority motion. Senator Friend would move to bracket LB532 until April 14, 2009. [LB532]

PRESIDENT SHEEHY: Senator Friend, you are recognized on your motion to bracket. [LB532]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I talked to Senator Price about this. I told him that I think we need to try to figure out where the Legislature...the legislative body is on this particular piece of legislation. Sometimes, and I've mentioned this before on the floor. Sometimes motions like this can give us that quick indication. Now I know there's a lot of lights on. I would respectfully ask this though. I'm going to go through a couple more things here. I'm not going to go to the very beginning where I, you know, lavished praise on Senator Price and lavished praise on this body. Sometimes bracket motions occur, sometimes bills die, sometimes they don't make it out of committee. This is not a personal vendetta, this is not a personal thing. Members of the Legislature, and this is for Senator Wightman's purposes, I'm not grandstanding right here. This is bad...this is a bad piece of policy. This is a bad

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legislative bill. It is. Let me go through a couple of things here again to continue this. Section 1 of this bill sets out ordinances which a county can enact. However, Section 4, subsection (2) it's (a) and (b), refer to the county's ability to enact an ordinance revising all ordinances. What Senator Price has done and what the Government Committee has done is said, in Section 1 here are the ordinances that you can make. Members of the Legislature, Section 4, subsection (2) tells you that the...that we're referring to the county's ability to enact an ordinance revising all ordinances. What does that mean? What can you do with that authority in Section 4? Section 5 refers to an ordinance specifying how other ordinances are to be distributed in line 5, page 4, "as may be provided by ordinance." Members, this is problematic language. So you're not just talking about Section 1, those simple ordinances that we have up front that Senator Gay was saying the county board members, who are elected officials, are not going to run roughshod on. It could be argued respectfully, I'm arguing this that you can go any direction you want if you're a county board. You do not have to adhere to Section 1 because Section 4 nullifies that authority, that could be argued. And you're not going to find out until you get a legal opinion from somebody after you try to implement it. This is problematic. Members, it is not clear in this bill if the city's act of extending an extra territorial zoning jurisdiction would remove county authority. Note that such an extension does not remove county zoning jurisdiction, it doesn't according to law. What if city zoning changes, changes property classifications that are tied into county ordinances. What if the city annexation and zoning jurisdiction change that's being made changes the responsibility for emergency response. We talked about that briefly in passing during this morning of discussion. I don't throw this bracket motion up lightly. It's for a week and a half, two weeks, whatever. Senator Flood just talked to Senator Price. Evidently, if this bracket motion is accepted this bill goes away. I don't enjoy doing that, I honestly do not. But, members of the Legislature, I feel pretty strongly about this. That if we pass this piece of legislation, and I've said it before, not to be redundant, we have got problems, we have got huge problems that are going to have to be solved by this Legislature again, either by...and by the way, I don't have any problem if this got referred to the Government Committee. For the last seven years that I've been here that's where it's been referred. I mean, there's precedence. I know that argument has been out here. When I brought it up earlier in the day, earlier this morning, nobody even talked about it. Remember what it was? Section 7 negates this whole bill. Nobody has thrown an amendment up to try to fix that. Members, this bill is flawed, it's functionally flawed. Section 7, let me reiterate. Section 7 negates the whole bill. It makes this bill worthless. Senator Stuthman and Senator Gay can stand up and talk about how great this is going to be because the county board members are going to have authority that they deserve. Members, I agree. The problem is they're not going to know what their authority is. They're not going to know. "The powers conferred by Sections 1 to 6 of this act shall not be exercised within the limits of any incorporated city or village." The powers conferred deal with the enactment of ordinances, do they not? The county board acts from the county seat which is an incorporated city. The county board cannot enact ordinances because it acts within an incorporated city. What am I missing here? This

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language is functionally flawed; you can't use it. And I haven't seen one...look, I told you from the very beginning I wasn't out to fix this bill. There's too many problems. You want me to throw an amendment up to fix this bill? I can't; it's not just one. I can fix Section 7. I'm not being a mean guy. You know what Ernie would have done to this thing? Do you know what Senator Chambers would have done to this? This thing would have 45 amendments on it and we would be scraping ourselves off the wall. People want to get up and get adamant about a counties authority. I'm not trying to offend. You better understand what you're talking about. You better know what this legislation does. I've just given you an hour and a half worth of information that tells you this legislation is flawed. You guys want to pass this bill, pass it. I'm telling you I'll be gone when you have the problem. So you know what, and this isn't grandstanding either, I'm a little miffed. You guys hearing me? You keep Section 7 in this bill, this bill is functionally flawed, let alone half the other sections that I've described. We need definitions in this bill. Members, there are no definitions. Show me a section in this bill where you have definitions on what ordinance authority is. You can't just go...you can't just make it...and by the way, there's no references. You can't just say, well, cities have this authority, we'll just go to what the cities do. You can't do that. Here's where we stand, okay? Now frankly, I've gotten over this. Three years ago I'd be worried about what you guys thought of me. I'm past that. I'm to the point where you guys are going to think whatever you want of me. I'm just telling you I have an understanding of what this process is. I have an understanding of what laws are. I have an understanding of what cities can accomplish. I've developed that in here, I know. Now not one time has somebody come up to me...I offered this from the very beginning. You want to fix this bill? Work on it over the interim, get the people in this Legislature who understand and staff members who understand what a piece of legislation like this should look like in the long run, all the stakeholders, too, and get this bill right. But if you pass this piece of legislation into law one of two things is going to happen. It's either going to get vetoed because it's functionally flawed and the Governor is not stupid despite the fact that there might be people in here that want to try to make him stupid, he's not, I know the man, he's not. He knows what the problems are. He didn't say anything to me. I haven't talked to him about it but that could happen. Second thing that will happen is that we'll have all kinds of problems with implementation. [LB532]

PRESIDENT SHEEHY: One minute. [LB532]

SENATOR FRIEND: So here's where we are again. We have a bracket motion for 10, 12 days, 13 days, excuse me. Senator Flood has said if we actually bracket it the bill dies. I'm going to leave it to you. You can say, Friend is being a jerk; we're going to go ahead and pass this legislation. I'll walk off the floor and I'll laugh, I'll go, ha, got it, good luck because Senator Price is a nice guy and we like him. I like him too. I already said that from the outset. This is a bad bill. It shouldn't pass. We need to step back. Pull our egos in a little bit because that's the only reason we're still out here talking about this after I told you the bill was functionally flawed and nobody wants to buy it. Vote on the

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bracket motion, do whatever you want. Thank you, Mr. President. [LB532]

PRESIDENT SHEEHY: Thank you, Senator Friend. (Visitors introduced.) You have heard the motion to bracket LB532 until April 14, 2009. Members requesting to speak are Senator Price, followed by Senator Wallman, Senator Karpisek, Senator Friend, Senator Louden, Senator Avery, and Senator Stuthman. Senator Price, you are recognized. [LB532]

SENATOR PRICE: Thank you, Mr. President, members of the body. Obviously, I rise in opposition to a bracket to my own priority bill. What I'll do, and not to belabor the point, I think I covered with passion my position earlier. But let me tell you this, if we're going to bracket to fix for a week and a half, I submit that if we move it forward and work on this on Select and not even bring it forward until we have agreement and bring all the parties together, if that's what we can do, and we're working on that right at the very moment, then we've effectively done that without killing it. And we've done that on multiple bills here. We're doing it right now. We're doing that with all the bills that we're dealing with the mental health and support issues and the SCHIP. So precedent is set here. We've heard a lot of words. And as Senator Friend is doing his best, I really honestly believe that he is trying to do what he believes is best for the state. But again, we work on bills and we work on things all the time when we know that the underlying concept benefits the people of Nebraska. You know, I've never been called a Magi nor a wise man, so I appreciate Senator Friend conferring those titles on me. And I'm sure there are those out there who may like to take issue (laugh) with that...with me being a Magi, probably primarily my pastor. But again, if we need to add definitions and work things out we can do this, we do this all the time. And so again in the interest of time, I would ask that you vote against this bracket motion and that we move forward and polish this rock some more. And I appreciate all the attention that has been given to this very important subject matter. Thank you, Mr. President. [LB532]

PRESIDENT SHEEHY: Thank you, Senator Price. Senator Wallman, you're recognized. [LB532]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I appreciate all the dialogue. Senator Friend, Senator Friend, a lot of information he's given us. And I live in the country. And there's acreages all around me. So we know what it is for the snowplows. They complain if they can't get out. About a mile from me I opened them up one morning. And so it's called getting along with people. The counties should be able to do this, township boards, whatever you have. Local control, if we're talking about local control we're forcing control or giving more authority, whatever we want to call it here. Some counties will probably jump on this, some won't. So vote how you may on this but realize that we are affecting our government locally. Thank you, Mr. President. [LB532]

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PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Karpisek, you're recognized. [LB532]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I've heard a lot of talk about this being a bad bill, it shouldn't have been sent out of committee. I disagree. Senator Price has worked on this hard. It's come a long way since he started on it. If it was up to me, I would probably leave it a little broader. But he got all the parties to sit down and agree. We're not giving them wide authority to do everything on this bill--parking as it relates to snow removal, emergency vehicles, abandoned and junk vehicles, not including ag equipment, graffiti, false alarms, and public indecency. I don't think that it does all that much. I've also heard as a former mayor you shouldn't like this. Well, this doesn't supersede the city ordinances. I don't think that it bothers the cities at all. I think that they can work together. The problem is that the counties when they have problems have no way to solve it. Senator Gay got up and said pretty much what I was going to say. If there wouldn't have been more time in between, I would have waived my time. But I don't think that they can do the things that they need to do. Cities try to keep their cities nice and clean and looking nice. But if a mile out in the country or two miles there is just a junked up farm, to come in where everybody sees it, they can't...no one can do anything about it. I think this gives them a little bit of authority to get some things cleaned up. I don't know much about the SIDs. Senator Price knows more about that. Senator Friend has said that we all like Senator Price, so that's why we're going along with that. I don't think that's the case. Senator Price is in all my committee hearings. He asks a lot of questions. I could have been home an hour earlier every night. (Laughter) Have to give him a little shot as a rookie. He's worked on this bill very hard. I don't think that it blows the door wide open. Does it crack it? Yes. Senator Friend has some legitimate points. I don't think that the bill does that. And to be honest, I don't care what Senator Chambers would have done with this bill. He's not here. I think that it's a good bill. I think Senator...I know Senator Price has worked on the bill hard. He's got the people together. I say we give them a little bit of authority to try to do what happens in their county. I do have to giggle a little bit about the local control that I've heard out of some people on the floor, because seems they like to pick and choose when they want to talk local control or not. Senator Rogert had a bill very similar to this a couple of years ago. I voted for it or I would have in committee. I don't know if we ever even got to a vote. But I do think it's a good idea. It doesn't blow the door wide open. I would not be in favor of giving counties complete ordinance authority the same way as cities have it. I don't feel that this does that. Will they be back? Probably. New problems will come to rise. I think Senator Janssen brought up problems about abandoned farmsteads, what's happening out there. I don't think that this causes as much problem as we're trying to make it. So I will be willing to work with Senator Price if he needs or wants to work on it further. I think he's done a great job so far of getting it along the way. I will not vote for the bracket and I hope that we can get to pass it on to Select File. Thank you, Mr. President. [LB532]

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PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Friend, you're recognized. [LB532]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. You all know, members, you all know that I get riled up. The thing that, I guess, works me into a tizzy, and people like Senator Harms and some of the people I've been around understand this, is that I don't know anymore than anybody else. It's just that we all have a feeling or an understanding, we all do as legislators. That sometimes there are instances and things that you just can't let slide. Well, I feel pretty strongly about this, and Senator Price alluded to that. I feel pretty strongly that we have a dysfunctional piece of legislation here. And in some ways I wouldn't say my feelings were hurt. That doesn't happen anymore. But I'm like, (taps on microphone) is anyone listening? I gave you nine things here and you're still saying, well, this is just fine. Senator Karpisek just got done talking about how great a bill this is. (Laugh) It's not an ego thing with me. It's like I...I just got done, 20 minutes later he's talking...I just got done telling you that there's a section in this bill that would totally negate the whole bill. And he gets up and talks about how great a bill it is. Okay. Vote for it. Here's the thought process now. I just got a chance to talk to Senator Price, Senator Avery, Speaker Flood. I can tell you this, I feel strongly enough about this that I threw a bracket motion up on it. I also feel strongly enough that I will pull this bracket motion. I'm going to give some time to Senator Avery to talk about whether we can actually fix some of these things. I said from the outset, I don't think it's fixable. I still believe that. (Laugh) I don't think 14 days is enough time to fix this. But maybe I'm wrong. So you do what you want between General and Select, honestly. And you're going to do...members of the Legislature are going to do that anyway no matter what I say. I'm going to pull the bracket motion off. I don't want to vote to advance this so I'm not going to. I may be the only one. But once I pull the bracket motion off I am fully committed between now and Select File to try to help make this a very palatable bill, if that's what we as a body want to do. Just so we're clear. I am not going to vote to advance this bill. I don't want to do that because I think there are way too many issues to try to deal with. However, if we decide that we want to do...and again, I'm going to yank the bracket motion in a minute. After that happens and if the bill moves forward, I'm committed to working with Senator Price, Senator Avery. And I'm not trying to inject myself into a situation that I haven't been in because of weird personal reasons. I feel that strongly about this. I'm committed to working between General and Select if that's what the body decides to do. I'd give the rest of my time to Senator Avery, if he would like to use it. [LB532]

PRESIDENT SHEEHY: Senator Avery, 1 minute, 20 seconds. [LB532]

SENATOR AVERY: Thank you, Mr. President. Thank you, Senator Friend. I am on the...in the queue after Senator Loudon. So I'm going to address a couple of things that Senator Friend raised and then I'm going to make another point or two. On the issue of definitions, I'm looking here at current statute relating to cities. Cities have the authority

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to punish...to provide for the punishment of vagrants. [LB532]

PRESIDENT SHEEHY: One minute. [LB532]

SENATOR AVERY: Is that time, sir? [LB532]

PRESIDENT SHEEHY: One minute. [LB532]

SENATOR AVERY: One minute. There is no definition in current law for vagrant, tramps, no definition for tramps, common street beggars, no definition for common street beggars, common prostitutes, no definition, habitual disturbance of the peace, pickpockets, gamblers, burglars, thieves or persons who practice any game, trick, or device with intent to swindle, persons who abuse their families, and suspicious persons, it's not defined. So I'm really hard-pressed to understand what the Senator is arguing here about, the convoluted nature of this law. I can show you, though, in statute that cities have the authority, very broad authority, very broad authority in addition to the special powers otherwise granted by law for maintaining the peace, good government and welfare of the city and for... [LB532]

PRESIDENT SHEEHY: Time, Senator. [LB532]

SENATOR AVERY: Thank you, Mr. President. [LB532]

PRESIDENT SHEEHY: Thank you, Senator Avery. Thank you, Senator Friend. Senator Louden, you're recognized. [LB532]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I look this bill over and you're thinking about trying to improve that thing between now and Select File, which it's going to take a lot of work to improve, there's a lot of issues here that if you're going to give any authority to the county, first of all, with the amendment like you have you mention motor vehicles. There's nothing about trailer houses or anything like that. I get more calls from my district on trailer houses being parked out in the country and rats and rattlesnakes and stuff coming in them until the Department of Health or somebody goes and does something about this, there's nothing can be done about it. So there's nothing on there. You're talking about just motor vehicles. And when Senator Price was talking about you're going to be...if someone can't get to their...if the ambulance can't get to someone's residence or something because of the parked cars, that's their problem because it's evidently private property. If it's public property those can be moved and towed out of there and the county has authority to take care of public safety. So some of that has to be clarified on how you do that. But there's not that much can be done on private property. You have to be very careful when you're passing ordinances on what you complain about private property. Who was it mentioned a little bit ago they drove out in the country and they saw a farm with all kinds of old junk

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machinery and a car or two. Well, you going to take the car off? And when you look at the machinery, what's junk and what's machinery? Around my outfit that's the reason I always, during haying I always make the crew line the machinery up because I tell them that's the only way we can tell the difference. That that's lined up is machinery and that that isn't lined up is usually junk. So there's so many issues here involved in how you're going to go about this that it's going to take a lot of careful consideration. And the main thing is that to start with you are giving counties a new authority that they don't have. You're going to give them the authority to pass ordinances. Now the next thing is who's going to pay for that authority? If they pass an ordinance they're supposed to pick up some of this junk on some private property, and the private...and the person said they're not going to do it, then it's up to the county to go in, do it and pay for it. Now how are you going to pay for that? Are you going to put it just on general property tax or are you going to allow the counties to levy some type of lien against that property to clean that junk up, like they do with collecting garbage? How are you going to handle that? There's so many more issues here that I don't think anybody has bothered to look at other than just snap their fingers and say, well, we're going to give the counties ordinance authority. I think we have to be very careful on that. On your false alarms as that was written in here, are you talking about these security alarms that people have, especially in your rural areas around your metropolitan areas, everybody has got a security alarm. And if they forget to push a button when they open the door the alarm goes off and, yeah, it's all hooked up to the local police station or sheriff's office. So how are you going to control those? Are you going to set it up then that if people have these security alarms it doesn't connect into your local law enforcement. They have to be into some kind of a private security system. So we have a long ways to go on this. Like Senator Friend said with his bracket motion for 13 or 14 days, I don't know if you can get it all in for that. But these things should have all been decided before it came out of committee. And I'm surprised that this wasn't worked on a little bit finer. This is what committee work is all about is to think this thing through, have it taken care of before we get it on the floor so we don't have this long dialogue or... [LB532]

PRESIDENT SHEEHY: One minute. [LB532]

SENATOR LOUDEN: ...what's the shape of the bill. I think at the present time counties do have some authority on public safety. So are we either going to put in statutes what the counties can do for safety and then cleaning up some of the material around. And I agree with what they're trying to do with the bill. I have no problem with that. The counties need some kind of authority. With the present way this bill is crafted this isn't the one to do it. I hope they do improve this if they decide to go to Select File. Thank you, Mr. President. [LB532]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Avery, you're recognized. [LB532]

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SENATOR AVERY: Thank you, Mr. President. Conversations have been going on between me, the Speaker, Senator Friend, and Senator Price. And it is the mutual agreement among those parties that the bracket motion will be withdrawn. I will yield some time to Senator Friend in a few minutes. Let me just tell you, though, what the plan is. I urge you to advance this to Select File. Between now and then it is my promise to bring the parties together--Senator Price and Senator Friend have agreed to that. We'll bring in the other interested parties, and we will work on this until we reach agreement. If we can't get agreement, then you won't have to talk about this again on Select File. So we will do our best to iron out the differences and see if we can come to a mutually satisfactory agreement using our best skills of compromise where everybody leaves the table a little bit unhappy, but nobody is completely unhappy. That's the nature of a compromise and that's what we'll work on. And if we get that done, then we'll have a chance to talk about this again on Select File. Otherwise it will not be rescheduled. So I urge you to support the vote to advance this from General File to Select File after the bracket motion has been removed. Thank you. I yield the rest of my time to Senator Friend. [LB532]

PRESIDENT SHEEHY: Senator Friend, 3 minutes, 30 seconds. [LB532]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. So here, as far as I'm concerned, just to be clear. I have a major concern about voting to move this to Select File. But I guess the point is I'm letting it go to Select File if that's what the body wants to happen. But you'll also note that I filed just as kind of a placeholder or possibly a functional piece of...or a functional motion if I need it, an indefinitely postpone motion on Select File. So here's the point. If we don't come to a logical conclusion and agreement or just something where we can meet in the middle, quite honestly, members of the Legislature, I will try to kill this bill on Select File. It's as simple as that. I hate to say that, but that's what will probably transpire. With that, I would like to withdraw this bracket motion at this time. Thank you. [LB532]

PRESIDENT SHEEHY: The motion to bracket is withdrawn. We will now return to floor discussion on amendment to committee amendment, AM899 to AM678 to LB532. Members requesting to speak are Senator Stuthman, followed by Senator Friend and Senator Langemeier. Senator Stuthman, you're recognized. [LB532]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. In listening to the debate this morning, you know, there are issues that I think we need to address and hopefully we can get these addressed between General and Select File. And I really respect that. And I think that gives Senator Price an opportunity to hopefully come upon agreement. There's one thing that I have a concern about is the fact that we've got these five areas that we can only pass ordinance as far as the county is concerned. But I think there is one issue that we also should address. It addresses, you know, the motor vehicles on private property. Yeah, I think, you know, there is an issue there. But I

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think a more pressing issue, in my opinion, is property owners in a county that don't mow the roadsides and don't keep the road right of ways clear of trees, and on intersections they become very, very dangerous when crops are raised. And the fact is that I think there should be something added into there as far as, you know, the real responsibilities of property owners is what they should be doing with intersection safety in their area. I think that's an issue that we should also address because, you know, there's been a lot of intersection accidents in the communities, especially in the fall, early fall, you know, when the crops are tall and people can't see at intersections. I think, you know, there is, you know, there are regulations on the county level that property owners need to keep them clear, they need to mow their road ditches and their road right of ways. But the county has no real authority to enforce that. And I think that is something that should be enforced as far as keeping intersections, you know, visible and have them safe. I've seen too many times when crops are raised, are planted, you know, almost to the gravel ridge. And, you know, they're planting the crop in the county right of way. And in my opinion that's a no-no, but it does happen. But the county has no authority, you know, to address that situation without their ability to have an ordinance to take care of that. You know, they can pass all types of resolutions they want to but they're unenforceable. Most people, you know, will take care of it but there are some that do not. So I do support the concept of this bill and I do support the fact that there are a few things we need to get ironed out, you know, before Select File. And hopefully, we can address that because I think there is a need for counties to have that authority to pass an ordinance. Some counties may never pass an ordinance and I respect them for that. But without having that ability to pass something that will be enforceable that gives them a tool. So with that, thank you, Mr. President. [LB532]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Friend, you're recognized. [LB532]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. There...I want...quickly, I wanted to explain a lot of times when we...when we're in combative legislative situations like this and the decision has been made to work on a piece of legislation and try to, you know, come to an agreement, the particular person who's doing most of the hemming and the hawing, under these circumstances it happens to be me, will just kind of give you a dark nothing or they'll give you a green light and move it onto Select and be collegial about it. I don't want to seem uncollegial but I don't normally like moving things from one point to another. I've done it but I don't feel comfortable with it. We got a lot of work to do, I think, on this bill. And I appreciate Senator Price, I guess, his thought process of including me in the discussion and others. I appreciate Senator Avery, too, allowing that to happen. But there is a lot of stuff here in my opinion. That being said, I have a difficult time moving it forward. I'll probably give a red light. Again, we need some opportunity to work and discuss this. I'm going to end up moving this amendment to Select File and filing it there because I think it gives us not only a placeholder because we're going to have to put another

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amendment in possibly on Select File, it gives us some opportunity and it gives us a chance to do more dancing if we need to on Select File. Mr. President, I would like to withdraw AM899 and refile it on Select File. [LB532]

PRESIDENT SHEEHY: AM899 is withdrawn to refile on Select File. We will now return to the amendment from Government, Military and Veterans Affairs, AM678 to LB532. Member requesting to speak, Senator Langemeier, you're recognized. [LB532]

SENATOR LANGEMEIER: Mr. President and members of the body, I turned my light on simply to put a pause in what has just happened. As we've seen a bracket motion withdrawn. We've seen an amendment withdrawn. Now we're back to where we started the day with the committee amendment to LB532. And I will be brief here. And you're going to hear Senator Avery, as the Chairman of that committee, give us a closing, I believe, I think the talking is done, as we sit now pondering do we advance a committee amendment to a bill with a promise there's going to be corrections for Select File? And so that's what we're going to vote on here. And I just wanted to stop the process here so we didn't automatically get to a closing and everybody is, now what are we voting on. And we'll shortly be voting on the committee amendment. And with that, thank you, Mr. President. [LB532]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Seeing no additional requests to speak, Senator Avery, you're recognized to close on Government, Military and Veterans Affairs Committee amendment, AM678. [LB532]

SENATOR AVERY: Thank you, Mr. President. I just want to remind the members that the amendment was reached by a number of meetings among interested parties. The amendment that was produced out of those meetings is very narrowly drawn. It does not empower counties to do anymore than is specified in lines 5 through 11 on the...in the first section of the amendment. Those are not extensive. And I would just point out that if you look at existing law as we have been doing this morning with respect to what cities can now do, their powers are quite broad. And that's true not only for metropolitan class cities but second class cities as well. So what we are asking you to do here with this amendment is at least advance it or attach it to the bill so we can advance the bill from General File to Select. When we get to Select you won't see us again unless we have worked out an appropriate compromise. With that, I ask you to approve AM678. Thank you. [LB532]

PRESIDENT SHEEHY: Thank you, Senator Avery. You have heard the closing. The question before the body is on the adoption of AM678 to LB532. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB532]

CLERK: 30 ayes, 3 nays, Mr. President, on adoption of committee amendments. [LB532]

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PRESIDENT SHEEHY: AM678 is adopted. We will now return to floor discussion on LB532. Seeing no lights on, Senator Price, you're recognized to close. [LB532]

SENATOR PRICE: Senator Price waives. [LB532]

PRESIDENT SHEEHY: Senator Price waives closing. The question before the body is on the advancement of LB532. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB532]

CLERK: 28 ayes, 8 nays, Mr. President, on the advancement of LB532. [LB532]

PRESIDENT SHEEHY: LB532 advances. (Visitors introduced.) Mr. Clerk, do you have items for the record? Mr. Clerk, we will now move to LB511. [LB532 LB511]

CLERK: LB511, Mr. President, a bill by Senator Wallman. (Read title.) Introduced on January 21, referred to Health and Human Services. The bill was reported to General File with committee amendments attached. (AM414, Legislative Journal page 554.) [LB511]

PRESIDENT SHEEHY: Senator Wallman, you're recognized to open on LB511. [LB511]

SENATOR WALLMAN: Thank you, Mr. President. LB511 would amend the present Nebraska Certificate of Need Act to exempt from the provisions of the Act Intermediate Care Facilities for the Mentally Retarded of 15 or fewer beds, also known as ICF/MRs. The change is necessary because the present statute imposes a moratorium on the addition of any long-term care beds anywhere in Nebraska, except for ten beds per year or 10 percent of a facility's licensed beds, whichever is fewer. Recently, the Department of HHS contracted with a nonprofit provider to create a total of six ICF/MRs with a total capacity for each unit of six residents. Without the passage of this bill they will not be allowed to open the six facilities throughout the state. This bill will help find suitable homes for displaced BSDC residents. As I think everybody knows, some were displaced in a hurry. So the HHS Committee has an amendment, AM414, that I fully support. So I would like to thank Speaker Flood for choosing to make LB511 one of his Speaker priority bills. This bill is necessary to allow more suitable options for people with developmental disabilities. Thank you, Mr. President. [LB511]

PRESIDENT SHEEHY: Thank you, Senator Wallman. As noted, we do have a Health and Human Services Committee amendment, AM414. Senator Gay, you're recognized to open. [LB511]

SENATOR GAY: Thank you, Mr. President. AM414 replaces the bill as introduced but retains the substantive intent of the bill. Instead of revising the definition of "healthcare

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facility," the amendment revises the definition of "intermediate care facility" under the act to exclude ICF/MRs with 15 or fewer beds. The effect of the committee amendment is the same as that of the original bill but drafted differently to be more streamlined and consistent with the current law. The amendment would eliminate the ICF/MRs with 15 or fewer beds from having to seek a certificate of need. I'd ask for your adoption of the amendment. Thank you, Mr. President [LB511]

PRESIDENT SHEEHY: Thank you, Senator Gay. You have heard the opening to Health and Human Services Committee amendment, AM414, to LB511. Seeing no lights on, Senator Gay, you're recognized to close. Senator Gay waives closing. The question before the body is on the adoption of Health and Human Services Committee amendment, AM414. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB511]

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB511]

PRESIDENT SHEEHY: AM414 is adopted. We'll now return to floor discussion on LB511. Seeing no requests to speak, Senator Wallman, you're recognized to close. Senator Wallman waives closing. The question before the body is on the advancement of LB511. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB511]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB511. [LB511]

PRESIDENT SHEEHY: LB511 advances. Mr. Clerk, we will now proceed to LB464. [LB511 LB464]

CLERK: LB464 is a bill introduced by Senator Gay. (Read title.) The bill was introduced on January 20 of this year, referred to the Education Committee. The bill was placed on General File. [LB464]

PRESIDENT SHEEHY: Senator Gay, you're recognized to open on LB464. [LB464]

SENATOR GAY: Thank you, Mr. President. I'd like to thank the Speaker for making this a Speaker priority. LB464 would require any child who enters the seventh grade to get a Tdap booster to protect them from tetanus, diphtheria, and pertussis, commonly known as whooping cough. Generally, this would be done at the same time as the current physical is required for seventh graders. The bill was heard by the Education Committee and advanced with no dissenting votes. There is no opposition to the testimony to the bill. Let me just explain a little bit why we're doing this. At a young age children receive a series of shots to vaccinate against these diseases, and currently must have this vaccination prior to entering primary school. However, over time the vaccine's effectiveness weakens. Of these three diseases, pertussis or the whooping cough is of

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particular concern. The highly contagious disease starts with the symptoms of a common cold, but after a few weeks a violent cough develops. Whooping cough can lead to pneumonia, seizures, brain damage, and ultimately and possibly death. Both nationally and locally the number of whooping cough cases has increased significantly, particularly among adolescents and teens 10 to 19 years old. According to the Centers for Disease Control, from 1993 to 2004, the cases of whooping cough among adolescents has increased 1,085 percent. Locally, according to the Department of Health and Human Services Division of Public Health the cases of whooping cough have increased--six reported cases in 2005, to 290 cases in 2008. So this was brought to our attention that it's a growing problem. The CDC now recommends adolescents and adults get vaccinated every ten years. Currently, 13 states require the Tdap booster and 7 other states are starting this process. The real danger is when a teen or adult contracts whooping cough and spreads this disease to infants. The disease may be mild in teens and adults but can be very severe in these infants. Information from the CDC indicates that 69 percent of infants who were infected with pertussis end up in the hospital, 91 percent of the infant deaths that can be attributed to pertussis between 2001 and 2003 were in infants under six months old. In Nebraska whooping cough is responsible for at least one death per year since 2005, and there were two in 2006. The requirements under LB464 are the same as those for other vaccinations required by law. The cost are to be borne by the parent unless they are unable to pay. According to the Health and Human Services, the cost of one dose of Tdap is about \$37.50. In addition, the vaccination may be waived for religious and medical reasons. and that will be in an amendment that will be following. The one point, when you look, I want to...well, I'll wait until you get to the fiscal note. But the reason that this was brought up, more and more on the public health agencies and others who have been monitoring this, it has been a growing concern over the years. So the bill basically addresses that concern. The best time to do it they thought was in the seventh grade, when you're getting these new booster shots, you're upgrading the shot. So that was the best time that we could control the disease and catch it. Instead of trying to get every adult vaccinated against this, this was the best method to get this done. Thank you, Mr. President. [LB464]

PRESIDENT SHEEHY: Thank you, Senator Gay. You have heard the opening to LB464. Mr. Clerk, you have an amendment filed on your desk. [LB464]

CLERK: Senator Gay would move to amend, AM901. (Legislative Journal page 866.) [LB464]

PRESIDENT SHEEHY: Senator Gay, you're recognized to open on AM901. [LB464]

SENATOR GAY: Thank you, Mr. President. The amendment simply clarifies that this vaccination requirement can be waived for religious or medical reasons. And that a child not meeting the requirement can be provisionally enrolled in...under certain conditions.

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It mirrors the language in statute dealing with vaccinations already required by law for a child to enter school. So this just clarified it. We felt it was already clarified but just again we had some people who wanted it more clarified and that's what the amendment does. Also take this opportunity, I did hand out an informational sheet and it talks about the tetanus, diphtheria and pertussis and how it's affected. Also, on the backside of the sheet you will see many states who are already doing this. And others, as I had mentioned, who are currently in discussions in their legislative chambers discussing the same thing. But you can kind of get a layout of who's getting this done. It's not a new concept, it's just something that...it just takes awhile to get out there. So on the backside of that informational sheet you'll see what states are currently doing around us and that will hopefully clarify where we're at. We'd be, basically, going to a...no, you wouldn't see it, it's blue on my sheet, I think yours is...we'd be the darkest state. So we would take care of all three, the tetanus, diphtheria and pertussis. Thank you, Mr. President.
[LB464]

PRESIDENT SHEEHY: Thank you, Senator Gay. You've heard the opening of AM901 to LB464. Mr. Clerk, do you have items for the record? [LB464]

CLERK: I do, Mr. President. An amendment to be printed to LB218 by Senator Giese. A motion by Senator Friend to LB532. (Legislative Journal page 872.) [LB218 LB532]

And I do have a priority motion. Senator Mello would move to recess the body until 1:30 p.m. []

PRESIDENT SHEEHY: You have heard the motion to recess until 1:30 p.m. All those in favor say aye. Opposed, nay. We are in recess. []

RECESS []

PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Please record, Mr. Clerk. []

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

PRESIDENT SHEEHY: Are there messages, reports, or announcements? []

CLERK: Your Committee on Enrollment and Review reports LB477, LB292A, LB555, LB396, and LB449, and LB340 to Select File, some of which have Enrollment and Review amendments. That's all that I have, Mr. President. (Legislative Journal page 873.) [LB477 LB292A LB555 LB396 LB449 LB340]

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PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will proceed with the first item under General File...correction, LB464. [LB464]

CLERK: Mr. President, Senator Gay presented LB464 this morning. He also offered AM901 as an amendment to the bill. [LB464]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. As was stated, you did hear the opening of LB464 and AM901. Members requesting to speak are Senator Stuthman, followed by Senator Fischer and Senator Campbell. Senator Stuthman, you're recognized. [LB464]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I do support this bill and I think it's a very good idea. You know, as a child in growing up, you know, in our schools, you know, there was a lot of whooping cough going on at that time, and people did get vaccinated for it. And after that you rarely ever heard of whooping cough. And up until just several years ago, you know, when it surfaced again, you know, the fact that people were getting whooping cough. And when I heard it the first time, I said, you know, whooping cough, shoot, we haven't had whooping cough, you know, for a long time. But I think it's a fact that the people that got immunization at that time years and years ago, that has kind of run its course. And I think it's very important that we immunize these children again for this whooping cough. And I think if we don't do it at this time, I don't think these individuals will ever get vaccinated for the whooping cough, will not get immunized again for whooping cough. So I think this is a very appropriate bill. I think this is something that is needed, and I think this is the appropriate time to address this issue. So with that, thank you, Mr. President. [LB464]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Fischer, you're recognized. [LB464]

SENATOR FISCHER: Thank you, Mr. President. I agree with Senator Stuthman that this is an important bill and I would like to thank Senator Gay for bringing it. It's my understanding that whooping cough cases are on the rise, and this is needed. I did look at the fiscal note and saw that \$546,000 there and looked into that over the noon hour. And it's my understanding that that isn't federal money. That is for the vaccine and it's the value that's put on the vaccine. And the vaccine will come from the federal government, but we need to pass some kind of legislation almost like an enabling legislation to show the federal government that the state of Nebraska is willing and able to receive that vaccine. Mr. President, would Senator Gay yield to a couple questions here? [LB464]

PRESIDENT SHEEHY: Senator Gay, would you yield to questions? [LB464]

SENATOR GAY: Yes, I would. [LB464]

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SENATOR FISCHER: Senator Gay, I know over the noonhour I had some discussions and we received some vaccines already from the federal government, so it's not a new concept that we're looking at here, is it? [LB464]

SENATOR GAY: No, it isn't, Senator Fischer. And thanks for looking into that and bringing it up because it is important on the General Funds that we pay attention to those as we continue on. [LB464]

SENATOR FISCHER: And I do realize that there are some whooping cough vaccines that are provided to the state already by the federal government, but it's for a small population. And your bill now extends that to all 7th graders. Is that correct? [LB464]

SENATOR GAY: That's correct. [LB464]

SENATOR FISCHER: Again, I appreciate it. I see that the bill does not take effect until 2010. And since we are in a budget crunch and we are looking at a number of bills and initiatives that do have dollar amounts on them, I guess I would ask if you would be willing to look at this just in case the federal government may change their mind on giving us that vaccine, and they may require us to pay for it. Would you be willing to look at this next year if need be and if the case would be that we would need to look at General Funds to fund this program? [LB464]

SENATOR GAY: Yeah. Senator Fischer, very good point because this is...you described it correctly, it's enabling legislation to go receive federal vaccines valued at the \$546,000. Our share would be to pick up a...it's a fee, and if you look at your fiscal note, administrative fee. Our \$11,000 would be to offset this fee, and the other \$16,000 is federal funds as well. So our share is a small, small administrative fee to go and receive these shots. So yeah, and definitely we would follow that. If it came and we had a fiscal note, we'd be assured of a problem and I guarantee you we will look into it because that would be on our radar screen, no doubt. But the way it is now and the way we understand it...I think Senator Campbell may have more information on this too because she's been working with me closely on this. [LB464]

SENATOR FISCHER: Okay. I appreciate it. And once again, thank you for introducing the bill. I appreciate it. Thank you, Mr. President. [LB464]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Senator Campbell, followed by Senator Loudon. Senator Campbell, you're recognized. [LB464]

SENATOR CAMPBELL: Thank you, Mr. President. I, too, rise in support of the amendment and the underlying bill and want to follow up a little bit with the information that Senator Fischer was able to obtain. I also looked over the noon hour and spoke

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with someone from the department who gave an indication we, as senators, need to understand that vaccine money comes in, in different pots of money. It can come in from the CDC, the disease control, and some of those funds are called "317 money." And then we also can use some money through Medicaid. And I'm sure we're all very used to hearing this, but there also is part of the stimulus bill that is specifically keyed to vaccine money, but the department does not yet know the details or strings of it. So as senators, I think we should feel comfortable in the fact that the department is paying very close attention and understands that we need to utilize that funding before we go to the General Fund money. And this lag time, as Senator Fischer said, will help us to do that. It's important, this bill is important because the utilization rate of Tdap in the state of Nebraska is at a 30 percent. But if you look at surrounding states, it's much higher: 64 percent in Colorado, 73 in Wyoming or Wyoming is 75 and Colorado is 73. And a national average at 50 percent. So I appreciate Senator Gay bringing this forward and would encourage the colleagues to support the amendment and the underlying bill. [LB464]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Louden, you're recognized. [LB464]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I would certainly support this bill. As a survivor of whooping cough some 60-some years ago, I know what it was before we had the vaccines. And then when my kids came along, why we gave them the DPTs and it worked. As I've discussed this with some of the healthcare officials, my understanding is that they found out now that the DPTs don't last all of their life. And that at one time was what the reasoning was that once you gave them that shot when they were children they would be good for life, but evidently the whooping cough has developed some strain that's immune to the vaccine. So this is where we're coming around with doing something along about the time they enter the seventh grade in school. And I agree with it. One thing that I would wonder if Senator Gay would yield for questions? [LB464]

PRESIDENT SHEEHY: Senator Gay, would you yield to questions? [LB464]

SENATOR GAY: Yes. [LB464]

SENATOR LOUDEN: Yes, as some of the other senators have questioned about the money from the federal government stuff, somewhere on one of these...some of the material we had they talk about \$37.50 for a shot. Now, does that include the doctor's fee or how is that and who has to pony that bucks up? And how much more than \$37.50 could it perhaps cost? [LB464]

SENATOR GAY: Well, going into 7th grade, you need a checkup anyway, so you're there. The shot is \$37.50. The other costs are borne by the families when you go in.

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The way I understand it, when you go in you have to do this anyway. We're adding another shot you have to get that would take care of the three different things, the whooping cough, the Tetanus and the...what was the other... [LB464]

SENATOR LOUDEN: Now, will those... [LB464]

SENATOR GAY: The parents do. If you can afford to pay for it, you will pay. [LB464]

SENATOR LOUDEN: Okay. What I'm wondering is the people that...will their health insurance, you know, people that are supposed to be able to...that aren't on Medicaid or something, will their health insurance cover these shots or do you know if... [LB464]

SENATOR GAY: Well, that's depending on what health insurance they have, but yeah, your deductible if you have health insurance and your deductible. Of course, that's a tough one to answer because there's so broad of...you don't know what everyone has, but you're deductible would cover it. And then I'm assuming your health insurance would cover this. [LB464]

SENATOR LOUDEN: Usually when you talk about them starting in the 7th grade you wouldn't have more than one kid at a time, hopefully, going to the seventh grade. But my concern was a few years back when they had to do some of this, why a family could incur quite a little bit of medical expense all of a sudden just before their kids start school. And this was my concern if that's been addressed and if there's a way they can get around that or if there's going to be any assistance to those people. [LB464]

SENATOR GAY: Well, and that's where the...there is federal assistance if you want to go to, you know, the clinics and those things, and that's just each person's individual choice. And those have been quite popular when you go and say, hey, I want my shots, and you can go to some of the clinics that are around the state. But that's an individual choice by the parents. They would have to assume that cost, yeah, when you're... [LB464]

SENATOR LOUDEN: But in order to get those benefits they would have to declare their total income or something like that in order to be under a certain level of income. Is that correct or... [LB464]

SENATOR GAY: No, you know, really anybody can go to those clinics right now. That's their choice. And more and more people are, quite honestly. But they don't check your income. On these you can go in and get the shot, and that's just nothing we...that's just the policy now. [LB464]

SENATOR LOUDEN: Okay. And there would be assistance for anyone taking their child in to get some assist...get a vaccine shot? [LB464]

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SENATOR GAY: They're free and you just don't know how many people are going to show up at those clinics. So when we request the vaccinations, in this case we're making an estimate of we'd need approximately \$546,000 worth, but on the fiscal note it says how many...13,830 students would possibly need it. [LB464]

PRESIDENT SHEEHY: One minute. [LB464]

SENATOR GAY: So it's kind of a moving target. But anybody, any income level can go to a clinic and get those shots. [LB464]

SENATOR LOUDEN: Okay. Well, that's good. Just so we don't set something up that people will be reluctant to do it, use religious reasons because they feel like it's too expensive or something like that. So with that, I support the bill. Thank you, Mr. President. [LB464]

PRESIDENT SHEEHY: Thank you, Senator Louden. Thank you, Senator Gay. Senator Gay, no additional lights are on, you're recognized to close on AM901. [LB464]

SENATOR GAY: Thank you, Mr. President. I'll close on the amendment and on the bill too. Hopefully we'll pass this amendment. I just, I did want to say though, while we were in the process of introducing the bill and all that, an article came out. This is not a...this is a statewide issue. But out in North Platte actually, there were some cases going around out there that in Lincoln County, 21 cases had been reported of whooping cough. So it's affecting everywhere and it's growing and it's something that we want to fix. And this is a population where you get that done. As Senator Louden, you know, and Senator Stuthman had mentioned, this can happen to anybody and we just don't want to get back into the days where we have to deal with this. And it's becoming more of a common occurrence, so I'd encourage your support on the amendment and the bill. Thank you, Mr. President. [LB464]

PRESIDENT SHEEHY: Thank you, Senator Gay. You have heard the closing. The question before the body is on the adoption of AM901 to LB464. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB464]

CLERK: 35 ayes, 0 nays, Mr. President, on the amendment. [LB464]

PRESIDENT SHEEHY: AM901 is adopted. We'll now return to floor discussion on LB464. Seeing no lights on, Senator Gay, you're recognized to close. Senator Gay waives closing. The question before the body is on the advancement of LB464. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB464]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB464. [LB464]

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PRESIDENT SHEEHY: LB464 advances. We'll now proceed to LB464A. [LB464 LB464A]

CLERK: LB464A by Senator Gay. (Read title.) [LB464A]

PRESIDENT SHEEHY: Senator Gay, you're recognized to open on LB464A. [LB464A]

SENATOR GAY: Thank you, Mr. President. And I'd like to thank Senator Fischer and Senator Campbell for their work over the lunch hour. They did some checking and for Senator Fischer to be bringing this up because as all things, you know, we do have to deal with these A bills later. But I'm not going to get into it too much. It's the \$11,000. We had just discussed why, so I'll leave it at that and open to if there's any other questions on the A bill, I'd be happy to discuss those. Thank you, Mr. President. [LB464A]

PRESIDENT SHEEHY: Thank you, Senator Gay. You've heard the opening to LB464A. Seeing no members requesting to speak, Senator Gay, you're recognized to close. Senator Gay waives closing. The question before the body is on the advancement of LB464A. All those in favor vote yea; opposed, nay. Record please, Mr. Clerk. [LB464A]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB464A]

PRESIDENT SHEEHY: LB464A advances. Mr. Clerk, do you have items for the record? [LB464A]

CLERK: I do, Mr. President. Two new resolutions, LR78 by Senator McCoy and LR79 by Senator Karpisek. Both will be laid over. And Government Committee will have an Executive Session at 2:00 p.m. in Room 2022; Government, Military and Veterans Affairs at 2:00 p.m. in 2022. That's all that I have, Mr. President. (Legislative Journal pages 874-875.) [LR78 LR79]

PRESIDENT SHEEHY: We will now proceed to items under Christensen division, senator priority bills, LB463. [LB463]

CLERK: LB463, Mr. President, a bill by Senator Dierks. (Read title.) The bill was introduced on January 20, referred to Health and Human Services. The bill was advanced to General File. There are committee amendments pending, Mr. President. (AM620, Legislative Journal page 712.) [LB463]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Dierks, you're recognized to open on LB463. [LB463]

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SENATOR DIERKS: Thank you, Mr. President and members of the Legislature. I'm please to open on LB463, which is my priority bill for this year. This bill will allow for the licensure of animal therapists. It will also allow for consultation between veterinarians and other licensed healthcare professionals. This bill is the result of several years of work between the Board of Veterinary Medicine and Surgery and the boards of chiropractors, massage therapists, and physical therapists. Many pet owners would like to take their pets to healthcare professionals such as chiropractors, physical and massage therapists. At the present time it would be a violation of all the admission practice acts for these licensed healthcare professionals to apply their healthcare specialty on animals. LB463 would change the statutes to allow healthcare professional who are licensed to practice medicine in an area other than veterinary medicine to take additional training on how to apply their specialty to animals and become licensed animal therapists. Licensed animal therapists would work with referring veterinarians. The pet owner would first visit his or her veterinarian who could, if the veterinarian chooses, refer that pet to a licensed animal therapist for additional treatment. I should note, the veterinarians are not required to work with licensed animal therapists, but they have the ability to if they want to. After the pet owner visits his or her veterinarian who has a veterinarian client/patient relationship with the owner and animal, the veterinarian will make a diagnosis and evaluation and give the pet owner a letter of referral for healthcare therapy by a licensed animal therapist. Licensed animal therapists must initiate healthcare treatment within 90 days of the diagnosis and evaluation made by the referring veterinarian. A licensed animal therapist must report back to the veterinarian, and the committee amendment changes the reporting requirements from after each therapy to a monthly reporting. Licensed animal therapists who work with referring veterinarians are liable for any damages that may occur to the animals under their treatment. The referring veterinarian is not required to be present when a licensed animal therapist applies healthcare directly to an animal. With that, Mr. President, I will conclude my opening remarks and I think that the...Senator Gay has some committee amendments to discuss. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Dierks. As was stated, there is a Health and Human Services Committee amendment, AM620. Senator Gay, you're recognized to open on AM620. [LB463]

SENATOR GAY: Thank you, Mr. President. The amendment does complete the bill some. And what happened, we...Senator Dierks introduced several bills that all came together in a very good form, LB407, LB408, and LB586. And they're all very good bills, but to bring them into one bill made more sense. I'm going to go over each bill. I'll read in because there's technical things to this. But LB407 permits the assessment of civil penalties against persons who engage in the unauthorized practice of veterinary medicine and surgery. The penalty must be not less than \$1,000 but not more than \$5,000 for the first offense, and not less than \$5,000 nor more than \$10,000 for the second or subsequent offense. Each violation after the notification constitutes a

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separate offense. A civil action to assess such penalties must be brought by the Attorney General and the district court of the county in which the violation occurred. Currently, civil penalties are permitted under the Uniform Credentialing Act, but not specifically for the unauthorized practice of veterinary medicine and surgery. LB408 was brought into the amendment. That relates to consultations between a licensed veterinarian and other licensed healthcare professionals. Current law permits licensed healthcare professionals to consult with a licensed veterinarian contracted with or employed by an accredited zoological park or garden to perform collaborative animal healthcare tasks on an animal under the veterinarian's care, and as such tasks are performed under the veterinarian's immediate supervision. The bill expands the current law to permit licensed healthcare professionals to consult with any licensed veterinarian or to perform collaborative healthcare task on an animal under the veterinarian's care if such tasks are performed under the veterinarian's immediate supervision. Last year, many of you will know, there was a bill that allowed the zoo to consult with other people to care for some of the animals that were in the zoo. And this is the same type of program just expanded to allow that to happen under the care of the veterinarian. LB586 exempts pharmacies and licensed veterinarians from provisions in the Veterinary Drug Distribution Licensing Act. The bill also provides for purposes of the act that a veterinary drug order expires and becomes void 180 days after the date of issue. I would ask for adoption of the amendment and advancement of the bill. And just while we are having a discussion on these bills, Senator Dierks was very good on bringing all parties together and I thought in the Health Committee it went very well. There was really not a whole lot of dissension. The part that there was any disagreement on was removed, and Senator Dierks has been very good to work with. And the committee passed this out of committee 7 to 0. Thank you, Mr. President. [LB463 LB407 LB408 LB586]

PRESIDENT SHEEHY: Thank you, Senator Gay. You've heard the opening from the Health and Human Services Committee AM620 to LB463. Members requesting to speak are Senator Langemeier, followed by Senator Stuthman. Senator Langemeier, you're recognized. [LB463]

SENATOR LANGEMEIER: Mr. President, members of the body, I rise in support of LB463 and AM620. This issue came about back in 2006 when a chiropractor actually from Senator Stuthman's district and my chiropractor got a cease and desist order from the Attorney General's Office saying you can't do chiropractic care on animals. And so we started this discussion with the Vet Board and they've been talking about it and we've been working through issues, and Senator Dierks when he came back to the Legislature in 2007 worked with him last year. We did an amendment that would allow us...Henry Doorly Zoo to allow them to bring in technical people into the zoo to work on animals there. We thought that was a great addition. They've worked on it over the year and came out with a little better more comprehensive bill which is now LB463 and the committee amendments. And we think it's...I think it's a good bill, both for the zoo as

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well as for any animal owner across the state to have the opportunity to get them some additional care through a veterinarian. And I think it's crucial that we get this passed because a lot of this is going on that is unregulated now, and I think this is our opportunity to get it under a veterinarian's care and provide the service that is demanded. This is already allowed in I think almost 40 other states. And so it's time Nebraska got there. And with that, I would ask you to support AM620 and LB463. Thank you. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. (Visitors introduced.) Senator Stuthman, you're recognized. [LB463]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to engage in a little conversation with Senator Dierks, please, if he... [LB463]

PRESIDENT SHEEHY: Senator Dierks, would you yield to questions? [LB463]

SENATOR DIERKS: Yes. [LB463]

SENATOR STUTHMAN: Senator Dierks, I truly support what you're attempting to do. The concern that I have is the fact that in the rules and the regulations that are going to have to be established for the fact that you're going to have to have training for the chiropractors or the physical therapist in order to do work on animals. What do you foresee as the type of training, the length of training? Are we going to be putting a lot of burden on these current chiropractors and physical therapists or massage therapists? Do you feel that are we going to burden them with a year's worth of training or is this something that they can utilize the education that they have right now and just get licensed and then perform that on animals? [LB463]

SENATOR DIERKS: I think the latter is true. I don't think there's any set time they have to go to school or to go through coursework. I think that they are able to decide themselves when they need help and they'll get that help also from other veterinarians. I should mention while we're at it, and I think maybe Senator Gay did, that this sort of an arrangement is not new to Nebraska...it's new to Nebraska, but it's not new nationally. There are other states that do this and we're trying to find out the names of them before I came up here, but we couldn't get to the right people for that information, but we know that other states are doing this. [LB463]

SENATOR STUTHMAN: So, Senator Dierks, it's very possible that, you know, we can utilize the information and the requirements from other states and establish, you know, the requirements that the chiropractors and massage therapists, physical therapists need to do to get this license to work on animals. [LB463]

SENATOR DIERKS: Yeah, that's true. And I think that I'm not sure that there's a whole

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lot of expertise needed. Most of the time they know exactly what they're doing. Like I've seen chiropractic work on dogs with disc problems, you know, with the hind quarters immobile. And I've seen adjustments that they knew just from their practice with humans that it just was one adjustment took care of it. So I know that they know how to do this mostly already. But we are asking, of course, that they do take whatever training they need to become efficient. [LB463]

SENATOR STUTHMAN: Thank you, Senator Dierks, and I truly support that because I really think that the fact that, you know, when they work on the human body and the muscles and the muscle movement or dislocated parts of the body and get those back into normal movement, in my opinion it's the same with an animal as it is with a human being. But I think, you know, they're going to have to have a certificate that they can work on animals. Would this be correct, Senator Dierks? [LB463]

SENATOR DIERKS: I'm not sure that a certificate is required, but they are certificated already when they're...in their profession. Credentialed, I guess is the word for it. But if they have that credentialing, that's the only requirements as far as certificates are concerned. It's up to them to perfect their position with animals. [LB463]

SENATOR STUTHMAN: Okay. Thank you, Senator Dierks. I truly support this bill and I feel that it is very important because we're going to be allowing people that have a profession, you know, to be able to work on animals also. And I think that's very important. Thank you, Mr. President. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator White, you're recognized. [LB463]

SENATOR WHITE: Thank you, Mr. President. I rise in support of this bill. I am a horse owner and at first people thought it was funny that you would actually have chiropractors or massage therapists to use on horses. But in fact, it is quite prevalent, especially in the thoroughbred and quarter horse racing industry or where you have athletes that are literally...equine athletes that are worth tens of millions of dollars and they're getting this kind of treatment all the time. It's very helpful, but it does also like any emerging area you can be taken for a ride by somebody who claims to be an expert and who's not. So I think this is a timely bill. I think it's an important bill for a lot of people who own and love animals. And so I thank Senator Dierks for bringing it. [LB463]

PRESIDENT SHEEHY: Thank you, Senator White. Seeing no additional lights on, Senator Gay, you're recognized to close on your Health and Human Services Committee amendment AM620. [LB463]

SENATOR GAY: Thank you, Mr. President. As I had mentioned earlier, this is a combination of several bills, and I would be remiss if I didn't thank Senator Stuthman for

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helping out with Senator Dierks from our committee because a lot of people were involved in this to pull things together from pharmacy to the Cattlemen to the veterinarians and the chiropractors. And a lot of people pulled together, and Senator Stuthman with his expertise in agriculture and some of those things was a great help to me and our committee on helping get this through. I think it's a very good bill and a good amendment, and I encourage your support. Thank you, Mr. President. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Gay. You have heard the closing. The question before the body is on the adoption of the Health and Human Services Committee AM620 to LB463. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB463]

ASSISTANT CLERK: 32 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB463]

PRESIDENT SHEEHY: AM620 is adopted. We'll now resume floor discussion on LB463. Seeing no requests to speak, Senator Dierks, you're recognized to close. [LB463]

SENATOR DIERKS: Thank you, Mr. President. I, too, would like to in closing thank the Health Committee for their work on this because like we said earlier, we started this several years ago and we had to bring a whole group of professionals together to accomplish this. And it took a lot of negotiations and a lot of give-and-take, and we finally got what I think is a successful product. Would like to mention one thing Senator White talked about a little bit is on the chiropractic in horses. I always felt that I couldn't understand how the chiropractor could adjust a horse. I mean, you pick up the back leg of a horse and try to make it move in a certain position, it looks to me like it's pretty formidable process. But I've seen the effect of chiropractic on horses and it's amazing what it does, especially if you have a horse that's a little bit fractious and nervous and doesn't like to be messed with. And you can do a chiropractic adjustment on those horses and it just makes a gentleman out of them. They just got a little pain that got taken care of and they do lift that leg and make it move different ways. So it's an amazing process, and I'm sure that there will be a number of horse owners in the state that will be glad to know that this can happen for them. And besides, I think there are veterinarians that are learning to do this as well. So, I mean, the professions are working together on making this thing work. I appreciate your support and ask for your advancement of the bill. Thank you. [LB463]

PRESIDENT SHEEHY: Thank you, Senator Dierks. You have heard the closing. The question before the body is on the advancement of LB463. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB463]

ASSISTANT CLERK: 33 ayes, 0 nays on the motion to advance the bill, Mr. President.

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[LB463]

PRESIDENT SHEEHY: LB463 advances. We'll now proceed to LB551. [LB463]

ASSISTANT CLERK: Mr. President, LB551, introduced by Senator White. (Read title.) The bill was read for the first time on January 21 of this year, referred to the Banking, Commerce and Insurance Committee. That committee placed the bill on General File with no committee amendments. [LB551]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator White, you're recognized to open on LB551. [LB551]

SENATOR WHITE: Thank you, Mr. President. Ladies and gentlemen of the body, this bill addresses a real problem for many families and that is a child who, for whatever reason, in their early twenties is no longer eligible under the family health insurance policy and has to go without insurance. It corrects a hole in it. And this bill has had what I believe is an unusual route to here and one I want to first of all express deep appreciation to Senator Pahls and the entire Banking and Insurance Committee. This bill is being drafted...has been drafted by the industry primarily. We got the last amendments, which there will be an amendment literally strikes all of the language and replaces it with new language. The reason that is being done is this is a highly technical area in insurance and it's heavily regulated both by the state and by the federal government. This particular bill does not affect any policy of insurance governed by the federal law known as ERISA but would govern any other policies that are issued. So because it is technical and because it is an area that you can easily cause unforeseen consequences, there is going to be an amendment. One of the things I'd ask you to do is the fiscal note that you have seen on this bill is such an unintended consequence. And I will go through the bill and explain it in a moment, but the fiscal note should completely disappear with the amendment that we will offer, and again, the amendment will strike the entire language. And if it does not, because again industry just completed this, this morning. We have had people look at it, both the university which was the generator of the concern and the fiscal note. If they are not comfortable and industry is not comfortable, we will change whatever it takes so that it has no fiscal note and yet still accomplishes to the extent we can the underlying aims. Now with those disclaimers, let me tell you what the problem is. If you have a child and that child is in college and they are 20 years of age and the family has run into some financial trouble, the child now...or let's say they're 24 years of age. The child has been going to school full-time. But because of the financial pressures, the child has to take a job and start working. And at best the child can afford in the way of tuition and/or has the time to go to school only part-time. Under the existing law they would no longer be available to be an insured. Similarly, if you have a child who graduated from college and they went to look for a job and because of the economic realities that we face at this time, cannot find a job or cannot find a job that offers insurance, this bill would allow at the sole cost of the

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family, not the employer, so no employer has to pay any money on this. And that is clear both in the original bill and in the amendment, at the sole cost to the option of the family they can keep you on as an insured in the policy up to your 30th year. What this does is fill an increasing gap that has become apparent across the country because of what they call rebound children, because it takes longer to get graduated from college for different reasons, because many of the young people's entry level jobs no longer offer insurance benefits. They go to work but they cannot get insurance benefits through their employer, this allows at the sole cost of the family, not the employer, that they be allowed to continue on the policy. I would like to let everyone know here that the Insurance Department, the insurance industry fully supports this bill. If it's properly done, this keeps in the insurance pool a very healthy demographic group, perhaps the healthiest, those young adults between the ages of 23 and 30. That is all to the good. One of the technical concerns that we had struggled with and we continue to struggle with is so that people who have not had insurance, have no intentions of getting insurance, have not been insured, have been out working and then they get sick, and now all of a sudden they want insurance, they move back home and they want to try to opt in. This bill would not permit that. You cannot self-select so now all of a sudden you're insured when you weren't before, because unfortunately that destroys the viability of the insurance pool and hurts all the other insured. This bill does not permit that. But it does permit those families that value health insurance to keep their children on health insurance while they're making that transition from high school through college into a job that provides insurance. This is a need that is being increasingly recognized by states across the country. It is a need that we are seeing in Nebraska. One of the estimates in Nebraska was as many as 7,000 young people would qualify under this policy for additional insurance who are not insurable today. We will probably see technical changes again between General File and "Special" File, should the members of this body see fit to advance it. One of the concerns I have as I read it in its last draft is an unintended consequence of our struggling to make sure policies cannot be abused. At this point if you had a child who is going to school in South Dakota or Iowa or Kansas and they had to go part-time, they were residents there, though they're clearly dependent children, but they're residing there to get the instate tuition, they would not be eligible under the technical language of this. If industry will allow us to fix that without destroying the pools and destroying the risk and opening it up to abuse, I would like to extend it to those people too. But what this bill is really designed to do is help families and their children make that transition from high school and a dependent through college, if they go back, they drop out for a semester, they have to go part-time, we can still keep them insured until they find a job and hopefully the economy improves. This need is particularly acute today. Too many families are losing jobs. Too many businesses are having other issues. And the difficulty in new hires getting healthcare is a concern shared not only by myself and people who advocate it but the industry itself. I cannot express how cooperative the insurance industry and their representatives have been in this. They have been absolutely wonderful. And they have vowed to continue to work with us. They think it's a good step to ensure access to healthcare to more of our

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citizens. I...with that would end my opening and if I could speak to the amendment when it comes up, I would like to do that. Thank you. [LB551]

PRESIDENT SHEEHY: Thank you, Senator White. You have heard the opening to LB551. Mr. Clerk, do you have an amendment on your desk? [LB551]

ASSISTANT CLERK: Mr. President, Senator White would offer AM927. (Legislative Journal pages 875-879.) [LB551]

PRESIDENT SHEEHY: Senator White, you're recognized to open on AM927 to LB551. [LB551]

SENATOR WHITE: Thank you, Mr. President. AM927 literally came out of the Bill Drafters this morning. We met with Mr. Mills, who is a representative of Blue Cross Blue Shield, this morning. It was largely drafted or redrafted by Blue Cross Blue Shield's attorneys. They've been working with the university. The representative of Mutual of Omaha, the other major insurance groups, Physicians Mutual and others have approved the language here. Again, as time, if it advances to General File, we're going to meet with them again. We're going to meet with the university. We're going to ensure there is no fiscal note to it. And we're going to ensure this language technically works. I've described one of my concerns that I discovered in this. And again, we appreciate the fact that the committee has been so willing to work with us. We would have liked to had it in a final form perfectly okayed and the T's crossed and the I's dotted for the body but, because of the pressures of the industry and the evolving nature of the problem, we haven't been able to do that. I am assured, and I assure you that if this bill is not in that form between General and Select File, I will not move it forward. But I am confident, because of the hard work and the cooperation from the industry and the university, that that will be the case. Mr. President, with your permission, I would yield the remainder of my time to Senator McGill. Senator McGill will explain to you, from a personal perspective, the dire need for this type of legislation. [LB551]

PRESIDENT SHEEHY: Senator McGill, you're yielded just over 8 minutes. [LB551]

SENATOR MCGILL: Thank you, Mr. President. And thank you, Senator White. It is my pleasure to have prioritized LB551 because it does have a great impact on my generation and those that are younger than me. I am going to speak a little bit about what it is like for 20-year-olds right now in this economy. And even before things took a turn for the worse, the economy was already very different than it was when many of you, my colleagues, were younger, or even...and my folks, for instance, who graduated from college and took a job that they held for 25, 35 years, with solid insurance and benefits. Nowadays, a kid exiting college often takes a rather low paying job, under \$30,000 a year, often it doesn't offer insurance, or if it does it's a really poor plan. And if there is no insurance, then they can't really afford their own insurance on their own.

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Many end up going back to school. Now my sister was one of those who graduated from college and intentionally took a year off before going back to law school. And we had to shuffle around and find a plan for her during that time that she was not in school. Whereas, under a plan like this she could have stuck on that plan with our folks, then going back to school, not having to worry about all these changes until she one day got married while still in school, and would have then, according to this plan, been bumped off of it and been put onto his. Now that generation in the twenties has one of the highest rates of uninsured individuals. You know, I know it is one of the healthiest groups of people, but at the same time, you know, we think we're invincible and illnesses can take place. And when they do take place and you're uninsured it can devastate you for the rest of your life economically. I've known people in their twenties who have had cancer. Just two years ago I had a surprise appendectomy. And if it weren't for the fact that my mom made sure I had health insurance, I may not have had it. I'm fortunate to come from a household where my mom is a nurse and always insisted that no matter what I had health insurance. But not all families are like that. And I could have ended up in \$20,000 of debt right off the bat as a twenty-six year old. I know plenty of people, including some of my sisters law school friends who are going without health insurance, who even when they just have some sort of minor sickness they won't go see the doctor because they don't have insurance and it's over 100 bucks to go see that doctor. And then their situation gets worse and worse and I sit there and I plead with some of them to go see a doctor. But they just...they simply can't afford it, they're not on insurance because they can't afford that either. Where if they would have had an option like this to stay on their parents plan then they could be making those regular doctors visits instead of having to...which could if they're not getting the help they need now, could turn to something that's more serious. Not to mention those who are missing school or missing days of work because they're sick and not able to go see the doctor, it's just getting worse instead of better. I think this is a great opportunity for us to try to expand health insurance coverage to more of our Nebraskans. I think it's our responsibility right now to be doing that in cost-effective ways. And this the perfect way to be doing that. I applaud Senator White and his staff for all the work they've done with the insurance industry to work on this amendment and any future amendments, to make this workable so that we can get this passed and get more of our citizens on health insurance. Thank you, Mr. President. [LB551]

PRESIDENT SHEEHY Thank you, Senator McGill. You have heard the opening of AM927 to LB551. Members requesting to speak: Senator Carlson, followed by Senator Gloor and Senator Loudon. Senator Carlson, you're recognized. [LB551]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I'd like to ask Senator White a few questions, if he would yield. [LB551]

PRESIDENT SHEEHY: Senator White, would you yield to questions? [LB551]

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SENATOR WHITE: Yes, indeed. [LB551]

SENATOR CARLSON: Senator White, on page 1, in line 17 it refers to this terminology, and I believe this section of the bill has to do with the policy that was applied for and family members are on that policy. And it says, "any other person dependent upon the policyholder" could be a covered member. Can you expand that, what does that mean? [LB551]

SENATOR WHITE: Well, for example, I guess I'd tell you first of all that's existing law. That is the law now. This amendment adds "30 years of age." "Any other person who may be dependent" is another description. For example, under some policies you can have dependent brothers, you could have a parent who's dependent, if they're qualified under the policy, they're otherwise dependent. [LB551]

SENATOR CARLSON: Okay. Thanks for clarifying that because this is existing law and not a whole lot of change in it then. [LB551]

SENATOR WHITE: Right. What we're doing...the only thing this does, Senator Carlson, functionally is raise the age at which you can keep a child as part of your family policy up to 30 years of age. Now, what it also has to do in the process of that is make sure you can't pop them off and pop them on if they're sick, so they can't self-select into the policy and other things like that. [LB551]

SENATOR CARLSON: Okay. Then a follow-up question to that. Could a child enter the policy like at age 23 by proof of insurability? [LB551]

SENATOR WHITE: That would depend on the insurance companies desire on whether they want to or not. As we understood it, we talked to the insurance industry about that. And they talked about a continuous coverage basis, which I believe is the approach that they have adopted on this, that you cannot just elect them in. Now if the policy wants to elect them in or they want to allow that, that's fine. But I assume that, Senator, because again I'm not a technical insurance lawyer on this. And we relied on...in fact this language came through the Blue Cross Blue Shield folks as well as some other insurance lawyers. [LB551]

SENATOR CARLSON: Well, in explaining your need for the bill, you really defined two types of populations. One would be those people that really have insurability problems. And they're over age 23 on up to age 30 that they could be kept on the policy partially because they're dependent on the family for support and so forth. I understand that. As a group, they're not really...they're not the best insureds, but this makes provision for them. I understand that. That's one population. The other population is keeping those people that are still in school and so forth, they're probably good risks in there, and that helps the whole population. Now if this enrollment beyond age 22 or 23 or whatever was

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allowed, that helps bring some good risks into the pool. Was that the intent? [LB551]

SENATOR WHITE: No. As I read it, Senator, and this is my interpretation again with the caveat this is not an area I normally work in, but as I read it this has taken the continuous coverage approach to that, that says you won't otherwise lose insurance just because you're older than 19 and you're no longer a full-time student. In other words, you can continue without the election of the family. It does not give a right, as I read it, Senator, to allow me to come back in. That was a concern of mine, and I'll give you an example. And it's one of those areas that I will work if we can make it better without hurting the industry. I will fully support it. But let me give you an example of where I was concerned and I would have liked to have seen in broader,... [LB551]

PRESIDENT SHEEHY: One minute. [LB551]

SENATOR WHITE: ...but we're working with the industry. That is if I have a child who's on my policy, they go to a university that has a very good group policy, better than my own, I put them on that university. The university says you're eligible as long as you're full-time, okay? The child then, because we have financial problems, the child then cannot continue continuously with their college education, they have to come back home and work awhile. I don't see this as helping them as drafted, personally. I'm not really pleased with that. But we're going to take what we can to extend coverage where we can. I would very much love to see what you're talking about, that that child then could prove proof of insurability and they would add them on. And nothing in this would prevent a company from doing that, but nothing in this bill makes them do that. And again that was part of the self-selection issue, I think, on how we get them in without ruining the risk pool. [LB551]

SENATOR CARLSON: Okay, thank you. And I've got my light on again, so I'll come back with another couple of questions later. Thank you. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Gloor, you're recognized. [LB551]

SENATOR GLOOR: Thank you, Mr. President, members of the body. I rise in support of AM927 and LB551. There is a common sense component to this legislation, it's also one of the reasons that the insurance industry, as I understand it, is supportive. What are the options for these young adults and their families? Candidly, they can throw themselves at the mercy of the healthcare system, and that expense then ends up being absorbed by all of us. Those organizations are charitable. But clearly the expense has to be passed along to somebody. And so that cost shifting, which goes on every day in other ways, and in these sorts of ways, to the tune of millions of dollar per day, just gets worse. Here we have families who are willing to pay the additional cost for the adult children, the additional cost of coverage. Anytime people can get health insurance

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coverage, pay for that health insurance coverage, it's a good thing. Also understand this is somewhat self-limiting. The expense to provide that coverage and expense to get that additional coverage will be in and of itself an expense that people have to sit down and consider. Again, I put it in the same general category which is people willing to buy their own insurance, provide coverage for people who otherwise would be uninsured is a good thing for all of us. I would also remind the body though that in this state and in most states a majority of the insured, I believe I'm correct in this, are covered under self-insured plans, those are ERISA plans. This more traditional plan that we're talking about under LB551 and AM927 will be for the traditional health insurance plans that many of us take up or enroll in. But it will not cover, it will not provide the same level of coverage. It's an unfortunate reality of the split we have within the healthcare system, with ERISA, and with self-insured plans. Just one of those educational opportunities I take advantage of to point out, once again, the fractionalization we have in our healthcare system overall. But thank you, Mr. President. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Senator Louden, followed by Senator Carlson. Senator Louden, you're recognized. [LB551]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I look at this amendment to LB551, I can support it for the most part. I was wondering if Senator White would yield for a question or two please. [LB551]

PRESIDENT SHEEHY: Senator White, will you yield to questions? [LB551]

SENATOR WHITE: Certainly. [LB551]

SENATOR LOUDEN: Yes. Senator White, on the first page there of the amendment, you struck 23 and put in 30. [LB551]

SENATOR WHITE: Correct. [LB551]

SENATOR LOUDEN: Now as I say, as you read this an adult member of the family shall be the policyholder. And they may include any children and dependent children, wife and so forth, and then children enrolled on a full-time basis in any college and so forth, or any children under a specified age which shall not exceed 30. Now as long as they're enrolled in school can they exceed that what used to be in there, 23 years or age, or exceed that 30, or was that what it was all about before, when they got to be 23 they had to come off the policy, whether or not they were graduated out of school. [LB551]

SENATOR WHITE: My understanding is they came off that policy when they exceed 23, whether they're in school or not. [LB551]

SENATOR LOUDEN: Okay. Because I went through this about four times with kids

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going to college, and I usually kept them on there until the day they graduated out of college. But they were never 23. So in other words, really that changing that from 23 to 30, that's really the whole meat of your bill. I mean that's it in one word, isn't it? Because the rest of it is mostly all ready in bills someplace. Now when you've done this, this puts it so all health insurance companies or policies in the state of Nebraska have to comply with that 30 instead of the 23, is that correct? [LB551]

SENATOR WHITE: Yes. Unless they're a federally regulated ERISA plan, Senator, which are a lot of the bigger employers, but if it's not an ERISA plan, all policies issued in the state of Nebraska must allow to 30. And you're right, that is 100 percent the guts of the bill, that and the fact that the family has got to pay it all. we're not going to put any more burdens on employers who provide it. [LB551]

SENATOR LOUDEN: Right. And then as I say now as we talk about that, that the 30, and the way you got insurance companies to do that is when you get on page 6, in Section B, under subparagraph, a written election has to be from the insured and an additional premium for the child will have to be paid. In other words, they have to pay the insurance premium. Nobody is getting anything for nothing out of this. [LB551]

SENATOR WHITE: Absolutely. And then if you look at the last line on page 6, Senator, it reads, "No employer shall be required to contribute to any additional premium under this subdivision." [LB551]

SENATOR LOUDEN: Yeah,... [LB551]

SENATOR WHITE: We wanted it absolutely clear this is...the family elects to do this, the family will pay all expenses associated with it. [LB551]

SENATOR LOUDEN: Now as we get back to insurance companies, if you have a child on your policy and they come to this 23 years, what it used to be, now it can be as much as 30, but they can go ahead, that insurance company can...has to go ahead and pick them up, even if there are some health problems there. Is that correct? Because they've been insured up to that time on that health...on that same policy. [LB551]

SENATOR WHITE: Absolutely, Senator. What the deal is, if they were insured, they get to continue the policy. All right? But what we won't allow them is the family let them off, they weren't on the policy, then they get sick, they get to come in later. [LB551]

SENATOR LOUDEN: Right. Well, that... [LB551]

SENATOR WHITE: That we're not going to allow. But if they were sick,... [LB551]

SENATOR LOUDEN: That...yeah. [LB551]

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SENATOR WHITE: ...they can still continue under this policy, paying the same premium. The insurance company accepted that risk. And it is an addition form, but they also recognize, I believe the industry will tell you if you ask them, for that... [LB551]

PRESIDENT SHEEHY: One minute. [LB551]

SENATOR WHITE: ...odd sick child who might still get longer coverage, they're going to hopefully collect a lot more healthy ones because there will be families putting a lot of young healthy people on policies, and that will more than balance. [LB551]

SENATOR LOUDEN: Yeah. And really most of the insurance companies that I've been familiar with already do that. If you have that child on there, you can just switch them over to that and pay their own premium and go from there. So thanks again. I have to decide whether 23 or 30, and I guess if the insurance industry is satisfied with it, I have no problem with it. Thank you, Mr. President, and Senator White. [LB551]

SENATOR WHITE: Yeah. And, Senator, let me assure you the insurance industry is comfortable with this. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Louden. (Visitors introduced.) Resuming floor discussion on AM927 to LB551, Senator Carlson, you're recognized. [LB551]

SENATOR CARLSON: Mr. President and members of the Legislature, I'd like to resume my conversation with Senator White, if he would yield. [LB551]

PRESIDENT SHEEHY: Senator White, would you yield to questions? [LB551]

SENATOR WHITE: Yes, of course. [LB551]

SENATOR CARLSON: Now in between here, Senator White, I was off to the side and so I may be asking a question you're already answered. And if so, I'm sorry. When we talk about a disadvantaged or handicapped child, over the age of 30, can they stay on that policy? [LB551]

SENATOR WHITE: Not because of this law, Senator. Maybe the policy allows it or other aspects of the statutes, of which I am unaware, but nothing in this law would require that. [LB551]

SENATOR CARLSON: Okay. So that doesn't change existing law at all. [LB551]

SENATOR WHITE: Not on that respect, no, sir. [LB551]

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SENATOR CARLSON: Okay. Then one other question and it probably isn't an issue. But I keep thinking about we're used to having our children covered under our policy to a certain age and then conceptually they're off on their own and they're paying their own premium, and they're taking care of themselves and here we're extending that to age 30. Is there any possibility of running into difficulty with privacy? [LB551]

SENATOR WHITE: You mean a violation of the child's privacy rights? [LB551]

SENATOR CARLSON: Yes. [LB551]

SENATOR WHITE: I think most policies would allow and would provide that there are disclosures rights to the insured by rights of the insurance. You know in other words, the policies already have that language. The policies concerns would be no different for a child over the age of 19 that's reached the majority than an age of 29. In the law they're both independent. So those issues, I think have already been considered and resolved both in federal and state law, Senator, because they're no different, if you see what I mean. A kid at 22 has the same privacy rights as an adult at 30. And they're both of the age of majority. [LB551]

SENATOR CARLSON: Okay. All right, Senator White, thank you for your answers to these questions. And I appreciate the concept here and believe I will support the bill. [LB551]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Seeing no additional lights on, Senator White you're...Senator Nelson, you're recognized. [LB551]

SENATOR NELSON: Thank you, Mr. President, members of the body. Would Senator White entertain another question or two? [LB551]

PRESIDENT SHEEHY: Senator White, would you yield to questions? [LB551]

SENATOR WHITE: Certainly. [LB551]

SENATOR NELSON: Thank you, Senator. Like Senator Carlson, I was engaged in another conversation, so you may have answered this. But you're talking about group health plans here. How are employers involved in this? Is this going to increase premiums on the side of the employers in some of these plans by extending this to age 29? [LB551]

SENATOR WHITE: No. And it's...if you look, Senator, on the last page, page 6,... [LB551]

SENATOR NELSON: Is this on the amendment? [LB551]

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SENATOR WHITE: Yes, and it was in the original bill, page 6, the last line, page 27 starts, "No employer shall be required to contribute to any additional premium under this subdivision." And from the industries concern they have addressed that as well. They do not want to make insurance less affordable. What their concern is and what indeed one of the things they like, it's severalfold. One is they legitimately want people to have insurance because it's the right thing. So they want to expand it. Second, this is a highly desirable demographic, Senator. We are talking young people between the ages of 23 and 30, probably statistically the most healthy portion of the population or among it. And getting them in, getting them used to having insurance, having them consume the benefits of insurance policies helps the insurance industry. The absolute...we have received no negative indication from any employer. We have taken every step to make sure employers are not in anyway taxed additional costs because of this. The family bears both sides of any additional extension of the policy. [LB551]

SENATOR NELSON: All right. I think that...I'm very supportive of this. In my own situation we could have used something like this. I'm looking, there are three successive fiscal notes here. [LB551]

SENATOR WHITE: Yeah. [LB551]

SENATOR NELSON: There's commentary there about the cost for Nebraska employees and the university system and the additional premiums that are going to have to be charged. Is the state of Nebraska, are we going to have to bear some additional expense there as a result of the bill? [LB551]

SENATOR WHITE: Actually, Senator, the design of the bill was intended that there be no expense. And there was a...I don't want to say a dispute, but there was different interpretations of the language as to what obligations it would put on the employer and the university was concerned about that. The good folks in the insurance industry, particularly Blue Cross Blue Shield, but also Mutual and Physicians, Mutual it's my understanding worked extensively with the university and their counsel. It's my understanding that the amendment, which strikes the entire underlying bill and replaces it with this new language, should completely remove that fiscal note. I mean it should be zero. If it is not the case, Senator, I assure you and I want to assure everybody else we will make it that way. And we think we've done it. If it advances to General File, I will meet and talk to the insurance industry, make sure they're comfortable, make sure the university and the other state officials are comfortable, and then we'll move it to Select File. Should we need to make amendments between General Fire and Select File to accomplish that end, Senator, we will do that. [LB551]

SENATOR NELSON: All right. Thank you. You mentioned that before and thank you for verifying that. And thank you, Senator White and thank you, Mr. President. [LB551]

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PRESIDENT SHEEHY: Thank you, Senator Nelson. Seeing no additional lights on, Senator White, you're recognized to close on AM927. [LB551]

SENATOR WHITE: I want to thank the members of the body. I ask your support in advancing this to Select File. I think we can help a lot of our citizens weather these tough times and help both the industry and individuals in this bill. Thank you. [LB551]

PRESIDENT SHEEHY: Thank you, Senator White. You have heard the closing. The question before the body is on the adoption of AM927 to LB551. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB551]

ASSISTANT CLERK: 32 ayes, 0 nays on the adoption of AM927, Mr. President. [LB551]

PRESIDENT SHEEHY: AM927 is adopted. We'll now return to floor discussion on LB551. Seeing no requests to speak, Senator White, you're recognized to close. [LB551]

SENATOR WHITE: Thank you, Mr. President. Again, ladies and gentlemen of the body, I greatly appreciate your attention to this and ask your support to advance this to Select File. If also during that period of time you have people who are either in the industry or otherwise who have concerns, please bring them to my attention or my staff's attention. We will address them as this moves forward. Thank you. [LB551]

PRESIDENT SHEEHY: Thank you, Senator White. You have heard the closing. The question before the body is on the advancement of LB551. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB551]

ASSISTANT CLERK: 35 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB551]

PRESIDENT SHEEHY: LB551 advances. We'll now proceed to LB517. [LB551 LB517]

ASSISTANT CLERK: Mr. President, LB517 was introduced by Senator Hansen. (Read title.) The bill was read for the first time on January 21 of this year, referred to the Committee on Judiciary. That committee reports the bill to General File with committee amendments attached. (AM662, Legislative Journal page 825.) [LB517]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Hansen, you're recognized to open on LB517. [LB517]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. LB517 adds additional exceptions in determining whether reasonable efforts have been made

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to preserve and reunify the family in determining whether parental rights should be terminated. The new exceptions added to the current law by LB517 provide that a court is not required to make reasonable efforts to preserve and unify the family when one parent of a juvenile has been convicted of felony sexual assault on the other parent, the parent of the juvenile, or a comparable crime in another state. And also, it terminates all parental rights or the court may terminate all parental rights between the parent and the juvenile if one parent has been convicted of felony assault of the other parent of the juvenile or a comparable crime in another state. I introduced LB517 after I learned about a court case in North Platte. The foster parent endured a 3-year-long battle to keep her perspective adopted son out of the hands of a man who fathered the boy by sexually assaulting a 13-year-old mother of the child. The length of time to make the final determination, which was ultimately in favor of the adoptive parent, took far too long. The convicted and imprisoned perpetrator should have never been entitled to pursue custody nor retain his parental rights. I believe this is a loophole in the current section of law that is normally designed to protect children and keep them safe; however, this law does not mention anything about terminating the parental rights of a convicted sex offender who conceived that child through the assault. The current law allows termination of parental rights of an individual who murders another child of a parent or subjects a child to a number of aggravated circumstances, but as long as the parent has never inflicted any harm to the child, to the child in question, parental rights can be challenged and, in this court case, be challenged by the convicted parent or rapist. I would ask that you act favorably on LB517 and advance it to Select File. And I know there are committee amendments. Thank you, Mr. President. [LB517]

PRESIDENT SHEEHY: Thank you, Senator Hansen. You have heard the opening to LB517. As was stated, we do have a Judiciary Committee amendment, AM662. Senator Ashford, you're recognized to open on AM662. [LB517]

SENATOR ASHFORD: Thank you, Mr. President. And I'd like to thank Senator Hansen for bringing this bill to the committee. The committee unanimously approved the bill with the committee amendment. This obviously is a situation that is glaring in the need for legislative action and the only thing that...Senator Hansen very ably described the purpose of the bill, and the committee amendment, all it does really is enlarge the scope of the bill to include children, the other children in a family where there has been sexual abuse of a child or a parent, I believe. Isn't that correct, Stacey? (Laugh) Stacey is nodding her head. But basically what...this simply enlarges the scope to include the other children so that the efforts could be...it would not be necessary to bring the other parent or the abusing...the perpetrator into the proceeding necessarily to...in a case where there has been abuse and neglect so...of one child or of another parent. And as Senator Hansen rightly said, this case arose out of the...the specific case that brought this bill to us was a case involving the rape of a 13-year-old by an adult, and then the subsequent birth of the child, and it became necessary to, in effect, go to try to get the father's permission to relinquish parental rights. The father was incarcerated for the

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crime that was involved in the rapes...with the rape. So with that, Mr. Lieutenant Governor, I certainly would urge that we adopt the amendment to increase the scope, enlarge the scope of the...Senator Hansen's original bill and to advance LB517. It's an excellent bill and, again, one that the committee unanimously approved. Thank you. [LB517]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the opening of the Judiciary Committee amendment, AM662, to LB517. Members requesting to speak: Senator Coash, followed by Senator McGill. Senator Coash, you're recognized. [LB517]

SENATOR COASH: Thank you, Mr. President, members of the body. I rise in support of AM662 and the underlying bill, LB517. I do have experience in working with cases like this and when you read the bill you might say, does this really happen or is Senator Hansen trying to fix one situation with one bill? I'm here to say that this does happen and common sense doesn't always prevail, unfortunately. The law prevails. This is a good bill. Without it, social workers and parents are often put in a position where they are forced to do the right thing, unfortunately, against the law. Social workers risk losing their license. Parents risk protecting their children at risk of breaking the law. And ultimately, it's the children who are put at risk. Reunification with family is always a good goal, it's the department's goal, should be the goal of every social worker in this. But sometimes that goal is dangerous, and what Senator Hansen is trying to do here is to protect children from a dangerous goal. So with that, I'll yield the rest of my time to Senator Hansen, if he wishes, and urge the body to support the underlying amendment and bill. Thank you, Mr. President. [LB517]

PRESIDENT SHEEHY: Senator Hansen, you're yielded 3 minutes, 30 seconds. [LB517]

SENATOR HANSEN: Thank you, Senator Coash. I just want to let the members of the Legislature know that I agree with the amendment. I think that it does what it says and it will help the bill in the long run. I would also say that we are working on some other aggravated circumstances in this arena and it's not only to help the HHS social worker but it's to help the families, help the permanency of the children in question. Thank you, Mr. President. [LB517]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Senator McGill, you're recognized. [LB517]

SENATOR MCGILL: Mr. President, members of the body, I rise briefly in support of LB517 and the amendment. While reunification is a great outcome that we hope for all families, you know, the more involved I've gotten in children's issues the more I see that reunification is tried in cases where it's simply deplorable, like in the case that brought this bill in the first place; that sometimes reunification is happening or being attempted where one of the parents is simply bad news. And I'm glad that Senator Hansen brought

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this bill. I absolutely loved it. I told him I would be willing to prioritize it if he didn't, and I'm really glad to hear that he's continuing to look at this issue and seeing if there are other ways that we can make sure that kids aren't being torn back or brought back to parents that I don't think it's in their best interest for their health and their well-being going into the future. So thank you, Mr. President. [LB517]

PRESIDENT SHEEHY: Thank you, Senator McGill. Seeing no additional lights on, Senator Ashford, you're recognized to close on the Judiciary Committee amendment, AM662. [LB517]

SENATOR ASHFORD: Thank you. And again, Senator Hansen's underlying bill applies to an assault, sexual assault of a parent and the amendment applies to a case where there's been a sexual assault of a child and, with this amendment, allows their...increases the number of...enlarges the scope of individuals to other children who would be impacted by the sexual assault and efforts for reunification would not be required. So with that, again, I thank Senator Hansen for bringing the bill and would urge the adoption of the amendment. [LB517]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the closing. The question before the body is on the adoption of the Judiciary Committee amendment, AM662, to LB517. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB517]

ASSISTANT CLERK: 31 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB517]

PRESIDENT SHEEHY: AM662 is adopted. We'll now return to floor discussion on LB517. Seeing no requests to speak, Senator Hansen, you're recognized to close. [LB517]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. Reunification is great. Reunification should be the number one goal of most families. Safety is even more important. Safety of the child, safety of the family unit is more important. I want to just reiterate that the person who was raped in this case was a juvenile, 13 years old, and the rapist went to prison, served his time, got out and would not relinquish his parental rights even though he was convicted of sexual assault of the parent. This is a loophole in the law. I do want to thank Senator Ashford, Senator Coash, Senator McGill for...and the rest of the Judiciary Committee for supporting the amendment and the underlying bill. Thank you, Mr. President. [LB517]

PRESIDENT SHEEHY: Thank you, Senator Hansen. You have heard the closing. The question before the body is on the advancement of LB517. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB517]

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ASSISTANT CLERK: 33 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB517]

PRESIDENT SHEEHY: LB517 advances. Mr. Clerk, you have items for the record. [LB517]

ASSISTANT CLERK: Mr. President, I do. Thank you. New A bill. (Read LB489A by title for the first time.) Amendment to be printed to LB121 from Senator Wightman; and a notice of committee hearing from Health and Human Services. (Legislative Journal pages 879-880.) [LB489A LB121]

PRESIDENT SHEEHY: Mr. Clerk, we'll now proceed to LB430. [LB430]

ASSISTANT CLERK: LB430 introduced by Senator Christensen. (Read title.) The bill was read for the first time on January 20 of this year, referred to the Judiciary Committee. That committee reports the bill to General File with committee amendments attached. (AM835, Legislative Journal page 840.) [LB430]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Christensen, you're recognized to open on LB430. [LB430]

SENATOR CHRISTENSEN: Thank you, Mr. President and colleagues. LB430, as introduced in the green copy, would make several changes to the Concealed Handgun Permit Act. It also specifies that cities and villages no longer have the power to ordinances regarding the ownership, possession, and transportation of firearms. The committee amendment makes several changes in scopes and substance, but first I will speak to the green copy. Section 1 in the green copy would declare that cities and villages shall not have the power to regulate ownership, possession, and transportation of firearms except as expressly provided by state law. Any current ordinances, permits, and regulations of cities and villages regulating the firearms issues would be declared null and void. The committee amendment narrows the scope of this section from firearms to concealed handguns, as authorized under the Concealed Handgun Permit Act. I assure Senator Ashford will touch on this issue in his opening to the committee amendments. Section 2 adds Section 6 of the bill which deals with reciprocity to the Concealed Handgun Permit Act. Sections 3 through 6 of LB430 would amend the Concealed Handgun Permit Act. First in Section 3, the requirement that the Nebraska State Patrol to issue a concealed handgun permit within 5 days after criminal background check would be changed to within 30 days from application for a permit. Several people contacted my office regarding their experience with obtaining concealed handgun permits. They explained that their permit process took seven to nine weeks. I felt that it would be better to have a clear, specified time frame instead of more open-ended process currently in law. In discussion with the Nebraska State Patrol

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regarding this issue, they have stated that they could work within a 45-day limit without adding more personnel. The committee amendment would amend LB430 to 45 days. I believe this to be a clear and reasonable time frame to process application at this time. Second, in Section 4 the bill would allow permanent stationed military personnel in Nebraska who, for voting and tax purposes, are not considered residents of Nebraska, to be considered residents for the purpose of obtaining a concealed handgun permit under Concealed Handgun Permit Act. Section 4 was directly...was taken directly from LB826, which was advanced to General File in 2008. Currently, Section 69-2433(6) in the Concealed Handgun Act requires a applicant to be at least a resident for at least 180 days to establish residency for purpose of the act, but prohibits any applicant who maintain residence in another state and claims that residence for voting and tax purposes to obtain a Nebraska concealed handgun permit. This current prohibition includes any military personnel who fit the category of individuals described in (6) and, thus, does not allow them to obtain a permit. Section 4 would allow this category of military personnel to be eligible for a concealed handgun permit. Third, in Section 5, LB430 would allow a place of worship to authorize security personnel to carry a concealed handgun on property as long as each member of security personnel complied with the Concealed Handgun Permit Act and possesses such permit. The authority is modeled after current law that allows for personnel of financial institutions to carry handguns under the requirement of Nebraska concealed handgun permit. Unfortunately, churches have become a soft target where dozens of people have been killed and injured over the past ten years. Because the committee was split on the issue, I agreed, with great reservation, to allow the committee to remove this section in AM835. I did not want to jeopardize the rest of the necessary portions of the bill. I promised the committee that if they removed concealed...the concealed carry for security guards in place of worship, I would introduce it again next year. Finally, Section 6 would add a new section to the concealed handgun permit allowing for reciprocity--the recognition of concealed handgun permits and license from other states and the District of Columbia. This section would extend reciprocity if the individual was not a resident of Nebraska and the state or District of Columbia has been determined by the Attorney General to have standards equal to or greater than the standards imposed by the act. The Attorney General would be required to maintain and publish a list of those states who meet those qualifications. With almost all states in the country permitting some form of concealed carry, it only makes sense that we provide reciprocity at same level. This specific language was modeled after Kansas law. I believe LB430 is a step forward by addressing several important issues to make our laws clear and our Concealed Handgun Permit Act more equitable and effective. I encourage people to advance LB430 to Select File and thank you for our support. I want to make it very clear, I am in support of the committee amendment. I agreed to that in getting things worked out and working with everybody, and so at this time I'm going to wait and see what questions arise. Thank you. [LB430]

PRESIDENT SHEEHY: Thank you, Senator Christensen. You have heard the opening

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of LB430. As was noted, we have a Judiciary Committee amendment, AM835. Senator Ashford, you're recognized to open on the Judiciary Committee amendment, AM835. [LB430]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor and members. And this is a very interesting issue. I remember years ago when I was in the Legislature and one of the bills that I worked on for a number...two to three years I guess, was the permit to purchase bill, which eventually passed and is now law. And it's interesting that at the time there was a great deal of opposition to the permit to purchase law or statute or bill by many gun groups, but now, after the law has been in effect for a number of years, in talking to gun rights advocates and others, especially those who are in the business of selling firearms at retail, are very glad that we have this permit law in effect because at least the seller knows that the buyer has a permit, has had a background check done. The concealed weapon statute that was passed a few years ago, I wasn't here, most of us were not, some were, but at first one would look at it and say, well, this is going to result in an overproliferation of handguns and it might create more danger in our society. That doesn't seem to be the case. What has happened is that...and I've asked but I believe it's somewhere around 4,000 concealed weapons, permits are...have been applied for and granted in Nebraska. I don't have the exact number but I've asked for that. It's around 4,000 I believe. Essentially what has happened is that numbers of individuals who wanted to carry a concealed weapon have gone through a course, have shown that they do not have a criminal record, have complied with all the necessary rules and regulations, have gone through a training course and, in effect, are much better trained, at least much better trained than if they had not gone through these particular courses. And so if they have the permit, at least it certainly establishes that those persons who are carrying the weapons have...for self-protection or for whatever reason they want to, have, you know, have gone through the steps, and I think that's, in my view, someone who argued vociferously really for this permit to purchase law, it's actually a better...it's an extension of and a better requirement than the permit law because it does require this training and it requires other things, and most of us are probably aware generally of what they are. The concern and also, if you read the green copy of the bill, you'll note that there are a number of places under state law where a concealed weapon may not be carried and those provisions are in the green copy. They're well laid out, very specific. Senator Christensen, I know in the original bill, has asked that churches be...which are exempt from carrying concealed weapons, be...individual churches...individuals be allowed to carry concealed weapons in a church, and I understand that Senator McCoy has an amendment on that. When we put the bill out, the committee chose not to exempt churches but to continue to exclude churches from the carrying of concealed weapons. But I understand Senator McCoy has an amendment putting churches in and, in fact, so you can carry concealed weapon in a church but adding some language on notice. So we'll take up that issue in a few minutes. But the concern was voiced to us in the committee and actually it was persuasive, I was persuaded, that it's sort of silly to have a state law involving

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concealed weapons, especially where there is adequate training provided and required, for someone to, for example, to drive from Ralston to La Vista to Omaha and be violating various ordinances in that person's travels within about a five- or six-mile radius. That seemed to me to be literally one of the silliest things I'd ever seen or heard of. So I was persuaded by Senator Christensen and I believe the committee was that we ought to change that, that we ought to suggest and to state, and we have done in the committee amendments, that when we're dealing with concealed weapon permits or the right to carry a concealed weapon under state law that local ordinances cannot supersede that state...well, the ability under state law to carry the concealed weapon. What this does...what this amendment does not do, and clearly with Senator Christensen's amendment to the committee amendment which will clarify it, what it does not do, for example, the city of Lincoln can require that firearms not be carried in a city park. That would not preclude someone who has a concealed weapon permit to carry a concealed weapon, but they could, the city of Lincoln could, prohibit carrying of nonconcealed weapons in a city park or if it's a concealed weapon carried by somebody who does not have a permit. So the city of Lincoln could do that, likewise in the city of Omaha, where we have a registration law. Again, the individual who has a permit, has gone through the requirements, has gone through the steps, would not be covered under the registration law under the amendment, with Senator Christensen's amendment, but someone who does not have a concealed weapon permit would still be required to register their weapons. Again, I think the essence of all this in my mind is that we are requiring individuals, which was a change in state law when it passed prior to the passage of the concealed weapons law a few years ago, it was very vague. The law was very vague on what was a concealed weapon, what the violation of carrying a concealed weapon amounted to. In fact, it was so confusing that very few prosecutors ever prosecuted the carrying of a concealed weapon because of the difficulty in proof. So in my view, the passage of the law, though I was not here but somewhat skeptical of it because of the concern about having too many firearms in the community that were concealed, it seems to me that some of the more significant fears have not been borne out and that if someone is skilled, someone has gone through the steps, someone has not violated the law, they are...it's safer for them to carry a concealed weapon than to have no law at all and have individuals running around carrying concealed weapons without any requirement that they be trained or a requirement that they not...they have not violated any firearms laws or they've not committed any violent acts. This is a long division kind of explanation to the committee amendments, but what we've been trying to do here, Mr. Lieutenant Governor, members, is to address the issue of having a patchwork of local ordinances make criminals, in effect, or law violators out of individuals who have complied with state law in obtaining a concealed weapon permit. I think it's good policy. Again, I was a skeptic personally of the law at first but it seems as if some of my skepticism was unfounded and unwarranted. And with that, Mr. Lieutenant Governor, I would certainly urge the adoption of the committee amendments. And I understand Senator Christensen has an amendment to the committee amendment which clarifies when a city ordinance would apply and when it would not,

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so...and I think Senator McCoy has an amendment as well, but we can get to those as we come to them. Thank you. [LB430]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the opening of the Judiciary Committee amendment, AM835. Mr. Clerk, you have an amendment to committee amendment. [LB430]

ASSISTANT CLERK: Mr. President, Senator Christensen would offer AM929 to the committee amendments. (Legislative Journal pages 880-881.) [LB430]

PRESIDENT SHEEHY: Senator Christensen, you're recognized to open on your amendment to committee amendment, AM929. [LB430]

SENATOR CHRISTENSEN: Thank you, Mr. President. I'm not very organized here. The amendment, what it does, in working with people from Lincoln and Omaha, both, just a little clarification of language to make sure, especially on the second half of the language in Section 5. It strikes the Section 5 in the committee amendments and it would read this way: Cities and villages shall not have the power to regulate the ownership, possession, or transportation of a concealed handgun, as ownership, possession and transportation is authorized under Concealed Handgun Act permit, except as expressly provided by the state law. That's the same as in the bill, adding any existing city or village ordinance, permit and regulation regulating the ownership, possession and transportation of concealed handgun, as such ownership, possession, transportation is authorized under the act, is declared null and void as against any permit holder possessing a valid permit under this act. They just wanted it clarified that it didn't pertain more broadly to other guns. They wanted to make sure this was limited down to concealed handguns and so that's why we added them the second time in the same language of the Concealed Handgun Act, just so they understand this is very narrow, down to the concealed carry. And so that was just me working with Tom Casady and Marty Conboy to make sure that we got language that they're happy with and so that's why I offer the amendment. Hopefully that brings just a little bit more clarification to the way it was written in the committee amendments and when we get to that I hope you'll support this amendment. Thank you. [LB430]

PRESIDENT SHEEHY: Thank you, Senator Christensen. You have heard the opening of the amendment to committee amendment, AM929, to AM835. Members requesting to speak are Senator Janssen, followed by Senator Stuthman, Senator McGill, Senator Price, and others. Senator Janssen, you're recognized. [LB430]

SENATOR JANSSEN: Thank you, Mr. President and members of the body. I wanted to rise in support of LB430. I actually cosponsored that and was happy to do so. I would have preferred it without the parade of amendments. I liked the green copy and that's why I signed onto it. But I realize that that will make it better so I'm going to support the

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amendments that go along with this bill, so long as Senator Christensen is agreeable to them. I just...I wanted to get a few things out, use this time to try to get people to quit thinking about guns as a bad thing, because they're not. There's no such thing as more guns out there creates more crime. I think Senator Ashford did a great job of explaining that, you know, that if people are responsible...and in this case we have to get a permit whether you agree with that or not, you have to go through the background check whether you agree with it or not, responsible people are going through this and doing this. It's the nonresponsible people that are not going to go through that means of getting them, that are going to get their guns on the street somewhere, that are causing the problems and create this phobia for a lot of people. I feel more comfortable knowing there are legal residents around with firearms. I walked into the Fremont City Council meeting last night and I walked in with our Fremont chief of police, felt more comfortable knowing that I could see that he was, for lack of a better word, packing heat when he went in there, and that made me feel more comfortable. And quite honestly, right here I feel like we're...I know we are in a fishbowl but we're an open target right now right here and I'd have no problem if they'd let us carry them on the floor with us right now. So I'm not...I'm not out there shooting into the air, but I just don't see an issue with responsible gun ownership. And I certainly am in support of clarifying this law that would allow people to transit through other communities without city ordinance or being in violation of something they don't understand. And I understand there's an amendment coming for the churches. I'm fine with that. Again, though, I have no idea why there's a tabu there either. We've all seen the...we're pretty much sitting ducks in there. There's a reason people that are mentally disturbed go to classrooms, they go to churches, they go to restaurants, is because we cannot protect ourselves. So that's my soapbox for the day. Thanks for listening. I have a little bit of time left if Senator Christensen would like to take it. If not, I yield the balance of my time. Thank you. [LB430]

PRESIDENT SHEEHY: Thank you, Senator Janssen. Senator Christensen, just over 2 minutes you've been yielded. [LB430]

SENATOR CHRISTENSEN: Thank you, Mr. President. You know, I think when we look at this bill to open up the ability to have concealed handgun permits statewide, allow people to go town to town, this is a good thing. This is something I've been looking at for three years down here and I want to thank the Judiciary Committee for working with me on this and coming up with some language that makes it acceptable with everybody. I think it is a good cleanup that will prevent good citizens from becoming lawbreakers. That is never the intent of anybody, you know, and unfortunately that's what happens when we have multiple towns connected together with different rules and regulations. And so... [LB430]

PRESIDENT SHEEHY: One minute. [LB430]

SENATOR CHRISTENSEN: ...I'm just thankful that we're able to deal with this issue

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and that this body is willing to openly discuss this and work for a great resolution for the state of Nebraska. Thank you. [LB430]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Senator Stuthman, you're recognized. [LB430]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. First of all, I would just like to mention the fact that I was not a supporter of the concealed carry when that bill was passed, but since we have that bill on the books right now and I've got some people that have some real concerns with it for the fact that they have a concealed carry permit and they live in one community and they travel to another community that does not allow the concealed carry, and then they are violating the law. That is why I think we should have it a level playing field. I think it should be...if, you know, and we have the concealed carry law. If a person has a permit to carry a weapon, I think he should be allowed to carry that weapon throughout the state and not have to be concerned about one community prohibits it, one community allows it. He gets to a community and they do not allow a concealed carry and he happens to go, you know, in a courthouse or be...could be picked up by law enforcement and he's got his concealed carry with him and the fact is that he could be prosecuted for that. I think...I think this makes it a better bill, you know, the fact that, you know, it's a level playing field. But I would like to have...engage in a little conversation with Senator Christensen. [LB430]

PRESIDENT SHEEHY: Senator Christensen, would you yield to questions? Senator Christensen. [LB430]

SENATOR CHRISTENSEN: Yes. [LB430]

SENATOR STUTHMAN: Senator Christensen, what you're attempting to do with this is to make it a level playing field so that the whole state is on the same issue and it's taking away the local control. Is that correct? [LB430]

SENATOR CHRISTENSEN: Correct. [LB430]

SENATOR STUTHMAN: Now in the discussion on one of the bills that we debated, you know, probably a month ago or maybe six weeks ago, you know, you had this repealing of the trapping bill. The trapping bill, you know, now allows, you know, the local control and you supported that, you know, also, didn't you? [LB430]

SENATOR CHRISTENSEN: I'm not sure I voted for the original amendment but once it was on I did, yes. [LB430]

SENATOR STUTHMAN: So in one of your bills you're allowing local control, and in another one of your bills that we're debating right now you're not allowing local control.

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So is that correct? [LB430]

SENATOR CHRISTENSEN: Well, I think there's a broad difference here because it's very easy to regulate areas of trapping and not have people that are innocent become illegal citizens. Because it can be done in a defined area that a county could do there in the trapping, where in this city deal what happened with the patchwork of La Vista, Papillion, Omaha, you could come into an intersection where it had three different laws. And the problem was, if you pulled through, you technically was breaking the law, so you had to stop in the intersection to move your gun to make it lawful in the next section. And that was the difficulty and that's why it's really two different issues. I understand the tie you're trying to make, Senator, but it's really more complicated. [LB430]

SENATOR STUTHMAN: Yes, I do realize that, but the fact is that, you know, when you're allowing the trapping to take place, you know, in the state of Nebraska and you're allowing counties to opt out to not allow the trapping and there's no signage or anything like that so, you know, the average person doesn't realize, you know, where they can have the traps or where they cannot have the traps. And we've got the same situation right now where... [LB430]

PRESIDENT SHEEHY: One minute. [LB430]

SENATOR STUTHMAN: ...we have to, you know, we either allow this bill to pass, which you know I do support, or we can have signage as to, you know, you're in an area now where you...concealed carry is allowed or concealed carry is not allowed. I think those are the issues. And as I did mention, and I do remember very, very much so that the fact is that the people that supported the counties being able to have the local control, you know, they will probably support this one not allowing local control. I mean I think it's, yes, it is two different issues, but I think it could be the same type of a situation. So with that, I do support this bill. I will admit that, but I do not support concealed carry to start with. But I think the fact is we have to have a level playing field throughout the state and that's the... [LB430]

PRESIDENT SHEEHY: Time, Senator. [LB430]

SENATOR STUTHMAN: Thank you, Mr. President. [LB430]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator McGill, you're recognized. [LB430]

SENATOR MCGILL: Mr. President, members of the body, I don't know what I'm ultimately going to do with LB430. I chose not to vote on this bill, advancing it out of committee, but I did vote for the committee amendment because I do feel like it does

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make the bill stronger. But I want to get on the record that I've been out talking to folks from the city of Lincoln and they've said that themselves and the city of Omaha do still have concerns about their local firearm laws even with these two amendments we have pending. And so while I will vote for these amendments because I think they make the bill better, I'm still not comfortable on the local control on other firearm laws part of this issue. I'm not comfortable voting for the bill until those things are cleared up. And I have been told that they don't know what the solution is yet as far as language is concerned, but they're willing to work on that between General File and Select File to try to make sure some of those local ordinances, not dealing with concealed carry but dealing with who can own firearms, can still be respected. The city of Lincoln, for instance, has some laws that I think are very important to our community. I think the needs in Lincoln, Omaha, maybe some other population areas are different than in other parts of the state. I can understand why someone driving through, across the state with, you know, a hunting rifle wants to make sure that they're not being caught for having a concealed weapon as they're driving through a certain city. I get that and I don't have a problem with trying to make that more uniform. But I am very concerned about some of these other local laws. I also just briefly...I'm not going to get off on conceal and carry too much. I'm not the biggest fan of conceal and carry, but I don't like the argument that bringing concealed handguns into various places is going to make it safer; that people go into a mall or go into a church or a school because those are places where people aren't armed. They're going in there and hurting people because they're mentally ill and then they're willing to shoot themselves. Almost all of these people on these rampages kill themselves. They're not afraid of being gunned down by someone with conceal and carry. And so I can respect that people want to be able to own their guns and conceal them when driving through different parts of Nebraska and even some carrying on themselves, but to say that that's going to prevent these tragedies I just feel is inaccurate. So with that, you know, I look forward to continuing to work on some amendments. I still don't know ultimately how I'm going to vote on the bill but I'm appreciating the debate. Thank you, Mr. President. [LB430]

PRESIDENT SHEEHY: Thank you, Senator McGill. Other members wishing to speak on the amendment to committee amendment, AM929 to AM835, to LB430, we have Senator Price, followed by Senator Hadley, Senator Ashford, Senator Lautenbaugh, Senator Council, and Senator Nantkes. Senator Price, you're recognized. [LB430]

SENATOR PRICE: Thank you, Mr. President and members of the body. It's a pleasure to rise and speak before you today. Haven't had much opportunity. No, actually, I wanted to weigh in here. I'm in support of what we're trying to do here but I did have a couple of questions for the good senators here, and if Senator Christensen could yield to a question. [LB430]

PRESIDENT SHEEHY: Senator Christensen, would you yield to questions? [LB430]

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SENATOR CHRISTENSEN: Yes. [LB430]

SENATOR PRICE: Senator Christensen, you and I were talking off mike but I wanted to get it out here in the open. Speaking to military concerns, first and foremost, what I wanted to ask is, if there's a situation...actually, there is, a military spouse living in another state is considered by federal law to still be a resident of the state of Nebraska. However, in the other state or in our state, they cannot get a concealed carry permit because they do not reside here, nor can they in the other state get one because there's no reciprocity. You know what I'm talking about. [LB430]

SENATOR CHRISTENSEN: Yes. [LB430]

SENATOR PRICE: I don't have the ability to recognize it. That's a wonderful word there. Thank you. [LB430]

SENATOR CHRISTENSEN: (Laugh) [LB430]

SENATOR PRICE: Anyway, notwithstanding that, is there...are you open and willing to consider an amendment to allow a military family member to apply for a permit and make it so that even if they're not residing in the state that they can do so? [LB430]

SENATOR CHRISTENSEN: Now you're talking about military personnel from Nebraska stationed out of state. Is that how I'm understanding it? [LB430]

SENATOR PRICE: It could be military personnel and/or family member, yes, because the understanding is, as I have it, it's a family member who is a Nebraska resident who is now stationed in another state cannot do this. In the state they are, they can't get one because they're not considered a resident and they're not considered a resident, physical resident, here in the state of Nebraska, so they're caught in a Catch-22. [LB430]

SENATOR CHRISTENSEN: I guess I'd have to look at the language but I thought if your residency was here and you paid taxes here, you qualified. But maybe you have to live here. I'd have to go look at the language again to answer that. [LB430]

SENATOR PRICE: Right. Thank you very much. I do believe that's the issue. And now I'd like to bring up some more points of interest here. I would submit to the body that right now there is a waiting period that's levied against a military member before applying for a permit. If that waiting period is a result of waiting to establish residency, I would hope that if they're here on permanent orders, not TDY orders, temporary duty orders, excuse me, but permanent orders, that just like with their car, they don't have to wait, I believe, to register a car and we have...they have the ability to not pay the in-state costs for registering a car. I would hope that they could also apply for a permit. I hope

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it's not that they need more time to figure out how to operate a weapon and which end is the business end of a weapon. They are in the military and the profession of arms. So again, I do offer that for consideration by those who are working to polish the rock here. And finally there, where we talked about the military, and also is there...what happens to a permit? Matter of fact, let me ask, Senator Ashford, would you yield to a question? [LB430]

SENATOR ASHFORD: Yes. [LB430]

SENATOR PRICE: Thank you, Senator Ashford. The question is, what happens to a permit when, let's say, a military member and/or another person moves out of state? Does that...when they're no longer a resident of this state. What happens to the status of that permit? [LB430]

SENATOR ASHFORD: The permit only applies to carrying the weapon in the state of Nebraska, so there would have to be a...it would have to be a state, in order to have that permit apply in another state, there would have to be reciprocity, which Nebraska does not now have. [LB430]

PRESIDENT SHEEHY: One minute. [LB430]

SENATOR PRICE: Thank you, and you use that word wonderfully. The question I have is, could we consider that if we...if the federal government moves a military member to another state and let's say that state doesn't have a conceal carry permit, that they could still carry in the state of Nebraska? [LB430]

SENATOR ASHFORD: They can carry it in the state of Nebraska, but if they've moved out of the state of Nebraska they would not have the...I mean that's a state...that's a federal issue and they would not necessarily be able to carry it in the other state they move to. [LB430]

SENATOR PRICE: Oh, okay, great. Then I understand they would still be able to carry it in Nebraska. [LB430]

SENATOR ASHFORD: If they have a Nebraska permit. [LB430]

SENATOR PRICE: Thank you very much, Senator Ashford. Thank you to the body and Mr. President. [LB430]

PRESIDENT SHEEHY: Thank you, Senator Price. Senator Hadley, you're recognized. [LB430]

SENATOR HADLEY: Mr. President and members of the body. First, I want to make one

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thing perfectly clear. My esteemed colleague Senator Friend has allowed me to use his microphone for my five minutes. Senator Christensen, would you yield for a question? [LB430]

PRESIDENT SHEEHY: Senator Christensen, would you yield to questions? [LB430]

SENATOR CHRISTENSEN: Yes. [LB430]

SENATOR HADLEY: I believe there was, I remember, a ruling or a letter from the Attorney General dealing with this topic. Could you elaborate on that at all? [LB430]

SENATOR CHRISTENSEN: Sure. I requested an Attorney General's Opinion of the current law if cities had the right to exempt concealed carry anywhere, and their interpretation was no. [LB430]

SENATOR HADLEY: Okay. That's interesting. I happened to be on the city council and mayor of the city of Kearney, and we had had a concealed ban for about 70 years and we upheld it because of the fact that you had...the last bill had made it an option. And with that ruling, I know the city council in Kearney has changed now and it is legal to have a concealed weapon, if a person goes through the required safety procedures and such as that. So there is a city that actually did change and I think a lot of it was because of the Attorney General's Opinion. I do feel for...and Senator Stuthman was talking about statewide, and I do feel for the person who has a...is driving a pickup and they happen to have a handgun in the glove compartment and that is considered a concealed weapon, and they go from, in the past, they would maybe go from Lexington to Kearney and they literally could be going from a jurisdiction where it was legal to a jurisdiction where it was illegal. And sometimes that's hard to know which jurisdiction you're in and a person could literally get picked up for having a gun in the glove box by driving from a legal jurisdiction to an illegal jurisdiction. And I think this bill does straighten that out so I would rise in support of LB430 and the underlying amendments. Thank you, Mr. President. [LB430]

PRESIDENT SHEEHY: Thank you, Senator Hadley. Senator Ashford, you're recognized. [LB430]

SENATOR ASHFORD: Thank you. Just if I might, just to make absolutely clear that with Senator Christensen's amendment what we are doing, we are enlarging, increasing the opportunities for individuals to carry concealed weapons in places now where there is an ordinance prohibiting the carrying of the weapon. That's essentially what we're doing. And we're enlarging that not beyond the state law requirements where a concealed weapon cannot be carried. We're not impacting those places like the Legislature or...can't carry a concealed weapon here apparently. But it does enlarge the ability of individuals to carry. So in the Lincoln case, and I was just asked by a couple of people,

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if Lincoln ordinance requires that or prohibits the carrying of a firearm on a city...in a city park in Lincoln, this ordinance or this statutory change with the Christensen amendment would not prohibit a person with a concealed weapon permit from carrying a concealed weapon in a city park. Likewise in Omaha, if you are required under Nebraska law to register a firearm, which goes to the ownership and possession of a firearm, if you are...if you have a concealed weapon permit you would not be required...and own a firearm, if you're the owner of the firearm and have a concealed weapon permit, you would not be required to register that firearm under these amendments, just so we're all clear about that. I can support the amendment. I think it is, again, for me it goes back to the idea that we're better off having individuals who are trained and who are law-abiding citizens, who have had background checks, who have the legal right to carry the firearm to carry that firearm. Now it's my understanding that the city of Omaha and the city of Lincoln had...agreed to, though I didn't have the conversation directly with the city or either city about it, that this amendment was...Christensen amendment was acceptable or satisfactory. Senator McGill makes a good point. She's concerned about the interpretation of that amendment and how it's interpreted and, clearly, we have time between now and Select File to think about some of the concerns that the city of Lincoln has or may have, city of Omaha has or may have regarding that amendment as it applies to those permits. And we certainly are...we're always open for business in the Judiciary Committee and we'd be happy to discuss that language with them. But, so there's no misunderstanding, this is what we're doing. We're enlarging, by this amendment, if this passes and the bill advances, we are enlarging those situations when an individual with a permit has gone through the process, received the permit, that that person may carry a concealed weapon, handgun in areas where today they may not. Again, we're talking about handguns. We're talking about handguns that are concealed, which are concealed, and we're talking about individuals now who have applied for and been granted a permit to carry a concealed weapon. With that, Mr. Lieutenant Governor,... [LB430]

PRESIDENT SHEEHY: One minute. [LB430]

SENATOR ASHFORD: ...I would yield my time. [LB430]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Senator Lautenbaugh, you're recognized. [LB430]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I also rise in support of the underlying bill. I thank Senator Christensen for bringing this. I think it is important to provide clarity to people who lawfully have concealed carry permits and I think this law does that. I think the reciprocity provisions are important. I think the uniformity across the state is also very important on this issue. I won't belabor the point. I just applaud Senator Christensen for bringing this and I urge your support. [LB430]

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PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Council, you're recognized. [LB430]

SENATOR COUNCIL: Thank you, Mr. President. I, too, will try to be brief. I rise principally to make it clear to everyone in this body, and particularly anyone viewing today's debate, that I'm absolutely opposed to LB430 and any amendments thereto. I don't believe that the public interest and the public safety is served by allowing citizens to carry concealed weapons. It is amazing to me. In the short time that I've been in this body, I have witnessed the lengths to which this body has gone to provide and comply with every request from law enforcement, from allowing the FBI to come in on their own and get undercover license plates, to making sure that police officers have due process, but you ignored, you ignored the statements of every major law enforcement agency and organization who oppose carry concealed weapons statutes and ordinances. We ignore them. We said we know better than law enforcement about the risks associated with carrying concealed weapons. And now, not only are we willing to ignore, we're willing to say to law enforcement, now you have to be concerned about every car that you see traveling our highways and byways that have an out-of-state license plate on it because you don't know whether they're carrying a concealed weapon either. And you'll say, well, if they're carrying one pursuant to a permit, they're good law-abiding citizens. Well, I submit to you most of the individuals...and I'm going to tie it to the church issue because I sat through the hearing and I listened to the argument about needing to be strapped in church. And someone submitted a document that listed all of the church shootings that have occurred in the United States in recent years and, you know, I did a little research on those. The overwhelming majority of those shootings that occurred in churches were committed by people who prior to shooting, were law-abiding citizens. And the overwhelming majority were committed by people who were either then members of the church or had been previous members of the church. So I submit to you that this suggestion that somehow by allowing church members to carry concealed weapons deters these kind of events, in short, that's crap. The evidence does not bear that out; that more often than not that the individuals involved in those situations, like I said, prior to getting pissed off or having the mental breakdown that results in them using this weapon, they're all law-abiding citizens. Now someone has made the comment, well, their concerns about it have been waylaid by the fact that, well, we really haven't had anything to bear out their skepticism. Well, you know, maybe we're just lucky. And maybe you didn't see the article in the paper recently about the incident at the Miami Burger King where citizens in Miami are allowed to carry concealed weapons and a robber comes in. Probably would have gotten away with a couple of hundred dollars, but there was a citizen in there, law-abiding, permit-carrying, concealed-weapon-bearing citizen, who took it upon himself to engage that robber in a gun fight in the middle of a Burger King after school with tens of young people present. And only...the fortunate thing was the law-abiding, permit-carrying, concealed-weapon-bearing citizen only suffered critical wounds. Now the people who support this are applauding the fact that the robber got killed, but the gun-carrying, the

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concealed-weapon-carrying citizen is hanging on by a thread. And what would have been the outcome had he not been carrying a concealed weapon? Yes, we would have had another reported robbery. Yes, that individual may have gotten away with a couple hundred dollars. But this individual would not be hanging on by a thread. Then finally,... [LB430]

PRESIDENT SHEEHY: One minute. [LB430]

SENATOR COUNCIL: ...I have to comment what Senator Stuthman said and I'd a said it in a stronger fashion. You know we're concerned about local control as long as the local control doesn't prevent you from doing what you want to do. Then fine, give them local control. You know, my elected city council in the city of Omaha decided that there are certain places in the city of Omaha that no one should carry weapons and now this body is going to say we don't care about that. We don't care that the city of Omaha or, for that matter, the city of Lincoln doesn't think it's appropriate for anyone to carry a weapon in a city park. We're going to say we don't care what you think; we think that's appropriate. I think that this bill opens the door. And Senator Christensen, you know, one thing I respect, he is honest. He says, yeah, I'll take... [LB430]

PRESIDENT SHEEHY: Time, Senator. [LB430]

SENATOR COUNCIL: ...I'll take out the church thing now but I'll be back next year. [LB430]

PRESIDENT SHEEHY: Thank you, Senator Council. Are there additional members requesting to speak on AM929? Senator Lautenbaugh, you're recognized. [LB430]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do want to make one clarification on the debate here today, as I also serve on Judiciary, and Senator Christensen did agree to take out the church thing and did say it would come back next year. I also voted to move this amendment forward, taking out the provision that allowed churches to decide for themselves if they wanted to allow someone with a validly issued concealed carry permit to work security. Let me underline that: churches to decide for themselves if they wanted to allow someone who has a concealed carry permit to work security. And for some reason, the committee found that offensive. I agreed to the committee amendment because I wanted the bill to go. Senator Christensen agreed to the committee amendment because he wanted the bill to go. But I don't think we should criticize Senator Christensen for saying, and this issue will be back next year. This issue will probably be back tomorrow on the church amendment because I don't think there was a reason to take it out. I didn't want to take it out, but I wanted the bill to move so I went along to get along to get it out here. But I don't want to be in the position of saying Senator Christensen is somehow doing wrong when he says he'll make another bite at this apple next year regarding the church

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provision. Because as I stand here, I don't know, for the life of me, why it is our business to tell a church, if they want to choose to allow someone with a concealed carry permit to work security why we should be able to say they can't do that. We may not think it's a good idea in our individual churches. We may not want our individual churches to go that route. That's fine for us. But I'm not comfortable making that decision for every church everywhere and that's why I'm saying this amendment takes that out. The committee amendment takes it out, and I voted for that too. But I'll not stand here and criticize Senator Christensen for saying he wants that back and may come at it next year, and I'm not going to criticize anyone who files an amendment who wants it back this year. I understand. Thank you. [LB430]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Nelson, followed by Senator Karpisek. Senator Nelson, you're recognized. [LB430]

SENATOR NELSON: Thank you, Mr. President and members of the body. I've reviewed...that we're talking about AM929. I've read it through several times and I still think it's very ambiguous as to what we're trying to achieve there. And I'm just going to state for the record that I intend to vote for this with the understanding that there will be efforts between now and Select, if everything goes on to Select, that this will be revised and reworded, in accordance with my understanding, to protect some of the ordinances and things that cities already have in place that they feel are desirable which are not in conflict with this bill. With that, I'd also like to ask Senator Ashford a question, if he's available here, if he will yield. [LB430]

PRESIDENT SHEEHY: Senator Ashford, would you yield to Senator Nelson for questions? [LB430]

SENATOR ASHFORD: Yes. [LB430]

SENATOR NELSON: Senator, thank you. I'm referring to the committee amendment here. If you... [LB430]

SENATOR ASHFORD: The committee amendments or Senator Christensen's amendment? [LB430]

SENATOR NELSON: Well, the amendment that replaced the green bill. [LB430]

SENATOR ASHFORD: AM835, okay. [LB430]

SENATOR NELSON: Yes, AM835. Thank you very much. And I've...yes, on page 18, line 13, you have new language there with regard to the...I think it extended the time that the State Patrol had to issue a permit from 30 days to 45 days. Is that correct? [LB430]

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SENATOR ASHFORD: That's correct. [LB430]

SENATOR NELSON: You know where I am? [LB430]

SENATOR ASHFORD: Yes. [LB430]

SENATOR NELSON: I'm looking at the green copy and it took out wording to the effect, "completion of the applicant's criminal history." Could you tell me a little bit about why it still...why was this extended from 30 days to 45? Why should it take so long to issue a permit after...and why should it take very long to get an applicant's criminal history, if you have any information on that. [LB430]

SENATOR ASHFORD: The 45 days comes from the State Patrol. The problem was that it was taking longer than 45 days to complete the check. It was five day...I believe the answer had to come back five days after the criminal background check was completed... [LB430]

SENATOR NELSON: Uh-huh. [LB430]

SENATOR ASHFORD: ...and that was taking significantly longer in many cases than the time or...so 45 days was a number that the Patrol said they could comply with. [LB430]

SENATOR NELSON: Well, thank you. It seems inconsistent. We heard some reference to taking as long as eight or nine weeks so I'm wondering if it took a long time to get a criminal history. But if it doesn't take that long and...why should 30 days not be long enough to do this entire process rather than the 45? That boils down, why the extra 15 days? [LB430]

SENATOR ASHFORD: Well, it's a good question, Senator Nelson, very logical. [LB430]

SENATOR NELSON: (Laugh) [LB430]

SENATOR ASHFORD: Unfortunately, we're, you know, when we're dealing state government but it has to do with their implement...and I didn't mean that the way it sounded. We're...the State Patrol is dealing with some new software that they're implementing and that the 45 days was the time that they felt comfortable with even though it does seem, on its face, like... [LB430]

SENATOR NELSON: (Laugh) I don't feel comfortable with waiting until January 1 of 2010. I guess this does not have the emergency clause. But it would seem to me that in light of all the technology that we have or should be in place, unless there's an

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overwhelming demand for permits, and I don't think there is at the present time, there might have been initially, it seems to me that this could be done in a shorter period of time. Thank you, Senator Ashford. [LB430]

PRESIDENT SHEEHY: One minute. Thank you, Senator Ashford. Senator Karpisek, you're recognized. [LB430]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I agree with Senator Stuthman. If I would have been here at the time, I probably wouldn't have voted for concealed carry. However, it was my predecessor's bill so I wouldn't have been here, or it wouldn't have been here if I would have been here. Which one would have come first? Thank you, Senator Nantkes. I normally would be standing up for local control, and I still do think that we should have local control. Maybe in this case I have conceded that it's a big enough issue that we should make it the same across the state. I really wasn't even going to speak on it, but now I'm starting to get a little nervous when I'm hearing, well, if I get this through my way this year, then I'll just amend it next year. So I can get it through this year. I don't know. This smells a little bit like things I've seen before. At least Senator Christensen is being honest about it. I don't know. That makes me really...put me back on the fence. I think that individual stores should be able to decide if they come into their business or not. If not, then at least I think that maybe the municipalities should have a say in it. If it's that big of a problem, then I guess the state should be able to. Like I said, I was okay with this. I was going to let it go, but I'm starting to get a bad feeling. If...I think we should throw the amendments up there, one at a time. If they pass, they pass; if they don't, they don't. I don't know about saying I'll come back next year and try to get in what I want. Maybe I'll come back next year and try to strike the whole thing. That's not what I want to do. I think those of us that have been here know that the NRA are a lot of constituents and they have a big voice and I don't want to be against them. I am definitely not against gun owners. I worry about concealed carry. I don't mind someone walking around with a gun that I can see. I worry, as Senator Council said, about someone trying to rob a Burger King and 50 pistols coming out shooting at the guy. I think there's going to be a lot of collateral damage out of that. I don't know. Again, I don't know how I feel about it. It makes me very nervous. But I did agree that I would vote for the underlying bill, but a lot of the talk that I hear is making me more nervous all the time. So I think we better be careful here and do what we mean to do. Maybe a little compromise needs...the compromise is there now but what I hear is, well, I'll get what you want now; I'll just do it next year. So I guess if it was up to me, I'd just try it now, see the way it goes and forget about it. Thank you, Mr. President. [LB430]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Ashford, you're recognized. [LB430]

SENATOR ASHFORD: Yeah, just if I could, Mr. Lieutenant Governor, just to answer a

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comment Senator Karpisek had about, you know, his common sense approach to legislation, which is...we should listen to it (laugh) I think more. But the answer, of course, under state law is that a private business can prohibit a concealed weapon in their business simply by putting the sign up on the door which would prohibit an individual from carrying a concealed weapon. The idea...let me just address what Senator McGill said, because she made a good point. I think the idea behind...and the reason I can support what Senator Christensen is doing is, as a very practical matter, let's take the city of Lincoln, for example, if a law enforcement officer suspects that someone has a concealed weapon in a park, for whatever reason, if that law enforcement officer approaches that person and that person has a permit, then the policy decision we're making is that by having that permit that person has, as I suggested earlier, gone through all the training, they have complied with state law, and that local law enforcement officer would have some assurance that that person is...can and legally can carry that gun in a concealed manner. Any other firearm that's carried in a park in Lincoln, if it's not concealed, that's prohibited under the Lincoln ordinance. If it's a concealed long gun in any way, then that gun would be prohibited under Lincoln ordinance. Or if the person carrying the firearm is...does not have a permit concealed and if they're carrying a firearm in a concealed manner, they do not have a permit, they would be violating the city ordinance. So I think Senator McGill raises some good points. The answer is that this...these amendments do not abrogate those ordinances but, in effect, what we're doing is declaring as a matter of policy that our major concern are not the people who are law-abiding, who have not committed a felony, who do not have a history of mental illness, who have gone through the training and have the permit. That is the policy decision we're making here and we are not abrogating local ordinances by doing this, but what we are doing is making a policy determination that there are...there's a subset of gun owners or...in our state who have gone the extra step to obtain this permit and they are given certain rights, or licenses would be the better term, than other individuals who do not have the permit. That's the policy decision we're making here. In my mind, it's the right one. I think Senator Christensen's amendment is a good amendment and does help the bill and I'm going to support it for those reasons. Thank you, Mr. Lieutenant Governor. [LB430]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Seeing no additional lights on, Senator Christensen, you're recognized to close on amendment to committee amendment, AM929. Senator Christensen, recognized to close. [LB430]

SENATOR CHRISTENSEN: Thank you, Mr. President. I'd just like to ask you to vote and move this amendment forward. That's been the agreement I have made and worked with the committee and with the concerned people in Lincoln and Omaha, and at this time just ask you to vote green. [LB430]

PRESIDENT SHEEHY: Thank you, Senator Christensen. You have heard the closing of the amendment to committee amendment, AM929, to AM835. All those in favor vote

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yea; opposed, nay. Please record, Mr. Clerk. [LB430]

ASSISTANT CLERK: 27 ayes, 2 nays on the adoption of Senator Christensen's amendment, Mr. President. [LB430]

PRESIDENT SHEEHY: AM929 is adopted. Mr. Clerk, do you have items for the record? [LB430]

ASSISTANT CLERK: Mr. President, I do. An amendment to LB430 from Senator McCoy to be printed, and one from Senator Price. (Legislative Journal page 881.) [LB430]

And a priority motion. Senator Stuthman would move to adjourn until Thursday, April 2, 2009, at 9:00 a.m. []

PRESIDENT SHEEHY: You've heard the motion to adjourn until April 2, 2009, at 9:00 a.m. All those in favor say aye. Opposed, nay. We are adjourned. []