

Transcript Prepared By the Clerk of the Legislature  
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Floor Debate  
May 18, 2011

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SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the eighty-first day of the One Hundred Second Legislature, First Session. Our chaplain for today is Senator Fischer. Please rise.

SENATOR FISCHER: (Prayer offered.)

SPEAKER FLOOD: Thank you, Senator Fischer. I call to order the eighty-first day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

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

SPEAKER FLOOD: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections.

SPEAKER FLOOD: Thank you. Are there any messages, reports, or announcements?

CLERK: Enrollment and Review reports LB142 and LB490 as correctly engrossed. I have communications from the Governor to the Clerk. (Read re LB373, LB374, LB375, LB376, LB377, LB378, LB379, LB380, LB585, LB15, LB17, LB56, LB73, LB107, LB121, LB124, LB155, LB162, LB167, LB234, LB248, LB254, LB261, LB265, LB277, LB292, LB309, LB315, LB394, LB549, LB549A, LB229, LB229A, and LB386.) (Legislative Journal pages 1653-1654.) [LB142 LB490 LB373 LB374 LB375 LB376 LB377 LB378 LB379 LB380 LB585 LB15 LB17 LB56 LB73 LB107 LB121 LB124 LB155 LB162 LB167 LB234 LB248 LB254 LB261 LB265 LB277 LB292 LB309 LB315 LB394 LB549 LB549A LB229 LB229A LB386]

SPEAKER FLOOD: (Gavel)

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CLERK: Second communication. (Read re LB84.) And, Mr. President, new resolutions: Senator Harms offers LR325, LR326, and LR327; all will be laid over at this time. (Legislative Journal pages 1654-1655.) That's all that I have. [LB84 LR325 LR326 LR327]

SPEAKER FLOOD: Thank you, Mr. Clerk. Members, we now proceed to the first item on the agenda, which is Final Reading. Please find your seats in preparation for Final Reading. All unauthorized personnel please leave the floor. We are on Final Reading. Mr. Clerk, the first bill on today's agenda is LB106. [LB106]

CLERK: (Read LB106 on Final Reading.) [LB106]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB106 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB106]

CLERK: (Record vote read, Legislative Journal page 1656.) 43 ayes, 3 nays, 3 excused and not voting, Mr. President. [LB106]

SPEAKER FLOOD: LB106 passes. Mr. Clerk, LB226. [LB106 LB226]

CLERK: (Read LB226 on Final Reading.) [LB226]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB226 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB226]

CLERK: (Record vote read, Legislative Journal pages 1656-1657.) 40 ayes, 5 nays, 2 present and not voting, 2 excused and not voting, Mr. President. [LB226]

SPEAKER FLOOD: LB226 passes. Mr. Clerk, LB252. [LB226 LB252]

CLERK: (Read LB252 on Final Reading.) [LB252]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB252 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB252]

CLERK: (Record vote read, Legislative Journal pages 1657-1658.) 42 ayes, 4 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB252]

SPEAKER FLOOD: LB252 passes with the emergency clause attached. Mr. Clerk, LB256. [LB252 LB256]

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CLERK: (Read LB256 on Final Reading.) [LB256]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB256 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB256]

CLERK: (Record vote read, Legislative Journal pages 1658-1659.) There are 27 ayes, 18 nays, 2 present and not voting, 2 excused and not voting, Mr. President. [LB256]

SPEAKER FLOOD: LB256 does not pass with the emergency clause attached. Mr. Clerk, the Legislature will now vote on whether LB256 shall pass without the emergency clause attached. The question before the body is, shall LB256 pass without the emergency clause? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB256]

CLERK: (Record vote read, Legislative Journal page 1659.) 26 ayes, 17 nays, 5 present and not voting, 1 excused and not voting, Mr. President. [LB256]

SPEAKER FLOOD: LB256 passes. Mr. Clerk, we now proceed to LB289. The first vote is to suspend or...the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB256 LB289]

CLERK: 44 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB289]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB289]

CLERK: (Read title of LB289.) [LB289]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB289 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB289]

CLERK: (Record vote read, Legislative Journal page 1660.) 49 ayes, 0 nays, Mr. President, on the passage of LB289. [LB289]

SPEAKER FLOOD: LB289 passes. Mr. Clerk, LB289A. [LB289 LB289A]

CLERK: (Read LB289A on Final Reading.) [LB289A]

SPEAKER FLOOD All provisions of law relative to procedure having been complied

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with, the question is, shall LB289A pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB289A]

CLERK (Record vote read, Legislative Journal pages 1660-1661.) 49 ayes, 0 nays, Mr. President, on the passage of LB289A. [LB289A]

SPEAKER FLOOD LB289A passes. (Doctor of the day introduced.) Mr. Clerk, we now proceed to LB345. [LB289A LB345]

CLERK: (Read LB345 on Final Reading.) [LB345]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB345 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB345]

CLERK: (Record vote read, Legislative Journal pages 1661-1662.) 47 ayes, 2 nays, Mr. President, on the passage. [LB345]

SPEAKER FLOOD: LB345 passes with the emergency clause attached. Mr. Clerk, LB345A. [LB345 LB345A]

CLERK: (Read LB345A on Final Reading.) [LB345A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB345A pass with the emergency clause attached? All those in favor vote aye; all those opposed nay. Mr. Clerk, please record. [LB345A]

CLERK: (Record vote read, Legislative Journal page 1662.) 47 ayes, 2 nays, Mr. President, on the passage of LB345A. [LB345A]

SPEAKER FLOOD: LB345A passes with the emergency clause attached. Mr. Clerk, LB387 where the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB345A LB387]

CLERK: 41 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB387]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB387]

CLERK: (Read title of LB387.) [LB387]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied

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with, the question is, shall LB387 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB387]

CLERK: (Record vote read, Legislative Journal page 1663.) 49 ayes, 0 nays, Mr. President, on the passage of LB387. [LB387]

SPEAKER FLOOD: LB387 passes. Mr. Clerk, LB387A. [LB387 LB387A]

CLERK: (Read LB387A on Final Reading.) [LB387A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB387A pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB387A]

CLERK: (Record vote read, Legislative Journal pages 1663-1664.) 49 ayes, 0 nays, Mr. President, on the passage of LB387A. [LB387A]

SPEAKER FLOOD: LB387A passes. Mr. Clerk, we now proceed to LB389, where the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB387A LB389]

CLERK: 44 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB389]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB389]

CLERK: (Read title of LB389.) [LB389]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB389 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB389]

CLERK: (Record vote read, Legislative Journal pages 1664-1665.) 49 ayes, 0 nays, Mr. President, on the passage of LB389. [LB389]

SPEAKER FLOOD: LB389 passes with the emergency clause attached. Mr. Clerk, LB389A. [LB389 LB389A]

CLERK: (Read LB389A on Final Reading.) [LB389A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB389A pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB389A]

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CLERK: (Record vote read, Legislative Journal pages 1665-1666.) 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB389A]

SPEAKER FLOOD: LB389A passes with the emergency clause attached. Mr. Clerk, LB590. The first vote is to dispense with the at-large reading...Mr. Clerk, LB590. [LB389A LB590]

CLERK: Mr. President, Senator Cornett would move to return the bill for a specific amendment, AM1418. (Legislative Journal page 1499.) [LB590]

SPEAKER FLOOD: Senator Cornett, you're recognized to open on your motion. [LB590]

SENATOR CORNETT: Thank you, Mr. Speaker and members of the body. AM1418 is an amendment that involves technical corrections to the bill. I spoke with Senator Gloor about this ahead of time and he's in favor of the motion to return to Select File for this specific amendment. Thank you. [LB590]

SPEAKER FLOOD: Members, you've heard the opening to Senator Cornett's motion. We now turn to floor discussion. Senator Gloor, you are recognized. [LB590]

SENATOR GLOOR: Thank you, Mr. President and members. I'll be very brief. I'm supportive of the motion to return, as well as AM1418; as was the case with both General File and Select, a lot of amendments, because this is a complicated bill involving the Health Care Trust Fund, an important issue for this body, important issue for our budget. But there are a lot of moving parts and a lot of people who are involved in this. This amendment was anticipated as a result of some meetings continually being held by the AG's Office, and so it is not a surprise. It was anticipated. I'm glad that we can introduce it. It ties up a few loose ends, and I would urge a green light for both for the return as well as the amendment. Thank you. [LB590]

SPEAKER FLOOD: Thank you, Senator Gloor. There are no other lights on. Senator Cornett, you're recognized to close on your motion. Senator Cornett waives. The question before the body is, shall LB590 be returned to Select File for a specific amendment? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB590]

CLERK: 46 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB590]

SPEAKER FLOOD: LB590 is returned to Select File for a specific amendment. Mr. Clerk, AM1418, is that the amendment? [LB590]

CLERK: Yes, sir, it is. [LB590]

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SPEAKER FLOOD: Senator Cornett, you're recognized to open on AM1418. [LB590]

SENATOR CORNETT: Thank you, Mr. Speaker and members of the body. And I want to thank Senator Gloor for introducing LB590. As he stated previously, this has been a very complicated technical bill and we have been working with it...through it with the AG's Office and all of the concerned. AM1418 makes changes to Section 23 of LB590. Section 23 governs agreements entered into by the Governor or his or her designated representative and federally recognized Indian tribes in Nebraska. AM1418 amends section (4) of Section 23 by adding a reference to Section 11 of LB590 which makes stamping agents responsible for escrow deposits in certain situations. AM1418 amends section (4) of Section 23 by clarifying that such agreement with Indian tribes in Nebraska can provide for the sale of cigarettes not included in the directory but only if certain conditions are met, including a requirement that such cigarettes bear the tribal stamp, and the agreement includes provisions to account for escrow payments on such cigarettes in amounts equal to and in a manner consistent with the deposits required of manufacturers under statute Section 69-2703 or otherwise requires payment of escrow by the manufacturers in accordance with statute Section 69-2703 and pursuant to Section 11 of this act. Again, body, this is a very technical amendment to a bill that Senator Gloor has been working on all session. I urge the body to support the amendment and the underlying bill. Thank you. [LB590]

SPEAKER FLOOD: Thank you, Senator Cornett. Members, you've heard the opening to AM1418. We now turn to discussion on the same. Senator Council, you are recognized. [LB590]

SENATOR COUNCIL: Thank you, Mr. President. If Senator Cornett would yield to a couple of questions. [LB590]

SPEAKER FLOOD: Senator Cornett, will you yield to a question from Senator Council? [LB590]

SENATOR CORNETT: I'd be happy to. [LB590]

SENATOR COUNCIL: Yes, I understand, Senator Cornett, that this amendment is technical in nature, but I just want to be sure that it doesn't change the fundamental operation of the legislation with respect to the tribal sales of cigarettes and that it's something that has been vetted through and with the tribes. [LB590]

SENATOR CORNETT: Yes, it has. As a matter of fact, what it does is it brings the tribes up to the same level as all of the other players in this. And last week, the U.S. Second Circuit Court of Appeals in Oneida Nation of New York v. Cuomo upheld the New York state's right to tax tribal sales on nontribal members on the reservation. And this

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amendment also...and the bill, the underlying bill, are in accordance with that decision. [LB590]

SENATOR COUNCIL: So the sales by nontribal members. [LB590]

SENATOR CORNETT: That decision, yes. [LB590]

SENATOR COUNCIL: Okay. Okay. Thank you. [LB590]

SPEAKER FLOOD: Thank you, Senator Council. There are no other lights on. Senator Cornett, you're recognized to close on AM1418. [LB590]

SENATOR CORNETT: Thank you, Mr. Speaker and members of the body, and thank you, Senator Council. I want everyone to be sure that we have vetted this amendment through all parties involved in this. It has been a very long process bringing everybody to the table, and again I want to thank Senator Gloor for all of his work on this bill. I urge the body to adopt AM1418 and the underlying bill. Thank you. [LB590]

SPEAKER FLOOD: Thank you, Senator Cornett. Members, you've heard the closing on AM1418. The question before the body is, shall it be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB590]

CLERK: 42 ayes, 0 nays on adoption of the Select File amendment. [LB590]

SPEAKER FLOOD: AM1418 is adopted. Mr. Clerk, do you have anything further on the bill? [LB590]

CLERK: Nothing further, Mr. President. [LB590]

SPEAKER FLOOD: Senator Larson, you're recognized for a motion. [LB590]

SENATOR LARSON: Mr. President, I move that LB590 be advanced to E&R for engrossing. [LB590]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB590 advances to E&R for engrossing. Mr. Clerk, we now proceed to...we will not take up the A bill, given the amendment on Select File, so we will proceed now to LB628. [LB590 LB628]

CLERK: (Read LB628 on Final Reading.) [LB628]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB628 pass? All those in favor vote aye; all those opposed



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vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB628]

CLERK: (Record vote read, Legislative Journal pages 1666-1667.) 43 ayes, 1 nay, 5 present and not voting, Mr. President. [LB628]

SPEAKER FLOOD: LB628 passes. Mr. Clerk, LB684. [LB628 LB684]

CLERK: (Read LB684 on Final Reading.) [LB684]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB684 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB684]

CLERK: (Record vote read, Legislative Journal page 1667.) 48 ayes, 0 nays, 1 present and not voting, Mr. President. [LB684]

SPEAKER FLOOD: LB684 passes. Mr. Clerk, LB684A. [LB684 LB684A]

CLERK: (Read LB684A on Final Reading.) [LB684A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB684A pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB684A]

CLERK: (Record vote read, Legislative Journal page 1668.) 49 ayes, 0 nays, Mr. President, on the passage of LB684A. [LB684A]

SPEAKER FLOOD: LB684A passes. Mr. Clerk, we now proceed to LB673. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB684A LB673]

CLERK: 45 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB673]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB673]

CLERK: (Read title of LB673.) [LB673]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB673 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB673]

CLERK: (Record vote read, Legislative Journal pages 1668-1669.) 49 ayes, 0 nays, Mr.

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President, on the passage of LB673. [LB673]

SPEAKER FLOOD: LB673 passes. I do lift any call related to Final Reading. While the Legislature is in session, I propose to sign and do hereby sign the following legislative bills: LB106, LB226, LB252, LB256, LB289, LB289A, LB345, LB345A, LB387, LB387A, LB389, LB389A, LB628, LB684, LB684A, and LB673. Mr. Clerk, any items before we proceed to the next item on the agenda? [LB673 LB106 LB226 LB252 LB256 LB289 LB289A LB345 LB345A LB387 LB387A LB389 LB389A LB628 LB684 LB684A LB673]

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

SPEAKER FLOOD: Members, we now proceed to Senator Ashford's motion to reconsider the vote taken on Final Reading on LB22 (sic--LB200). Senator Ashford, you are recognized. [LB200]

SENATOR ASHFORD: Thank you, Mr. Speaker. And I do appreciate the indulgence of the body and the Speaker to carry this over to today. I had some issues to deal with in Omaha that were unavoidable. This bill, LB200, in my view, when I looked at this initially--and I can't remember whether I signed on to it or not, but I should have if I didn't--is an exciting piece of legislation. I know in our city, and I can only speak for Omaha, there's been an explosion of certainly of farmers markets and fresh produce throughout the city of Omaha. It has really transformed...I know the weekends in Omaha now are filled with produce coming in from around the city to our city, and it's really enlivened so many of our neighborhoods. On the public health side, I know years ago Senator McGill had the milk in the schools bill, one of the...four or five years ago when we had a good, long debate about nutrition in the schools for all of our children, not just the need for milk in the morning but the entire issue of nutrition. I know the HHS Committee has done great work in the area of nutrition. This bill, this particular bill, LB200, obviously came out of the Agriculture Committee. I believe it was a unanimous vote. I believe it's a priority bill--I can't recall. Maybe it was a committee priority bill. This Legislature has always held the issue of nutrition and healthy food as a high priority, and the convergence of that concern with what we are doing in our state to produce these products is an exciting thing for us in the urban areas. Certainly it's exciting for me, living where I do in Omaha. I'm going to turn over most of my time to Senator Council, but I really hope that the body will reconsider...really, go back to where it was on General File and in the committee, and for this...really, no fiscal impact...create a real shot in the arm for this industry and our state, and make it a...really, in my view, in a real way, improve our quality of life for all of our citizens. I will mention that I have a number of colleagues and friends that have been working on making significant donations into the farmers market and healthy food arena in Omaha in some of the high-poverty areas. It is an area that has gotten a significant amount of attention, and I just...I can't imagine that we wouldn't advance a bill like this. It is so exciting. It's such a new and exciting part of our state, and I urge that we reconsider and advance LB200. Thank you, Mr.

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President. I would give the rest of my...actually, what I'll do is give the rest of my time, if Senator Council would like it, to...Mr. President? [LB200]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Senator Council, would you yield? [LB200]

SENATOR ASHFORD: Yeah, I was just going to give Senator...if she so wishes. [LB200]

SENATOR GLOOR: Six minutes 18 seconds, Senator. [LB200]

SENATOR COUNCIL: Thank you very much, Mr. President. And thank you very much, Senator Ashford, for filing the motion to reconsider LB200. I greatly appreciate being provided with the opportunity to revisit LB200, particularly in view of the fact that LB200 was advanced from General File and Select File, while not by an overwhelming majority, by a majority of the members of this body. And, unfortunately, on the day of Final Reading, there were a number of senators who were absent. But in addition to that, the motion for reconsideration has provided me with an opportunity to further clarify and explain LB200 and its intent. And I need to begin by reminding the body that last year this body adopted a resolution that I introduced, LR453, which authorized an interim study to determine the existence and prevalence of food deserts or food-insecure areas in Nebraska. And food deserts have come to be fairly universally defined as areas that lack access to affordable fresh vegetables, fresh fruits, lean meats, whole grains, low-fat dairy products, and other foods that would provide a wide range of healthy food choices for residents. The hearing on LR453 was held in October of last year. And coincidentally, in the same month last year, the Center for Rural Affairs released a report of a study it conducted on rural grocery stores, the importance and challenges. And in that Center for Rural Affairs report of its study, it noted that lack of access to grocery stores in many rural areas is striking and that according to the most recent data available from the USDA it showed that in the Great Plains region of our country USDA had classified 418 counties as food deserts, and those are areas where all the residents of the county are ten or more miles away from a full-service grocery store, and 98 percent of those counties are rural. When you look at Nebraska in that context of the 418 counties that are designated as food deserts in the Great Plains region, a significant percentage of those food deserts exist in Nebraska. According to USDA data, there are a number of areas in the state of Nebraska where 80 percent or more of the residents lack access to healthy and affordable foods on a regular basis. And this greatly impacts senior citizens and children and also has an impact on the in-migration and out-migration patterns throughout Nebraska. By way of example, according to USDA data, and Senator Brasch and I have been engaged in some conversation over LB200, according to the USDA, of the counties that are represented by Senator Brasch's district, more than 30 percent of the residents of those counties are

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deemed to be food-insecure. In the counties represented by Senator Fischer, 80 percent of the residents in those counties, according to USDA data, are food-insecure. And these are very significant and startling numbers. And the impact that it has on economic development, particularly in-migration and out-migration, according to the study conducted by the Center for Rural Affairs, it has a tremendous effect on out-migration, because when these communities lose their local grocery stores and residents lose access on a regular basis to healthy and affordable foods, they tend to relocate. It also has an effect on in-migration because young families are less likely to locate in rural communities where they don't have access to grocery stores. Now LB200--and I know there have been some concerns expressed by my colleagues that are legitimate concerns as to what kind of impact can LB200 have--admittedly, LB200 is a small first step towards addressing the elimination of food deserts in the state of Nebraska. I was cognizant... [LB200]

SENATOR GLOOR: One minute. [LB200]

SENATOR COUNCIL: ...of the budgetary constraints that the state was operating under and tried to draft legislation that would enable us to begin to make a difference in the elimination of food deserts and be budget neutral. And that's what LB200 provided for, was a budget-neutral means of making available \$150,000 a year to be appropriated and distributed through the Rural Development Commission to programs and organizations that were designed to eliminate food deserts. And if you look at LB200, one of the other reasons I wasn't really that concerned about the small level of the investment at this particular point in time, because LB200 was drafted with the intent of utilizing this \$150,000 in a way that... [LB200]

SENATOR GLOOR: Time, Senator. [LB200]

SENATOR COUNCIL: Thank you. [LB200]

SENATOR GLOOR: Thank you, Senator Council. (Visitors introduced.) Members, we now move to floor debate. Members wishing to be heard: Dubas, Council, Ken Haar, Carlson, and Hadley. Senator Dubas, you are recognized. [LB200]

SENATOR DUBAS: Thank you very much, Mr. President. I do rise in support of this reconsideration motion and the underlying bill. Would Senator Council yield to some questions? [LB200]

SENATOR GLOOR: Senator Council, would you yield to a question from Senator Dubas? [LB200]

SENATOR COUNCIL: Yes. [LB200]

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SENATOR DUBAS: Thank you very much, Senator Council. And I think you were hitting on the question that I'm going to be asking you, as far as what I've heard from colleagues who have questions or not quite understanding what this bill is, is the question is, so what does this bill really do? And I'm going to give you an example. A small community in my neighborhood, Wolbach, Nebraska, just recently opened up a specialty grocery store. They lost their grocery store, and so this group of people have worked with the Nebraska Food Co-op and some other co-ops, and now they have a grocery store going. It's a member-owned grocery store. But they're going to offer naturally raised, organics, whole, fresh foods, those types of things. Now, I don't know where they have gotten all their funding. I believe it's been individuals as well as with the Nebraska Food Co-op. But if this bill would have been in place when they were putting this grocery store together, would they have been able to access money from this program? [LB200]

SENATOR COUNCIL: Absolutely, Senator Dubas. And if you look at the purposes for which the funds are to be allocated, they are for the establishment of farmers markets, food cooperatives, community gardening projects, mobile markets, delivery projects, distribution projects, and any other projects that create or improve healthy food outlets that meet the intent of the act. And what you just described is exactly the type of program or operation that would be eligible to receive either a grant or a loan through the Rural Development Commission under LB200. [LB200]

SENATOR DUBAS: Great. I'm going to take this opportunity to give a plug to this store. It's called FROGS, which maybe isn't the most common name for a grocery store, but it's an acronym for First Rural Organic Grocery Store. This is a community of about 300 people, plus or minus a few--very small community. Very rural. But this is a group of people who have been active in the Nebraska Food Co-op, which...if you are not familiar with the Nebraska Food Co-op, I invite you to go on-line and check it out. It's a membership co-op, where you pay a fee, you have access to what they have available through...again organics, natural, fresh, those types of products. And so there is a growing demand and support for these kinds of efforts. Again, a grocery store in the town the size of Wolbach, Nebraska, is just vital. I mean, there are a lot of elderly in this community, and so for them to have to travel very far, I...Senator Council and my district are very different, but yet we have very similar needs as far as helping our constituents access just good, wholesome, nutritious foods. And so I...again, it might not appear on the surface that this bill will do a lot, but whatever it does, it will do very good things, and it certainly could be the catalyst for future efforts and for future programs like what this grocery store in Wolbach is attempting to achieve. And we're constantly talking about how do we revitalize our rural communities or those areas of our larger urban areas that are struggling to maintain population. And, you know, one of the first things a family is going to look at when they're moving into a community is: Will I be able to buy my groceries? You know, they're going to look at schools, they're going to look at grocery stores. And so if we can find ways to keep grocery stores...access to good, fresh,

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wholesome foods available in these small communities... [LB200]

SENATOR GLOOR: Time...or one minute. [LB200]

SENATOR DUBAS: ...it's a win-win for everybody. Thank you. [LB200]

SENATOR GLOOR: Thank you, Senator Dubas. Senator Council, you're recognized. [LB200]

SENATOR COUNCIL: Yes, thank you, Mr. President. And thank you, Senator Dubas, for sharing that example, because there are a number of other examples. And as you will recall from the hearing on the interim study resolution as well as the hearing on LB200, one of the examples of innovative ways of providing access to healthy foods are the students in Arthur County who operate the grocery store out of the high school. Under LB200, in other areas where you don't have a retail grocery store outlet available and you have high school students who are interested and willing to begin to operate a grocery store, this bill would enable them as well, that school district, to access dollars for the purpose of enabling that activity to occur. Again, when the bill was drafted, I had the opportunity to rely on the information from the Center for Rural Affairs, the interim study that was conducted by the Agriculture Committee staff, as well as other research that had been conducted nationally, and the bill itself was modeled after a bill in Pennsylvania. And one of the objectives of this bill is to provide a way for individuals who are interested in establishing or expanding retail food outlets of various varieties: farmers markets, co-ops, expanding convenience store food selections to include more healthy choices. One of the reasons why I wasn't that concerned about the amount of money being allocated under LB200...and at this point I will mention that with the \$150,000 annually, some, you know, may think that the better course would have been some kind of a pilot project. And if procedurally I could do that today, to put a sunset on it so that two years from now the Legislature could look to see what kind of impact, real impact, that LB200 was having, I would do so. But at the point in time when we're looking at funding sources and trying to arrive at a source that was budget neutral, that's why the bill is drafted the way it is. But it was drafted with the intent that this amount of money could be used to leverage private dollars, the federal New Markets Tax Credit...which, under the New Markets Tax Credit they have specific tax credits available and set aside for the exact types of programs and activities that LB200 envisions. And it also contemplated leveraging these funds to the extent possible to access federal grants and foundation grants. And in that regard I just want to bring to your attention that the day before the vote on Final Reading of LB200--the day before--and, in fact, I had planned to distribute copies to the body on the morning of the vote on Final Reading but didn't get that copying done in time. But on the day before the Final Reading vote, the federal government, for the first time ever--for the first time ever--released a request for proposals... [LB200]

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SENATOR GLOOR: One minute, Senator. [LB200]

SENATOR COUNCIL: ...for Healthy Food Financing Initiative grants and loans to do exactly the type of things that LB200 contemplates accomplishing. And the belief being, when LB200 was introduced, that this would position residents of Nebraska in a priority position when making applications for these federal funds by virtue of the fact that there was already an acknowledgement of the opportunity presented through the Healthy Food Financing Initiative to address access to healthy foods and the associated healthcare costs that would be ameliorated by providing such access. And for those of you who are interested, it's a Notice of Funds Availability released by the Department of Health and Human Services on May 11. And again, the first time ever that the federal government has said.... [LB200]

SENATOR GLOOR: Time, Senator. [LB200]

SENATOR COUNCIL: Thank you. [LB200]

SENATOR GLOOR: Thank you, Senator Council. Senator Ken Haar, you're recognized. [LB200]

SENATOR HAAR: Mr. President, I'd like to give the rest of my time to Senator Council, if she wishes. [LB200]

SENATOR GLOOR: Senator Council, 4 minutes 53 seconds. [LB200]

SENATOR COUNCIL: Thank you very much, Mr. President, and thank you, Senator Haar, for yielding your time. Again, the significance of that is a recognition of all of the policy advocacy work that has been occurring on this subject of access to healthy foods. And I don't want to neglect to take this opportunity to thank those who have provided support and information relevant to LB200 throughout this process. And when I say throughout this process, going back to the interim study last year, they were present, they were supportive, they provided information. And those organizations include the Nebraska Dietitians Association, who have been supportive of this initiative from the outset, recognizing the significance of improving access to healthy foods on the health of the residents of the state of Nebraska; members of the University of Nebraska-Lincoln who work in the SNAP program, because two years ago the Agriculture Committee, recognizing the importance of increasing access to healthy food among the low-income residents of the state enacted legislation...this body enacted legislation advanced by the Agriculture Committee to enable those who use SNAP benefits to use those SNAP benefits at farmers markets. And talking about farmers markets, it brings me to a question/concern raised by my colleague Senator Sullivan, a legitimate concern, in terms of if one of the objectives here is to increase farmers markets in communities throughout the state. And I think it's important to note that in

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many rural communities there are not as many farmers markets as you would think exist. And as Senator Ashford stated, there are more farmers markets, thankfully, being established in urban communities, but we need to see that same level of expansion in rural communities. And one of the concerns was that, okay, farmers markets, they can only sell produce that is raised during growing seasons. And I shared with Senator Sullivan that one of the proponents who testified at the hearing on LB200 is a young man who is interested and is pursuing establishment of a hydroponics/aquaponics operation. And what those operations involve is year-round cultivation of fresh vegetables using basically hoop greenhouses. And this is a program and a process that was started in Milwaukee, Wisconsin. It's called Growing Power. The individual, Will Allen, who developed that process and is training people across the nation in developing those kinds of systems. Under LB200, we could enable the development of those types of systems across Nebraska so that we would have year-round production of fresh vegetables. Again, I had the opportunity in 2009, in February, where there was six inches of snow on the ground, it was like 12 degrees in inner-city Milwaukee, and I was sitting in a hoop greenhouse and I was surrounded by fresh arugula, wheatgrass, watercress, fresh spinach, and the hydroponics operation was raising fresh tilapia and lake perch. [LB200]

SENATOR GLOOR: One minute. [LB200]

SENATOR COUNCIL: And all of these products were being made available to the local residents of that community. But, in addition, it provided an economic development boom for that community, because they were marketing these products to local restaurants and to the Milwaukee school district, which is consistent with one of the priorities of the Agriculture Committee, and that is to work on the development and expansion of farm-to-school programs. So under LB200, again, with a minimal investment, we could make a significant impact on improving access to healthy food choices to residents across the state of Nebraska but particularly in those areas where we have significant low-income populations, elderly populations that don't have access to regular transportation... [LB200]

SENATOR GLOOR: Time, Senator. [LB200]

SENATOR COUNCIL: Thank you. [LB200]

SENATOR GLOOR: Thank you, Senator Council. Senators waiting to be heard: Carlson, Hadley, Karpisek, Sullivan, Price, Ken Haar, and Council. Senator Carlson, you're recognized. [LB200]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I'm going to be brief on my testimony this morning and remind you that the hearing on LB200 was on March 1. There were several proponents: the Nebraska Dietetic



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Association, the UNL Extension, a group called No More Empty Pots, the Massena Corporation, and the American Heart Association. There were no opponents to the bill. The Nebraska Bankers Association testified in a neutral position, and I understand Senator Council's conversation with them since that time has perhaps put them in a position of support. And then the Nebraska Grocers Association was in a neutral position. I think they are concerned about loss, possible loss, of grocery stores. I think that's overblown. I don't think that that would happen with this bill. We are an agricultural state. Our mission is to feed our people. And I think this is one area that we could improve upon, and it's worthy of consideration, and so I would ask that you vote for reconsideration. Thank you, Mr. President. [LB200]

SENATOR GLOOR: Thank you, Senator Carlson. The Chair recognizes Senator Hadley. [LB200]

SENATOR HADLEY: Mr. President and members of the body, I thought I would explain why I'm going to change my vote and vote for reconsideration and vote for the bill. There was an article in the paper recently, and it dealt with the Carter Lake area up in Omaha and the problems people are having there getting to grocery stores, getting to areas that they can buy fresh fruit, fresh vegetables, and they quoted a lady and talked about the arduous trip it was to make it to a grocery store. I don't know if this bill will do anything to help that. I hope it does. But I thought to myself how easy it is for the rest of us, generally, to do the things that we do. It's very easy to get in the car. And for a lot of us, I know it isn't for everybody, but for a lot of us it's just a few minutes' drive to get what we want, what we need. So I'm going to change my vote and vote for this. The second thing, I happened to read a news article about a SIFE team, Students in Free Enterprise, in the University of Nebraska at Kearney that went up to Cody. And they're partnering with the Cody-Kilgore Unified Schools and the citizens of Cody to put in a grocery store up there. And I was struck by one sentence in the news article that...I believe it says that they travel 84 miles round-trip, the people of Cody, now to get to a grocery store. And these students are trying to help with that process of trying to get a grocery store there. So if this bill can in any way help that kind of process, I think it's worthwhile. Thank you, Mr. President. [LB200]

SENATOR GLOOR: Thank you, Senator Hadley. Senator Karpisek, you're recognized. [LB200]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I rise in support of the reconsideration motion. I just wanted to speak briefly, because I was a present-and-not-voting in committee. My main concern with this was the money that would go to a business that would be able to start up. I still have some reservation about that. However, Senator Council has assured me and now I feel good about that the process will be looked at and these grants will be given on a basis of neediness and that sort of thing. So I do feel okay with that now. I think, for me, the reason that I

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support the bill is because of the farmers markets, the community gardens, those sort of issues that are very needed and can really help that part of agriculture and that part of our state. And if someone does use it, a smaller family-owned business in a food desert, to be able to bring some of these products in, I have no problem with that. My problem was with the bigger box store coming in and being able to use some of these funds, and I would not support that sort of thing. But again, Senator Council has made me feel much better about that. So that is why I was not voting coming out of committee, but I have supported it on the floor and I will continue to do so. Thank you, Mr. President.  
[LB200]

SENATOR GLOOR: Thank you, Senator Karpisek. Senator Sullivan, you're recognized.  
[LB200]

SENATOR SULLIVAN: Thank you, Mr. President. Good morning, colleagues. I really tried hard to support this bill, and I haven't quite decided how I'm going to vote on this, and I've shared that concern with Senator Council off the mike because I'm not sure, in part, that it's going to help accomplish what she wants it to. And one of the things I told her, I said, you know, you can, the old adage, lead a horse to water, but you can't make it drink. Access is one thing, but then taking advantage once that access is there is quite another. So I stand, in part, to express some of my frustrations on this, but also to just kind of beg the question on some issues. You know, we talk about access to fresh fruits and vegetables and good produce and good product in the urban areas. And I hear some of these trendy grocery stores, like the Whole Foods and the Trader Joe's, tout how they sell sustainable products and they make it available in urban areas. And yet when I see them locating here in our state, they are not in the areas where they say they are going to service. They're in the suburban areas and not the inner-city areas, where I think they could be of great service. So that concerns me. You can tell I'm getting on my soapbox a little. And, of course, then you go back to the rural areas and I would venture to guess that our small-town grocery stores would be much more vibrant, much more profitable if every single person in that town did their grocery-store shopping in town rather than get on the highway, spend gas going to a big conglomerate in a bigger city. That would help the situation. And with respect to LB200, I wonder if there's some feature of it that really would address the distribution network, because to a certain extent, that's what it's all about too. That the big food distribution networks that are supplying some of these small communities, they really need to rethink, okay, we admit that we have lower populations in these communities. So does the truck need to come to Cedar Rapids twice a week? Can the grocery stores start to do some co-oping with the big conglomerate to help create some more efficiencies and thereby delivering better and more product to the people in the smaller towns? I have to go to Wolbach and visit that little grocery store. I'm very proud and excited that it's there. But also I continue to be concerned; the bottom line is if it's not profitable, they're not going to survive. And I'm sorry to say, in many cases it's money what drives the situation. And if, in fact, a bill like LB200 can help something like that survive, fine. I want to end by

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saying, too, that, getting back to my earlier comment about access and taking advantage of that access, I still remain committed to the fact that education plays a big role in this. I'm a home economist by profession and training, and we spend a lot of time as a profession trying to educate consumers about wise and healthy food choices. And I would suggest to you that there's still a lot of ignorance. You can get good food choices without having fresh fruits and vegetables available to you. There's a lot that can be packed in the freezer case of your home. And so again, you know, the farmers markets are not going to be the end-all and the be-all, and we shouldn't focus on those solely. It's a more complicated issue than that. And so that's been my concern all along with LB200. And I guess, as I said, I'm just, in part, getting on my soapbox on this issue and still, quite frankly, kind of undecided how I'm going to vote. [LB200]

SENATOR GLOOR: One minute. [LB200]

SENATOR SULLIVAN: Thank you. [LB200]

SENATOR GLOOR: Thank you, Senator Sullivan. The Chair recognizes Senator Price. [LB200]

SENATOR PRICE: Thank you, Mr. President, members of the body. I'm going to rise, say I'm going to support this reconsideration. That's the first thing. Second thing, I would like to state, like Senator Janssen and Senator Bloomfield and others, I've eaten food from cans and bags that were stored on shelves for years in my military time, so I have a deep appreciation for fresh food. There's absolutely a need for it, and so I do understand that. But I do have a question or a couple of questions for Senator Council, if she would yield. [LB200]

SENATOR GLOOR: Senator Council, would you yield? [LB200]

SENATOR COUNCIL: Certainly, Mr. President. [LB200]

SENATOR PRICE: Thank you very much, Senator Council. Here's what I'll do. I'm going to ask the questions, then we'll talk about it and see what time does for us. We talk about...it said in the bill there that you would give monies for...one-time monies for the project, Section 4, page 3. But you talk about one-time monies and you list...there are a lot of listed items there. Is it one-time money for the entire project, or if I do elements of that project I can reapply? [LB200]

SENATOR COUNCIL: And that will be up to the Rural Development Commission to determine whether you're actually seeking funding for a different project. I mean, and you could have a multiphase program... [LB200]

SENATOR PRICE: Okay, okay. [LB200]

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SENATOR COUNCIL: ...that the Rural Development Commission could view as separate and distinct projects. [LB200]

SENATOR PRICE: Okay. [LB200]

SENATOR COUNCIL: But the other thing is just...and the ability to leverage that one-time grant into some other (inaudible). [LB200]

SENATOR PRICE: And I understand. I just want to make sure a project could make application for multiple grants over the life of that project... [LB200]

SENATOR COUNCIL: Correct. [LB200]

SENATOR PRICE: ...or that effort. Okay. The second thing is, is we talk about on page 4, line 15 and 16, and multiple other places, we talk about "a meaningful commitment," that we're making a meaningful commitment to bring in fresh fruit; we're making a meaningful commitment to service, I believe it says, food stamp programs, things of that nature. Meaningful commitment, it's problematic in that it's very nebulous, if you would. One person's meaningful commitment is another person's, you know, hopes and dreams. Is there any other way...I mean, not right now, maybe later we'll have to visit...but it just...what does meaningful commitment mean? [LB200]

SENATOR COUNCIL: And the intent there is to demonstrate that you intend to sustain the project; that it's not just a one-time shot-in-the-dark effort; that you intend to devote these resources as well as other resources to sustaining the project. [LB200]

SENATOR PRICE: When the economic development group that's overseeing this and putting out, are they going to be able to recover losses? Let's just say that there's a grocery store: they started, they put in \$100,000 worth of refrigeration, and then it goes under. Who's going to...who's going to be able to recover on that? Can the money go back to the economic development corporation? Is there a mechanism in place that they would gather that? [LB200]

SENATOR COUNCIL: Well, that's assuming that you're not speaking about grants. And the bill provides for grant opportunities... [LB200]

SENATOR PRICE: Right. [LB200]

SENATOR COUNCIL: ...which are not, you know, recoverable, are generally not viewed as being recoverable. [LB200]

SENATOR PRICE: Okay. [LB200]

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SENATOR COUNCIL: And the loans...and I appreciate Senator Carlson making mention that the Bankers Association, one of the concerns they had was the original draft of the bill provided that the Rural Development Commission could make outright loans to applicants. And the Bankers Association was concerned that that was anticompetitive and that they were ready, willing, and able to provide loans for these types of programs. So one of the amendments that the body passed was to provide that the loans that could be granted by the Rural Development Commission had to be in association with a loan administered and provided through a financial institution. [LB200]

SENATOR PRICE: Well, I appreciate this. [LB200]

SENATOR GLOOR: One minute. [LB200]

SENATOR PRICE: Thank you, Mr. President. And I appreciate that, Senator Council. And I would let the body know, I have some trepidation in where we'll be making a capital outlay, we will be giving up dollars to enterprises that may not be able to sustain themselves, that we're going out on a risk here. And if economic...if that economic activity could be supported, there would be somebody there doing it now. However, that's a risk. And I think at this time I'm willing to take that risk because of what it will deliver. Thank you, Mr. President, and thank you, members. [LB200]

SENATOR GLOOR: Thank you, Senator Price. Senators remaining in the queue: Council, Brasch, and Krist. Senator Council, you're recognized. [LB200]

SENATOR COUNCIL: Thank you, Mr. President. And just briefly, in terms of the old analogy you can lead a horse to water, but you can't make them drink, I appreciate that, Senator Sullivan, and that's one of the reasons I greatly appreciate the support, the advice, counsel, and the offer of assistance that has been provided by organizations such as the Nebraska Dietitians Association to work in collaboration with entities that are going to be ostensibly seeking to access these dollars. I can't remember which senator spoke--Senator Hadley spoke about the Carter Lake situation. Allow me to tell you that in Douglas County, with the assistance of some grant funding from the Centers for Disease Control, the Douglas County Health Department has undertaken a program called Neighborhood Corner Store. And again, coincidentally, there was a television news story on it the Sunday before LB200 went to vote on Final Reading, where the Douglas County Health Department has been able to identify eight convenience stores, two of which have already committed to utilize some of the small amount of grant funds available from the CDC to expand their offering of healthy and affordable foods. And I know in speaking with representatives of the Retail Grocers Association, one of the concerns that they expressed was to be sure...and it goes to Senator Price's concerns about sustainability and viability. And I believe that the work that the Douglas County

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Health Department has been undertaking with these entities has been moving towards the assurance of these operations being sustainable. And the research showing, Senator Sullivan, that if people have regular access to healthy food choices they will make healthy food choices. So it's almost like the Field of Dreams kind of analogy: build it; they will come. The research indicates that healthy food access increases the consumption of healthy food products. And with that, I would just urge the body's favorable vote on the motion for reconsideration. Thank you. [LB200]

SENATOR GLOOR: Thank you, Senator Council. Senator Brasch, you're recognized. [LB200]

SENATOR BRASCH: Thank you, Mr. President. Good morning, body. I want to thank Senator Ashford for the motion to reconsider and also Senator Council for being very patient and thorough in explaining more about LB200. I am on the Ag Committee, and the presentation that day was exciting. Many people testified with great ideas. My concern came in twofold. One was the funding. Senator Council has answered that. My second was Senator Sullivan's concern about what will our communities do? Will they utilize this? I believe I will be an advocate. I know when I leave the Capitol when we adjourn and I resume my trek down main streets across District 16, I will stop at Roger's Market in Bancroft and show him potential. He can remodel, he can expand, he can...and new ideas--cooperatives with the high school. As I go on the main street of Craig, Nebraska, I want them to know. There were many communities that I did visit that could use a market expansion. There are some with great markets. They're adequate. But on Ag Committee, in an ag state, everyone should have access to good food, good healthy food. I will support this again on the floor. My questions have been thoroughly answered. I've signed on for a summer resolution to work with Senator Sullivan and Senator Hadley on repopulating rural communities. Things like this bring people home. This is an opportunity. This is an opportunity to build on what we have and to bring something fresh and new. If I have any remaining time, I will give it back to Senator Council. [LB200]

SENATOR GLOOR: Senator Council, 2 minutes 43 seconds. [LB200]

SENATOR COUNCIL: Thank you, Mr. President. Thank you, Senator Brasch. And just briefly, just reading to you from the report of the study conducted by the Center for Rural Affairs: Increasingly, rural residents have to leave their communities, often at great distances and at great expense, for food. They have less access to healthy fresh fruits and vegetables. The small towns face a vicious cycle, and this gets to a point that Senator Brasch just made. New residents and young families are unlikely to want to live in a community without a place to purchase food. And as locals get accustomed to traveling far to make their purchases, a town struggles to keep local businesses. And while this, again, LB200 will operate on a small scale initially, it is with great hope and anticipation that it will provide the initiative and the momentum for the communities

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across the state of Nebraska to take advantage through, initially, LB200 to leverage their way into some of the funds that are now being made available because of the vast recognition of the significance of providing healthy-food outlets, not only for the health of our residents but for the economic viability of our communities. The RFP that I mentioned that was announced the day before the vote on Final Reading, the federal government is setting aside \$10 million to be available for distribution through the grant application process. And for those of you who have been involved in... [LB200]

SENATOR GLOOR: One minute. [LB200]

SENATOR COUNCIL: ...grant writing in the past, know that the people who review grant applications look to see what kind of local support the applicant has and how it can be sustained. And I think that the existence of LB200 will better position Nebraska applicants for these federal grant monies, for these federal tax credits to enable them to carry out the purposes of LB200. And, finally, I did have occasion to speak with a local grocer in a rural community who discussed one of the issues that Senator Sullivan raised, which was the distribution patterns. And I advised that individual... [LB200]

SENATOR GLOOR: Time, Senator. [LB200]

SENATOR COUNCIL: Thank you. [LB200]

SENATOR GLOOR: Thank you, Senator Council. There are no members remaining in the speaking queue. Members, I would remind you procedurally we are on Final Reading and would ask that you please take your seats. Senator Ashford, you're recognized to close on your reconsideration motion. [LB200]

SENATOR ASHFORD: I might ask for a call of the house and a roll call vote while I'm... [LB200]

SENATOR GLOOR: We could offer you a check-in. [LB200]

SENATOR ASHFORD: ...well, we are on Final Reading, aren't we? [LB200]

SENATOR GLOOR: We could offer you a check-in, Senator. [LB200]

SENATOR ASHFORD: So why don't we do a check-in and I'll close. [LB200]

SENATOR GLOOR: Members, please take your seat and record your presence. Senator Ashford, do you choose to close? [LB200]

SENATOR ASHFORD: I will close just briefly. Thank you, Mr. President. I appreciate the comments. I thought Senator Sullivan and Senator Brasch were spot on in their

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comments. The impact of the economy in the last...in our state and how the distribution of food products--not only food products but all products across the state--the change in the whole retail concept, both in the urban areas and statewide, has had a dramatic impact. It had a dramatic impact on my family business when we...when the discount stores came into Omaha in the '70s and the small retailers suffered. And it had a dramatic impact on me and on my family. But not just me, obviously; it had a tremendous impact on many of my friends. And I know that that is the case in the rural areas. So I have some appreciation, though not anywhere near to the extent that Senator Sullivan and Senator Brasch have in the rural areas, where there's been such a major transformation in the economic reality of the small town in Nebraska. And I know that's just a little bit off topic, but I get it. And I think we all get it and all understand and appreciate it. What Senator Council has brought us, I think, is a segment of the problem, a segment of the solution. It is not, obviously, the total solution, but it is thoughtful. I appreciate Senator Carlson's comments. Senator Carlson spends a lot of time on these issues, and he looks at them carefully. And he, as Chair of the Agriculture Committee, he takes a very prudent approach on this and many, many, many issues; certainly the issues we deal with him in the Judiciary Committee are extremely thoughtful. This isn't radical or revolutionary, but it is a step in the right direction. If nothing else, to Senator Sullivan's point, and she...I always appreciate her passion, and her comments, you know, make us more aware, in the urban areas, of rural Nebraska. The more we can do utilizing food as a way to better appreciate the contribution of rural Nebraska, in my view, is huge, and it makes a big difference to me. So even though this is not a radical change or departure, it's not a lot of money...it is money, as Senator Price has...and he brings this up a lot, and he's right to do so, this is money. This is money that is not being spent somewhere else or not being...could be, I suppose, theoretically, go back in the General Fund, we all know that. But I think Senator Council has really met her burden here, with the help of Senator Carlson and others. And this is a good deal. I would appreciate a vote in favor. We do need 30 votes and then move this across. Thank you, Mr. President. And we can have a machine vote. It's fine.  
[LB200]

SENATOR GLOOR: Members, the bill requires no Final Reading since that has been done previously. And as Senator Ashford pointed out, this requires 30 votes. The question is, shall the vote on final passage of LB200 be reconsidered? All in favor vote aye; all opposed vote nay. Have all voted who care to? Senator Ashford, for what purpose do you rise? [LB200]

SENATOR ASHFORD: Yes, Mr. President, may I have a roll call vote in regular order, please. [LB200]

SENATOR GLOOR: Mr. Clerk, the request has been for a roll call vote, regular order.  
[LB200]



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CLERK: (Roll call vote taken. Legislative Journal pages 1669-1670.) 30 ayes, 18 nays on the motion to reconsider, Mr. President. [LB200]

SENATOR GLOOR: The motion passes. Mr. Clerk...we move to Final Reading. The question is, shall the bill pass on Final Reading? All in favor vote aye; all opposed vote nay. Have all voted who care to? Mr. Clerk. [LB200]

CLERK: (Record vote read, Legislative Journal page 1670.) 30 ayes, 16 nays, 3 present and not voting on the final passage, Mr. President. [LB200]

SENATOR GLOOR: The bill passes. We now move to LB200A. Mr. Clerk. [LB200 LB200A]

CLERK: (Read LB200A on Final Reading.) [LB200A]

SENATOR GLOOR: All provisions of law relative to procedures having been complied with, shall LB200A pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, record. [LB200A]

CLERK: (Record vote read, Legislative Journal page 1671.) 40 ayes, 4 nays, 5 present and not voting, Mr. President. [LB200A]

SENATOR GLOOR: LB200A passes. We now proceed with the agenda, moving to General File: redistricting bill. Mr. Clerk. [LB200A]

CLERK: Mr. President, LB700, introduced by the Redistricting Committee and signed by its members. (Read title.) Introduced on May 5 of this year, referred to Redistricting for purposes of a public hearing, advanced to General File. I have no amendments at this time, Mr. President. [LB700]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Langemeier, you're recognized to open on LB700. [LB700]

SENATOR LANGEMEIER: Mr. President, members of the body, LB700 is the redistricting plan for the Public Service Commission. There are five Public Service Commission members, with a target population of 365,268 people. If you see, we handed out...I didn't initial it, but you'll see I handed out a map. The first one is a small, 8.5-by-11 piece of paper that shows the current Public Service Commission map, and then the underlying shows the new proposed map that's before you today. We did have a hearing last Friday, on Friday the 13th, and there were no testifiers in opposition or support. The Public Service Commission did send a letter in support, supporting this map. And with that, I would ask for the adoption of LB700. Thank you. [LB700]

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SENATOR GLOOR: We now move to floor debate. Are there senators wishing to be heard? Seeing none, Senator Langemeier, you're recognized to close. Senator Langemeier waives. Members, the question is the advancement of LB700 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB700]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB700. [LB700]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB700]

CLERK: LB701, a bill offered by the Redistricting Committee. (Read title.) Bill was introduced on May 5, referred to the Redistricting Committee, advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB701]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Langemeier, as Chairman of the Redistricting Committee, you're recognized to open on LB701. [LB701]

SENATOR LANGEMEIER: Mr. President, members of the body, thank you. As you look to the bill that was passed out on LB701, you'll see another set of maps. The first one is the current Board of Regents and the State Board of Regents (sic) map. And I can kind of jokingly say, why are these maps the same? Well, they've been the same for a lifetime, well, my lifetime. Since 1971 the maps have been identical, and so you will see when I open on the next bill that it is identical. Again, the Board of Regents map came in. We did not have any testifiers in support or opposition. We have had feedback from the Regents that are currently serving. They like the plan as their each individual district is represented. There's eight Board of Regents members, with a target population of 228,293 people. With that, we'd ask for your adoption of LB701. Thank you. [LB701]

SENATOR GLOOR: Thank you, Senator Langemeier. We move to floor debate. Seeing no members wishing to speak, Senator Langemeier, you're recognized to close. Senator Langemeier waives. Members, the question is the advancement of LB701 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB701]

CLERK: 42 ayes, 0 nays, Mr. President, on the advancement of LB701. [LB701]

SENATOR GLOOR: The bill advances. (Visitors introduced.) Continuing with General File: redistricting bills, Mr. Clerk. [LB701]

CLERK: Mr. President, LB702, introduced by the Redistricting Committee and signed by its members. (Read title.) Introduced on May 5, referred to the Redistricting Committee. The bill was advanced to General File. I have no amendments to the bill at this time, Mr. President. [LB702]

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SENATOR GLOOR: Senator Langemeier, you're recognized to open on LB702. [LB702]

SENATOR LANGEMEIER: Mr. President, members of the body, LB702 is the map dealing with State Board of Education. It is the same map as the previous one we just passed, thank you, of the Nebraska Board of Regents. Again, we had the hearing on Friday, May 13, Friday the 13th. We had no testifiers in support or opposition to this map as well. Committee did good work. At this time I'd like to thank the committee for their hard work, as our committee activity has concluded yesterday. As you'll see, not a lot of discussion here. I'm sure there will be discussion on others as the other two bills come forward later in the week. With that, I appreciate their help. And again, this State Board of Education has eight representatives, with 228,293 people as our target for each district. It looks very similar to the current maps and would ask for your adoption of LB702. Thank you. [LB702]

SENATOR GLOOR: Thank you, Senator Langemeier. We now move to debate. Senator Lautenbaugh, you're recognized. [LB702]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do rise in support of this bill and this map. It is sort of a historical oddity that the State Board of Education and the Board of Regents are the same. That's just out of convenience, I think, since they have the same number of districts. I don't think there's any rhyme or reason or any technical reason or policy reason why they must be the same, but they are. This map had kind of an interesting history, in that we actually voted out a map once and then pulled it back because we realized that the proposal we had made dramatic changes to District 1 in Lancaster County and, for whatever reason, changed the district so that it was just basically the city of Lincoln and some areas. So we fixed that, with some input from the Board of Regents, and accommodated all the concerns raised by the Board of Regents and maintained the prior district to the extent possible. And so I would urge your approval of this. [LB702]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. There are no additional senators wishing to be heard. Senator Langemeier, you're recognized to close. Senator Langemeier waives. Members, the question is the advancement of LB702 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB702]

CLERK: 43 ayes, 0 nays, Mr. President, on the advancement of LB702. [LB702]

SENATOR GLOOR: The bill advances. Continuing with the agenda, Select File, Mr. Clerk. [LB702]

CLERK: Mr. President, LB521. Senator Larson, I have Enrollment and Review

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amendments. (ER132, Legislative Journal page 1605.) [LB521]

SENATOR GLOOR: Senator Larson. [LB521]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB521 be adopted. [LB521]

SENATOR GLOOR: Members, the question is the adoption of the E&R amendments to LB521. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB521]

CLERK: I have nothing further on the bill. [LB521]

SENATOR GLOOR: Senator Larson. [LB521]

SENATOR LARSON: Mr. President, I move that LB521 be advanced to E&R for engrossing. [LB521]

SENATOR GLOOR: Thank you, Senator Larson. We have senators wishing to be heard. Senator Ken Haar, you're recognized. [LB521]

SENATOR HAAR: Mr. President, members of the body, I guess it's my belief that the intent of LB521 is to make abortion more difficult; especially this is going to make it more difficult in rural areas. So I have a couple questions to ask of Senator Fulton. [LB521]

SENATOR GLOOR: Senator Fulton, would you yield to question? [LB521]

SENATOR FULTON: I will. [LB521]

SENATOR HAAR: Senator Fulton, would...I just stated to you what I believe the intent of LB521. Could you tell me your intent of LB521? [LB521]

SENATOR FULTON: I will, sure, Senator. The idea behind LB521 has to do with safety for the mother. Now, I recognize what you're saying is this will make abortion more difficult across Nebraska, and I don't contend that because these...the webcam abortions that we're talking about aren't being performed today, and so I'm being crystal...as crystal clear as is possible. My intention is to require a doctor's presence to a woman, much in which the same...much is the practice today, so... [LB521]

SENATOR HAAR: Okay. Thank you very much. Well, I want to talk some about safety. "Safe" is really a relative term when you talk about drugs. I went out to the dictionary, the free on-line dictionary, and it says the word "safe" here: secure from danger; free

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from danger, injury; free from risk. I guess what I'm proposing here is that when it comes to drugs, the word "safe" is really relative. There are probably no drugs in this world that are safe. And so I want to spend some time today talking about that and going through a list of several dozen drugs to talk about safety. Safe is relative. Talking about RU-486, which is another name for mifepristone, for over 15 years medical evidence has indicated that mifepristone is as safe or safer than commonly used medications, such as over-the-counter nonsteroidal anti-inflammatory drugs and antihistamines, and is less risky than continuing a pregnancy to term. Worldwide, millions of women have used mifepristone for safe and effective early abortion, which is legal in this country. It is approved for use in 38 countries and has been used for nearly 20 years in Europe. Compare them...talk about safe again here, let's talk about medical risks and then whether we need to have doctors present at even riskier procedures. Mifepristone is safer than acetaminophen, which is Tylenol, aspirin, and Viagra. Accepted drug events are not uncommon even with well-accepted and widely used medications. For example, accidental acetaminophen, or Tylenol, overdose is the single most common cause of catastrophic liver failure in the United States, causing approximately 150 deaths annually. That's Tylenol. The American Association of Poison Control Centers reported 59 deaths from aspirin during 2003. Estimates of the number of excess... [LB521]

SENATOR GLOOR: One minute. [LB521]

SENATOR HAAR: ...deaths due to gastrointestinal bleeding from use of aspirin and other nonsteroidal drugs, such as ibuprofen, range in the thousands. From 1993 to 2000, the U.S. Food and Drug Administration received over 4,000 adverse event reports, including 55 reports of death, involving Claritin, a drug which recently received over-the-counter status. And among users of Viagra, there have been approximately 5 deaths for every 100,000 prescriptions provided. I guess that's the cost of love. According to the manufacturer Pfizer, more than 23 million men worldwide have been prescribed the erectile dysfunction medication Viagra and more than 1 billion prescriptions have been written. So let me run down... [LB521]

SENATOR GLOOR: Time, Senator. [LB521]

SENATOR HAAR: ...the quick facts again. [LB521]

SENATOR GLOOR: Time, Senator. [LB521]

SENATOR HAAR: Thank you. [LB521]

SENATOR GLOOR: Thank you, Senator Haar. (Visitors introduced.) Continuing with floor debate, Senator Conrad, you're recognized. [LB521]

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SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. Colleagues, I rise in opposition to LB521 for a variety of reasons, most notably those based in policy perspectives and those based in legal perspectives. And let's be clear about the lay of the land and where we are today. LB521 is completely unnecessary. Proponents acknowledge that this practice is not occurring in Nebraska currently, so there is really a rush to judgment here and an overreaction for a situation that's not even occurring in Nebraska. Additionally, as proponents note and was discussed on General File, there are already restrictions in place in relation to these types of prescribing activities that are prohibited under our pharmacy statutes or our licensing rules and regulations. So even if one were to assume that we should be concerned at this moment in time about the potential of this practice coming to our borders, there's already parameters and restrictions on the books detailing and outlining these practices and procedures. Finally, proponents contend that there are significant safety issues which require and necessitate passage of LB521. Again, colleagues, we talked about this in some detail on General File, we'll talk about it in greater detail here on Select File, but I contend that selectively reading in certain warnings from FDA information related to the specific pharmaceuticals that are banned under LB521 does not indeed a safety risk create. Rather, as Senator Haar and others have noted, every pharmaceutical carries risk with it. And if we are going to rush to judgment and create a disparate standard for women seeking medical access in these situations, then we should do so across the board. We should not pick and choose. We should not discriminate. Finally, and we'll have a chance to talk more, it was noted on General File that there is an AG's informal Opinion that has been circulated to the body which puts forward the Attorney General's Opinion in relation to whether or not this does indeed meet constitutional or legal muster. That's fine, and it is what it is--it's his opinion on this matter. It's not the last legal authority as to these issues and questions contained...and concerns that underlie LB521. We passed a bill this morning on Final Reading against the Attorney General's Opinion related to my seatmate Senator Karpisek's jurisdiction in the gambling arena. So if proponents are hanging their hat on solely that interpretation of a very, very narrow legal question, applying general concepts from Roe and Casey, that's fine. But let's be clear, there are much, much more complicated, complex, and additional legal concerns that do come into play in relation to LB521, not only the undue burden standard under Casey and its progeny but also issues related to the Commerce Clause and the dormant Commerce Clause, equal protection on the basis of gender, equal protection on the basis of provider type, preemption issues under FDA approval of certain pharmaceutical issues. None of these issues are addressed in the Attorney General's Opinion. None of these issues have been addressed by proponents on the floor of this Legislature. [LB521]

SENATOR GLOOR: One minute. [LB521]

SENATOR CONRAD: And if you think these concerns are purely academic, I suggest you go back and read the federal district court's judgment in relation to an

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abortion-restriction bill we heard last year that was enjoined by the court, that contemplated these very issues. And note, in the Opinion, the Attorney General's Office immediately conceded the Commerce Clause issues that were at play. Those have not been mentioned and deserve attention. If politicians intend to put an undue burden or restriction upon certain medications and certain procedures that have a proven record of safety and efficiency, such as this drug and this procedure, then the same standard should be applied across the board. For example, colleagues, I just did a quick Google search in between General and Select File to try and figure out what are... [LB521]

SENATOR GLOOR: Time, Senator. [LB521]

SENATOR CONRAD: Oh, thank you, Mr. President. [LB521]

SENATOR GLOOR: Thank you, Senator Conrad. (Visitors introduced.) Senator Council, you are recognized. [LB521]

SENATOR COUNCIL: Yes, thank you, Mr. President. And I just want to follow up on some of the comments I made during the General File discussion of this legislation, and Senator Conrad has alluded to it in her comments, and that is the standard in the Casey decision and the references in the informal Attorney General's Opinion as to what the state can and cannot do. And I think it's very clear that the state cannot impose an undue burden on a woman's access to abortion services and that the exception lies in this arena when the state has a compelling interest, and a compelling interest has to be in the nature of something like to provide for the greater health and safety of the pregnant woman. And with regard to LB521, I had the opportunity to hear the bill in the Judiciary Committee as well as to hear the debate that has occurred thus far, listened to Senator Fulton's opening in both of those venues, and have yet to hear any specific statement of health or safety risks presented by the procedure that is sought to effectively be banned by LB521. And Senator Fulton, you know, has made it clear that it's his intent to maintain, quote, the status quo in Nebraska with regard to available abortion procedures, but my reading of the case law does not indicate that that rises to the level of a compelling state interest, and that is the constitutional standard that would be applicable in this instance. And without that kind of health and safety evidence to support this bill, the mere desire to only permit the current form of abortions to be conducted in Nebraska, in my opinion, rises to the level of an undue burden and a, in fact, ban, to some extent, on access to these reproductive services. And even with regard to the Iowa process that has given rise to this legislation, as I understand it, there is nothing that's been presented and there's no evidence from the state of Iowa that the telemedicine process that is sought to be banned by LB521 has created any serious health risks to pregnant women. In fact, the Iowa Department of Health released a report that said that the telemedicine use of RU-486 had not presented any health risks. And I think it's also curious to note that in the argument in support of LB521 and in an attempt to try to create a health or safety risk associated with RU-486, Senator Fulton

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made note of the fact that in the FDA trial studies of RU-486, 80...8 percent... [LB521]

SENATOR GLOOR: One minute. [LB521]

SENATOR COUNCIL: ...just 8 percent...is that time, sir? [LB521]

SENATOR GLOOR: One minute, Senator. [LB521]

SENATOR COUNCIL: Okay...that 8 percent of the procedures failed. Well, the interesting part...point to be noted is that a failure of RU-486 amounts to no termination of the pregnancy. It doesn't amount to any complications to the health or safety of the mother. In fact, the 8 percent failure rate I thought, and would think, would suit the purposes of those who advance LB521, because there is no termination of the pregnancy when RU-486 fails. So I believe that without sufficient data establishing a health or safety risk associated with this procedure, that it is an unconstitutional imposition... [LB521]

SENATOR GLOOR: Time, Senator Council. [LB521]

SENATOR COUNCIL: Thank you. [LB521]

SENATOR GLOOR: Thank you, Senator Council. Senator Conrad, you are recognized. [LB521]

SENATOR CONRAD: Thank you, Mr. President. And again, good morning, colleagues. Just to continue my commentary from where I left off after my previous time on the mike, I just did a quick Google search to try and figure out the most commonly prescribed drugs or medication in the United States, and according to a report in [Forbes.com](http://Forbes.com), "The Most Medicated States," updated again this year in August 16, 2010, nationwide the most commonly prescribed drug was the pain reliever--and again I apologize if I mispronounce these medical and pharmaceutical terms, but I'm going to do my best--was the pain reliever hydrocodone/APAP, with more than 120 million retail prescriptions last year. Other top prescribed drugs in '09--must be the most recent stats they have available--included lisinopril, which is used to treat high blood pressure; simvastatin, which is used to lower cholesterol; levothyroxine, used for thyroid problems; and amoxicillin and azithromycin, used to treat bacterial infections. So here's an objective, unbiased, or at least one report of what the most commonly prescribed drugs in the United States indeed are. So then I went and looked at their FDA information to see what was reported. And as Senator Fulton and other proponents have noted, that there's some sort of vast or unique or particular safety risk associated with the drugs that are banned in his legislation, and I contend that's just not the case. In fact, the drugs that are banned in his legislation are actually considered very safe by the FDA and by medical professionals and are nothing more than a scare tactic used to



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threaten women and doctors who are engaged in this important work. So let's talk about these top prescribed drugs and what their warnings carry with them. Hydrocodone and APAP, what's their warnings? Well, let's see. Hepatotoxicity: Acetaminophen has been associated with cases of acute liver failure, at times resulting in liver transplant and death. That's a pretty serious and significant safety risk. Most cases of liver injury are associated with the use of acetaminophen at doses exceeding 4,000 milligrams a day. Excessive intake may be intentional, to cause self-harm, or unintentional, as patients attempt to attain more relief or unknowingly take other acetaminophen-containing products. In addition to liver disease and liver problems and liver failure, also this pharmaceutical can cause hypersensitivity and anaphylaxis. These have been reported with the use of acetaminophen. Clinical signs include swelling of the face, mouth, throat, respiratory distress, rash, and vomiting, again, serious, no more serious than what Senator Fulton has read in, I guess. Also can cause respiratory depression, head injury, and increased intracranial pressure, acute abdominal conditions, and the list goes on and on. And there is a laundry list of usual precautions that should be observed, should be observed, patients, when doctors are prescribing acetaminophen, the number one prescribed drug in the United States. There's a specific warning in FDA information that there should be a specific observance. How would that translate with... [LB521]

SENATOR GLOOR: One minute. [LB521]

SENATOR CONRAD: ...with the policy--thank you, Mr. President--with the policy considerations contained in LB521? And I'm going to go through the other warnings from the other drugs in the top five so that's clear for record purposes. And as I close I did just want to see if Senator Bloomfield, who...this is his priority bill, and he noted on General File that he had relied on a great deal of research and information in making this his priority bill. He didn't have that handy on General File, so I'm hoping he hits his light this morning and we can hear more about the specific citations he utilized. Thank you, Mr. President. [LB521]

SENATOR GLOOR: Thank you, Senator Conrad. Chair recognizes Senator Ken Haar. [LB521]

SENATOR HAAR: Mr. President, members of the body, as I said last time, according to actual research data, mifepristone is safer than Viagra. I would like to...than taking Viagra. I'd like to ask Senator Fulton a question or two, if he... [LB521]

SENATOR GLOOR: Senator Fulton, would you yield to a question from Senator Haar? [LB521]

SENATOR FULTON: I will. [LB521]

SENATOR HAAR: Senator Fulton, we're obviously going to disagree on this issue, but

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could you explain, do you believe that since Viagra causes 5 deaths per 100,000 and mifepristone 1 per 100,000, that in one case women need protection, in the other case do you believe that a doctor should be there every time a man takes Viagra? [LB521]

SENATOR FULTON: I do not believe doctors should be present every time a man takes Viagra. [LB521]

SENATOR HAAR: Okay, could you explain the difference to me, why one drug is...that has a higher death rate shouldn't require a doctor's presence whereas another that has a lower death rate should require a doctor's presence in all phases? [LB521]

SENATOR FULTON: Sure. Senator, we're not so much looking at the drug as we are the procedure, in bringing...or me, in bringing forward the legislation. We are treating abortion somewhat differently than other procedures as it relates to telemedicine, and so that is how I would answer your question. We have the ability and the authority to do so, and that's where I have chosen to look, and that is therefore the subject matter of the bill. Perhaps next year you can bring a bill having to do with Viagra, and maybe it's something I'd consider, but I had not considered Viagra nor any of the other drugs because I am focusing specifically on abortion, as the bill spells out. [LB521]

SENATOR HAAR: Okay. Fair enough. Thank you very much for that. Well, I believe that LB521 does suggest incorrectly that mifepristone is not safe, and as we've shown with the statistics, this claim is untrue, knowing that no drug is totally safe. In fact, 99.841 percent of women using mifepristone have not reported an adverse drug reaction. Of course, no medication, even common over-the-counter drugs...no medication is entirely exempt from adverse events. And it's my feeling and the reason I'm talking about this is that if politicians intend to put undue burdens or restrictions on medications and procedures that have such proven records of safety and efficacy as mifepristone, then the same standard should be applied across the board. Again, reiterating some of these things, and then I'll go in some other drugs later, but yearly there are 150,000...I'm sorry, yearly there are 150 deaths from Tylenol. Tylenol affects the liver. Pregnancy-related deaths, there are about 13 per 100,000 live births, and, in fact, this rate is going up in the United States. Some people say it's because of C-sections, whatever...13 per 100,000; Viagra, 5 deaths per 100,000 prescriptions; and mifepristone, 1 per 100,000 prescriptions. And so the safety of this drug...again, everything is relative... [LB521]

SENATOR GLOOR: One minute. [LB521]

SENATOR HAAR: One minute? This drug is as safe or safer than many over-the-counter drugs and many prescription drugs. And the next time I am up, I'd like to talk about a particular drug which some of us have used because of blood clots, and that's the drug Coumadin. Again, it's across the counter...I'm sorry, it's prescribed but

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does not require a doctor to be there when it's prescribed. Thank you. [LB521]

SENATOR GLOOR: Thank you, Senator Haar. Senator Council, you are recognized. [LB521]

SENATOR COUNCIL: Thank you very much, Mr. President. And I just want to be sure that Senator Fulton is aware of the consequences of taking what appears to be a simplistic position with regard to our current telemedicine statutory provisions, and that is the very equal protection argument that Senator Conrad alluded to. In this instance, by taking the position that Senator Fulton has articulated, I think he further establishes the unconstitutionality of LB521, because despite the safety and health risks associated with being able to administer particular drugs via telemedicine that may have serious health risks for males and not placing any restrictions on the ability for a physician to administer those drugs via telemedicine, yet imposing a restriction on a physician's ability to administer RU-486 via telemedicine without any evidence of health and safety risks even comparable to those associated with some of the other drugs that have been identified. And I recall on General File there was a lot of question about a physical exam or the physical consultation, and the current telemedicine statute does require these consultations and does restrict the method in which the consultations can be conducted. I did some further research, and it was revealed to me that the way RU-486 is administered in those places where that is being undertaken...the same type of medically secure technology is being utilized, and that's a real-time, face-to-face consultation with the physician over a secure technology line, and all of which has to comply with HIPAA; that what we need to recognize is by stating that despite the lack of evidence of health risks associated with the administration of RU-486, to ban its use through an existing telemedicine procedure where you allow the use and administration of drugs with far greater health and safety risks to the patient again establishes a lack of a compelling state interest for the state to impose this undue restriction and burden on a woman's access to these abortion services. And again, I guess I need to continually make clear, I would prefer that no abortions are performed in the state of Nebraska, but I recognize that women who find themselves in various situations don't always operate under the same system or set of principles that I may operate under. And in that regard, I don't believe that I or anyone else has a right to dictate that woman's very difficult choices, and that's...again, these are not cavalier choices. And we need to consider the consequences of LB521. I believe that Senator Fulton genuinely believes that LB521 will result in a decrease in abortions being performed in the state of Nebraska. I wish I shared that belief with Senator Fulton, but I don't. All I believe the outcome of LB521 will be, in those areas where women don't have access to reproductive services, we're just going to add to their cost and their burden. [LB521]

SENATOR GLOOR: Time, Senator. [LB521]

SENATOR COUNCIL: Thank you. [LB521]

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SENATOR GLOOR: Thank you, Senator Council. Mr. Clerk. [LB521]

CLERK: Mr. President, Senator Haar would move to amend the bill with FA26.  
(Legislative Journal page 1672.) [LB521]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Ken Haar, you're recognized to  
open on your floor amendment. [LB521]

SENATOR HAAR: Thank you, Mr. President. I would like to...and the amendment, is it  
up on the gadget already? Okay. This will give us some more time to talk, obviously. I'd  
like to ask Senator Bloomfield a question or two, if I could. [LB521]

SENATOR GLOOR: Senator Bloomfield, would you yield for a question? [LB521]

SENATOR BLOOMFIELD: Yes, I would. [LB521]

SENATOR HAAR: Okay. Thank you, Senator Bloomfield. I know we're going to  
disagree on this issue, but could you explain to me how...or let me put this another way.  
Would you agree that it will be more difficult for women in parts of Nebraska where  
there's a shortage of doctors to get an abortion under this bill? [LB521]

SENATOR BLOOMFIELD: I guess I don't quite understand your question there. [LB521]

SENATOR HAAR: Okay. I'll reframe it a little bit. Do you believe that this bill will make it  
more difficult for women where there's a shortage of doctors in rural Nebraska to get an  
abortion? Will this make it more difficult? [LB521]

SENATOR BLOOMFIELD: I don't believe so. My concern with this is having a doctor  
nearby. Senator Council quoted me the last time we debated this, and she came back  
and apologized for the misquote, and what I had intended at that time was that I believe  
you should have a doctor close by if there is a problem with the medication that you are  
prescribed. I don't believe that doctor should be 150-200 miles away. So, no, my  
concern, again, is with the safety of the woman. [LB521]

SENATOR HAAR: And I understand your concern, Senator Bloomfield, but do you think  
this will make it more difficult, if a woman has to drive, somebody in a rural area, a  
woman in a rural area has to drive to her doctor 200 miles, as you already stated,  
200-250 miles? Would that make it more difficult for her to get an abortion then?  
[LB521]

SENATOR BLOOMFIELD: I don't believe she's going to have to drive that distance to  
get to a doctor. Again, my contention is that she should not be dealing with a doctor that

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is that far away. So, no, I think if she goes to her local doctor, it will...they should be able to resolve the issue. [LB521]

SENATOR HAAR: Okay. Okay, I see your point, that, in other words, instead of dealing with a "teledoctor," let's call it that, who might be 250 miles away, going to her local doctor. How far might that be to go to her local doctor, let's say in western Nebraska? [LB521]

SENATOR BLOOMFIELD: I can't put a mileage number on it. I'm guessing we're going to be looking at...you know, Scottsbluff certainly has doctors, Alliance has doctors, come back to Valentine, there are certainly doctors. I don't know the population of the doctors in the small towns in between there, or I assume there's a doctor in Gordon. I don't know that. [LB521]

SENATOR HAAR: Okay. So women will have to drive further than they would have to in Lincoln or Omaha or Columbus, whatever. [LB521]

SENATOR BLOOMFIELD: Oh, yeah, they're going to have to do that to get, as we just discussed, a fresh apple also. [LB521]

SENATOR HAAR: Yeah, unfortunately. [LB521]

SENATOR BLOOMFIELD: (Laugh) [LB521]

SENATOR HAAR: Do you feel that some other, you know, again, statistics showing that 5...that Viagra causes 5 deaths for every 100,000 prescriptions, so it's actually a more dangerous drug than mifepristone. Do you feel that that warrants having a doctor present when someone takes that drug? [LB521]

SENATOR BLOOMFIELD: I don't know the...fortunately, I guess, I'm not familiar with all the effects of the aforementioned drug, but I certainly wouldn't want a doctor with me if I'm going to take that pill, no. Again, the results of that pill are certainly not intended to be what we're looking at here, nor, I think, is...the thing that I keep hearing on there is a four-hour situation, if you get over four hours you probably ought to see the doctor. Again, I would go to a local doctor. I would not go to the doctor 200 miles away if I had that issue. So I guess I'm not a real firm believer in the telemedicine thing that... [LB521]

SENATOR HAAR: Just generally in telemedicine or...? [LB521]

SENATOR BLOOMFIELD: Well, I think where there are issues that can endanger the patient, that it is important to have a relationship with your doctor. And that individual should not be 200 miles away. I can't imagine a man needing the Viagra, or wishing to use Viagra, going to a doctor 200 miles away without having some contact with that

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doctor to know that that drug is relatively safe for him. I just don't see it happening.  
[LB521]

SENATOR HAAR: Okay. Thank you very much. I'd like to talk about some other drugs. I want to go back to the premise that...that I believe that LB521 suggests incorrectly that mifepristone is not safe. And that claim is untrue; it's as safe as many other drugs. And of course no drugs are without safety issues...some of them over the counter, as we've talked about. And I believe if politicians intend to put undue burdens or restrictions on medications and procedures that have such proven records of safety and efficacy as mifepristone, then the same standard should be applied across the board to more dangerous drugs. I'd like to talk about one of those drugs. And I know that some of us have had, in this Chamber certainly, have had to use this drug. The drug is Coumadin. Coumadin is used to thin the blood. I guess that's not a technical term, but it's used to thin the blood. It's an anticoagulant. It reduces the formation of blood clots by blocking the formation of certain clotting factors. Coumadin is used to prevent heart attacks, strokes, and blood clots in veins and arteries. Coumadin may also be used for purposes other than those listed in this particular medication guide. I had to use Coumadin. I had some prostate surgery some years ago, and as a result of the surgery, I got a blood clot in my leg, in my calf, and that's the worst...one of the worst place to get them because there's a pretty direct route from the calf to the heart...I'm sorry, from the calf to the lungs. And if a blood clot gets to the lungs and then through that area, through the heart, it's a very dangerous situation. So as one of the...and this is interesting. This is from Australia, from one of their Web sites. It talks...it says warfarin, which is the common name for Coumadin--Coumadin is a trade name--is an interesting medication. It saves lives but causes many problems, including some deaths of its own. Goes on to say, bleeding to death is a particularly unpleasant way to go, and warfarin isn't the safest drug if used inappropriately. They recommend that a pharmacist counsel the patient on the use of warfarin...a pharmacist. Coumadin is a blood thinner, again, used for blood clots. It's also very interesting that Coumadin--again, a very, very useful drug in some cases but a very bad drug if it's used improperly--Coumadin or warfarin, warfarin is the common name, is the main ingredient in rat killer, in d-CON. And the way it kills the rat is it gives it too much...too great a dose of warfarin, and the rat or the mice, whatever, bleeds internally. That's what causes death. [LB521]

SENATOR GLOOR: One minute, Senator. [LB521]

SENATOR HAAR: Coumadin is such a dangerous drug to use that usually it starts with heparin. Heparin is something that...at least in my case, I think I used it for about a week and I had to inject it. It's an injection, and I had to inject it into my belly, which was not a lot of fun, but, again, the blood clot was staring me in the face, so I used it. Heparin itself is a dangerous drug if used improperly. A nurse showed me how to use it, how to inject it. A doctor prescribed it, but a nurse showed me how to use it, and of course I went back for blood tests time and again to see if my Coumadin levels were

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proper, but in those cases I didn't necessarily have to talk to a doctor. I could talk to a nurse or whatever. So again, Coumadin is a very dangerous drug... [LB521]

SENATOR GLOOR: Time, Senator. [LB521]

SENATOR HAAR: Thank you. [LB521]

SENATOR GLOOR: Thank you, Senator Haar. (Visitors introduced.) Members, you have heard the opening on FA26. Senators wishing to be heard: Conrad, Krist, and Ken Haar. Senator Conrad, you're recognized. [LB521]

SENATOR CONRAD: Thank you, Mr. President. And again, good morning, colleagues. Before I continue on my record-building in relation to the risks associated with the top prescribed drugs in the United States, I was listening carefully to the dialogue between Senator Haar and Senator Bloomfield, and I know Senator Bloomfield is very sensitive about being misquoted, as we all are, and so I thought I might just ask him directly, if Senator Bloomfield would yield to a question. [LB521]

SENATOR GLOOR: Senator Bloomfield, would you yield? [LB521]

SENATOR BLOOMFIELD: Yes, I would. [LB521]

SENATOR CONRAD: Thank you, Senator. I don't know if you were listening previously but you did note on General File that you had relied on a variety of different research and reports that generated your patient-safety concerns in relation to this bill. And have you been able to provide a citation on any of those? [LB521]

SENATOR BLOOMFIELD: I do not have those with me at this time. I can certainly get them to you if you want them. [LB521]

SENATOR CONRAD: I'm guessing that we'll probably be on this after lunch, so you'll have some time to generate those over the noonhour. But then also you noted in your dialogue with Senator Haar that you believe having a doctor present at the time of prescription will make the procedure safer. Is that a correct characterization of your position? [LB521]

SENATOR BLOOMFIELD: I believe that there should be a relationship between the doctor and the patient and that the doctor should be nearby in case something goes wrong. [LB521]

SENATOR CONRAD: Okay. And, Senator Bloomfield, you understand how this particular prescription is prescribed. It's not a one-time thing. [LB521]

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SENATOR BLOOMFIELD: I understand that. [LB521]

SENATOR CONRAD: Okay. So then how is the doctor going to be present when the subsequent doses are utilized? [LB521]

SENATOR BLOOMFIELD: The doctor may not be present, as he may not be with the Viagra, but I would certainly hope he's not 200 miles away. I would hope, if there is an issue, that the doctor would be within a relatively quick drive to the facility where the doctor is. The idea of having a doctor 20 minutes away versus 2 hours away is of concern to me. [LB521]

SENATOR CONRAD: For all drugs or just in this instance? [LB521]

SENATOR BLOOMFIELD: I think pretty much for all drugs that have any danger to them at all. You know, I don't believe... [LB521]

SENATOR CONRAD: Okay. And... [LB521]

SENATOR BLOOMFIELD: I take a heart medication. I have established contacts down here where if I have problems I can go get it taken care of without having to drive the 130 miles home to my own heart doctor. I... [LB521]

SENATOR CONRAD: Right. And that's sound practice, of course. [LB521]

SENATOR BLOOMFIELD: Yeah, and that's... [LB521]

SENATOR CONRAD: But you do recognize that in a medical abortion, that there's a series of drugs prescribed, an initial dosage and then subsequent dosages. And so under the legislation that you've prioritized, you're requiring physical presence at each moment. Is that correct? [LB521]

SENATOR BLOOMFIELD: We are requiring physical presence when the first round is given. [LB521]

SENATOR CONRAD: And, Senator Bloomfield, does the abortion occur when the first round is given? [LB521]

SENATOR BLOOMFIELD: That is not...that's when the abortion begins. Again, we are not, in my mind, talk... [LB521]

SENATOR CONRAD: So then how can you ensure safety if you don't require physical presence at subsequent dosage? [LB521]



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SENATOR BLOOMFIELD: Senator, if I'm not going to be... [LB521]

SENATOR CONRAD: It's a simple question. [LB521]

SENATOR BLOOMFIELD: ...allowed to answer... [LB521]

SENATOR CONRAD: It's a simple and straightforward question. [LB521]

SENATOR BLOOMFIELD: ...the question that you ask me, I am not going to... [LB521]

SENATOR CONRAD: Please do, Senator. [LB521]

SENATOR BLOOMFIELD: ...continue to yield to you. Would you continue with your original question? You've got me just a little flustered here, and I'm sure that's your intent, but... [LB521]

SENATOR CONRAD: It's not. It's to build a clear record about what your intent is. [LB521]

SENATOR BLOOMFIELD: Okay. My intent is to have the woman's safety protected by having a doctor nearby when this drug is prescribed. [LB521]

SENATOR CONRAD: At only the initial dosage. [LB521]

SENATOR BLOOMFIELD: Yes. [LB521]

SENATOR CONRAD: But you understand that this prescription requires subsequent dosages in order to effectuate a medical abortion. [LB521]

SENATOR BLOOMFIELD: I understand that, but I also don't believe that the doctor is going to prescribe that when he is present and jump in his car and go away... [LB521]

SENATOR GLOOR: One minute. [LB521]

SENATOR BLOOMFIELD: ...to where the woman cannot get to him again. [LB521]

SENATOR CONRAD: So, really, your intent is to prohibit all medical abortions instead of just medical abortions through telemedicine purposes. [LB521]

SENATOR BLOOMFIELD: Absolutely not. My intent is... [LB521]

SENATOR CONRAD: Well, how so? [LB521]

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SENATOR BLOOMFIELD: My intent is to have a doctor nearby in case the woman has an issue. I do... [LB521]

SENATOR CONRAD: How near? What's the physical litmus test, 20 miles, 50 miles, 5 miles, at each dosage? Please. [LB521]

SENATOR BLOOMFIELD: Well, I certainly don't think it ought to be 200 miles. [LB521]

SENATOR CONRAD: How about five? [LB521]

SENATOR BLOOMFIELD: I think that's probably going to be impractical. [LB521]

SENATOR CONRAD: How about 25? [LB521]

SENATOR BLOOMFIELD: I think when the prescription is handed out or taken that first time... [LB521]

SENATOR CONRAD: At each dosage level? [LB521]

SENATOR BLOOMFIELD: ...the first time, the doctor should be in the woman's presence. [LB521]

SENATOR CONRAD: And not physically present at any other subsequent dosage level, when the abortion would actually be effectuated. [LB521]

SENATOR GLOOR: Time, Senator. [LB521]

SENATOR CONRAD: Thank you, Mr. President. [LB521]

SENATOR GLOOR: Mr. Clerk. [LB521]

CLERK: Mr. President, bills read on Final Reading this morning were presented to the Governor at 10:10 (re LB106, LB226, LB252, LB256, LB289, LB289A, LB345, LB345A, LB387, LB387A, LB389, LB389A, LB628, LB684, LB684A, and LB673). New resolutions: Senator Mello, LR328; Senator Schumacher, LR329; Senator Hadley, LR330; those will all be laid over. Senator Pirsch would like to add his name to LB521. (Legislative Journal pages 1672-1674.) [LB106 LB226 LB252 LB256 LB289 LB289A LB345 LB345A LB387 LB387A LB389 LB389A LB628 LB684 LB684A LB673 LR328 LR329 LR330 LB521]

And a priority motion: Senator Pirsch would move to recess the body until 1:30 p.m.

SENATOR GLOOR: Members, you've heard the motion to recess until 1:30. All in favor

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say aye. All opposed say nay. We stand recessed.

RECESS

SENATOR GLOOR PRESIDING

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

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

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

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

SENATOR GLOOR: Thank you. (Visitors introduced.) We return to the agenda: Select File, LB521, FA26. Senators in the speaking queue: Ken Haar, Conrad, and Fulton. Senator Haar, you are recognized. [LB521]

SENATOR HAAR: Mr. President, members of the body, I wish to continue our discussion from this morning on the bill, on LB521. And as we talked about it this morning, when it comes to drugs, the word "safe" really doesn't fit anything. And so my basic argument, again, is that LB521 suggests incorrectly that mifepristone is not safe, and this claim is untrue. In fact, 99.841 percent of women using mifepristone have not reported an adverse drug reaction. And, of course, no medication--even common over-the-counter drugs--is entirely exempt from adverse effects. And it's my belief that if politicians intend to put undue burdens or restrictions on medications and procedures that have such proven record of safety and efficacy as mifepristone, then the same standard should be applied across the board. Again I want to bring up the statistics, and these are health statistics that no drug is safe. In fact, Tylenol produces 150 deaths per year; Viagra causes 5 deaths in every 100,000 prescriptions; while as mifepristone, which is used in this procedure, has, so far, a record of 1 death per 100,000 prescriptions. And so the question is, if this drug is safer than Tylenol, aspirin, and Viagra, why should it be treated specially? And I started talking about Coumadin. Coumadin is a drug--it's an anticoagulant; it's a blood thinner. The common name is warfarin; Coumadin is a brand name. And some of us, at least in this Chamber, have had Coumadin prescribed for blood clots. In fact, in my case, there was an initial drug called "heparin," which is an anticoagulant that is given before Coumadin because Coumadin has to be very, very carefully monitored and prescribed. In fact, both of these drugs...heparin is the one that you start with if you ever get into this. It has to be injected; the best place is the stomach, because of the fat. It can't be injected into muscle; it has to be injected into fat. And most of us have some of that. After about a

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week of that, then...and that--heparin was, I think, about \$125 a dose for a week. And after that, then you start working on Coumadin. Now, certainly I met with a doctor to talk about my blood clot and the regimen I'd have to go through with heparin and then Coumadin. But the doctor was never required to be there when I was taking the heparin. In fact, a nurse gave me the first shot and showed me how to do it. And then the Coumadin--I was just given the tablets, and I took those at home. Now, here are some of the side effects of Coumadin. By the way, Coumadin can harm an unborn baby or cause birth defects. [LB521]

SENATOR GLOOR: One minute. [LB521]

SENATOR HAAR: And this is from--the statistics I'm going to read you and so on are from a Web site that gives the--from something called "The Medicine Box." I'm sorry, this one isn't from the Medicine Box, but it's from a Web site that will give you all the basic reactions to almost any drug. Again, no drug is safe, especially Coumadin. Coumadin can harm an unborn baby or cause birth defects. And it says, do not use Coumadin if you're pregnant or may become pregnant. Never take a double dose of this medication or take it together with other products that cause--that contain warfarin or coumarin. And as I said earlier, Coumadin is actually one of the main ingredients in rat poison. If you buy d-CON, the way it kills the rats is they bleed to death internally. Coumadin: Get emergency medical help if you have... [LB521]

SENATOR GLOOR: Time, Senator. [LB521]

SENATOR HAAR: ...any of these signs of an allergic... [LB521]

SENATOR GLOOR: Time, Senator. [LB521]

SENATOR HAAR: Oh, I'm sorry. [LB521]

SENATOR GLOOR: Thank you, Senator Haar. Senator Conrad, you are recognized. [LB521]

SENATOR CONRAD: Thank you, Mr. President. Good afternoon, colleagues. I'm going to continue on the discussion we started earlier this morning in relation to potential effects and negative by-products or warnings associated with the top five prescribed and commonly prescribed drugs in the United States, had a chance to do so in relation to hydrocodone and a bit in relation to--I think we'll just get started here with the second, on lisinopril. And apparently this is a oral long-acting enzyme inhibitor--apparently is what this is. And the warnings associated with this...and this is the second-most-prescribed drug--commonly prescribed drug in the United States. And the warnings and the FDA information related to side effects, uses, warnings, etcetera, also include risk of head and neck angioedema, intestinal angioedema, reactions during

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membrane exposure, anaphylactoid reactions during desensitization, hypertension, leukopenia, hepatic failure, fetal/neonatal morbidity and mortalities. And then it lists a variety of precautions in addition, as well, related to impaired renal function, cough, surgery, anesthesia, hyperkalemia, hypertension. And again, the list goes on and on, with special warnings for pregnant women. And again, the point of this is very straightforward and simple. There has been no research information, studies, or data presented on the record in terms of why the pharmaceuticals and procedure targeted in LB521 should be treated any differently than other aspects of telemedicine or other aspects of frequently utilized and provenly safe pharmaceuticals. I read the Committee Statement; there's nothing on the record there. We don't have anything in the record other than a few selected passages Senator Fulton read from clinical trials surrounding the pharmaceuticals at issue, which, again, are incomplete, at best, and do not create a policy reason for this prohibition, at worst. The third-most-prescribed drug--and again apologize if there's any mispronunciation on my part; I do not have a medical background. But this is simvastatin, and this is a lipid-altering agent. So I'm guessing that's something to do with lowering your cholesterol, if you have a cholesterol problem. And the warnings associated with the FDA from that include liver dysfunction. There is a variety of adverse reactions reported during the clinical trial experience. There are specific warnings for pregnant women, nursing mothers, geriatric patients, pediatric patients, those patients with renal impairment or liver impairment. And let's find the specific warnings related to this drug. Reductions in terms of mortality and cardiovascular events--that's a good outcome, of course, from the...and I'm just flipping through this long data here from the FDA, and it seems that mine... [LB521]

SENATOR GLOOR: One minute. [LB521]

SENATOR CONRAD: ...thank you, Mr. President...is maybe not complete on that. But we can go to levothyroxine and find the warnings there. Again, I think you understand the point, but we might as well round out the top five prescribed drugs. This should not be utilized for the treatment of male or female infertility. It could have implications for a diffuse goiter and nodular thyroid disease, particularly in the elderly or those with cardiovascular disease. Again there are special warnings for specific populations. And the list goes on and on and on. Again, each and every pharmaceutical carries with it a risk. And there's been no evidence in the record that the drugs at issue on the LB521 deserve special or disparate treatment other than to impose an undue burden on women's rights and women's health. Thank you, Mr. President. [LB521]

SENATOR GLOOR: Thank you, Senator Conrad. Senator Ken Haar, you're recognized. [LB521]

SENATOR HAAR: Thank you, Mr. President, members of the body. Is this--how many times have I spoken now? My second? [LB521]

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SENATOR GLOOR: This is your second, yes. [LB521]

SENATOR HAAR: Okay, good. [LB521]

SENATOR GLOOR: Once--first was your opening. [LB521]

SENATOR HAAR: Good. Thank you very much. Coumadin side effects...again, it's a very good drug if you have a blood clot; if it's not used right, it can kill you. Coumadin side effects: Get emergency medical help if you have any signs of an allergic reaction to Coumadin: hives; difficulty breathing; swelling of your face, lips, tongue or throat. Stop using Coumadin and call your doctor at once if you have a serious side effect such as pain; swelling; hot or cold feelings; skin changes or discoloration anywhere on your body; sudden and severe leg or foot pain; foot ulcer; purple toes or fingers; sudden headaches, dizziness, or weakness; unusual bleeding from the nose, mouth, vagina, or rectum; bleeding from wounds or needle injections; any bleeding that will not stop; easy bruising; purple or red pinpoint spots under your skin; blood in your urine; black or bloody stools; coughing up blood or vomit that looks like coffee grounds; pale skin; feeling lightheaded or short of breath; rapid heart rate; trouble concentrating; dark urine or jaundice--jaundice is yellowing of the skin or eyes--pain in your stomach; urinating less than usual or not at all; numbness or muscle weakness; or any illness with diarrhea, fever, chills, body aches, or flu symptoms. In other words, as they said in this--in The Medicine Box, an Australian Web site: "Warfarin is an interesting medication--it saves many lives but causes many problems including some deaths of its own." So I would like to ask Senator Bloomfield a question, if I could. [LB521]

SENATOR GLOOR: Senator Bloomfield, would you yield? [LB521]

SENATOR BLOOMFIELD: Yes, I would. [LB521]

SENATOR HAAR: Do you feel that a drug like Coumadin should have a doctor there to administer it each time, being as that the kind of consequences it can cause in a human being? [LB521]

SENATOR BLOOMFIELD: Again, I believe that you certainly should establish a relationship with that doctor. You know, I'm not going to say that he needs to be there every time you take the medication. But I think you need to have established a relationship. I, again, would not want the doctor to be 200-300 miles away. And I would ask you, how far away was your doctor when you first took that shot? [LB521]

SENATOR HAAR: When I first took the shot, I talked to the doctor, he left, and the nurse came in. This was, I think, at Saint E's hospital. [LB521]

SENATOR BLOOMFIELD: Was he not still in the same building, though? [LB521]

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SENATOR HAAR: I have no... [LB521]

SENATOR BLOOMFIELD: Yeah. [LB521]

SENATOR HAAR: ...idea. [LB521]

SENATOR BLOOMFIELD: Okay. [LB521]

SENATOR HAAR: Okay, so with this kind of dangerous drug, if a doctor has to be present, do you think that...I'm sorry, you said that a doctor wouldn't need to be present. Do you think this would be a--something that could be done by telemedicine then? Or is it too dangerous for that? [LB521]

SENATOR BLOOMFIELD: I certainly wouldn't care to have it done by telemedicine. That would be my own personal opinion. Without getting to know the doctor and having the doctor get to know me, I certainly wouldn't want to take--take that drug. [LB521]

SENATOR HAAR: Would you think it would be appropriate for the Legislature, then, to say that telemedicine couldn't be used for Coumadin? [LB521]

SENATOR BLOOMFIELD: I guess, going down my own line, for patient safety...I--as I mentioned before, I'm not wild about telemedicine on dangerous drugs. I... [LB521]

SENATOR GLOOR: One minute. [LB521]

SENATOR BLOOMFIELD: I believe you ought to establish a relationship with your doctor before you start taking prescriptions (inaudible) that can have an effect on life. [LB521]

SENATOR HAAR: Okay, well, thank you for that. The relationship I had with the doctor at that time--it was the first time he came in to see me, and we talked about blood clots and so on and so forth. And he was a specialist--a blood specialist, because this is a particular disease. Again I would like to make the point that if politicians intend to put undue burdens or restrictions on medications and procedures that have such proven records of safety and efficacy as mifepristone, which we're talking about in LB521, then the same standard should be applied across the board. And, again, showing that, actually, the number--the death rate from mifepristone, although... [LB521]

SENATOR GLOOR: Time, Senator. [LB521]

SENATOR HAAR: Thank you. [LB521]

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SENATOR GLOOR: Thank you, Senator Haar. (Visitors introduced.) We return to floor debate. Senator Council, you are recognized. [LB521]

SENATOR COUNCIL: Thank you very much, Mr. President. If Senator Fulton would yield to a couple of questions... [LB521]

SENATOR GLOOR: Senator Fulton, would you yield? [LB521]

SENATOR FULTON: I will. [LB521]

SENATOR COUNCIL: Thank you, Senator Fulton. And I don't want to misquote you or misstate your response to an earlier question. But an earlier question was posed as to the purpose and intent of LB521, and it's my understanding, based upon your response, that it is to, basically, maintain the status quo in terms of the types of procedures utilized in Nebraska for the performance of an abortion. Am I correct? [LB521]

SENATOR FULTON: Can you say "the types of procedures"? Can you repeat that? [LB521]

SENATOR COUNCIL: Yeah, that the intent of LB521 is to, essentially, maintain the status quo as to the types of procedures to be utilized for performing an abortion in the state of Nebraska. [LB521]

SENATOR FULTON: That's not--no, that's not entirely accurate. That's not what my intention was. [LB521]

SENATOR COUNCIL: Okay. Well, maybe, let me ask the question directly. What is the intention? So that I'm clear before I ask the next questions. [LB521]

SENATOR FULTON: Well, to require a doctor to be physically present in the performance of an abortion. [LB521]

SENATOR COUNCIL: Okay. [LB521]

SENATOR FULTON: Which is not to say that there...I'm not going after procedures with respect to abortion. So when we're talking about the status quo, I'm pointing out that webcam abortions aren't being performed today, so in that regard I would say the status quo is what I'm aiming for. But in terms of procedures or changing procedures or keeping the procedures by which an abortion may be accomplished, that--I'm not getting into that. [LB521]

SENATOR COUNCIL: Okay. In your opinion--or is it your understanding that webcam abortions, at least where they are being performed, are viewed as an accepted medical



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procedure? [LB521]

SENATOR FULTON: In Nebraska I'd say no, because they're not being--they're not being conducted in Nebraska. [LB521]

SENATOR COUNCIL: And I'm going to again repeat my question: In the places where webcam abortions are being performed, is it your understanding that those webcam abortions are viewed as accepted medical procedures? [LB521]

SENATOR FULTON: I would say I--I can't speak to what's accepted in Iowa. I am speaking and can speak to what is occurring in Nebraska. And so I don't about Iowa. Now, I suspect that there will be some type of legislation introduced in Iowa similar to what's going on here--to LB521. But I don't know. I can say that in Nebraska it's not accepted; it's not performed; they aren't occurring. So I--you know, I'll leave it at that. [LB521]

SENATOR COUNCIL: So your definition of an accepted medical procedure is one that has actually been performed. [LB521]

SENATOR FULTON: I wouldn't say that's necessarily my definition, but in this regard, that's certainly part of the definition. I would also point to the Department of Health and Human Services rules and regulations that I passed out on General File and read into the record. That would form another chapter in the book of that which is accepted. I'm saying that... [LB521]

SENATOR COUNCIL: Okay. [LB521]

SENATOR FULTON: So go ahead--yeah, your time. [LB521]

SENATOR COUNCIL: Okay. And I just--just so I'm clear, what you passed out from the Department of Health and Human Services were the regulations related to telemedicine, correct? [LB521]

SENATOR FULTON: No, that's incorrect. [LB521]

SENATOR COUNCIL: What other procedures did you--what other...? [LB521]

SENATOR FULTON: This is, "Unprofessional Conduct: This section defines the following acts as unprofessional conduct...number 6: Prescribing drugs to an individual the physician has never met, based solely on answers..." [LB521]

SENATOR GLOOR: One minute, Senators. [LB521]

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SENATOR FULTON: "...to questions provided by the Internet, telephone, or fax." So this is... [LB521]

SENATOR COUNCIL: Okay. [LB521]

SENATOR FULTON: ...under "Unprofessional Conduct." [LB521]

SENATOR COUNCIL: Okay. Now...and I raised--and I addressed that issue when you presented that. Because all it says is you can't do it by fax, you can't do it by telephone, and you can't do it by e-mail. It doesn't say you can't do it by a secure Internet line--and I associated it with Skype, but... [LB521]

SENATOR FULTON: Actually, it does say "by the Internet." [LB521]

SENATOR COUNCIL: But--no, no...it says "the Internet." And if you look specifically, the regulation speaks to via e-mail. And when it says "Internet," you cannot have a consultation via e-mail. And if you look down further in the Department of Health and Human Services, it speaks specifically to a secure, on-time (sic) communication via Internet as an acceptable method of consultation under our... [LB521]

SENATOR GLOOR: Time, Senators. [LB521]

SENATOR COUNCIL: ...telemedicine act. Is that time? [LB521]

SENATOR GLOOR: Time. [LB521]

SENATOR COUNCIL: Yeah. [LB521]

SENATOR GLOOR: Thank you, Senator Council. Senators in the queue: Conrad, Krist, and Ken Haar. Senator Conrad, you're recognized. [LB521]

SENATOR CONRAD: Thank you, Mr. President. And this is my third time, is that correct--on the floor amendment? [LB521]

SENATOR GLOOR: It's only your second, Senator. [LB521]

SENATOR CONRAD: It's only my second. Thank you, Mr. President. [LB521]

SENATOR GLOOR: It--I'm sorry--it is your third. [LB521]

SENATOR CONRAD: Thank you, Mr. President. I'm going to go ahead and briefly utilize this time and may ask senators for a bit more time to finish up something related to the efficacy and safety issues surrounding mifepristone. But I do want to at least

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include in the record a recitation of the legal issues that are not addressed in the Attorney General's Opinion. There is a preemption issue in relation to the bill. The FDA, the Food and Drug Administration, has already approved this medication for abortion and has implemented eight specific restrictions on its use. None of those restrictions involve an in-the-room, personal presence of the physician. The FDA has effectively occupied the field on this topic, which preempts state law on the same matter. There's also an issue related to equal protection, based on the basis of provider type. All distinctions between classifications must at least rely on a rational basis. Neither tradition nor animus are rational bases for the purpose of equal protection. See Romer v. Evans, Lawrence v. Texas. Because, as noted, telemedicine is equally safe and effective as the current regime and research bears out a preference for the current regime, the state has no rational basis for implementing this regulation. The state cannot implement a statute on the basis of disliking abortion providers or a tradition of practicing medicine in a particular way. There's an additional equal protection problem on the basis of sex. By singling out a medication used solely by women, when other medications with similar or greater risk of complication are not so regulated, the state is treating women differently than men for purposes of equal protection. Sex-based classifications are quasi-suspect and thus subject to intermediate scrutiny. Nebraska cannot demonstrate an important governmental interest that is closely drawn to meet--given that this method is safe, reliable, effective, and based in medical research. Additionally, questions and concerns and issues related to the Commerce Clause and the dormant Commerce Clause jurisprudence exist in relation to LB521 as well. In the context of telemedicine where a physician has a multistate licensure including Nebraska, this bill results in an attempt by the state of Nebraska to regulate interstate commerce in the context of abortion. Regulation of interstate commerce is solely the responsibility of Congress. Again, that was at issue with Senator Cap Dierks's bill last year and quickly conceded by the Attorney General's office as part of the successful suit by Planned Parenthood of Nebraska on that topic. There is an opinion that the Attorney General has provided in relation to broad principles contained in Roe v. Casey and its progeny; however, I do not believe that is complete. And legal authorities have very different opinions about whether or not this legislation complies with those dictates. For example, it's not permissible for a state to enact abortion restrictions pre-viability for the purpose of impeding women's access to abortion. Regulations to protect the health of the pregnant women are the only permissible restrictions at that stage. And again, the record is incomplete, void, and vacant of policy-based, evidence-based, medical-based safety issues in this relation. Because telemedicine is demonstrably as safe as other medication and abortion methods, it has been shown to have the same patient follow-up rates, the same patient satisfaction rates. And there is no constitutional basis for banning the method. In relation to the experience of our sister state, in Iowa, which is apparently where Senator Fulton and proponents have generated... [LB521]

SENATOR GLOOR: One minute. [LB521]

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SENATOR CONRAD: ...thank you, Mr. President...the idea for this legislation, it should be noted that there was independent evaluation of this practice in Iowa that was published in September 21, 2010. And Ibis Reproductive Health, an independent researcher, surveyed 200 patients who used the telemedicine system and 200 patients who received a medication-abortion in person from a physician. And I'll read some of the following excerpts from the survey results. I may have to get more time to complete that. But the findings overall was that the satisfaction was very high amongst participants. Telemedicine clients--94 percent reported being very satisfied, compared to face-to-face clients at 88 percent, which is not a difference that's considered statistically significant; 99 percent of telemedicine clients said it was easy to see the doctor; 99 percent said it was easy to hear the doctor; 89 percent said they felt comfortable asking the doctor... [LB521]

SENATOR GLOOR: Time, Senator. [LB521]

SENATOR CONRAD: ...thank you, Mr. President. [LB521]

SENATOR GLOOR: Thank you, Senator Conrad. Chair recognizes Senator Krist. [LB521]

SENATOR KRIST: Thank you, Mr. President and colleagues, especially those colleagues that are watching this in their televisions in their offices; at some point we will come back and vote on LB521. I stand in total opposition to the floor amendment, FA26, from Senator Haar. And I think that we should probably refocus ourself on the issue at hand. The issue at hand is the content of LB521. It is, in fact, not allowing a doctor to prescribe a medication that causes an abortion from a remote location, having never seen that patient. And my colleague Senator Council had a question before. And I know that everyone has disposed of the handout that Senator Fulton handed out during General, but I would refer to item 6. It says that among the misconducts of a physician, in item 6, is prescribing drugs--"prescribing drugs to an individual the physician has never met"--has never met. Now, I'm sure the legal beagles will say, "I've met you, as I Skyped with you." But I don't think that that's quite the definition--he has never met: "Prescribing drugs to an individual the physician has never met, based solely on answers to questions provided by the Internet, telephone, or fax." Okay, therefore it is illegal, based upon--or it is a misconduct, let me be clear, that the individual would have prescribed a medication for a person in this state based upon a misconduct in terms of the Nebraska Health and Human Services Regulation and Licensure. Now, several times over this debate, in General and today, many other drugs have been confused. We're not talking about Coumadin; we're not talking about other drugs. We're talking--or Viagra--we're talking about this particular medication and how it's administered. Now, what is the reason for the legislation and the law? And here is my answer, colleagues. If you currently reside in Cleveland and you belong to a large nationwide organization and you get on Skype and you visit with your patient at the north Omaha--or the Planned

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Parenthood facility in my district, this says it is a misconduct for you to prescribe medication to one of my constituents. Now, how would that doctor know--how would he know that it is a misconduct unless he read all of the state of Nebraska regulations and misconduct guidelines? He'll know because LB521 will tell him it is against the law in the state of Nebraska to act in this manner. I don't think anything else needs to be said. Thank you, Mr. President. [LB521]

SENATOR GLOOR: Thank you, Senator Krist. Senators waiting to be recognized: Ken Haar, Cook, Council, and Karpisek. Senator Ken Haar, you're recognized. And this is your third time, Senator. [LB521]

SENATOR HAAR: Thank you, Mr. President. I've repeatedly read this statement, and I'd like to do...: If politicians intend to put undue burdens or restrictions on medications and procedures that have such proven records of safety and efficacy as mifepristone, then the same standard should be applied across the board. I would like to modify that a little bit and say: If politicians intend to put undue burdens or restrictions on medications and procedures that put an undue burden on women, then the same standard should be applied across the board. For me, that's really the issue. There are all kinds of drugs, as we've talked about, and I'll talk about one more or several more just briefly. But all kinds of drugs have all kinds of safety issues, but we've singled out this one issue. And I believe it puts an undue burden on women to make a lawful choice. Talk for a minute about COX-2 inhibitors. And we all use these a lot. They're also called NSAIDs. And they have names like aspirin; ibuprofen, which is Advil or Motrin; and naproxen. These are all over-the-counter drugs. And the way they act is by...they're used for such things as menstrual cramps, sports injuries, osteoarthritis, rheumatoid arthritis. And for people who've had a knee replaced or a ligament replaced, it's for that pain. These drugs do a good job of that. So what kind of side effects can these drugs have? Insomnia; abdominal pain; flatulence, which is gas; headache; nausea; and diarrhea. COX-2 inhibitors may increase the risk of serious, even fatal, stomach and intestinal--I'm sorry--and intestinal adverse reactions such as ulcers, bleeding, and perforation of the stomach or intestines--but to a lesser extent than other NSAIDs. And then people allergic to sulfonamides--all kinds of things we use, Bactrim, I've used that, aspirin, or other NSAIDs--may experience allergic reactions because of these. NSAIDs, including COX-2 inhibitors, may increase the risk of heart attack, stroke, and related conditions. The risk may increase in patients with risk factors for heart disease and related conditions and with longer duration of use. NSAIDs should not be used after coronary artery bypass kinds of surgery. Now, one of the COX--right now we have only one COX-2 inhibitor, Celebrex; the others were taken off the market. Maybe some of you used Vioxx at some point; that was withdrawn from the market in 2004-2005 because they excessively increased the risk of heart attacks and strokes with long-term care. The point, again, is that there's no such thing as a safe drug. They all have built-in unsafe side effects about them, but we continue to use them. I believe that LB521 tends to put an undue burden on women for one drug, when there are many other drugs on

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the market that are... [LB521]

SENATOR GLOOR: One minute. [LB521]

SENATOR HAAR: ...much more dangerous. And therefore I am opposed to LB521. Thank you very much. [LB521]

SENATOR GLOOR: Thank you, Senator Haar. Chair recognizes Senator Cook. [LB521]

SENATOR COOK: Thank you, Mr. President. Good afternoon, colleagues. I will yield my time to Senator Conrad. [LB521]

SENATOR GLOOR: Senator Conrad, would you yield? [LB521]

SENATOR CONRAD: Thank you, Mr. President. And thank you, Senator Cook. The FDA label for mifepristone reflects three clinical trials on which approval for the drug was based. As frequently happens in medicine, these clinical trials were not the last word on the most effective way to administer this medication, and the best medical practice changed to adopt better methods and adapt to new research. In the years since the FDA trials under which mifepristone was approved and they were conducted, further research has been done on the most effective way to administer such. The research has led most providers of medical abortion nationwide to adopt these new evidence-based protocols as the standard of practice. These protocols include, among other things, dosages that differ from those used in the FDA trials and effective use of the medication up to 63 days' gestation rather than the 49 days subject to the FDA clinical trials, which I believe was part of the incomplete record that Senator Fulton read in for the safety reasons we necessitated in the passage of LB521. The American College of Obstetricians and Gynecologists has given the current evidence-based regime the organization's highest level of recommendation. The evidence-based regimen is what is used in the current telemedicine abortion practice. This...in other states, of course; it's not happening in Nebraska yet. This procedure is exactly the same regardless of whether the physician is physically present or interacting with the patient via telemedicine. There is no distinction based on FDA regulations, guidelines, or other parameters for use. There is no contradiction or other concern that would in any way be addressed by the physical presence requirement contained in LB521. Again, to continue: Based on the experience of 200 patients receiving medical abortion in Iowa and 200 patients who utilized the telemedicine system in place there, Ibis Reproductive Health put forward this report in September 21, 2010, demonstrating that the telemedicine service delivery model as developed by Planned Parenthood of the Heartland has equivalent clinical outcome compared to the face-to-face provision model, with equivalent success rate and a low prevalence of adverse events. They found no evidence suggesting that telemedicine clients find their experience less acceptable than clients who have a face-to-face visit with a physician. Colleagues,

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again, let's call this what this is. This isn't about protecting women. This isn't about righting a significant safety risk...that doesn't even exist in Nebraska at this point in time. This is an ongoing political attack on women's rights and women's health and healthcare providers that are serving them. Government needs to stay out of these personal medical decisions and leave these decisions to women, their doctors, and whoever else they choose to consult. But I contend that you, as politicians, do not know what is best for every individual woman in every individual circumstance. And what you portend to do in LB521...and the tirade of other anti-woman, anti-science, anti-common-sense legislation that you continue to bring before this body. Thank you, Mr. President. [LB521]

SENATOR GLOOR: Thank you, Senator Conrad. Senator Council, you are recognized. [LB521]

SENATOR COUNCIL: Thank you very much, Mr. President. And I certainly appreciate the comments of my learned colleague Senator Krist. But unfortunately and, I think, unintended was that the comments made by Senator Krist with the intent of showing support for LB521 and rebutting the arguments that have made thus far in opposition, his statements actually demonstrate the reasons why LB521 would be unnecessary, if you accept Senator Krist's interpretation of the Nebraska Administrative Code with regard to licensing and regulation of physicians. If you accept the interpretation Senator Krist provided, which is that under 172 NAC 88, subsections 6 and 7, prescribing drugs to an individual the physician has never met, based solely on answers to questions provided by the Internet, telephone, or fax, or prescribing drugs to an individual without first establishing a proper physician-patient relationship--if you accept the argument made by Senator Krist that that in and of itself prohibits the telemedicine performance of an abortion, then you must also accept that those same provisions prohibit all telemedicine. Because that's what telemedicine is. And if you were to take a look at Nebraska Revised Statute, Section 71-8503, which is the Nebraska Telehealth Act, it specifically states that "telehealth means the use of telecommunications technology by a healthcare practitioner to deliver healthcare services within his or her scope of practice at a site other than the site where the patient is located." And it specifically says that "telehealth consultation means any contact between a patient and a healthcare practitioner relating to the healthcare diagnosis or treatment of such patient through telehealth but does not include," Senator Fulton, "a telephone conversation, electronic-mail message, or facsimile transmission between a healthcare practitioner and a patient." Turning again to the very same Nebraska Administrative Code and specifically 471:1-006 that deals specifically with telehealth services, it states, and I quote, "Under the act, telehealth consultation means any contact between a patient and a healthcare practitioner relating to the healthcare diagnosis or treatment of such patient through telehealth but does not include a telephone conversation, electronic-mail message, or facsimile transmission between a healthcare practitioner and a patient." But it goes on to state, for purposes of telehealth you can use H.320, which "means the

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industry-wide compressed audiovideo communication standard from the International Telecommunications Union for real-time, two-way interactive audiovideo transmission with a minimum signal of 384 kilobits per second over a dedicated line; this may include... [LB521]

SENATOR GLOOR: One minute, Senator. [LB521]

SENATOR COUNCIL: "...a switched connection," or this may include the "intranet or other controlled-environment system." The point being made is that the Telehealth Act is going to be interpreted to control in the situation of telemedicine, and it's not going to be the Nebraska Administrative Code. It's going to be the Nebraska Telehealth Act. And that act is clear that a consultation--it doesn't have to be a face-to-face contact--that a consultation can occur through these compressed audiovideo communications devices that operate over dedicated lines and have real-time, two-way interactive audiovideo. That is telehealth. And if, again, we accept Senator Krist's argument that you have to have a face-to-face according to the licensure... [LB521]

SENATOR GLOOR: Time, Senator. [LB521]

SENATOR COUNCIL: Is that one minute? [LB521]

SENATOR GLOOR: That was time, Senator. Thank you, Senator Council. Chair recognizes Senator Karpisek. [LB521]

SENATOR KARPISEK: Thank you, Mr. President. I'd like to yield the remainder of my time to Senator Conrad. [LB521]

SENATOR GLOOR: Senator Conrad, 4 minutes 53 seconds. [LB521]

SENATOR CONRAD: Thank you, Mr. President. And thank you to Senator Karpisek, my lovely and talented seatmate, which I don't get a chance to say enough on the mike. Back to business. Just wanted to complete the record in terms of...the current evidence-based medication abortion regime, including the regime utilized for telemedicine, is, in fact, safer and more effective than the regimen utilized in the original FDA trials, which, again, Senator Fulton, I believe, reported somewhat incompletely as his sole policy reason for bringing this forward. For the evidence-based protocol in question, a national study of more than 95,000 women showed an overall reportable complication rate of approximately 2.2 per 1,000 women. Ongoing pregnancy requiring further intervention to complete the abortion has been shown at a rate of 0.4 to 1 percent. Again, as noted, much, much lower in terms of risk and adverse outcome than most commonly prescribed drugs in Nebraska and across the United States. Planned Parenthood's experiences with telemedicine have shown to be in line with these national averages. Planned Parenthood has seen no difference or drop in patient



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follow-up with respect to its telemedicine abortion program. In response to a complaint filed by an anti-choice group in Iowa regarding the use of telemedicine for abortion generally, the Iowa Board of Medicine--and listen carefully, colleagues--the Iowa Board of Medicine investigated the legality and safety of the procedure and found no health or safety concerns worthy of action. And the complaint was dismissed without merit. Colleagues, thank you for your time and attention on this important matter. And I'd be remiss if I didn't conclude by saying that, again, LB521 is unnecessary at this time; proponents acknowledge it's not happening in Nebraska. Additionally, it's already prohibited under our pharmacy statutes and/or our licensure rules and regulations. There is no evidence of proven safety issues related to this medication or this practice. And this legislation--while purported to be a narrow ban for telemedicine purposes in the utilization of this medication--is, in reality, as Senator Ashford and others have noted, a more expansive ban for all medical abortions because of the physical presence requirement. Additionally, the legal concerns addressed in the informal Attorney General's Opinion are narrow and incomplete and do not address the multitude of additional questions that remain. With that, I urge your careful consideration of the floor amendment and seek your consideration for opposition to LB521. Thank you, Mr. President. [LB521]

SENATOR GLOOR: Thank you, Senator Conrad. Senator Council, you're recognized. [LB521]

SENATOR COUNCIL: Thank you, Mr. President. [LB521]

SENATOR GLOOR: Your third time, Senator. [LB521]

SENATOR COUNCIL: And I thank you again, Mr. President. I just want the body to understand and appreciate where we are on this and where we currently stand statutorily. Currently, Nebraska Revised Statutes, Section 28-336, reads, and I quote: The performing of an abortion by using anything other than an accepted medical procedure is a Class IV felony. That's current law. Nothing in LB521 addresses that. That section of the current statute isn't even addressed. So the performing of an abortion by using anything other than an accepted medical procedure is a Class IV felony. So by introducing LB521, the impression and the belief must be that the use of RU-486 is not an accepted medical procedure. Now, when I attempted to ask Senator Fulton questions about that, he did not agree with me that the use of RU-486 is an accepted medical procedure but instead saying the performance of that procedure via telemedicine is not currently being performed in Nebraska. I submit to you that that's different than an accepted medical procedure. I submit to you that the telemedicine abortion procedure is an accepted medical procedure. Senator Conrad correctly quoted the Iowa Board of Medicine's determination as to the health and safety. And, you know, for someone who'd say, well, why are you referring to Iowa? Well, my understanding from Senator Fulton is what's going on in Iowa is the reason he's introduced LB521. So

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if what's going on in Iowa is sufficient to support LB521, then what's going on in Iowa ought to be relevant to any discussion of LB521. And what's going on in Iowa is the establishment of that procedure as an accepted medical procedure. And, as such, I believe LB521 is in conflict with our current law, because it says the performing of an abortion by using anything other than an accepted medical procedure is a Class IV felony. And I submit to you that the telemedicine abortion procedure is an accepted medical procedure and that if a physician performed such, they would not be in violation of 28-336. With regard to the new section provided by LB521, again with regard to what our Telehealth Act currently provides--under our Telehealth Act, if this procedure is not permitted, I believe it presents a direct and classic case of unequal protection of the law. And that's distinguishing a woman's health issues from all other persons' health issues. Because under the Telehealth Act, there's nothing that requires a physician to be present. There's nothing under the Telehealth Act that requires the physician to have met with the patient first before... [LB521]

SENATOR GLOOR: One minute. [LB521]

SENATOR COUNCIL: ...prescribing a medication. And there's nothing in our current Telehealth Act that requires that the physician not be able to communicate via real-time, two-way interactive audiovideo. So, again, I submit to you that LB521, in the context of current statute and current medical science, is unconstitutional and should not be advanced by this body. Thank you. [LB521]

SENATOR GLOOR: Thank you, Senator Council. Chair recognizes Senator McGill. [LB521]

SENATOR MCGILL: Thank you, Mr. President. I was going to ask Senator Bloomfield a question, but I don't see him there, so if Senator Council would like my time, I'd be pleased to yield it to her. [LB521]

SENATOR GLOOR: Senator Council, 4 minutes 45 seconds. [LB521]

SENATOR COUNCIL: Thank you very much, Senator McGill. Again, we're looking at the situation...and I appreciate--because Senator Fulton just passed out an article from The Australian that speaks to at least some study performed there--or an audit performed there in 2009, speaking to 3.3 percent of women who used mifepristone in the first trimester later turned up at a hospital emergency department, against 2.2 percent who had undergone surgery. I don't think that's quite a significant difference between surgical and nonsurgical. And the other concern that I think needs to be addressed here is that in the absence of access to nonsurgical and--at least from the data that has been presented--safe procedure, that to foreclose a woman in Nebraska from pursuing that procedure does not eliminate abortions. Instead, it leads to an increase in surgical abortions. And the concern expressed by this body last year was

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the pain to the fetus associated with surgical abortions. And I would think that we would not want to enact any legislation that had the potential for increasing the number of surgical abortions. And I believe that passage of LB521 will have that exact result, that it will increase the number of surgical abortions rather than the nonsurgical, an, at least from the evidence that's been presented, obviously safe procedure. But again, the Telehealth Services Act--I implore you, colleagues, read the act. Read what it allows. Read how it applies in the context of licensure and regulation. And then step back and see how passage of LB521 sets up two classes of individuals in this state: individuals who want to receive medical services other than an abortion via telemedicine and those who wish to receive an abortion via telemedicine. We set up two distinct classes, which, because it is a restriction on a woman's reproductive rights, I believe is an unconstitutional instance of unequal protection of the law. The whole purpose of the Telehealth Act was to provide access to a continuum--a continuum--a continuum of healthcare in some medically underserved areas. [LB521]

SENATOR GLOOR: One minute. [LB521]

SENATOR COUNCIL: As I understand it, that's precisely what the objective would be if telemedicine was used as a means of performing abortions. Again, they're not being performed at this point; there's speculation that they will be performed. But where they have been performed, they have been performed safely and without any undue risk to the health or safety of the pregnant woman, which is the standard that this state, in my opinion, must meet in order to impose the restrictions that are set forth in LB521. And I again urge my colleagues to support the floor amendment and oppose the underlying bill, LB521. [LB521]

SENATOR GLOOR: Thank you, Senator Council. Senator Cook, you are recognized. [LB521]

SENATOR COOK: Thank you, Mr. President. Thank you, colleagues. I will yield my time to Senator Haar. [LB521]

SENATOR GLOOR: Senator Haar, 4 minutes 53 seconds. [LB521]

SENATOR HAAR: Thank you, Senator Cook and Mr. President. One thing I guess I've learned in the Legislature--that every session we're going to deal with TEEOSA, gas taxes, immigration, and abortion. It's just--those will be on the agenda with all the other things we do. I don't think we've changed any minds here today, but I think it's really important to talk about these issues. There's not one mind in Nebraska on this issue, and I think that needs to be reflected in the debate that goes on in the Chamber. Tongue in cheek, I'd like to see the day when this Legislature is as concerned about men taking Viagra as about women using mifepristone; Viagra has five times the death rate. So I truly believe that this is an undue burden on women during a difficult time in

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their lives if they have to make this decision. Obviously it's an effort to chip away and chip away at a woman's right to abortion. Don't know where that line finally is, but we're going to keep exploring it in this Legislature. So I want to thank the body--those of you who have listened. And with that, I'd withdraw my amendment, FA26. Thank you. [LB521]

SENATOR GLOOR: So noted. Senator Fulton. Senator Fulton waives. Members, we have an active motion that LB521 be advanced to E&R for engrossing. Those in favor say aye. Those opposed say nay. Chamber will call for a machine vote...Chair will call for a machine vote. Senator Krist, for what motion do you rise? [LB521]

SENATOR KRIST: I'd like to have a call of the house and a board vote, please. [LB521]

SENATOR GLOOR: There's been a question--a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB521]

CLERK: 28 ayes, 0 nays, Mr. President, to place the house under call. [LB521]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senators Nordquist, Flood, Pankonin, Price, Avery, Carlson, Lautenbaugh, please record your presence. Senators Price and Flood, please return to the Chamber and record your presence. Senator Krist, for what reason do you rise? [LB521]

SENATOR KRIST: Could we proceed, please? [LB521]

SENATOR GLOOR: Members, the question is, shall LB521 be advanced to E&R for engrossing? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB521]

CLERK: 36 ayes, 9 nays on the advancement of LB521. [LB521]

SENATOR GLOOR: LB521 is advanced. Mr. Clerk, items for the record. [LB521]

CLERK: Raise the call, please. [LB521]

SENATOR GLOOR: Raise the call. [LB521]

CLERK: Thank you, Mr. President. I do, I have some items. Your Committee on Redistricting, chaired by Senator Langemeier, reports LB704 to General File with amendments and LB703 to General File with amendments. Enrollment and Review

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reports LB675 as correctly engrossed. Enrollment and Review--Select File--reports LB152 and LB670 to Select File, both having Enrollment and Review amendments. And a communication from the Governor (read re LB22, LB135, LB165, LB170, LB286, LB406, LB413, LB423, LB424, LB453, LB454, LB455, LB458, LB480, LB494, LB502, LB525, LB525A, LB542, LB550, LB573, LB591, LB641, and LB687). That's all that I have, Mr. President. (Legislative Journal pages 1675-1681.) [LB704 LB703 LB675 LB152 LB670 LB22 LB135 LB165 LB170 LB286 LB406 LB413 LB423 LB424 LB453 LB454 LB455 LB458 LB480 LB494 LB502 LB525 LB525A LB542 LB550 LB573 LB591 LB641 LB687]

SENATOR GLOOR: Thank you, Mr. Clerk. Continuing with the agenda, Select File, LB669. Mr. Clerk. [LB669]

CLERK: I have E&R amendments, first of all, Senator. (ER131, Legislative Journal page 1546.) [LB669]

SENATOR GLOOR: Senator Larson. [LB669]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB669 be adopted. [LB669]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The E&R amendments are adopted. [LB669]

CLERK: Senator Coash would move to amend with AM1448. (Legislative Journal pages 1559-1560.) [LB669]

SENATOR GLOOR: Senator Coash, you're recognized to open on your amendment. [LB669]

SENATOR COASH: Thank you, Mr. President. Good afternoon, colleagues. AM1448 was originally LB296, which was recently advanced from the Judiciary Committee. And I have attached it to this courts bill because it applies here. AM1448 is about court efficiency and about using technology wherever we can in the court system. AM1448 allows courts to move forward with their plans to allow for electronic filing of both traffic and criminal complaints by waiving the requirement of taking an oath. It will allow county attorneys to electronically file these complaints and information. Attorneys will be able to assert the veracity of a given filing by way of an electronic signature rather than by way of an oath sworn in person at the County Clerk's office. This change would allow for efficient use of the judicial resources while maintaining the integrity of the criminal court system. Supporters of this bill include the bar association, the county attorneys association, the Nebraska Administrative Office of Courts, Lancaster County Attorney, Douglas County Attorney, and the Commission on Public Advocacy. Let me share with

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you just briefly, colleagues, what the court had to say during the hearing. Currently, attorneys may electronically file complaints and information on civil cases. This has helped the court system tremendously. As, during the hearing, Sheryl Connolly told us, the office of the courts--they shared this: Using technology which is available to us, by asking our judges, employees, and the attorneys who work with us to look beyond the way the work of the court has always been done, the courts are making great strides in eliminating duplicative work and unnecessary delays. Electronic filing of civil complaints and our ability to maintain civil records electronically instead of filing mountains of paper is helping many courts deal with their caseloads without increasing, and in some cases while reducing, its staffing. Electronic filing also allows us the opportunity to share the work between counties so we can ensure effective use of experienced employees in rural areas, where the caseload may not justify full-time permanent employees. Colleagues, on the Judiciary Committee we continue to have members of the court, from the Supreme Court all the way down to county and district courts, come in and say: If you as a Legislature are not going to increase the funding we need to do our work, you have to give us the tools to do it more efficiently. AM1448 is one of those tools. Again, it allows the electronic filing of these complaints for criminal and traffic cases just as they do with civil complaints. And I would urge the body's adoption of AM1448. Thank you, Mr. President. [LB669 LB296]

SENATOR GLOOR: Thank you, Senator Coash. You've heard the opening on AM1448. Are there senators wishing to be recognized? Seeing none, Senator Coash waives. Members, the question is, shall the amendment to LB669 be adopted? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB669]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Coash's amendment. [LB669]

SENATOR GLOOR: The amendment is adopted. Mr. Clerk. [LB669]

CLERK: Senator Ashford would move to amend. AM1471. (Legislative Journal pages 1627-1628.) [LB669]

SENATOR GLOOR: Senator Ashford, you're recognized to open on your amendment. [LB669]

SENATOR ASHFORD: Thank you, Mr. President. This amendment, AM1471, addresses some of the questions raised on General File, specifically Senator Sullivan's comments about the agreements that would be worked out between district court clerks and county court clerks, and provides more detail on those questions and others. It would clarify that any agreement to allow a clerk magistrate to assist a clerk of the district court or to allow a clerk of the district court to assist a clerk of the county clerk must be entered into and signed and stipulated to by the State Court Administrator, the

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county board, and the clerk of the district court. Those forming the agreement must obtain input from the clerk of the county court, a district court judge, a county court judge, and the county attorney. The agreements may include provisions for scheduling as well as financial considerations, including how to handle fees and costs. I believe that was one of the concerns Senator Sullivan raised. The amendment also makes technical changes suggested by the Revisor to the section requiring the Supreme Court to promulgate rules regarding judicial hearing officers, a very technical Revisor provision. With that, I think I'll leave it at that, Mr. President. [LB669]

SENATOR GLOOR: Thank you, Senator Ashford. Are there senators wishing to be heard? Seeing none, Senator...excuse me. Senator Sullivan, you are recognized. [LB669]

SENATOR SULLIVAN: Thank you, Mr. President. And I wonder if Senator Ashford would yield. [LB669]

SENATOR GLOOR: Senator Ashford, would you yield? [LB669]

SENATOR ASHFORD: Yes. [LB669]

SENATOR SULLIVAN: Thank you, Senator Ashford. And I certainly appreciate you working out some of these details. Just one question: Do you have any idea if...in the process of arriving at this amendment, who all was involved in crafting it? [LB669]

SENATOR ASHFORD: Well, certainly the counties and the bar association and the judges--State Court Administrator. [LB669]

SENATOR SULLIVAN: Okay. [LB669]

SENATOR ASHFORD: So it expanded the number of individuals that have to be involved... [LB669]

SENATOR SULLIVAN: Um-hum. [LB669]

SENATOR ASHFORD: ...in reaching this agreement and expanded the scope as well. [LB669]

SENATOR SULLIVAN: And with respect to the training, again, is that the sort of--when it appears, in the crafting of an agreement, there needs to be some training involved, that will be part of the agreement as well? [LB669]

SENATOR ASHFORD: Correct. And there can be an allocation of resources to address that time involved in the training, as well. [LB669]

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SENATOR SULLIVAN: Okay. All right. Well, that helps me a lot, and I appreciate you working on that clarification. Thank you. [LB669]

SENATOR GLOOR: Thank you, Senator Sullivan. Seeing no additional senators in the speaking queue, Senator Ashford, do you choose to close? Senator Ashford waives. Members, the question is, shall the amendment to LB669 be adopted? All those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB669]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Ashford's amendment. [LB669]

SENATOR GLOOR: The amendment is adopted. Mr. Clerk. [LB669]

CLERK: Senator Fulton would move to amend. AM1452. (Legislative Journal page 1628.) [LB669]

SENATOR GLOOR: Senator Fulton, you're recognized to open on your amendment. [LB669]

SENATOR FULTON: Thank you, Mr. President. Members of the body, this amendment--I've talked to Senator Ashford and committee counsel about it; I'll go ahead and share with you what the amendment is about. Also I should say, in addition to thanking Senator Ashford, members of the bar also reviewed AM1452, so I should thank them. This amendment makes two technical changes to the provisions of Section 23 of LB669 having to do with procedure for the dissolution of marriage: allowing for a dissolution of marriage without a hearing when both parties agree to such. Two reasons for the amendment. First, current law states that no decree shall be entered unless the court finds that every reasonable effort to effect reconciliation has been made. Under LB669, this finding would be presumed when, quote, at least one of the parties certifies that he or she has made every reasonable effort to effect reconciliation. AM1452 requires both parties to certify that every reasonable effort to reconcile has been made. The requirement for both parties is consistent both with current law and with LB669. And under current law, Section 42-361 states that "if both of the parties state under oath or affirmation that the marriage is irretrievably broken or one of the parties so states and the other does not deny it, the court after hearing shall make a finding whether the marriage is irretrievably broken." It goes on to state that if one of the parties has denied under oath or affirmation that the marriage is irretrievably broken, the court shall consider all relevant factors, including the circumstances that gave rise to the filing of the complaint and the prospect of reconciliation, and shall make a finding whether the marriage is irretrievably broken. With AM1452, if both parties are signing a decree to affirm that the marriage is irretrievably broken and that they have both made an effort to



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reconcile, the court does not need to make findings. If both parties don't attest, then the court will need to make findings, and thus a hearing would be required. AM1452 makes sure that a dissolution could proceed without a hearing by making sure that both parties provide the necessary information so that the court would not be required to hold a hearing to make findings. Secondly, under long-standing law, specifically Section 42-363 of the statute, we require a 60-day waiting period after perfection of service of process before a divorce may be heard or tried. Under LB669, the 60-day requirement could potentially be waived when the hearing is waived. It's my understanding that the bar association does not intend to waive the 60-day requirement, which serves several public policy purposes, including providing the parties with opportunity to thoroughly contemplate the impact of divorcing and also to help ensure that no advantage is taken of either party. Therefore I've included some additional language in AM1452 to ensure that the changes in LB669 do not inadvertently cause a waiver that is not intended by the bar association with respect to Section 42-363. So with those two changes, I'd urge your adoption of AM1452. Thank you, Mr. President. [LB669]

SENATOR GLOOR: Thank you, Senator Fulton. Are there senators wishing to be heard? Seeing none, Senator Fulton waives. Members, the question is, shall the amendment to LB669 be adopted? All those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB669]

CLERK: 30 ayes, 0 nays on adoption of Senator Fulton's amendment. [LB669]

SENATOR GLOOR: The amendment is adopted. [LB669]

CLERK: I have nothing further on the bill, Mr. President. [LB669]

SENATOR GLOOR: Senator Larson. [LB669]

SENATOR LARSON: Mr. President, I move that LB669 be advanced to E&R for engrossing. [LB669]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB669 is advanced. Mr. Clerk. [LB669]

CLERK: LB642. Senator, I have Enrollment and Review amendments first of all. (Legislative Journal page 1605.) [LB642]

SENATOR GLOOR: Senator Larson. [LB642]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB642 be adopted. [LB642]

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SENATOR GLOOR: The question is the adoption of the E&R amendments to LB642. All those in favor say aye. Those opposed say nay. The amendments are adopted. Mr. Clerk. [LB642]

CLERK: Senator Cornett would move to amend with AM1468. (Legislative Journal page 1612.) [LB642]

SENATOR GLOOR: Senator Cornett, you're recognized to open on your amendment. [LB642]

SENATOR CORNETT: Thank you. And I'm going to open very briefly on this. AM1468 is a technical-correction amendment. Its purpose is to correct a drafting error in FA23 which inadvertently struck certain language in the Revenue Committee amendment, AM493 to LB642, that should not have been stricken to achieve the intent of the bill. Specifically, FA23 inadvertently struck part of lines 13 and 14 of AM493 which were primarily concerned with the phrase, "and improper and fraudulent payments." This adds that back into the bill. And I urge the body to adopt AM1468. [LB642]

SENATOR GLOOR: Thank you, Senator Cornett. Members, we move to debate on the amendment. Senator Avery, you are recognized. [LB642]

SENATOR AVERY: Thank you, Mr. President. I wonder if Senator Cornett would yield to a question. [LB642]

SENATOR GLOOR: Senator Cornett, would you yield? [LB642]

SENATOR CORNETT: Yes. [LB642]

SENATOR AVERY: I did not see a fiscal note on this, but wouldn't there be some costs associated with administration? [LB642]

SENATOR CORNETT: There is no fiscal note on this because it is only based on when we sign a contract, and there is no contract in existence now. The fiscal note that we originally received, or the estimate, would be a positive note because of the amount projected to be identified. [LB642]

SENATOR AVERY: So is this the--the language I see on lines 17 to 20, providing for 10 percent of proceeds for administration? [LB642]

SENATOR CORNETT: Yes. [LB642]

SENATOR AVERY: And that's why there is no fiscal note? [LB642]

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SENATOR CORNETT: There--there...no, no. Let me explain again, there is no fiscal note--and we went over this back and forth with the Fiscal Office--because no contract exists at this time. So there are no costs to this at this time. If we enter into a contract with one of the companies for technology, there will be a two-sided...they gave us projections on what it would cost in regard to administration and what it would cost--or what it would bring in. But there would be administrative costs to that, yes. [LB642]

SENATOR AVERY: So the contractor would be responsible, then, for collection? And the contractor would be also responsible for auditing? [LB642]

SENATOR CORNETT: No. [LB642]

SENATOR AVERY: No? [LB642]

SENATOR CORNETT: Nope. [LB642]

SENATOR AVERY: Would that be the department? [LB642]

SENATOR CORNETT: The...what we are talking about with LB642 is strictly contracting with a company for the technology to identify uncollected or unidentified revenue. Our department would do the auditing, and our department would do the collecting. [LB642]

SENATOR AVERY: Okay, now--and that's what I was getting at. If the Department of Revenue does the collecting, I don't understand why there wouldn't be some costs associated with that. Staff time would have to be devoted to it. [LB642]

SENATOR CORNETT: Again, the Fiscal Office could not give me a fiscal note because we have not entered into one of these contracts. Yes, there would be the cost from the department for people to administer this, but there would also be the revenue generated by it. [LB642]

SENATOR AVERY: And the estimated revenue is somewhere in the amount of what? [LB642]

SENATOR CORNETT: It depends on the companies. We had everything from over \$7 million to over \$20 million. There...if you actually read the fiscal note for LB642, it explains why there is no note generated... [LB642]

SENATOR AVERY: Um-hum. [LB642]

SENATOR CORNETT: ...and the amounts projected for collection. [LB642]

SENATOR AVERY: So once the contract is signed, even before there is any collection

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of assessments, there would be some staff time devoted to implementing the program, is that correct? [LB642]

SENATOR CORNETT: Yes. [LB642]

SENATOR AVERY: So that's why I'm a little bit mystified about why the Department of Revenue couldn't estimate the cost. Because you're going to have staff people taken off other tasks, devoted to this. It seems to me there would be some costs associated with that after--even after the contract is signed and before you've had a chance to collect the 10 percent. [LB642]

SENATOR CORNETT: Again, if you read the fiscal note--I'm not saying that there would not be a cost associated with this, Senator Avery. I'm saying that the Fiscal Office would not generate a fiscal note, because it is based on when the contract would be signed. And you would be looking at the--buying the--or getting the technology first, identifying where the revenue would be, through the technology, and then you would need the auditors. [LB642]

SENATOR AVERY: Well, I'm not trying to pick on the bill, Senator. I just feel a little bit uneasy that this might be going a little bit too fast, that we haven't given it adequate consideration. And when I look at the absence of a fiscal impact and reading the bill through again, it certainly made me a little bit nervous. So thank you for your--answering my questions. I hope others will get involved in this discussion, because I think this bill does need a lot more... [LB642]

SENATOR GLOOR: Time, Senator. [LB642]

SENATOR AVERY: ...a lot more light shining on it. Thank you. [LB642]

SENATOR GLOOR: Thank you, Senator Avery. (Visitors introduced.) Continuing with floor debate, Senator Council, you are recognized. [LB642]

SENATOR COUNCIL: Yes, thank you, Mr. President. I kind of want to follow up on a similar line of questioning as Senator Avery. And if Senator Conrad would...excuse me, if Senator Cornett would yield to just a couple of questions. [LB642]

SENATOR CORNETT: I'd be happy to, Senator Council. [LB642]

SENATOR COUNCIL: Are you familiar with the correspondence that some of us may have received today questioning the policy decision reflected in LB642? [LB642]

SENATOR CORNETT: Yes, I have a copy of that. And if you read the letter, it's talking about contract auditors. We...this bill...if you will look at the fiscal note for LB642, talks

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about it authorizes the department to enter into contingency fee contracts with third-party vendors to identify nonfilers, nonreporters, nonpayer of taxes by the department. The department and vendors are only compensated for the taxes that the department collects. We are not talking about outside auditors, and that is what the letter primarily is concerned with. [LB642]

SENATOR COUNCIL: Okay. And that's what I'd needed to have clarified on the record, that what LB642 does not do is contract with third parties to conduct audits of taxpayers, correct? [LB642]

SENATOR CORNETT: Correct. [LB642]

SENATOR COUNCIL: But what it does do...as I understand it, there are companies out there that have databases... [LB642]

SENATOR CORNETT: Correct. [LB642]

SENATOR COUNCIL: ...that they... [LB642]

SENATOR CORNETT: They're actually search engines. [LB642]

SENATOR COUNCIL: Well, they can mine certain information about certain types of companies or companies in certain industries and whether they're operating in the state of Nebraska, and then they would have access to Department of Revenue records to determine whether that taxpayer has or has not filed. [LB642]

SENATOR CORNETT: Correct. To be very clear, we talked about last time, that why doesn't the department do this? The department can't purchase this technology. They would have to hire IT people and develop their own search engines and their own IT, and that could take four to five years to do. What we could do under this bill is contract for one of these companies for the technology to identify that and then use the proceeds from this to develop our own technology for the future, if we wanted. [LB642]

SENATOR COUNCIL: Okay. So let me...by way of an example, this company through its search engine identifies an entity in Nebraska that's been making major purchases from some manufacturer or distributor, and then, what, asks...determines from the Department of Revenue whether that entity has ever filed taxes, is that... [LB642]

SENATOR CORNETT: They would turn that information over to the Department of Revenue, and the Department of Revenue would then do the audit. [LB642]

SENATOR COUNCIL: Okay. [LB642]

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SENATOR CORNETT: This also would deal with out-of-state companies doing business in the state of Nebraska that are not paying the correct amount of filing for their business done in Nebraska. [LB642]

SENATOR COUNCIL: Okay. Thank you very much, Senator Cornett. [LB642]

SENATOR GLOOR: Thank you, Senator Council. Senators wishing to be heard: Schumacher, Avery, and Pahls. Senator Schumacher, you're recognized. [LB642]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. We spend a lot of time in this state talking about wanting to make Nebraska business-friendly. And in Nebraska most of our businesses are the little guys, the people who have a few employees, the people who work hard, who don't have a lot of time to put up with audits and anything unnecessary, and most of them are really very honest people and they pay their taxes. We have a few big conglomerates that are out there and that probably have got legal staffs and auditing staffs that can put up with additional audits without taking on too much overhead, but most of us are little people. And what I sense happening here is a contract let on a commission basis, not a fee basis, that will go through a series of data from our Department of Revenue. And, incidentally, the Department of Revenue is not in here asking for this deal. The companies are lobbying for this deal. But, anyway, get access to our tax records, probably have access to our credit card records, access to other records; pull those all together and also compile a profile of the businessperson who is most likely to get notice of an audit, challenged on an issue; and know the level that they will say: It isn't worth it; I'll pay them a couple thousand dollars just to get this behind me because I've got a business to run. And that is a person who's going to end up paying whatever the commission rate is, \$500 out of that \$2,000, whatever, \$1,000 or maybe more, to this probably out-of-state company while they are taking away from their businesses. There's been no quantifiable showing that the little Nebraska businesses should be subjected to this kind of scrutiny that is rewarded by a piece of the action. And all of us who have been in business know that at a certain point in a tax audit or anything like that, a client will say: You know, I don't owe the \$2,000 or \$3,000, but I can't afford to pay my accountant; I can't afford to pay my attorney to hassle with this; I'll pay the money; just let me get back to work so I can pay my other Nebraska taxes. There's nothing in this law saying this is limited to hunting out-of-state scoundrels who are coming in here and not paying Nebraska their taxes. This is going after our small businesspeople. These are going after our people that we want to become entrepreneurs, who we are giving grants and angels and everything else to in order to come into this state and to work and to build a business, and it is creating a potential very unfriendly business environment. Now that's not to say there may not be some good to this, but I have to agree with Senator Avery. This thing has not been studied enough. The parameters are not in this bill enough. The guidelines to the Governor or the Department of Revenue or whoever is going to enter into this contract are not there

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enough. And in the end, we could end up married to a system we can't get out of without considerable expense. Let's take a little time and study this before we run into something. We already had to gut half this bill because it was clear that something wasn't completely thought through. I think it's time to protect the small businessman and the small businesswoman and make sure that they are not the unintended victim of somebody getting a commission to sic the Department of Revenue after them. Thank you, Mr. Chairman (sic). [LB642]

SENATOR GLOOR: Thank you, Senator Schumacher. Senator Avery, you are recognized. [LB642]

SENATOR AVERY: Thank you, Mr. President. I think Senator Schumacher made some good points. The more I look at this bill, the more uncomfortable I become. For example, these contracts, a contingency-fee contract, would have no limit as to their duration. They could go on indefinitely. I didn't see any language in the bill that indicated that there was a termination time specified at all. There is no indication anywhere in the bill as to the limits on the contingency-fee percentage. Is that going to be part of a negotiated contract, and, if so, what is likely to be the percentage of the contingency fee? These are not small questions, folks. These are big questions. You're talking about significant money. And I'm not so sure that we ought to be rushing into this without more careful consideration. It is difficult to undo bad bills, and I'm afraid this might be one of them. The testimony before the committee suggested that the company would be taking some fairly significant fees, without any specification in the bill as to what they would be. But it seems to me that I remember in looking over the committee testimony that at one point there was even some talk of as much as 50 percent. I might be wrong about that, but it seems to me that Mr. Bob Tisone said: Normally we eat 50, 60, 80 percent of the proceeds for the first, let's say, \$10 million collected by the state; we would ask that that come to us. That's pretty big. And so I think we need a lot more debate on this, a lot more careful consideration before we move it on. Thank you, Mr. President. [LB642]

SENATOR GLOOR: Thank you, Senator Avery. The Chair recognizes Senator Pahls. [LB642]

SENATOR PAHLS: Thank you, Mr. President, members of the body. Could I have a question or two with Senator Cornett? [LB642]

SENATOR GLOOR: Senator Cornett, would you yield to a question from Senator Pahls? [LB642]

SENATOR CORNETT: Yes, I would be happy to. [LB642]

SENATOR PAHLS: I just have a question. In your dealings with the Department of Revenue, do you feel them competent enough to go into contracts with individuals or

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companies? [LB642]

SENATOR CORNETT: Yes, I do. And...go ahead. [LB642]

SENATOR PAHLS: Why have they done this in the past without the Legislature setting parameters? [LB642]

SENATOR CORNETT: Not on this basis, but, yes, they do enter into contracts, but not based on the contingency fee. [LB642]

SENATOR PAHLS: Okay. The department...the person who is the head man of the Department of Revenue, does he have a business background? [LB642]

SENATOR CORNETT: Yes. [LB642]

SENATOR PAHLS: That is...do you know his background? [LB642]

SENATOR CORNETT: He was with Union Pacific. It's Tax Commissioner Doug Ewald. He did financial work for Union Pacific for, I believe, 19 years before he became tax commissioner. [LB642]

SENATOR PAHLS: Okay. So he should be on top of this issue if it is brought forth to him. The question I have as I'm reading the intent--and basically I'm going to save your vocal cords, because you could usually say yes or no on these questions--do you believe the statement, when it says: This approach in contracting avoids significant state expenditures until increased tax revenues are realized? [LB642]

SENATOR CORNETT: Yes. [LB642]

SENATOR PAHLS: Do you also believe that this will enhance the revenues available to the state of Nebraska's General Fund? [LB642]

SENATOR CORNETT: Yes. [LB642]

SENATOR PAHLS: So you see this, in your knowledge of this approach, the benefits...we should be receiving monies that we would not have received unless we use this contracting mode? [LB642]

SENATOR CORNETT: Yes. There's strong background evidence from other states that have entered into these types of contracts that they have generated significant amounts of revenue. [LB642]

SENATOR PAHLS: Okay, okay. So by that statement, you're telling me that Nebraska is



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not inventing something new. If this has so many evils, and it may, parts to it, other states would have realized that because I think there's Missouri and Iowa, do they use something similar to this or not? [LB642]

SENATOR CORNETT: I would have to check on Missouri and Iowa. I know Oklahoma, South Carolina. I've got the list of all the different states that do. [LB642]

SENATOR PAHLS: Okay. [LB642]

SENATOR CORNETT: New York, Texas. I'd have to look into Missouri and Iowa though. [LB642]

SENATOR PAHLS: Okay. Okay. So what you're telling me, that this is not a newfangled idea that you came up with some night, saying: I'm going to try something new for the state of Nebraska. [LB642]

SENATOR CORNETT: No. Just one of the companies that came to us, it was called Revenue Solutions: Massachusetts, over \$750 million in additional revenues through discovery, audit, and fraud; South Carolina was over \$140 million; Connecticut was a 35 percent increase of their type A classification, and I do not know what type A classification means. [LB642]

SENATOR PAHLS: Okay, okay. Well, I think you've proven your point there. Maybe sometime you can address some of the concerns of Senator Schumacher about getting into the vital statistics of...if I'm a small businessperson and you're getting into my background, what can you do or, you know, not with that? I think right now there's probably a lot of the information about us out there; if somebody really wants to work it to mine that, I think that's already there available. But I do think that he has some concerns, and if you perhaps could address that, if you so choose, and the same way with Senator Avery. If you can do that, I would appreciate that. And that would be a simple yes or no. [LB642]

SENATOR CORNETT: Yes. [LB642]

SENATOR PAHLS: Thank you. [LB642]

SENATOR GLOOR: Thank you, Senator Pahls. Senator Nelson, you are recognized. [LB642]

SENATOR NELSON: Thank you, Mr. President, members of the body. I have some concerns on the basis of what...the questions that Senator Schumacher asked, and I'd like to address a question or two, then, to Senator Cornett, if she will yield. [LB642]

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SENATOR GLOOR: Senator Cornett, would you yield? [LB642]

SENATOR CORNETT: Yes, I would. [LB642]

SENATOR NELSON: Thank you, Senator. I wasn't privy, of course, most of us weren't, to what was testified to at the committee hearing. I'm looking at the fiscal note, and it's, "contract with outside vendors to identify nonfilers, underreporters, or nonpayers of taxes." Was there any testimony there as to just what kind of information was supplied to the Department of Revenue and in what form and how extensive it was as a result of these people that are contracted with? [LB642]

SENATOR CORNETT: That would depend on the contract and the company that the department contracted with, on the extent of the information. But understand that it would be the department that receives that information and determines if it's someone that has been a nonpayer or a nonfiler. This is not meant to pick on small-town businesses, or businesses in small towns. This is to target people that are underfiling or not filing at all. [LB642]

SENATOR NELSON: Well, and you've expressed exactly my concern, picking on the small people. Department of Revenue has a staff of auditors at the present time, don't they? Are you familiar with how many people they employ as far as auditors? [LB642]

SENATOR CORNETT: I was, and I don't remember the number. (Laughter) I'm sorry about that. [LB642]

SENATOR NELSON: Are we talking about a dozen, two dozen? [LB642]

SENATOR CORNETT: Oh, there's probably more than that. It's a fairly large department. [LB642]

SENATOR NELSON: Okay. [LB642]

SENATOR CORNETT: It is not so much the number of auditors, it's the level of technology and the computer work that we're talking about here, and then the department could determine if they were going to audit that person or not. [LB642]

SENATOR NELSON: Well, I guess my question is, how...who in the Audit Division of the Department of Revenue is going to make that determination and on the basis of what information? And just...you know, there are always reasons why people don't file or I guess other things here that...or underreporting, and I guess I'm a little uneasy about whether the department might go after people, that it would really turn out to be a waste of time. And was there testimony as far as how this operation, say in Iowa or Missouri, was actually run, anything as to the manner in which that determination was

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made as who was going to be audited? [LB642]

SENATOR CORNETT: Again, as I stated to Senator Pahls, I do not know about Iowa and Missouri. [LB642]

SENATOR NELSON: Okay. [LB642]

SENATOR CORNETT: And each state develops an individual contract based on what their parameters are for this. The way the bill is drafted is based on a fee for the technology. Some states...and this is where we...I definitely stayed away from, and the committee was not...you know, this is not the approach that we wanted; some states go so far as these companies do the collection. That is not the intent here at all. They would be identifying the revenue, and our department would determine whether they would audit or attempt to collect money from that person or business. [LB642]

SENATOR NELSON: All right. Is there a possibility you might be able to obtain more specific information about how these particular companies operate in Iowa, for instance? [LB642]

SENATOR CORNETT: I could check into Iowa for you, yes. [LB642]

SENATOR GLOOR: One minute. [LB642]

SENATOR CORNETT: Is there a specific reason you're asking about Iowa? [LB642]

SENATOR NELSON: I'm sorry? [LB642]

SENATOR CORNETT: Is there a specific reason you're asking about Iowa? [LB642]

SENATOR NELSON: No. I just think it would be good to see what experience has been. I mean, we can talk about the huge amounts of money that come in, but at what cost, you know, and whether there's any harassment involved or identification of people that really shouldn't be bothered. So that may be hard to determine, but I'm just wondering if these people that are interested in entering into these contracts might have some information along those lines for us. [LB642]

SENATOR CORNETT: Okay. I can't even tell you if Iowa enters into these contracts. [LB642]

SENATOR NELSON: All right, well, whatever. Any...just another... [LB642]

SENATOR CORNETT: Okay. I've got the information on other states from the companies, but... [LB642]

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SENATOR NELSON: Yeah, other states. Yeah. All right, thank you, Senator Cornett. Thank you, Mr. President. [LB642]

SENATOR GLOOR: Thank you, Senator Nelson. There are no senators remaining in the speaking...Senator Avery, you are recognized. [LB642]

SENATOR AVERY: Thank you, Mr. President. I just had a conversation in the Rotunda that I think clears up some of the questions I had, and I would just like to explain that to you; and if Senator Cornett would like to respond, I would be happy to yield her the remainder of my time. The way I understand it is that the contract would be for software that would be provided to the Department of Revenue, up to \$3 million in value. The way...the payment for that \$3 million would be in the form of...a portion of the amount of new tax assessments that are collected would go to the company that provided the software, up to \$3 million. At that point the relationship would cease; the vendor would be paid back; the department would own the software; and then we could use that for the generation of new tax assessments and income. I believe that's what I understand to be the case, and I'd like very much if Senator Cornett would verify that, and I will yield the remainder of my time to her. [LB642]

SENATOR GLOOR: Thank you, Senator Avery, and that was your third time, Senator. [LB642]

SENATOR CORNETT: Yes, Senator Avery, that... [LB642]

SENATOR GLOOR: Three minutes, thirty-six seconds. [LB642]

SENATOR CORNETT: Excuse me. Yes, Senator Avery, that are the basic way these contracts are ran. The company that you're referring to is one of them that came and testified at the committee, and that is the way it is structured, that there is a cap on the amount that they can receive, and at that point we receive the technology. Thank you very much for yielding me your time. [LB642]

SENATOR GLOOR: Thank you, Senator Cornett. There are no senators remaining in the speaking queue. Senator Cornett, you're recognized to close on your amendment to LB642. [LB642]

SENATOR CORNETT: Thank you very much. AM1468 to LB642 is a technical amendment. When we struck out the committee amendment, this language was also stricken and needs to be returned to the underlying bill. I appreciate the body's support on the amendment and urge your support. Thank you. [LB642]

SENATOR GLOOR: Thank you, Senator Cornett. Members, the question is, shall the

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amendment to LB642 be adopted? All those in favor vote aye; all those opposed vote nay. Have all members voted who care to? Record, Mr. Clerk. [LB642]

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of the amendment. [LB642]

SENATOR GLOOR: The amendment is adopted. Senator Nelson, you are recognized. Senator Nelson waives. Senator Larson. [LB642]

SENATOR LARSON: Mr. President, I move that LB642 be advanced to E&R for engrossing. [LB642]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. Those opposed say nay. LB642 is advanced. Continuing with the agenda, General File, Mr. Clerk. [LB642]

CLERK: Mr. President, if I might right before that, a couple of items very quickly.

SENATOR GLOOR: Please.

CLERK: Enrollment and Review reports LB699 as correctly engrossed. And I have a new resolution, LR331, offered by Senator Campbell. (Legislative Journal pages 1682-1683.) [LB699 LR331]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign: LB200 and LB200A. Mr. Clerk, we'll now proceed to LB400. [LB200 LB200A LB400]

CLERK: Mr. President, LB400, a bill originally introduced by Senator Janssen. (Read title.) Introduced on January 13, referred to the Revenue Committee. The bill was advanced to General File. There are Revenue Committee amendments pending, Mr. President. (AM1446, Legislative Journal page 1549.) [LB400]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Janssen, you're recognized to open on LB400. [LB400]

SENATOR JANSSEN: Thank you, Mr. President and members. LB400 was originally introduced as a budget-reduction measure identified in the LR542 process by the Government, Military and Veterans Affairs Committee. The measure called for the elimination of the Long-Term Care Savings Plan Act. Nearly \$100,000 of General Fund expenditures would have been saved each year by eliminating this little-used program. Speaker Flood designated LB400 as a Speaker priority on March 14, and the Revenue

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Committee has decided not to report it out as I introduced it. I was approached by several senators to see if LB400 could be used as a vehicle to allow consideration for Senator Carlson's LB528. LB528 was advanced to General File by the Revenue Committee on March 4 but does not have a priority status. I agreed as a professional courtesy to permit the use of LB400 in order for Senator Carlson to get his chance to present the provisions of LB528 to the full Legislature. The Revenue Committee amendment replaces the provisions of LB400 as introduced with the language of LB528, which Senators Cornett and Carlson could explain and will explain in much greater detail. I would like to say that one of the reasons I agreed to this was because LB528, which you'll hear a lot about here in a second, as originally passed had a sunset clause on it, and what they're aiming to do is to extend that sunset. And I guess by proximity of my office to Senator Pahls's, in proximity to him on the Government, Military Affairs Committee, I hear a lot about sunsets. And in dealing with the Nebraska Long-Term Care Savings Plan I thought that bill, when passed, should have perhaps had a sunset on it, because if it was that good of a program it would have been extended, it would have been a no-brainer when it came back to the legislative floor. And it did not, and for that reason it's tough to take away something that you've given. And at the committee hearing, we had...the Treasurer did testify in favor of this bill, as did I and one insurance agent, who has tried to sell this policy and has had difficulties doing so. Five organizations, lobbying groups, showed up against this proposal. And in essence...and it's not a horrible program, it's just not being utilized to its full capacity. In fact, we're spending \$100,000 a year to oversee a program that on December 31, 2010, had a total amount of \$586,000 in it. So I am going to take advantage of this, at least this situation or time, to explain what the Long-Term Care Savings Plan is, if anybody is listening out there and certainly in here, because I learned quite a bit about it. LB965...actually, the Nebraska Long-Term Care Savings Plan was created by LB965 in 2006. The plan offers a tax deduction for Nebraska residents who open a plan or investment accounts at participating financial institutions. Participants may deduct up to \$1,000, \$2,000 filing jointly, from their federal adjusted gross income for Nebraska state income tax purposes by depositing an equal amount into a designated plan account. Account deposits accrue--interest tax-free--until withdrawn at any age, as long as they are used for long-term care needs or transferred to a beneficiary after death. The money can be used to pay long-term care needs for spouses or others in which the account holder has an insurable interest. After age 50, the monies can also be withdrawn tax-free to pay for long-term care insurance. By no means a horrible plan, just an under-utilized plan, perhaps something that would need to be advertised more in order for it to work. I just...and the committee agreed, at least the Government Committee agreed, that this...it seemed a little bit wasteful to be spending \$100,000 a year to oversee \$600,000 a year. So it would be my hope that bills like this maybe would be sunsetted and we'd have to decide if we should extend them. But in this case I'm going to turn it over. I would yield my time to Senator Carlson if he would like to talk a little bit about his bill and the sunset provisions of that. And thank you very much.

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PRESIDENT SHEEHY: Thank you, Senator Janssen. Senator Carlson, you're yielded 5 minutes 30 seconds. [LB400]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I do want to thank Senator Janssen for cooperating and allowing this move to take place. I thank Senator Cornett for cooperating and talking to those involved. I thank Speaker Flood for having this bill as a priority and giving his okay to what we're doing this afternoon. And I thank the Revenue Committee for voting out LB528, which was the original bill. In hindsight, I should have prioritized LB528, and I wish I had. And then I was worried that we wouldn't be able to have this bill brought forth this session, so I appreciate all the cooperation that's made this possible. At the hearing on LB528, which now becomes LB400, there were four positive testifiers, there was no opposition, and it advanced on an 8-0 vote. Now, before I talk about the sunset provision I want to read the mission of the Nebraska Association of Resources Districts. And their mission is to assist the NRDs in a coordinated effort to accomplish collectively what may not be accomplished individually: to conserve, sustain, and improve our natural resources and environment. That's a pretty wide brush. There's a lot involved in conserving, sustaining, and improving our natural resources and environment. Now, in past sessions we've dealt with the occupation tax. That was a bill last year, Senator Christensen's bill. But I would submit to you the occupation tax is used primarily by the NRDs for irrigation and irrigation challenges, and it probably will be used for dealing with compacts, when those are appropriate. The NRDs now have a 3-cent property tax for planning and implementing their IMPs, integrated management plans. And once these plans are approved, they're not the same forever. They're dynamic. They change as needs change. So one plan, one time, isn't necessarily appropriate. And we've seen this year after year, as we have the cooperative agreement on the Platte River, we have the compact with Kansas and Colorado on the Republican River, and we have other challenges throughout the state that need to be met. Now, this session we passed LB229, which in cooperation with the Environmental Trust provides dollars from the trust to go into the Water Resources Cash Fund. In order to make that work, we have a three-year agreement with the Environmental Trust--\$3.3 million a year. The only way that \$3.3 million a year goes into the Water Resources Cash Fund is if the state matches that amount. We voted on that. That's what's going to happen. So we have \$6.6 million a year for three years going into the Water Resources Cash Fund. And in order for the NRDs to have access...to make application for those dollars in the Water Resources Cash Fund, they need a way to raise dollars. Remember, earlier this session we took away the state aid to the NRDs. That's not a source of cash. The occupation tax is primarily for irrigation purposes, I believe. And so when we consider the mission of the NRDs, it goes far beyond irrigation, and therefore irrigators shouldn't have to pay the entire bill through the occupation tax. [LB400 LB528 LB229]

PRESIDENT SHEEHY: One minute. [LB400]

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SENATOR CARLSON: Now, the extension of this sunset provision is not a new tax. It is simply extending the sunset date from 2012 to 2018. By the fact that we have to discuss it and talk about it, it's a checkpoint on whether or not the ability to use this tax has been used in a positive way. The NRDs certainly would say that it has. I believe it has. I believe they need a way to access LB229. And I would ask for your support on the amendment that Senator Cornett will introduce and then LB400. Thank you. [LB400 LB229]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Thank you, Senator Janssen. You have heard the opening to LB400. As it was noted, there is a Revenue Committee amendment, AM1446. Senator Cornett, you're recognized to open. [LB400]

SENATOR CORNETT: Thank you very much. Before I open on the amendment I just wanted to clarify, because there has been questions on whether we can do this, whether it's germane or not. And Patrick is actually looking for the site right now in the rules. But you can amend a bill in committee with a committee amendment that guts the bill and changes it without worrying about the issue of germane on General File. So I just wanted to clarify that for everyone ahead of time, before we got into that debate on the floor. The Revenue Committee amendment, AM1446, to LB400 strikes all of the bill's original provisions and replaces them with the provisions of LB528, which the Revenue Committee advanced to General File on March 4, 2011. AM1446 would extend to FY 2017-18 the sunset date of 2011-12 under current law that allows a qualified natural resources district to levy a property tax of up to 3 cents per \$100 of taxable value within the district if the NRD is located in a river basin, sub-basin, or reach that has been determined to be fully appropriated or designated overappropriated by the Department of Natural Resources. Proceeds from such property tax levy would have to be used for the purpose of administering and implementing groundwater management activities and integrated management activities under the Nebraska Water Management and Protection Act. Additionally, AM1446 makes coordinating changes to the property tax levy limit statute that would extend to 2017-18 the related sunset date set forth in the statute, Section 77-3442(4)(c). With that, I'd like to explain. The Revenue Committee did advance the bill out unanimously and requested it be a consent calendar item. Again, because of the number of consent calendar item requests this year, the bill did not reach consent calendar. It does need to be passed this year to extend those sunsets for the fully appropriated or overappropriated districts. I want to thank Senator Janssen for his sincere consideration in helping us with this matter. I know that his bill was something that he wanted out of committee. We did not advance that this year, and I really appreciate his cooperation and willingness to work with us on this bill that does need to be passed. I urge the body to adopt the committee amendment, AM1446 from the Revenue Committee, and the underlying bill. Thank you. [LB400 LB528]

PRESIDENT SHEEHY: Thank you, Senator Cornett. You've heard the opening of



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AM1446 to LB400. Mr. Clerk, you have an amendment to committee amendment.  
[LB400]

CLERK: I do, Mr. President. Senator Christensen would move to amend the committee amendments with AM1501. (Legislative Journal page 1683.) [LB400]

PRESIDENT SHEEHY: Senator Christensen, you're recognized to open on your amendment to committee amendment, AM1501. [LB400]

SENATOR CHRISTENSEN: Thank you, Mr. President. I stand here for one reason. As we look at this 3-cent levy, I do not think we're being up-front and honest about how this was originally intended to be used, not the projects that they're using it on but the original intent. If you go back when LB962, the bill that come out of the Water Task Force committee...they set up a 1-cent permanent funding to go on that raised the local entities from 3.5 to 4.5 cents. In 2004, there was a bill that was introduced and the senator set it up to be 3 cents that we're looking at extending today, which the second year was to decrease to 2 cents and the third year 2 cents (sic) and then go away. It was a transitional funding and I believe that was the original intent. I have told...the NRDs oppose this amendment. I'll be upright. Senator Carlson opposes it. I'm trying to make a point here, that I believe the intent of this legislation always was to be a temporary funding. I believe if you want it to be permanent, I told the NRDs I'd introduce it next year and we'd have the public hearing on making it permanent. I extended this myself in LB701 in 2007. But as I've got to looking into the history of this, I do not think we're being forthright and being honest about this. Because when I asked out there in that lobby, would you like to see this permanent, they said yes, if you want to do that, that would be great. I said, well, I don't want to do that today, because we didn't have a hearing that way. I think we got to be honest with what this is doing. If we want to make this permanent, then extend it one year, let's lead the bill next year, have the public hearing on making it permanent, if that's necessary for the fully appropriated districts. The overappropriated status doesn't matter anymore, because there won't be no more new overappropriated. We're moving any that were overappropriated back, so the language can now pertain to just fully appropriated. So I just think it needs to be up-front and honest. I don't feel like I...this was an issue in my campaign. I'll be very honest about it. People said, well, you've got a temporary funding down there you extended once. I said, you...and they told me, you'll turn around and extend it again. I said, no, I won't. I won't agree to do that unless it is done saying we're going to make this permanent. Can I get Senator Schilz to yield to a question please? [LB400]

PRESIDENT SHEEHY: Senator Schilz, would you yield to Senator Christensen?  
[LB400]

SENATOR SCHILZ: Yes. [LB400]

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SENATOR CHRISTENSEN: Senator Schilz, you were on the original Water Task Force. Have I stated it correctly that the 1 cent was permanent, the 3 cent--that it decreased to 2 cents--was a temporary stopgap measure? [LB400]

SENATOR SCHILZ: As I understand it, that is correct, yes. [LB400]

SENATOR CHRISTENSEN: Thank you, Senator. And right there verifies that that was the original intent. I would love to see this fully debated but have a public hearing if we're going to make it permanent. Senator Carlson is just trying to extend it. If that's the will of this body, I'm fine with that. But I will just vote against it, because I give the people in my district my word that I will not continually extend a funding source that was intended to be temporary. If we want to make it permanent, I'll lead the bill for it. But I don't think that was the intent of this one, and I don't think it had the public hearing for that, so I believe it needs to have the original sunset. And as I admitted, I extended it the first time. So I've already done it once. If this body chooses to go that direction, I won't be mad or draw this out and fight this a long time. I'd love to see it go to a vote, and what happens from there I am comfortable with, because that's the will of this body. I'm not here to hold this up all night, but I just want you to think about...we know what the original intent was. I talked to the original sponsor of the bill, and he said that this was a temporary measure to expire. He wanted to know why I extended it. Well, I was asked to. We were in a crisis in '07. It had been a severe drought. We actually put on an occupation tax, another 10-cent property tax levy, which was found unconstitutional. And so we have provided a number of tools. We now have brought in LB229 as a matching fund, which is a great deal, to have some funding from the state's side. And I'm just anxious to see what some of the comments are from my colleagues here today, if this is something that they agree with me that extending this is not the right approach, that maybe we should have a public hearing and make it permanent, if this is needed. I know the Platte NRDs are using this. I could hand out a bunch of summary sheets. There's several of them that got the full 3 cents on. They're using it to bring the Platte back in, reducing the acres to get into the agreement, in the cooperative agreement. And the Republican is using a portion of this. There's only one NRD using the max. There is no NRDs that's on the current maximum of their levy and...but there's several of them getting close. So the maximum levy right now including that 3 cents is 8.5. The highest one, I believe, is about 7.3, which is the Upper Republican. Then there's also the occupation tax funding that we put in in 2007. There's only two NRDs utilizing that, and nobody is up against their max there. I think there's plenty of levy and amounts out there right now, but, again, I'm going to yield to the will of this body. I wanted to bring this up for a discussion and a vote because I believe it is important that we stick to our words of what the intent was; the original intent from the original sponsor was, is be there three years and sunset, as a transition. That's why I asked Senator Schilz to speak briefly there and answer, because he's the only member in here right now that served on the Water Task Force that created LB962 that put in the integrated management plans. I do not disagree with what Senator Carlson said. These plans

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have changed--we're on version three in the Republican--and there is some ongoing expenses. My point has been it was sold to us as a temporary measure, and I think we need to have a discussion. If we want to make it permanent, that's fine. I think we need to talk about making it permanent, have the public hearing on it, and go forth that way. I know, with the language of this, it's going to make a couple of entities concerned. I'd be more than glad to amend this to read 9 so we have next year to come back and keep them with this levy and have a public hearing on it, if that is the will of the people here. I'm just anxious to hear. I may be the only senator that agrees that we got to stay to that original intent; and if that's the case, fine, we'll vote this down, we'll go on. But, again, I just thank you for your time. I just want people to understand what we're doing here, because it was sold as a temporary measure. And I know when I have campaigned twice, the number one issue people hate is property tax. And I know my statements are very high. Are the NRDs a large portion of it? They're definitely a portion of it. Schools are number one, we know that. But I just want to, again, thank you for your time, your consideration of this, and I'll be glad to listen to anybody's comments or take any questions. Thank you. [LB400 LB229]

PRESIDENT SHEEHY: Thank you, Senator Christensen. You've heard the opening of the amendment to committee amendment AM1501. Members requesting to speak are: Senator Pahls, followed by Senator Avery, Senator Ken Haar, Senator Carlson, Senator Schilz, and Senator Council. Senator Pahls. [LB400]

SENATOR PAHLS: Thank you, Mr. President, members of the body. When Senator Janssen mentioned my name over there I was sort of startled, because he equated me with sunsets. So after I got over that, it made me start thinking a little bit. What's happening right now is because we have a sunset, where we are taking a look at the old legislation again and seeing, do we need to tune it up or kick it out? And I was particularly glad to see that Senator Cornett is sponsoring or dealing with legislation that deals with sunsets, because several of you can remember a couple of years ago that was part of my thinking, was we should at least sunset some of our tax exemptions just so we can take a look at them, not to put them to bed but just to take a look at them. And who knows, maybe I'm looking at...maybe July 1, 2033, we may be looking at some of Senator Fischer's work, because that bill that she marshaled through this body this past year...session dealing with roads, it sunsets then. Perhaps that group of senators may say this is a good idea, we need to continue that or even expand on it. So I think the idea of sunsets--I'm not talking about the content of this particular bill--is perhaps a good idea that we should be looking at. And I think, if you can recall, you hear the word "sunset" coming up more and more in our bills, which, believe it or not, makes me smile inside. Again, as all things that we do, what I call...some would call "giveaways," because I do believe some tax exemptions are giveaways. They may be good to be here, to stay with us, but why not take a look at these on a regular basis? I think Senator Christensen made a comment that some of the people on the other side of the glass have some concerns. Well, be honest with you, the people on the other side of the

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glass, they just probably in most cases would not like to see sunsets on the majority of the bills because then their work is done. Once there's a sunset, then they have to again try to convince us that, hey, this is a good piece of work because it really provides good things for the state of Nebraska. If we don't sunset, if we just continually go with their desires, they get them probably at a pretty reasonable rate. A one-time shot at us, commit us to that idea, then they can go back and relax. And the interesting thing, we all in this body, we believe in sunsets, and the reason why: because every one of us is going to be sunset at some time in our career in this body. Thank you. [LB400]

PRESIDENT SHEEHY: Thank you, Senator Pahls. Senator Avery. [LB400]

SENATOR AVERY: Thank you, Mr. President. I don't have any particular objection to either one of these amendments, but I do want you to understand what we're doing here. The underlying bill, LB400, came out of the Government, Military and Veterans Affairs Committee as part of the LR542 process. As you remember, we were charged with the task of coming up with statutory changes and recommendations that would save General Fund dollars. And LB400 would have done just that. It would have repealed the Long-Term Care Savings Plan Act. I believed we passed that about 2007. It has not been widely used. But the fiscal note shows that in the first fiscal year, of 2011-12, there would have been a savings in expenditures of over \$94,000 and a generation of \$18,000 in new income because of the changes that would be made to the tax code when you eliminate the tax credit, that would generate money. So you add those together, it comes to over \$112,000 in the first fiscal year and \$119,000 in fiscal year 2012-13. So what we are doing by taking this amendment and replacing LB400, if this is what we decide to do, is we will be substituting a property tax for a General Fund savings. Now, we may decide that's good policy. Nonetheless, that is what we will be doing. Instead of saving money, we will be extending a 3 percent property tax value on NRDs. That is what we are doing here. I'm not saying that it's bad. I'm just saying, please understand what is happening. LB400 was itself a decent idea and a way to save some money at a time when we need to do that. And the amendment that's being proposed here will not do that. It will completely strike the original language in LB400 and replace it with an extension of this property tax. Thank you, Mr. President. [LB400]

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Carlson. [LB400]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I rise in very definite opposition to AM1501. Senator Christensen and I don't disagree a lot, but we're in disagreement on this. And the hearing on LB528 was some time ago. I didn't know about the possibility of amendments until this morning and then didn't really see the amendment until quite a bit later. Senator Christensen talked about if it's...if the desire was to make that 3-cent levy permanent, he'd be happy to introduce a bill, and he talked about needing a full debate. I agree with him. That needs a full debate. I think this idea needs a full debate. The NRDs that asked for an extension of the existing levy

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know that that extension is temporary. They can plan that into their budgets. And then to have this idea come up all at once to do away with it...it's a pretty important matter. I think that his idea, AM1501, if he's serious about bringing that next year, should have a hearing, have a full debate, allow the NRDs to come in and talk about how they would cope with that being taken away. I think that's a good way to approach it, particularly when we recall that the state aid to the NRDs we eliminated. I don't think in the same year we want to eliminate state aid to the NRDs and take away their 3-cent taxing authority. I appreciate what Senator Pahls said about sunsets. I don't think sunset provisions are bad. I think it's good that periodically we have to look at what a bill has done, what it's doing, and should it continue. And let me go back to LB229, which provides the dollars for the Water Resources Cash Fund. Part of that bill is the commitment is for three years and then there are benchmarks. And if those benchmarks are met, then possibly it can be continued for three more years and more benchmarks. If those benchmarks are met, possibly it can be extended another three years. That's a sunset every three years. It causes us to debate and think and then act. And that's what we're doing today in this request to extend the sunset provision to 2018. And so I believe that the proper procedure would be to bring back Senator Christensen's ideas next year. In spite of this bill going forward, we could still bring it next year and make it permanent, if that's the desire. But a sunset provision is not bad. I ask you to be against, vote against AM1501 and vote for AM1446 and the underlying bill. Thank you. [LB400 LB528 LB229]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Schilz. [LB400]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. And I wanted to thank Senator Janssen and the Revenue Committee and Senator Christensen for bringing the amendment as well, because I think it is important to discuss this and talk about it. And while everything that I've heard here so far today is exactly the case and the truth, it is important to know that the 3 cents was put out there to help those NRDs that are fully or overappropriated to come up with their integrated management plans. Almost all of the districts that are out there have done that. There's just an exception of maybe a couple. What now is happening and what people are finding out is that with the implementation of those IMPs is becoming...that's where the issue now lies. So Senator Christensen is exactly right that it takes...does take a little bit different stance on this to do a little different things, but we should also be cognizant of the fact that these plans, even after the IMPs were put in place, the individual parts of it are also much more complex and much more involved than people may have thought going into it. So as you look at it, we need to make sure that we don't short the NRDs in their ability to utilize and their ability to take those plans forward and make them work, by taking away necessary funding. The NRDs will continue to need funding over time, they'll continue to need funding exactly for these types of things in order to bring us back into compliance with whatever programs, whatever situations on the different basins and the streams and the rivers that are out there. So I think it's a good discussion. I think we need to talk

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about it, and I think we do need to find a way to find this revenue so that we don't go backwards on what we've agreed to do as a Legislature, as the NRDs, and as our IMPs in each of those NRDs point out. Thank you very much. [LB400]

PRESIDENT SHEEHY: Thank you, Senator Schilz. Members requesting to speak on the Christensen amendment to committee amendment AM1501, we have Senator Council, followed by Senator Hansen, Senator Christensen, and Senator Carlson. Senator Council. [LB400]

SENATOR COUNCIL: Yes, thank you, Mr. President. I've been listening to the debate, and perhaps I'm the only one but I'm a little confused, and I need some clarity so I'll be sure that I'm understanding this properly. And if Senator Carlson would first yield to some questions. [LB400]

PRESIDENT SHEEHY: Senator Carlson, would you yield to Senator Council? [LB400]

SENATOR CARLSON: Yes, I would. [LB400]

SENATOR COUNCIL: Am I correct in my understanding, Senator Carlson, that AM1446 was essentially LB528? [LB400 LB528]

SENATOR CARLSON: That's correct. [LB400]

SENATOR COUNCIL: And am I also correct in my understanding that LB528 in its original form called for a repeal of the sunset language, which in effect would make this property tax levy authority permanent? [LB400 LB528]

SENATOR CARLSON: No. LB528 simply extended the sunset from 2012 to 2018. [LB400 LB528]

SENATOR COUNCIL: Okay. Well, then the committee statement is wrong, because the committee statement for LB528 says it repealed the sunset and did not provide for the extension but that the committee amendment, AM1446, provides for the extension. [LB400 LB528]

SENATOR CARLSON: It may be in the definition of "repeal," because it actually doesn't run out until 2012. So if we enact this now, it doesn't need to be repeal...it repeals 2012 and just extends it to 2018. [LB400]

SENATOR COUNCIL: Okay. But that's AM1446, but the original bill just repealed the sunset. Is that correct? [LB400]

SENATOR CARLSON: That's not my understanding, no. There was another bill, LB527,

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and that was a little different. I'm going to say that's not the same either. But AM1446, which is taking LB528, simply is an extension of the sunset from 2012 to 2018. [LB400 LB528 LB527]

SENATOR COUNCIL: Okay. And the reason I was asking those questions, Senator, because if the issue is about if you want this to become permanent it needs to have a public hearing and go through all that, as I read LB528 that's exactly what happens. There was a hearing on that bill. And if I'm correct in my reading of the committee statement, then that is on me, but the committee statement suggests that the bill provided just for the repeal of the 2011-12 sunset. And AM1446 calls for the repeal and the extension. And the only point I was going to make was that, in terms of the point that Senator Christensen was making, at least as I read LB528's committee statement, the hearing was held, there was no opposition, the committee voted it out unanimously. And it appeared to provide for just the repeal of the sunset, which, the practical effect of which would be to make it permanent, but that AM1446 just extends the sunset from '11 to '12. And, again, the only point I was making was that it appeared that what Senator Christensen said should occur did occur (inaudible)... [LB400 LB528]

SENATOR CARLSON: And I disagree. It did not occur. I presented the bill to the Revenue Committee. I'm certain that nobody on the Revenue Committee thought that the bill was anything other than extending the sunset date to 2018. Another way that I'm certain that that was the understanding, there were...well, the NRDs that supported it supported it with the idea that it goes to 2018, not a repeal. [LB400 LB528]

SENATOR COUNCIL: Okay. And in that regard, I understood Senator Christensen to say that when the levy authority was initially enacted it was in 2004 with a sunset of 2007. And if Senator Christensen would yield, am I correct that that's...? [LB400]

PRESIDENT SHEEHY: Senator Christensen, would you yield to Senator Council? One minute. [LB400]

SENATOR CHRISTENSEN: Yes. Yes, you're exactly right. [LB400]

SENATOR COUNCIL: So there was at least one time where there was an extension of that sunset. (Inaudible) [LB400]

SENATOR CHRISTENSEN: Originally it was enacted in 2004 with a sunset of the fiscal year 2006-2007, and in 2007 I extended it with LB701 with an emergency clause to keep it running. [LB400]

SENATOR COUNCIL: Okay. So, I mean, and again...and the reason I'm asking those questions is because the issue of extending this has been the subject of legislation before. So the suggestion that the permanency is an issue is really not an issue,

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because, as Senator Pahls aptly noted, even when you put a sunset in, any bill can be introduced to repeal or extend the sunset. And... [LB400]

PRESIDENT SHEEHY: Time, Senator. [LB400]

SENATOR COUNCIL: Thank you. [LB400]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Hansen. [LB400]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I understand the need for extending this bill. I've talked to the Twin Platte NRD, who, I represent part of their district, and they only started using this money to affect some of their water situations that they have only two years ago. So now they're...if this isn't changed, they're going to be out of money and they need the extension, they really do. Would Senator Carlson yield to a couple of questions? [LB400]

PRESIDENT SHEEHY: Senator Carlson, would you yield to Senator Hansen? [LB400]

SENATOR CARLSON: Yes, I would. [LB400]

SENATOR HANSEN: I'm not going to ask you to explain "over-" and "fully appropriated." I assume that everyone here on the floor understands that, but I can yield you some time later if you would like to do that. I have a series of quick questions for you. Does this amendment, AM1446, include any general funds? [LB400]

SENATOR CARLSON: No, it doesn't. [LB400]

SENATOR HANSEN: Does it have a limited scope of need, and are those practices fairly well set up for the NRDs to use? [LB400]

SENATOR CARLSON: Yes, they are, and certainly if it's used for LB229, that's spelled out very specifically how it could be used. [LB400 LB229]

SENATOR HANSEN: Can any of the NRDs use these to build buildings or purchase equipment or pickups? I mean, can it be used for building buildings? That's my main thing. [LB400]

SENATOR CARLSON: I'm going to say no, because they have their existing taxing authority of 4.5 cents to take care of all those kinds of things. [LB400]

SENATOR HANSEN: Yes, I agree too. Do property taxes on...do the property taxes that we're talking about affect those areas that are affected by the water issues that you're trying to address in past legislation? [LB400]



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SENATOR CARLSON: I'm sorry, I didn't... [LB400]

SENATOR HANSEN: Does the property tax affect the situation, the ground, the area that you're trying to address? [LB400]

SENATOR CARLSON: Yes, it does. [LB400]

SENATOR HANSEN: Okay. And, finally, is this a property tax increase? [LB400]

SENATOR CARLSON: No, it's an extension of an existing levy. [LB400]

SENATOR HANSEN: So we're going to pay property taxes for a little bit longer to find solutions to a problem that has existed for some time. [LB400]

SENATOR CARLSON: Yes, that's true, and it's another way of coping with the fact that no more state aid and no General Fund dollars. [LB400]

SENATOR HANSEN: I agree 100 percent. And Senator Christensen's amendment I think needs a hearing, if we're going to make this permanent, which I'm not in favor of at all. That needs a hearing, and I would oppose AM1501 and support AM1446 as amended to LB400. Thank you, Mr. President. [LB400]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Senator Christensen. [LB400]

SENATOR CHRISTENSEN: Thank you, Mr. President. I just want to make everybody remember, there was a comment made about AM1501 needs a public hearing. It doesn't, because it brings back the original ending date, basically. So it's had the hearing on the use of this, and if we don't change it then we're back in the same place that we were before. And so it doesn't need a hearing. If you were going to permanent funding, yes, I agree that it would. But my whole issue here today is nothing more than the way it was originally sold to the public on this floor, that it was a temporary measure, stopgap. It wasn't sold as a time to reevaluate every four or five years to see if this was working. If it had been sold that way, I'd be voting for it, saying let's move this forward and go on. I will admit Senator Hansen's correction, that Carlson is correct, Senator Schilz talking that dollars are short and...but they're not against the occupation tax and against the property tax levies. They do have the funding to match LB229 but they may need something like this again in the future. Water funding is tough, it's necessary, it needs to be addressed. That's what LB229 started. I appreciated that and I voted for it. I don't want to come across attacking the NRDs. They need this. I've always supported them, and I still support them. I'm just questioning the way this has been done in stating that it was a short-term measure and now we just keep extending it and extending it instead of stepping up and saying, okay, we're now going to just reevaluate this every

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four years to see if it's still necessary. If it's sold that way to the public, I'm fine with that. But when it was sold as this is just a quick transition and it will expire, to extend it I disagree isn't a tax increase, because it's like making a house payment: You've got \$1,000-a-month payment and it's going to end next year. Come July 31 you make your final payment. All of a sudden now it's extended five more years. All of a sudden I've got \$1,000 less I have to spend. I don't agree that it's not. It's an extension, that's true, of a current levy, but it's still continuing dollars out of my pocket. And I'm agreeing that these dollars are necessary. I'm only disagreeing on the way this was sold to the public and the way we continue to sell this to the public. So I just want the openness on the intent and I'm willing to...I know as soon as I get off the mike here there's a little negotiating going on over here and I'm sure I'll work with it. But at this time I'm just trying to bring up the original intent. I promised to do that with people in my district and not just continue to support something that was not intended to go long term. Thank you. [LB400 LB229]

PRESIDENT SHEEHY: Thank you, Senator Christensen. (Visitors introduced.) Continuing with floor discussion on the Christensen amendment to committee amendment, AM1501. Members requesting to speak are: Senator Carlson, followed by Senator Burke Harr, Senator Council, and Senator Schilz. Senator Carlson. [LB400]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I want to make a couple of brief statements based on the discussion we've had thus far. I want to talk a little bit about what's being currently done with the 3-cent levy that these NRDs have that are in fully or overappropriated areas. It's not being misused. There is one NRD that's using the full 3 cents; there's another one using .02 cents; another one, .96 cents; another one, .80; another one, 1.48; and another one, 2.8. And it's going to vary according to what their needs and what their challenges are. Another thing I'd like to talk about is that...let's go back to the occupation tax. That's basically a tax on irrigated land. And the scope of the NRDs is far wider than simply water issues on irrigation. And when it's a wider scope, if we would get down and not allow this so that we really have just the occupation tax, once that gets completely cleared up, we're having irrigators pay the bill. Irrigators ought to pay the bill when it's irrigation related, when it's water related to irrigation. But the rest of the residents in an NRD benefit from the other projects that's a full scope of protecting and enhancing our natural resources. And that's what this 3-cent levy allows, for everybody to pay their share. It's not currently being used. I think it's used appropriately. So, again, I ask for your vote against AM1501 and support AM1446 and the underlying bill. Thank you. [LB400]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Harr. [LB400]

SENATOR HARR: Thank you, Mr. President. I'll be honest, when I ran for election I never thought I'd be talking about fully appropriated or overappropriated and it really wasn't an issue when I was campaigning, but it is something that's very important to the state of Nebraska. And I understand what Senator Carlson is trying to do with this bill

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and I agree with it, but I do have some questions and I was wondering if he would yield to a question or two, please. [LB400]

PRESIDENT SHEEHY: Senator Carlson, would you yield to Senator Harr? [LB400]

SENATOR CARLSON: Yes, I will. [LB400]

SENATOR HARR: Thank you, Senator Carlson. I guess my first question is, we've agreed that sunsets are good and it gives predictability, and this bill currently has a sunset in it, are we creating a negative incentive by expanding this sunset? [LB400]

SENATOR CARLSON: Well, by expanding, you mean by adding years to it? [LB400]

SENATOR HARR: Yes. I'm sorry, yes, extending it. [LB400]

SENATOR CARLSON: I don't think we're doing that at all. What we're doing is forced to talk about it. If that sunset provision were completely removed, the levy is going to go on year after year after year and probably nobody is going to question it. The way it is now, if this is passed, which I hope it is, we give the sunset extension until 2018, and we're going to have to revisit it again, and a lot of things are going to happen with water issues between now and 2018. We're going to have to look at it again and justify what we've done. [LB400]

SENATOR HARR: Thank you. And I agree we've done some...made a good start, on LB229. My question is, within LB229 we have three-year markers, and I noticed you mentioned earlier three-year markers. Why on this bill do we go to 2018 instead of having three-year markers to reevaluate where we are? [LB400 LB229]

SENATOR CARLSON: Why don't we have those? [LB400]

SENATOR HARR: Well, how and why did you choose the year 2017-2018? [LB400]

SENATOR CARLSON: Well, if I'm going to be very honest with you, that's what the NRDs asked for. And I can understand if you have a three-year sunset or a four-year sunset you might think let's make it six and we don't have to revisit it as quickly, and it may be about as simple as that. [LB400]

SENATOR HARR: Okay. I appreciate that. Thank you very much. And I would yield the rest of my time to you. [LB400]

PRESIDENT SHEEHY: Senator Carlson, you're yielded 2 minutes 40 seconds. [LB400]

SENATOR CARLSON: Well, I appreciate the interest and the questions by Senator Harr

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and appreciate this discussion. Thank you. [LB400]

PRESIDENT SHEEHY: Thank you, Senator Harr. Thank you, Senator Carlson. Senator Council. [LB400]

SENATOR COUNCIL: Thank you very much, Mr. President. I just want to make it clear that last I checked I had a pretty good command of English and could read with some comprehension. And I read LB528's committee statement to say that the bill...and I appreciate it was Senator Carlson's bill and he should know it better than anyone, but I'm going to ask the Chair of the Revenue Committee, am I misreading the committee statement on LB528? [LB400 LB528]

PRESIDENT SHEEHY: Senator Cornett. [LB400]

SENATOR CORNETT: Senator Council, no, you are not. I have a very chagrined staff member that wrote "eliminate" rather than "extend," and you are correct in your interpretation of the committee statement, but the bill itself is very clear on the extension of the dates. [LB400]

SENATOR COUNCIL: Thank you very much, because I knew I was reading this correctly, and then that would give rise to the question of, well, if there was a hearing on what the committee statement said, there was a hearing on making it permanent, and that was the only point that I wanted to make. And in terms of the discussion on what the public knows or doesn't know, is that there was a hearing on LB528 which provided for an extension of the sunset date. So if the public had questions about extending the sunset date, there was an opportunity for them to be heard when LB528 was heard by the Revenue Committee, is that correct, Senator Cornett? [LB400 LB528]

SENATOR CORNETT: Yes, we had a full public hearing on this and another NRD bill. [LB400 LB528]

SENATOR COUNCIL: Okay. And, again, my reading of the committee statement says that there was no opposition to LB528. [LB400 LB528]

SENATOR CORNETT: Correct. [LB400]

SENATOR COUNCIL: And that it advanced from the committee unanimously. [LB400]

SENATOR CORNETT: It did and was requested as a consent calendar item. [LB400]

SENATOR COUNCIL: Okay. Thank you very much. I will yield the balance of my time to Senator Carlson, if he'd wish. [LB400]

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PRESIDENT SHEEHY: Senator Carlson, you're being yielded 2 minutes 45 seconds. [LB400]

SENATOR CARLSON: Thank you, Mr. President. Thank you, Senator Council. I think one of the things that you've just said, Senator Council, the committee statement, we don't see that before the hearing, so there wasn't any way that people read that and saw it and thought, well, this is taking it away, prior to the hearing. You don't see it until after the hearing. So at the hearing that was not an issue. And I think that is different. But again, I think Senator Schilz is going to speak to this somewhat; this levy is used to help implement the provisions of an integrated management plan; and that plan is so important because it's a dynamic plan. It changes as time goes on. It changes as new challenges come forth, and there will be a lot of new challenges in the years ahead. And so you don't have a one-time funding need for an IMP and then you're done, because it's changing and we have to meet these new challenges, and it makes sense that we provide a way that these things can be funded, and I believe that's what now LB400 and AM1446 does. Thank you. [LB400]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Members requesting to speak on AM1501, Senator Schilz, followed by Senator Nelson and Senator Bloomfield. Senator Schilz. [LB400]

SENATOR SCHILZ: Thank you very much, Mr. President. As Senator Carlson said, I think it could be of some use to go through kind of the process that an IMP...of what an IMP is. An integrated management plan was put into place under LB962 to get us back to 1997 uses of our water resources. And if you think about that...you know, quite honestly, just because you have a plan on paper, is the plan implemented? Have you done enough just to say, hey, it's on paper? I don't think so. I think that we would be remiss if we went forward and said, oh, you know, as long as we've got the plan in place, everything is done, maybe we need to back off and we don't need that money anymore. Well, I think as Senator Carlson said as well, those plans have intricate pieces that have to be put in place in order for those plans to be successful, and it's important. We heard through the debate on LB229 how important it was to get money to be able to do this, and people were lamenting that, oh, you know, no matter what we do it's still not going to be enough money. Well, that's an argument that can be made, and it's probably right. In the things that we're talking about today, the types of dollars that are going to be needed to get us where we need to be are not unsubstantial. It's going to take a lot of money to do what we need to do. But on the other side of this, if we don't have the money to spend locally through each NRD to be able to do this, then things such as LB229 and the negotiations that will go on this summer and everything else that goes to it may be futile as well, and we need to be careful of that. It is essential that, as the state of Nebraska, we take our water issues seriously and get on top of them as quickly as possible. During the debate here today I was talking to some of the other folks that served on the Water Policy Task Force with me, and I think, having my recollection

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refreshed, the Legislature was the entity that put the sunset date on, which is fine, that's good. The Water Policy Task Force did not ask for that specifically, because they understood the things that I'm saying now and the things that Senator Carlson has said too. So I don't believe...I do like the idea of sunsets, because it makes us examine things, it makes us relook at the things we've done in the past and how to do them better in the future. And so for that I...you know, I appreciate the fact that they're there in places, but I think we need to be very careful about how we define an IMP and when that IMP is completed. Thank you very much. [LB400 LB229]

PRESIDENT SHEEHY: Thank you, Senator Schilz. Senator Nelson. [LB400]

SENATOR NELSON: Thank you, Mr. President, members of the body. I missed out on part of the conversation here, but I do think I need a little clarification. I could ask Senator Carlson, but maybe Senator Schilz could answer this for me. If Senator Carlson will yield. [LB400]

PRESIDENT SHEEHY: Senator Carlson, will you yield to Senator Nelson? [LB400]

SENATOR CARLSON: Yes, I will. [LB400]

SENATOR NELSON: Thank you, Senator Carlson. Has anything been said about why the extension is for a six-year period rather than a two- or three-year period? [LB400]

SENATOR CARLSON: I had indicated to Senator Harr that maybe it was kind of for convenience and we'd rather not have to revisit this as often; however, I was given a note from Dean Edson that...and that reminds me that in 2010 Senator Dierks had this bill presented, and that bill had in it the 2017-18 fiscal year as the sunset date, and we simply reprinted that bill for this year. It didn't have a priority last year and it wasn't heard and so it came back the same way. Now you're asking why it's that many years? [LB400]

SENATOR NELSON: Yes. [LB400]

SENATOR CARLSON: Well... [LB400]

SENATOR NELSON: Is that the answer, then? It was just in the previous bill? [LB400]

SENATOR CARLSON: It was...it matches the previous bill that wasn't debated. [LB400]

SENATOR NELSON: Are there NRDs that are in need of a six-year period, to levy for that period of time, that you're aware of? [LB400]

SENATOR CARLSON: Well, to say specifically how many years a given NRD needs for

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a project, I can't say that. And I appreciate your question, because I want to clarify your prior question. And the bill that Senator Dierks had a year earlier was advanced out of committee on an 8 to 0 vote, so that was the same as what it came out this year. So that was pretty definite. I think that it takes a reasonable amount of time once projects are developed and then completed. It doesn't happen necessarily in one or two years. And with these integrated management plans needing to be revisited and amended almost consistently, I think it makes sense that we could have a little longer time period for the sunset date, but we're still going to revisit it. [LB400]

SENATOR NELSON: If an NRD only needs another two years to complete its projects, then they just don't levy anymore after that even though they could for a six-year period? [LB400]

SENATOR CARLSON: That's correct, and I think the evidence of what they're doing at the present time proves that, because there's only one NRD that's at the 3-cent level, the rest of them are less. And so they use it as they need it and they haven't been abusing it. [LB400]

SENATOR NELSON: Is there a possibility after two years, for instance, when their project is completed, that they could move on to something else that they necessarily wouldn't need to do or levy for? [LB400]

SENATOR CARLSON: Are you asking if they...is it possible that they could just continue and jump to another project and not have to revisit the levy? Not without board action, not without...and the members of the board, they're elected individuals, and if they're not handling the use of this levy properly, they're in trouble on the next election. [LB400]

SENATOR NELSON: Thank you, Senator Carlson. I have a question for Senator Christensen then, if he would yield. [LB400]

PRESIDENT SHEEHY: Senator Christensen, would you yield to Senator Nelson? [LB400]

SENATOR CHRISTENSEN: Yes. [LB400]

SENATOR NELSON: Senator Christensen, in...thank you, Senator. In your amendment here, you're proposing an eight-year period, as I understand it. How did you come up with an eight-year period, and how does that work? If you can give us an example on someone that has an ongoing project. [LB400]

SENATOR CHRISTENSEN: Okay. The way I set that up to eight years was as you get down to the 2012... [LB400]

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PRESIDENT SHEEHY: One minute. [LB400]

SENATOR CHRISTENSEN: ...'11 and '12 year, you will have eight years for some of the NRDs. And I didn't want to treat any NRD different, so some of them had eight, I figured they should all have eight. But the occupation tax is only used by two of the NRDs right now, so there is plenty of sources available. [LB400]

SENATOR NELSON: So the eight-year period is a max. I mean, you're looking at the NRDs that are going to need at least that long, in your estimation, and that's why you selected that figure. [LB400]

SENATOR CHRISTENSEN: I selected it that way because we needed a transition period to be consistent with the original bill and how it was sold to the public. [LB400]

SENATOR NELSON: So we're going to '12...'11-20, then, under your bill, at a maximum, or your amendment, is that be... [LB400]

SENATOR CHRISTENSEN: Well, some of them would be done after 2012 year, and some would...might not start for a couple of years and have eight years from there. What I did, set it up so it could be ongoing and not have to be adjusted every time, give everybody an equal amount of time so... [LB400]

PRESIDENT SHEEHY: Time, Senator. [LB400]

SENATOR CHRISTENSEN: Thank you. [LB400]

SENATOR NELSON: Thank you. Thank you, Senator. Thank you, Mr. President. [LB400]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Bloomfield. [LB400]

SENATOR BLOOMFIELD: Thank you, Mr. President. Members of the body, I am not yet certain how I'm going to vote on either of these amendments. I do not see any way, though, that extending this is not a tax increase. In my mind, if the tax was not due next year and all of a sudden we make it where we have to pay that next year, that is a tax increase. So again, I'm not sure how I'm going to vote on this, but I don't believe we ought to be laboring under the pretense that it is not an increase. And would Senator Carlson care for a little time back, there? He can have the remainder of mine. [LB400]

PRESIDENT SHEEHY: Senator Carlson, you're yielded 4 minutes 15 seconds. [LB400]

SENATOR CARLSON: Thank you, Mr. President. Thank you, Senator Bloomfield. I'm



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going to respond a little bit to a question that Senator Nelson asked Senator Christensen, and he asked me something rather similar, but he talked about a requirement for projects taking a certain period of time and needing the levy for that period of time. Well, Senator Christensen's amendment would limit it to eight years. So let's suppose in an IMP the NRD decides on a four-year project, so they complete it in four years. Now they've got four years left, on his amendment. And then they get into another two-year project and complete that. Now that's six years. Then they decide their IMP calls for another...for a four-year project. Now they've got ten years total and eight years of levy, and I think that that kind of restriction, that kind of possibility, brings out the importance of having a new bill and a full debate where the NRDs can come in and discuss how this would affect them. And so again I would ask the body to vote against AM1501. I ask you to support AM1446 and LB400. Thank you. [LB400]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Christensen, you are the last one in the queue. Would you like to use your time or use this time to close? [LB400]

SENATOR CHRISTENSEN: I can close. Thank you, Mr. President. Again, I'm not unhappy with the NRDs. I don't disagree with the projects they've done. I think they've used them very well, very effectively. I'm just looking at the original intent of our predecessors as senators here that originally introduced this and if we need to hold fast to their words or have a hearing that actually changes the direction of it. You know, the situation of whether it runs out at the end of eight years and they need ten, we run into that every time there's a sunset. You could have two years left till the sunset, somebody has a four-year project they want to do, we run into that every time there too. But you got to remember no one is using their maximum property tax levy. We have nobody, only 2 NRDs...23 using the occupation tax and no one is at their limit on that. It's, to me, it's a question of are we going to hold to our word that this was a temporary deal until we come in with a permanent process that can have a renewal on it. I would...I agree with sunsets. I agree with the renewals. My whole question in this whole debate here has been, is our word worth anything? Our word said it is temporary, and I believe that's what it should mean until we have the hearing that says it's no longer going to be temporary, it's just going to be looked at for renewal to make sure the projects are being done correctly, at the end of a certain amount of time. To me it's just a question of integrity, not a question of what they've been doing with it, so I ask you to support AM1501. I appreciate the debate and the time that everybody has given this and again I'll ask you to support, green, and if we need to address additional things another year we can do that. We have time even to do this bill next year and still hit by the time they do their budgets the following year, as we get done in April, 90 days after or an emergency clause could be on it. We can address this another year if needed. Again, to me it's about integrity and keeping our word, and I ask you to vote for AM1501. Thank you. [LB400]

PRESIDENT SHEEHY: For what purpose do you rise, Senator Carlson? [LB400]

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SENATOR CARLSON: I'd like a call of the house, please. [LB400]

PRESIDENT SHEEHY: There has been a request for the call of the house. The question before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB400]

CLERK: 26 ayes, 0 nays, Mr. President, to place the house under call. [LB400]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please report to the Legislative Chamber. All unauthorized personnel please step from the floor. The house is under call. Senators, please record your presence. Senator Utter, Senator Karpisek, Senator Harms, Senator Smith, Senator Pankonin, the house is under call. Senator, all members are present and accounted for. Members, you have heard the closing of the Christensen amendment to committee amendment, AM1501. The vote is on the adoption of the amendment. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB400]

CLERK: 4 ayes, 36 nays on the amendment, Mr. President. [LB400]

PRESIDENT SHEEHY: The amendment is not adopted. The call is raised. We will now return back to floor discussion on the Revenue Committee amendment, AM1446. Seeing no requests to speak, Senator Cornett, you're recognized to close. Senator Cornett waives closing. The question before the body is on the adoption of AM1446 to LB400. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB400]

CLERK: 34 ayes, 1 nay on adoption of committee amendments. [LB400]

PRESIDENT SHEEHY: AM1446 is adopted. [LB400]

CLERK: I have nothing further on the bill, Mr. President. [LB400]

PRESIDENT SHEEHY: We'll return to floor discussion on LB400. Seeing no requests to speak, Senator Janssen, you're recognized to close. Senator Janssen waives closing. The question before the body is on the advancement of LB400. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB400]

CLERK: 35 ayes, 1 nay on the motion to advance LB400. [LB400]

PRESIDENT SHEEHY: LB400 advances. Mr. Clerk, we'll now proceed to LB690. [LB400 LB690]

CLERK: Mr. President, LB690, yes, LB690, offered by Senator Brasch. (Read title.)

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Introduced on January 19, referred to the Judiciary Committee. The bill was advanced to General File. I do have Judiciary Committee amendments. (AM1429, Legislative Journal page 1563.) [LB690]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Brasch, you're recognized to open on LB690. [LB690]

SENATOR BRASCH: Thank you, Mr. President. Good afternoon, colleagues. Before us today is LB690, a bill I sponsored and a bill I also chose to prioritize. In brief, LB690 requires a minor, a teenager under the age of 18, to have parental consent for an abortion rather than the current parental notification as we have in law. Please remember, minors must have parental consent for piercings or tattoos, schools require parental consent for school field trips, and those are only two examples of where parental involvement is required. I was very moved and compelled and interested in the debate on another bill. You may remember or recall this legislation, where several of our colleagues asked for mercy for a minor who is serving a life sentence. During this debate, it was strongly argued and duly noted that science proves that a brain is not fully developed in young adolescents, which affects a teenager's ability to make rational decisions. Am I correct? I believe several colleagues stood up and also made that fact. I'm not standing here before you today to argue or challenge Roe v. Wade, but I stand here to ask for mercy for that young teenager, to please help her, help a young girl facing a decision that should be determined alongside her parent, or a grandparent at least, the teenager who lies crying in the middle of the night or, worse yet, hemorrhaging while her parent sleeps in the next room, a parent never knowing of the forgery she was coerced to create. I have a document here of a blog that I'd like to please read, and it's from a Nebraska Pregnancy Counseling session that tells people...they encourage to talk with their parents and to get the parents involved. And the blog starts: The woman was afraid that her 16-year-old was pregnant, and it turned out she was. While the daughter was talking with a nurse, the mother poured her heart out to one of our staff members. It turns out she also got pregnant at 16. She never told her mother and she had an abortion, all alone. She was still haunted by the pain and isolation this caused her and she was determined to be there for her child. The big lesson she learned was that in difficult times like that, a girl needs her mother. Oh, I've lost my place. I'm so sorry. I truly believe no one in this great Chamber here wants to see that happen. While we certainly differ on the opposition of or the right of an abortion for adult women, we are addressing girls today, teenagers. It is my sincere hope we can find agreement on wanting to see the number of abortions decline, particularly among minors, whose decisions may not be sound or tested by time and experience. LB690 offers necessary protection for these young women physically and emotionally. Today and for the last 81 session days that we've met here we face the Speaker and the good Clerk, and then above them, there carved in stone, is the pioneer family, parents and an infant in the arms of our "Prairie Madonna," as our author Gregory Harm has named her in the book about Lee Lawrie and our beautiful Capitol encrypted with so much wisdom.

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For those of us who work here in this institution, that's what we do, and this reminds us here about family, our cornerstone and our foundation, the people who we work for and who we serve. LB690 will strengthen current law of parental notification by moving to the requirement of parental consent. Such an emotionally charged and irreversible decision should not solely be left to a minor, nor should her decisions be improperly swayed by someone influential who is not respectful of her regards or her well-being. LB690 has been carefully constructed, addressing questions and confirming its constitutionality, and it includes all necessary legal requirements. I want to thank the many senators who stepped forward and signed on LB690 and those who had a role in shaping this critical piece of legislation. LB690 requires young women under 18 to obtain notarized written consent from her parent or guardian, recognizing the traditional rights of parents to direct the upbringing of their children. Parental consent also helps to ensure that parents have the opportunity to discuss their daughter's medical history with a physician and that, in return, they have their questions answered about the abortion procedure and follow-up care. Special considerations are given for medical emergencies and tragic cases of abuse by parents. The Judiciary Committee amendment, of which I am supportive, allows for a grandparent to provide consent in the cases of abuse. In the event that a young woman is denied financial support from her parents refusing an abortion, she may be declared emancipated in order to receive public funding and assistance. As required, LB690 provides for judicial bypass for a teenager who has been abused by a parent or guardian and establishes a standard for the judge to consider while maintaining his or her discretion in each case. The bill emphasizes and, in fact, enhances current confidentiality provisions for a young woman by ensuring her anonymity as well. In short, LB690 will preserve parental rights, protect minors from those who do not have their best interests at heart, encourages honest communication to foster a healthy parent-child relationship, and it promotes a young woman's physical, emotional, and spiritual well-being. It affirms a difficult decision that is not made alone. It strengthens our laws and it protects life moving forward. I ask you to thoughtfully consider that these young girls need parental guidance for many decisions and certainly for life-altering decisions such as this. Please support young women, the parents, and families. I ask your vote for LB690. Thank you, Mr. President and also fellow colleagues. [LB690]

PRESIDENT SHEEHY: Thank you, Senator Brasch. You've heard the opening to LB690. As was stated, there is a Judiciary Committee amendment, AM1429. Senator Ashford, you're recognized to open. [LB690]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. AM1429 is the committee amendment to LB690. I want to commend Senator Coash for his efforts and hard work in working with the committee on these amendments and, as always, all the members of the committee, who put a great deal of time into thinking about the ramifications of LB690 and its implications. These are always difficult bills. I also commend Senator Brasch for her...the work she did with the committee and offering suggestions, many of

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which are included in AM1429. Committee amendment AM1429 would remove an exception to the consent requirement in cases of abuse by a parent or guardian to allow the physician to obtain notarized written consent from a sibling 21 years of age or older, or from a stepparent. The pregnant woman would be able to obtain consent, however, from a grandparent, as Senator Brasch indicated, under such circumstances. The amendment would also remove the requirement that the court find a pattern of abuse by a parent or guardian in providing a judicial bypass of the consent requirement for abuse by a parent or guardian. The amendment would change the best-interest provision of the judicial bypass process to require that the court find by clear and convincing evidence, which is the current case law, that an abortion without the consent of a parent or guardian is in the best interest of the pregnant woman, rather than the finding that notification of the parent or guardian is not in the best interest of the pregnant woman. And we...the committee spent many long hours thinking about these various standards and...in attempting to make as certain as we can that they meet constitutional muster. The amendment would clarify that the monthly report to the Health and Human Services Department regarding the number of consents and the number of exceptions made to the consent requirement must be provided by the physician. The amendment would strike Section 14, which in our view was an unusual severability clause which would have required the bill to be enforced to the extent it was enforceable, and add a revised severability clause that matches the one that is found in LB521. Just as an aside, I do...from my perspective, the critical issue was, for me, and I think for others but they can certainly speak for themselves, was to make sure that if there was abuse, that there be judicial bypass, adequate judicial bypass protections, and that, furthermore, that the judicial bypass provisions were broad enough to ensure that if the...as is the case with parental notification under current law, that the young woman be able to demonstrate to the court either sufficient maturity or other factors that would justify the court in granting the young woman the opportunity to seek an abortion. With that, Mr. Lieutenant Governor, I would move...urge the adoption of AM1429. [LB690 LB521]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You've heard the opening of the Judiciary Committee amendment, AM1429, to LB690. Members requesting to speak, Senator Burke Harr, followed by Senator Conrad, Senator Campbell, and Senator Coash. Senator Harr. [LB690]

SENATOR HARR: Thank you, Mr. Lieutenant Governor. LB690, I've spent more time on this bill than any other bill this year, and it's very important to me. I think it's a very important bill. I think it does a lot of good. When I look at a bill, I look at--not just this bill but any bill--number one, is that bill constitutional; number two, is it good public policy, the intent of the bill; three, does the bill follow that intent; and four, are there any unintended consequences that we should look for? So when I reviewed this bill, I had and I have a constitutionality question, but I'm not here to address that. Congress has a low approval rating and politicians in general have a low approval rating. People don't think politicians can be trusted, and that's sad and it's wrong. We here in the

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Unicameral, we're a collegial body. Now that doesn't mean we don't disagree. We may be nonpartisan, but we do often disagree, but I think we can come to each other in good spirit, in good faith, and believe, when we do come to each other in open arms to negotiate, that what the other party says can and will be trusted. Now, we can negotiate with each other, we can play games with each other, but at the end of the day, when someone gives their word, their word is their bond. And maybe I'm just a freshman and maybe I'm just naive, but I hold this body to a higher level and a higher standard. I believe if someone tells me something, I can believe it. We started this session on just such a note. There was an issue, and we came together as a body and said, we don't want that, that's not who we want to represent ourselves, we want to be better than that. Unfortunately, that did not happen in this bill, and it pains me to say that. And I come...when I came forward, I was very leery about coming forward on this. I don't like to air dirty laundry, but things were said about me, e-mails were sent to me that were completely not true, and I think the record needs to be out there. Maundy Thursday, Thursday before Easter, there was a group that got together, three senators, an outside lobbyist, and a committee attorney. We went over the constitutionality of this bill. We negotiated. We talked back and forth. Bellotti, what you see here, was passed out earlier, was mentioned. There's language in Bellotti that I specifically wanted. It was put in there. It was written. I gave a written copy, handed it. All the parties in the room agreed, and, matter of fact, the senator stepped out of the room, allowed more outside interests to come in and talk with one senator about the case, about the law, about the amendment, and they did, and there was an agreement and everyone was in agreement. Monday, Dyngus Day, as I call it, we were on recess. Friday, Good Friday, obviously, we were on recess too. Tuesday morning nobody contacted me or my office that the deal was off, but the deal was off... [LB690]

PRESIDENT SHEEHY: One minute. [LB690]

SENATOR HARR: ...because I had three outside interests come into my office, not tell me the deal with off, but with the AG Opinion, and tell me, this is what we're going with, we're not going with that. Now, they never said specifically the deal was off, but the deal was off. The amendment, nowhere to be seen. There was an excuse given. I'm not going to go into it, because I don't think it's valid to the situation. But what happened was, what was agreed upon by the three legislators was no longer agreed upon. No one from that one legislator's, who backed away, office or that legislator came and talked to me about it, not once. What happened? Senator Coash got involved. [LB690]

PRESIDENT SHEEHY: Time, Senator. [LB690]

SENATOR HARR: Time. [LB690]

PRESIDENT SHEEHY: Thank you, Senator Harr. [LB690]

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SENATOR HARR: Thank you. [LB690]

PRESIDENT SHEEHY: Senator Conrad. [LB690]

SENATOR CONRAD: Thank you, Mr. President. I'm happy to yield my time to Senator Harr, if he wishes to continue his time line of events, because I'm finding it very instructive. [LB690]

PRESIDENT SHEEHY: Senator Harr, you're yielded 4 minutes 50 seconds. [LB690]

SENATOR HARR: Thank you. Thank you, Senator Conrad. Again, body, it's more disappointment. I'm not trying to embarrass anybody, but I find it very disappointing. Senator Coash got involved, and he did a good job negotiating, I was never made part of that negotiation, and an agreement was came upon. I still have questions on the constitutionality of this bill but, again, that's not why I'm here to talk today. What I'm here to talk about is when someone gives your word...and again, I hate airing this dirty laundry, but I'm getting e-mails--and I won't say who sent them but they're coming from a certain interest group--is sending e-mails in which my constituents and people outside the state are telling me they're disappointed in me because I wouldn't vote out LB690. Well, I was willing to vote out LB690. I had a deal to work out LB690. The fact of the matter is, that deal was backed out on, and now one of the outside interest groups is sending e-mails, telling their members to write e-mails to me that they're disappointed in me. That's wrong. And so this bill, which, again, I've spent a lot of time on, I talked to county court judges...district court judges, I've talked, I read, I've read the Supreme Court cases on this, I have a very good idea what's going on in this bill. I have a very good idea the difference between consent and notification. I know. But I'm getting outside interest groups telling me they're disappointed in me, and it upset me and it irks me. I don't want to harp on this. I don't want this to be the purpose of the debate here today, but I think it's very important that we air out what really did happen, so that I don't keep getting these e-mails filled with half-truths. So with that, I will yield the remainder of my time back to Senator Conrad. [LB690]

PRESIDENT SHEEHY: Thank you, Senator Harr. Senator Conrad, 2 minutes 40 seconds. [LB690]

SENATOR CONRAD: Thank you, Mr. President. And thank you, Senator Harr, for that illuminating discussion. It's without question that those of us who don't serve on the jurisdictional committee where these bills come before are at a disadvantage to understanding what happened in the process. And it's particularly disappointing that colleagues in today's Legislature don't feel the need to keep their word, and I think that really does a disservice to the body, the policies that we put forward, and the citizenry. With that, let's jump into it, if Senator Brasch would yield to a question, please. [LB690]

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PRESIDENT SHEEHY: Senator Brasch, would you yield to Senator Conrad? [LB690]

SENATOR BRASCH: Absolutely. [LB690]

SENATOR CONRAD: Thank you, Senator Brasch. I just have some questions after reading through the bill, and if you want to follow along, I'm on page 4, line 13 and section (c), where you provide a specific exemption for ectopic pregnancies. Is that correct? [LB690]

SENATOR BRASCH: Could you repeat which page again, please? [LB690]

SENATOR CONRAD: Page 4, line 13, sub (c). You provide a specific exception for ectopic pregnancies. Is that correct? And while you're looking, Senator Brasch, I'll let you know why I'm asking. It's because I know you were present during the debate on LB22 where I offered amendment providing a specific exception for ectopic pregnancies and you voted against it. Why? And then you include it in your bill. [LB690 LB22]

SENATOR BRASCH: I think it was related to an insurance question, correct, on your bill? [LB690]

PRESIDENT SHEEHY: One minute. [LB690]

SENATOR CONRAD: LB22 was related to insurance, yes, and there was a specific exemption presented for ectopic pregnancies that you voted against, but you provide a specific exemption in your bill. The question is, why? [LB690 LB22]

SENATOR BRASCH: And this is for a minor, a young woman under 18. That is why. [LB690]

SENATOR CONRAD: So we should only provide a specific exemption for ectopic pregnancies for minors but not adult women. Why? [LB690]

SENATOR BRASCH: In this case it is here. [LB690]

SENATOR CONRAD: Why? What's the distinction? [LB690]

SENATOR BRASCH: The age. [LB690]

SENATOR CONRAD: The ectopic pregnancy affects the woman, regardless of her age, in the same manner. Is that your understanding? [LB690]

SENATOR BRASCH: If that's a problem for you in this legislation then we can talk about it, but it is... [LB690]



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SENATOR CONRAD: I'm asking you the question about why it's in here. [LB690]

SENATOR BRASCH: We are talking about a young girl and her physical, emotional, and spiritual well-being. In this case it is outlined what you just read, yes. [LB690]

SENATOR CONRAD: Okay. If you look on the same page... [LB690]

PRESIDENT SHEEHY: Time, Senator. [LB690]

SENATOR CONRAD: Thank you, Mr. President. [LB690]

PRESIDENT SHEEHY: Thank you, Senator Conrad. Senator Campbell. [LB690]

SENATOR CAMPBELL: Thank you, Mr. President, and good afternoon, colleagues. One of the things I think we're all called upon when we look at bills is to make very sure and clear what the bill is trying to say, and I'm sorry that Senator Ashford left, and so I'm going to impose upon my colleague Senator Council to see if she would answer a question for me. [LB690]

PRESIDENT SHEEHY: Senator Council, would you yield to Senator Campbell? [LB690]

SENATOR COUNCIL: I will yield. [LB690]

SENATOR CAMPBELL: Thank you, Senator Council. My questions have to do...and, colleagues, I'm on page 7 and 8 of this bill, and my particular questions have to do around Section 5 and Section 6, and these are...this is a highly unusual situation. I can't imagine that we will face very many in the state, but even if we face one, we better make sure that the law is clear, and it has to do with if the parent or guardian or other person should coerce a pregnant woman to obtain an abortion, and it goes on to say that they would be "deemed emancipated." How do you become "deemed emancipated"? Does the bill...should the bill clarify that this is done by a court? I mean, we can't just say you are. Correct? By statute? [LB690]

SENATOR COUNCIL: According to the way this legislation is written, Senator Campbell, that's the exact intent of that language, is that for these purposes and these purposes only the...by statute the young woman is declared emancipated. [LB690]

SENATOR CAMPBELL: So at that point, then the woman just...the young teenager says: I'm emancipated. Right now, how do you become emancipated by statute? If you're a 17-year-old who has no parental support and wants to get out on their own and get a job and lease an apartment, how do you become emancipated? [LB690]

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SENATOR COUNCIL: Under normal circumstances, Senator Campbell, you have to go to a court and to present evidence to establish the need for you to be declared emancipated and that usually there's a demonstration that your parents aren't providing you with the support and you're out on your own and you're taking care of yourself. And you've pointed out one of the concerns with this, is that while it says you're deemed emancipated, the question is, is, what evidence has to be presented to Health and Human Services in order for Health and Human Services to provide that young woman with the medical treatment that this is intended to provide, and that's one of the flaws in this bill. [LB690]

SENATOR CAMPBELL: I think there's a true question here whether you are "deemed emancipated" or whether the young woman is "deemed emancipated to be eligible for public assistance," and that may be two different questions, and I think there's an ambiguity in the statute. I am not an attorney, but I follow what happens on public assistance, and I'm concerned here, because I think there's an ambiguity in those sections. I also think in section...on the next page: The requirements and procedures under this section are available to pregnant women whether or not they are residents of the state of Nebraska. And so I wondered whether the Judiciary Committee had any conversation with regard to a nonresident deeming themselves emancipated and asking for public assistance. [LB690]

SENATOR COUNCIL: Yeah, that...again, Senator Campbell, you raise an interesting point, and the issue that was... [LB690]

PRESIDENT SHEEHY: One minute. [LB690]

SENATOR COUNCIL: ...discussed, and it wasn't discussed at any length in the committee, was that the intent of the bill was that if the parents weren't going to provide financial assistance if the young woman decided to take the pregnancy to term, that that young woman would be automatically eligible for state assistance, regardless of whether or not she was a resident of the state of Nebraska. [LB690]

SENATOR CAMPBELL: And, colleagues, I definitely think these two sections need to be looked at, because I think they're calling into question ambiguity and how this would happen. And I certainly don't think there are many cases, but the statutes need to be very clear in how we would handle that situation, and in this case I do not think these sections have a clarity that we need. Thank you, Mr. President. [LB690]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Coash. [LB690]

SENATOR COASH: Thank you, Mr. President. Thank you, colleagues. Senator Brasch, in her opening, stated her intent here, which is to get parents involved when we're talking about getting an abortion. At this point they're involved, with current law, to the

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extent that a parent has to be notified. There's a lot of things we could have done to the notification statutes to tighten that up, because as it stands now the woman could just...there's no...as the notification law stands now there are problems. And Senator Ashford, when this bill was brought, didn't vote for it, and that's because there were problems with it and there were no checks and balances to make sure that the notification that we said we were going to do we actually did. So Senator Brasch said, you know, we're going to...we're not going to worry about fixing the notification, we're going to go to parental consent, and this isn't a little thing to do, but it is fairly straightforward, and it says that a parent of a woman who's going to get...a child who's going to get an abortion has to say that's okay. And I did get involved in this bill, as Senator Ashford said. When the Chair of the committee asks you to help, you step up and you do it, and I was glad to do so. So I got involved at a later stage in this bill in order to take a look at a few sections, and I want to go over those because those are the sections that I did spend some time with, and I want to make sure you understand...that the body understands, first of all, the concerns that were brought and then how we addressed them. The concern that was brought had to do with the judicial bypass and what would happen if a young woman was in a state where parental consent might not be a good thing for her. What if the young woman was in a place...in a family where getting parental consent might make her situation even worse? And I don't think that was Senator Brasch's intent, to make a young woman's situation worse. It certainly wasn't the committee's intent to make a situation worse, either. So that's where I got involved, and what we did is we took a look at what would happen if a young woman wanted to get an abortion but she didn't want to go to that step of saying, yeah, I'm going to get Mom or my dad's consent to be able to do so. The original bill, LB690, said we could get consent from a lot of different folks. We could get consent from older siblings who are adults, stepparents, grandparents. And we talked about that, and where we landed in AM1429 is that there's a significant amount of women, young women, who are not being raised by their parents, but grandparents serve in that parental role. And I want to be clear about this, folks. The provision allowing a grandparent to give consent is in the case where the parent happens to be abusive towards the child. And one thing that we always agreed on, all sides, was that if the father of the young woman was sexually abusing his daughter, that daughter should not have to go to that father and ask for consent to abort her baby, that she could get the abortion without having to step through those hoops. But we wanted to make sure that there were clear steps for the bench, the courts, to go through to ensure that we wouldn't make a situation worse for a young woman. So we have a couple of considerations, and the first consideration that the judge will go through: if the woman goes to the judicial bypass option, the judge is required to assess whether or not the pregnant minor is sufficiently mature and well-informed about the situation. Now, granted, that is... [LB690]

PRESIDENT SHEEHY: One minute. [LB690]

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SENATOR COASH: ...subjective; however, that gives the latitude to the judge to ask the questions that the judge needs to ask to try to determine whether or not making her go and get consent from her parents is in her best interest or not. And the first step that he or she has to ask is, is she sufficiently mature and well-informed? Let me tell you what happens if the judge says, yep, she's in a situation, but she's got her head on straight, she's mature enough, and she's well-informed enough about what's going on. If the judge says, yep, she is, she doesn't have to ask her parents. She doesn't even have to notify them. She can just get the abortion. If the answer to that question is, no, the judge then has to ask some questions about is the... [LB690]

PRESIDENT SHEEHY: Time, Senator. [LB690]

SENATOR COASH: Thank you, Mr. President. [LB690]

PRESIDENT SHEEHY: Thank you, Senator Coash. Members requesting to speak on the Judiciary Committee amendment, AM1429, we have Senator Council, followed by Senator Brasch, Senator Ken Haar, Senator Conrad, Senator Howard, and others. Senator Council. [LB690]

SENATOR COUNCIL: Thank you, Mr. President. And as my colleague Senator Harr has--Senator Burke Harr--from the time LB690 was introduced in the committee had expressed his basic support of the proposition set forth in the bill, from the outset I've expressed my opposition. And one of the reasons I have been opposed to this bill is that at no time during the Judiciary Committee hearing nor during the numerous Executive committee Sessions held by the Judiciary Committee on this bill was there any compelling reason provided for changing Nebraska's requirements from notification to consent. There was no evidence presented that notification was not serving the intended purposes--and that was getting parents involved--and I know there were anecdotal comments about difficulties with the consent. There was information provided by those who are involved in the delivery of abortion services that in the overwhelming majority of cases of minors appearing, a parent was present. So initially, my question was, what's the necessity for LB690? Notification gets the parent involved, and if the young person does not receive that notification, there's a judicial bypass procedure available now. So here, if the youngster doesn't get the consent, you're just going through the same type of judicial bypass that was available under the notification. The other point I must comment on...and I certainly do appreciate my colleague Senator Brasch embracing now the point that I tried to make with regard to my bill on juvenile life without possibility of parole in trying to convince this body that juvenile brain development hasn't reached the level where they could be held responsible for making the kinds of decisions that would prevent them from being engaged in activity that may result in the loss of a life, that Senator Brasch now recognizes that principle. But I would be derelict and remiss if I didn't note that unfortunately I wish she had accepted and embraced that principle when the juvenile sentencing bill was before this body, because

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she voted against that, and that vote reflected the belief that these juveniles are capable of making the kinds of decisions that in many instances result in life or death. The curious point about the necessity for this piece of legislation, looking at data prepared by the Nebraska Department of Health and Human Services, the data indicates that abortions performed on young women under the age of 19... [LB690]

PRESIDENT SHEEHY: One minute. [LB690]

SENATOR COUNCIL: ...since 1999 has been consistently declining. With but a few blips during those 20 years, they have been consistently declining. So again I ask the question, what is the necessity? There's also the issue here that the bill does not take into consideration...while it takes into consideration the potential of incest, it does not take into consideration the potential for rape. And if you'll recall, earlier in the session this body advanced and enacted a measure that would allow a young...a minor who had been raped to receive medical attention and go through a forensic examination without the consent of the... [LB690]

PRESIDENT SHEEHY: Time, Senator. [LB690]

SENATOR COUNCIL: Thank you. [LB690]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Brasch. [LB690]

SENATOR BRASCH: Thank you, Mr. President. A couple things here: First of all, I would like to go on record, I would like to speak with Senator Campbell about her request in what she had addressed. I... [LB690]

PRESIDENT SHEEHY: Senator Campbell, would you yield? [LB690]

SENATOR CAMPBELL: Yes, of course. [LB690]

SENATOR BRASCH: You had stated...and I had a couple conversations happening at the same time, so I would like you to... [LB690]

SENATOR CAMPBELL: I can perfectly well understand. Senator Brasch, I would be happy to sit down and go through it with you, but it has to do with Sections 5 and 6 on page 7 and 8, having to do with...it appears to me that it's ambiguous in Section 5 exactly how does the person become deemed emancipated, and that was my exchange with Senator Council. [LB690]

SENATOR BRASCH: Okay. [LB690]

SENATOR CAMPBELL: So I think there needs to be clarifying language there, because

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you're saying that that person is eligible for public assistance. And then in Section 6 my question had to do with a nonresident Nebraska person. [LB690]

SENATOR BRASCH: Okay. I would like to...okay. [LB690]

SENATOR CAMPBELL: So we can cover those questions with you, but I do think those sections right now are...need work. [LB690]

SENATOR BRASCH: All right. And also, I don't know if Senator Harr is in the room or not, but he had spent a lot of time and interest on...in this LB690. I do thank him for that. He gave us several considerations, at least six, that we addressed, that we worked with. It's true on Maundy Thursday we sat down, I did ask a question in that room that was not answered, is, can you confidently tell me that this will do no greater harm? That never came out. But I did trust the group that things were working well, going well. Without adequate counsel, a...was it a deal? I don't know what to call it, but we agreed. Later, I find out the next Tuesday that it was going to cause greater harm, greater concerns. We were not as thorough. We were expedited, we were rushing through something not thought through. I would rather break a deal than sell someone a vehicle knowing the motor is going to fall out the minute they drive off the lot. I mean, this is talking about a young woman, her health. We need to be thorough and that's what we're doing here. This debate is good. Also, with Senator Conrad, looking at what she asked about, was the...my vote previously, there was a...and if she's...are you? Okay. Senator Conrad, will you yield to a question, please? [LB690]

PRESIDENT SHEEHY: Senator Conrad, would you yield to Senator Brasch? [LB690]

SENATOR CONRAD: Of course. [LB690]

SENATOR BRASCH: Was there...your entire bill did not encompass only the...would you tell me... [LB690]

SENATOR CONRAD: Ectopic pregnancy. [LB690]

SENATOR BRASCH: ...ectopic pregnancy, correct? It did have a fiscal note. It was a bigger piece... [LB690]

SENATOR CONRAD: No, it did not have a fiscal note, Senator Brasch. [LB690]

SENATOR BRASCH: There was no fiscal note. [LB690]

SENATOR CONRAD: And it was an amendment to LB22. [LB690 LB22]

SENATOR BRASCH: Okay. I was under the understanding there was a fiscal note with

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that, that it was changing... [LB690]

SENATOR CONRAD: That is not correct. [LB690]

SENATOR BRASCH: Okay. [LB690]

SENATOR CONRAD: There's never been presented. [LB690]

SENATOR BRASCH: Okay. All right, then that would need further consideration, you're correct. [LB690]

PRESIDENT SHEEHY: One minute. [LB690]

SENATOR BRASCH: Thank you. I do...I'd like to yield the rest of my time to Senator Coash again, please. [LB690]

PRESIDENT SHEEHY: Senator Coash, you're yielded 45 seconds. [LB690]

SENATOR COASH: (Laugh) Thank you, Mr. President, and I have my light on again so I will just continue at that time. [LB690]

PRESIDENT SHEEHY: Senator Ken Haar, you're recognized. [LB690]

SENATOR HAAR: Mr. President, members of the body, I have some questions for Senator Brasch, if she'd be willing to... [LB690]

PRESIDENT SHEEHY: Senator Brasch, would you yield to Senator Haar? [LB690]

SENATOR BRASCH: Yes. [LB690]

SENATOR HAAR: Okay. Thank you. One of the points about this bill is that this parental consent has to be notarized by a notary public, and that raises some privacy issues I'd like to discuss with you. If we imagine a situation in which a parent..and this would...the notarizing person or the person notarizing the signature would be the parent, right? This is on page 4. [LB690]

SENATOR BRASCH: Okay. And I also have documentation on the notary, but the parent would need their signature notarized that it is indeed the parent signing the document, and the form is a medical form, basically, that requires just notarization that a parent is signing it for a medical procedure. It does not...the notary doesn't have to read it; it does not have to have the details other than...and I do have that in here; a blank consent for medical procedure without any further details would not constitute covered information. The notary, if they are to verify that the person signing the form is the

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person who is listed on the signature line, they do not need to read the form or read the whole document being signed. And it provides that a parent would have a medical form authorizing medical procedure for their minor daughter. I have a similar grandparenting form when I have my three little ones, that if they break their arm or if I need to rush them to the ER, then Grandma has the right to sign. [LB690]

SENATOR HAAR: Okay. Okay. Now if the notary does read the rest of the form, are they held to privacy? Can they be prosecuted for...because I could just see, you know, the word going through a community now that so-and-so got their form notarized for an abortion. So is there any kind of penalty for the notary if they do happen to see what's there and tell it to anybody else? [LB690]

SENATOR BRASCH: There is. It is...I'm trying to...I have a notebook and I...it is confidential. [LB690]

SENATOR HAAR: Okay. I would like you to provide that to me to show me where privacy...and what the penalty is for the notary, because this would be quite an announcement. Let's say if someone who's a notary would happen to be a gossip, got the news, it could be all over town quickly. [LB690]

SENATOR BRASCH: Well, the form would not say for an abortion. It would just be a form...the notary requirement ensures that someone does not circumvent a parent's right to consent by posing as the minor's parent, such as...okay, and then it goes on that it talks about nominal...very nominal costs may be with the notary. And a notary is responsible for ensuring that the document is signed, and it does not need to...it will not be a document for...it's a blank form. They take it to the abortion clinic. It's a medical... [LB690]

PRESIDENT SHEEHY: One minute. [LB690]

SENATOR BRASCH: ...authorizing medical treatment. Medical could be... [LB690]

SENATOR HAAR: Simply...okay, so all... [LB690]

SENATOR BRASCH: It's medical, right. [LB690]

SENATOR HAAR: ...all the notary is doing is... [LB690]

SENATOR BRASCH: Like a field trip form. [LB690]

SENATOR HAAR: Okay. [LB690]

SENATOR BRASCH: It's a medical...it's authorizing medical treatment, notarized, the



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parent signs it. It does not say in details whether it's for tattooing or eyebrow, you know, whatever you have there. It's purely a medical form stating it is a parent. [LB690]

SENATOR HAAR: Okay. [LB690]

SENATOR BRASCH: And it goes to the abortion clinic, and that is the consent. [LB690]

SENATOR HAAR: And the devil is always in the details with stuff like this. What about...would this also apply to illegal immigrants? Let's say the daughter of an illegal immigrant was going to get an abortion. Would this also pertain to that daughter? Does this... [LB690]

PRESIDENT SHEEHY: Time, Senator. [LB690]

SENATOR HAAR: Thank you. I'll follow up on my next time. [LB690]

SENATOR BRASCH: Okay. [LB690]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Conrad. [LB690]

SENATOR CONRAD: Thank you, Mr. President. Good afternoon again, colleagues, and thank you, Senator Brasch, for clarifying, I guess, your...what seems to be a very confusing position and understanding of the distinctions between my proposed amendments on LB22 and the exact language in your bill in relation to specific exemptions for ectopic pregnancy. I'll also, on that same line of questioning, just for simplicity's sake, direct your attention to page 4, line 9, sub (a), which provides a specific exemption. I'm reading from your bill, "to save the life or preserve the health of an unborn child." Colleagues, if you'll remember, I had a specific exemption to this on Senator McCoy's bill, and Senator McCoy and others accused me of promoting selective reduction with that language. So that's clear for the record what a discrepancy and disparity and double standard exists, depending upon which senator is bringing forward thoughtful language, and I think that needs to be noted. I want to follow up quickly on the conversation Senator Campbell started and Senator Haar had a chance to discuss. When you look at Section 5 in relation to eligibility for public benefits in certain specified cases, Section 5, that is, on page 7, I think this could fairly be characterized as providing presumptive eligibility to this specific population of vulnerable young women. And to be clear, it provides a presumptive eligibility regardless of any other consideration or any other statutory consideration about whether or not you're eligible for public assistance. So indeed, as written, Section 5 provides for a restoration of access to prenatal care for certain undocumented immigrants who are young women who find themselves in this abuse and neglect situation, which I applaud Senator Brasch for, for at least starting down the path of restoring those prenatal benefits to at least this small population. And I'm hopeful we'll have a chance to talk about it later in

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Senator McGill's amendment and how those benefits should be restored. Because, make no mistake, colleagues, we do plenty in terms of abortion restriction and we do nothing in terms of education, prevention, and providing services to vulnerable individuals, families, and women once the babies are here, and that's a problem with our public policy. Let's talk more about how a notary works, because this is a key issue in LB690, which proponents seem to have a misunderstanding about. Notaries are governed in Nebraska Revised Statute Chapter 64. Senator Brasch and others at the committee level--I've read the committee transcript--keep saying we have to have this bill because of this imposter parent problem. Well, number one, there is no evidence of that in Nebraska. I guess Senator Brasch read an anonymous blog or something as evidence for that earlier. But this doesn't cure the problem. A notary cannot, by law, establish a familial relationship. A notary can only establish if you are presenting yourself as your identity and your signature. They can say, Senator Howard, I've known you for 20 years, you're before me now, you're asking me to notarize something, of course, here's my stamp. Or you come into my office, I'm a notary, and I say, Senator Howard, I don't know you, could I please see a photo identification, a government ID, to confirm your identity? Yes, of course. That's acceptable. I cannot ask you and I cannot establish, Senator Howard, are you June Howard's mom? I can't do that. That is not within my powers as a notary. It is not provided anywhere in Chapter 64. So if this is presented as the cure-all for a problem that doesn't exist... [LB690 LB22]

PRESIDENT SHEEHY: One minute. [LB690]

SENATOR CONRAD: ...this is a flawed solution. What if the notary is opposed to abortion? Can they refuse to notarize? That issue is not addressed. What if you're from a small town, like I am from Seward, where you know everybody, and you're a young woman, your family going through this situation, and you have to go to the bank or you have to go to the courthouse to find a notary? And then you have to allow that person, that stranger, to intrude into your personal medical privacy and your personal family situation. And while it's not a per se HIPAA violation, that's a policy problem. That's a policy problem, colleagues, and it does nothing more than inhibit access to necessary medical care for women. LB690 does nothing more than add additional burdens and restrictions to women and women's health and women's rights. It does not solve any policy problem that exists in Nebraska. [LB690]

PRESIDENT SHEEHY: Time, Senator. [LB690]

SENATOR CONRAD: Thank you, Mr. President. [LB690]

PRESIDENT SHEEHY: Thank you, Senator Conrad. Members requesting to speak on the Judiciary Committee amendment, AM1429, to LB690, Senator Howard, followed by Senator Campbell, Senator Coash, Senator Cook, Senator Council, Senator Wallman, and others. Senator Howard. [LB690]

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SENATOR HOWARD: Thank you, Mr. President and members of the body. If Senator Brasch would yield to a few questions... [LB690]

PRESIDENT SHEEHY: Senator Brasch, would you yield to Senator Howard? [LB690]

SENATOR BRASCH: Yes, I will. [LB690]

SENATOR HOWARD: Thank you. Senator Brasch, are you aware that at the present time we have over 4,000 children in foster care in the state of Nebraska? [LB690]

SENATOR BRASCH: I...because you tell me, I know there are many. I... [LB690]

SENATOR HOWARD: Well, thank you. I appreciate your trust in me. Of those children, approximately a third, maybe more, actually, are teenagers, and many of those teenagers, probably a pretty high percent, have had sexual experiences, and some of those teenagers may become pregnant. In the case of a child who...a youth who is a state ward, how would this...how would you envision this parental consent notification...well, parental consent working? [LB690]

SENATOR BRASCH: A judicial bypass, is that...are you asking me if... [LB690]

SENATOR HOWARD: Well, why don't you explain to me how you...if there was a girl who was a state ward and became pregnant, how would you see this working, if she requested that she be allowed to get an abortion? [LB690]

SENATOR BRASCH: First, if she is able...if her parent...if she has a relationship with her parent and she would notify her parent. However, if the guardian, if it's a parent that's the problem or the guardian or the foster family, she can go to the doctor and tell the doctor that I have a problem with my parent, with my foster parent, and explain that she needs judicial...the doctor would then understand she needs judicial bypass. [LB690]

SENATOR HOWARD: So you would see it as a state ward. Let's just say this was a state ward who came in due to abuse and neglect, since that's one of the criteria that you have in there, that she could go to her foster parent possibly and explain to her foster parent and then the foster parent could sign? [LB690]

SENATOR BRASCH: If the foster parent is a legal guardian. [LB690]

SENATOR HOWARD: Well, no, the foster parent is not the legal guardian... [LB690]

SENATOR BRASCH: But it would have to be... [LB690]

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SENATOR HOWARD: ...when a child is a state ward. [LB690]

SENATOR BRASCH: Then it would have to be...oh, of the state ward? [LB690]

SENATOR HOWARD: That's right. When a child is in foster care, the child is a state ward. Maybe I should explain that further. [LB690]

SENATOR BRASCH: Okay. [LB690]

SENATOR HOWARD: When a child... [LB690]

SENATOR BRASCH: All right. [LB690]

SENATOR HOWARD: ...is in foster care in the state of Nebraska, under the jurisdiction of the court system, that child is a state ward. [LB690]

SENATOR BRASCH: I believe she'd need to go to a judge. She would have to go to the doctor, and the doctor would know, correct? That she's a ward of the state, or how do... [LB690]

SENATOR HOWARD: Well, I don't know that the doctor would know unless he was told... [LB690]

SENATOR BRASCH: Well, the doctor would want... [LB690]

SENATOR HOWARD: ...or the billing was through Medicaid. [LB690]

SENATOR BRASCH: Yeah. [LB690]

SENATOR HOWARD: Then the doctor would be aware, but... [LB690]

SENATOR BRASCH: The doctor would... [LB690]

SENATOR HOWARD: ...the official guardian in this case would be the state of Nebraska. Would she have to get permission from her case manager? [LB690]

SENATOR BRASCH: Is her case manager authorized for all other medical procedures? [LB690]

SENATOR HOWARD: Actually, the case manager is authorized to give permission for, say, she broke her arm. [LB690]

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SENATOR BRASCH: Yeah, if that is her authorized guardian, her legal guardian for medical procedures, and a judicial bypass is not in question, if they are not a part of the abuse, then I believe that would be the case. [LB690]

SENATOR HOWARD: Well, I'm wondering if, in this case, since this is a critical issue, if it would be the director of Health and Human Services that would have to give the permission. [LB690]

SENATOR BRASCH: I will need to find out. I'm not certain. [LB690]

PRESIDENT SHEEHY: One minute. [LB690]

SENATOR HOWARD: Well, I'd have to say to you I'm not really comfortable in addressing this issue unless I would have some clarification on these questions, because this is no small number of adolescents that we're talking about here, and this is pretty critical, if it's the case manager, if it would be the director of Health and Human Services personally. And I'm sure you would agree with me that the director of Health and Human Services wouldn't see himself as being placed in the role of being this youth's mother. [LB690]

SENATOR BRASCH: I would imagine that this situation has happened. Would you agree? [LB690]

SENATOR HOWARD: Oh, I would say it probably has. [LB690]

SENATOR BRASCH: And then do you know what is typically, what the...there is a procedure. [LB690]

SENATOR HOWARD: Well, what we're talking about is your bill here, what you're envisioning. That's what I would like to know... [LB690]

SENATOR BRASCH: Okay. [LB690]

SENATOR HOWARD: ...what you're envisioning, how you're seeing this work under your bill with a child who is a ward of the state, who is in foster care, who is not with her parents. And the circumstance I gave you is the parent was abusive, so the child was placed in care, was a... [LB690]

PRESIDENT SHEEHY: Time, Senator. [LB690]

SENATOR HOWARD: ...safety risk. Thank you. [LB690]

PRESIDENT SHEEHY: Thank you, Senator Howard. Senator Campbell. [LB690]

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SENATOR CAMPBELL: Thank you, Mr. President. Would Senator Brasch entertain a dialogue? [LB690]

PRESIDENT SHEEHY: Senator Brasch, would you yield to Senator Campbell? [LB690]

SENATOR BRASCH: Yes. [LB690]

SENATOR CAMPBELL: Senator Brasch, I just want to be really clear in the bill, and I'm on a different section this time, and you tell me if I'm correct. I understand that right now if there's sexual abuse involved, the young woman would go to the doctor and indicate that and the doctor would say, presently, I need to report that... [LB690]

SENATOR BRASCH: Uh-huh. [LB690]

SENATOR CAMPBELL: ...but then could proceed with the procedure, sorry, would go ahead. But now in your bill that's changed. The young woman would go to the doctor, indicate that this was an involvement in terms of a sexual abuse, and the doctor would say, yes, I need to report it. But it actually then goes on to a judge. And I'm just trying to be very clear here for the record, because I also have some concerns that Senator Howard brought forward. I want to be very clear for the record here as to what is the impetus behind changing that procedure. [LB690]

SENATOR BRASCH: Okay. The states that have parental consent, and there are 25 of them, that they have seen a reduction by over 18 percent of abortions; with parental notification, it's at 5 percent, basically. So there is consideration, and that is a significant change. I believe reducing abortions is important. If there are second thoughts, again, back to the person who is not young enough...who is young, not old enough to make a decision, to not have to make that in secrecy, that it is between their parent or legal guardian. And I'm confident that Health and Human Services has written policy that probably at one point was legislation here. I don't know where their rules and regulations come from in addressing that. But the consent, is that what you're asking or...? [LB690]

SENATOR CAMPBELL: Well, I'm really getting at the point of now it resides with the physician, who still has to report it. I understand that. But in this bill, now we're moving and saying...goes to the physician, the physician has to report, but the judge actually, in your bill, then becomes the deciding factor or the determinant. And I'm questioning why the change in that, between just having the doctor and now the doctor and the judge. [LB690]

SENATOR BRASCH: Okay. There have been cases, not just blogs--and the blog is not an anonymous blog--of forgery, of where the parent is not aware. There are cases

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where a young woman has been home, sick in bed, hemorrhaging for days, that does not survive. There are documented cases of that; that, you know, that is the reason that this young teenager should not have to go through emotional, spiritual, physical duress only being 17. And as far as, you know, the earlier argument, you know, that Senator Council brought up, on why... [LB690]

PRESIDENT SHEEHY: One minute. [LB690]

SENATOR CAMPBELL: And I'm still...at some point I think we need to come back to why just...I mean, the physician and now the judge. That's the element that I'm trying to get to, so perhaps we can get to that later. Thank you, Mr. President. [LB690]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Coash. [LB690]

SENATOR COASH: Thank you, Mr. President. Wanted to take my time to finish talking about the Judiciary amendment that I started on my last time and talk a little bit about that. And I think after I work through this, this may answer some of Senator Howard's questions about how this might play out in the case of a state ward, and it has to do, again, with the judicial bypass language that was in the original bill and is amended by AM1429. As I stated before, the judge is going to have the very first cut at deciding whether or not the young woman should be required to get the parental consent, so we're putting this in the judiciary's hands. Prior to LB690 with just the notification, this is in the doctor's office's hands, and that causes some problems, I think, which is why Senator Brasch has come to LB690. When the judge takes a look at...has a young woman in his or her chambers, he or she is going to decide, is this woman mature and well-informed about the situation? And if the answer is yes, she gets to have the abortion. And to answer one of Senator Howard's questions, I think, is, does it matter whether or not she is a ward of the state? In other words, is the state her guardian for those purposes? And doesn't matter. In other words, if the young woman is a state ward, she still has access to this judicial bypass. She can still go in and tell the judge, judge, I need to have this abortion and I don't want to get the consent of my parent, and let me tell you why. Now if it happens to be a foster parent, then the judge is going to know that. And the judge is going to ask questions about why are you in foster care, and if it's related to an abusive situation then the judge is going to know that. And should the woman be mature enough and well-informed enough, she gets the abortion without going through that consent. Now if the judge determines that she is not well-informed and mature enough, the judge is then going to ask questions about the nature of her situation as it relates to abuse. If the young woman says to the judge, I've been abused, of course the first question is going to be, by whom? And if the answer to that is, the abuser, it is my parents, then she gets to have that abortion without getting consent of her parents. She can also get the consent from a grandparent, as amended in AM1429. Now let's say the woman says that she's got some sketchy things in her past and she still doesn't want to talk to her parents about it and she doesn't want to get the consent

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of her mother or her father, she has then the opportunity to tell the judge her story and why it's not in her best interest to get the consent from her parent. There's a lot of reasons why it might not be in her best interest. She gets to tell those to the judge. And at the end of the day, if the judge decides that there's a compelling reason that we shouldn't get Mom or Dad involved in a consent role, the judge will grant the waiver of the consent and she can get her abortion. But if there is no reason the abortion without the consent of a parent should occur, then the judge is going to say, young lady, you got to go get Mom or Dad involved here. So if there's a bad situation, she's going to have the opportunity to tell it to a judge. That's what AM1429 does, and that's what we worked on. Earlier, there was a question about... [LB690]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: One minute. [LB690]

SENATOR COASH: ...and I believe it was Senator Council who said, yeah, what's the compelling reason for this? And there's been some discussion about this, and I want to discuss that for a moment. One of the most evident problems is the provision in the notification law where the notification can be waived if the minor child presents a note, signed by the minor's parents, saying that she is the victim of abuse. Doesn't have to be notarized. She can write it down on a piece of paper, say I'm abused, I want this abortion. She may... [LB690]

SENATOR LANGEMEIER: Time. [LB690]

SENATOR COASH: Thank you, Senator. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Coash. Senator Cook, you're recognized. [LB690]

SENATOR COOK: Thank you, Mr. President. And thank you, members of the body. I have some...kind of a thesis that I will offer, and I apologize if it sounds somewhat simplistic, but I think we kind of hear things in here all the time that are presented in a rather simplistic manner, so why not me too. I have just observed in my many trips around the sun and my time on the planet that even young women who are good students and the best performers in the community and good daughters and good granddaughters and nieces often do not have the most open communication with their parents, whether that's an intact nuclear family like on TV, of which there are fewer and fewer, even in the great state of Nebraska, urban or rural. I've noticed that there's not a whole bunch of open communication about the changes going on in the adolescent's body that cause the child, the daughter, the son to be interested in sexual behavior. I've also noticed that this body, in terms of its policymaking, avoids talking about birth control or education related to sexual behavior. So I guess my concern...I don't doubt



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that my colleague and bench mate is very, very sincere. And can I get a gavel for the sidebar? I guess he's on the phone. Thank you. [LB690]

SENATOR LANGEMEIER: Senator McGill. [LB690]

SENATOR COOK: No. That's not what I asked. (Laughter) Anyway... [LB690]

SENATOR LANGEMEIER: Thank you. (Gavel) [LB690]

SENATOR COOK: ...I'll just keep talking, because I can be very, very loud. What I'm saying, I don't doubt that Senator Brasch is very sincere in thinking that she's going to help someone and avoid a painful situation or death or dismemberment or permanent infertility for the young woman, but what I've noticed is that young women, particularly high-achieving young women, are very, very reluctant to disappoint their parents. We, when we brought the...and, of course, the name of the types of legislation that we brought escapes me right now, but when the legislation was brought in the first place related to babies being abandoned in knapsacks, in garages because they got born in the bathroom or in the bedroom in the middle of the night and the daughter didn't want to tell anybody that she had a baby, a lot of those babies were in the suburbs. Fortunately--and in some cases, in many people's belief systems, unfortunately--young women in a different socioeconomic group give birth to their children and then, of course, here we are with a policy, in the state of Nebraska at least, that's like, congratulations, good luck, we're not going to feed you, we're not going to educate you, we're not going to take care of you. So once again, pardon the simplistic nature of the argument, perhaps Senator Schumacher can bail me out as he sometimes does, but what I've observed about human beings and about young women and adolescents in different kinds of families, particularly this intact family where everybody has access to one another on a day-to-day basis, I don't imagine that this is dinnertime conversation, even if they sit down to dinner together, that it's dinnertime conversation or any kind of conversation about her sexuality or the worthiness of the father of the child or the boyfriend or the hookup or whoever he is. I don't think that there's a lot of that kind of conversation going along. And I do find it somewhat... [LB690]

SENATOR LANGEMEIER: One minute. [LB690]

SENATOR COOK: ...ironic, as I do so many things here, that the same groups that are supporting this kind of legislation here and across the country also show up in opposition to bills that would provide information--beyond information related to abstinence--information about sexual behavior, about preventing STIs, and incorporating that, because clearly...perhaps not all the families in here, I'm guessing all the moms and dads in here talked very freely and openly about sex with their children, both genders. That's what I'm guessing by virtue of the fact that you're probably going to hit this button in however many minutes. My observation, I've been around probably a

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lot longer than I look like I've been around, people do not talk freely and openly about sex with their children or their teenagers. And conversely, the teenagers... [LB690]

SENATOR LANGEMEIER: Time. [LB690]

SENATOR COOK: ...certainly aren't going to tell them about it. Thank you. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Cook. Senator Council, you're recognized. [LB690]

SENATOR COUNCIL: Thank you very much, Mr. President. I want to begin by the line of questioning that Senator Campbell was addressing, the difference between cases of sexual abuse and child neglect under the notification statute and now under the consent statute. It's amazing to me that we don't believe that a child will go get consent. We didn't believe that they would go notify. But to notify is a lower standard in terms of sexual abuse and child neglect, so what makes us think that a child is going to seek consent? If all they had to do was notify in order to go through with an abortion, what would make us believe that we have this consent requirement now, which imposes an additional burden on them in the case of sexual abuse or child neglect committed by their parents? Under the existing statute on notification, as you aptly pointed out, if the child was a victim of sexual abuse or child neglect by her parent, all she had to do was tell the doctor, provide the doctor substantial evidence of that fact and the doctor had to report that abuse or neglect, but the child could then receive the abortion without notification. Under this bill, in a situation where we're requiring consent when a child has been the victim of sexual abuse or child neglect, it's not enough to tell the doctor and have the doctor report that. We now have to go through the judicial bypass procedure. And in respect to the question about wards of the state, rest assured, ladies and gentlemen, the Department of Health and Human Services is not going to be giving consent to abortions to any ward under their charge, which means any of those young people, young women, who may desire an abortion will have to go the judicial bypass route, where they didn't have to do that before. I also think there's an interesting contradiction. It says parent or legal guardian. What if I'm a ward of the state and I go and have my parent sign the notification? Have I satisfied the requirements of this statute? I submit that I have. It says parent or legal guardian. It doesn't say parent who has legal guardian status. It says parent or legal guardian. I think the other issue, with regard to the notarization, and, Senator Conrad, you hit the nail on the head, and, unfortunately, Senator Brasch's response to your question on notarization contradicts the express language of her bill. The bill says, "Consent means a notarized written statement signed by a parent, legal guardian, or an alternate person"--and that alternate person under the amendment is a grandparent--"declaring that the affiant has been informed that the pregnant woman intends to seek an abortion and that the affiant consents to the abortion." That's what this statement has to contain. That's what the notary will have to affirm, that the person who presented that document for notarization

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was the person who in fact signed it. But that information will in fact, by this statute, be required to be set forth in that statement. So the suggestion that there's just some blank form consenting to a medical procedure first of all is in direct contradiction with the language of the bill. But secondly... [LB690]

SENATOR LANGEMEIER: One minute. [LB690]

SENATOR COUNCIL: ...what sense would it make, if we're talking about giving consent for an abortion, I go to my parents and say, please sign this document that says you're consenting to me having a medical procedure? What do you gain by that? That is in direct conflict with the, quote, express purposes of this bill. So I submit to you that there are confidentiality, quote, HIPAA issues with this consent, because it specifically says that the affiant has to declare, and as Senator Conrad said, from a small town, everybody will know. Believe me, everybody will know. But the mere fact that the notary knows is a breach of the confidentiality, and that's problematic with this piece of legislation. But Senator Howard just touched upon the problem with wards. [LB690]

SENATOR LANGEMEIER: Time. [LB690]

SENATOR COUNCIL: Thank you. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Council. Senator Wallman, you're recognized. [LB690]

SENATOR WALLMAN: Good evening, members of the body. This is a topic...but I'm pro-life. What I'm learning here today about laws and innuendos...and we were taught as children, and we did teach our children also, the ramifications of what can happen. And so I would yield the rest of my time to Senator Conrad. [LB690]

SENATOR LANGEMEIER: Senator Conrad, 4 minutes 36 seconds. [LB690]

SENATOR CONRAD: Thank you, Mr. President. And thank you to my good friend Senator Wallman. And, Senator Wallman, I'm so glad that you had a chance to speak before me, because it was mentioned on another bill related to reproductive health, earlier in the session, where a senator noted, well, I'm pro-life and she's pro-choice, and that's why we have a disagreement. I wish it were that simple, Senator Wallman. And you're exactly right. In a complicated world with complicated issues, it's not that simple. And regardless of your political or personal viewpoint on reproductive health issues, it is still your responsibility as a legislator to put forward sound legislation, practically from a policy perspective and from a legal perspective. And it's our job to ensure that those questions and concerns are on the record. To continue, there's...this is a deeply flawed piece of legislation that doesn't begin to address any of the supposed problems that proponents hope that it would. And I'm just...it's for time purposes, efficiency purposes. I

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read the bill. I sat down and started writing notes to myself on a legal pad. And I'm going to go ahead and just put those into the record as quickly and efficiently as possible. If Senator Brasch or Senator Coash or anyone would like to respond to those, I'd be eager to hear the response. This bill requires one parent to provide some...to provide consent to a minor child who is seeking an abortion. Well, what if the paternity was never established in relation to the putative father. But the young woman, the minor child, has a good faith belief that she knows who that father is. Can he sign the consent form? What if the young woman in question is adopted? Can both her biological parents and her adoptive parents sign the consent form? And if there is abuse in any of those situations, can both her biological...both sets of her biological grandparents and her adoptive grandparents sign the consent form? Those are real issues not addressed in the bill. How does it apply to minors who are in the military? Do they have to still seek parental consent even though they've already decided to serve our country? How does it apply to married minors? How does it apply to situations wherein Grandma and Grandpa are raising the minor child, they've never established a legal guardianship. That happens every day in communities all across the Nebraska. But that grandparent is abusive, unfortunately. Who can that young woman turn to? There is no additional family for them to look forward to. So what this bill does is pushes more and more women to the courts and away from their families. That's the experience of other states that have switched from parental notification to consent. By providing an absolute veto power to a parent over a young woman's medical decision-making only in the context of this medical decision, that's what the result is, poor public policy which hurts young women and further destroys the fabric of families. Again, Senator Brasch and others keep talking about this I'm going to call it a parental imposter situation, which they say... [LB690]

SENATOR LANGEMEIER: One minute. [LB690]

SENATOR CONRAD: ...happens...thank you, Mr. President...all the time. And besides the blog that Senator Brasch read into the record, lots of other evidence, where is that evidence? Where is that documented? And if, indeed, a young woman does have a procedure, has medical complications later, and that parent was subject to notification and didn't follow up on those real medical concerns, that parent is guilty of child abuse. This bill doesn't fix that woman. This bill doesn't fix that family. That's a false choice and a false response. Please provide actual documentation, specific documentation of where the abuses exist. Then we can address them in a specific manner. Don't grab model laws from other states because you want to push a pro-life agenda and dump them into Nebraska statute, because they don't harmonize, that's not good public policy, and we should hold ourselves to a higher standard. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Conrad. Senator Brasch, you're recognized. [LB690]

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SENATOR BRASCH: Thank you, Mr. President. I did want to answer a few questions here very quickly. Planned Parenthood came into the hearing and they said that they claimed that 90 percent of the young ladies come in with a parent. But we don't have any verifiable documents that will back that up at this time as well, when you're talking about unverified documents. I do have publications, we can submit those as supporting documents. And it's true, abortions have been declining, as Senator Campbell indicated, since 1999. And they can decline more. Other states have shown that they can decline more. The appointed guardian ad litem, and I'm not familiar with the legal term, that is who Health and Human Services would work with. And the other is my colleague Senator Council, when she mentioned that I learned about the brain not being fully developed scientifically, I also mentioned to her that what also compelled me were the facts that Senator Howard laid out, that there was a loss of life that will never come back, with the injured family, the victim. That is what held me back. That is a decision, that there was a loss of life there. I'd like to yield the rest of my time to Senator Coash, I believe, if he's still on the floor. No, he isn't. Okay. I did want to also, in light of that, share that during the Judiciary Committee meeting where Senator Council mentioned that, as the Supreme Court noted in its Roper decision, a lack of maturity and underdeveloped sense of responsibility are found in youth more than adults and are more understandable among the young. The Supreme Court also noted susceptibility of youth peer pressure, and during the last decade in particular studies have shown that the teenager brains are still changing rapidly, particularly in the areas that govern control of behavior. Sarah Forrest from Voices for Children said, youth aren't adults and the state and our nation recognizes this. Restrictions on smoking, on drinking, on voting, youth are different. And they and the American Psychological Association in their amicus brief for Graham v. Florida pointed out three differences: their immaturity, their vulnerability, and their changeability. So youth have a hard time making decisions. They're also more susceptible to negative influences, the influences of older people around them. And, I think you'll find, many of these cases in Nebraska, usually older people are involved. There are other factors that are complicated. And youth also have an incredible ability to reform and change than those needs of the adults. That was in January from the Judiciary Committee transcript. I also wanted to add that this bill, again, is about requiring consent of the parent, bringing the parent closer to the relationship and responsibility of their child. Senator Cook here, who's been around the sun, I believe, 47 times, (laughter) as she so boldly stated, that parents...her observation, her thesis is you just don't talk. This is a chance to talk. The daughter, they don't talk about sex, they don't... [LB690]

SENATOR LANGEMEIER: One minute. [LB690]

SENATOR BRASCH: Okay. You did kind of say that. Okay. And this is a conversation that is very much needed. The details here, whether, you know, they're in the military, all of the legal pieces, you know, is that person emancipated, you know, marriage, sexual abuse, you know, all of that is covered in many different statutes. Some of the

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attorneys, probably, behind the glass could detail those for Senator Conrad in further detail, you know, because that does make a difference. I know the documentation is there. I will try to yield my time to... [LB690]

SENATOR LANGEMEIER: Time. [LB690]

SENATOR BRASCH: No time left, okay. Thank you. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Brasch. Senator McGill, you're recognized. [LB690]

SENATOR MCGILL: I yield my time to Senator Conrad. [LB690]

SENATOR LANGEMEIER: Senator Conrad, 4:54. [LB690]

SENATOR CONRAD: Thank you, Mr. President, and thank you, Senator McGill. I'm going to try and wrap up on this time, hopefully, so that we can move to Senator McGill's amendment, which I think is critical. To be clear, every lawyer I've talked to on the other side of the glass has the same concerns, (laugh) the same problems, the same issues with the ambiguity and the poorly drafted legislation. I am sure other attorneys have different opinions. That's fine, that's what attorneys do. And some are paid to come up with those opinions and some aren't. But my questions, Senator, are to you, this is your bill, this is your priority bill, and this is the bill that you introduced. You have a responsibility to understand the legislation that you bring forward. I want to follow up in relation to the issues surrounding the notary issue that we talked about earlier, which proponents contend is the critical piece that's going to provide additional protections to young women. And again, look in Nebraska Revised Statute, Chapter 64. Show me any line of any statute from 64-101 to 64-215 that provides for a notary to establish a familial relationship. It is impossible and prohibited by our notary statutes. They can only identify...they can only verify your identity and your signature and whether or not witnesses are present. So let's be very, very clear about what this bill does and does not do. And let's talk about--again, probably not a per se HIPAA violation, but that question remains unanswered--let's talk about the real privacy issues that are at play: medical privacy, personal privacy. There is no prohibition in this chapter if a notary were to disclose this private information in a public manner. There is no penalty and there is no prohibition. Additionally, there is no private cause of action in Nebraska for that kind of disclosure. There is absolutely zero protection for this young woman and her family, who have to go in front of a notary, from that information becoming the talk of the town. And that's a way to support young women? And that's a way to support families, particularly in a small community? You've got to be kidding me. I'm particularly interested to see additional development on the language and the concerns brought forward by Senator Campbell, which, she so clearly articulated, changes the existing standard to include a new and a higher standard for child rape

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victims, forcing them into additional unnecessary delay. What a travesty. We've heard it said that, well, minors have to get parental consent for tattoos and ear-piercing or body art or whatever it's called. Well, that's fine, but that doesn't have to be notarized, so why does it have to be notarized here? There's also a provision in our law, based off a bill Senator Rogert brought a few years ago, that provides an open-ended kind of affidavit and consent for certain minors. How does that square up? And let's talk about the women who are at the heart of this debate, the young women who are at the heart of this debate. And we know this information because there is statistical analysis provided by the Department of Health and Human Services every single year that's detailed. About 15 percent of the women in Nebraska who seek abortions each year are under the age of 19. We don't know how many of them are under the age of 17, because it's broken down by less than 15 and 15 to 19. I understand Senator Brasch's bill applies to those who are less than... [LB690]

SENATOR LANGEMEIER: One minute. [LB690]

SENATOR CONRAD: ...18...thank you, Mr. President...17 and under. Okay, 15 percent of young women avail themselves to this medical option. And why? Then go look at the reasons why: contraceptive failure, no contraception utilized, socioeconomic reasons, sexual assault, incest, fetal anomaly, maternal life endangered, mental health, physical health. What in this bill addresses the reasons abortions were contemplated and sought in the first place? There's not one line or one penny for education or prevention. There's not one line or one penny to help all young families have access to basic necessities. So while I don't doubt the sincerity of Senator Brasch's and others' concerns for these young women, if we're serious about that... [LB690]

SENATOR LANGEMEIER: Time. [LB690]

SENATOR CONRAD: ...let's put our words into action. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Conrad and Senator McGill. Senator Ken Haar, you're recognized. [LB690]

SENATOR HAAR: Mr. President, members of the body, I'd like to ask some questions again of Senator, if she would agree. [LB690]

SENATOR LANGEMEIER: Senator Brasch, would you yield? Would you yield to questions? [LB690]

SENATOR BRASCH: Yes. [LB690]

SENATOR HAAR: I started...I want to get back into the privacy part of this. On page 4, lines 17 through 21, "Consent means a notarized written statement signed by a parent,

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legal guardian, or an alternate person as described in Section 4 of this act if the pregnant woman declaring that the affiant has been informed that the pregnant woman intends to seek an abortion and that the affiant consents to the abortion." So again, this seems to say that the paper being notarized by...the consent being notarized by the notary would have to have something on that piece of paper. Don't you agree? Page 4, lines 17 through 21. Now this is the one I ran off the computer, so it's 71-6901, and then it's (c)(3), lines 17 through 21. Because I think my concern here is the ambiguity really... [LB690]

SENATOR BRASCH: The consent for...oh, did I, did you, I'm sorry. Okay. [LB690]

SENATOR HAAR: No, go ahead if you found, yeah. [LB690]

SENATOR BRASCH: That consent, that goes to the clinic, not to the notary. The consent that it's their signature, this is my parent, they are consenting, that goes to the clinic for the abortion, not the...the notary does not...I think I indicated earlier the notary does not see that. [LB690]

SENATOR HAAR: I really think that... [LB690]

SENATOR BRASCH: It's just identifying that that is truly the parent, that they are who they say they are. [LB690]

SENATOR HAAR: So it's just a blank piece of paper that says...with the parent's name on it. [LB690]

SENATOR BRASCH: It's a medical... [LB690]

SENATOR HAAR: And then it gets filled in later? [LB690]

SENATOR BRASCH: It goes to the minor, and the parent or legal guardian or grandparent will go to the clinic with the legal form, showing that they are who they say they are. They're not the coach, they're not someone else, and they are indeed authorizing the abortion. [LB690]

SENATOR HAAR: Okay. Well, again, I'm not a lawyer, but I think that really needs to be clarified in here. The way it sounds, the way it reads, and I'm not a lawyer, is that that piece of paper has to declare, has that declaration on it from the affiant consenting to the abortion. And I don't, you know... [LB690]

SENATOR BRASCH: That's what the clinic needs to perform, or the doctor, to perform the abortion. They need the... [LB690]



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SENATOR HAAR: But this is about consent, the notary...the notarized written statement, 17 through 21. [LB690]

SENATOR BRASCH: They are...and the notarization... [LB690]

SENATOR LANGEMEIER: One minute. [LB690]

SENATOR BRASCH: Okay, all right. [LB690]

SENATOR HAAR: Okay. Okay. It worries me. Obviously, I'm not going to vote for this bill. But there are so many ambiguities in it. And what happens, how would an illegal immigrant prove who they are to a notary? What instrument would the notary use to prove that? Do you have any idea, or have you thought about that angle? [LB690]

SENATOR BRASCH: We...as far as an illegal immigrant, they would need to go through the same procedure, I believe. You know, I...they're illegal. They are not legal citizens. But they would need to go to a doctor. They would need to go through the same procedure. [LB690]

SENATOR HAAR: But how would they prove who they are? How would they prove...they can't have a driver's license, they don't have a Social Security card. [LB690]

SENATOR BRASCH: Can they go to immigration? [LB690]

SENATOR LANGEMEIER: Time. Time. [LB690]

SENATOR HAAR: Thank you. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Haar. Senator Conrad, you are recognized. [LB690]

SENATOR CONRAD: Thank you, Mr. President. I'm going to just briefly follow up on Senator Haar's point in relation to this notary issue and what the consent form looks like. It's painfully clear, on page 4 in the bill, LB690, what does "consent" mean? Lines 17 through 21, "Consent means a notarized written statement signed by a parent, legal guardian, or an alternate person as described in Section 4 of this act if the pregnant woman" must declare "that the affiant has been informed that the pregnant woman intends to seek an abortion and that the affiant consents to the abortion." With all due respect to Senator Brasch, you cannot notarize a blank piece of paper and fill it in later; that's fraud in any context. So to act like there's this some sort of magical general medical consent that exists that's not going to inhibit the privacy for anyone flies in the face of the language of her own bill and doesn't exist in practice. Colleagues, I urge you to vote against AM1429 and to oppose LB690. And to do so regardless of your political

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belief surrounding reproductive health. But to do so because we have a responsibility to put forward sound legislation, technically sound, based on solving real policy issues, and legally sound as well. LB690 and AM1429 doesn't do any of that. The only proposed policy objective is to protect young women from some sort of loopholes in the notification statute for parental imposters, which, again, we don't have any evidence of from the committee level, we don't have any evidence of here on the General File debate. There was some mention of an unsubstantiated case from Ohio at the committee level, which I don't know anything about but is irrelevant for purposes of Nebraska's public policy. And think about what the ramifications are. LB690 actually discourages parental involvement by giving that veto power to a parent, without any clear understanding of what that family dynamic is like. You're pushing more women to the courts and away from their families, so that those moms and dads aren't even going to have notice anymore. So they won't know if there's medical complications, which is the exact opposite of what Senator Brasch and others pretend to purport here. LB690 jeopardizes young women's health and safety. And it creates unnecessary, unreasonable delays in young women making decisions for themselves and for their bodies and for their future. We don't have parental consent for the minor to have sex. We don't have parental consent for the minor to conceive a child. We don't have parental consent for the minor to continue the pregnancy. We don't have parental consent to decide whether or not that minor is going to become a parent. We don't have parental consent in terms of whether or not that minor is going to seek prenatal care or get medical care for labor and delivery or consent to a C-section or give a child up for adoption or consent to medical care for her own child once born or receive treatment for sexually transmitted infections. But we're going to institute our own judgment and our own agenda for parental consent for young women seeking abortions. Why? Because we want to and we can, because the political reality is we can. And you're right and it's going to happen. Because you want to make a political statement, you're going to move forward with a flawed piece of legislation that has the potential to not only violate family and individual, medical and personal privacy... [LB690]

SENATOR LANGEMEIER: One minute. [LB690]

SENATOR CONRAD: ...but, thank you, but creates unnecessary delays, forces more young women into the judicial system and outside of the protection of their families, and isn't based on a pressing public policy need in Nebraska. Thank you, Mr. President. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Conrad. Senator Schilz, you're recognized. [LB690]

SENATOR SCHILZ: Question. [LB690]

SENATOR LANGEMEIER: The question has been called. Do I see five hands? I do see

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five hands. The question before the body is, shall debate cease on AM1429 offered to LB690? All those in favor vote yea; all those opposed vote nay. Senator Ashford, for what purpose do you rise? [LB690]

SENATOR ASHFORD: Mr. President, may I have a call of the house, please? [LB690]

SENATOR LANGEMEIER: There has been a request to put the house under call. Members, the question is, shall the house go under call? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB690]

CLERK: 25 ayes 0 nays to place the house under call, Mr. President. [LB690]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. The house is under call. Senators, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Wallman, would you please check in. Senator Fulton, please return to the Chamber and record your presence. Senator Avery, please return to the Chamber and record your presence. Senator Avery, the house is under call. Senator Ashford, for what purpose do you rise? [LB690]

SENATOR ASHFORD: Thank you, Mr. President. Machine vote, please, and go ahead if... [LB690]

SENATOR LANGEMEIER: We already had a machine vote; we could take call-ins or roll call vote. [LB690]

SENATOR ASHFORD: Oh, I'm sorry. Okay, then just have call-in votes. What was the number? Okay, thanks. [LB690]

SENATOR LANGEMEIER: Thank you. Senator Ashford has authorized to proceed. The question before the body was, shall debate cease on AM1429? [LB690]

CLERK: Senator Ashford voting yes. Senator Larson voting yes. Senator Cook voting no. Senator Smith voting yes. Senator Sullivan voting yes. Senator Flood voting yes. Senator Cornett voting yes. Senator Bloomfield voting yes. Senator Fulton voting yes. Senator McCoy voting yes. Senator Howard voting no. Senator Fischer voting yes. [LB690]

SENATOR LANGEMEIER: Record, Mr. Clerk. [LB690]

CLERK: 25 ayes, 5 nays to cease debate. [LB690]

SENATOR LANGEMEIER: Debate does cease. With that, I raise the call. Senator Ashford, you are recognized to close on AM1429. [LB690]

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SENATOR ASHFORD: Thank you, Mr. President. I would just reiterate that our review of the constitutionality of the language in the amendments is sound, in our opinion. And I would urge the adoption of the amendment. I would also suggest that we are about to get an amendment from Senator McGill dealing with prenatal care, which I think is probably going to be one of the most important pieces of legislation we'll be dealing with this session because it's renewing a promise that we made to the citizens of the state of Nebraska last year to make certain that all children in Nebraska have the opportunity of being born with prenatal care. And so I look forward to Senator McGill's amendment and urge the adoption of AM1429. Thank you. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Ashford. You have heard the closing on AM1429 offered to LB690. All those in favor please vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB690]

CLERK: 30 ayes, 7 nays on adoption of committee amendments. [LB690]

SENATOR LANGEMEIER: The committee amendments, AM1429, are adopted. Mr. Clerk. [LB690]

CLERK: Mr. President, just very... [LB690]

SENATOR LANGEMEIER: Oh, items for the record? [LB690]

CLERK: Yes, thank you, two items. Bills read earlier today were presented to the Governor at 3:45, bills read on Final Reading. (Re LB200 and LB200A.) And an amendment to be printed to LB667, by Senator Flood. (Legislative Journal page 1684.) [LB200 LB200A LB667]

Mr. President, Senator McGill would move to amend LB690 with AM1490. (Legislative Journal pages 1685-1688.) [LB690]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator McGill, you are recognized to open on AM1490. [LB690]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I bring this amendment because if we think abortion is the wrong decision for our teens to make, then we need to make sure all teens can afford the prenatal care necessary for them to deliver healthy babies. Last year we were all painfully aware that many women were no longer covered for prenatal care by Medicaid. Many of you fought to put that care back in place, but others were unwilling, which meant some women had abortions while others suffered the risk of continuing the pregnancy not knowing if their baby would be born healthy. If a teenage girl makes the tough decision to have a baby, the baby needs

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proper care. There are a number of negative consequences relating to a lack of prenatal care: premature birth, low birth weight, risk of health problems and disabilities, all of which expenses could fall on the state since those children will be residents of the state of Nebraska, or they could fall upon the potential adoptive parents of that child if the girl decides to give the child up for adoption. We all know that prenatal care was not passed for these women last year because a majority of them were illegal immigrants. Today I'm asking you to look at prenatal care for teenagers, who are indeed oftentimes illegal immigrants. These young women, these young mothers, did not choose to come to the U.S., they were brought here by their adult parents. The majority of these families are Catholic, 25 percent of all Nebraskans are Catholic, and the vast majority of Nebraskans are practicing Christians. And those people who bring legislation like LB690 are proud Christians. But for some reason, Nebraska's general Christian population and some of its leaders check their religious faith at the door of our borders. Right to Life, the Catholic Church, and other religious institutions support prenatal care. These groups introduce abortion-related bills every year, and this body blindly supports the bills, even when there are serious flaws, like in Senator Dierks's bill, LB594, last year. I struggle with how so many people can follow their faith so strongly with a base abortion bill like that or like this one but cannot support proper healthcare for a wanted baby in the womb. The frenzy over whether someone is here legally or not has trumped the life of a baby. And I know from the depth of my heart and faith that this is wrong. So I bring you this amendment today. I ask that all of you who are of strong faith to be true to those wanted babies, to not just say that a teenager needs parental consent to have an abortion but ensure that all teen mothers who want to have their babies have access to prenatal care. Unborn babies don't know where they are from. They have no border and they've committed no crime. With that, I urge your support. Thank you, Mr. President. [LB690]

SENATOR LANGEMEIER: Thank you, Senator McGill. You have heard the opening on AM1490 offered to LB690. Those wishing to speak, we have Senator Burke Harr, Senator Brasch, Senator Ken Haar, Senator Ashford, Gloor, Conrad, and others. Senator Burke Harr, you're recognized. [LB690]

SENATOR HARR: Thank you, Mr. President. I'll admit, when I hit the light it was before we started dealing with the amendment. And I'm going to beat a dead horse a little bit. And that is getting back to the fact that Senator Brasch has outed herself and is, in fact, the one who broke the deal. There was a deal, I had a deal, it was broken. Again, that's not how I think we as a body should operate. If you have a deal and you don't like what you ended up agreeing to, you should pull the bill. You should not break the deal and then go negotiate with others and leave others out of it with whom you broke the deal. I think that's poor form. With that, there are a lot of good things in this bill. A lot of things I like in it. A lot of things, I think, we can definitely improve, and that's what floor debate is for. And I'll be honest, I'm going to have a tough time supporting this bill given the fact that she broke her word to me. But if it's done properly and I think the bill is good,

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maybe, maybe I'll change my mind. And with that, I'm going to go ahead and yield the rest of my time to Senator Conrad. Thank you. [LB690]

SENATOR LANGEMEIER: Senator Conrad, 3:54. Not seeing Senator Conrad. Senator Brasch, you're recognized. [LB690]

SENATOR BRASCH: Mr. President, I would like to challenge the germaneness of putting this to LB690, AM1490. [LB690]

SENATOR LANGEMEIER: Okay. Senator Brasch, you're recognized for five minutes to tell us why you don't think it's germane. [LB690]

SENATOR BRASCH: This bill, again, is to bring notification to consent. It was said that it wasn't necessary. I have in my hands here an article from the World-Herald, Man Sentenced to Serve Time for Abortion Lie. An Omaha man who lied to help his teenage girlfriend get an abortion was sentenced Wednesday to one and a half to two years in prison. They give his name, he's 36, was accused of posing as the father of the 16-year-old girl when he took her to Women's Services Clinic in Omaha and signed consent forms that allowed her to get the abortion. He pleaded no contest to felony child abuse in May. Douglas County District Judge Richard Spethman said that anything less than jail time would diminish the seriousness of the crime. He expressed concern that Gillis continued to contact the girl even after he was arrested. Douglas County District...he expressed concern that Gillis continued to contact the girl even after he was arrested. You've got this little girl so messed up now, I don't know if she will ever get straightened out, the judge said. Assistant Public Defender Carla Develder had asked for a probation sentence. She told the judge her client was honest with authorities about his relationship with the girl and was remorseful about what happened. He knows that lying to help her get an abortion was wrong, Develder said, and he will not continue his relationship with the girl. In Nebraska, a doctor must notify a parent of a young girl, younger than the age of 18, at least 48 hours before she receives an abortion. She, the girl, came to him and said, I need help, and he helped her, Develder said. She was not able to approach her parents about it. Prosecutor Leigh Ann Retelsdorf urged jail time. Said that Gillis has continued to write the girl letters from his jail and has had frivolous protection orders against her parents. This is germane; this is what this is about. What I have here is people who are saying they are the parent when they're not. Immigrants, I believe, is another bill, and it was another bill. Bring it back as another bill, but I do not believe it is germane to have it a part of LB690. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Brasch. Senator McGill, you're recognized to tell us why you think AM1490 is germane to LB690. [LB690]

SENATOR MCGILL: Thank you, Mr. Chair, members of the body. All you have to do is look on page 7 at Section 5 to see why this bill...why my amendment is indeed germane

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to LB690. Senator Brasch's bill opens the door to eligibility for public assistance in that section. And that's exactly what this amendment does. This talks about public assistance available for prenatal care. Her section reads, Section 5 reads, "No parent, guardian, or any other...shall coerce a pregnant woman to obtain an abortion. If a pregnant woman is denied financial support by her parents, guardians, or custodians due to her refusal to obtain an abortion, the pregnant woman shall be deemed emancipated for purposes of eligibility for public assistance benefits, except that such benefits may not be used to obtain an abortion." So this bill does open up the world of public benefits. I do feel it is germane. It's not so much about illegal immigration as it is about prenatal care, healthcare for women, and public benefits. So with that, I would urge the Chair's disagreement with the germaneness issue or agreement that it's germane. (Laugh) [LB690]

SENATOR LANGEMEIER: Thank you, thank you, Senator McGill. Under Rule 7, Section 3(d), of our rules it states that no motion or subject different from the underlying consideration shall be admitted under color of amendment. Germane amendments relate only to details of the specific subject of the bill and must be in a natural and logical sequence to the subject matter of the original proposal. LB690 amends the current parental notification requirements for women under 18 years of age to obtain an abortion to require notarized written consent from a pregnant woman and one of her parents or legal guardian before getting an abortion. Senator McGill's amendment, AM1490, would require the provision of prenatal care or pregnancy-related services connected to the health of an unborn child for a woman under the age 18, for that woman who meets the income poverty guidelines, services to be provided through the CHIP waiver and would provide regardless of immigration status for a woman. It is the ruling of the Chair that AM1490 does not relate to the details of LB690 and is not a natural and logical sequence to the subject matter of this bill to require parental consent for abortion performed by a woman under the age of 18 and therefore is not germane to LB690 under our rules. Senator McGill, for... [LB690]

SENATOR MCGILL: I'd like to challenge the ruling of the Chair. [LB690]

SENATOR LANGEMEIER: There has been a challenge to the ruling of the Chair. Senator McGill, you will get an opening and a close. Each member gets one opportunity to speak, and you cannot yield your time to another member. Senator McGill, you are recognized on your motion to overrule the Chair. [LB690]

SENATOR MCGILL: Thank you, Mr. President, members of the body. It's my belief when we heard this bill and earlier bills this year that they're brought to us to try to lower the number of abortions, as Senator Brasch says, to try to make sure that a family has...the young woman has the support she needs when she goes in and decides to get an abortion. Well, that young woman, if she decides not to, needs the support of prenatal care regardless of who she is. As I said, Section 5 does indeed open the door

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to eligibility for public assistance benefits. I debated whether to craft this legislation to specifically look at this group of girls mentioned in Section 5 that did not want an abortion even though their parents wanted them to get one. But why is that baby more important than another baby? And if the bringer of this bill feels that she is so strongly pro-life that she needs to look out for that mother and, indeed, for that baby, then I don't see why we're not sitting here and discussing this. As I said in my opening, it becomes very convenient to be pro-life when it comes to some issues regarding abortion and decisions to have a baby. But then when it gets stretched a little too far, people pull back. This will do more to help save some babies and give healthy babies than LB690 in and of itself. This is about the care of a mother, the care of that baby, which I hope is at the core of LB690. I hope that's what it's really about as well, and I know it is. We've already discussed during this debate Section 5 and that Section 5 may indeed already apply to those who aren't residents of Nebraska. We've already made it clear that Section 5 is not crystal clear in that matter. So it is actually a part of this debate, and it should be had here today. We've let people down already, as Senator Ashford mentioned, last year with the changing of this law and the fact that we weren't able to step up and make this change. So I think it's completely appropriate to be bringing this piece of legislation right now when that girl is making the decision and going to her parents and talking about consent; that is that turning point where they're talking about what they can afford in terms of that child, what they can afford in terms of prenatal care, to have a healthy baby or to make the other option. It's when that girl is talking to her parents that this discussion is the most important. With that, I urge members to overrule the Chair. Thank you, Mr. President. [LB690]

SENATOR LANGEMEIER: Thank you, Senator McGill. There were a number of lights on prior to this motion. We will work through those. Again, each member gets five minutes and cannot yield your time. Those wishing to speak, we have Senator Gloor, Conrad, Campbell, McGill, Schumacher, Howard, and others. Senator Gloor, you're recognized. [LB690]

SENATOR GLOOR: Thank you, Mr. President. Good evening, members. I punched my light to speak on behalf of AM1490. I also have profound respect anymore for the difficult role that the Chair takes in making these decisions and respect that. But I respectfully disagree with that ruling. I do think AM1490 is germane, for reasons that Senator McGill has stated. I'm one of those individuals that struggled mightily last year with the decision about providing prenatal care. But when I sat down and thought through my stance and my votes since I've been down here that have been strongly pro-life, felt that it was also important that I carried that through to what I know is an intricate part of maintaining the health of both the woman and the baby, and that is prenatal care, and that I can't play two different sides of the street on this issue. I think the arguments that have been brought forward are common-sense arguments on behalf of germaneness. I think the argument for AM1490 is also common sense for myself as a pro-life supporter. And then, of course, there is the hospital executive, common-sense



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component of me that says, when these children are born we are going to have the responsibility to pay for their care. And a bad delivery, which is inevitable, and of which we already have reports over this past year, become an expense borne by Nebraska taxpayers, an expense we would not have to bear were we to provide appropriate prenatal care. So there's that common-sense, dollars-and-cents component that we have to think of. Again, I respectfully disagree with the ruling of it being not germane and plan to vote accordingly. Thank you. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Gloor. Senator Conrad, you're recognized. [LB690]

SENATOR CONRAD: Thank you, Mr. President. And just as a point of information, before I proceed, am I able to yield time on this speak...no. [LB690]

SENATOR LANGEMEIER: No. [LB690]

SENATOR CONRAD: Okay, I just wanted to clarify that. Thank you, Mr. President. I rise in support of the motion to overrule the Chair. I think Senator McGill, Senator Gloor...and, hopefully, others will chime in as well. But I think that they put forward the arguments in a very cogent and very straightforward manner. And this indeed poses a lot of difficult questions, some of those difficult questions that I had talked about earlier that we're here to ask ourselves and that we're here to go on record about. Are we pro-life when it's convenient and we're seeking an endorsement, or are we pro-life the whole way through? And even if you're not somebody who considers yourself to be pro-life, like myself--I'm a strong supporter of women's health and women's rights and believe firmly in a woman's right to choose and believe the government should stay out of this--I think this is an issue that we can find common ground on. Who doesn't want healthy families and healthy babies? That's something that we should all be rallying for. And to be clear, Senator Brasch didn't have to challenge the germaneness of this. If she's serious about these issues, she should embrace this amendment. She shouldn't resort to procedural technicalities to try and get out of the difficult questions that this amendment proposes. Ask yourself the hard questions, ask yourself why you're utilizing those strategies on the floor. And if we're going to be serious about what our state's public policy here and we're going to have bill after bill after bill after bill eviscerating women's health and women's rights, we should have the most robust public assistance program in the country to back it up. But we don't. We have amongst the lowest rates of eligibility and utilization for food stamps and Medicaid and housing and childcare, and we cut those programs year after year after year after year. So are we only pro-life through birth, or do we care about prenatal care and do we care about the baby after they're here? Because, colleagues, that's where the common ground is. Fine, we're not going to have a chance to address access to contraception, even though I put forward those bills this year. We're not going to have a chance to address comprehensive sex ed that Senator Council put forward this year. Again, I contend a lot of common ground

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there to reduce the number of unintended pregnancies and, i.e., reduce the number of abortions. But because proponents of legislation like this are indeed anticontraception and antieducation, we can't even get to debate those. And when we have a bill before us that represents a significant policy change, parental notification to consent, which has served our state well for over 20 years, we call the question after 100 minutes because we have a softball game to get to or we're hungry for dinner or we're sick of dealing with it, whatever your reasons were for hitting your button, they are what they are. But make no mistake, this is the only deliberative body in the state of Nebraska. And young women and our constituents and we, as colleagues, should hold ourselves to a higher standard. One hundred minutes, 100 minutes is enough; that's enough time to talk about these issues, because they make us uncomfortable or we're sick of dealing with them. Well, make no mistake, colleagues, I didn't bring 15 reproductive health bills this year. But it is my position to ensure that we do have strong, zealous, clear representation of all citizens' perspective on these issues before this body. That's our job. I ask you to overrule the Chair and ask yourself the hard questions about what it means to be pro-life and what it means to support women and families. Thank you, Mr. President. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Conrad. Senator Campbell, you're recognized. [LB690]

SENATOR CAMPBELL: Thank you, Mr. President. I, too, would urge my colleagues to overrule the Chair and discuss this issue. I had a conversation this morning with Senator McGill, who came to tell me that she wanted to introduce this amendment and had prepared it. And I much appreciate her willingness to keep this issue before us. The Health and Human Services Committee held hearings this past summer on the issue. We also have a bill in committee and we will continue to work on it. What Senator McGill's amendment does is to narrow the population than what we had originally looked at in LB1110 or currently in LB599. Her amendment would narrow it to young women, 18 and under, who are unmarried and undocumented. Providing prenatal care for these teens, it seems to me, is very, very germane to the bill from the earlier questions that I raised on the public assistance. I would like my colleagues to realize that in 2009, 4.5 percent of live births in Nebraska, roughly 1,200, were to unmarried moms 18 and under. We have no way of knowing what percentage of these were to undocumented moms. Our responsibility, it seems to me, continues to be very clear, that these children who are born are United States citizens and deserve the very best care we can give them. The germaneness to this bill is, if we are going to proceed down the path of asking for notification and in some cases providing assistance to this bill, then why not accept this amendment and move forward so that all children in the state can have a healthy beginning? Thank you, Mr. President. [LB690 LB599]

SENATOR LANGEMEIER: Thank you, Senator Campbell. Senator Schumacher, you're recognized. [LB690]

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SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I carefully go through LB690 to find its core and what it is all about. On the surface it may appear to be an antiabortion law. But it has been said by Senator Brasch and it appears in plain text that what it is is a take-care-of-the-young-pregnant-woman law. On page 6, at line 22, it says, "In deciding whether to grant such a consent, a pregnant woman's parent or guardian shall consider only their child or ward's best interest." That's all they consider; that's it, what is in the best interest of a young pregnant woman who got herself in trouble, maybe with a little help from a friend. But that being the case, we're concerned in this bill about that situation and what naturally and logically flows from that situation. How can we possibly say that we're concerned about this and not then concerned, in the same breath, with what if that young lady, at 20 weeks, knowing her baby feels pain, knowing she can't care for it because she doesn't have the money? That whole reproductive process rolled into one. Should she have an abortion? Should she not have an abortion? How is she going to care for the baby? What if the baby is sick inside of her and feeling pain and hurting and in convulsions? This is all part of the same thing, and this has been opened up by this bill. This is what this is about, that young woman's well-being. And if we don't provide for some mechanism for paying for the bills, then how does that impair the parent's decision when we tell them, you consider only your kid's best interest. And they're saying, but, oh, my God, who's going to pay the bill? What a logical, natural flow from our mandate to the parents to consider only the child's best interest. There is nothing that could be more germane to the world and to this bill and to the principles of the right to life than taking this to its logical extension, and that is let us care for this mother, let us care for the baby which is part of her, let us provide for the health and conscious well-being and happiness and nurturing of a child. How could we possibly even raise the question of germaneness in this context if we believe in the well-being of the mother and the life of the child? I will vote to overrule the Chair in this matter, because it seems increasingly apparent to me that this is an integral part of the issue before us. And it is our obligation as the state's only deliberative body to get into these issues once they are raised and not try to use cutesy procedural outs in order just to get past this issue and hope that somehow the federal courts take care of it. This is our obligation. And if we got to stay here until midnight discussing it, hashing it out, parsing this language, making sure that our young mothers are taken care of and their babies have a right to life, then, by God, we should do so. Thank you, Mr. President.  
[LB690]

SENATOR LANGEMEIER: Thank you, Senator Schumacher. Senator Howard, you're recognized. [LB690]

SENATOR HOWARD: Thank you, Mr. Chair and members of the body. And thank you, Senator Schumacher. I think you hit the nail on the head. I did adoption counseling before I was elected to come and serve here. And I can tell you that the decision to relinquish your child is painful for anyone who is faced with that. And everyone,

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everyone, no matter what their circumstances, wants their baby to be born healthy and have every chance, every chance in this life. I know of situations right now where pregnant women are making the decision to skip the prenatal appointment because they simply don't have the money, they don't have the money. And anyone who's ever had a baby or been a parent or been an aunt or an uncle, everyone, everyone knows how important it is that the pregnant mom keep these appointments and that she have the chance to do everything possible and, really, the responsibility to do everything possible to ensure that that baby is born healthy. Like I said, there's no greater heartbreak than a baby who is born with a problem. And no greater heartbreak than a baby that doesn't make it. I vote to overrule the Chair on this issue. It seems logical to me that the healthy outcome of a pregnancy is a healthy baby. The fetus becomes a baby. The baby becomes a child. I think anyone who's put any amount of thought into this at all would have to agree with that. You know, I've seen some very strange things on this floor this session. I was completely stumped, to tell you the truth, as to how cemeteries were germane to the tanning booth issue. Would you compare that to something that's so obviously logical? I would have to say we have the responsibility to vote to overrule the Chair on this issue and to cast our vote to support the infant, to support the pregnant woman, to do everything that we can to be there for people in this situation that are asking for our help. Thank you. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Howard. Senator Burke Harr, you're recognized. [LB690]

SENATOR HARR: Thank you, Mr. President. So this bill is no secret that it's being carried...Senator Brasch is carrying it for another organization. And there was an editorial written by Governor Kay Orr in which she said, this bill helps to preserve Nebraska's family, protect young girls, and save the life of Nebraska babies. That's what it says. That's what this bill does. That's what Senator McGill's amendment does. It's very much germane. And since we're on germaneness, I'm going to go back to something that Senator Brasch talked about earlier, and that's when she talked about the prosecution of that 36-year-old father or not father, well, yeah, father of the baby. I'm very familiar with that case, I prosecuted it, I was involved with it. And it goes to show you that...also in this editorial it says--and I apologize, the lighting in here is getting poorly--under our current law, the person ushering the girl to the abortion clinic can currently be an abuser who poses as her parent. Well, that is true. But you will be prosecuted for it. So I'm not quite sure why that comment is in this editorial. And guess what? Under the new amendment, it can be that way too. So...but getting back to germaneness, because that is why we are here, this bill is more than just about going from notification to consent. We are defining new terms. We are harmonizing different parts of the law. We are looking, and what I'm looking at, ladies and...or fellow senators, is I'm looking at introducer's statement of intent. And in there it talks about all that we look at. And it's much more than just notification. It's...it goes into areas...and then goes back to what Senator Brasch said originally, the first time. This is about the children, this

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is about the unborn, this is about that young girl, 15, 16, 17, all alone, no one in the world. That's who we want to protect. Now, I'm going to take her on her face value that she means that. If that's true, we want to provide wraparound support, and that can be a grandparent, that can be a parent, that can be a legal guardian. But guess what? It can also be someone who provides financial support, that said, hey, you're not all alone, we're here to help, we're going to help you take care of that baby, we're going to provide support. Well, I'm not, I'm not an American citizen. Never mind, close the door, see you later. I hope that's not who we are as a state. I've been disappointed on this bill, as I said, very disappointed. I'm hoping this will renew my faith in the body and in senators, that in fact we can look at the best and we can look out for the best in each other, and we can take care of those. You judge a society not by how they take care of the rich and the powerful. The rich and the powerful can take care of themselves. No, it's how you take care of those who can't take care of themselves. And that's what LB690's purpose is. These young girls, who don't have a mature brain, we're reaching out to them, we're saying, hey, Mom, Dad, you got to be there. Why shouldn't we in the same motion say the same thing, we'll be there, we'll help you provide, we'll provide the medical advice you need. The definition of "germane," I mean, it's "apt, appropriate." I think this amendment is apt and appropriate for the underlying... [LB690]

SENATOR LANGEMEIER: One minute. [LB690]

SENATOR HARR: ...purpose, as Senator Brasch stated in her own words. This is where the rubber hits the road. Guess what, guys? I learned you can't always have your way. And this isn't the way Senator Brasch would like the bill, we all know that. But the fact of the matter is, it's there, it's a good amendment, and it is germane. So with that, I would urge you to overrule the Chair. Thank you very much. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Harr. Senator Brasch, you're recognized. [LB690]

SENATOR BRASCH: Thank you, Mr. President. I do concur and uphold your germaneness here. Again, this is an immigration issue versus Section 5 pertains to emancipation. And the intent of LB690 is to require consent, not notification but consent. And I urge my fellow colleagues to also uphold your ruling. Thank you. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Brasch. Senator Council, you're recognized. [LB690]

SENATOR COUNCIL: Yeah, thank you very much, Mr. President. I need to clarify something for the record. I rarely disagree with my learned colleague and Chair of the Judiciary Committee. But when he says the Judiciary Committee ensured the constitutionality of LB690 before advancing it, I just want to be sure that the body knows that that was the Judiciary Committee sans my vote. I have never believed that this bill

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is constitutional. And today's discussion points out even more areas of vagueness and ambiguity. And in that regard, vagueness and ambiguity, I rise in support of the motion to overrule the Chair, because the germaneness was established by the line of questions that Senator Campbell posed with regard to Section 5, which appears on page 7 of the green copy of the bill, but also in terms of 71-6903, which appears on page 8 of the bill, because page 7 of the bill appears to provide a means for a young woman in these circumstances to access public assistance. And the access to public assistance at this stage in the process would be, in fact, prenatal care. If that's what the language states here, is that at this stage of the process we're talking about a pregnant minor, it would be to access public assistance, and that public assistance would be in the form of prenatal care. Well, if you read 71-6903, it says, "the requirements and procedures under this section are available to pregnant women whether or not they are residents of this state." What does that mean? An undocumented is not a resident of this state, so is it in the statute...is it in the language of this bill as proposed? I think Senator McGill's bill...her amendment clarifies that point, because the question was raised by Senator Campbell and it wasn't answered: What was meant by "doesn't have to be a resident of the state"? I believe that Senator McGill's amendment makes that clear. And it makes it clear in the context of Section 5, which talks about eligibility. We don't have to deal with the issue that Senator Campbell raised about deeming someone emancipated. Rather, with Senator McGill's amendment, we make it clear that a minor is eligible for prenatal care regardless of the income of their parent and that, regardless of the immigration status of the pregnant woman, that child is eligible for public assistance in the form of prenatal care. And again, getting to the significance of providing this prenatal care, I will read to you from an editorial that appeared in last Thursday's Omaha World-Herald. It was written by Dr. Dan Clute, who is medical director of UnitedHealthcare of Nebraska, and it just relates to the issue of premature births. And one of the reasons that prenatal care is so important is to prevent premature birth, to prevent low-birth-weight babies. But listen to this. According to the March of Dimes, one in eight babies born in America is premature, a rate higher than that of most other developed nations. The March of Dimes 2010 Premature Birth Report Card gave both Nebraska... [LB690]

SENATOR LANGEMEIER: One minute. [LB690]

SENATOR COUNCIL: ...and the United States a grade of D for their preterm birth rates. So we have a problem generally with premature births. We rank among the highest in terms of low-birth-weight babies. And the group that, I submit to you, that you will find those premature births and those low-birth-weight babies more often are women under the age of 19. So again, if the intent of this bill is truly to protect the health and well-being of pregnant women and their children, I can see no more germane issue than the issue of clarifying Section 5 by making it clear that these young women, regardless of their immigration status... [LB690]

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SENATOR LANGEMEIER: Time. [LB690]

SENATOR COUNCIL: Thank you. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Council. Senator Louden, you're recognized. [LB690]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I usually don't weigh in on these issues. And I'm not nearly as dramatic as some of our lawyer friends here with their jury-convincing arguments. But here's one thing I do want to point out. We do have rules around here on introducing legislation and following through with it. And if you'll look on the front page of the LB690, you'll see that it's into the sections of 71-6901 clear on through to 71-6908. Those are the parts that deal with what the bill deals with, abortion and that sort of thing, and unprofessional conduct is 38-2021. If you look at the AM1490, right off the bat it talks about Section 4-110. Now, that's about immigration. So we're talking about two different sections of statutes. And I don't care how you cut it, we've been doing it about so much, we've been getting away with gutting bills and moving them off to a different part of the statutes, but this is what you're doing here, you're in two different parts of the statutes. And my understanding is that, the rules we have around here, you're not supposed to do that. So if you're...you better find out whether or not we can do this. And that's the reason I believe that this amendment isn't germane. Now, whether...the quality of the legislation I wouldn't discuss. And the need of it, nor would I discuss that, as far as I'm concerned. Either one of these is probably good legislation. They probably need to stand alone as they are. But at the present time I agree that this amendment isn't germane to the bill. Thank you, Mr. President. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Louden. Senator Wallman, you're recognized. [LB690]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I, too, appreciate all that's been said here and my good friend Louden also, Senator Louden, and also Senator Schumacher. And I think it's with children. And you read the Good Book, it isn't about rules and laws, about take care of your children. So are we taking care of the children? Society...that's God's gift to man, children. And we been talking about abortion, and I'm proud to cosponsor this bill. And I think it would be excellent to have this amendment on this bill also. Thank you, Mr. President. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator Karpisek, you're recognized. [LB690]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Senator Louden and I are having a little disagreement off the mike here about this. And I do agree with him that he says we need to have rules. But I would think that we kind of

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skirted them a couple times today, and that was okay. But, boy, not now, we better not do it now. It does not go to the same part of statute, that is true. And I've been on the losing end of these many times. It's the same idea, it's the same thing that we're talking about, but it's not the same section of law. I don't like that. I don't know that that's the way that we should do it, but it is the way we do it. But I will say that if we're not going to skirt a rule again, don't think we're going to do it again, no more. Some of us sit back and let things go because if we don't, we get yelled at, we get in trouble for this or that, we're holding up process, we're doing this, we're being mean, we're not being nice to each other. But, boy, when the shoe is on the other foot, it's a whole different story. And I'm sick of it. It goes on and it goes on. And I've heard it I don't know how many times a day, and I know we're into the final days of this session and we're in a late-night session and everybody is getting hot and cranky. But I am getting tired of it. It's always okay for one person or one side or someone. I really didn't even want to get into the germaneness of this. I just got my light on because I figured there was a lot to talk about. But while I'm up, I will say that I have, I think, cosigned every bill that Senator Janssen has brought forth on immigration. I agree with him. I think that there is a lot wrong. However, with what Senator McGill is bringing here, I have to agree with her. These are lives, these are children that are U.S. citizens, whether you like it or not. And until something changes there, these are the people that we're going to have to pay for if they aren't healthy. I don't like it if they're here illegally, not one bit. But the kids have nothing to do with that, the babies. I'm not talking about the mothers. I heard Senator McGill say these mothers probably had no choice. They do have a choice to go back, but these babies don't. I will talk more about the bill and what I've heard going on, because I've been quiet all day and I've had about enough. You'll hear more from me, and I apologize about that, but I have had it. We'll have more discussion. Thank you, Mr. President. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. Senator Nelson, you're recognized. [LB690]

SENATOR NELSON: Thank you, Mr. President. Can you hear me all right? I've had trouble with this hot dog all along. It won't stay on and you can't get it back on. Mr. Chairman and members of the body, I rise to support the decision of the Chair. I think the Chair is absolutely correct in overruling the amendment by Senator McGill because it lacks germaneness. We're not here...first of all, let me say, we are here for a reason. We have a rule about germaneness, and we have to decide what is germane. There may be noncontroversial things that we have run through, bills...we saw an example of that this afternoon. And it wasn't all that controversial. There was an amendment, but nevertheless it was something that we decided to do. Here we have a controversial issue. And the germaneness has been contested. We aren't here talking about taking care of children. We aren't here about prenatal care, on this particular bill. We're not here about immigration. We are here about parental consent and a way to obtain that. And that's all that LB690 is about. And if a germaneness question comes up, then that's



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what we have to look at. And we have to read the rules. No motion different from that under consideration shall be admitted under color of amendment, and it's out of order if it's not germane. The amendment details must relate only to the specific subject of the bill and must be a natural and logical sequence to the subject matter of the original proposal. A nongermane amendment includes one that relates to a substantially different subject. And that's what we have here. I'm not saying that AM1490 standing by itself would not be a good bill. We discussed that last year. It did not pass. Perhaps it bears discussing again, but not here. If we're going to have rules, we need to follow them regardless of the emotional issues that are involved. We aren't talking about payment, we aren't talking about the mother being taken care of, we're not talking about the logical extension of all the things that we might think that this bill contains but which it does not. We're not here to rely on editorials and comments by outside parties that were talking about things that they were concerned about. We're here about LB690 and what that bill wants to do. It simply asks that there be a valid consent required from the parents, the guardian, the guardian ad litem, whatever, for a young woman. Yes, I guess children would be involved in the future, but they're not involved here. We're talking about the health of the young woman and protection that's needed for someone that might not be mature and needs mature judgment from somebody else. So I would argue that we need to confine ourself to the bill that we're dealing with here. The amendment, I am quite certain, any way you look at it under our rules, is not germane, and the Chair is correct, the President is correct in this. And I certainly intend to vote to sustain his ruling. Thank you, Mr. President. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Nelson. Senator Ken Haar, you're recognized. [LB690]

SENATOR HAAR: Mr. President, members of the body, talk about a segue. It's a very natural segue from pregnancy to taking care of that pregnancy to birth and it's a very seamless transition. This is kind of unusual in this discussion to find an issue on which we all agree. And I think we could all agree that a pregnant child, because we're talking about a very young person here, a pregnant child, we're talking about the health of the pregnant child and the child that's being carried. And if that pregnant child decides to go ahead and have the birth, then certainly this is germane, this is talking about having a healthy baby, about prenatal care and so on. I certainly agree with Senator Schumacher when he says this is take-care-of-the-young-pregnant-woman law, because that's what we've been talking about, is it's for the well-being of this pregnant mother. What could be more about the well-being of the pregnant...well-being of the pregnant mother than proper prenatal care and proper care of that baby once it's born? So I certainly will vote to overrule the Chair. I think it's very germane in this case, and it's also the right thing to do. Thank you. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Haar. Senator Krist, you're recognized. [LB690]

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SENATOR KRIST: Thank you, Mr. President and colleagues. I don't intend to get as animated as Senator Karpisek did, although I understand his frustration. But, except for six of you that are in this room, the rest of the 43 of you remember a night last session. And you remember, I hope, very clearly that you told me or told several others that you were with us on the vote for prenatal. You made a commitment and you said, I will go forward on prenatal. There was a count made. There have been many counts made in my lifetime here in the Legislature. Some of them I agree with, some of them I don't, some of them I believed, some of them I will never believe, but there was a vote count taken and 43 of you remember where you were on prenatal last year. Now I'm not going to use the word hypocrite, but I will say that many of you today talk as if you might have voted differently last session. I find it interesting, as I agree with some of my colleagues earlier today who were saying, when it's convenient you will throw things up against the wall to see if they stick. I will support the Chair's position on germaneness even though I, in my heart of hearts, believe that we let this state down by not following through with that vote last year. But it does not belong attached to LB690, and here's why. This is death by amendment. Everyone in this room understands that if this amendment gets attached to this bill and it comes out of this body, it will be vetoed and it will come back here and we will have to override another veto. So let's be honest with each other. It may be the best thing in the world, but politically, legislatively, this body needs to realize what its responsibilities are today. We had that chance, 43 of us had that chance last session. We blew it. We didn't have the intestinal fortitude or the courage to go forward last year. Let's bring this back up. Let's have a public hearing on it again. Let's do it in the Second Session of the One Hundred Second Legislature, but let's not kill this bill intentionally with this amendment. And once again, Senator McGill, a different time, a different day, this issue is near and dear to my heart and I believe in it. But this is death by amendment. Think about it. Thank you, Mr. President. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Krist. Senator Mello, you're recognized. [LB690]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I've been following the debate this afternoon and evening on LB690, and I particularly find Senator McGill's AM1490 of interest. I discussed it with her a little earlier, before we got started on this debate. And I rise in support of overruling the Chair. And with all due respect to my colleague Senator Krist, overruling the Chair is not killing LB690 by an amendment. Overruling the Chair is a sign of leadership, colleagues. If you believed in what was put forward last year in LB1110 or the meager attempts we made in LB507 or you cosponsored LB599 this year to restore a 20-year program to provide healthcare to unborn children, now is your time. Now is your time to put aside the multiple arguments, to put aside the multiple excuses that we have heard for the last year of why we couldn't do something to protect unborn children and provide them healthcare. Now is that time. The argument that this is not germane is, pure and simple, a way out, a way out to get

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LB690 passed that we know already has over 40 votes to pass, colleagues. We're going through this debate today full well knowing this bill is going to pass. We full well know that there might only be 9 votes against it. Now is the time to move forward with something that a group of senators had worked on over the interim. We had a bill introduced and unfortunately it was not taken to a vote last year. We got roughly \$150,000, a meager amount of money, put towards prenatal care for women who are in domestic violence situations. And now what we have in front of us is an opportunity, an opportunity to say that women, young women under the age of 18 who are in situations, regardless of their citizenship, their unborn child, who this healthcare is intended for, they will get it with the passage of AM1490 and LB690. Colleagues, many of us on this floor, and myself being a practicing Catholic and someone who believes in the seamless-garment-of-life theory, protecting life from conception to natural death, we have the opportunity to discuss a lot of issues in front of us. Sometimes some of us take what I say is a convenient truth, that we're pro-life when we want to be pro-life, we're consistent when we feel we need to be consistent. I notice that a lot of my colleagues who stand on this floor and rail against the need to reduce abortions aren't here in the body right now. I find that intriguing. They're able to put forward legislation to try to stop abortion, but when we actually are trying to have a debate about providing healthcare to unborn children, they're nowhere to be found. Colleagues, if you say you're pro-life, that's a personal decision, that's a personal view, and that's a personal perspective that I have to respect and I think all of us try to respect. But something I respect more than anything else is consistency: that if you believe something, that you are consistent with what you try to do and what you try to say. Whether it's LB22, whether it's LB521, whether it's LB690, whether it's AM1490, if you're pro-life, you want to provide healthcare to unborn children. Regardless of rules, regardless of procedures, we have seen that change throughout the last three years I've been here. We've seen senators put forward amendments that have no way, shape, or form germane to the underlying legislation, yet we bypass the inconvenient truth of the rules. [LB690 LB507 LB599 LB22 LB521]

SENATOR LANGEMEIER: One minute. [LB690]

SENATOR MELLO: Colleagues, I ask you to take a step back. Take a step back and think through the ramifications of taking a small step forward to provide healthcare to unborn children under AM1490. We have failed the state, as Senator Krist so aptly said, last year. We have an opportunity to redeem ourselves. We have an opportunity to show leadership. Particularly those of us who claim to be pro-life have that opportunity now in front of us more than ever, to stand up when the times are difficult, when the issue is difficult, and proclaim what we feel is the best public policy for this state. I believe the best public policy is AM1490 attached to LB690. Thank you, Mr. President. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Mello. Senator Cook, you're recognized.

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[LB690]

SENATOR COOK: Thank you, Mr. President, and good evening, colleagues. I rise in support of the motion to overrule the Chair on this issue of germaneness. As I recall, my colleague mentioned earlier, the bill sponsor, said that the reason, the intent, for her bringing the bill was to address the physical, emotional, and spiritual issues that a girl...I guess that's our legal definition, because she's not a woman, if she were a woman above 18 she could make her own decision without a notary and her parent or somebody who has ID and can pass himself or herself off as a parent or a legal guardian, so based on that I would say that the subject is germane to the subject matter of LB690. And since it has been brought up, having served here for two...two and a half years, but four sessions because we had a special session, a budget-reducing session, I cannot say that any other action or inaction by the body has caused more confusion and shame and embarrassment among the people who approached me than the choice of this body, members of this body, to eliminate prenatal care for...as it related to presumptive eligibility, for undocumented mothers, here in the Chamber. And I...perhaps this is...builds the argument that I also hear among people who have doubts about the true motivations of people who label themselves pro-life, when it became clear last year that certain lives needed protecting and other lives you really couldn't necessarily care if the mother, however old she was, and the child lived through the experience. So that's embarrassing. It made national news. I tried to distance myself from it. I was more than willing to vote in favor of that last year. Many of you who are here didn't want to be on the record for that. So let me say it again so it's in the transcript, I would have voted for that. I will vote for it if...once we get passed overruling the Chair, I will vote in support of AM1490. If we are concerned about the health of girls or women who are pregnant, then we're concerned about all of them, and not the ones that have rich parents that can take them to a private doctor, which is what happened before abortion became legal again, versus the ones we don't necessarily really care about and tend to ignore. So people know this, but I'm putting it out for the record so that history can remember what this Legislature chooses...or chose not to do and in all likelihood will choose again not to do. I really don't understand it, and it makes me very happy that I don't understand where that sense comes from, because it's very, very foreign to me. Thank you, Mr. President. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Cook. Senator Lautenbaugh, you're recognized. [LB690]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. Like Senator Karpisek, until now, I've been here all day and quiet too, I think. But I've heard a lot, and I have to rise and speak on this motion to overrule the Chair. And I've heard a lot of things said, sometimes with a harsh tone, sometimes with a harsh intent in questioning directed to people who are proponents or prioritizers of bills, and it occurs to me that perhaps the pins that Senator Nordquist handed out about civility didn't do the

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trick. I don't think more pins will help, either, as we get towards the end here. But in any event, I think we should tread very lightly when we talk about if you believe this, you must do this. I don't think we should be challenging people and saying they're not adequately pro-life if they don't believe that you should provide everything, or 50 percent of everything, or 25 percent of everything, or just, you know, however you want to measure it. I heard someone say if Senator Brasch was truly pro-life she would be supporting this amendment. Well, maybe she has an ulterior motive of passing a bill. And if this amendment gets attached, this bill will die. I am confident that it will be vetoed. I haven't heard that. No one has told me that. And the reason we don't know for sure, I guess, is because this is coming up on the floor. And I'm not going to criticize Senator Brasch for not bringing a bill that covers everything, because that would be a long bill. I believe in Exec Committee, we...or in Judiciary Committee we exec'd three or four times on this particular bill. And we didn't discuss, I don't recall, putting in the committee amendment, this amendment, despite the fact that this amendment was brought by a member of the Judiciary Committee and three of my other fellow members have spoken in favor of this amendment and in favor of overruling the Chair. This is not the way to do this. If this is germane, everything is germane. Everything we want to do to help people is germane. A jobs plan would be germane, because we all need money to support ourselves and support our families. You may feel passionately about this amendment, but that doesn't substitute for the correct ruling under the rules. And the Chair made that ruling and made it correctly. This is clearly not germane bringing this up as a floor amendment. I'm not going to question the motives of the people who bring it up as a floor amendment, all I'm saying is we shouldn't question the motives of the person who introduced the underlying bill either, if she chooses not to accept this amendment. And if you're upset about this being challenged as germaneness because other things haven't been, well, the other day someone was telling me, well, you should have said this, you should have said that, when he said this, you should have said that. I said, well, you have a button too. You could have stood up and said all of those things as well. It doesn't have to always be me in that particular circumstance. Well, if you want to challenge germaneness, you've got a button too. And in this case, this isn't germane and it will probably drag the bill down. And the ruling of the Chair, under our rules as they've been interpreted consistently this year, is correct. And I ask you not to vote to overrule the ruling of the Chair. Thank you, Mr. President. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Lautenbaugh. Senator Carlson, you're recognized. [LB690]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I wasn't going to speak on this, but I decided to, one time. I will not vote to overrule the Chair, but here's my reason. If I take Senator McGill's amendment by itself, and if that were a separate bill and we were discussing it and voting on it, I would have a very, very difficult time voting against that bill. If we go through with this, overrule the Chair, we've thrown process out the window, because her amendment is part of another bill

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that's in committee, that's not voted out of committee. Earlier today I thanked many of you for voting for LB400; that was a bill that a year ago Senator Dierks had. Had a hearing, voted out of committee 8-0 without a priority, so it wasn't heard. Now we got a new session. Have to start all over again. The bill was heard again in Revenue, and I said this morning I made a mistake by not prioritizing the bill, so I had to find another way, but that bill was voted out of committee 8-0. And found a way through the process to get it back up so that we could debate it today, and you voted to send the bill to Select File. We did not throw the process away. The process is there to help keep things orderly. I think Senator McGill's amendment by itself is a good bill, but it's not fitting the process, and so in that regard I won't vote to overrule the Chair. Thank you. [LB690 LB400]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Bloomfield, you're recognized. [LB690]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I thought we were making some pretty good process today, but now I begin to wonder; about nine and a half hours ago we were talking about LB200 and fresh produce. Well, here we are again, we're talking about apples and oranges. These things do not mesh. We're talking about, one, notifying the parent, and two, taking care of an illegal alien. The two do not go together. I support the Chair's position and I will vote that way. Thank you. [LB690 LB200]

SENATOR LANGEMEIER: Thank you, Senator Bloomfield. Senator Avery, you're recognized. [LB690]

SENATOR AVERY: Thank you, Mr. President. Let me preface my comments by saying that I like AM1490. I supported this last year. I continue to support it and I like the amendment. However, I have been trying to find some way to reconcile what Senator McGill is trying to do with the underlying purposes of the bill. And I've come to the conclusion that I can't do it. The bill, LB690, opens up Chapter 71 of Nebraska statutes, and the amendment, AM1490, opens up Chapter 68. Those are two entirely different sections of law--one dealing with abortions and Chapter 68 dealing with Medical Assistance Act. Therefore, I am going to vote to sustain the ruling of the Chair because this amendment, unfortunately, is not germane. Thank you. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Avery. Senator Coash, you're recognized. [LB690]

SENATOR COASH: Thank you, Mr. President. I don't have a problem with AM1490. I'm okay with that. When it was a bill last year, I supported it. Caught hell for that. If it was a bill this year, I would support it. I'll catch it for that too. I consider myself to be a pro-life guy. I don't call that just a label. It is who I am. It is my values. And AM1490 matches

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those values. But I'm also okay...I'm okay with Senator Brasch saying it's not germane. That's in the rules. She can say that if she wants. Senator McGill said, I want to overrule that. She can do that too. When I first got down here, someone told me once, you can do anything you want in that body, Senator Coash. You just got to get 24 other people to agree with you. I don't question Senator McGill's intent of bringing AM1490. She supported that as a bill as well. She wants to see healthy babies. I want to see healthy babies too. I also want to see parents of women...girls who are going to have an abortion get their parents involved. Here's the reality of it. Several people have talked about it. If we overrule the Chair and adopt AM1490, LB690 goes away. So this is the perfect storm. It's not a place I wanted to be in. It's not a place I expected to be in. But we've got a good bill in LB690 and we have a good bill that AM1490 is modeled after. I don't want to throw the baby out with the bath water, so to speak. It's a real possibility if the Chair is overruled and we adopt the amendment, this bill goes away. We know that. And because I can support AM1490 and I can support LB690, I'm in a position that I didn't want to be in. But here we are, and I'm not going to fault anybody for bringing this amendment, and I'm not going to fault anybody for challenging it, and I'm not going to fault anybody for trying to overrule it. We can do all that stuff. I turned a tanning bill into a cemetery bill. Thank you for your help with that, colleagues. We can do that. We can do anything as long as it's not against the rules, including overrule the Chair. But we have to consider what the real outcome is going to be. And the real outcome is going to be LB690 goes away if we do this. Thank you, Mr. President. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Coash. Seeing no other lights on, Senator McGill, you're recognized to close on your motion to overrule the Chair. [LB690]

SENATOR MCGILL: Thank you, Mr. President and members of the body. This has been a fabulous debate. I really didn't know what to expect when I did try to put this amendment onto the bill. And I'm really happy with how many people have stood up and supported, at the very least, the underlying basis of my amendment. There is a bill sitting in HHS Committee that deals with this issue on a broader basis, and it's something, I have been told, they're actually going to meet on on Tuesday to discuss. And I want people to know that even if the HHS Committee decided to vote that bill out in the form for just minors, if we vote that this amendment now is not germane, then we can't come back this session and try to amend a bill that's actually been voted out of committee into this. So just to make people aware of that process. I know some people have been concerned that that bill did not come out of committee yet, even though the majority of the members who have spoken today do support the amendment and supported the override here of the overruling of the Chair, that if we make this decision right now, that it's not germane, then we can't go back over the next week and make a change to that. I'm very glad that we've...the interest is clearly there to keep pursuing this issue. I do feel, absolutely, that this is germane, due to Section 5 in this bill. I don't think the section numbers of statute are as important as the topic matter, and clearly Senator Brasch's bill talks about public assistance benefits. And I want to make sure it's

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clear to everyone that my intention is not to kill LB690. This is something I truly believe in and clearly other people in this body believe in it too. And I do question folks who believe, okay, this is going to get vetoed by the Governor if AM1490 is attached. Well, does that...well, next year if we're bringing it as an independent bill, it will be vetoed by the Governor. So if that's your sole reason, you're saying, oh, we can do it as an independent bill next year when it won't bring down LB690, that's saying, okay, we know LB690 will pass easily but we don't really think we want to override the veto on this this year. And that makes me think, why would it be any different next year if we have the numbers and the Governor vetoes it? What's the difference if it's this year or next year? If the votes are here, the votes are here. Again, this is about the health of this woman, of this child. I believe it is absolutely germane, and I'd appreciate your support. Thank you, Mr. President, and thank you for the debate. [LB690]

SENATOR LANGEMEIER: Thank you, Senator McGill. The ruling from the Chair was that AM1490 is not germane to LB690. The motion before the body is, shall the Chair be overruled? There are five people excused, so this takes 23 votes. Senator McGill, for what purpose do you rise? [LB690]

SENATOR MCGILL: For a call of the house. [LB690]

SENATOR LANGEMEIER: There has been a request to put the house under call. All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB690]

CLERK: 41 ayes, 0 nays, Mr. President, to place the house under call. [LB690]

SENATOR LANGEMEIER: The house is under call. Senators, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Cornett, please return to the Chamber, the house is under call. Senator McGill, for what purpose do you rise? [LB690]

SENATOR MCGILL: Can I get a roll call vote as well? [LB690]

SENATOR LANGEMEIER: Thank you. All members are present and accounted for. Again, this takes 23 votes. The motion is, shall the Chair be overruled? All those in favor vote yea; all those opposed vote nay. Mr. Clerk, please call the roll. [LB690]

CLERK: (Roll call vote taken, Legislative Journal page 1689.) 16 ayes, 28 nays, on the motion to overrule the Chair. [LB690]

SENATOR LANGEMEIER: The motion is not successful. The call is removed. Mr. Clerk, next motion. [LB690]

CLERK: Mr. President, Senator Haar would move to amend the bill with AM1510.



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(Legislative Journal page 1689.) [LB690]

SENATOR LANGEMEIER: Senator Haar, you're recognized to open on AM1510. [LB690]

SENATOR HAAR: Thank you, Mr. President and members of the body. My amendment, and I'm sorry to be a stickler on this, but if we're going to write legislation, I think it has to be accurate, and I brought up the issue a number of times about the notary, and I've been told the notary doesn't have to see what's going on. But I would refer you to the Official Notary Public Handbook put out by the Secretary of State's Office, and it says, and I quote...this is under "Guidelines and Good Practices for Proper Notarizations." "Prior to notarizing, the notary should look over the document to be notarized to be sure there are no blank lines or spaces in the document. Blank lines or spaces should be (a) completed by the principal or (b) crossed through by the principal prior to notarization. Failure to do so leaves the document open to easy alteration after the notarial act is performed." I think it's very clear that the notary can't just sign a blank document. It doesn't mean anything. It's not according to the guidelines. So my...and I understand I run the risk of making what, in my opinion, is a bad law better. There were a number of amendments to my QCPUF bill that did the same thing in the eyes of the person who voted against it, but...so I think this makes sense. So it takes page 4, lines 17 through 21, and replaces it...very similar, but, "Consent means a notarized written statement that does not mention the procedure sought, signed by a parent or legal guardian of the pregnant woman or an alternate person as described in Section 4 of this act, declaring that the affiant has been informed that the pregnant woman intends to seek a medical procedure and that the affiant consents to the medical procedure." Now, you can't have it both ways. The handbook says that a notary has to look over the document and that there can't be blank spaces. So what this amendment simply does is to say that the notary simply has to sign...I'm sorry, has to sign a document saying the woman intends to seek a medical procedure. And if...I guess if you don't go along with this document, we've set up a situation where there's no way that a notary could sign the document giving permission for the abortion. Thank you. [LB690]

SENATOR LANGEMEIER: Thank you, Senator Haar. You have heard the opening on AM1510 offered to LB690. The floor is now open for discussion. Senator Council, you're recognized. [LB690]

SENATOR COUNCIL: Thank you, Mr. President. And with all due respect to my colleague Senator Haar, I rise in opposition to AM1510. And while I know your attempt is to address the notarial issue, the fact is, is that by substituting "a medical procedure" for "an abortion," it actually eviscerates the purported intent of LB690, and that is to obtain a parental consent to an abortion. If it just says, "medical procedure," technically, a minor has to have parental consent for any medical procedure, so there's nothing inherent in your amendment that would rise to the level of providing a parent any

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knowledge of the particular medical condition that LB690 is seeking to address. And that was the issue I raised when Senator Brasch was attempting to explain what the notarial statement was to contain. It can't just contain "medical procedure." And if that's the case, you know, let's go with yours, because then it actually does defeat what the purported stated purpose of LB690 is, and that is to obtain consent to a specific medical procedure. And I do agree with you that, as currently drafted, the bill is seriously flawed with regard to breach of privacy, confidentiality, and a presumptive violation of HIPAA, because, according to the current language of the bill, the statement has to say that the woman intends to have an abortion and that the parent is consenting to that abortion. To just say "medical procedure," if I'm the teen mom, I could just go to my parents and say, you know, I need to have a cyst removed and I need your consent, can you sign this so that I could have this medical procedure? I think you've uncovered and revealed with a great degree of clarity one of the fundamental flaws with this bill, is that if you want consent to an abortion and that consent has to be via a notarized statement, you're going to breach the privacy and confidentiality rights of the young woman because, you're correct, Senator Haar, that a notary has to read the document to be able to say that the document is what it purports to be and that the person who is signing it is who they purport to be. So I respect and appreciate your effort here to try to address a glaring flaw in LB690, but unfortunately I think it creates far more problems than it's intended to correct. So for those reasons, I cannot support AM1510. I would urge my colleagues not to support it, but by doing so I'm doing what you, Senator Haar, didn't want to do, and that was make a bad bill better. You could certainly approve this amendment and all it would do would be to make a bad bill worse. Thank you. [LB690]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Thank you, Senator Council. Senators wishing to speak: Ken Haar, Brasch, and Schumacher. Senator Haar, you're recognized. [LB690]

SENATOR HAAR: Thank you, Mr. President and members of the body. I'd like to ask Senator Brasch some questions, if I could. [LB690]

SENATOR CARLSON: Senator Brasch, would you yield? [LB690]

SENATOR BRASCH: I yield. [LB690]

SENATOR HAAR: Thank you very much. How can we make these two work, because right now, again, the Official Notary Public Handbook says that the notary has to look at the document and there can't be blank lines or spaces in the document, yet you've said earlier that the notary doesn't have to know what this document is about. How do we justify...how do we make that work? [LB690]

SENATOR BRASCH: What the notary requires is that it affirms the substance of the

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statement that the identity is indeed the parent, so we don't have a situation where a man to serve time for an abortion lie. The parent is indeed the parent, affirming their identity. Perhaps a birth certificate, I don't know. You know, maybe that would be what you would need, and what I would like to ask is if we can work on this between General File and Select. I also want to ensure privacy, and the notary is basically proving the parent, guardian, the person legally in charge of being there is indeed the person that is there and not someone overpowering this person or coercing them or making them do something that they do not want to do. And that is why, you know, where you take it, I am who I say I am, we could work on that. You know...but I believe that it is there where they can take that document, show the physician that I am indeed the parent. I'm not someone else. I'm not a boyfriend or a coach or someone, so the parent is truly the parent in charge here. [LB690]

SENATOR HAAR: So you would say that according to your current bill, all that the notary has to do is to have a piece of paper saying, I am the parent. [LB690]

SENATOR BRASCH: The notary must affirm that that is truly the parent. [LB690]

SENATOR HAAR: And then where does the part get added that says I give permission? [LB690]

SENATOR BRASCH: They take that I am the parent form, and they go to the clinic, saying, I am the parent, and the clinic, the doctor, whoever, they give consent. They take the form identifying themselves. You know, how do we do it at airports? I don't know; you identify yourself. And what we're asking is a notary...and I would like to say one thing too. Just...because I do come from a small town, and we do have privacy there. You know, I hope people aren't, you know, stereotyping small towns, saying...and there are a lot of notaries there, and people are respectful and... [LB690]

SENATOR HAAR: Okay, but...and I'm sorry, you're coming up next and you can cover that. No, nowhere did I say this would happen only in a small town. I think having been born and raised in a small town though, generally the people in a small town know each other, whereas if I walk into First National Bank in Omaha, they're going to have no idea who I am, nor are they going to care, unless, of course, they guess they know I'm a state senator, then it might be news. Anyway... [LB690]

SENATOR BRASCH: And that person could choose to go to another town. [LB690]

SENATOR HAAR: I'm sorry, let me finish. [LB690]

SENATOR BRASCH: I'm sorry. Sorry. [LB690]

SENATOR HAAR: I think this whole issue... [LB690]

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SENATOR CARLSON: One minute. [LB690]

SENATOR HAAR: Thank you. I think this whole issue of privacy and of wishing that a notary could just put their name on a document saying that, you know, where the document says, I'm their parent, and then they take that to the doctor doesn't, I think, fit with the rest of the bill. And I think this privacy issue is really an important one, because a family...one of the requirements of this is that a parent act only in the best interest of that child, the pregnant child, and I think some parents may believe that their privacy is more important than the interest of that pregnant child. Thank you. [LB690]

SENATOR CARLSON: Thank you, Senator Haar and Senator Brasch. And Senator Brasch, you're now recognized on your time. [LB690]

SENATOR BRASCH: Thank you. I do want to mention that, again to Senator Haar, that we are willing to write and prescribe what he would like to see on that document identifying the parent. We can work with him on that. I would like to give the rest of my time to Senator Nelson, please. [LB690]

SENATOR CARLSON: Senator Nelson, 4 minutes and 30 seconds. [LB690]

SENATOR NELSON: Thank you, Mr. President. Thank you, Senator Brasch. Members of the body, colleagues, I think we need to be clear about what a notarized statement is. I've been a notary for 30 years now. It's not my province as a notary when someone comes to me with a document, to read that document. We have wills notarized, deeds notarized, and everything. My only purpose as a notary, and it's true of every notary under their commission, is to verify the identity of the person signing that document. The Secretary of State may have rules and things and caution people, notaries, you know, to look for spaces where something could be written in. That's all very well and good, but that's not part of the statute. The statute is very clear. I have to identify that a person who is signing it is who he or she claims to be. And if I don't know them personally, then I ask for identification, a photograph, or something like that. And then the verification that I am signing and notarizing says this, sworn to...before me in the presence, in my presence or in the presence of other witnesses that might happen to be there, they are swearing that they are who they are. They're not attesting to what's in the document. I'm not supposed to read it. I shouldn't be reading it. It's none of my business. And so I do agree with Senator Brasch that probably the language in the statute between now and Select needs to be clarified as to what the position of the notary public is. I am committed under the statute, I'm supposed to keep a log of who comes before me, and I don't have to ascertain that they are a parent of the person or a legal guardian or anything like that. I have to ascertain who they are and whether they are the person that they say is signing this document. And that's all we have with notarization. So I think...I just want to make that clear so there's no confusion. We're asking here, or Senator

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Brasch is asking for, the consent means a notarized written statement. And then it goes on to say what shall be in the written statement. It's up to the person who prepares that to include all of the items and all the things that need to be said in that statement. The notary doesn't read that, only verifies who it is that signs. Thank you, Mr. President. [LB690]

SENATOR CARLSON: Thank you, Senator Nelson. Senator Schumacher, you're recognized. [LB690]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. This thing is getting "confusier and confusier" as we get into this discussion on this consent. First of all, I think that pretty clearly in line 4, or page 4, line 19, there's a typo, because the thing does not make any sense as it reads. It reads, consent means a notarized statement signed by a parent, legal guardian, or alternate person described in Section 4 of this act if the pregnant woman declaring that the affiant has been informed that the pregnant woman intends to seek an abortion and that the affiant consents to the abortion. Well, I think the word "if" should be "of," then it would make sense: consent means a notarized statement signed by a parent of the pregnant woman. And I filed a floor amendment to make that correction just in case nothing else gets done with regard to this. But it's not so simple, because this defines what consent is. That's what it is under the bill, so you can't just say, well, we'll come to some deal as to a definition of consent that hides what they're consenting to. Consent is what this bill supposedly is about. Consent on behalf of the...so that the young mother...well-being is taken care of. So consent is the core of this. We have to see and have to clearly define what we're asking to be brought when we're asking for consent. Because on the next page, or two pages later, on page 6 at line 18, it says, nobody "shall perform an abortion upon a pregnant woman unless, in the case of a woman who is less than 18 years of age, he or she first obtains the notarized written consent." So if the notarized written consent is just a paper saying, I am the parent, blah, stop, well, then you bring that paper in saying, yeah, Dad signed this form, that doesn't do you any good. I mean, these definitions are tied together. So what we mean by notarized consent and what it's supposed to look like we should actually say in the bill, and we should make it clear as to what has got to be drug into the abortion clinic with a notarized signature on it. Otherwise, we're just spinning our wheels here tonight. I think that's important that we decide what is the consent, how is it documented, and whether we really need a notarized statement or whether just a statement signed by the true parent is enough, whether a birth certificate would go. Why does it have to be notarized? So I think this is an important thing and a technical thing, but it probably is the meat of what a consent bill is all about. Thank you, Mr. President. [LB690]

SENATOR CARLSON: Thank you, Senator Schumacher. Those still wishing to speak: Cook, Council, Haar, and Harr. Senator Cook, you're recognized. [LB690]

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SENATOR COOK: Thank you, Mr. President, and good evening, colleagues. I also...and I imagine that we're going to get to this, and I may also get an opportunity to become part of making this bill, with which I disagree, better. This is the part I don't get. All right, I walk up, and I've got my passport or my positive government-issue I.D. or my Baker's card or whatever, and I walk up with this person that I say is my daughter. And I'm showing this to, let's say, Senator Nelson, since he's been a notary for 30 years. I show him my passport, it says right there, I am Tanya Cook. What else does the piece of paper say or what other documentation might I need to provide so that I can sign truthfully, I, Tanya Cook am the parent or legal guardian of this child? Do I bring the birth certificate? Do I bring a piece of mail with the same address? It's likely that the child won't have the same last name as me in this postmodern era. That...the notarized consent, okay, and I know that notarizing something is supposed to elevate it to this level of "truthiness," but how do I prove that this...I know how I prove I'm me, in theory, with my passport, like I said, but I don't know how I prove that the person that I'm bringing to the notary or to the clinic is my child. Can Senator Nelson...would he yield to a question and help me understand how me...help me understand this, please? [LB690]

SENATOR CARLSON: Senator Nelson. [LB690]

SENATOR COOK: Is he not back there? [LB690]

SENATOR CARLSON: I don't see Senator Nelson. [LB690]

SENATOR COOK: All right. [LB690]

SENATOR CARLSON: Oh, Senator Nelson is coming. Would you yield, please? [LB690]

SENATOR NELSON: Yes. [LB690]

SENATOR COOK: Thank you. Senator Nelson, I'm not certain if you heard my question, so I'll kind of summarize. I understand that I could show up at your notary booth in the mall or wherever you are or your lush and very impressive offices at the top of an Omaha downtown office building with my positive identification, and in order for you to notarize it then I will sign, here I am, I'm Tanya Cook, I will show you this positive I.D. and I will sign that. How do I prove to you or what does it say on the form that this is my child or my charge? What other pieces of paper is the bill asking for or would you ask for as a notary? [LB690]

SENATOR NELSON: Senator, I would ask for nothing else. The birth certificate, or with a photograph, or anything of that sort, will verify that you are, in fact, Tanya Cook. You are saying, by saying that, and when I say verified by me, and I can't think of the exact term, anyway, you are attesting by your signature to the truth and validity of what's in

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that document. [LB690]

SENATOR COOK: Okay. [LB690]

SENATOR NELSON: And that's what you're doing. The burden is on you... [LB690]

SENATOR COOK: Okay. [LB690]

SENATOR NELSON: ...if it turns out that you signed fraudulently or misrepresented yourself and in fact you weren't the parent. So it's a difficult thing, you know, here in this bill to find a way to, you know, verify that you are, in fact, the parent. All the... []

SENATOR CARLSON: One minute. [LB690]

SENATOR NELSON: All the notary can do is just verify that you are who you are, and not what you're saying or alleging in the document itself. [LB690]

SENATOR COOK: All right. [LB690]

SENATOR NELSON: That's my answer. [LB690]

SENATOR COOK: All right. Thank you. I think it is important that whatever step we take, if we're going to stick with this bill and what I understand the intent of the proposal to be, that the thing I'm swearing to, or signing, it's going to have to say something beyond "medical procedure" or this thing I want to do I have to get an adult's permission for. I don't really know how you can protect the privacy, whether it's family privacy or individual privacy or HIPAA, with that. Thank you. [LB690]

SENATOR CARLSON: Thank you, Senator Cook and Senator Nelson. Senator Council, you're recognized. [LB690]

SENATOR COUNCIL: Thank you very much, Mr. President. And thank you, Senator Cook, for going through that exercise, because that is a very significant point, and Senator Nelson was correct that a notary does not have the authority, nor is it their function, to determine that you hold a particular status. All the notary does is to affirm that you are who you say you are, that being, you signed the document as Tanya Cook. All the notary does is affirm that you are, in fact, Tanya Cook because he or she either knows you to be Tanya Cook or you presented photo identification saying you were Tanya Cook. Again, all of the questions that are being posed right now reveal additional flaws in LB690, because the consent provision speaks to...all that the consent has to say is that the affiant has been informed that the pregnant woman intends to seek an abortion and that the affiant consents to the abortion. There's nothing in that section that says that the affiant has to attest to the fact that he or she is a parent or legal guardian.

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Even if it said that, this provision doesn't rectify the asserted problem of people who aren't who they say they are representing that they are that person, because I can submit a notarized statement that says, I'm the parent, I've been told that my child is pregnant, and I've consented to the abortion. And I may not be the parent, but I may be signing this consent form to enable this young woman...to be the parent. You don't eliminate that issue. And the example that was given of the prosecution...you'd be prosecuted in that case just as you were prosecuted in the case that Senator Harr is knowledgeable of. But a second, more glaring point is that, reading from the material that Senator Schumacher read from, and that's on page 6, that speaks to the core of this matter, it says that "no person shall perform an abortion upon a pregnant woman unless, in the case of a woman who is less than 18 years of age, he or she first obtains the notarized written consent of both the pregnant woman" and one or more of her parents or a guardian or, for a woman who a guardian has been appointed pursuant to section..."he or she first obtains the notarized written consent of her guardian." Who do they give the consent to? All that section says is they have to obtain written consent. That section doesn't say you have to give that consent form to anyone, that you have to produce it to anyone. Interestingly enough, in the next section, Section 4, you only have to produce this notarized statement if the woman declares that she's a victim of sexual abuse or child neglect. In that circumstance, "if the pregnant woman declares in a signed written statement that she is a victim of abuse as defined in Section 28-351," or sexual abuse, or child abuse, "then the attending physician shall obtain the notarized written consent required by Section 71-6902." So as currently drafted... [LB690]

SENATOR CARLSON: One minute. [LB690]

SENATOR COUNCIL: ...if the young woman is not a victim of sexual abuse or child abuse or child neglect, she gets a notarized statement of consent and doesn't have to provide it to anyone. And, in fact, I would submit to you that if a young woman advised the physician that she had received said written consent, there's nothing in this statute that would subject that physician to any criminal or civil liability, because there's no requirement imposed for that physician to receive that written notarized consent before performing the procedure. Again, in the haste to get this bill out, and I'm going to tell you, haste. I have never exec'd on one bill as many times as we exec'd on this bill in an attempt to get the bill out. [LB690]

SENATOR CARLSON: Time. Thank you, Senator Council. Senator Ken Haar, you're recognized. [LB690]

SENATOR HAAR: Mr. President and members of the body, when you said it was Haar, Harr, we weren't quite sure which one went first, but thank you very much. (Laugh) Luckily, there's not a third Haar, because that would be embarrassing. I would like to ask the senator some questions, if I could, please. [LB690]



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SENATOR CARLSON: Senator Brasch, would you yield? [LB690]

SENATOR BRASCH: I do yield. [LB690]

SENATOR HAAR: Thank you very much, Senator Brasch. On page 6 it states, and this is the original one as stated, it may be a different page on the amendment that was adopted, but it said, in granting consent, a "parent or guardian shall consider only their child or ward's best interest." And if this is too personal a question, I guess you can tell me it is, but is there any instance in which you could approve, in the best interest of your child, to give permission for an abortion? [LB690]

SENATOR BRASCH: If my child's life was at stake and it was an emergency, I believe those are...when it...I would think, yes, you know, if my child was...would lose her life. [LB690]

SENATOR HAAR: And the emergency, I believe, is covered in another part of the bill. So what kind...besides those two elements, the child's...the pregnant child's life is at stake or there is another emergency of some sort, can you think of any case, not for yourself but just any parent, where they would consider it in the child or ward's best interest to have an abortion? That's a question, please, yes. [LB690]

SENATOR BRASCH: Okay. For...it would depend...it just depends on what is happening. I don't know. I mean, I'm not there. I don't...you know, give me a situation. [LB690]

SENATOR HAAR: Well, I guess... [LB690]

SENATOR BRASCH: I mean, and it's consent. I mean, we're talking from notification to consent. That's basically what we're at here. Again, I'm not challenging...if you're going back to pro-life, pro-choice, right now what we're trying to do is avoid a situation where a young woman can have...you know, cannot be coerced, cannot have somebody impersonate her parent or her guardian. Trying to put in a level of protection here, somehow. Your question was a good one on the notary. I would like to work with you on that. What can we do to bring that to ensure privacy, to ensure the identity of that parent? I would like to, you know, bring that between now and when this bill finally advances. You know, should it... [LB690]

SENATOR HAAR: Yes, well, yeah, and I accept that offer because... [LB690]

SENATOR BRASCH: You know, and again the situations, that's not...you know, that's the parent, that's up to the parent. That's what this is all about, it's up to the parent, not up to Lydia Brasch here, up to that parent. That parent relationship, that bond, that requirement that that parent be a part of this decision, whatever that decision may be,

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whatever those circumstances may be, may truly be their parent and assist, whether it's in aftercare... [LB690]

SENATOR CARLSON: One minute. [LB690]

SENATOR HAAR: Okay. Good. Well, I will take you up on that offer, because the most difficult thing is, if the bill passes, as I believe it will, then there shouldn't be the ambiguities that prolong and protect...that make this decision harder, that make this decision ambiguous, that make...that prolong this decision. So I think precision is an important one, and we will take you up on that offer. Thank you. [LB690]

SENATOR CARLSON: Thank you, Senator Haar and Senator Brasch. Senator Burke Harr, you're recognized. [LB690]

SENATOR HARR: Thank you, Mr. President. When I hit my light, some of these issues had not been settled. I think it's pretty well settled now. Notary...all the notary does is, just to repeat what's been said, all the notary does is verify the person who signs this document is that person. It does not attest to the underlying truth of the document. So if I sign this and say, I am Senator Brasch's father, a notary would look at that and say, are you Burke Harr, yes. They would say...look at it, and it would be notarized. It doesn't go to the underlying truth of the document. I think that's very important to realize. Where it is important, possibly, is--and it gets back to Governor Orr's editorial, and it gets back to the case in Omaha a number of years ago--it makes it easier to prosecute, because now you can prove the person that took that person in there is, in fact, that person. So if I took Senator Brasch in there--I think she's not 18, I'm not sure--but if I took here in there, then at that point they would say, yeah, you know what, it's not your father. They wouldn't do it at that time. It would be an investigation later down the road, probably when she told her parents, and at that point they would start the investigation. And that's what happened in this case that she was referring to earlier, is the girl went to her parents. Under this bill it would be a Class III misdemeanor, and I honestly, I don't know what a Class III misdemeanor is, but it's not...90 days, is it 90 days? I don't know the fine. Not severe. The case that Kay Orr, Governor Orr, talked about in her editorial, that was a felony, so a lot more severe. Matter of fact, it was child abuse, endangerment of a child, so a lot more, a lot more. So while this bill provides a lower criteria, there are other actions under the law where we can go forward. And that's kind of...my problem. I had some issues with notary, to be honest with you, early on, and that problem was, it's the privacy issue, because there is no way a young girl...and I'm going to let everyone in on a secret, I'm an urban guy. I don't pretend to know a lot about rural, although I do know some. And I know if you're in a small town and you go to get a notary on this, there is no protection or privacy, so there are probably two or three notaries in town. It's not attorney-client privilege, it's not banker-bankee privilege. So you go to your bank, you say, hey, I have this document, mom and daughter, dad and daughter, hopefully mom, dad, and daughter, go, hey, go notarize this. That banker is going to know, oh, my

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goodness, they're having an abortion. And there's no protection, there's no privacy. I don't think it's a HIPAA violation, that you're required to show this to a third party. It sure creates...puts that vulnerable girl, which is what we're all concerned about, makes her a little more vulnerable, open to scorn, ridicule, and humiliation. I'm not...I know, I know that's not the intent of Senator Brasch with this bill. I think the intent, I think we've seen, is to make sure that girl is well cared for and that someone who isn't supposed to go in there and fake it doesn't fake it. I understand that, but I'm not sure if this is the best vehicle going forward, to require a notary. I know they tried this down in Arizona. There are some issues down in Arizona. Again, I think it's a good...the policy is very good. What we're trying to do here, excellent. The devil is in the detail. I think we need to look at how we can best forward... [LB690]

SENATOR CARLSON: One minute. [LB690]

SENATOR HARR: ...how we can best go forward with this as best as possible. And I appreciate the fact that Senator Brasch is willing to sit down between General and Select and look at better ways to have the intent, which is to make sure someone doesn't go in who is not supposed to but, at the end of the day, ensure that parent is who they say they are and that they are actually a parent. In this day and age with parents with different names than their children, you know, we can't just go off by last names. So it's important. It's something we need to address, and I appreciate Senator Brasch willing to negotiate on that. So thank you very much. [LB690]

SENATOR CARLSON: Thank you, Senator Harr. Senator Council, you're recognized. [LB690]

SENATOR COUNCIL: Thank you again, Mr. President. And I do want my colleagues to focus their attention on the fact that under the bill as drafted, the only time the physician is required to actually receive this written consent is if the child submits a written statement saying that she has been the victim of child abuse or sexual abuse or child neglect. If the child doesn't present said statement, there's nothing in this bill as currently drafted that requires that physician to obtain this notarized written consent. Quite to the contrary, the bill places the obligation on the young woman to obtain the notarized written consent. And even in the case under child abuse, sexual abuse, or child neglect, the physician is immune from any civil or criminal liability if they, in good faith, rely on a notarized statement, whether it was signed by Joe Blow or Jack the Ripper or their actual parent or guardian. There is no way for them to determine whether the person who signs this document is actually the parent or legal guardian or the grandparent, in the case of child abuse or sex abuse. So again, noting yet another serious flaw in the bill as originally drafted. And the other point that I want to make has to go to medical emergency. And I must make this statement in view of Senator Brasch's reliance on the testimony that was provided in support of what was originally LB202 and became LB251 by amendment, which was my juvenile resentencing bill, and

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the medical justification for that bill speaking to the mental development of minors, of teenagers, being the basis for consideration of eliminating the sentence of life without possibility of parole. And Senator Brasch has quoted a couple of times from testimony provided by individuals with regard to that mental health reality, that being that the mind of teenagers aren't fully developed. I don't disagree with that. Again I will note that that didn't carry weight on that bill, because Senator Brasch voted against it. But it does trouble me that in the medical emergency section of LB690 the only medical emergency is to avert the pregnant woman's death or will create a serious risk of substantial and irreversible impairment of a major bodily function. No reference to the mental health of the young woman being at risk and being the basis for a medical emergency. If you're really concerned about the mental development of these young people, these young women, and the impact and effect, first of all, an unintended pregnancy and then being faced with the decision whether to carry that child to term or to consider an abortion... [LB690 LB202 LB251]

SENATOR CARLSON: One minute. [LB690]

SENATOR COUNCIL: ...and not to take into consideration as a medical emergency whether a medical provider considers the carrying of the baby to term to impose a serious risk to the mental health of that young woman. At a minimum, I believe that the medical emergency section of this bill should provide for that mental health exception if to carry the baby to term would have a...place that young woman at risk of serious mental health issues. And I think that needs to be seriously considered, but again there are so many flaws in this bill that I urge the body not to advance it to Select File. That the bill is so seriously flawed that... [LB690]

SENATOR CARLSON: Time. [LB690]

SENATOR COUNCIL: Thank you. [LB690]

SENATOR CARLSON: Thank you, Senator Council. Senator Conrad, you're recognized. [LB690]

SENATOR CONRAD: Thank you, Mr. President. Good evening, colleagues. I was going to see if our colleague Senator Harr might be available, Burke Harr, that is, might be available to yield to a question. I see that he's making his way across the Chamber, and I was intrigued because I'd asked many times early on, in the beginning part of this debate, for Senator Brasch and other proponents to provide concrete evidence of the actual threat or policy issue that they pretend to address in LB690. Senator Brasch then, a few hours later, came forward and said something about an Omaha case where there was indeed a father who was posing as a parent for notification purposes and who was later arrested. So thank you for at least providing some information, and Senator Harr mentioned he was involved in that case, so, Senator Harr, if you would yield.

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[LB690]

SENATOR CARLSON: Senator Harr, would you yield? [LB690]

SENATOR HARR: Yes. [LB690]

SENATOR CONRAD: And Senator Harr, just so we have a clear understanding about how this, the relevance and impact of this specific case, what it is to LB690, not with precision but to the best of your recollection, when did that case occur? Last year, this year, five years ago, ten years ago? [LB690]

SENATOR HARR: It happened when I was doing preliminary hearings for the Douglas County Attorney's Office, so I would say '99 or 2000. [LB690]

SENATOR CONRAD: Okay. So it's fair to say... [LB690]

SENATOR HARR: I can't remember if...it would be fall of '99 through spring of 2000. [LB690]

SENATOR CONRAD: That's very specific. I'm impressed with your memory. Okay, so it would be fair to say that it was some time ago, and we don't need the specific date, but 1999 or 2000, and if that's wrong, I'm sure proponents will correct that for the record. But Senator Harr, you noted that your involvement in that specific case was in regards to a prosecution, is that correct? [LB690]

SENATOR HARR: It was a prosecution of a felony. As I said, I was doing preliminary hearings, so I helped bind it over. [LB690]

SENATOR CONRAD: Thank you. And do you happen to remember the outcome of that case? [LB690]

SENATOR HARR: There was a conviction, obviously, and I believe it was a felony, because of the statement earlier. Senator...or now Judge Retelsdorf had it. She was a prosecutor back then, and I believe...well, it was a felony of child abuse. [LB690]

SENATOR CONRAD: Okay. Okay. Thank you, Senator Harr. I really appreciate that. And I have no further questions in regards to that issue. But again, colleagues, this was...the whole premise of LB690 is that we have to close loopholes, "loopholes," in the existing parental notification statute and make it a parental consent statute to get after this vast public policy problem of people posing as parents and people who are imposters of the minor child's parents. Well, okay, Senator Brasch, fair enough, you've mentioned there is some case that happened in Ohio, and now we have on the record at least one instance of this happening in Nebraska. And here, lo and behold, 11 years

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later, we've developed a public policy response. Bravo. Quick, swift action. And let's not forget for one moment the result in that very case, wherein the system worked. The imposter was brought to justice under parental notification without the necessitated requirement of consent in LB690. So again, I do applaud Senator Brasch for at least bringing forward credible evidence of a Nebraska-specific policy issue, but again I fail to understand how LB690 almost... [LB690]

SENATOR CARLSON: One minute. [LB690]

SENATOR CONRAD: ...11 years later...thank you, Mr. President...addresses that issue wherein the perpetrator who committed the fraud was brought to justice. Again, we have a record that is void in terms of the public policy need to perpetuate LB690, other than the fact that it is a thinly veiled antichoice, antiwoman, antihealthcare agenda. Thank you, Mr. President. [LB690]

SENATOR CARLSON: Thank you, Senator Conrad. There are no other senators wishing to speak. Senator Haar, you're recognized to close on your amendment. [LB690]

SENATOR HAAR: Thank you, Mr. President. I've had some dirty looks from some of my colleagues for introducing this, but I think...I assume LB690 will eventually pass, and when this is applied, it is absolutely important that there be no question about what the law requires, so that this child, this pregnant child, will...and her parents, guardians, whatever, will know exactly what the law is and there won't be any delay because of not knowing, and not trying to stumble over a poorly written law. With that, I will withdraw my amendment and I will work with Senator Brasch on that definition. Thank you. [LB690]

SENATOR CARLSON: Thank you, Senator Haar. The amendment is withdrawn. Mr. Clerk. [LB690]

CLERK: Mr. President, Senator Council would move to amend with FA27. (Legislative Journal page 1689.) [LB690]

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

SENATOR COUNCIL: Yes, thank you, Mr. President. FA27 was prompted by this body's action on the germaneness motion. And that is because I remain convinced that Senator McGill's amendment was, in fact, germane, particularly in light of Section 5 of LB690 and Section 71-6903 of LB690. And for that reason I've introduced FA27. And what FA27 does is delete from page 7 of the green copy of the bill this provision: If a pregnant woman is denied financial support by her parents, guardians, or custodians

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due to her refusal to obtain an abortion, the pregnant woman shall be deemed emancipated for purposes of eligibility for public assistance benefits, except that such benefits may not be used to obtain an abortion. This language, in light of the ruling and the vote on germaneness, should not be a part of this bill. The only public assistance that would be available to a pregnant teen would be prenatal benefits. And currently as a result of action taken by this body last year, we specifically by that action withdrew from eligibility for prenatal care under Medicaid teen moms who resided with their parents if their parents' income did not make them eligible for Medicaid. We specifically held that the teen mom could not access Medicaid prenatal care benefits based upon her status as a teen mom, but it would be based upon the income of the family. And here this language suggests, and as Senator Campbell stated, while not entirely clear, presumptively provides automatic eligibility for prenatal care for any teen mom who doesn't elect to have an abortion. And since the body was of the belief that the provision of prenatal care is not germane to the bill, then this provision should be eliminated from the bill, as well as the provision on page 8 beginning at lines 2 and running to line 4 that says, "The requirements and procedures under this section are available to pregnant women whether or not they are residents of this state." I don't know what that means. If it doesn't mean undocumented women who are pregnant would have eligibility for prenatal care, I don't know what this section is intended to do. And as such, without an explanation of what this section is intended to do, I submit to you it should be deleted. So for purposes of making this bill more in line with what the body believes it should be, in view of the vote taken on Senator McGill's amendment, then FA27, which calls for the deletion from the green copy of the bill lines...beginning with the word "If" on line 19, running through line 24 on page 7, and beginning on line 2 and running through line 4 on page 8, because it is not clear what those sections are intended to accomplish. And again, if it's not prenatal care, then I don't know why it's in this bill. And if "nonresidents" is not defined, then I don't know why we would want to provide benefits whether or not someone is a resident of this state or not. So with that, I would urge the body to adopt FA27. [LB690]

SENATOR CARLSON: Thank you, Senator Council. Members, you've heard the opening on FA27. Are there senators wishing to speak? Senator Nelson, you're recognized. [LB690]

SENATOR NELSON: Thank you, Mr. President, colleagues. I'd like to ask Senator Council a question or two, if she will yield. [LB690]

SENATOR CARLSON: Senator Council, would you yield? [LB690]

SENATOR COUNCIL: Yes, certainly. [LB690]

SENATOR NELSON: Just for clarification, Senator, I think your amendment refers to line 20, but aren't we starting on line 19 in the green copy? [LB690]

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SENATOR COUNCIL: Yes, it begins on line 19 with the word "If," and if I need to make a floor amendment... [LB690]

SENATOR NELSON: All right. [LB690]

SENATOR COUNCIL: ...to a floor amendment...it begins with the word "If" on line 19 and extends to the end of line 24. [LB690]

SENATOR NELSON: Thank you. I've just read what you want to delete, quickly, but basically it appears to me that if the woman is denied financial reports by...or support by her parents, guardians, or custodians, because of refusal, she will be deemed emancipated for purposes of eligibility for public assistance benefits. Where does it say prenatal care? [LB690]

SENATOR COUNCIL: Well, the fact is, is that if she's a pregnant woman, the only public assistance benefit available to her is prenatal. [LB690]

SENATOR NELSON: Would she be available for what we used to call food stamps or for other types of public assistance? [LB690]

SENATOR COUNCIL: She may be eligible for food stamps. And the issue here...and that's the question that Senator Campbell and I both had, when it says that the parent refuses..."denied financial support," what does that mean? [LB690]

SENATOR NELSON: Well, it doesn't mean that she's going to go running somewhere for prenatal care. I think you're reading something in here that really isn't there. Perhaps that ought to be clarified, but I don't see the reason for deleting it, and I think as we move on to Select that that could be amplified. And then addressing on the next page here...it's difficult to see because of the light. All right, I suppose what you want to delete there also has to do with prenatal care, is that correct? [LB690]

SENATOR COUNCIL: I don't know what it has to do with, Senator Nelson. That's why I'm asking that it be deleted. It hasn't been explained. [LB690]

SENATOR NELSON: All right. [LB690]

SENATOR COUNCIL: Whether or not the pregnant woman is a resident. [LB690]

SENATOR NELSON: All right. I'll defer to that and perhaps we do need some explanation on that. But I would still say, in my mind, that there wouldn't be any reason for, in the first part of your amendment, deleting that section, because we are extending it to perhaps suggest that it deals with prenatal care and is confined only to that. Thank



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you, Senator. May I ask...thank you very much. Perhaps I could ask Senator Brasch to answer a question or two. [LB690]

SENATOR CARLSON: Senator Brasch, would you yield? [LB690]

SENATOR BRASCH: Yes, I yield. [LB690]

SENATOR NELSON: Thank you, Senator Brasch. Have you been listening to the discussion between Senator Council and myself. [LB690]

SENATOR BRASCH: Yes. [LB690]

SENATOR NELSON: All right. And I'm on page 8 and lines 2 to 4, and Senator Council suggests that she really doesn't know why the lines 2, 3, and 4 are in there, and so I'm going to ask the question, why are those inserted in your bill? [LB690]

SENATOR BRASCH: This bill was constructed based on input from many other states, other organizations, existing law that we had for parental notification, and I am happy to address this question on... [LB690]

SENATOR CARLSON: One minute. [LB690]

SENATOR BRASCH: ...should it need change or not; I'm not certain. [LB690]

SENATOR NELSON: Well, taking a closer look at it, it's talking about someone coming in from Iowa or Kansas or something like that, is that correct? [LB690]

SENATOR BRASCH: Yes. [LB690]

SENATOR NELSON: Doesn't necessarily deal with undocumented persons? Is that correct? [LB690]

SENATOR BRASCH: No, no, it is not an immigration question. [LB690]

SENATOR NELSON: All right. All right. Thank you very much. Thank you, Mr. Speaker. [LB690]

SENATOR CARLSON: Thank you, Senator Nelson, Senator Council, and Senator Brasch; and Senator Council, you're recognized. [LB690]

SENATOR COUNCIL: Yes, thank you very much. And in response to Senator Nelson, you correctly note that other public assistance could come in the form of SNAP benefits, but it does not deny the fact that such public assistance benefits can and, in the case of

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a pregnant woman, more likely than not do include prenatal care, that that's one of the primary benefits. And the way the language is written, it says, "denied financial support." I don't know what that means. It doesn't say kicks the young woman out of the house. I don't know what denying financial support means in this context. If they're not in a position to provide medical care, under current law, by our actions last year, if the family is not able to provide medical care but isn't eligible for Medicaid, the young woman would not be eligible for Medicaid. So that requires a lot of clarification. And if Senator Brasch would yield to a question, please. [LB690]

SENATOR CARLSON: Senator Brasch, would you yield? [LB690]

SENATOR BRASCH: I yield. [LB690]

SENATOR COUNCIL: In response to Senator Nelson's questions about the language appearing in the green copy of the bill, on page 8, lines 2 through 4, did I hear you to say that that's language that's currently in our parental notification law? [LB690]

SENATOR BRASCH: It's underlined, so I believe it's new. But I do believe we built the new information on existing parental notification...or consent laws, excuse me. [LB690]

SENATOR COUNCIL: Okay. And when you say existing, you're talking about from other states. [LB690]

SENATOR BRASCH: Correct. [LB690]

SENATOR COUNCIL: And do you have any idea what those other states meant by the phrase, "whether or not they are residents of this state"? [LB690]

SENATOR BRASCH: I would like the opportunity to find out. [LB690]

SENATOR COUNCIL: Okay. So it's possible that they were speaking to undocumented nonresident aliens, correct? [LB690]

SENATOR BRASCH: It depends on their state law, I believe. [LB690]

SENATOR COUNCIL: So it is possible. [LB690]

SENATOR BRASCH: If their state laws cover immigration laws. [LB690]

SENATOR COUNCIL: Yes. So...and that's the point I'm making, is that, you know, by making a statement that this in no way relates to immigration, where this language was taken from other states' laws without any clarification of what those other states' laws provided to make the statement, while it may not have been your intent that this

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language didn't apply to immigration, there's nothing about this language standing alone that does not apply to immigration. And for those reasons I still maintain that lines 2 through 4 on page 8 should be deleted, because all that's been done here is to extract some language from some legislation that another state has enacted, without any determination of what relationship this language has to the other portions of LB690. Until such time as that is determined with any degree of clarity, I still maintain that lines 2 through 4 on page 8 should in fact be deleted. [LB690]

SENATOR CARLSON: One minute. [LB690]

SENATOR COUNCIL: And again with regard to, Mr. Clerk, if I need to, I may need to substitute because there were two typographical errors, and they were my fault, in FA27. If Mr. Clerk would tell me the best way to address those to make sure that the proper amendment is before the body. [LB690]

CLERK: Senator, I think we've got a revised draft here, if you would like to review it. [LB690]

SENATOR COUNCIL: Okay. [LB690]

CLERK: Not to suggest what you might want to do, but we've got another amendment. While you were doing that, we could take up the other amendment... [LB690]

SENATOR COUNCIL: That would be great. [LB690]

CLERK: ...if that works for you. [LB690]

SENATOR COUNCIL: That will be fine. Thank you. [LB690]

CLERK: So, Senator, then, just to proceed, would it be all right to withdraw this? [LB690]

SENATOR COUNCIL: Withdraw that one, yes. [LB690]

CLERK: Okay. Thank you. [LB690]

SENATOR CARLSON: Motion is withdrawn. Mr. Clerk. [LB690]

CLERK: Senator Schumacher, I now have your floor amendment, Senator, FA28. (Legislative Journal page 1690.) [LB690]

SENATOR CARLSON: Senator Schumacher, you're recognized to introduce your amendment. [LB690]

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SENATOR SCHUMACHER: Thank you, Mr. President. The thing that was bothering me is in the definition of "consent," which is the core of this particular bill, and it has the word "if" on line 19, and no matter which way I read that, it didn't make any sense. I've since talked to Senator Coash, and I think we are in general agreement that that is a word that does not belong there. But rather than see how long we can go here tonight debating this stuff, I'll withdraw my floor amendment now and we'll work out that language on Select. [LB690]

SENATOR CARLSON: Thank you. Motion is withdrawn. Mr. Clerk. [LB690]

CLERK: Mr. President, Senator Council, I now have your amendment, Senator. I might indicate to the members it's being input to the system and it will be just a few seconds, but, Senator, your amendment is now pending. (FA29, Legislative Journal page 1690.) [LB690]

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

SENATOR COUNCIL: Mr. President, I don't want to abuse the rules of this body. The amendment that's been introduced just corrects some typographical errors in the original FA27 that was introduced, so I will waive my right to open, because it's the exact same amendment addressing the exact same sections of LB690 that were discussed when FA27 was introduced. So FA29 is just FA27 with one correction made, and that is, it begins with the word "If" on line 19 on page 7 and runs to line 24. That's the language that's stricken on line (sic) 7, and on line (sic) 8 it actually strikes lines 2 through 4 on page 8. And with that, I would urge the body's approval of FA29. And the more I look at this, Mr. Clerk, it probably will ultimately require some renumbering of this section as well. [LB690]

SENATOR CARLSON: Thank you, Senator Council. You've heard the opening on FA29. Senators wishing to speak include Ken Haar and Brasch. Senator Haar, you're recognized. [LB690]

SENATOR HAAR: Mr. President, members of the body, so often people just classify us in this body as either pro-choice or pro-life, and there are so many variations of that. Some people say that to be pro-life you have to be against the death penalty. I know a lot of people in this body would not accept that definition. Some people who are pro-life say there should be no exception; some say there should be an exception for rape and incest or for fetal anomalies and so on. So it's a great continuum. But what kind of amazes me tonight is that we found a couple places where we agree. We found that we did agree on Senator McGill's...generally we did agree on...that once there is a baby born, and in fact even before the baby is born, there should be proper prenatal care,

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and once the baby is born there needs to be care for that child. I'd like to suggest, and tonight I'm not going to go into the full...my full presentation on this, because those of you who have been here for three years have heard it and it will probably come up again next year, but it seems to me that we're all agreed that we'd like to reduce the number of abortions. Now, there is some question whether LB690 will change the number of abortions. In fact, a 2010 study of Arkansas, they change from a prenatal...I'm sorry, parental notification to parental consent law, and it did not decrease the number of abortions performed. So we'll see what effect this law has. But there are some very definite ways that we can decrease the number of abortions. I handed out a colored pie chart and these are statistics. Half of all pregnancies are intended, and half are unintended. Of intended pregnancies, 4 percent end in abortion, and I imagine, I'm guessing here, that those would probably be fetal anomalies and those kinds of things. But of the unintended pregnancies, 40 percent end in abortion. I think as a body we need to recognize this fact, and next session...and I know there are some bills in Health and Human Services right now, but we need to give them special attention next session, on how to prevent unintended pregnancies, because that's where most of the abortions happen. The other thing I pointed out which is really interesting to me is a chart of teen birthrates in 2006, and if you look at the Netherlands, it's 3.18 births per 1,000 girls 15 to 19; and in 2006, and this has decreased a little bit, but it was 41.9 teen birthrates per 1,000. We've got to look at that carefully, because things are happening there that are preventing abortions. And here are some of the differences, and I think we need to look at these seriously, not tonight but next year. It's not that Europeans have more abortions. In fact, the abortion rate is lower in Western Europe than in the United States, and we can see that especially among teen births. It's not that European teens don't have sex. The average age of sexual debut in Europe is only slight... [LB690]

SENATOR CARLSON: One minute. [LB690]

SENATOR HAAR: Thank you...slightly older than the average age in the United States. But three factors contribute to the relatively low European teen birthrate: one, the emphasis on monogamy and mutual responsibility rather than abstinence in teen relationships; two, thorough and unabashed comprehensive sex education programs that emphasize contraception; and three, the ready availability of free or low-cost contraception to European teens. So there are some ways that I think we should all get together and talk about how we can actually prevent abortions and make a real difference, and that's within our purview to do that. Thank you very much. [LB690]

SENATOR CARLSON: Thank you, Senator Haar. Senator Brasch, you're recognized. [LB690]

SENATOR BRASCH: Thank you, Mr. President. And thank you, Senator Haar. I truly appreciate the information you've brought to us today, the statement about this is for the right thing to do, whatever that right thing is for that young woman. And I do appreciate

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the amendments. I will say again that I am willing to work with the senators, yourself and others, between now and Select on making changes that are right, if they need to be there. I mean, I will listen. I have been listening to several senators along the way already. I'm very impressed by this body. Some of the people here did not tell me about amendments, and that's fine too. I understand that's also protocol. But there were several people that came forward. As I told Senator Burke Harr, that I want to ensure this does no greater harm, and there are people like you and others making sure it does greater good. This legislate...this session, I truly believe, this is not an immigration bill, I do. I was not here to hear the debate and the information on that one. I'm sure that will come along. And once it moves out of committee, you know, that is a consideration. But I would like to work on what we have here to make sure that it is something that helps a young woman, that we can identify that she is with a parent indeed, and her choice is whatever that choice may be, and I believe that that woman should not go home from a clinic alone or with someone who coerced her. Again, back to other documentation pieces we've had here, is it's very important to move from notification, where it's just a written note, to making an effort to show that that person is truly caring. And I would again like to say that I will listen to others, I will look at the input. I do also want to make this a good law. Thank you. [LB690]

SENATOR CARLSON: Thank you, Senator Brasch. Senator Council, you're recognized. [LB690]

SENATOR COUNCIL: Yes, thank you, Mr. President. Again I rise in support of FA29, in particular the section of the amendment that calls for the deletion of the language appearing...beginning with the word "If" on line 19 and running through line 24 on page 7. And I think it's particularly worthy of note that we understand that currently a teen mom who's living at home with her parents and who has not been emancipated is not eligible for public assistance benefits, and that's food stamps or prenatal care. And if Senator Campbell would yield to a couple of questions to confirm my understanding of the current state of public assistance with regard to teen moms. [LB690]

SENATOR CARLSON: Senator Campbell, would you yield? [LB690]

SENATOR CAMPBELL: Yes, of course. [LB690]

SENATOR COUNCIL: Am I correct in my understanding that if a teen has not been emancipated, is still living at home, and their parents aren't eligible for public assistance benefits, that child isn't eligible for public assistance benefits? [LB690]

SENATOR CAMPBELL: That is correct. [LB690]

SENATOR COUNCIL: Okay. And I think it's worthy of note, colleagues, because every other bill that has come before this body where there have been changes to the current

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state of our budgets, we have raised questions. There is no fiscal note associated with LB690, zero fiscal note, yet the language that I'm proposing to delete from page 7 imposes an obligation on the Department of Health and Human Services to provide public assistance benefits to pregnant teens that they are currently under no obligation to provide except in the case where the teen is in fact emancipated. So, colleagues, with this language in, there should be a fiscal note, because this would result in additional potential costs to the Department of Health and Human Services. And with...if this stays in, I would ask the Fiscal department to explain why there is not a fiscal note associated with this language, because, again, we do not currently provide public assistance benefits to an unemancipated teen mom. So there are fiscal implications of this language. If the language stays in, there must be a fiscal note associated with it, because we don't provide these benefits now. So unless we want to assume the fiscal liability associated with this language...I will use this time as my closing if there are no other lights behind me, Senator Carlson. If for no other reason than the fact that this language presents fiscal implications that there have been no provisions made for, I urge your adoption of FA29. I request a call of the house and a roll call vote. [LB690]

SENATOR CARLSON: Members, there's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; opposed vote nay. Record, Mr. Clerk. [LB690]

CLERK: 26 ayes, 0 nays to place the house under call, Mr. President. [LB690]

SENATOR CARLSON: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Campbell, would you register. Senator Langemeier. The house is under call. Senator Council, all members are accounted for. How would you like to proceed? [LB690]

SENATOR COUNCIL: Roll call in regular order. [LB690]

SENATOR CARLSON: So ordered. Mr. Clerk. [LB690]

CLERK: (Roll call vote taken, Legislative Journal page 1690.) 8 ayes and 24 nays on the amendment, Mr. President. [LB690]

SENATOR CARLSON: The amendment is not adopted. [LB690]

CLERK: I have nothing further on the bill at this time, Mr. President. [LB690]

SENATOR CARLSON: We return to debate on LB690. Senator Schumacher, you're recognized. [LB690]

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SENATOR SCHUMACHER: Thank you, Mr. President. [LB690]

SENATOR CARLSON: The call is raised. [LB690]

SENATOR SCHUMACHER: Thank you, Mr. President. Just a couple of items for the record: First of all, we have two statutes defining the age of majority and when someone becomes a minor...or a minor becomes of age of majority. One is 43-2101, which says: All persons under 19 years of age are declared to be minors, but in case any person marries under the age of 19, his or her majority (sic) ends. There's a child support statute making the parent liable for the support of a kid that is under the age of 19. So would Senator Brasch yield to a question? [LB690]

SENATOR CARLSON: Senator Brasch, would you yield? [LB690]

SENATOR BRASCH: I yield. [LB690]

SENATOR SCHUMACHER: And we'll make this short. Senator Brasch, why 18 in the law instead of 19? Why not give an extra year of protection? [LB690]

SENATOR BRASCH: The counsel that we've had on this has told us it's 18 for medical purposes, legal purposes, different ages. I believe Senator Burke Harr was also one of the ones that examined this in the first go-through, and 18 was that age. [LB690]

SENATOR SCHUMACHER: But we have kind of the authority over age. We can tell Senator Larson he's got to get a boat license, and we can say you can't drink till you're 21. So I'm just curious, is it just because some lawyer said that that's what we should do? Why don't we give an... [LB690]

SENATOR BRASCH: After 18 I do believe sometimes people graduate from school, they move forward in life, they serve... [LB690]

SENATOR SCHUMACHER: But do they... [LB690]

SENATOR BRASCH: ...I don't...I... [LB690]

SENATOR SCHUMACHER: Does a young woman need any less protection because she turns 18 than if she's 19? I'm just asking where the source of...why we arbitrarily picked 18 instead of 17 or 19. [LB690]

SENATOR BRASCH: I thought it was legal, and I would be happy to... [LB690]

SENATOR SCHUMACHER: Okay. [LB690]



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SENATOR BRASCH: ...clarify that question. It's a good question. I would be happy to research it more and find specifically why. [LB690]

SENATOR SCHUMACHER: Okay. [LB690]

SENATOR BRASCH: You know, I am willing, again, to work with this body on clarity. [LB690]

SENATOR SCHUMACHER: Okay. And thank you, Senator. Then one additional item, I just want to see what is meant by it. In deciding whether to grant such consent, a pregnant woman or her guardian "shall consider only their child or ward's best interest." Normally, when parental decisions are made, they consider a lot of things. They consider their religion. They consider whether they want grandchildren. They consider or not whether they want to punish their child or teach them a lesson. But this restricts the parental authority to only one thing. Now, should the parent and the child later be able to prove this, say, look, I made this decision because I think she was a little tramp and I'm going to teach her a lesson, I couldn't care less whether or not it was for her good or not, and the kid finds out that the parent denied an abortion and ruined her career or said go ahead with the abortion and made her a nervous wreck for the rest of her life, is it...what is the remedy if the parent breaches this obligation to the child? Can the child sue for damages because Mom and Dad really did not...that wasn't on their mind, even though the Legislature said that's the only thing they consider? What's the consequence to the parent for just ignoring that line? [LB690]

SENATOR BRASCH: This moves from notification to consent. [LB690]

SENATOR SCHUMACHER: Right. [LB690]

SENATOR BRASCH: That consequence, whether the parent or so be parent notified, they're in the best interest. That's also legal. In judicial bypass, there's a list of items that they consider. [LB690]

SENATOR CARLSON: One minute. [LB690]

SENATOR SCHUMACHER: Okay. [LB690]

SENATOR BRASCH: But that is why. [LB690]

SENATOR SCHUMACHER: Okay. [LB690]

SENATOR BRASCH: And if you suggest some consequences, again, I am willing to listen to the body on some clarity here. [LB690]

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SENATOR SCHUMACHER: Okay. Thank you, Senator Brasch. I think that probably deserves some work, because it's an instruction with no consequence otherwise. So what happens if the parent just ignores us and said, I'll do what I darn well please, whether it's in the kid's best interest or not? Think this piece of legislation needs a lot of work before it comes out on Select File, because it looks like it was kind of moved through in a big rush. Thank you, Mr. President. [LB690]

SENATOR CARLSON: Thank you, Senator Schumacher and Senator Brasch. Seeing no other senators wishing to speak, Senator Brasch, you're recognized to close on LB690. [LB690]

SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues. I would like to thank everyone for the careful thought that you have put forward with this bill. There have been some questions that deserve some clarity. The bill is sound. It's a good bill. It's in 24 or 25 other states. There are statistics that show that abortions have been reduced when it moves from notification to consent. And as many of you have said, that you do agree that it is a good thing to reduce abortions, I also have stated it is a good thing that a young woman, girl, a teenager, have that responsible, caring, hopefully, parent or grandparent or guardian to be there whatever the decision may be at the end of the day; that we don't want to have that woman, that young girl, the teenager, as my first blog said, home crying, and there would have been no need, you know, for that had someone been aware of the situation. Again, I will work with clarity. I am very, very honored to be a part of this body, and I do ask for your vote to advance LB690. Thank you. [LB690]

SENATOR CARLSON: Thank you, Senator Brasch. The question is the advancement of LB690 to E&R Initial. All those in favor vote aye; all opposed vote nay. I'm sorry. Senator Conrad... [LB690]

SENATOR CONRAD: Mr. President... [LB690]

SENATOR CARLSON: ...for what purpose do you rise? [LB690]

SENATOR CONRAD: ...I'd like to request a record vote, please. [LB690]

SENATOR CARLSON: A record vote. Okay, the question is the advancement of LB690 to E&R Initial. All those in favor vote aye; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB690]

CLERK: (Record vote read, Legislative Journal 1691.) 33 ayes, 7 nays, Mr. President, on the advancement of LB690. [LB690]

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Floor Debate  
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SENATOR CARLSON: LB690 does advance. Mr. Clerk. Speaker Flood, you're recognized for an announcement. [LB690]

SPEAKER FLOOD: Thank you, Mr. President. Good evening, members. Given the progress on today's agenda and the hour, we are going to take Senator Sullivan's priority bill up tomorrow morning and we'll go ahead and adjourn for the day, get people home. Thank you for your work and thank you for your commitment. Thank you, Mr. President.

SENATOR CARLSON: Thank you, Speaker Flood. Mr. Clerk, items for the record or announcements?

CLERK: I have one item, Mr. President, an amendment to LB703 to be printed by Senator Harms. (Legislative Journal page 1691.) [LB703]

And Senator Smith would move to adjourn the Legislature until Thursday morning, May 19, at 9:00 a.m.

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. We are adjourned. (Gavel)