

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
February 09, 2010

[LB190A LB258 LB328 LB373 LB643 LB667 LB690 LB691 LB703 LB705 LB708 LB711 LB713 LB723 LB725 LB732 LB736 LB737 LB742 LB743 LB746 LB749 LB751 LB759 LB760 LB762 LB771 LB787 LB788 LB791 LB797 LB806 LB816 LB826 LB832 LB839 LB867 LB871 LB873 LB879 LB890 LB891 LB892 LB911 LB914 LB1035 LB1047 LR303 LR304 LR305 LR306 LR307]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-third day of the One Hundred First Legislature, Second Session. Our chaplain for today is Pastor Aaron Householder from the Southview Baptist Church in Lincoln, Nebraska, Senator Campbell's district. Would you all please rise.

PASTOR HOUSEHOLDER: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Pastor Householder. I call to order the twenty-third day of the One Hundred First Legislature, Second 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.

PRESIDENT SHEEHY: Messages, reports, or announcements?

CLERK: Enrollment and Review reports they've examined and engrossed LB190A, LB373, LB690, LB691, LB736, and LB751, all those reported correctly engrossed. Priority bill designations: Senator Heidemann, LB771; Senator McCoy, LB742. Government, Military and Veterans Affairs Committee, chaired by Senator Avery, reports LB737, LB826, LB839, and LB1035 as indefinitely postponed. And finally, Mr. President, Revenue Committee will have an Executive Session at 10:15 this morning in Room 2022; Revenue at 10:15. That's all that I have, Mr. President. (Legislative Journal pages 499-500.) [LB190A LB373 LB690 LB691 LB736 LB751 LB771 LB742 LB737 LB826 LB839 LB1035]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. (Visitors introduced.) While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR303, LR304, LR305, LR306, and LR307. Mr. Clerk, we will move to the first item under Select File, LB791. [LR303 LR304 LR305 LR306 LR307 LB791]

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CLERK: LB791, Senator Nordquist, I have Enrollment and Review amendments first of all. (ER8154, Legislative Journal page 405.) [LB791]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for motion. [LB791]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB791. [LB791]

PRESIDENT SHEEHY: You have heard the motion on the adoption of amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB791]

CLERK: I have nothing further on that bill, Senator. [LB791]

PRESIDENT SHEEHY: Senator Nelson, you're recognized. [LB791]

SENATOR NELSON: Good morning, Mr. President, and good morning, colleagues. With regard to LB791, I have a question or two for Senator Pirsch, if he would yield. [LB791]

PRESIDENT SHEEHY: Senator Pirsch, would you yield to Senator Nelson? [LB791]

SENATOR PIRSCH: I would yield. Thank you. [LB791]

SENATOR NELSON: Thank you, Senator Pirsch. You may recall that on first reading I had some questions about the language and the intent of LB791. Is that correct? [LB791]

SENATOR PIRSCH: That's correct. [LB791]

SENATOR NELSON: Yes. And as a...and this, you introduced LB791 at the behest of the Secretary of State. Is that correct? [LB791]

SENATOR PIRSCH: That is correct. [LB791]

SENATOR NELSON: All right. My questions were, would the language in this bill make electronic filing mandatory or was it permissive, and we've talked off the mike. I understand that you did contact the Secretary of State with...regarding that question. [LB791]

SENATOR PIRSCH: That is correct. [LB791]

SENATOR NELSON: Okay. It's also my understanding then that you received a response from the Secretary of State to the effect that this was permissive only and let

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me read the exact language into the record, if I may, from the Secretary of State: The intent of LB791 is to make it permissible to file corporate documents electronically. We are not trying to eliminate paper filings; rather, give those individuals who want to electronically file the option to do so. Was that the response you got from the Secretary of State? [LB791]

SENATOR PIRSCH: Yes, that's my understanding as well, and I appreciate your thoroughness. I think you're exactly right. This is a permissive statute and not mandating that you do use this new technology. You can, my understanding is, file the traditional paper method as well if you so desire. [LB791]

SENATOR NELSON: Thank you. That was my concern. It still remains so. I feel better about it now if it's permissive only. Certainly larger firms who are quick to do so can file electronically and perhaps do so more efficiently, but it's my concern that it may require extra expense for small firms to do that with all of these various filings if it became mandatory. So I certainly support advancing the bill at this time, now that we know what the Secretary of State's intention is. Thank you, Senator Pirsch. Thank you, Mr. President. [LB791]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Seeing no additional requests to speak, Senator Nordquist, you're recognized for a motion. [LB791]

SENATOR NORDQUIST: Mr. President, I move LB791 to E&R for engrossing. [LB791]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB791 advances. We will now proceed to LB743. [LB791 LB743]

CLERK: LB743, no E&R amendments. Senator Fischer would move to amend, AM1797. (Legislative Journal page 497.) [LB743]

PRESIDENT SHEEHY: Senator Fischer, you're recognized to open on AM1797 to LB743. [LB743]

SENATOR FISCHER: Thank you, Mr. President and members. If you remember during the General File discussion on this bill that would transfer two state recreation areas to communities in my legislative district, Senator Harms brought up the point that he had some questions that we didn't list any requirements if the property was not kept up. So this amendment addresses those concerns and I believe meets those concerns. We worked on it with the Game and Parks Commission and it's about the maintenance requirements for the parks that Atkinson and Arnold will take possession of. The amendment is based off of operation and maintenance criteria that properties receiving federal land and water conservation funding are required to adhere to. Both of the communities agree to these requirements. They think they make sense. And the Game

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and Parks Commission would be responsible for making sure that Arnold and Atkinson comply with the requirements. So I believe this meets the wise suggestion that Senator Harms presented during General File debate and I would ask you to vote for the amendment. Thank you. [LB743]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You have heard the opening of AM1797. Seeing no requests to speak, Senator Fischer, you're recognized to close. Senator Fischer waives closing. The question before the body is on the adoption of AM1797 to LB743. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB743]

CLERK: 26 ayes, 0 nays on adoption of Senator Fischer's amendment. [LB743]

PRESIDENT SHEEHY: AM1797 is adopted. [LB743]

CLERK: I have nothing further on the bill, Mr. President. [LB743]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB743]

SENATOR NORDQUIST: Mr. President, I move LB743 to E&R for engrossing. [LB743]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB743 advances. We'll now proceed to LB871. [LB743 LB871]

CLERK: LB871, Senator, I have no amendments to the bill. [LB871]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB871]

SENATOR NORDQUIST: Mr. President, I move LB871 to E&R for engrossing. [LB871]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB871 advances. We will now proceed to LB749. [LB871 LB749]

CLERK: LB749, Senator, I have no amendments to the bill. [LB749]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB749]

SENATOR NORDQUIST: Mr. President, I move LB749 to E&R for engrossing. [LB749]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB749 advances. We will now proceed to LB816. [LB749 LB816]

CLERK: LB816, Senator, does have E&R amendments. (ER8155, Legislative Journal

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page 429.) [LB816]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB816]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB816.
[LB816]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments.
All those in favor say aye. Opposed, nay. They are adopted. [LB816]

CLERK: I have nothing further on the bill, Senator. [LB816]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB816]

SENATOR NORDQUIST: Mr. President, I move LB816 to E&R for engrossing. [LB816]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye.
Opposed, nay. LB816 advances. We will now proceed to LB788. [LB816 LB788]

CLERK: LB788, Senator, I have no amendments to the bill. [LB788]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB788]

SENATOR NORDQUIST: Mr. President, I move LB788 to E&R for engrossing. [LB788]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye.
Opposed, nay. LB788 advances. We will now proceed to LB705. [LB788 LB705]

CLERK: LB705, there are E&R amendments. (ER8156, Legislative Journal page 443.)
[LB705]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB705]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB705.
[LB705]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments.
All those in favor say aye. Opposed, nay. They are adopted. [LB705]

CLERK: I have nothing further on that bill, Senator. [LB705]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB705]

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SENATOR NORDQUIST: Mr. President, I move LB705 to E&R for engrossing. [LB705]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB705 advances. We will now proceed to LB725. [LB705 LB725]

CLERK: LB725, there are E&R amendments. (ER8158, Legislative Journal page 453.) [LB725]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB725]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB725. [LB725]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB725]

CLERK: I have nothing further on that bill, Senator. [LB725]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB725]

SENATOR NORDQUIST: Mr. President, I move LB725 to E&R for engrossing. [LB725]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB725 advances. We will now proceed to LB762. [LB725 LB762]

CLERK: LB762, I have no amendments to the bill, Senator. [LB762]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB762]

SENATOR NORDQUIST: Mr. President, I move LB762 to E&R for engrossing. [LB762]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB762 advances. We will now proceed to LB708. [LB762 LB708]

CLERK: LB708, I have no amendments to the bill. [LB708]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB708]

SENATOR NORDQUIST: Mr. President, I move LB708 to E&R for engrossing. [LB708]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB708 advances. We will now proceed to LB806. [LB708 LB806]

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CLERK: LB806, Senator, I have no amendments to the bill. [LB806]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB806]

SENATOR NORDQUIST: Mr. President, I move LB806 to E&R for engrossing. [LB806]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB806 advances. We will now proceed to LB873. [LB806 LB873]

CLERK: LB873, no E&Rs. Senator Fulton would move to amend, AM1765. (Legislative Journal page 497.) [LB873]

PRESIDENT SHEEHY: Senator Fulton, you're recognized to open on AM1765 to LB873. [LB873]

SENATOR FULTON: Thank you, Mr. President. Members of the body, good morning. This was something that Senator Giese and I talked about on the microphone. It was a concern I had that if enacting the bill, as it was written in the green copy, we would in effect be removing these notices being required to be sent out, and so this is a very simple change of the word "may" to "shall" such that notices will be sent out and those who are delinquent in their tax payments will have a means by which of being notified a second time. So I'd ask you to support AM1765 and I will yield a little bit of time to Senator Giese, if he'd like to echo what I'm saying here. [LB873]

PRESIDENT SHEEHY: Senator Giese, you are yielded just over 9 minutes. [LB873]

SENATOR GIESE: Thank you, Mr. President. I do support Senator Fulton's bill (sic). I think this is just a continuation of a good bill in our efforts to help counties save some money, so I do support the amendment and would appreciate the support of the body. [LB873]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Thank you, Senator Giese. Senator Giese, you are also next in the queue. Senator Giese waives. Seeing no additional requests to speak, Senator Fulton, you're recognized to close. Senator Fulton waives closing. The question before the body is on the adoption of AM1765 to LB873. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB873]

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Fulton's amendment. [LB873]

PRESIDENT SHEEHY: AM1765 is adopted. [LB873]

CLERK: I have nothing further on the bill, Mr. President. [LB873]

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PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB873]

SENATOR NORDQUIST: Mr. President, I move LB873 to E&R for engrossing. [LB873]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB873 advances. We will now proceed to LB667. [LB873 LB667]

CLERK: LB667, I have E&R amendments, Senator. (ER8157, Legislative Journal page 454.) [LB667]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB667]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB667. [LB667]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB667]

CLERK: I have nothing further on that bill, Senator. [LB667]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB667]

SENATOR NORDQUIST: Mr. President, I move LB667 to E&R for engrossing. [LB667]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB667 advances. We'll now proceed to LB711. [LB667 LB711]

CLERK: LB711, I have no E&Rs. Senator Dierks would move to amend with AM1804. (Legislative Journal page 501.) [LB711]

PRESIDENT SHEEHY: Senator Dierks, you're recognized to open on AM1804 to LB711. [LB711]

SENATOR DIERKS: Thank you, Mr. President and members of the Legislature. This amendment simply adds the E clause to LB711. I was contacted by the lawyer for several rural schools and he brought the idea to me that it might help to be able to use this legislation as soon as it's passed. And with that, I'd give the rest of my time to Senator Adams. [LB711]

PRESIDENT SHEEHY: Senator Adams, you're yielded 9 minutes 30 seconds. [LB711]

SENATOR ADAMS: Thank you, Mr. President. Thank you, Senator Dierks. Body, I

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would encourage you to move this amendment. We do have some schools out there that have been working towards this engagement period and recall that this bill allows for that. And rather than postpone their action for a year, I think we ought to encourage them to get started making preparation right now. Thank you, Mr. President. [LB711]

PRESIDENT SHEEHY: Thank you, Senator Adams. Thank you, Senator Dierks. You have heard the opening of AM1804 to LB711. Seeing no requests to speak, Senator Dierks, you're recognized to close. Senator Dierks waives closing. The question before the body is on the adoption of AM1804 to LB711. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB711]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of the amendment. [LB711]

PRESIDENT SHEEHY: AM1804 is adopted. [LB711]

CLERK: I have nothing further on the bill. [LB711]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB711]

SENATOR NORDQUIST: Mr. President, I move LB711 to E&R for engrossing. [LB711]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB711 advances. We will now proceed to LB797. [LB711 LB797]

CLERK: LB797, I have no amendments to the bill, Senator. [LB797]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB797]

SENATOR NORDQUIST: Mr. President, I move LB797 to E&R for engrossing. [LB797]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB797 advances. We will now proceed to LB832. [LB797 LB832]

CLERK: LB832, I have no amendments to the bill. [LB832]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB832]

SENATOR NORDQUIST: Mr. President, I move LB832 to E&R for engrossing. [LB832]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB832 advances. We will now proceed to LB911. [LB832 LB911]

CLERK: LB911, I have no amendments to the bill. [LB911]

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PRESIDENT SHEEHY: Senator Nordquist, you're recognized for a motion. [LB911]

SENATOR NORDQUIST: Mr. President, I move LB911 to E&R for engrossing. [LB911]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB911 advances. (Visitors introduced.) Continuing with the agenda, we will now move to the first item under General File, LB890. [LB911 LB890]

CLERK: LB890, a bill originally introduced by Senator Pahls. (Read title.) Bill was introduced on January 11, at that time referred to the Banking, Commerce and Insurance Committee for public hearing. The bill was advanced to General File. At this time I have no amendments to the bill. [LB890]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Pirsch, you're recognized to open on LB890. [LB890]

SENATOR PIRSCH: Thank you, Mr. President. If can give me...appreciate your courtesy. We are in committee at the time. LB890 was...yes, LB890 was introduced at the request of the director of Banking and Finance. This is just the annual update and housekeeping bill proposing changes in just a few of the many statutes subject to the jurisdiction of the Department of Banking and Finance. First off, it would involve notices from the department. Sections 1, 2, 7, 9, and 13 would amend related provisions regarding state-chartered banks, trust companies, savings and loan associations, and credit unions. The bill would update the requirements for the director to send notices to all financial institutions in a county when applications are made to acquire a new charter, transfer a charter, move a main office, establish a branch, and in a number of other applications. The bill would allow a financial institution to designate one office for receipt of notices from the department if the financial institution has, number one, more than one office located within the county where the notice must be sent; or number two, a main office in a county other than the county where the notice must be sent. In counties such as Douglas, Lancaster, and Sarpy, many financial institutions have numerous offices. Other counties, such as Buffalo and Hall, are the host to branches of banks with main offices in another county. The department has received...had received requests from financial institutions in these situations asking that application notices be directed to a single office or solely to the main office. The director told the committee he believes this change will provide for efficiencies in the notice process and allow for timelier response to notices. Sections 2 and 3 would amend penalty provisions for violations of the bank lending limit. The bank lending limit provisions establish the maximum amount that a bank can lend to any one borrower. The statute set out a complex formula for calculation of the lending limit for an individual bank. Currently, a bank officer or employee who violates a violation...or, I'm sorry, who violates or permits a violation of the lending limit is guilty of a Class IV misdemeanor. That class of offense

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carries a maximum of no imprisonment and a \$500 fine, and a minimum of \$100 fine. The director feels the current criminal penalty, as it has been in place since 1977, is inadequate. He now asks us to replace that penalty with a four-tiered structure of penalties tied to the loss, number one, the loss which the bank incurs or, number two, the amount by which the violation exceeds the lending limit applicable to the bank. The penalties for the four tiers would be a Class III misdemeanor, Class II misdemeanor, Class I misdemeanor, and Class IV felony. The new and higher penalties would be applicable to directors and agents of the bank, as well as officers and employees of the bank. The need for the greater penalties was highlighted by the recent failure of the Sherman County Bank. The director told the committee a significant number of intentional lending limit violations had occurred, amounting to millions of dollars and resulting in the failure of the bank. Section 5 would provide some clarification and guidance requested by the director. This section of the bill would provide that the calculation and type of capital necessary for a mutual bank shall be the same as required for federal mutual savings associations under federal law, unless the department determines the capital is impaired. If that occurs, this section would authorize the department to demand additional capital. Mutual banks were authorized by the Legislature in 1998 as a means of allowing mutual savings and loan associations to convert to a state bank charter while retaining their mutual form of ownership. These banks have member shares rather than capital stock. The need for this clarification was raised when a federal mutual savings association recently submitted preliminary documents for a conversion to state charter. Sections 6, 8, and 14 contain the annual wildcard update for Nebraska's state-chartered depository financial institutions. The bill would reamend these sections to give state-chartered banks, building and loan associations, and credit unions the same rights, powers, privileges, benefits, and immunities which may be exercised by their federal counterparts as of January 1, 2010. Essentially, these statutes give equal rights to these state-chartered institutions without the need to enact state legislation for each specific power or privilege enjoyed by the federal charters; thus, the term "wildcard." Due to state constitutional restrictions on delegation of legislative authority, these sections are reenacted every year. Our state can adopt federal law for application to our state-chartered institutions through the process of incorporation by reference of federal law but only federal law as it exists now, not future changes to it. That's why we go through this exercise of reamending these sections every year. Finally, the bill would apply the emergency clause to the wildcard section. Sections 10 and 11 would provide the department with the authority to take corrective administrative action when a bank holding company's officer or director is engaging in acts detrimental to the bank holding company or a subsidiary bank. Corrective action would include, but would not be limited to, removal of such persons from their positions and imposition of fines. The department has long had the authority to take such administrative action against bank executive officers and members of a bank's board of directors. Section 12 would amend existing provisions relating to the change of control process for banks and trust companies. Currently, no person may acquire control of any state-chartered bank or trust company without giving 60 days

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notice to the Department of Banking. This section would create an exception from this notice requirement when shares of a state-chartered bank or trust company are transferred from an individual or individuals to a trust formed by the individual or individuals for estate planning purposes if, number one, there is no change in the proportion of shares held by the trust for such individual or individuals compared to the ownership of such individual or individuals prior to the formation of trust; number two, the individuals or individual control the trust; and number three, notice is given to the department at least 30 days prior to the proposed transfer and the department does not disapprove of the transfer. The director told the committee that the department believes the lengthy change of control process is not needed in these situations because, for all practical purposes, the new owners are identical to the past owners. Inheritance and gift transfers would still require a posttransaction notice to the department. In conclusion, that is this year's Department of Banking and Finance update and housekeeping bill. We have representatives from the department available, and I know they would be pleased to visit with you if you would like to have any additional questions answered in a more detailed way. I do urge your passage of this bill. Thank you. [LB890]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. (Doctor of the day introduced.) You have heard the opening to LB890. Seeing no requests...Senator Carlson, you're recognized. [LB890]

SENATOR CARLSON: Mr. President and members of the Legislature, I'd like to direct a question or two to Senator Pirsch, if he would yield. [LB890]

PRESIDENT SHEEHY: Senator Pirsch, would you yield to Senator Carlson? [LB890]

SENATOR PIRSCH: I would yield. [LB890]

SENATOR CARLSON: Senator Pirsch, if you look at the bill, and it's on page 7, this applies to...this portion applies to an officer, director, or agent of an institution. Could you give me an example of what an agent might be? [LB890]

SENATOR PIRSCH: Well, I would say anyone who's acting at the direct request of, in the name of the bank. [LB890]

SENATOR CARLSON: Now this has to do with intentional or knowingly violating, would that be correct, on the part of an individual? [LB890]

SENATOR PIRSCH: Yes, I believe that the specific language...and I believe you're referring to line 14, are you, on page 7 of the bill,... [LB890]

SENATOR CARLSON: Yes. [LB890]

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SENATOR PIRSCH: ...of the green copy of the bill? It does use the language who shall..."knowingly violates or knowingly permits a violation." [LB890]

SENATOR CARLSON: Okay. Knowingly violates and probably intentionally would be similar in meaning. Now the first thing that's mentioned there as a penalty is a Class IV felony. [LB890]

SENATOR PIRSCH: Correct. [LB890]

SENATOR CARLSON: What are the...what are the maximum or what are the possible penalties on a Class IV felony? [LB890]

SENATOR PIRSCH: Well, I appreciate this and, yes, that is the...under the change or the proposed change, that would be the most, I guess you'd say, harshest or sternest of penalties. A Class IV felony, and I'm going by my memory here, but is up to five years in jail and up to I believe a \$5,000 fine. I can check that just to verify, but that's what my memory is telling me. And when you think about it, when you have investors, people out in the community who have millions of dollars, their life earnings at stake, that seems to be a pretty reasonable, in my estimation, to have...to have that penalty. [LB890]

SENATOR CARLSON: Okay. Thank you. And there are four categories now of possible penalties, all the way from a Class IV felony to a Class III misdemeanor, and that replaces what prior to this was a Class IV misdemeanor. Is that correct? [LB890]

SENATOR PIRSCH: Yes. It was a, as I mentioned, the worst possible thing that could happen to you and the class of offense carried a...the Class IV misdemeanor carried a maximum of no imprisonment so you couldn't serve a day in jail no matter if the bank failed and millions of investor dollars were lost. And so it was a minimum of a \$100 fine, a maximum of \$500 fine, which seems wholly insufficient given...and just in terms of a clarification, I think I misspoke. With respect to the Class IV felony, I was correct in saying zero to five years, a minimum of zero days in jail, a maximum five years in jail. With respect to the possible fine, I believe that's \$0 fine minimum and then \$10,000 fine maximum, so. [LB890]

SENATOR CARLSON: And this would be directed at the individual who knowingly violated and not the institution, the fine. [LB890]

SENATOR PIRSCH: Correct. There's an intentional...there's a mens rea requirement, as we say in the law, which means it's not...didn't happen by accident. You have to knowingly do it. [LB890]

SENATOR CARLSON: One of the things that I don't know whether to say it looks a little bit funny to me, because it's not a laughing matter, but we start with a Class IV felony...

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[LB890]

PRESIDENT SHEEHY: One minute. [LB890]

SENATOR CARLSON: ...thank you, Mr. President,...which is the insolvency of the bank. That's the result of that knowing violation, is the insolvency of the bank. Is that correct? [LB890]

SENATOR PIRSCH: That is my understanding, yes. The violation of the lending limit has to tie to the insolvency of the bank, so. [LB890]

SENATOR CARLSON: So that's a very, very serious matter. [LB890]

SENATOR PIRSCH: Correct. [LB890]

SENATOR CARLSON: Then we go into the Class I misdemeanor, Class II, and Class III... [LB890]

SENATOR PIRSCH: Yes, and Class... [LB890]

SENATOR CARLSON: ...and they... [LB890]

SENATOR PIRSCH: Oh, I'm sorry. [LB890]

SENATOR CARLSON: Go ahead. [LB890]

SENATOR PIRSCH: I thought you wanted some explanation as to what that would mean. With respect to the various classes, Class III misdemeanor is from 0 days in jail up to a maximum 90 days in jail, \$0 fine up to a \$500 fine; Class II misdemeanor I believe is 0 days in jail up to 6 months in jail; \$0 fine up to a maximum \$1,000 fine or...and some combination of jail and fine is possible with all of these. And then a Class I misdemeanor is punishable by 0 days in jail up to a year in jail; from a \$0 fine up to a maximum \$1,000 fine, and again some combination of jail and fine is possible. [LB890]

PRESIDENT SHEEHY: Senator Carlson, you're into your next time. [LB890]

SENATOR CARLSON: Okay. And the only thing that separates these various forms of punishment is the amount of money that was involved. Is this correct? [LB890]

SENATOR PIRSCH: It's my understanding, looking at the language, it's an either/or; it results in monetary loss to the bank of over \$20,000 or exceeds the authorized limit, so in either of those two mechanisms. [LB890]

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SENATOR CARLSON: Okay. And I'm looking at the amount of money. Now the thing that's a little puzzling to me is that, regardless of the amount of money, any of these involve knowingly violating the law. And it seems a little bit different that being in charge of a \$20,000 loss may be about as serious as the insolvency of the bank. Both of them seem to be very serious and yet we're moving down the line in terms of penalty. However, if you compare that to current law, it is a much stiffer penalty than what's in place now and certainly I think it deserves that. So thank you, Senator Pirsch, for your dialogue. [LB890]

SENATOR PIRSCH: Thank you. [LB890]

SENATOR CARLSON: Thank you, Mr. President. [LB890]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Nelson, you're recognized. [LB890]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to ask a question or two of Senator Pirsch. [LB890]

PRESIDENT SHEEHY: Senator Pirsch, would you yield to Senator Nelson? [LB890]

SENATOR PIRSCH: I would. [LB890]

SENATOR NELSON: Thank you, Senator Pirsch. Senator Carlson raises some interesting questions here and I'd like to direct your attention there to line 18, 19, and 20 on page 7. Who determines if the bank is insolvent? [LB890]

SENATOR PIRSCH: In this case, being a state-chartered bank, it would be the Nebraska Department of Banking. [LB890]

SENATOR NELSON: So Department of Banking can either make a determination in...if there is a violation of the rules, and it looks to me like subparagraph (2) says that over \$20,000 or exceeds the authorized limit. I guess, if I understand this, the director of Banking could have some choice here in which would be used by either declaring the bank insolvent or saying, well, you have exceeded the authorized limit. And so I guess there would be some discretion on the part of the director of Banking what declaration they would make and what penalty would apply. Is that the case? [LB890]

SENATOR PIRSCH: Yes. And given the default of the existing law, in which we really don't have any good enforcement mechanisms at all, this is a great leap in the right direction. [LB890]

SENATOR NELSON: All right. Thank you. [LB890]

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SENATOR PIRSCH: Well, and I shouldn't say any but we have a very poor mechanism in place now which is, as I mentioned, the Class IV misdemeanor, which results...which cannot result in a sentence of even a day in jail and no more than a fine between \$100 and \$500, so. [LB890]

SENATOR NELSON: All right. Thank you, Senator Pirsch. Appreciate it. [LB890]

SENATOR PIRSCH: Sure. [LB890]

SENATOR NELSON: Thank you, Mr. President. [LB890]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Seeing no additional requests to speak, Senator Pirsch, you're recognized to close on LB890. [LB890]

SENATOR PIRSCH: Well, I do appreciate the questions and the thoroughness of my colleagues in exploring this bill and exactly with respect to that Section 2, the new penalties. And I think when you look at the magnitude of the harm that can and has in one instance resulted with respect to the failure of a bank, we need to have adequate tools in place. You know, certainly this isn't wise but Nebraska has I think been very good, both in terms of the banks have been very good in being conservative and regulating themselves and the department has been very proactive as well. We really don't suffer from the problems that exist in other jurisdictions on a more widespread basis, but it is good to be proactive and to have these tools in place if and when we would need them. And for that reason, in light of the fact that there, you know, potentially can be, when it comes to the possibility of bank failures, a lot of lives affected by that, we want to make sure that we have adequate tools in place. And so that's what this bill does and...or this specific provision, rather, of the bill. And so I would my colleagues to vote yes on and advance LB890. Thank you. [LB890]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. You have heard the closing. The question before the body is on the advancement of LB890. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB890]

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB890. [LB890]

PRESIDENT SHEEHY: LB890 advances. We will now proceed to LB891. [LB890 LB891]

CLERK: LB891 was a bill originally introduced by Senator Pahls. (Read title.) Introduced on January 11 of this year, at that time referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB891]

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PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Pirsch, you're recognized to open on LB891. [LB891]

SENATOR PIRSCH: Thank you, Mr. President, members of the body, and I appreciate your attention as we go through these three banking bills. The second banking bill we're addressing is LB891. Chairman Pahls introduced this bill at the request of the director of the Department of Banking and Finance. LB891 offers a new concept. It would allow the director to grant approval for a conditional bank charter, often called shelf charter, which may remain inactive for an initial period of up to 18 months. The purpose for which a conditional bank charter may be granted is limited to the acquisition or potential acquisition of a financial institution, first, which must be located in Nebraska or which has a branch in Nebraska, and secondly, which must have been determined to be troubled or failing by its primary state or federal regulator. Why do we need conditional charters? Under both Nebraska and federal law, the FDIC, as the insurer of deposit accounts, will be named receiver of failed Nebraska banks. The FDIC conducts a bid process on the failing bank in its attempt to find a purchaser. Now here's the problem. At the present time, however, the FDIC only allows existing banks to bid on failing banks. This requirement is rooted in the need for a bank to be run by experienced professionals with special knowledge. A bank needs sufficient capital for startup and continued operations. It needs FDIC insurance. Operating a successful bank requires many properly moving and coordinated parts. LB891 in essence then would broaden the definition of banks that can apply to acquire assets and liabilities of a failing bank without losing the requirements necessary to operate a bank successfully. A conditional charter is intended to be used for an individual or group of individuals to be able to bid on assets and liabilities of a financial institution that is troubled or in danger of failing. The distressed institution must be located in Nebraska or currently operate a branch in Nebraska, and it may be state or nationally chartered. To obtain a conditional charter, an application made to the department must provide detailed business and financial information about proposed owners and management, sources and amounts of capital, and a preliminary business plan for operation of an acquired institution. As much as is possible, without knowing the target bank in advance, LB891 intends for a conditional bank charter to mirror the issuance of a new charter. Notice and publication requirements are included in the bill and the department would be authorized to schedule the application for a hearing, as there is no known location at the time of notice, LB891 would require that...and I'm sorry, that's LB891 rather would require that every financial institution in the state be sent notice of the application. If granted, the conditional charter could be placed on a shelf for up to 18 months and could be renewed for successive one-year periods. A conditional charter could then be converted to a full bank charter upon proof that the financial institution to be acquired is in financial trouble, an appropriate fidelity bond has been acquired, the licensee has qualified for FDIC insurance, appropriate capital, stock and surplus have been paid in, and all required fees have been paid to the department. The ability to grant a conditional

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charter should provide additional flexibility to the department in resolving troubled and failing financial institutions. The director told the committee that the department is aware of one group of individuals that has expressed interest in a state conditional bank charter. The director told the committee that is seeking introduction of the bill should not suggest that the department expects more bank failures. However, the director told the committee that the failure of a state bank in 2009 almost...occurred almost overnight. LB891 would make another option available to deal with a troubled or failing financial institution should the situation arise. I urge advancement of the bill. And again, this is another situation where I think the department is being highly proactive and, again, we have not experienced the troubles that have occurred in other states. And I think having tools on the books such as this is yet another good thing to have as we go forward into the future. So I do urge its passage. Thank you. [LB891]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. (Visitors introduced.) You have heard the opening to LB891. Seeing no requests to speak, Senator Pirsch, you're recognized to close. [LB891]

SENATOR PIRSCH: I'll waive. [LB891]

PRESIDENT SHEEHY: Senator Pirsch waives closing. The question before the body is on the advancement of LB891. All those in favor vote yea; opposed, nay. Have all voted who wish? Senator Pirsch. [LB891]

SENATOR PIRSCH: Mr. President, I would...I would ask to...nothing, Mr. President. [LB891]

PRESIDENT SHEEHY: Please record, Mr. Clerk. [LB891]

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of LB891. [LB891]

PRESIDENT SHEEHY: LB891 advances. We will now proceed to LB892. [LB891 LB892]

CLERK: LB892 by Senator Pahls relates to banking and finance. (Read title.) Introduced on January 11 of this year, at that time referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. Again, I have no amendments to the bill at this time, Mr. President. [LB892]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Pirsch, you're recognized to open on LB892. [LB892]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. This is the third bill from the Banking Committee. Chairman Pahls introduced this bill at the request

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of the director of Banking and Finance. LB892 would update and clarify provisions of the Residential Mortgage Licensing Act, RMLA, and the Nebraska Installment Loan Act, known as the NILA, as these acts relate to mortgage loan originators and reverse mortgages. In 2009, these acts were significantly amended with the enactment of LB328, representing Nebraska's implementation of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, commonly referred to as the SAFE Act which was part of the Housing and Economic Recovery Act of 2008 adopted by Congress and signed into law on July 30, 2008. The SAFE Act mandated that states adopt a system of licensure for mortgage loan originators by July 31, 2009, or the United States Department of Housing and Urban Development, HUD, would create a system for licensing loan originators in the states which did not comply. HUD also must review the state's legislation and determine if it is compliant with the SAFE Act. Our LB328 was passed under the deadline. Our Banking Department has worked throughout this process with other state regulators, the Conference of State Bank Supervisors, also known as CSBS, and the American Association of Residential Mortgage Regulators, AARMR, in developing the nationwide electronic licensing system, known as NMLSR. A lot of abbreviations here. They also developed the education and testing requirements and the criminal history background check mandated by the SAFE Act. Much has been done and the department began accepting mortgage loan originator license applications on January 4. Many of the sections of LB892 contain cleanup and clarification amendments, many of these amendments have been recommended by the Bill Drafting Office: Terminology would be corrected or harmonized, internal references would be corrected, internal references to federal law would be updated, plural nouns would be made singular, whole subsections would be repositioned. Substantive amendments regarding mortgage loan originators are found in Sections 1, 14, 16. Section 1 would amend current provisions which apply to mortgage loan originators employed by banks. Registration, rather than licensing, is required of these individuals. Their registration process will be handled federally. This section would change the deadline for registration of these individuals from the current July 31, 2010...to July 31, 2010, or within 60 days after the nationwide mortgage licensing system and registry is capable of accepting such registrations, whichever occurs later. The states have recently been advised that, although the licensing system is on schedule, there will be a delay in implementation of the registration system, primarily due to negotiations with the federal banking regulators concerning the use of the system. Section 14 would correct an inadvertent 2009 repeal of language regarding the requirement for a licensee to notify the director of a material development affecting the licensee's firm. Section 16 contains two amendments to provide for more effective enforcement by the department based on its communications with regulatory counterparts. The first amendment in Section 16 would provide that a mortgage banker would be barred from hiring a person who has had a mortgage loan originator license revoked by any state. This will prevent an individual with a revoked mortgage loan originator license from staying in the mortgage business by purporting to be a loan processor for a mortgage banker. The second amendment in Section 16 regards surrender of a license. The SAFE Act has the

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equivalent of a permanent bar for a mortgage loan originator who has a license revoked, since once a license is revoked he or she cannot get another one in any state. As this section is currently written, a licensee can avoid the bar unilaterally by simply surrendering his or her license. This amendment would provide that our director is not obligated to accept the surrender of a license if there is a pending investigation or revocation and/or a fine proceeding. LB892 would also address reverse mortgages. Reverse mortgages allow owners of a home to access the equity without selling it. Reverse mortgages are currently regulated by a section in the Nebraska Installment Loan Act. In this bill the director asks that similar provisions also be included in the Real Estate Mortgage Licensing Act so that they would be applicable to all home mortgage lenders doing business in Nebraska that are not depository financial institutions. Sections 3, 4, and 5 of LB892 would accomplish this. The emergency clause has been added to the bill so that the amendments will be effective when the department begins issuing mortgage...begins issuing mortgage loan originator licenses later this spring. Mr. President, I would urge passage of this bill. Thank you. [LB892 LB328]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. (Visitors introduced.) You have heard the opening to LB892. Members requesting to speak: Senator Price, followed by Senator Fulton. Senator Price, you're recognized. [LB892]

SENATOR PRICE: Thank you, Mr. President and members of the body. Would Senator Pahls yield to a question, please? [LB892]

PRESIDENT SHEEHY: Senator Pirsch, would you yield to Senator Price? [LB892]

SENATOR PRICE: Excuse me. Thank you. [LB892]

SENATOR PIRSCH: I would. [LB892]

SENATOR PRICE: And it was just because he's carrying that bill. Thank you very much, Senator Pirsch. Senator Pirsch, my question comes in the part where you talk about revocation of a license and that if someone had been revoked in any other state. The question I have is, are all of our rules, regulations, and thresholds the same for the cause of revocation? [LB892]

SENATOR PIRSCH: I'm sorry, could you...could you clarify that? And I appreciate... [LB892]

SENATOR PRICE: Sure. [LB892]

SENATOR PIRSCH: ...this is a bill that is...was introduced by Senator Pahls, that's correct, but could you clarify your question just a little bit? [LB892]

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SENATOR PRICE: Sure. I harken to...or liken to insurance mandates here. The question is, if they had their license or their ticket revoked in Florida, are the causes and the reasons for revocation in Florida the same for why we would revoke them here? That's the question I have. I mean if it's applied across the United States for that threshold then I really have no problem. But you know, we often have laws that we have a different threshold for when you have shown a reason to have your license revoked. [LB892]

SENATOR PIRSCH: My understanding is that they are the same standards that are employed in other states or...so...and as I understand your concern, you are concerned that in other jurisdictions they may employ nonsensical or minor...for minor transgressions you may have a revocation and that the state of Nebraska, in honoring that, would thus by extension be revoking licenses or honoring the revocation of licenses for minor transgressions. Is that your concern, Senator? [LB892]

SENATOR PRICE: Yeah, either minor or major. The point is you have got it...that. I wanted to make sure that if we accept it, like when the concealed carry permit, we only, I believe, have 26 states that we have a degree of reciprocity with. Now we won't accept some state because the manner in which they go about getting certified we don't agree to. So I just...it was in that light. I wanted to make sure, if we revoke someone here in Nebraska because they've been revoked somewhere else, that we're not changing our standard, either lowering them or raising them, that they're right where we're at. [LB892]

SENATOR PIRSCH: Uh-huh. It is my understanding that that is a correct statement, that the basis for the revocations in these other jurisdictions would be standardized with Nebraska. If this ends up, you know, and I'll certainly look into that specific question even further if I find that that isn't correct, I certainly will be back in touch with you. But that is my understanding. [LB892]

SENATOR PRICE: Thank you very much, Senator Pirsch. And with that, I feel that I've satisfied the question I had and I yield back my time. [LB892]

PRESIDENT SHEEHY: Thank you, Senator Price. (Visitors introduced.) Continuing with floor discussion on LB892, member requesting to speak, Senator Fulton, you're recognized. [LB892]

SENATOR FULTON: Thank you, Mr. President. Members of the body, this bill, and I understand this is a large bill and it's not...it's not controversial and I will support the bill, but we do need to have a clarification and this has to do specifically with reverse mortgages. This is something that I gained some experience with back in 2005. I was on a committee in Washington that we were trying to put together policy recommendations for the Congress and the President for the next ten years in our country, and with respect to long-term care in our society it's pretty clear that Medicaid

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and Medicare are not sufficient for the provision of long-term care of our baby boomers going forward in our society. And so an idea that has been put forward that has been positive is this principle of reverse mortgages, and I find it to be...this is going to be part of...this will be a chapter in the book of the solution to our long-term care woes in Nebraska, and obviously I have some concern about long-term care. It's what I do for my living part-time...or partly. To that end, I have some questions for Senator Pirsch, if he would yield. [LB892]

PRESIDENT SHEEHY: Senator Pirsch, would you yield to Senator Fulton? [LB892]

SENATOR PIRSCH: I would. Thank you. [LB892]

SENATOR FULTON: Okay, Senator, I'll just point you to the area of the bill that I have some question about and if you have to get back to me that's fine. I want to get this into the record anyway. We're on page 16 of the green copy, page 16 of the green copy, line 18 and following: "A licensee may, in connection with a reverse-mortgage loan, charge to the borrower (a) a nonrefundable loan origination fee," etcetera, etcetera, and then subsection (b), "a reasonable fee paid to third parties originating loans on behalf of the licensee," and then (c), "such other fees as are necessary and required, including fees for inspections, insurance, appraisals, and surveys." Now typically these reverse mortgages are loans that are made to elderly people who are still in their home who would like to remain in their home but who have developed some equity in their home over the course of time. And so my concern here is...has to do with whether there will be, oh, a means of transparency as to these fees that appear in line 18 and following. Could you speak to that? How are these...I'm not against these fees being charged. It's a cost of doing business and it should occur. But how...is there a mechanism by which we say that these fees are disclosed in a transparent manner to elderly people who oftentimes are in vulnerable situations looking for a way to stay in their home? Can you speak to that at all, Senator? [LB892]

SENATOR PIRSCH: Thank you, Senator Fulton. And I guess just in a manner of brevity, my understanding is, yes, there is a certain way in which that disclosure must take place. Let me...let me speak to just kind of a larger...the larger concept behind what LB892 is doing. This language, as I understand it, with respect to reverse mortgages is not new to Nebraska law. It exists right now in the Nebraska Installment Loan Act, and so we are simply cloning the existing language within that, within that part of Nebraska law, and adding it to the Real Estate Mortgage Licensing Act statutes as well in, as I understand, every...in every detail. So this language currently exists. And the overall arching theme of this... [LB892]

PRESIDENT SHEEHY: One minute. [LB892]

SENATOR PIRSCH: ...or reason for the bill is to allow for greater consumer protections.

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And so I...but in answer to your original question with regard...I think is a little bit different than, you know, the changes that are taking place, and that is do we have adequate protections or safeguards in the law with respect to making detailed disclosures to those people, who may include the elderly, who are taking reverse mortgages, which is a big decision to take in your life. And my understanding from the department is that those disclosures are required. [LB892]

SENATOR FULTON: Okay. Those disclosures exist presently and this in no way would relieve those, the statutory force of those or requirement of those disclosures, correct? [LB892]

SENATOR PIRSCH: That's what the department has related to me, correct, yes. [LB892]

SENATOR FULTON: Okay. [LB892]

SENATOR PIRSCH: And I thank you for that question. [LB892]

SENATOR FULTON: Thank you, Senator Pirsch. Thank you, Mr. President. [LB892]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Seeing no additional requests to speak, Senator Pirsch, you're recognized to close on LB892. Senator Pirsch waives closing. The question before the body is on the advancement of LB892. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB892]

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of LB892. [LB892]

PRESIDENT SHEEHY: LB892 advances. We will now proceed to LB643. [LB892 LB643]

CLERK: LB643 was a bill introduced by Senator Schilz. (Read title.) Bill was introduced on January 21 of last year, at that time referred to the Natural Resources Committee. The bill was advanced to General File. There are committee amendments pending, Mr. President. (AM1620, Legislative Journal page 406.) [LB643]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Schilz, you're recognized to open on LB643. [LB643]

SENATOR SCHILZ: Thank you, Mr. President. Members of the body, good morning. LB643, it's a pretty...really, a simple bill. All it does is increase the number of days required to give notice to an owner of a utility infrastructure prior to road construction near electrical lines. And this bill was introduced...I introduced this bill on the behalf of the Nebraska REAs. Last year it was introduced and held over so that the parties could

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get together on some language that they could all agree on. The language has been agreed upon and it's in an amendment that will be coming. And LB643 is ready to move forward and I ask that you vote to move LB643 to Select File. Thank you very much. [LB643]

PRESIDENT SHEEHY: Thank you, Senator Schilz. You've heard the opening to LB643. As was noted, there is a Natural Resources Committee amendment, AM1620. Senator Langemeier, you're recognized to open. [LB643]

SENATOR LANGEMEIER: Mr. President, members of the body, AM1620 modifies Senator Schilz's bill, LB643. The bill originally was drafted, required 180 days notice from a natural resources district to a public power supplier of notification of a project to move the lines. Through some negotiations on both sides, as Senator Schilz indicated, the committee amendment would limit that to 90 days requirement versus the current law that's 30. So it adjusts it from 180 to 90 days of notice. It also eliminates the one-year notice requirement if the equipment is to be used near an FFA...FAA approval, near an airport. That got to be an issue on a project in...actually in my district. There was notification that they were going to build a dam. The power supply company didn't think they had quite enough notification so they started building a dam and the poles kept getting shorter and shorter as the dam got higher and higher. So this would allow a little more notice to the public power to get that equipment moved in a timely fashion, and I'd ask for your adoption of AM1620 and LB643. Thank you. [LB643]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You've heard the opening of AM1620 to LB643. Seeing no requests to speak, Senator Langemeier, you're recognized to close. Senator Langemeier waives closing. The question before the body is on the adoption of AM1620 to LB643. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB643]

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB643]

PRESIDENT SHEEHY: AM1620 is adopted. We will now return to floor discussion on LB643. Member requesting to speak, Senator Stuthman, you're recognized. [LB643]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I would like to engage in a little conversation with Senator Schilz. [LB643]

PRESIDENT SHEEHY: Senator Schilz, would you yield to Senator Stuthman? [LB643]

SENATOR SCHILZ: Yes. [LB643]

SENATOR STUTHMAN: Senator Schilz, you know, I truly support this one, but I believe

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with these construction projects that are planned by the county and stuff like that, don't you feel that the county, when they want to do a project there, they realize that they're going to have to be moving some stuff and they do notify, you know, those utilities? Will this make it better or worse for them, or does it just allow them more time because of that 30-day date? [LB643]

SENATOR SCHILZ: Right. Senator Stuthman, to answer your question, having talked with all the parties and NACO was part of these talks, they came in and testified in a neutral position. I believe that what you'll see is most of the times when this happens there's never any problem. But every once in awhile you run into some circumstances where they need a little extra time and that's why this is there, just to give those things. But 95 percent of the time, there hasn't been a problem. This is for those instances where there's something a little bit different or maybe there's a change in staff and people don't know exactly what's going on. So that's why this came about. [LB643]

SENATOR STUTHMAN: Okay. Thank you, Senator Schilz. I truly agree with this because most generally, in my opinion, the projects are planned a year in advance and they notify the utilities, you know, when they're probably going to be doing that project, and I think it is good. There's only the instances once in awhile when there's emergency of a bridge going out and there's utility lines there that, you know, maybe it would have to be the 30 days. But I think the most important thing is if we can have that communication and cooperation between the utilities and the highway department and the roads group you can accomplish anything. So with that, I do truly support this bill. Thank you. [LB643]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Wallman, you're recognized. [LB643]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Would Senator Schilz answer to a question? [LB643]

PRESIDENT SHEEHY: Senator Schilz, would you yield to Senator Wallman? [LB643]

SENATOR SCHILZ: Yes. [LB643]

SENATOR WALLMAN: Thank you, Senator. In regard to this also applicable to telephone, you know, underground lines and things like that? [LB643]

SENATOR SCHILZ: Yes. I think that everything that would...anything that has to do with electrical lines, if there's issues, whether it's above ground, below, I think this applies to all those. [LB643]

SENATOR WALLMAN: And I appreciate you got the parties together, the way it sounds.

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[LB643]

SENATOR SCHILZ: Yes. Everybody is in agreement with the wording as amended in AM1620 and so I think we're ready to go. [LB643]

SENATOR WALLMAN: Thank you, Senator. [LB643]

SENATOR SCHILZ: Thank you. [LB643]

SENATOR WALLMAN: I do support the bill. [LB643]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Seeing no additional requests to speak, Senator Schilz, you're recognized to close on LB643. Senator Schilz waives closing. The question before the body is on the advancement of LB643. All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB643]

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of LB643. [LB643]

PRESIDENT SHEEHY: LB643 advances. We will now proceed to LB723. [LB643 LB723]

CLERK: LB723 was a bill originally introduced by Senator Fischer. (Read title.) Bill was introduced on January 6 of this year; at that time referred to the Transportation and Telecommunications Committee; advanced to General File. I have no amendments pending at this time, Mr. President. [LB723]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Fischer, you're recognized to open on LB723. [LB723]

SENATOR FISCHER: Thank you, Mr. President and members of the body. LB723 strikes the requirement that the telecommunications relay system surcharge be remitted on a monthly basis. The telecommunications relay system, or TRS, is a program administered by the Public Service Commission that allows individuals who are deaf, hard of hearing, or speech impaired to place and receive telephone calls. The program is funded through a monthly surcharge, paid by all wire line and wireless subscribers in the state. The surcharge is currently at 3 cents. Current law requires all telecommunication carriers to remit the surcharge on a monthly basis to the commission; however, some carriers collect only a small amount on a monthly basis, making the cost of remitting the surcharge to the carrier and the commission higher than the amount remitted. Several carriers remit less than \$3 per month, some as little as 3 cents. LB723 strikes the monthly remittance requirement. This change will allow the commission the ability to determine the timing of the surcharge's collection and the

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flexibility to allow for quarterly and annual remittances. Thank you, Mr. President.
[LB723]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You have heard the opening to LB723. Seeing no requests to speak, Senator Fischer, you're recognized to close. Senator Fischer waives closing. The question before the body is on the advancement of LB723. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB723]

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB723. [LB723]

PRESIDENT SHEEHY: LB723 advances. Mr. Clerk, do you have items for the record?
[LB723]

CLERK: I do, Mr. President. Judiciary Committee, chaired by Senator Ashford, reports LB703 to General File, LB258 to General File with amendments. Revenue Committee, chaired by Senator Cornett, reports LB879 to General File with committee amendments attached. And Banking Committee reports LB759 to General File and LB760 to General File. Amendments to be printed: Senator Gloor to LB713; Senator Karpisek, LB867; Senator Giese to LB746. That's all that I have, Mr. President. (Legislative Journal pages 502-505.) [LB703 LB258 LB879 LB759 LB760 LB713 LB867 LB746]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now proceed to LB787. [LB787]

CLERK: LB787 is a bill by Senator Fischer. (Read title.) The bill was introduced on January 7 of this year; referred to Transportation and Telecommunications. The bill was advanced to General File. I have no amendments at this time, Mr. President. [LB787]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Fischer, you're recognized to open on LB787. [LB787]

SENATOR FISCHER: Thank you, Mr. President and members of the body. LB787 formally places a legislative representative on the Nebraska Information Technology Commission as a nonvoting ex officio member. The legislative member will be from the Transportation and Telecommunications Committee and will be appointed by the Executive Board. In 2005, the Governor's Office initiated an informal legislative liaison for the NITC that is currently in existence. This liaison is not in statute and does not have any mandatory duties. The representative serves as long as he or she chooses to. The Transportation and Telecommunications Committee, along with the Appropriations Committee, is statutorily charged with reviewing the strategies and activities of the NITC every two years. However, there is very little contact that is actually conducted between the NITC and the Legislature. As the Transportation and Telecommunications Committee has the technology field under its jurisdiction, it only makes sense that a legislative representative to the NITC should be from that committee. This will ensure

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that at least some knowledge of the NITC's activities is readily available to the committee. Thank you, Mr. President. [LB787]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You've heard the opening to LB787. Speaker Flood, you are recognized for an announcement. [LB787]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, colleagues. As I mentioned yesterday, tomorrow we will begin debate on priority bills so we will be moving away from worksheet order. We'll be taking up priority bills as they have them ready to be scheduled in certain order. We'll be starting to sprinkle them in tomorrow. The other thing I want to mention is we will have a 10 a.m. start time Wednesday morning and Thursday morning, so Wednesday and Thursday of this week will be a 10 a.m. start. Of course, we will start next Tuesday at 10 a.m. as well. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Speaker Flood. As was stated, you have heard the opening to LB787. Member requesting to speak: Senator Wightman, you're recognized. [LB787]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. If Senator Fischer would yield to a question, I have a question or two. [LB787]

SENATOR ROBERT PRESIDING

SENATOR ROBERT: Senator Fischer, will you yield to a question? [LB787]

SENATOR FISCHER: Yes, I will. [LB787]

SENATOR WIGHTMAN: Now, Senator Fischer, in your opening you did state that there is currently someone serving on that, in that position, who happens not to be a member of the Transportation and Communication (sic), is that correct? [LB787]

SENATOR FISCHER: That is correct. [LB787]

SENATOR WIGHTMAN: And at the present time I think that's Senator Fulton, is it not? [LB787]

SENATOR FISCHER: That's correct. [LB787]

SENATOR WIGHTMAN: And there was no requirement that, currently, that it be from Transportation and Communications (sic), but the selection was made or the appointment was made by the Executive Board. Is that your understanding? [LB787]

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SENATOR FISCHER: I believe the appointment was made after the Legislature adjourned last session, Senator Wightman, by yourself as Exec Board Chair. [LB787]

SENATOR WIGHTMAN: Yes, and that's my understanding. Could you tell the body, I know you referred to that, as to why that member should come from the Transportation and Communication Committee (sic)? [LB787]

SENATOR FISCHER: In the past, as I said in my opening, this position was created in 2005. We have had a number of representatives from the body serve as the ex officio member. Senator Mines was a member of the NITC in a nonvoting capacity and he was a member of the Transportation and Telecommunications Committee. Senator Dubas has served in that position also; she was not a member of the committee. Senator Fulton is the current representative and he is not a member of the committee. My feeling in introducing this bill, first of all, was to put that position in statute so that the Legislature will have a member, an ex officio member, on the committee. And I felt that that member needed to be from the Transportation and Telecommunications Committee. We do receive a report from NITC every two years. I think it would be important for the committee to have more knowledge of what the commission does by having one of our members serve as a member of NITC in order that we have better communication between NITC and the committee. So that's the reason for the bill. [LB787]

SENATOR WIGHTMAN: Thank you, Senator Fischer. And you and I did meet with the Lieutenant Governor's Office, is that correct, with regard to this? [LB787]

SENATOR FISCHER: Yes, Senator Wightman, you and I did have a meeting with the Lieutenant Governor, who is cochair of the NITC, on this bill. And we discussed the reasons why I was bringing the bill. [LB787]

SENATOR WIGHTMAN: And I know one of the pieces of information we got from the Lieutenant Governor's Office was that the member was not always in attendance, and that doesn't necessarily apply to the current member but perhaps on previous members, that there was not a lot of participation. Was that correct? [LB787]

SENATOR FISCHER: I believe Senator Fulton has attended and he also sends staff. And, you know, I don't know for sure what the attendance has been in the past. But there again, I think it would be helpful to have a member. And I would like to see a newer member on the Transportation and Telecommunications Committee serve on NITC so there is a longer relationship with the committee and with NITC so that we can develop that communication and understanding of what the functions are. [LB787]

SENATOR WIGHTMAN: Thank you, Senator Fischer. I will support the bill. Thank you, Mr. President. [LB787]

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SENATOR ROBERT: Thank you, Senator Wightman, Senator Fischer. Senator Gloor, you're recognized. [LB787]

SENATOR GLOOR: Thank you, Mr. President and members of the body. I rise in support of LB787. LB787 can be a little complex, but in reality I am also carrying a bill that I hope to be able to bring before this body that is a small subsection of the issues around NITC and the importance of the NITC, both as it relates to public health, public safety, and to a large degree bioterrorism and overall readiness for this state to deal with potential disasters that come our way. I think the ability of this body to have representatives is important. It certainly will help as this issue continues to move forward. We will likely see other pieces of legislation related to NITC and I think it's important that this body be as well informed as possible. So again I rise in support of LB787 and appreciate Senator Fischer bringing this forward. Thank you. [LB787]

SENATOR ROBERT: Thank you, Senator Gloor. Seeing no other lights on, Senator Fischer, you're recognized to close on LB787. [LB787]

SENATOR FISCHER: Thank you, Mr. President and members. Thank you for the support on this bill. I do believe it's important to have this in statute so that the Legislature does have a representative on this committee. I think it's important that that representative be from the Transportation and Telecommunications Committee, and I also believe it's important that this member be an ex officio member and be a nonvoting member. And with that, I would ask you to advance LB787 to Select File. Thank you, Mr. President. [LB787]

SENATOR ROBERT: Thank you, Senator Fischer. Members, you have heard the closing to LB787. The question before the body, shall LB787 advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB787]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB787. [LB787]

SENATOR ROBERT: LB787 does advance. Next item. [LB787]

CLERK: LB914 is a bill by Senator Sullivan. (Read title.) Introduced on January 12 of this year; at that time, referred to the Transportation and Telecommunications Committee. The bill was advanced to General File. I have no amendments at this time, Mr. President. [LB914]

SENATOR ROBERT: Senator Sullivan, you're recognized to open on LB914. [LB914]

SENATOR SULLIVAN: Thank you, Mr. President. Good morning, members of the body.

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LB914 is a commonsense change. It allows the judge to use his or her discretion about whether to suspend a license when a driver has been convicted for failure to stop and provide motor vehicle information after an accident. LB914 amends Section 60-696 to provide that when a person who violates the duty to stop and provide information after a motor vehicle accident, the court may order the defendant not to drive for up to one year. The current statute mandates a one-year license suspension. The problem comes in situations, for example, when a car slides off the road into a mailbox, under conditions like we've experienced all winter, and doesn't call the accident in until the next day. The judge's only option in this case is to suspend the license for one year. Or another example: If you back into the cart corral at the grocery store and leave, your license plate shows up on the store's security camera. The judge's only option again is to suspend your license for a year. It seems commonsense to allow the judge the discretion to determine whether to suspend the license and, if so, the length of the suspension. By allowing the judge to decide, we can cut down on the number of jury trials by those who don't think it's fair that a one-year license suspension is the only option. Fewer jury trials will save the state money. LB914 also amends this section to require the court to revoke the defendant's license for the same period that he or she is ordered not to drive. This language is consistent with other statutory provisions referring to the revocation of a driver's license and actually was requested by the Department of Motor Vehicles. As one of the prosecutors who testified at the recent committee hearing said last week, it's not often that the defense, prosecution, and DMV all advocate for the same bill. This is really a needed correction in the statute. So LB914 is simple. It allows the judge to punish those that need the strongest punishment and to use their own knowledge of each individual case to determine whether the license should be suspended and, if so, for how long. I encourage you to support LB914. Thank you. [LB914]

SENATOR ROBERT: Thank you, Senator Sullivan. Members, you have heard the opening to LB914. Those wishing to speak: Senators Lautenbaugh, Pirsch, and Wightman. Senator Lautenbaugh, you're recognized. [LB914]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I will be very brief on this. I think this is a needed change. I think the law as it currently exists is much too restrictive and there are circumstances, as ably cited by Senator Sullivan, where there should be some discretion involved on the part of the judge. I trust our judges to bring that discretion to bear and I think this is a very commonsense tweaking of a law that, albeit well-intended, probably went too far previously. So I applaud Senator Sullivan for bringing this and I would urge you to support this bill. [LB914]

SENATOR ROBERT: Thank you, Senator Lautenbaugh. Senator Pirsch, you are recognized. [LB914]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I just had

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some questions and perhaps I'll address these to either Senator Sullivan, to start, and then Senator Lautenbaugh as well. But I'm just trying to get a sense of flavor of the types of situations that...and I think you mentioned a couple of these: backing into a shopping cart at the mall in the parking lot and veering off the side of the road. I mean, are these the type of, the two types of situations, or are there other situations where this revocation would seem to be unfair? [LB914]

SENATOR ROBERT: Senator Sullivan, will you yield to a question? [LB914]

SENATOR SULLIVAN: Certainly. Senator Pirsch, do you want me to just take up from where you left off as (inaudible)? [LB914]

SENATOR PIRSCH: If you would. I'm just trying to get a flavor of the committee testimony. It seems to me, and I'll kind of say a little something more and then ask you a question. But with respect to the people backing in the shopping lot, there has to be, under the statutes, at least a knowing understanding that they had damaged property at the mall and nonetheless left the parking lot at the mall knowing that there was damage to other's property, correct? [LB914]

SENATOR SULLIVAN: Well, there's a range of circumstances and situations, and in the case of the parking lot and the cart stalls, it's entirely possible, although I don't have any actual documentation to support that, that situation you might not even realize that you've hit the cart stalls, so that it's entirely possible that you may not even know that you've had any damage to...but the situation was picked up by the security cameras in the parking lot. [LB914]

SENATOR PIRSCH: I thank you for that. Senator Lautenbaugh, I wonder if you would yield to a question since you're on Judiciary Committee and an attorney? [LB914]

SENATOR ROBERT: Senator Lautenbaugh, will you yield to a question? [LB914]

SENATOR LAUTENBAUGH: Yes, I will. [LB914]

SENATOR PIRSCH: With respect to incidents that occur where you're in the parking lot and you inadvertently back into some piece of property of another, the grocery store or the cart, something, caused damage to that but you're unaware of that and drive off, could you be successfully prosecuted under 60-696? Is it a strict liability crime or an intentional crime? [LB914]

SENATOR LAUTENBAUGH: I believe...actually I'm not 100 percent sure because of the private property element of that, as well, since the accident itself would be occurring 100 percent on private property. I'm more familiar with the roadside-type examples where the weather or the conditions really don't lend themselves to you providing the

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information and waiting for law enforcement and contacting law enforcement, all of those things that the law now strictly mandates. And I think it should be more of an optional thing for the judge in his discretion or her discretion. [LB914]

SENATOR PIRSCH: I thank you for that. Were there any testimony by people who had actually been prosecuted for doing such a thing, like I slid off the side of the road, I hit a...I'm waiting for law enforcement in the rain and then at some point I had to get my car fixed and so I left? [LB914]

SENATOR LAUTENBAUGH: I don't know if that particular scenario, but I believe similar stories have come to light. I don't remember if I heard them through testimony or directly, but I am aware of such things, yes. [LB914]

SENATOR PIRSCH: You are aware of such things, is that what you say? [LB914]

SENATOR LAUTENBAUGH: Yes, yes. [LB914]

SENATOR PIRSCH: Okay. And where they had been prosecuted for leaving the scene of a property damage accident? [LB914]

SENATOR LAUTENBAUGH: Yes. Or the other alternative is to insist on your right to trial and try to plead down to something because there's no discretion in the charge. So I think that's the reason for the bill. [LB914]

SENATOR PIRSCH: But isn't it the burden is always on the prosecutor to prove by the highest level of proof, you know, beyond a reasonable doubt, that the person intended...was aware of striking the object... [LB914]

SENATOR ROBERT: One minute. [LB914]

SENATOR PIRSCH: ...and left the scene intentionally? [LB914]

SENATOR LAUTENBAUGH: I believe that's all true, but as far as it goes, that's not much to prove. You could readily be aware you struck an object and you can readily...well, everyone who leaves the scene would leave intentionally rather than accidentally, I'd submit. So that's not much to have to prove, to be guilty of and suffer a very harsh penalty, in my mind. [LB914]

SENATOR PIRSCH: Okay. Well, I do appreciate your intention. Were there any other situations, Senator Lautenbaugh, that were kind of spoke of with respect to...I mean, anybody who had firsthand accounts who testified at the hearing about their own personal experiences? [LB914]

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SENATOR LAUTENBAUGH: I honestly, specifically, don't recall. [LB914]

SENATOR PIRSCH: Okay. Senator Sullivan, I wonder if you know the answer to that? [LB914]

SENATOR SULLIVAN: Yes, thank you, Senator Pirsch. And actually that's what precipitated my bringing this bill to begin with. Had a constituent whose son actually slid into a bank of mailboxes here... [LB914]

SENATOR ROBERT: Time. [LB914]

SENATOR SULLIVAN: Thank you. [LB914]

SENATOR ROBERT: Thank you, Senator Pirsch. Senator Wightman, you're recognized. [LB914]

SENATOR WIGHTMAN: Thank you, Mr. President and colleagues. I do rise in support of this bill. I think, as Senator Sullivan says, it is a commonsense approach. When you look at the range of circumstances that could result in somebody losing their driver's license for a year, from things so minor...and I think of a circumstance where maybe you're driving down the interstate in a blinding snowstorm and maybe get off to the side and hit a reflector post. To me, that hardly should result in even the possibility of a suspension. You know, if you stop out there and call the police and there is an investigation, you probably aren't even going to know the milepost where you are at that time. There's just such a wide range of circumstances that could result in this, that to say that there's no discretion on the part of the judge seems to me not a commonsense approach. So I do rise in support of the bill. I urge its advancement and, as Senator Sullivan says, I think it is a commonsense approach. The judge should have some discretion. It shouldn't be mandatory that he revoke the driver's license in that...in many, many instances. Thank you, Mr. President. [LB914]

SENATOR ROBERT: Thank you, Senator Wightman. Senator Stuthman, you're next and recognized. [LB914]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I support this bill and I look at it as something that's, in my opinion, is a very commonsense thing that we should be doing. Because, you know, when an individual, you know, later on at night, runs into something and does just minor property damage, I really don't think that they would have to call the law enforcement right at that time because a lot of these communities, you know, have got maybe one deputy or one person that could come and investigate it. But I think, you know, if it was waited until the morning and the individual called and says, yes, I did run into these mailboxes and if you would come out here and look at it. And at this time, you know, law enforcement would be totally staffed

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in that part of the time of the day, and if they were called out at night there may be another call that they're on, or that they would have to address maybe a personal injury accident, and I think we've got to think about that also. So I support this bill and I think it was very much needed. Thank you, Mr. President. [LB914]

SENATOR ROBERT: Thank you, Senator Stuthman. Senator Sullivan, you are next. [LB914]

SENATOR SULLIVAN: Thank you very much. Just to finish up, first of all, the story that I started as to why I introduced this legislation. And the young man defending his situation before the judge, you know, they had several people that came forward and testified in defense of his stellar driving record. And he explained the circumstances, that he had been driving a friend's car and didn't want to tell him till the next morning, but paid for all the damages, etcetera, etcetera. But the judge just had no discretion. He, according to statute, had to suspend the license. So I think this does give some flexibility. It doesn't diminish the seriousness of leaving the scene of an accident and my legislation does nothing with the penalty, which is a Class II misdemeanor. I will mention, though, that under current statute this is a harsher penalty than for someone who is charged with DUI. So I think this puts things in a little more perspective. The other thing that we've done in this proposed legislation is that according to a recommendation from the Department of Motor Vehicles, that if the judge determines that the individual will not be able to drive for a certain period, this will then coincide with what's recorded on the driver's license record. And that was actually something that was omitted in previous legislation and so this tightens that up and provides that comparison. So I again urge support of this legislation. [LB914]

SENATOR ROBERT: Thank you, Senator Sullivan. Senator Pirsch, you are next and recognized. [LB914]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. And I apologize...just a clarification. I understand this particular bill was routed via the Transportation Committee and not Judiciary Committee, and I thought because it was a bill that contained...that dealt with a criminal statute penalties, that it went through Judiciary. But Senator Lautenbaugh informed me that it didn't, but he serves on that committee, as well, I understand, so I appreciate his bearing with me on that. Just had a question. With regards to Senator Stuthman's, I guess concern with what about incidents that involve, accidents that don't involve a second driver, that involve damage to unattended vehicles or property, and I just wonder if Senator Sullivan would yield to a quick question with respect to that? [LB914]

SENATOR ROBERT: Senator Sullivan, will you yield to a question? [LB914]

SENATOR SULLIVAN: Yes. [LB914]

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SENATOR PIRSCH: It's my understanding that within 60-696 there is a section that deals...it kind of bifurcates it, and it deals with a driver of a vehicle involved in an accident in which there is essentially another driver and what your duties are to that other driver. But then there is a second, subsection (2) in 60-696, a second provision that deals with incidents that Senator Stuthman spoke of where there is no other driver; where you'd simply damage an unattended vehicle or property, and then there's a separate different set of requirements for a driver such as that in that situation. Is that your understanding, as well? [LB914]

SENATOR SULLIVAN: If I follow you correctly, yes. [LB914]

SENATOR PIRSCH: Okay. I appreciate that. And so with respect to...and this is what my understanding in looking at the law is now, the duties if you do...if there's no other driver involved. And, say, you hit property on the side of the road or in a parking lot, no one is around, another car, you have the duty to stop the vehicle and leave in a conspicuous place on the unattended vehicle or property a written notice of the information required in the first section, and then without unnecessary delay, report the collision by telephone or otherwise to an appropriate peace officer. So it wouldn't necessarily require you to stay on the scene in that instance, but you could leave a note and then go on and report, without unnecessary delay by telephone or otherwise, the collision. Is that...I mean, is that your understanding? [LB914]

SENATOR SULLIVAN: That's my understanding, yes. [LB914]

SENATOR PIRSCH: Okay. I just wanted to make sure everybody had an accurate...so I guess that would partially mitigate, you know, Senator Stuthman's concerns, and I certainly understand your concerns, Senator Sullivan, in some of this. One of the things that, you know, you want to be mindful of, and as a prosecutor in Douglas County, many of these instances of leaving the scene involve people who happened to be also driving under the influence. And so I guess, you know, not to say that this...you know, that you're correct, it's in some of the instances there is no suspicion that there...or no other outside indicators that the person is driving under the influence. In some of the cases there may be. And your bill is suggesting that the judge should be, who would normally be aware of all these facts and circumstances, should be in charge then of deciding what the appropriate revocation should be? [LB914]

SENATOR ROBERT: One minute. [LB914]

SENATOR PIRSCH: Is that pretty fair to say? [LB914]

SENATOR SULLIVAN: Yes. I don't, as I said, I think when this bill was...when this legislation was originally talked about under LB925 in 2006, I think the focus was

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primarily DUI. But again, this was one of the unintended consequences of limiting the discretion of the judge and enabling him or her to take into account all surrounding circumstances. I'm not diminishing the seriousness of, number one, driving under the influence or leaving the scene of an accident. I'm just simply giving the judge a little more discretion. [LB914]

SENATOR PIRSCH: Thank you so much for your time. [LB914]

SENATOR ROBERT: Thank you, Senator Pirsch. Seeing no other lights on, Senator Sullivan, you're recognized to close on LB914. Senator Sullivan waives her opportunity. The question before the body is, shall LB914 advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB914]

ASSISTANT CLERK: 29 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB914]

SENATOR ROBERT: LB914 does advance. Items for the record. [LB914]

ASSISTANT CLERK: Mr. President, your Committee on Judiciary reports LB732 to General File with amendments, as well as LB1047. The Education Committee will hold Executive Session on Tuesday, February 9, at noon in Room 1126. (Legislative Journal pages 506-507.) [LB732 LB1047]

And finally, Mr. President, a priority motion. Speaker Flood would move to adjourn until Wednesday, February 10, 2010, at 10 a.m.

SENATOR ROBERT: Members, you have heard the motion to adjourn until Wednesday, February 10, at 10 a.m. All those in favor signify by saying aye. Opposed, same sign. We are adjourned.