

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

Floor Debate  
April 24, 2013

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SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-sixth day of the One Hundred Third Legislature, First Session. Our chaplain for today is Senator Dubas. Please rise.

SENATOR DUBAS: (Prayer offered.)

SENATOR GLOOR: Thank you, Senator Dubas. And I call to order the sixty-sixth day of the One Hundred Third Legislature, First Session. 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. Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR GLOOR: Any messages, reports, or announcements, Mr. Clerk?

CLERK: Mr. President, forgive me, I do have a correction, sorry. (Read correction re LB407.) That's all that I have, Mr. President. (Legislative Journal page 1125.) [LB407]

SENATOR GLOOR: Thank you, Mr. Clerk. We'll now proceed to the first item on the agenda.

CLERK: Mr. President, first of all, Committee on Judiciary reports LB255 to General File with amendments. And I have a hearing notice from the Health and Human Services Committee. (Legislative Journal page 1125-1126.) [LB255]

First bill this morning, General File, LB269A, offered by Senator Campbell. (Read title.) [LB269A]

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SENATOR GLOOR: Senator Campbell, you're recognized to open on LB269A. [LB269A]

SENATOR CAMPBELL: Thank you, Mr. President. And good morning, members of the Legislature. This will be brief. If you look at LB269, we now have a new fiscal note on it for a total of \$85,000 which is to cover the new position and that transition from the Children's Commission being housed at the Department of Health and Human Services to now "co-officing" with the Foster Care Review Office. So we have lowered the fiscal note considerably. And I would ask for your green light on LB269A. Thank you, Mr. President. [LB269A LB269]

SENATOR GLOOR: Thank you, Senator Campbell. Members, you've heard the opening on LB269A. Are there senators who wish to be recognized? Seeing none, Senator Campbell, you're recognized to close. Senator Campbell waives. Members, the question before us this morning is the advancement of LB269A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB269A]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB269A. [LB269A]

SENATOR GLOOR: The bill advances. Continuing with General File, Mr. Clerk. [LB269A]

CLERK: LB579A by Senator Karpisek. (Read title.) [LB579A]

SENATOR GLOOR: Senator Karpisek, you're welcome to open on LB579A. [LB579A]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. LB579A, of course, does go with LB579 which was the bill that we talked about for adding troopers to the State Patrol. The original bill started with 15 new troopers; got committee amendment had taken it down to 10. And a floor amendment by myself took it down to six. This is the bill, if you remember, that I have promised to work with Senator Coash on on his State Patrol bill. And if there is money at the end, I would like to move this bill. If there is not money at the end, I have given my word that we will hold onto it and we will work on a study over the interim. But again, I want to make it crystal clear that if there is money, I would like to get this bill through this year to get the troopers six more troopers and make sure that we have six doing liquor control. And I'd appreciate your vote to get it in line. Thank you, Mr. President. [LB579A LB579]

SENATOR GLOOR: Thank you, Senator Karpisek. Members, you've heard the opening on LB579A. Are there senators wishing to be recognized? Seeing none, Senator Karpisek waives closing. The question is the advancement of LB579A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record,

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Mr. Clerk. [LB579A]

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB579A. [LB579A]

SENATOR GLOOR: The bill advances. (Doctor of the day introduced.) Mr. Clerk. [LB579A]

CLERK: Mr. President, Select File, LB429A; Senator Murante, I have no amendments to the bill, Senator. [LB429A]

SENATOR GLOOR: Senator Murante for a motion. [LB429A]

SENATOR MURANTE: Mr. President, I move to advance LB429A to E&R for engrossing. [LB429A]

SENATOR GLOOR: Members, you have heard the motion. Those in favor say aye. Those opposed say nay. LB429A is advanced. Mr. Clerk. [LB429A]

CLERK: Mr. President, LB205; Senator, I do have Enrollment and Review amendments first of all. (ER49, Legislative Journal page 990.) [LB205]

SENATOR GLOOR: Senator Murante. [LB205]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB205]

SENATOR GLOOR: Question is the adoption of the E&R amendments to LB205. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB205]

CLERK: I have nothing further on the bill, Senator. [LB205]

SENATOR GLOOR: Senator Murante for a motion. [LB205]

SENATOR MURANTE: Mr. President, I move to advance LB205 to E&R for engrossing. [LB205]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB205 is advanced. Mr. Clerk. [LB205]

CLERK: LB595, Senator, does have Enrollment and Review amendments. (ER50, Legislative Journal page 990.) [LB595]

SENATOR GLOOR: Senator Murante. [LB595]

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SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB595]

SENATOR GLOOR: Members, the question is the adoption of the E&R amendments to LB595. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB595]

CLERK: I have nothing further on that bill, Senator. [LB595]

SENATOR GLOOR: Senator Murante. [LB595]

SENATOR MURANTE: Mr. President, I move to advance LB595 to E&R for engrossing. [LB595]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB595 is advanced. Mr. Clerk. [LB595]

CLERK: LB595A, Senator, I have no amendments to the bill. [LB595A]

SENATOR GLOOR: Senator Murante for a motion. [LB595A]

SENATOR MURANTE: Mr. President, I move to advance LB595A to E&R for engrossing. [LB595A]

SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. Those opposed say nay. LB595A is advanced. Mr. Clerk. [LB595A]

CLERK: LB585, Senator, does have Enrollment and Review amendments. (ER56, Legislative Journal page 994.) [LB585]

SENATOR GLOOR: Senator Murante for a motion. [LB585]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB585]

SENATOR GLOOR: The question is the adoption of the E&R amendments to LB585. Members, all those in favor say aye. All those opposed say nay. The amendments are adopted. [LB585]

CLERK: I have nothing further on LB585. [LB585]

SENATOR GLOOR: Senator Murante. [LB585]

SENATOR MURANTE: Mr. President, I move to advance LB585 to E&R for engrossing.

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[LB585]

SENATOR GLOOR: You have heard the motion. All those in favor say aye. Those opposed say nay. LB585 is advanced. Mr. Clerk. [LB585]

CLERK: LB646, Senator, I do have Enrollment and Review amendments. (ER57, Legislative Journal page 994.) [LB646]

SENATOR GLOOR: Senator Murante for a motion. [LB646]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB646]

SENATOR GLOOR: Members, the question is the adoption of the E&R amendments to LB646. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB646]

CLERK: I have nothing further on LB646, Senator. [LB646]

SENATOR GLOOR: Senator Murante. [LB646]

SENATOR MURANTE: Mr. President, I move to advance LB646 to E&R for engrossing. [LB646]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB646 is advanced. Mr. Clerk. [LB646]

CLERK: LB589, Senator, I have no amendments to the bill. [LB589]

SENATOR GLOOR: Senator Murante for a motion. [LB589]

SENATOR MURANTE: Mr. President, I move to advance LB589 to E&R for engrossing. [LB589]

SENATOR GLOOR: You have heard the motion, members. All those in favor say aye. Those opposed say nay. LB589 is advanced. Mr. Clerk. [LB589]

CLERK: LB240, Senator, I have no amendments to the bill. [LB240]

SENATOR GLOOR: Senator Murante for a motion. [LB240]

SENATOR MURANTE: Mr. President, I move to advance LB240 to E&R for engrossing. [LB240]

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SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB240 is advanced. Mr. Clerk. [LB240]

CLERK: LB487, Senator, I have no amendments to the bill. [LB487]

SENATOR GLOOR: Senator Murante for a motion. [LB487]

SENATOR MURANTE: Mr. President, I move to advance LB487 to E&R for engrossing. [LB487]

SENATOR GLOOR: Members, you have heard the motion. Those in favor say aye. All those opposed say nay. LB487 is advanced. Mr. Clerk. [LB487]

CLERK: LB69, Senator, I have no amendments to the bill. [LB69]

SENATOR GLOOR: Senator Murante for a motion. [LB69]

SENATOR MURANTE: Mr. President, I move to advance LB69 to E&R for engrossing. [LB69]

SENATOR GLOOR: You have heard the motion. All those in favor say aye. Those opposed say nay. LB69 is advanced. Members, if you look at your agenda there was an amendment filed on LB563, that's why it was passed over. We move to Select File calendar. Mr. Clerk. [LB69]

CLERK: Mr. President, Senator Murante, I have no amendments to LB243. [LB243]

SENATOR GLOOR: Senator Murante for a motion. [LB243]

SENATOR MURANTE: Mr. President, I move to advance LB243 to E&R for engrossing. [LB243]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB243 is advanced. Mr. Clerk. [LB243]

CLERK: LB208, Senator, I have no amendments to the bill. [LB208]

SENATOR GLOOR: Senator Murante for a motion. [LB208]

SENATOR MURANTE: Mr. President, I move to advance LB208 to E&R for engrossing. [LB208]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye.

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Those opposed say nay. LB208 is advanced. Mr. Clerk. [LB208]

CLERK: LB377, Senator, I have no amendments to the bill. [LB377]

SENATOR GLOOR: Senator Murante for a motion. [LB377]

SENATOR MURANTE: Mr. President, I move to advance LB377 to E&R for engrossing. [LB377]

SENATOR GLOOR: Senators, you've heard the motion. All those in favor say aye. Those opposed say nay. LB377 is advanced. Mr. Clerk. (Visitors introduced.) Mr. Clerk. [LB377]

CLERK: Mr. President, with respect, Senator Murante, I do have Enrollment and Review amendments to LB42, Senator. (ER68, Legislative Journal page 1090.) [LB42]

SENATOR GLOOR: Senator Murante for a motion. [LB42]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB42]

SENATOR GLOOR: Members, the question is the adoption of the E&R amendments to LB42. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB42]

CLERK: I have nothing further on that bill, Senator. [LB42]

SENATOR GLOOR: Senator Murante. [LB42]

SENATOR MURANTE: Mr. President, I move to advance LB42 to E&R for engrossing. [LB42]

SENATOR GLOOR: Members, you've heard the motion. All in favor say aye. All those opposed say nay. LB42 is advanced. Mr. Clerk. [LB42]

CLERK: LB59, Senator, I have no amendments to the bill. [LB59]

SENATOR GLOOR: Senator Murante for a motion. [LB59]

SENATOR MURANTE: Mr. President, I move to advance LB59 to E&R for engrossing. [LB59]

SENATOR GLOOR: You have heard the motion. Those in favor say aye. Those opposed say nay. LB59 is advanced. Members, on your agenda, LB493 is next,

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however, it will be moved to the bottom of the consent agenda, Select File after LB107. We move to LB345. [LB59 LB345]

CLERK: LB345, Senator, I have Enrollment and Review amendments first of all. (ER66, Legislative Journal page 1094.) [LB345]

SENATOR GLOOR: Senator Murante for a motion. [LB345]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB345]

SENATOR GLOOR: The question is the adoption of the E&R amendments to LB345. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB345]

CLERK: Senator Schumacher would move to amend with AM1104. (Legislative Journal pages 1127-1130.) [LB345]

SENATOR GLOOR: Senator Schumacher, you're recognized to open on your amendment to LB345. [LB345]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. This particular amendment resolves the issue which was raised on General File where there were...three of us had concerns about the removal of the requirement that there be disinterested witnesses. We've since had discussions with the bar association folks and the banker folks who have particular financial interest in the way this language is structured. And we've come to a resolution which is embodied in AM1104. Basically, this is the story. Last year, this idea was presented to the Legislature that somebody could sign a deed to real estate that wouldn't take effect until after the person passed away. And there was a fair amount of consternation on the floor as to whether or not that treated all the heirs fairly because it didn't have some of the requirements that were around when you do a will to make sure nobody is subject to undue influence or somebody trying to pull a fast one. So the Legislature built in some protections to make sure that everybody was treated fairly and it was done in a fair and impartial way with a full soundness of mind. The particular bill that we have before us had a provision in it to remove the requirement that there be disinterested witnesses to the signing of that deed. That was one of the protections we put in last year. This particular amendment resolves the issue in a way that, I think, is better than just removing the word "disinterested witnesses." The title company people had heartburn that who knew what a disinterested witness would be and suppose somebody claimed there was no disinterested witnesses ten years later and folks had either transferred the property or had given mortgages on the property. So this particular amendment defines "disinterested witness" as a witness to one of these transfer on death deeds as being somebody who is not the beneficiary, that's the person getting the property; or an heir,



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child, or spouse of the person getting the property, the designated beneficiary. And it also does a second thing, and it says that if anybody is going to squabble about whether the person was a disinterested witness, they've got to start the squabble in the court system within 90 days of the person passing away or the effective date of this act. So this does leave an opportunity for there to be review of the thing by the courts if somebody says there wasn't a disinterested witness and requires that there still be disinterested witnesses. And I think that this resolves the issue to everyone's satisfaction. And I would offer this amendment and which in all other respects just replaces...adopts the language we already passed. So I'd ask for your support for AM1104. Thank you. [LB345]

SENATOR GLOOR: Thank you, Senator Schumacher. Members, you've heard the opening on the amendment to LB345. We now move to floor debate. Senator Wightman, you are recognized. [LB345]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I rise in support of the amendment. This was carried at the request of the Nebraska State Bar Association. They have approved the amendment. And as a result, we consider the amendment is a good amendment. Thank you, Mr. President. [LB345]

SENATOR GLOOR: Thank you, Senator Wightman. Are there other senators wishing to be recognized? Seeing none, Senator Schumacher, you're recognized to close. Senator Schumacher waives. Members, the question is, shall the amendment to LB345 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB345]

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Schumacher's amendment. [LB345]

SENATOR GLOOR: The amendment is adopted. [LB345]

CLERK: I have nothing further on the bill, Mr. President. [LB345]

SENATOR GLOOR: Senator Murante for a motion. [LB345]

SENATOR MURANTE: Mr. President, I move to advance LB345 to E&R for engrossing. [LB345]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB345 is advanced. Mr. Clerk. [LB345]

CLERK: LB172, Senator, I do have Enrollment and Review amendments. (ER69, Legislative Journal page 1094.) [LB172]

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SENATOR GLOOR: Senator Murante for a motion. [LB172]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB172]

SENATOR GLOOR: Members, the question is the adoption of the E&R amendments to LB172. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB172]

CLERK: I have nothing on the bill, Senator. [LB172]

SENATOR GLOOR: Senator Murante. [LB172]

SENATOR MURANTE: Mr. President, I move to advance LB172 to E&R for engrossing. [LB172]

SENATOR GLOOR: You have heard the motion. All those in favor say aye. All those opposed say nay. LB172 is advanced. Mr. Clerk. [LB172]

CLERK: LB643, Senator, does have Enrollment and Review amendments. (ER67, Legislative Journal page 1098.) [LB643]

SENATOR GLOOR: Senator Murante for a motion. [LB643]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB643]

SENATOR GLOOR: Members, the question is the adoption of the E&R amendments to LB643. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB643]

CLERK: I have nothing further on LB643. [LB643]

SENATOR GLOOR: Senator Murante. [LB643]

SENATOR MURANTE: Mr. President, I move to advance LB643 to E&R for engrossing. [LB643]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB643 is advanced. Mr. Clerk. [LB643]

CLERK: Senator, LB386, I have no amendments to the bill. [LB386]

SENATOR GLOOR: Senator Murante for a motion. [LB386]

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SENATOR MURANTE: Mr. President, I move to advance LB386 to E&R for engrossing. [LB386]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB386 is advanced. Mr. Clerk. [LB386]

CLERK: LB166, Senator, does have Enrollment and Review amendments. (ER65, Legislative Journal page 1098.) [LB166]

SENATOR GLOOR: Senator Murante for a motion. [LB166]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB166]

SENATOR GLOOR: Thank you, Senator Murante. Members, the question is the adoption of the E&R amendments to LB166. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB166]

CLERK: I have nothing further on LB166, Senator. [LB166]

SENATOR GLOOR: Senator Murante. [LB166]

SENATOR MURANTE: Mr. President, I move to advance LB166 to E&R for engrossing. [LB166]

SENATOR GLOOR: You've heard the motion. All those in favor say aye. All those opposed say nay. LB166 is advanced. Mr. Clerk. [LB166]

CLERK: Senator, LB192 is the next bill. I have no amendments to the bill. [LB192]

SENATOR GLOOR: Senator Murante for a motion. [LB192]

SENATOR MURANTE: Mr. President, I move to advance LB192 to E&R for engrossing. [LB192]

SENATOR GLOOR: Members, you've heard the motion. All in favor say aye. All opposed say nay. LB192 is advanced. Mr. Clerk. [LB192]

CLERK: LB458, Senator, I have no amendments to the bill. [LB458]

SENATOR GLOOR: Senator Murante for a motion. [LB458]

SENATOR MURANTE: Mr. President, I move to advance LB458 to E&R for engrossing.

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[LB458]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB458 is advanced. Mr. Clerk. [LB458]

CLERK: LB459, Senator, I have no amendments to the bill. [LB459]

SENATOR GLOOR: Senator Murante for a motion. [LB459]

SENATOR MURANTE: Mr. President, I move to advance LB459 to E&R for engrossing. [LB459]

SENATOR GLOOR: You've heard the motion, members. Those in favor say aye. Those opposed say nay. LB459 is advanced. Mr. Clerk. [LB459]

CLERK: LB549, Senator, there are Enrollment and Review amendments pending. (ER72, Legislative Journal page 1098.) [LB549]

SENATOR GLOOR: Senator Murante for a motion. [LB549]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB549]

SENATOR GLOOR: Members, the question is the adoption of the E&R amendments to LB549. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB549]

CLERK: I have nothing further pending to LB549, Senator. [LB549]

SENATOR GLOOR: Senator Murante. [LB549]

SENATOR MURANTE: Mr. President, I move to advance LB549 to E&R for engrossing. [LB549]

SENATOR GLOOR: Members, you've heard the motion. All in favor say aye. All opposed say nay. LB549 is advanced. Mr. Clerk. [LB549]

CLERK: LB435 is the next bill, Senator. I have no amendments to the bill. [LB435]

SENATOR GLOOR: Senator Murante for a motion. [LB435]

SENATOR MURANTE: Mr. President, I move to advance LB435 to E&R for engrossing. [LB435]

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SENATOR GLOOR: Members, you have heard the motion. All in favor say aye. All opposed say nay. LB435 is advanced. Mr. Clerk. [LB435]

CLERK: LB361, Senator, I have no amendments to the bill. [LB361]

SENATOR GLOOR: Senator Murante for a motion. [LB361]

SENATOR MURANTE: Mr. President, I move to advance LB361 to E&R for engrossing. [LB361]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB361 is advanced. Mr. Clerk. [LB361]

CLERK: LB420, Senator, there are Enrollment and Review amendments pending. (ER71, Legislative Journal page 1099.) [LB420]

SENATOR GLOOR: Senator Murante for a motion. [LB420]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB420]

SENATOR GLOOR: Members, the question before us is the adoption of the E&R amendments to LB420. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB420]

CLERK: I have nothing further pending to the bill at this time, Mr. President. [LB420]

SENATOR GLOOR: Senator Murante. [LB420]

SENATOR MURANTE: Mr. President, I move to advance LB420 to E&R for engrossing. [LB420]

SENATOR GLOOR: You have heard the motion. Those in favor say aye. Those opposed say nay. LB420 is advanced. Mr. Clerk. [LB420]

CLERK: LB154, Senator, I have no amendments to the bill. [LB154]

SENATOR GLOOR: Senator Murante for a motion. [LB154]

SENATOR MURANTE: Mr. President, I move to advance LB154 to E&R for engrossing. [LB154]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB154 is advanced. Mr. Clerk. [LB154]

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CLERK: LB477, Senator, I have no amendments to the bill. [LB477]

SENATOR GLOOR: Senator Murante for a motion. [LB477]

SENATOR MURANTE: Mr. President, I move to advance LB477 to E&R for engrossing. [LB477]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB477 is advanced. Mr. Clerk. [LB477]

CLERK: Mr. President, LB442; Senator, there are Enrollment and Review amendments pending. (ER78, Legislative Journal page 1099.) [LB442]

SENATOR GLOOR: Senator Murante for a motion. [LB442]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB442]

SENATOR GLOOR: Members, the question is the adoption of the E&R amendments to LB442. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB442]

CLERK: I have nothing further pending to LB442, Senator. [LB442]

SENATOR GLOOR: Senator Murante. [LB442]

SENATOR MURANTE: Mr. President, I move to advance LB442 to E&R for engrossing. [LB442]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB442 is advanced. Mr. Clerk. [LB442]

CLERK: LB303, Senator, there are Enrollment and Review amendments pending. (ER70, Legislative Journal page 1099.) [LB303]

SENATOR GLOOR: Senator Murante for a motion. [LB303]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB303]

SENATOR GLOOR: Members, the question is the adoption of the E&R amendments to LB442 (sic - LB303). All those in favor say aye. All those opposed say nay. The amendments are adopted. Excuse me, to LB303. All those in favor say aye. All those opposed say nay. The amendments to LB303 are adopted. [LB303]

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CLERK: I have nothing further pending to the bill, Senator. [LB303]

SENATOR GLOOR: Senator Murante. [LB303]

SENATOR MURANTE: Mr. President, I move to advance LB303 to E&R for engrossing. [LB303]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB303 is advanced. Senator Clerk. (Laugh) Mr. Clerk. [LB303]

CLERK: Mr. President, LB349; Senator, I have no amendments to the bill. [LB349]

SENATOR GLOOR: Senator Murante for a motion. [LB349]

SENATOR MURANTE: Mr. President, I move to advance LB349 to E&R for engrossing. [LB349]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB349 is advanced. Mr. Clerk. [LB349]

CLERK: LB222, Senator, I have E&R amendments pending. (ER73, Legislative Journal page 1099.) [LB222]

SENATOR GLOOR: Senator Murante for a motion. [LB222]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB222]

SENATOR GLOOR: Members, the question before us is the adoption of the E&R amendments to LB222. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB222]

CLERK: I have nothing further on the bill, Senator. [LB222]

SENATOR GLOOR: Senator Murante for a motion. [LB222]

SENATOR MURANTE: Mr. President, I move to advance LB222 to E&R for engrossing. [LB222]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB222 is advanced. Mr. Clerk. [LB222]

CLERK: Senator, LB344, I have no amendments to the bill. [LB344]

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SENATOR GLOOR: Senator Murante for a motion. [LB344]

SENATOR MURANTE: Mr. President, I move to advance LB344 to E&R for engrossing. [LB344]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB344 is advanced. Mr. Clerk. [LB344]

CLERK: LB500, Senator, I have no amendments to the bill. [LB500]

SENATOR GLOOR: Senator Murante for a motion. [LB500]

SENATOR MURANTE: Mr. President, I move to advance LB500 to E&R for engrossing. [LB500]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB500 is advanced. Mr. Clerk. [LB500]

CLERK: LB223, Senator, I have no amendments to the bill. [LB223]

SENATOR GLOOR: Senator Murante for a motion. [LB223]

SENATOR MURANTE: Mr. President, I move to advance LB223 to E&R for engrossing. [LB223]

SENATOR GLOOR: Members, you have the motion. All those in favor say aye. All those opposed say nay. LB223 is advanced. Mr. Clerk. [LB223]

CLERK: LB103, Senator, there are Enrollment and Review amendments pending. (ER77, Legislative Journal page 1099.) [LB103]

SENATOR GLOOR: Senator Murante for a motion. [LB103]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB103]

SENATOR GLOOR: The question is the adoption of the E&R amendments to LB103. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB103]

CLERK: I have nothing further pending on the bill, Senator. [LB103]

SENATOR GLOOR: Senator Murante. [LB103]



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SENATOR MURANTE: Mr. President, I move to advance LB103 to E&R for engrossing. [LB103]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB103 is advanced. Mr. Clerk. [LB103]

CLERK: LB329, Senator, I have no amendments to the bill. [LB329]

SENATOR GLOOR: Senator Murante for a motion. [LB329]

SENATOR MURANTE: Mr. President, I move to advance LB329 to E&R for engrossing. [LB329]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB329 is advanced. Mr. Clerk. [LB329]

CLERK: LB169, Senator, does have Enrollment and Review amendments. (ER74, Legislative Journal page 1100.) [LB169]

SENATOR GLOOR: Senator Murante for a motion. [LB169]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB169]

SENATOR GLOOR: Thank you, Senator Murante. Members, the question is the adoption of the E&R amendments to LB169. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB169]

CLERK: I have nothing further pending to LB169, Senator. [LB169]

SENATOR GLOOR: Senator Murante. [LB169]

SENATOR MURANTE: Mr. President, I move to advance LB169 to E&R for engrossing. [LB169]

SENATOR GLOOR: Members, you have heard the motion to advance LB169. All those in favor say aye. All those opposed say nay. LB169 is advanced. Mr. Clerk. [LB169]

CLERK: LB277, Senator, there are Enrollment and Review amendments. (ER76, Legislative Journal page 1100.) [LB277]

SENATOR GLOOR: Senator Murante for a motion. [LB277]

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SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB277]

SENATOR GLOOR: Members, the question is the adoption of the E&R amendments to LB277. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB277]

CLERK: I have nothing further pending on the bill, Senator. [LB277]

SENATOR GLOOR: Senator Murante. [LB277]

SENATOR MURANTE: Mr. President, I move to advance LB277 to E&R for engrossing. [LB277]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB277 is advanced. Mr. Clerk. [LB277]

CLERK: LB538, Senator, there are Enrollment and Review amendments. (ER75, Legislative Journal page 1102.) [LB538]

SENATOR GLOOR: Senator Murante for a motion. [LB538]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB538]

SENATOR GLOOR: Members, you have heard the motion for the adoption of the E&R amendments to LB538. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB538]

CLERK: I have nothing further on the bill, Senator. [LB538]

SENATOR GLOOR: Senator Murante. [LB538]

SENATOR MURANTE: Mr. President, I move to advance LB538 to E&R for engrossing. [LB538]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB538 is advanced. Mr. Clerk. [LB538]

CLERK: LB332, Senator, I have no amendments to the bill. [LB332]

SENATOR GLOOR: Senator Murante for a motion. [LB332]

SENATOR MURANTE: Mr. President, I move to advance LB332 to E&R for engrossing. [LB332]

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SENATOR GLOOR: Members, you have heard the motion to advance LB332. All those in favor say aye. All those opposed say nay. LB332 is advanced. Mr. Clerk. [LB332]

CLERK: LB141, Senator, I have no amendments to the bill. [LB141]

SENATOR GLOOR: Senator Murante for a motion. [LB141]

SENATOR MURANTE: Mr. President, I move to advance LB141 to E&R for engrossing. [LB141]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB141 is advanced. Mr. Clerk. [LB141]

CLERK: LB647, Senator, there are Enrollment and Review amendments pending. (ER79, Legislative Journal page 1106.) [LB647]

SENATOR GLOOR: Senator Murante for a motion. [LB647]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB647]

SENATOR GLOOR: Members, the question is the adoption of those E&R amendments to LB647. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB647]

CLERK: I have nothing further pending to LB647, Senator. [LB647]

SENATOR GLOOR: Senator Murante for a motion. [LB647]

SENATOR MURANTE: Mr. President, I move to advance LB647 to E&R for engrossing. [LB647]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB647 is advanced. Mr. Clerk. [LB647]

CLERK: Senator, LB107, I have no amendments to the bill. [LB107]

SENATOR GLOOR: Senator Murante for a motion. [LB107]

SENATOR MURANTE: Mr. President, I move to advance LB107 to E&R for engrossing. [LB107]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All

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those opposed say nay. LB107 is advanced. And as I mentioned earlier, members, we now move to LB493. Mr. Clerk. [LB107 LB493]

CLERK: Mr. President, thank you. Senator, LB493, I have no E&R. Senator Davis would move to amend with AM1126. (Legislative Journal page 1132.) [LB493]

SENATOR GLOOR: Senator Davis, you're recognized to open on your amendment to LB493. [LB493]

SENATOR DAVIS: Thank you, Mr. President, members of the body. The amendment to LB493 is just, basically, a technical amendment to be sure that we are in compliance with federal rules when we make a transfer on the Cowboy Trail. [LB493]

SENATOR GLOOR: Thank you, Senator Davis. Members, you've heard the opening on the amendment to LB493. Are there senators who wish to be recognized? Seeing none, Senator Davis you're recognized to close. Senator Davis waives. Question before us is shall the amendment to LB493 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB493]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Davis' amendment. [LB493]

SENATOR GLOOR: The amendments are adopted. [LB493]

CLERK: I have nothing further on the bill, Senator. [LB493]

SENATOR GLOOR: Senator Murante for a motion. [LB493]

SENATOR MURANTE: Mr. President, I move to advance LB493 to E&R for engrossing. [LB493]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. LB493 advances. Mr. Clerk, moving forward with the agenda. [LB493]

CLERK: Mr. President, LB423; Senator Murante, I have Enrollment and Review amendments first of all. (ER40, Legislative Journal page 927.) [LB423]

SENATOR GLOOR: Senator Murante for a motion. [LB423]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB423]

SENATOR GLOOR: Members, the question is the adoption of the E&R amendments to

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LB423. All those in favor say aye. Those opposed say nay. The amendments are adopted. [LB423]

CLERK: Senator Schilz would move to amend with AM1056. (Legislative Journal page 1042.) [LB423]

SENATOR GLOOR: Senator Schilz, you're recognized to open on your amendment. [LB423]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Good morning. The primary purpose of this amendment is to provide that the provisions of Section 29-818 for disposition of pets seized in an animal cruelty or neglect investigation, and Section 6 of LB423 for the disposition of seized livestock do not preempt ordinances of the city of the primary class such as Lincoln. Both current law in Section 29-818 and Section 6 of the bill as introduced in its current form expressly provide that these provisions do not preempt any ordinance of a city of the metropolitan class. I was approached by the League of Municipalities and the city of Lincoln requesting this revision. City of Lincoln, like the city of Omaha, has a relatively sophisticated and established animal control ordinance and enforcement infrastructure to deal with animal abuse and neglect within its jurisdiction. Currently, Lincoln provides that certain livestock species are prohibited within the city boundaries or authorized to be kept only by permit. And a overwhelming majority of animal abuse and neglect issues a city is likely to deal with, involve pets. However, livestock animals do occasionally come within the city's jurisdiction through annexation of semi-rural areas on the city fringe, through livestock animal exhibits and contests, and as livestock animals may be transported through the city. These will seldom, if ever, involve commercial livestock production or the types of situations being addressed with LB423. The request for express exclusion of preemption of the city of Lincoln ordinance provides an opportunity to insert some cleanup provisions to LB423 as well, as suggested by the Revisors Office. Primarily, to utilize consistent terminology to refer to persons or entities subject to the duties and authorities of the bill. Changes to the bill found in items 2, 3, and 4 on lines 3 through 11 of the amendment provide for the utilization of the defined term "owner" or "custodian" for more precise identification of the persons to whom the amended provisions apply. The bill would make a revision to the...in the provision expressly authorizing euthanization of animals. This provision affected pertains when the determination to euthanize is appropriate. The bill, as introduced, authorizes the decision when an animal is determined to be suffering from extreme pain or suffering or injured, diseased, or disabled past recovery. The amendment would add that euthanization is appropriate in cases of emaciation past recovery, substituting for more subjective term, extreme pain and suffering. And with this I would move the adoption of AM1056. Thank you, Mr. President. [LB423]

SENATOR GLOOR: Members, you've heard the opening on the amendment. Are there

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senators who wish to be recognized? Seeing none, Senator Schilz, you're recognized to close on your amendment. Senator Schilz waives. Members, the question before us is the adoption of the amendment to LB423. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB423]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Schilz's AM1056. [LB423]

SENATOR GLOOR: The amendment is adopted. Mr. Clerk. [LB423]

CLERK: Mr. President, Senator Schilz would move to amend with AM1052. Pursuant to that offering, Senator Schilz would offer a motion with respect to AM1052, Mr. President. Senator Schilz would move to suspend Rule 7, Section 3(d), the germaneness rule, to permit consideration of AM1052 as an amendment to the bill. (Legislative Journal pages 1133-1135.) [LB423]

SENATOR GLOOR: Senator Schilz, you're recognized to open on your suspension of the rules. [LB423]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Good morning again. And just want to let everybody know the last thing we want to do here, Senator Hansen and I, in putting this in is to take up too much of the Legislature's time. But I feel this is important, Senator Hansen and I talked about this, what the suspension of the rules would do would be allow us to amend LB...what is currently sitting on General File as LB544, which is Senator Hansen's bovine trichomoniasis bill and amend it into LB423 to get this...to get both into law so that we can move forward. In my discussions with the Speaker and with the Clerk's Office with Dick, it was ascertained that this was probably not germane and that this would be the cleanest way to do it. So that's why we're here today, hoping that you'll vote for the motion to suspend the rules so that we can explain what LB544 is, to get it out there to the floor. And I'll just explain that a little bit so the folks can understand. This amendment would add the provisions of LB544 which is heard and advanced unanimously by the Agriculture Committee. LB544 was introduced by Senator Hansen to address the occurrence of bovine trichomoniasis in cattle herds. The underlying amendment contains the original provisions of LB544 as amended by the committee amendments. LB544 would amend Section 54-742 regarding notification of animal diseases to assign a duty to owners or managers of cattle to notify the Department of Agriculture and adjacent landowners of a diagnosis of bovine trichomoniasis. If a cattle owner or manager fails to make timely notification, the bill authorizes the department to perform the notification and to assess costs incurred against the person failing to report. LB544 further amends Section 38-3330 which defines a veterinary privilege, including waivers of liability of a veterinarian for disclosing client information. The bill would provide additional statutory waiver for disclosure of a risk of trichomoniasis to other cattle owners or managers. LB544 as amended by the Ag

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Committee inserts a new subsection in 54-742 to impose a prohibition on owners or custodians selling or transporting breeding bulls reasonably suspected of trichomoniasis, except directly to slaughter unless the animal is tested for the disease. If a confirmed diagnosis of trichomoniasis is received, the owner or custodian or the veterinarian are required to notify the director of the diagnosis within five business days. Any breeding bull for which a confirmed diagnosis of trichomoniasis is confirmed may not be sold or transported except directly to slaughter. Beyond that, the amendment whose consideration would be allowed to...by approval of the motion to suspend the rules would include various clarifications and harmonizing cleanups to the bill as introduced. Both provision of statute amended by LB423 and LB544 are found in Chapter 54. LB423 amends the Livestock Animal Welfare Act in Article 9, and LB544 would change provisions in Chapter 54, Article 7. After consultation with the Clerks Office, I felt the appropriate approach was to ask for the rule suspension, but I feel that LB423 provides an appropriate vehicle for consideration of LB544 and I would ask for your support of the motion. Thank you very much, Mr. President. [LB544 LB423]

SENATOR GLOOR: Thank you, Senator Schilz. Members, you've heard the motion to suspend the rules. We now move to discussion. Senator Lathrop, you are recognized. [LB423]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Just briefly, as you may know, I serve on the Ag Committee. This is an important bill. While we need to suspend the rules regarding germaneness, this one is a first cousin. It may not be a sibling to the underlying bill, I think it's fair to suspend the rules to allow this amendment. It also allows this body to deal with a problem that cattle producers encounter in their herds. This has been the subject of a great deal of work in the committee, a lot of input from all the members and I would encourage your support of the motion, the amendment and then the bill. Thank you. [LB423]

SENATOR GLOOR: Thank you, Senator Lathrop. Senator Chambers, you are recognized. [LB423]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask Senator Schilz a question. [LB423]

SENATOR GLOOR: Senator Schilz, would you yield? [LB423]

SENATOR SCHILZ: Yes. [LB423]

SENATOR CHAMBERS: Senator Schilz, since you're suspending the germaneness rule, would you mind if I would try to offer an amendment to include my LB266 on this bill? [LB423 LB266]

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SENATOR SCHILZ: Senator, as much as I appreciate you wanting to get that bill out of committee, I do believe that LB544 is much closer to LB423 than your...than the bill that you find...that you want to get out so much. So I would rather that you would try to attach that to something else. Thank you very much, sir. (Laughter) [LB423 LB544 LB266]

SENATOR CHAMBERS: Thank you. Senator Schilz, you were extremely persuasive and convincing so I will not move in that direction. Thank you. (Laughter) [LB423]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Hansen, you are recognized. [LB423]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I, too, rise in support of this suspension of the germaneness rule. This is an important function that it helps the veterinarians, it helps the neighbors, certainly, of this disease that doesn't affect very many people, but when it does, it is disastrous. You get a lot of problems with it. It is in the same chapter, the animal livestock chapter as Senator Lathrop explained. And I think that's enough said. Thank you. [LB423]

SENATOR GLOOR: Thank you, Senator Hansen. (Visitors introduced.) Continuing with debate on the motion to suspend the rules. Senator Bloomfield, you are recognized. [LB423]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I, too, rise to support this motion. I'm not wild about the way we're going about it, but I think it needs to happen. So please vote green on this law; that is, a bill being amended into another bill, needs to be passed. Thank you. [LB423]

SENATOR GLOOR: Thank you, Senator Bloomfield. Are there other senators wishing to be recognized? Seeing none, Senator Schilz, you're recognized to close on your motion to suspend. [LB423]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. I appreciate the consideration. Senator Hansen appreciates the consideration. And with that I would just encourage you all to support this and vote green on the motion to suspend the rules. Thank you very much, Mr. President. [LB423]

SENATOR GLOOR: Thank you, Senator Schilz. Members, this vote requires 30 votes for adoption. The question is, shall rules be suspended on the adoption of the amendment to LB423? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB423]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of the suspension motion.



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[LB423]

SENATOR GLOOR: The motion is adopted. Mr. Clerk. [LB423]

CLERK: Senator Schilz would now offer AM1052 as an amendment to the bill, Mr. President. [LB423]

SENATOR GLOOR: Senator Schilz, you're recognized to open on your amendment. [LB423]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. I think...I appreciate the vote. I think that this is a good thing. And I can tell you this that the ag community, cattlemen, and others interested have been working very diligently for the past few years on this bill, on this idea to get it out there. And this is the fruition of that work. So with that I would...as I explained what the amendment is and what it does, I'm sure that Senator Hansen will have some more words since this was his bill coming forward. But with that I encourage you to vote for AM1052 which is LB544. Thank you very much, Mr. President. [LB423 LB544]

SENATOR GLOOR: Thank you, Senator Schilz. Members, you've heard the opening on the amendment. We now move to floor discussion. Senator Hansen, you're recognized. [LB423]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I want to make sure that more than just the Ag Committee knows what we're talking about. Bovine trichomoniasis is a venereal disease. When Senator Howard had her STD bill, that was one of the diseases listed. I don't know if there are symptoms in humans, but there are no symptoms in cattle. And that's part of the problem. If you have trichomoniasis and you don't know it, you won't find out until comes fall and you pregnancy check your females and if 50 percent or more of them are not with calf you got a big problem. It's a disastrous problem. What this amendment does is ask that if you know that you are a suspect for having trichomoniasis in your herd that you tell your neighbors. Pretty simple. Some people don't want to tell their neighbors because it's an embarrassment, it's a...reflects on their management skills that they would have something like this in their herd. But it's not. It's a disease. It's a communicable disease that needs taken care of, needs talked about, and it needs management by your neighbors. If you are a neighbor to a herd that has trichomoniasis, you can plan on the next year of how to keep your cattle away from that infected herd. There are sections in the amendment on what to do if a diagnosis is done, if a lab diagnosis is done that that animal should be sold for slaughter. If the animal is suspected of trichomoniasis, if you're running more than one bull in a pasture of cows, the best thing to do is sell them all, and if you're suspect that you should ask those...that those bulls, those breeding bulls be sold for slaughter only. And we don't want this trichomoniasis disease to be

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spread around the neighborhood. I think it's a logical thing to ask one neighbor to tell another neighbor that they have a problem. If they're reluctant to do that, if they won't do it within 14 days, then the Department of Ag, and it would be the state veterinarian to contact the neighbors. And that's not going to go over well either. So one way or the other, if this would pass, and I ask for your green vote on this amendment, that one way or the other people are going to know about the trichomoniasis in the area. It has to have...the Department of Ag and the state veterinarian are going to charge for contacting these neighbors and the amendment says what the cash fund is. It's on the front page anyway, it's the Nebraska Agriculture (Products) Marketing Cash Fund. So that's where the money goes. We didn't put that in the original bill, so it needed...as part of this amendment. I think it's a logical bill, if you study it. I've been studying it, probably, for more than ten years and it comes and goes; sometimes it's a hot topic in the neighborhood, sometimes it's not. Most of the people tell their neighbors that they have a problem. Most of the people eliminate their whole breeding herd. I mean it's disastrous, especially if you're paying a lot of money for a high-quality breeding stock. So it's something that nobody wants, but every once in a while it happens. So I ask for your support of the amendment, AM1052. Thank you, Mr. President. [LB423]

SENATOR GLOOR: Thank you, Senator Hansen. Senator Davis, you are recognized. [LB423]

SENATOR DAVIS: Thank you, Mr. President, members of the body. Would Senator Hansen yield to a question? [LB423]

SENATOR GLOOR: Senator Hansen, would you yield? [LB423]

SENATOR HANSEN: Yes. [LB423]

SENATOR DAVIS: Senator Hansen, when we discussed this bill earlier, and I was visiting on the floor about some Judiciary issues, so I wasn't paying as much attention as I should have, but there was some discussion about the veterinarians' responsibility. Can you kind of go over that with me? [LB423]

SENATOR HANSEN: Well, in this amendment it was written, and that was a big stumbling block in the past, where the local veterinarians did not have the ability to talk to other neighbors about a patient-client relationship where he's talking about a communicable disease. And it's called a privilege and the privilege provided in this section is waived to the extent in the purposes of notifying any owners or land managers that a veterinarian who releases its information about the risk for exposure of bovine trichomoniasis is not liable to the client or any other person. And that's the difference...the NVMA, the state veterinarians have come onboard with this amendment. And now the local veterinarians, and they're the ones that know the neighbors, they're the ones that know the risk in the neighborhood to help get that word

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out. And with this amendment, that will allow them to do that...allow a privilege to do that. [LB423]

SENATOR DAVIS: So if I understand you, they may do that at their discretion, or they shall do it? [LB423]

SENATOR HANSEN: Okay, I read that over again...it...no, it doesn't say...I can't find it right now, but I know that the department shall do the notification if the infected herd manager or owner does not do it. And I know that's a responsibility of the Department of Ag and the state veterinarian. But state veterinarian, to find out who the neighbors are, is going to be a lot harder than the local veterinarian. [LB423]

SENATOR DAVIS: So, I guess where I'm going with this, Senator Hansen, and you know I support it, but I'm very concerned that we're dropping the ball somewhere between diagnosis and reporting. So the local veterinarian is going to report this to the state veterinarian then? [LB423]

SENATOR HANSEN: Yes, within 14 days. [LB423]

SENATOR DAVIS: And the local veterinarian "may" or "shall" report it..."shall" notify the neighbors. You're not clear on what that is. [LB423]

SENATOR HANSEN: Okay. In...it's on page 4 of the amendment, I don't know what section it is, Section 4: that the owner or manager of the cattle shall notify the adjacent landowners. [LB423]

SENATOR DAVIS: And how are we going to know that he's done so? [LB423]

SENATOR HANSEN: They have to send in an affidavit to the state veterinarian. [LB423]

SENATOR DAVIS: The local landowner sends an affidavit to the state veterinarian that they have notified the neighbors? [LB423]

SENATOR HANSEN: Correct. [LB423]

SENATOR DAVIS: And then if that doesn't take place, the state veterinarian does that notification? [LB423]

SENATOR HANSEN: They do with...I'm sure would have to be with the help of the local veterinarians. And that's not spelled out in the bill, but that's...they work with the local veterinarians and that would be only logical that they would be the ones...to be of great assistance. [LB423]

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SENATOR DAVIS: Well, I think you know as well as I do that the logical place for the notification should come from the local veterinarian. And I'm a little bit put out with the state association for not getting onboard with that. But we need to do something. So I guess I would urge the body to support this bill as it is written and the amendment. And I'll yield the rest of my time to Senator Hansen if he'd like it. [LB423]

SENATOR HANSEN: I just want to thank Senator Davis. He's been involved in this during the writing and then the...of the whole process and appreciate his support. Thank you. [LB423]

SENATOR GLOOR: Thank you, Senators. Seeing no one remaining in the queue, Senator Schilz, you're recognized to close on your amendment for the advancement of your...for your amendment to LB423. [LB423]

SENATOR SCHILZ: Thank you, Mr. President, and thank you, members of the body. I appreciate the opportunity; Senator Hansen, I know, appreciates the opportunity. And as we've said, this bill has gone through a lot of iterations and a lot of maturation to get where we are. And all the questions that you heard here this morning from Senator Davis and others are questions that the committee and the groups have struggled with on how best to put this together. I believe that this is a first step to get us to the point where we need to be to take control of this. And I look at it more than anything as self policing by the producers themselves. Now that this is out there, now that there's a structure to do this, it will make it easier for everybody to come into compliance and make it better for ranchers all across our state. So with that, I would appreciate your support for AM1052 to LB423. Thank you very much. [LB423]

SENATOR GLOOR: Thank you, Senator Schilz. Members, the question before us is shall the amendment to LB423 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB423]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Schilz's amendment. [LB423]

SENATOR GLOOR: The amendment is adopted. Mr. Clerk. [LB423]

CLERK: I have nothing further on the bill, Mr. President. [LB423]

SENATOR GLOOR: Senator Murante for a motion. [LB423]

SENATOR MURANTE: Mr. President, I move to advance LB423 to E&R for engrossing. [LB423]

SENATOR GLOOR: Members, you have heard the motion. All those in favor say aye.

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All those opposed say nay. LB423 is advanced. Mr. Clerk. [LB423]

CLERK: LB68, Senator, I do have Enrollment and Review amendments first of all. (ER52, Legislative Journal page 990.) [LB68]

SENATOR GLOOR: Senator Murante for a motion. [LB68]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB68]

SENATOR GLOOR: Members, the question is the adoption of the E&R amendments to LB68. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB68]

CLERK: Senator Schilz would move to amend with AM575. (Legislative Journal page 1042.) [LB68]

SENATOR GLOOR: Senator Schilz, you're recognized to open on your amendment to LB68. [LB68]

SENATOR SCHILZ: Thank you, Mr. President. And, once again, members, thank you for your indulgence. The proposed amendment, AM575, would insert a cash fund and fee management strategy that has been utilized in other Department of Ag administrative programs to prevent excessive cash fund accumulation and to provide a means to incent continuing General Fund support and to monitor General Fund support. The amendment would replace the existing Section 11 of the bill which sets forth a table of fees for various licensure, inspection, and certification services. The table provides for an initial fee upon enactment of the bill and a statutory maximum. As amended by AM575, Section 11 would set forth initial and statutory maximum fees for license fees and industry service fees in separate tables. The amendment then provides that the license fees due January 1, 2014, shall be the initial fee and thus would not vary from the bill. Where the amendment differs is that for subsequent years, the license fee would be set by the director each year within certain statutory parameters. The estimated revenue from the fee shall not be greater than 107 percent of the cash fund appropriation; and the fee will not result in a projected year-end cash fund balance larger than 17 percent of the cash fund appropriations, i.e. two months budgeted reserve. The cash fund management mechanism is intended to prevent buildup of cash fund reserves that could be available for reappropriation out of the fund and is being used successfully in other programs including the Weights and Measures, Pure Food, and Nebraska Milk acts. In the past, fees that are prescribed by statute are set only periodically by regulation necessary are set to result in more revenue than immediately needed and cash fund balance accumulates over time as inflation occurs the fee will eventually generate less revenue annually than the annual expenditures and the cash fund reserve will be drawn down to supplement current revenues. As the cash fund

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eventually nears exhaustion, legislation is required to increase the fee or to reduce the program obligations. The fee and cash fund mechanism, such as that inserted by AM575, would allow the fee to be set annually in order to more closely match annual cash fund revenues with annual expenditures and thus avoid cash fund accumulation. Note that the fee setting is self adjusting, i.e. that the actual revenues in one year exceed projections. Then the greatly anticipated cash fund carry over balance would reduce the amount by which the fee could be adjusted the next year. Also note that AM575 only applies to annual license fees which include annual mandatory regulatory inspection. The inspection fee revenues affected by the amendment account for about 40 to 45 percent of cash fund revenues to the core entomology inspection program. There are a number of inspection and certification services that are provided to businesses to aid in marketability and interstate and international regulatory compliance. Since the primary benefit is the immediate commercial interest to the business, the Plant Pest Act has historically, and will continue under LB68 to assess these costs entirely to the benefitting requestor at actual cost. And with that, I would move the adoption of AM575. Thank you, Mr. President. [LB68]

SENATOR GLOOR: Thank you, Senator Schilz. Members, you've heard the opening on the amendment to LB68. Are there senators wishing to be recognized? Seeing none, Senator Schilz, you're recognized to close on your amendment. Senator Schilz waives. The question is, shall the amendment to LB68 be adopted? All those in favor vote aye; all those opposed vote nay. Members, have all voted who care to? Record, Mr. Clerk. [LB68]

CLERK: 26 ayes, 0 nays on the adoption of the amendment, Mr. President. [LB68]

SENATOR GLOOR: The amendment is adopted. [LB68]

CLERK: I have nothing further on the bill. [LB68]

SENATOR GLOOR: Senator Murante for a motion. [LB68]

SENATOR MURANTE: Mr. President, I move to advance LB68 to E&R for engrossing. [LB68]

SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. All those opposed say nay. LB68 is advanced. Mr. Clerk. [LB68]

CLERK: Mr. President, the next bill, LB269. Senator, I do have Enrollment and Review amendments first of all. (ER51, Legislative Journal page 990.) [LB269]

SENATOR GLOOR: Senator Murante for a motion. [LB269]

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SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB269]

SENATOR GLOOR: The question is the adoption of the E&R amendments to LB269. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB269]

CLERK: Senator Campbell would move to amend with AM1108. (Legislative Journal page 1121.) [LB269]

SENATOR GLOOR: Senator Campbell, you're recognized to open on your amendment. [LB269]

SENATOR CAMPBELL: Thank you, Mr. President, and good morning, colleagues. The last remaining issue in LB269 dealt with the language to ensure that when youth aged out of the foster care system that we had everything ready for them. And that had to do with determining and making sure that if they had insurance or that they would be on Medicaid that all of that was in order. I really do appreciate the work of the legal counsel to the Health and Human Services Committee, Michelle Chaffee, and the director of Medicaid, Vivianne Chaumont. The two people worked diligently back and forth in e-mails to get the language so that it was correct, that it met the intent, and that it was in compliance with where we needed to be with regard to insurance and to Medicaid. So with that, this amendment brings that language in compliance. And I really do appreciate the cooperation that has gone on in order to get us to this point. So with that I would urge your green vote on AM1108. Thank you, Mr. President. [LB269]

SENATOR GLOOR: Thank you, Senator Campbell. Members, you've heard the opening on the amendment to LB269. Are there senators wishing to be recognized? Seeing none, Senator Campbell, you're recognized to close. Senator Campbell waives. The question is, shall the amendment to LB269 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB269]

CLERK: 29 ayes, 0 nays, Mr. President, and the adoption of Senator Campbell's amendment. [LB269]

SENATOR GLOOR: The amendment is adopted. [LB269]

CLERK: I have nothing further on the bill, Mr. President. [LB269]

SENATOR GLOOR: Senator Murante for a motion. [LB269]

SENATOR MURANTE: Mr. President, I move to advance LB269 to E&R for engrossing. [LB269]

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SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB269 is advanced. Mr. Clerk. [LB269]

CLERK: LB242, no Enrollment and Review, Senator Mello would move to amend with AM789. (Legislative Journal page 1044.) [LB242]

SENATOR GLOOR: Senator Mello, you're recognized to open on your amendment. [LB242]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. AM789 would amend provisions of LB98, as amended by the Government, Military and Veterans Affairs Committee into LB242. And I'd like to thank Senator Howard for permitting me to introduce this amendment to her bill. Last session I introduced LB1013, a bill which would have made a handful of changes to the Administrative Procedures Act. These changes were designed to address actions by code agencies that, potentially, violated the APA. These actions, more or less, fell into two general categories. The first, policy changes which should have been made through the APA instead of being made by some type of informal guideline. And the second, enforcement of rules and regulations prior to the completion of the required promulgation procedures under the APA. Both last year's bill and LB98 sought to clarify that a rule and regulation cannot be enforced by an agency unless that rule and regulation has completed the promulgation process under the Administrative Procedure Act. Ultimately, the goal...both the goal of LB242 and LB98 is to ensure proper legislative oversight of the rules and regulations process. As some of you may know, from 1978 to 1986 the Legislature actually had a special committee called the Administrative Rules and Regulations Review Committee. This committee was empowered to field complaints on rules and regulations, suspend any rule or regulation that was thought to exceed the statutory authority or intent of the Legislature, and introduce legislation invalidating rules and regulations. Ultimately, the committee was eliminated due to concerns with constitutional separation of power issues, but the legislation to create a scaled-down version of that committee was introduced by former Senator Pat Bourne in 2001 and by myself in 2011. While there's currently a process in statute that allows individuals who feel aggrieved by a particular rule or regulation to file a complaint with the Executive Board, this procedure has rarely been utilized. Given the recent attempt by some state agencies to skirt the APA process, AM789 provides for an expansion of another complaint process currently available through the Legislature's Ombudsman's Office where referred to in statute as the Public Counsel. While the Ombudsman currently has the authority to field complaints about any administrative act of any administrative agency, the bill would specifically require that the Ombudsman investigate allegations that an agency is enforcing or attempting to enforce a rule or regulation that has not been fully promulgated under the Administrative Procedures Act. Once the Ombudsman has made a determination as to whether such a violation has occurred, he or she would report their findings to the Governor, the Secretary of State, the Attorney General, the



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Legislature's Executive Board, and the appropriate agency director. As members of the Legislature, too often we forget that many of the laws we pass depend upon the promulgation and implementation of the rules and regulations by executive branch agencies. In an era of term limits, however, I believe it's increasingly important that the authority we delegate as a Legislature to these agencies is being exercised in accordance with the Legislature's intent. When agencies can woefully disregard the established procedures in the Administrative Procedures Act, then clearly the pendulum has swung too far in one direction. AM789 is an important step to establish greater legislative oversight and to ensure that the rules and regulations are not being enforced prior to their promulgation. LB98, colleagues, was advanced by the Government, Military and Veterans Affairs Committee of an 8-0 vote and I would urge the adoption of AM789 to LB242. Thank you, Mr. President. [LB242 LB98]

SENATOR GLOOR: Thank you, Senator Mello. Members, you've heard the opening on the amendment to LB242. We now move to floor debate. Senator Avery, you are recognized. [LB242]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. The amendment that Senator Mello has introduced to this bill is one that was heard, as he said, and advanced by the Government Committee. For the past couple of years, Senator Mello has been interested in the rules and regulation process, and he's had a bill, other bills, before the Government Committee. In fact, he introduced a bill last year that resulted in the Government Committee conducting an interim study on this issue. As a result of that interim study, Senator Mello introduced LB98, which is similar to AM789 that we are considering now. This amendment, AM789, reflects the bill as advanced by the Government Committee with a committee amendment. The committee amendment removed the provision allowing a court to award reasonable attorney fees and court costs to the party who successfully challenged the rule or regulation when the rule or regulation is declared invalid. At the public hearing on the bill, we heard from several groups supporting this bill. There were many concerns raised about how the rule and regulation process was being used. The most frequent complaint was that rules and regs are changed without a public hearing. The provision in AM789 will alleviate these concerns. It states clearly that any agency attempting to enforce any rule or regulation or proposed rule or regulation must have it approved by the Governor and filed with the Secretary of State after a public hearing. That's important--after a public hearing. It also gives the Ombudsman a formal role in dealing with the complaints that arise out of the rules and reg process. This amendment is a good amendment because it embodies the principles of LB98 that the committee considered and advanced on a vote of 8-0, and I urge your support. Thank you, Mr. President. [LB242 LB98]

SENATOR GLOOR: Thank you, Senator Avery. Are there other senators wishing to be recognized? Seeing none, Senator Mello, you're recognized to close on your amendment. [LB242]

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SENATOR MELLO: Thank you, Mr. President and members of the Legislature. Thank you, Senator Avery, as Chair of the Government Committee as well as the members of the committee who worked with my office in regards to the drafting of the committee amendment, which essentially is AM789. As Senator Avery mentioned, there was a portion of the bill that ultimately we had agreed to strike that dealt with the court fees in regards to what may be perceived as an aggrieved party filing a suit against an agency over the APA process. I think in the spirit of compromise, we felt that that was an area that we could give up on in regards to trying to deal with the larger issue, which is ensuring proper legislative oversight over our legislative...or over our rules and regulations process through the APA, through the variety of different executive branch agencies. With that, I'd urge the body to adopt AM789. [LB242]

SENATOR GLOOR: Thank you, Senator Mello. Members, the question is, shall the amendment to LB242 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB242]

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of Senator Mello's amendment. [LB242]

SENATOR GLOOR: The amendment is adopted. Mr. Clerk. [LB242]

CLERK: I have nothing further on the bill, Mr. President. [LB242]

SENATOR GLOOR: Senator Murante. [LB242]

SENATOR MURANTE: Mr. President, I move to advance LB242 to E&R for engrossing. [LB242]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB242 is advanced. Mr. Clerk. [LB242]

CLERK: Mr. President, the next bill, LB44. Senator, first of all, I have Enrollment and Review amendments to the bill. (ER60, Legislative Journal page 998.) [LB44]

SENATOR GLOOR: Senator Murante for a motion. [LB44]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB44]

SENATOR GLOOR: The question is the adoption of the E&R amendments to LB44. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB44]

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CLERK: Mr. President, the next amendment I have is by Senator McCoy. I understand, Senator Murante, you've been authorized to... [LB44]

SENATOR MURANTE: Senator McCoy would like to withdraw his amendments. [LB44]

SENATOR GLOOR: Thank you, Senator Murante. Seeing no objection, so ordered. Mr. Clerk. [LB44]

CLERK: Mr. President, the next amendment I have to the bill is Senator Schumacher. (AM1087, Legislative Journal page 1136.) [LB44]

SENATOR GLOOR: Senator Schumacher, you're recognized to open on your amendment to LB44. [LB44]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. We're dealing in LB44 with a pretty high-stakes game involving the public's interest in adequate punishment for first-degree cold-blooded murderers and the defendant and defendant's attorney's interest in getting them out as quick as possible. And the reason for this whole bill is because the Supreme Court says that we have got to give the judges some wiggle room. We cannot say, in the case of the juvenile, that you've got to give them a flat life sentence. So, so far, what we had passed, and I was trying to put my "pretend I'm a defense attorney" hat on when I read this, and it said that any person convicted of a Class IA felony, that's murder, for an offense committed when such person was under the age of 18 shall be sentenced to a maximum sentence of life imprisonment and a minimum sentence of 40 years imprisonment. And I started thinking about that and said, now does that make a lot of sense? Could somebody interpret that otherwise? How do you sentence somebody to--and it says shall--life imprisonment and also sentence them to 40 years? Are we telling the courts to sentence them to life plus 40? Are we telling the courts two inconsistent things? So I worked with committee counsel a little bit and tried to come up with a clarification to take that argument out of the arsenal of people trying to get off. And the amendment basically says, shall the maximum sentence of not greater than life imprisonment and a minimum sentence of not less than 40 years imprisonment. And I think that more adequately expresses the will of the body that that's the range we're giving to the sentencing court rather than trying to tell the sentencing court to do two different things or maybe add the two together. I think this expresses our intent properly and that that's the range we are using for juvenile sentencing, in addition, of course, to any consecutive sentences they might receive for weapons charges or things like that. Thank you, Mr. President. [LB44]

SENATOR GLOOR: Thank you, Senator Schumacher. Members, you've heard the opening on the amendment to LB44. We now move to floor debate. Are there senators wishing to be recognized? Seeing none, Senator Schumacher, you're recognized to close on your amendment. Senator Schumacher waives. Members, the question is,

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shall the amendment to LB44 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB44]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Schumacher's amendment. [LB44]

SENATOR GLOOR: The amendment is adopted. Mr. Clerk. [LB44]

CLERK: Senator Burke Harr would move to amend with AM1094. (Legislative Journal page 1136.) [LB44]

SENATOR GLOOR: Senator Harr, you're recognized to open on your amendment. [LB44]

SENATOR HARR: Thank you, Mr. President and members of the body. This is more cleanup and clarification language, although it is a bit of a change in policy. As we are all aware, LB44 has to do with how to sentence youth who commit Class I murder. What this does is it says that they...currently, how we have it worded is that these individuals are eligible every year for a hearing with the Parole Board, which means the victim's family has to come down every year and relitigate this, and that can be a problem and we don't want to do that. So this is somewhat of a victim's rights bill. What we're doing is we're saying you get a hearing the first year and then every five years thereafter, which is how we handle every other similarly situated inmate. And then your last five years you go back to get it every year, if within your last five years of your first parole date. This again it's a victim protection...well, a victim's bill, so that they don't have to come down every year. It's very simple. With that I would entertain any questions anyone may have. Thank you. [LB44]

SENATOR GLOOR: Thank you, Senator Harr. Members, you've heard the opening on the amendment to LB44. There are senators wishing to be heard. Senator Lautenbaugh, you are recognized. [LB44]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I wonder if Senator Harr would yield. [LB44]

SENATOR HARR: Yes. [LB44]

SENATOR LAUTENBAUGH: Senator, just to clarify, how does what you are proposing differ from the bill as introduced? [LB44]

SENATOR HARR: The bill as introduced, it was you would have a hearing every year. And this makes it every...you get one your first year and then every five years thereafter. [LB44]

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SENATOR LAUTENBAUGH: And this again would just apply to juveniles, is that intent? [LB44]

SENATOR HARR: Yes. [LB44]

SENATOR LAUTENBAUGH: Is that materially different from how we treat, I guess, nonjuveniles, if you will--your amendment? [LB44]

SENATOR HARR: My amendment is how we treat the nonjuveniles. [LB44]

SENATOR LAUTENBAUGH: So you're trying to take Senator Ashford's bill and make it consistent for juveniles with how we treat nonjuveniles throughout the rest of the system. [LB44]

SENATOR HARR: Well, juveniles who are tried in adult court, yes. [LB44]

SENATOR LAUTENBAUGH: Do you have any idea what percentage of juveniles are tried in adult court? [LB44]

SENATOR HARR: I would...of all juveniles or all juveniles... [LB44]

SENATOR LAUTENBAUGH: Juvenile offenders, let's say. [LB44]

SENATOR HARR: Offenders. I do not. [LB44]

SENATOR LAUTENBAUGH: You know, are we talking hundreds, a thousand, 50 a year? Do we know? [LB44]

SENATOR HARR: Who are tried as adults, is that what you're asking? [LB44]

SENATOR LAUTENBAUGH: Yes. [LB44]

SENATOR HARR: Yeah, I can speak for Douglas County. It would be in the hundreds, maybe even thousands who are tried in adult court, both for misdemeanors and felonies. [LB44]

SENATOR LAUTENBAUGH: Is it more common...I'm assuming it would be more common to have the felonies tried in the adult court, is that fair to say? [LB44]

SENATOR HARR: To have them tried in...excuse me? [LB44]

SENATOR LAUTENBAUGH: Juvenile offenders. I'm assuming of those that are tried in

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adult court, the felony offenders would be more commonly put up there; not the juvenile ones...or misdemeanor ones. Is that correct? [LB44]

SENATOR HARR: Um, I'm not sure about that, because you might have an MIP and you're just going to plead it in adult court because it's not worth the time and trouble to take it up to juvenile court. So there are a lot of those low-level misdemeanors that you just take care of. A speeding ticket would be another example, I mean, and the list goes on and on. Because also when you go to adult court, you have the ability to do a diversion program which you do not have in juvenile court. And many times diversion is easier than going through the whole juvenile court process. [LB44]

SENATOR LAUTENBAUGH: So I can infer from what you're saying that it's the fact that there are juveniles being tried in adult court, if you will, that's not necessarily indicative of a problem; that some may elect to pursue that route rather than pursuing juvenile court. [LB44]

SENATOR HARR: Definitely. Some defendants definitely want to go that route as opposed to going to juvenile. [LB44]

SENATOR LAUTENBAUGH: Why would you want to do that? [LB44]

SENATOR HARR: You have access to diversion, which juvenile court you do not. MIP, your first one, pay the \$50 fine and walk on. Possession of marijuana, less than an ounce, pay your fine and move on. It's much easier on the defendant than going through the process of juvenile court. [LB44]

SENATOR LAUTENBAUGH: And when you say the process of juvenile court, what are you referring to? [LB44]

SENATOR HARR: I'm sorry, I couldn't hear that. [LB44]

SENATOR LAUTENBAUGH: When you say the process of juvenile court that they're trying to avoid, what process are you referring to? [LB44]

SENATOR HARR: Oh. And now we're getting outside my comfort zone a little bit. But when you go up to juvenile court, you...the process...because you go from a guilt stage to best interests of the child, you are no longer determining the guiltiness of the person and you are no longer deciding what is the proper punishment for the crime committed. You now look at what services does this individual need so that they don't go back and do this again, the crime that they did. [LB44]

SENATOR LAUTENBAUGH: So essentially... [LB44]

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SENATOR HARR: So it can be...and it's much more comprehensive, juvenile services are, than, you know, you're familiar with county court. It's just...it's a cattle call, move them through. [LB44]

SENATOR GLOOR: One minute. [LB44]

SENATOR LAUTENBAUGH: Thank you, Senator Harr. I wonder if Senator Pirsch would yield to a question. [LB44]

SENATOR GLOOR: Senator Pirsch, would you yield? [LB44]

SENATOR PIRSCH: I would. [LB44]

SENATOR LAUTENBAUGH: Thank you, Senator. As I understand it, you actually do practice some in juvenile court in Douglas County, is that correct? [LB44]

SENATOR PIRSCH: I'm sorry, could you repeat that? [LB44]

SENATOR LAUTENBAUGH: Sure. As I understand it, you actually do practice in juvenile court in Douglas County from time to time? [LB44]

SENATOR PIRSCH: I have. [LB44]

SENATOR LAUTENBAUGH: Is your representation confined to the juvenile court level, or do you also represent some offenders in, like--I always call it normal court, but that's not correct--adult court, if you will? [LB44]

SENATOR PIRSCH: Yeah. And I should probably preface, it's...juvenile court has two contexts. One can come within the realm of juvenile offenders, which I think is at issue here; and the other is individual children who are involved in abuse and neglect situations, and so that's more common. [LB44]

SENATOR GLOOR: Time, Senators. [LB44]

SENATOR PIRSCH: Yeah. [LB44]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB44]

SENATOR GLOOR: Thank you, Senator Lautenbaugh, Senator Harr, and Senator Pirsch. Senator Ashford, you are recognized. [LB44]

SENATOR ASHFORD: I'd give my time to Senator Lautenbaugh, and he might want to ask me or somebody a question. [LB44]

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SENATOR GLOOR: Senator Lautenbaugh, you're yielded 4 minutes 50 seconds. [LB44]

SENATOR LAUTENBAUGH: Thank you, Senator Ashford. And I would like to continue with Senator Pirsch a little bit, if I may. [LB44]

SENATOR GLOOR: Senator Pirsch, would you yield? [LB44]

SENATOR PIRSCH: I would. [LB44]

SENATOR LAUTENBAUGH: Senator, I'm not sure I understood the distinction you were just making there with your prior response. [LB44]

SENATOR PIRSCH: Sure. I guess if your question is, do I have some familiarity with juvenile offenders within the juvenile court, the answer would be yes. [LB44]

SENATOR LAUTENBAUGH: Okay. In what capacity are you usually representing juveniles in juvenile court? [LB44]

SENATOR PIRSCH: Generally, it's been within the capacity as a guardian ad litem within an abuse and neglect. If there is some sort of an attendant youth offense during that period of time that there is involvement, then I would obviously also be representing the youth in that context as well. [LB44]

SENATOR LAUTENBAUGH: Is it possible that the youth would have another attorney, as well, beyond the guardian ad litem? [LB44]

SENATOR PIRSCH: Correct. [LB44]

SENATOR LAUTENBAUGH: And what would be the difference between the two functions, I guess? [LB44]

SENATOR PIRSCH: Well, there is a certain context where the guardian ad litem is supposed to function in the capacity of operating in the youth's best interest. If there is some sort of alleged violation and the guardian ad litem is incapable as one individual of also zealously representing the wishes of the youth, then that role may be split and there may be another counsel who is brought in to perform that function. [LB44]

SENATOR LAUTENBAUGH: Okay. So we've got a guardian ad litem representing the interests of the child. We've got possibly a defense attorney representing the child. And are there other attorneys involved in your typical juvenile proceeding? [LB44]



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SENATOR PIRSCH: Yes. The county attorney is involved. There may be parents, as well, who may be involved in the juvenile courts, so. [LB44]

SENATOR LAUTENBAUGH: And so the parents might have an attorney as well? [LB44]

SENATOR PIRSCH: They may have, insofar as it's a...now, if we're talking about the youth offender, then in that context the youth is who's involved there, and so. But there can be a large number of attorneys involved in these cases, sure. [LB44]

SENATOR LAUTENBAUGH: These courtrooms must be bigger than I think they are. It sounds like there's a lot of people in these hearings, but. [LB44]

SENATOR PIRSCH: Yeah. [LB44]

SENATOR LAUTENBAUGH: Okay. Senator Pirsch, I asked Senator Harr if he had any handle on how many, as a percentage, juvenile offenders are handled in adult court versus how many go through the juvenile process, say, just in Douglas County, as a rough percentage. Do you have any idea? [LB44]

SENATOR PIRSCH: No, it would...you know, so if you're talking about all types of offenses, misdemeanors, infractions, and felonies, typically, as Senator Harr kind of mentioned, when you're talking about traffic cases, an inherently adult activity, youths are not typically transferred. They usually go to the adult traffic court. And for the more serious offenses, we're talking felony offenses, it's not...you know, certainly they can be transferred but they have...they could be in adult court in the context, rather, of transfers to juvenile court, that may be more in the realm of misdemeanors and less serious felonies. [LB44]

SENATOR GLOOR: One minute. [LB44]

SENATOR PIRSCH: So I don't know if that helps answer your question, but I couldn't give you a percentage of overall. Most crimes are very small infractions. Speeding, I guess, if that's how you define it that broadly, and traffic offenses. So those would be...they tend to go to the adult misdemeanor court, traffic court, the MIPs, those kind of things, the DUIs. So I would guess that if, in the overall spectrum of crimes, that most are handled in adult court. [LB44]

SENATOR LAUTENBAUGH: And I guess you could arrive at different figures depending on whether or not you include traffic, and I will call them trivial offenses versus actual... [LB44]

SENATOR PIRSCH: Sure. [LB44]

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SENATOR LAUTENBAUGH: ...other more serious misdemeanors and on into the felony level. [LB44]

SENATOR PIRSCH: Right. I think that's true. [LB44]

SENATOR LAUTENBAUGH: Okay. Thank you, Senator Pirsch. I wonder if Senator... [LB44]

SENATOR GLOOR: Time, Senator. [LB44]

SENATOR LAUTENBAUGH: Thank you. Thank you, Mr. President. [LB44]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Members in the queue: Larson, Lautenbaugh, Schumacher, Ashford, McCoy, and Kintner. Senator Larson, you are recognized. [LB44]

SENATOR LARSON: Thank you, Mr. President. Would Senator Harr yield to a question? [LB44]

SENATOR GLOOR: Senator Harr, would you yield? [LB44]

SENATOR HARR: To one question, yes. [LB44]

SENATOR LARSON: Maybe a few. [LB44]

SENATOR HARR: That's fine also. [LB44]

SENATOR LARSON: Thank you, Senator Harr. I'm not overly familiar with the juvenile court process, not having gone through the process myself and not being a lawyer; so excuse the questions. And I was reading AM1094 and it talks about 18-year-old...or reading from...you know, starting at line 2, "eighteen years when he or she committed the first degree murder for which he or she was convicted and incarcerated shall have his or her record reviewed in the first year of incarceration and every five years thereafter until the offender is within five years of his or her earliest eligible parole date, at which" he or she shall have a record "reviewed annually." Why...what's the purpose doing it the first year and then only every five and then every year subsequently? What's the logic in that process? [LB44]

SENATOR HARR: Ah, good question. Thank you. And I should have probably covered that in my introduction, and for that I apologize. So your first year you go through what's called D&C, which is diagnostic and care, I think. But when you go through D&C, what they're doing is they're looking at the totality, trying to figure out why you did what you

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did and try and figure out are there services that you should be receiving, what level of danger are you, do you need to be in maximum security, do you need to be in minimal, where are you. So that's the reason for doing it the first year. And then every five years thereafter is kind of a checkup, if you will. Hey, here's what you've been doing, that's great, keep up the good work; or hey, if you want to be able to get out at your first available, you've got to be doing X, Y, and Z. It's kind of a diagnostic care to see if you're doing everything you should be doing. If you aren't, it's kind of a reminder, maybe you should be. And then there is a...that record can then also be used by the Pardons Board to pardon someone to let them out earlier. So if you...for instance, right now, if you're a life-to-life, you have no chance of parole. This is your opportunity to make your case that I'm doing everything I need to, and maybe now the Parole...you've made a record and maybe Pardons can look at that. So that's why we do it every five years. And then obviously the closer you are to getting out or your soonest out date, we want to check you more frequently to make sure that you're on track, that you're doing everything you can or should be doing to assimilate yourself back to society, so that when you get out you aren't a danger to yourself or to society. [LB44]

SENATOR LARSON: Thank you, Senator Harr. I think the amendment that was passed on General File, if I'm correct, had a minimum sentence of 40 years, which puts parole right around 20 years. Correct? [LB44]

SENATOR HARR: Your first eligibility...assuming...yes. [LB44]

SENATOR LARSON: Assuming your first eligibility would be 20 years. So you've had it in year 1, then 6, 11, and the next one would only be four years away, 15, 16, 17, 18, 19, 20, or...how much...I guess, how...are these assessments, are they costly? Is it paid through Corrections? What's the...what goes into one of these assessments? [LB44]

SENATOR HARR: Well, there's notice sent to a county attorney and then they try to get ahold of...well, they work diligently to get ahold of the victims. The victims...it's a public hearing, I believe--pretty sure. But the victims are allowed to come down and testify and are encouraged to come down to testify to what happened. Now in this case obviously they aren't victims.. [LB44]

SENATOR GLOOR: One minute. [LB44]

SENATOR HARR: ...since they've passed away. But there's the victim's family, come down and give victim impact statements. They can fill them out. They can come down and they can testify. And they talk about what happened and how this crime affected that person, their lives, which, you know, can be good for the prisoner to hear, the inmate to hear. [LB44]

SENATOR LARSON: So, and that will happen every five years? [LB44]

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SENATOR HARR: The first year, every five years thereafter. Yes. [LB44]

SENATOR LARSON: First year, every five years thereafter, then every year leading up to their parole. [LB44]

SENATOR HARR: Yeah. And so we don't want to have these victims have to go through this yearly. Yeah, it's, you know, what's today? April 24. Gosh, that means we've got to have that hearing every year. [LB44]

SENATOR LARSON: What about...and we might continue. I can understand why you want a few intermittents, but wouldn't...when we're looking at 20 years as a possible parole, doing it the first year I understand makes sense maybe, because they are going to...and like I said, I don't know the process, so maybe seven years, one in the middle instead of two in the middle or... [LB44]

SENATOR GLOOR: Time, Senators. [LB44]

SENATOR LARSON: Thank you. [LB44]

SENATOR GLOOR: Thank you, Senator Larson. Thank you, Senator Harr. Mr. Clerk for an amendment. [LB44]

CLERK: Mr. President, Senator Ashford would move to amend Senator Harr's amendment with FA67. (Legislative Journal page 1136.) [LB44]

SENATOR GLOOR: Senator Ashford, you're recognized to open on your amendment to the amendment. [LB44]

SENATOR ASHFORD: Thanks. Okay. I...we have a...Senator Harr gave me this amendment this morning. I haven't had sufficient time to really analyze it. Essentially, where we are with this now in the current LB44, we would have...the reason why these reviews or hearings are set up to run every year is because in normal circumstances...and they're...Senator Larson is correct, there could be a situation where a juvenile would be entitled to parole in 20 years if they received a 40-to-life sentence. It is more likely that the date, parole date, would be much later than that; and it could be. So the idea of having a one-year each year hearing was to reflect what really happens in these cases, and that is that for the most part the eligibility date would be the, you know, 30-, 40-year range. So we're dealing with an offender who has been sentenced as a juvenile to a period of years and life who would be treated differently, in effect, than someone who is an adult. I believe that...well, that's an adult to some extent but certainly other juveniles, and the reason for that is because of the longevity of the sentence. I...my...what the floor amendment does is it takes it to three years. I don't

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want to really get into that sort of discussion, whether three years is best or five years is best. But, you know, there's something that I'm struggling with as to why we would go from one year to five years. There wasn't really any particular objection in the committee about the hearing by the Parole Board process; so this is somewhat new. The other thing we have to keep in mind is that, as we discussed the other day when this bill came up, a juvenile could be sentenced to life-to-life, meaning that the only way they could be set free would be by the Pardons Board, not by the Parole Board. So that review, there would not be an automatic review by the Parole Board of those particular individuals. And many states or several states that are looking at this issue have established a review process at, let's say, 40 years or 50 years, even; at some point in that inmate's time in prison, if they were sentenced as a juvenile for a IA offense, many states have said, okay, let's say it's 25 years is your minimum sentence for...there would be a parole review at 25 years. But if they were sentenced to life without a minimum sentence below life, that there would be a review even at 40 years or 50 years. We don't have that in this bill, in LB44. We didn't do that, and we had quite a bit of discussions on the floor about this. We didn't do that primarily because I think, at least in the committee and I think out here, the discussion was let's give the judges the full discretion to set a maximum sentence of life and have it mean life. Now those juveniles could still go to the Pardons Board for review. And we talked a little bit about the Fugate case where Caril Fugate was convicted at, I believe, age 16, of IA murder; and she was pardoned at 17 years. So that's always possible a juvenile could be pardoned outside of the normal parole process. So these whole...these sentencing processes become fairly complicated to do, and so I struggle with agreeing to five years without thinking through this. I haven't had an opportunity to do that. I understand what Senator Harr is trying to do and he's considering the victims, and I think that's a legitimate concern. But this is a case where a parole has been denied and then there would be a review or a hearing. After five years they would be reviewed every year, so there could be a change, though unlikely, to occur within the five years. So it is a policy shift from where we are in LB44. Rather than get into a discussion about three or five, I'm going to withdraw my amendment here in a second. But I'll have to think about this as we go, you know, as we advance the bill, hopefully, to Final Reading. I do have an answer to...I think Senator Lautenbaugh raised a good point in what is the difference between juvenile and adult court, the...and how these cases are handled. And there is a difference. And you may recall that we have a bill on Select File, I think it's LB494 (sic--LB464), which requires that filings occur directly in juvenile court for all juvenile offenders. I've indicated to the Speaker that, at least, I as the introducer of that bill, did not desire that bill to come up this session. So we will have time over the summer to think about all of these questions about sentencing and about the originating court, whether it be the juvenile court or the adult court. It's all part of the same conundrum; you know, how do we deal with juveniles in a fair and balanced way to ensure justice but at the same time to ensure that we are reflecting, I think, the trend, clear trend, and that is that juveniles should be treated differently in the criminal justice system than adults. So the number of cases actually that are filed statewide last year was 3,744 cases were filed in adult court, and

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many of those cases were minor offenses, traffic offenses even. So it's a big problem, a big issue. And I think the committee, I know, will think about it over the summer and we'll have LB494 (sic--LB464) will be on Select File. We can address LB494 (sic--LB464) next year. I'm going to withdraw FA67. We can go ahead and vote it, vote...probably vote for Senator Harr's amendment. But again, we have to be very careful when we're dealing with juveniles and think about the fact that juveniles are not getting a review if they are...they become adults, they've been in prison for life. They are not getting any review whatsoever if they've been sentenced to life-to-life. So the only review they would get would be through the Pardons Board. They do get reviews, I guess, in a kind of a cursory manner as any other adult offender would get, even if they have a life sentence. But I struggle with are we then meeting the criteria of Miller, that the juvenile has to have a reasonable opportunity for release. And if they're being treated exactly like adults, even though they were convicted as juveniles, are we meeting that criteria? Let me just say this, members: We have made great strides this session on juvenile law. We have made great strides on juvenile law. And I think that...I'm just so impressed by the body's willingness to discuss these issues and their willingness to advance some bills that are, I think, very important to the future of our state. So I don't want to, you know, get down in the weeds on whether it's one- to five-year reviews at this point, but I do think next year we are going to have to think about sentencing more fully and decide which way to go with this whole issue of where should these juvenile cases originate. You know, should they have more reviews? Should there be a review for life-to-life? We're not going to answer those questions in this session. But again, I want to thank the body for all the effort we're putting forth as a body into juvenile law. And with that, I will withdraw FA67. [LB44 LB464]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: The amendment is withdrawn. Members, we're experiencing technical difficulties with the queue, so we are going to clear the queue out right now and you will have to reenter and be put back in order. Senator McCoy, you are the first speaker now in the queue. You are recognized. [LB44]

SENATOR McCOY: Thank you, Mr. President and members. Would Senator Harr yield? [LB44]

SPEAKER ADAMS: Senator Harr, would you yield? [LB44]

SENATOR HARR: Of course. [LB44]

SENATOR McCOY: Thank you, Senator. As you know, I spent a great deal of time on the microphone on this bill on General File, and I'm trying to understand--and bear with me if you would. I don't enjoy the benefit of having a Juris Doctor degree, as you do. But after five years here, I sometimes feel like I have a J.D. in the school of hard knocks, as

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we probably all do. Can you help me understand, when I look at your AM1094, I notice that on...with the...the language you're inserting, I guess going back to the original AM151, the word "review." Is that just moved around where it says, "the board shall consider and review, at a minimum." In your amendment, that appears to be different. Or has that just been changed so they'll be reviewed annually? I'm just trying to get so I understand this as best as possible, if that makes sense to you? Can you help me understand this a little better? [LB44]

SENATOR HARR: Yeah. I think it's more just a drafting difference than a difference in results. So you'll have the same result. Before you would have had it every year; now you get it the first year, five years thereafter, and every five years thereafter until you go on parole. But until you're within the five years of parole, the first eligibility of parole and then you get every year thereafter. [LB44]

SENATOR McCOY: Okay. And I noticed too in the language difference, you have 18 years when the crime would be committed. AM151 talked about under the age of 18 years. So under your amendment, what happens if an offender was under 18 years? [LB44]

SENATOR HARR: Yeah. And I think if you look at the language that was struck through, it applies to those 18 and under, and if it doesn't, we can change that; but I'm pretty sure that's what it does. I'm going onto my gadget as we speak to make sure, because I had that question and I think we clarified that; but I always want to dot my i's and cross my t's. So I will review that before we go... [LB44]

SENATOR McCOY: Well, okay. I would appreciate it, because as I read this, because going back through your amendments you're saying on...your amendment says, on page 2, strike lines 11-16,... [LB44]

SENATOR HARR: Yep. [LB44]

SENATOR McCOY: ...so....and this would be, of course, to AM151. Well, if you strike those lines, I think then we're not talking about those that would be under the age of 18, unless I'm reading it wrong. And I'm going to give you a little bit of time here as you scan through this, Senator. But as I read this, we're...unless I'm reading it wrong, we're leaving the under 18 age... [LB44]

SENATOR HARR: Yeah. [LB44]

SENATOR McCOY: ...of an offender as a gap. Or is it just written differently and I'm not understanding correctly? [LB44]

SENATOR HARR: So, yeah, if you look at page 2, line 10, it says "Any offender who

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was under the age of" and then it slips to line 11 "eighteen years when he or she committed the offense for which he or she was convicted." So what we're doing is we're saying...so with this language it will say any offender who was under the age of "eighteen years when he or she committed the first degree murder for which..." yada yada yada. So it's still those under 18. And that's a legal term of art, by the way: yada yada yada. [LB44]

SENATOR McCOY: Say that again? [LB44]

SENATOR HARR: Yada yada yada is a legal term of art, I believe. [LB44]

SENATOR McCOY: (Laugh) Thank you, Senator Harr. Now, is there a distinction why on AM151, it would be line 11, when it says,... [LB44]

SPEAKER ADAMS: One minute. [LB44]

SENATOR McCOY: Thank you, Mr. President..."eighteen years when he or she committed the offense for which he or she was convicted and incarcerated." Your amendment changes that and says, "when he or she committed the first degree murder." And I apologize if you outlined this earlier, but I didn't catch it if you did. Why are you narrowing that down to just first-degree murder, or why didn't we just leave that language and just say when he or she committed the offense? [LB44]

SENATOR HARR: Um, again I think it's more just a drafting issue, because a Class 1 is obviously first-degree murder. It would include felony murder. I mean, I am open to amending it if you would feel more comfortable going back to the prior language. The basis of what I'm really concerned about is again how often they have this review process. If you want to amend it, that...I probably...well, I don't think I would...I would want to look at it but I don't think I'd have a problem with that. [LB44]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Time, Senators. Thank you, Senator McCoy and Senator Harr. Returning to the queue: Senator Schumacher, you are next in the queue. [LB44]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. I rise just briefly to support Senator Harr's amendment and the yada yada yada part. It is a good amendment. It basically makes it a little easier on the victims. And having them come down every year or the threat of coming down every year is a bit much when you're dealing with the victims of a first-degree murder. So I just rise briefly in support and would yield any extra time I have to Senator Harr. [LB44]

SENATOR GLOOR: Senator Harr, 4 minutes 23 seconds. [LB44]



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SENATOR HARR: And thank you, Senator Schumacher. And that's...I think it gets...what Senator Schumacher says gets at the heart of why we're doing this. I want to thank Senator Ashford for his thoughtfulness on this subject from the get-go. We all know this is his passion. And it's a tough question. We're trying to decide how do we treat juveniles and how far do we treat them differently and at what point are we harming the victims or revictimizing the victims and their family; and it's a tough line, it's a tough choice. I came up with five because I care about the victims and I want to make sure that they don't have to go through this all the time. I understand that that may harm, or not...harm may not be the right word, but it may impede the growth of some of the juveniles. I don't know if it will or not because they don't get a review as often. But we've got to think about the victims and these people and the victims' families, those who are affected by what is and will be an atrocity: taking someone else's life. So what we're trying to do is find a balance. I think five is probably about right because what we're doing is we're treating them how we treat every other inmate, and we're saying we are treating you special on the sentencing side, but once you're inside those four corners you've got to buck up and you've got to show that you're making changes, that you can act as an adult, and that you've learned from your childhood and childish mistakes. And so that's what this does. It still allows them growth. It allows them to be treated as all other inmates are, with the exception of they got a break in the front on the sentence. And that's what this does, and I would ask that you please move this amendment. [LB44]

SENATOR GLOOR: Thank you, Senator Harr and Senator Schumacher. Senator Lautenbaugh, you are next in the queue. [LB44]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I wonder if Senator Ashford would yield to some questions. [LB44]

SENATOR GLOOR: Senator Ashford, would you yield? [LB44]

SENATOR ASHFORD: Yes. [LB44]

SENATOR LAUTENBAUGH: And Senator...and I apologize if you addressed this; I had to leave the Chamber for a few moments. You had heard some conversations we had earlier about perhaps the percentage of juvenile offenders that go through the juvenile court process versus the percentages that go through the adult court process. Do you recall that? [LB44]

SENATOR ASHFORD: Yes. [LB44]

SENATOR LAUTENBAUGH: Do you have any information regarding that? [LB44]

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SENATOR ASHFORD: Yeah, I mean if this helps, I mean; and it's not broken down by felonies and misdemeanors. But there were statewide 3,744 cases where juveniles were tried in an adult court. It could have been a county court or it could be a, obviously, a district court. But my...in talking to Don Kleine, at least from our county, I think the number of cases filed in district court, felony cases that were tried in district court is somewhere in the 80-90 range. I think I believe that's close to correct. [LB44]

SENATOR LAUTENBAUGH: So is it possible that a lot of the ones that make it into that figure that are tried into adult court are just traffic offenses and the like that... [LB44]

SENATOR ASHFORD: No, the vast majority of them are minor cases, MIPs also included in that, but traffic and that sort of thing. [LB44]

SENATOR LAUTENBAUGH: Now, this bill reminds me of a discussion we had on another bill that you had, I believe, regarding originating charges, as to whether or not we originate them all in adult court and some go down to juvenile, or some...or everything is originated in juvenile and some go to adult court. Does this bill affect the disposition of that in any way? [LB44]

SENATOR ASHFORD: No. And as...and you were off the floor, but what I indicated on the record, the County Attorneys Association had asked me if we could not deal with LB494 (sic--LB464), which is the original filing in juvenile court bill, this year, and deal with it next year. And so I've notified the Speaker. It's on Select File and I notified the Speaker that we would...we could deal with that issue next year. [LB44 LB464]

SENATOR LAUTENBAUGH: So the disposition of it was affected but just not by this bill. Is that safe to say? [LB44]

SENATOR ASHFORD: Correct, yeah. [LB44]

SENATOR LAUTENBAUGH: This bill I guess changes the...I think it's from a one-year to five-year period. Do you know why the two different years were picked between you and Senator Harr, two different numbers? [LB44]

SENATOR ASHFORD: Senator Harr brought this to my attention this morning, and I am going to have an amendment up which we can do it on--well, we should do it here now on Select File--that will require a review for all cases, at least at 40 or 50 years, so every juvenile gets a review. I...you know, the difference between one to five, five is the customary hearing time after the first denial of parole for an adult offender or an adult inmate. I believe there's a five-year hiatus. What Senator Harr has done here--I mean, I'm repeating what you already know--but what he has done here is indicated that within five years of the release date that there would be a hearing every year, I believe. I believe that's what the amendment says, so. You know, where he came up with five is I

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think it's more consistent with the adult offender sentencing rules. [LB44]

SENATOR LAUTENBAUGH: And those adult standards, are those already codified somewhere in statute? [LB44]

SENATOR ASHFORD: Yes. [LB44]

SENATOR LAUTENBAUGH: How long has that been the case, do you know? [LB44]

SENATOR ASHFORD: Oh, I think...well, I don't know the answer to that, but I think it has been a practice for... [LB44]

SENATOR GLOOR: One minute. [LB44]

SENATOR ASHFORD: ...a number of years, Senator Lautenbaugh; but I don't know the exact number. [LB44]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I know sometimes these floor debates sound like digressions and maybe they sound like they're not really going anywhere at all, but I think it is important to understand that all of these bills somehow have to work together. And I do appreciate Senator Ashford's indication that the other bill we discussed, and for some reason I never remember numbers, but the one that we just discussed that has to do with where charges are initially filed won't be coming back this session, because I believe we do need...and I think we all agreed on General File that there was work that needed to be done. So I think it's important to hold that one and make sure we're doing the right thing in all instances. I can recall looking at this and other states that do have a system where the charges all originate in juvenile court, they still do make an exception for more serious... [LB44]

SENATOR GLOOR: Time, Senator. [LB44]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB44]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Senator Larson, you are recognized. [LB44]

SENATOR LARSON: Thank you, Mr. President. And I was...and I see Senator Harr stepped out of the Chamber, so unfortunately I'm going to have to ask Senator Ashford a question if he'd yield. [LB44]

SENATOR ASHFORD: Fine. [LB44]

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SENATOR LARSON: (Laugh) Oh, there's Burke. I'm sorry, Brad, or Senator Ashford. [LB44]

SENATOR GLOOR: Would you yield? [LB44]

SENATOR LARSON: Senator Harr, would you yield? [LB44]

SENATOR GLOOR: Senator Harr, would you yield? [LB44]

SENATOR HARR: Yes. [LB44]

SENATOR LARSON: Senator Harr, I was looking at AM1094 and really reading the language, and we went over it, the first year, every five years, and then five years before their parole, which would be year 20, and then the way the amendment reads, it would be every year after that. So if they did receive...or, you know, all 40. So essentially they'd have it in years 1, 6, 11, and then 16 through 40, is that correct, how your amendment reads, if they actually stayed in for the whole 40, if they weren't paroled? [LB44]

SENATOR HARR: And I appreciate that question and I'm starting to realize that this amendment needs some work and I'm going to probably withdraw it and work--well, I am going to withdraw it--and work with Senator Ashford. Before Final Reading we'll pull it back, assuming this goes forward, and come up with an amendment that addresses your concerns, addresses the concerns of the county attorneys, if any, and all parties interested. [LB44]

SENATOR LARSON: So how do we, I guess...I know you're working on it so I'll ask, how do you...I mean, is it something that you'd go 1, 6...I mean, how do you do it after they don't get parole? Is it 20 or do you do it all 5 years leading up? I mean, because you brought up the issue that you want to do it...you don't want the families to have to come in every year because it's a court proceeding. Like I said, I'm not completely familiar with the proceeding. How do we...I mean, I agree with you, we have to strike a balance moving forward, and there's obviously a little bit of work that needs to be done here, and this would be as good as any on Select File. What...I mean, what...as somebody who's worked in the system, how do we move forward? [LB44]

SENATOR HARR: Well, good question. And the answer is, we're going to do it however we decide to do it. And, you know, I can tell you how this amendment does it but I'm not sure if that's the best use of our time because I don't know if this amendment is going to become the law, as I stated. When given the opportunity, I'm going to go ahead and withdraw this amendment and I'm going to work with the parties interested, and I would love to work with you on this to make sure we get an answer that is maybe not agreeable but at least everyone understands what we're doing and why we're trying to

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do it. [LB44]

SENATOR LARSON: Thank you, Senator Harr. All right, colleagues, I'm glad that Senator Harr is very willing, and I know, Senator Ashford, this is an important bill moving forward in terms of juvenile justice; and we as a Legislature have prioritized that and I know the Judiciary has as a committee. I know, from my two years on the Judiciary Committee, just learning these juvenile justice issues, we're...very interesting and there are issues, and LB44 is probably that package, as well as LB561. And we want to make sure, as we're moving forward, that we're getting it right, and I think Senator Ashford and Senator Harr are attempting to do that. And hopefully we can work, I'd prefer now so we didn't have to put it on Final Reading and then pull it back and move it forward and whatnot. But if that's...it's not a big deal because this is something...something needs to be done and I think Senator Ashford is definitely on the right track moving forward. And as we move forward it will be good and get all the parties concerned in and at the table, and hopefully we can get it to where the hearings aren't every year. Because, as Senator Harr said, they don't want the families to come in every year, but often enough that these people do have the ability to assess where they're at... [LB44 LB561]

SENATOR GLOOR: One minute. [LB44]

SENATOR LARSON: ...and where they're moving forward and to make sure that they're rehabilitated and can join society. So I thank Senator Harr and Senator Ashford for all their hard work, and hopefully, we can move forward on this, whether a floor amendment comes or something of that nature, or we pull it back off of Final Reading. Thank you, Mr. President. [LB44]

SENATOR GLOOR: Thank you, Senator Larson. Senator Harr, did I hear correctly you're withdrawing your amendment? [LB44]

SENATOR HARR: That is correct, Mr. President. [LB44]

SENATOR GLOOR: Seeing no objection, so ordered. [LB44]

SENATOR HARR: Thank you. [LB44]

SENATOR GLOOR: We return to discussion on the bill. Senator Lautenbaugh, you are recognized, and this is your...correction, this is not your third time on the bill, Senator Lautenbaugh. [LB44]

SENATOR LAUTENBAUGH: Thank you, Mr. President. And I would yield my time to Senator Chambers if he would like it. [LB44]

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SENATOR GLOOR: Senator Chambers, you are recognized with 4 minutes 53 seconds. [LB44]

SENATOR CHAMBERS: Mr. President and members of the Legislature. Thank you, Senator Lautenbaugh. I have deliberately refrained from joining in the discussion because I think it has been progressing in such a way that questions are being asked that obviously are on the minds not only of the person who asked it but maybe others who had similar questions but did not choose to ask them. The reason I did come back upstairs was because of the amendment that Senator Harr was offering. What I have to try to do in helping us maintain some level of balance in how we approach a subject as difficult as this is for some people, it's not enough to set a penalty. You have to, or you should, consider the people and the work that they must do who are going to have these individuals under their supervision. There is an institution that has to be run. If you create a set of circumstances in trying to make an appeal to what Senator Harr referred to as the victims, the victims are not why penitentiaries exist and operate. The people who are operating those facilities must be able to manage them. And legislators looking at an issue piecemeal will add a little piece here, a little piece there, and when they get the patchwork finished it creates a difficult situation for those who manage the institution. There might be a juvenile who is sentenced to life under this bill for committing a crime which based on the facts will not be nearly as horrendous as those by others in the population not sentenced under this bill as would be the case with somebody under 18 at the time his or her crime was committed. So you might be putting a harsher set of circumstances on the back of a juvenile than you are hardened criminals. There are counties where certain types of charges will not be brought because a plea bargain is cheaper, it's easier, and the lack of expertise on the part of the prosecutorial staff will not be brought to bear. So the plea agreement has nothing to do with the nature of the crime itself, the facts that attend that crime. So when you talk about skewing the way that parole hearings are conducted, I think it's a mistake. I'm pleased that Senator Harr withdrew his amendment; and since he's going to talk to Senator Ashford, I would talk to him also. But since Senator Lautenbaugh gave me the time, I thought I would make use of it, and I'm not going to prolong the discussion. I'm going to try to stay out of the discussion. But I am listening. I have my eyes open, and if I feel that it's necessary because of my beliefs about this whole thing, then I will join the discussion; but I'm not going to talk just to be talking on this particular bill. Thank you. And thank you again, Senator Lautenbaugh. If all men and women could conduct themselves in the way... [LB44]

SENATOR GLOOR: One minute. [LB44]

SENATOR CHAMBERS: ...that Senator Lautenbaugh and I do, knowing that we have strong differences on certain issues, the world would be a much better place, there would be a lot more peace, and we might never have to contend with a bill such as this because we would have a way of resolving problems before they reach the point of one

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person seeing the necessity to take another's life. Thank you. [LB44]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Ashford, you're recognized. [LB44]

SENATOR ASHFORD: Yeah, thank you, Mr. President. And I would suggest that we do spend some time thinking about this. We spent yesterday talking, or part of yesterday talking about LB561. The hope and dream is that as LB561 becomes implemented, there will be fewer and fewer individuals who are juveniles who are tried as adults for serious felonies. It's I think everybody's hope and dream that that will happen, and I think it will as we roll out LB561. I do want to make it absolutely clear and then I will say nothing more on this bill at this point, we...this whole issue entirely of how, when, and how we review or have hearings for juveniles is important because Miller does want to ensure that states provide reasonable opportunities for juveniles to be released earlier than their...you know, than their maximum sentence date. And that is clearly stated in Miller. And I think in LB44, thanks to Senator Carlson, we have a very well-thought-about compromise. If we're going to get into now further discussing the review and hearing process at the parole date, after the parole date, the first parole date has gone past, I think we then are going to have to start thinking about the reviews for those kids that are adults now or are serving a life sentence with no possibility of parole, whether or not Miller requires that they have a review, albeit even 40 years down the line to comply with Miller. That's an open question. It hasn't been decided by the courts. But if we're going to start changing the review process now at this late stage of the bill, I think we're going to have to think about that other piece as well to make sure that we are in compliance with Miller. But with that, that would be all I would suggest at this point is we move bill across and spend the summer thinking about these other issues, including the juvenile filing issue. Again, the trigger to all this being better is LB561, I think, and to have the kind of systems change that LB561 has, so that we're not going to let these juveniles out of our sight. We're going to get them better. We're going to reunite them with their families. We're going to keep them out of detention so that they don't get worse. And I think we're on the verge of doing something--this body, not me at all--the committee and this body doing something significant for our state. So with that, thank you, Mr. President. [LB44 LB561]

SENATOR GLOOR: Thank you, Senator Ashford. Senator McCoy, you are recognized. [LB44]

SENATOR MCCOY: Thank you, Mr. President and members. Would Senator Ashford yield? [LB44]

SENATOR GLOOR: Senator Ashford, would you yield? [LB44]

SENATOR ASHFORD: Yep. [LB44]

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SENATOR McCOY: Thank you, Senator. I want to make sure I am understanding this correctly, because obviously we are on Select File with LB44. So if I understand--and I may ask Senator Harr a question, Burke Harr, a question in a moment, but...with his withdrawal of his amendment. So what you're saying is you don't believe at this time we need to have an amendment such as your floor amendment or Senator Harr's amendment? [LB44]

SENATOR ASHFORD: Well, it's not a need. No, we don't need to do it. I think what we have with Senator Carlson's amendment is the right bill for right now. I just don't...I don't think we have to make any other real changes. What I was hoping was that by holding LB464 on Select File, which is the juvenile filing bill, that...and then advancing LB44 or passing LB44 into law, that we would be complying with Miller as it is now. And then next year, most certainly I think we'll be coming back with some other ideas on juvenile filing and on the sentencing process that Senator Chambers was talking about, because that is a very complex issue that needs study. And I worry a little bit about...I think LB44, as it is, is the right bill to pass right now, and we should think about it going forward over the summer until next year. That's my thought. I mean, if the body wants to do something else, they can, but that's. [LB44 LB464]

SENATOR McCOY: You mean, LB44 instead of...or you said LB480 (sic)? [LB44]

SENATOR ASHFORD: LB464 is the juvenile filing bill,... [LB44]

SENATOR McCOY: Right. [LB44]

SENATOR ASHFORD: ...and that bill I've agreed to hold off until next year, and...but it would be my druthers here is that we keep LB44 the way it is, as Senator Carlson proposed it on General File, and that this whole issue of how we review these juveniles, once adults, in the system, that that issue does take some study, I think. I mean, as we look at...by that time we'll have more cases coming down under Miller, and we'll have a better understanding of what we have to do in sentencing juveniles. That's my...that's what I would rather do, because I think we have a fairly well-crafted compromise here. I hate to change it right now, but. [LB44 LB464]

SENATOR McCOY: And I appreciate that. How do we know, Senator Ashford, and it may take a minute or two more to figure this out, or maybe longer, I don't know. But it was my understanding with the whole reason and the rationale why we needed LB44 in the first place was to satisfy the Miller Supreme Court, U.S. Supreme Court decision. How do we then determine what passes muster as... [LB44]

SENATOR ASHFORD: Right. [LB44]



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SENATOR McCOY: ...a satisfactory resolution of answering that,... [LB44]

SENATOR ASHFORD: Right. [LB44]

SENATOR McCOY: ...and then what--this session--and then what can be left off for potentially a future session? Is that...how do we know that? [LB44]

SENATOR ASHFORD: Right. Well, let me explain this to you. Here's how I understand it, Senator McCoy. Let's say we didn't pass anything, let's say we didn't pass LB44. And this is why I think Senator Carlson's amendment was so important, especially for public safety and balancing all that, is if we have no bill, we have no law, what we have is an unconstitutional sentencing provision as it relates to juveniles under Miller. What would happen if there is no law, no bill? What would happen is we would default to the next lowest offense, which would be a IB felony, I believe, which is 20 to life. The juvenile would be eligible for parole within ten years. So, in effect, you would have what I don't think probably a majority of this body want to have happen, which is you'll have a juvenile offender committing a IA felony, being eligible--you brought up the example of sexual assault second offense--is you'd have a, you know, a sentence of 20 years, potentially, and the juvenile would be...then an adult, would be eligible for parole in ten years. That's what Senator Carlson's amendment... [LB44]

SENATOR GLOOR: One minute. [LB44]

SENATOR ASHFORD: ...ensured would not happen. Now, by next year, there will be cases under Miller that will better...give us a better understanding of what else we need to do. [LB44]

SENATOR McCOY: And that makes sense, Senator, and I appreciate that and I agree with that. I think the 40 years, which with good behavior gets you 20 years essentially, makes sense. But on the issue of a review for... [LB44]

SENATOR ASHFORD: Right. [LB44]

SENATOR McCOY: ...that's the part of this I'm struggling to understand. As Miller required that these individuals have the ability for release at some point, or the possibility of that, how do we know, as we set this up, whether it's three years, whether it's five? I understand the sentencing aspect of it that we're talking about, and I think I've resolved that in my mind. What I'm struggling here with is how do we know whether we're meeting... [LB44]

SENATOR GLOOR: Time, Senators. Thank you, Senator McCoy. (Visitors introduced.) We return to floor debate. Senators in the queue: Bloomfield, Lautenbaugh, and Ashford. Senator Bloomfield, you are recognized. [LB44]

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SENATOR BLOOMFIELD: Thank you, Mr. President. Given where I sit here, I happened to be within earshot of Senator Burke Harr and Senator Schumacher when they were discussing this five-year review plan. And I said to Senator Harr, at the time, that I actually liked three years better. And now we've pulled both off the floor. I would simply ask that when the conversation between Senator Harr and Senator Ashford takes place, that they really consider putting something back in there that keeps the families a little bit separated from having to come down all the time. If Senator Ashford could use any more time, I'll yield it to him. [LB44]

SENATOR GLOOR: Senator Ashford, 4 minutes 5 seconds. [LB44]

SENATOR ASHFORD: Thank you. And actually this is a valuable question and I think it's good to get this on the record and then go on, but. And Senator McCoy asked the right question, you know, what is Miller really requiring here as far as review? What other states have done, generally, not all states have legislated in this area yet. The few that have, some...I think all, even Wyoming and South Dakota, Pennsylvania, North Carolina, I believe, and Virginia, have required that every juvenile who is sentenced to life in prison without parole must have some review, sometime, essentially. And so even if they are convicted of...or sentenced to a IA felony and they're sentenced to life without a minimum, that sentence, that they would at 40 years, for example, have a review. It is relevant to Miller. But to answer Senator McCoy's question, I'm not sure what the parameters will be on this. My sense is that it has to be something different from someone who is sentenced as an adult. That's what I think it says, and that the opportunity for release has to be real and it has to be...so my...whether it's three years or one year or five years, you know, it will have to be a real opportunity for earlier release. And my only suggestion was that by next year we will have more clarification from the courts, I believe, on what that means as far as review is concerned. There is a case in Pennsylvania that's going through the system that deals with their review process; so you're right, there could be case in the next year where families would have to come back to a parole hearing under the current law, possibly. I don't know, I'd have to look at the status of those cases. But it would not be a significant number. But as Senator Chambers has suggested, that's not really the standard. So what we need to do, I think, is just move LB44 ahead. That's what I would prefer. Pass it and then spend some time on thinking about what the proper review is. [LB44]

SENATOR GLOOR: Thank you, Senator Ashford. Senator Lautenbaugh, you are next in the queue. [LB44]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I wonder if Senator Ashford would yield. [LB44]

SENATOR GLOOR: Senator Ashford, would you yield? [LB44]

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SENATOR ASHFORD: Yes. [LB44]

SENATOR LAUTENBAUGH: Thank you again, Senator, as always. And I don't get the sense that anyone is in opposition to this bill. We're just trying to figure out the best way to accomplish... [LB44]

SENATOR ASHFORD: No, and I'm not suggesting that they are. I'm just saying... [LB44]

SENATOR LAUTENBAUGH: No, no, you did not. I did not mean for you take that in that way. What is the value to advancing it on rather than just holding it at this point on Select File? Because it just seems easier to do a Select File amendment versus pulling it back from Final Reading at some point. [LB44]

SENATOR ASHFORD: I don't have any...I think it needs to pass and it would really be up to the Speaker. I mean, I don't want to clog this thing so badly that we start piling bills up on Select, because I'm sure the Speaker would rather not have that happen. I can assure you, Senator Lautenbaugh, that by next year we will have some suggestions on how to deal with this. And that's sort of part of the reason why--not sort of; that is one of the reasons why we are keeping LB464 on, or it's up to the body to keep it there or not, but why I'm suggesting we not move ahead on LB464 until we think about all these issues that are being raised on the floor today, and sit down with the county attorneys, defense attorneys, whomever, and come up with the right review. That's really what I'm saying. [LB44 LB464]

SENATOR LAUTENBAUGH: Thank you, Senator Ashford. I wonder if Senator Schumacher would yield. [LB44]

SENATOR GLOOR: Senator Schumacher, would you yield? [LB44]

SENATOR SCHUMACHER: Yes, I will. [LB44]

SENATOR LAUTENBAUGH: Senator, I guess I know you...in a prior life you were a prosecutor/county attorney, is that correct? [LB44]

SENATOR SCHUMACHER: That's correct. [LB44]

SENATOR LAUTENBAUGH: Did you have much involvement in juvenile matters, or did you have someone who handled that separately? [LB44]

SENATOR SCHUMACHER: I had someone handle it; but then I had much too much involvement myself. [LB44]

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SENATOR LAUTENBAUGH: And you've been present for much of the discussion this morning, have you not? [LB44]

SENATOR SCHUMACHER: Yes. [LB44]

SENATOR LAUTENBAUGH: Is the policy...and I realize this is sort of postconviction, if you will, but is the policy set forth of the original bill, does that cause you any sort of discomfort or dismay in any way as far as when these are reviewed? [LB44]

SENATOR SCHUMACHER: My personal opinion as far as--whatever it's worth--is that the policy of doing it every year is probably way too frequent and doesn't serve any social interest. [LB44]

SENATOR LAUTENBAUGH: And I'm assuming you say that because there's...well, there's time spent actually doing the review and probably some involvement with the victim's family, too; is that correct to say? [LB44]

SENATOR SCHUMACHER: Well, I say that because if you do it every year you've made a determination that they've not qualified and that a substantial change in behavior or qualification would occur within a cycle as short as one year on a sentence as long as decades in jail, just isn't realistic. And not only is it work, which is your job anyway, but it's also hardship and anguish and anticipation on the part of folks who probably don't deserve any of that. [LB44]

SENATOR LAUTENBAUGH: Thank you, Senator Schumacher. And I would yield the rest of my time to Senator Carlson. [LB44]

SENATOR GLOOR: Senator Carlson, 1 minute 44 seconds. [LB44]

SENATOR CARLSON: Thank you, Mr. President, and thank you, Senator Lautenbaugh. And I'm disappointed I don't see Senator Chambers, he apparently left the Chamber, because I was going to bring him to the microphone and just double-check with him. Earlier he made a statement about Senator Lautenbaugh: If everybody were like him, this would be a better place. And I simply was going to check with him, because earlier he had also...earlier in this session he had turned to Senator Lautenbaugh and said: I find no fault in this man. And I was going to check and see if he still felt this way. But unfortunately, he's not here. And I had a little question I'd like to ask Senator Lautenbaugh, if he would yield. And how much time do we have? [LB44]

SENATOR GLOOR: You have 1 minute exactly, Senator. [LB44]

SENATOR CARLSON: Thank you. Senator Lautenbaugh, I had indicated that I think

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some of what has gone on between Senator Chambers and me during the session is rubbing off on you a little bit, and I'd like to go further into that right now. I'd like to ask you, was the story of Moses in the Old or New Testament? [LB44]

SENATOR LAUTENBAUGH: I'm going to say the Old Testament. [LB44]

SENATOR CARLSON: All right. Thank you. That's a good answer. Now he and his people were held in captivity. Were they held in captivity in Israel or in Egypt? [LB44]

SENATOR LAUTENBAUGH: Well...and I have to be honest, because we've covered this before; I mean, I know this. I saw the movie. But still Senator Carlson was good enough to give me the answer, (laughter) so I will say Egypt. [LB44]

SENATOR CARLSON: All right. Very good, Senator Lautenbaugh. I can see that more and more is rubbing off on you. And Senator Chambers missed the party. Thank you. [LB44]

SENATOR GLOOR: Thank you, Senator Lautenbaugh and Senator Carlson. Senator Larson, you are recognized. [LB44]

SENATOR LARSON: Thank you, Mr. President. Would Senator Ashford yield for a question? [LB44]

SENATOR GLOOR: Senator Ashford, would you yield? [LB44]

SENATOR ASHFORD: Yes. [LB44]

SENATOR LARSON: Senator Ashford, Senator Harr withdrew AM1094 saying that there would be a hope to work with the review period between now and Final, and then we'd pull it back and fix it. And then I just...a little bit of clarification. Now, is that still your intention of that happening or do you...I heard you want to kind of pass LB44 and then work in the interim. I mean, I like the concept of the reviews and having some method. So are we going to...? [LB44]

SENATOR ASHFORD: Actually I think Senator Bloomfield has mentioned three years. Here's what I would be very willing to do if we want to do it yet this year, and I think it complies with Miller, is if we put...if we have a review or a hearing for all juveniles, all individual sentences of juveniles, at some point they're entitled to a hearing. So even if someone is charged with life or sentenced to life without a minimum below life, that that individual at some point--it could be 40 years, it could be some--that that person have a hearing. Because I think, I really think that's substantively a better...we're more compliant with Miller, doing that. If there needs to be a review process of ever...there's always a review, but if the hearing process would be every three years, as Senator

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Bloomfield suggests, you know, that's something we can look at. But I would rather do it that way than simply go from one to five without looking at that review at the upper end, which I think is relevant to Miller. And I think...so if we could come up with some kind of agreement on that, which I asked Senator Schumacher, and I don't know, I might ask him...well, I'm not going to put him on the mike on this, but--I can't anyway--but is, you know, that's a fair result I think, generally. [LB44]

SENATOR LARSON: And does this, if we were to enact LB44, those juveniles that we heard on the record that are in the facility right now, does LB44 affect them if we do put the review process in? Obviously, I'm assuming we do put a review process in. And when do they...will they get a review the first year or moving forward? I don't know that question, so I'm asking you how does that...would it be like every three? [LB44]

SENATOR ASHFORD: I believe they would if they are parole-eligible; if they're parole-eligible that they would get a parole hearing, yes. [LB44]

SENATOR LARSON: Okay. Is this something that we could do between now and Final, or a floor amendment now? That would be (inaudible). [LB44]

SENATOR ASHFORD: Yeah. Well, I don't know if we can do a floor amendment now. I think I...and we've only got 15 minutes. That's too important an issue to do a floor amendment now. But I think we've made a record here to say that there...when you're talking about sentencing and sentencing policy, that to me, to change one aspect of it, one to five, or one to three, without looking at other parts of it, which we can do, is not productive. And I think we run...we potentially run...if the sentence parole hearing process is the same for adults as it is for adults who are sentenced as juveniles, what my concern is, is that we run afoul of Miller. Now someone can get up and say, Brad, you're crazy, it doesn't run afoul of Miller. But I think we'd have to have that discussion and I'd be happy to do that if you want, if somebody wants to do that. [LB44]

SENATOR LARSON: Thank you, Senator Ashford. And I think, you know, Senator Bloomfield raised the point that he preferred every three, and I'm not sure personally whether it's three or five or something the Judiciary Committee and Senator Ashford comes up with. I do feel that there is an importance, as Senator Ashford said, for this review process. I wasn't sure that Senator Harr's AM1094... [LB44]

SENATOR GLOOR: One minute. [LB44]

SENATOR LARSON: ...that had it in the first year and then it would have been the sixth year, the eleventh year, and then every year after that for as long as that individual was incarcerated, was necessarily it. But maybe every three. Again, I'm not completely sure, but I think Senator Ashford is definitely on the right track; and hopefully, we can move forward between now and General...or now and Final, because I personally would

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prefer that something get done this session with this on LB44 rather than waiting an entire year for this review process to be inside LB44. So thank you, Mr. President. [LB44]

SENATOR GLOOR: Thank you, Senator Larson. Senator Ashford, you are recognized. Senator Ashford waives. Senator Chambers, you are recognized. [LB44]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, this subject is difficult. What I'm going to say I had not intended to say. But a parole hearing is not like a trial. The Parole Board is not a court of law. The Parole Board can make it clear that if certain people come to the hearing, it will be a perfunctory hearing, it will not take a lot of time, and if family members want to find out, they can be notified that this is not going to be anything that would need your presence here. Some people who have gone to parole hearings, even when they're not sentenced to life, have had it made clear to them they're not likely to get out, so they will waive the hearing. They will say, I don't even want the hearing; I don't want to go. And this is why sometimes when we do all of this tinkering on the floor, the questions and answers are fine. When you freeze something into the statute, you are tinkering with a system that doesn't need to be tinkered with. So I would like to see LB44 stay the way that it is. You have achieved the 40-year minimum, which makes me very displeased, but that battle was fought and lost by me. So now the bill, after hours and hours of debate, is in the condition we find it in. I don't see that anything added to it at this point is going to do anything other than muddy the water. Whether you have a hearing every year, every three years, that has nothing to do with the issue that we're talking about. We're talking about what the sentence is going to be for this juvenile and how that person will be dealt with. So this idea of the hearings having to be settled on this bill I think is misguided. The bill ought to move forward. And if somebody wants to try to bring it back for an amendment and all they want to do is have a chance to discuss their view, the bill will remain on Final Reading. The amendment that the person might say they're going to offer will most likely be withdrawn. The last posturing, the last shots that have to be taken can be taken. And when the bill is not brought back to Select File for any kind of amendment, then it can go ahead and be read. If it is brought back for an amendment and the amendment is defeated, it can be immediately returned to Final Reading and voted on. But to hold this kind of bill on Select File makes no sense whatsoever. I don't like the condition that the bill is in, but what I like or don't like is irrelevant and beside the point. A lot of work has been done. The bill is not going to be changed substantially. And if I decide that I'm going to just take time, this is not the kind of bill I'll do it on. When I said I wanted to make a point about the Revenue Committee, I didn't do it on Senator Hadley's bill that dealt with that college-age aid fund. I have discretion. I have intelligence and I play the game that I'm playing the way that I want to play it. But I am not going to take every single bill that I disagree with and go to the mat on it. [LB44]

SENATOR GLOOR: One minute. [LB44]

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SENATOR CHAMBERS: What I say here today, and I'm going to say it like Abraham Lincoln: The Legislature will little note and certainly will not pay much attention to what I say here today. But I'm going to say it anyway: The bill should move today. Thank you, Mr. President. [LB44]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Bloomfield, you are recognized. [LB44]

SENATOR BLOOMFIELD: Thank you, Mr. President. I punched my light just in case Senator Chambers had a little more he wanted to say, and I would yield that time to him. [LB44]

SENATOR GLOOR: Senator Chambers, you have been yielded 4 minutes 55 seconds. [LB44]

SENATOR CHAMBERS: I'm going to get people to stop yielding me time in a minute because I might sing you a song. When I am sad, I sing, and then the whole world is sad with me. I will make a comment, because I think the bill ought to move, about what Senator Carlson stated. What I had said was not that everybody ought to be like Senator Lautenbaugh or that everybody ought to be like me. I said that if people could observe the way Senator Lautenbaugh and I get along with each other and deal with each other, even though people know we have differences, then the world would be a better place. That was the context. But Senator--he's not here--"Parson" Carlson, has flown the coop. I think he may have misheard or gotten the story from somebody else, but that's what happens when you have a he-said, she-said. Fortunately, I'm here to correct the record. What I hope is that there's not an attempt to just hold this bill here until we recess and then it stays here because we run out of time. I hope that doesn't happen; and that's really the only reason I took the time that Senator Bloomfield offered me. Thank you, members of the Legislature. [LB44]

SENATOR GLOOR: Thank you, Senator Chambers. (Visitors introduced.) Returning to floor discussion, Senator Lautenbaugh, you are recognized. [LB44]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I will say that I believe I'm last in the queue, and so I don't think this bill will be impaired from moving forward today if that's the will of the body. I would ask if Senator Chambers would yield to a couple brief questions. [LB44]

SENATOR GLOOR: Senator Chambers, would you yield? [LB44]

SENATOR CHAMBERS: Yes. [LB44]



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SENATOR LAUTENBAUGH: Thank you, Senator Chambers. And I do think he said the same thing twice and I do appreciate that. While we do not agree on many, many, many, many, many things, we do seem to have a way of working on some things together. [LB44]

SENATOR CHAMBERS: And we could have done with a couple fewer of those "manies" but go ahead. [LB44]

SENATOR LAUTENBAUGH: I disagree. That's one of the things we disagree upon then apparently. [LB44]

SENATOR CHAMBERS: (Laugh) Okay. [LB44]

SENATOR LAUTENBAUGH: You frequently discuss the Good Book with "Parson" Carlson, do you not? [LB44]

SENATOR CHAMBERS: Yes, I do. But I call it the "Bibble"; he calls it the Good Book. [LB44]

SENATOR LAUTENBAUGH: I understand. I have to side with him on this one. If he had asked you the question of which book the story of the exodus and Moses appeared in, would you have known the answer? [LB44]

SENATOR CHAMBERS: Well, Exodus is the name of one of the books. So if there were a story from exodus, it would be in the book of Exodus. But both were in the Old Testament. [LB44]

SENATOR LAUTENBAUGH: I'm sorry. I meant testament, not book. I apologize. [LB44]

SENATOR CHAMBERS: Well, that's all right. I read your mind. I knew what you meant. That's why I was saying what you meant to say. [LB44]

SENATOR LAUTENBAUGH: And where the Israelis were trying to get out of, if he had asked you if it was Israel or Egypt, would you have known the answer to that? [LB44]

SENATOR CHAMBERS: That they were trying to get out of Egypt? Everybody knows that because Pharaoh was the one who was told let my people go so Pharaoh being the leader of Egypt, the country had to be Egypt. [LB44]

SENATOR LAUTENBAUGH: Now did you know that from reading the Good Book or did you just watch the movie? [LB44]

SENATOR CHAMBERS: No, I read it many times, many...probably more times than the

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"Parson" or any other living person. Because when I was in high school, I read it from cover to cover eight times, and the parts that were problematic or that I enjoyed I went back and read and actually studied. I read Bible dictionaries, I read concordances, I read all of it because I wanted a context for those yarns and fables that were contained in the "Bibble." [LB44]

SENATOR LAUTENBAUGH: Thank you, Senator Chambers. I just wanted to draw that out because, again, for some reason Senator Carlson feels compelled to always give me the answers before he asks me those questions. So I think that speaks volumes about me and his opinion of me and probably his opinion of Senator Chambers because he does not see fit to give Senator Chambers the answers. So with that said, I will...I won't yield my time. Thank you, Mr. President. [LB44]

SENATOR GLOOR: Seeing no senators remaining in the queue, Senator Murante for a motion. [LB44]

SENATOR MURANTE: Mr. President, I move to advance LB44 to E&R for engrossing. [LB44]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All those opposed, nay. LB44 is advanced. Mr. Clerk. [LB44]

CLERK: Mr. President, some items. New A bills (read LB553A and LB23A by title for the first time.) Senator Lautenbaugh has an amendment to LB563 to be printed. Senator Murante would like to add his name to LB585. (Legislative Journal page 1137.) [LB553A LB23A LB563 LB585]

And Senator Burke Harr would move to recess the body until 1:30, Mr. President.

SENATOR GLOOR: Members, you've heard the motion to recess. Those in favor say aye. Those opposed, nay. We stand to recess.

RECESS

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: 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. Members who are in their offices, would they return to the floor so that we can begin our afternoon debate. Record, Mr. Clerk.

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

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SPEAKER ADAMS: Are there items for the record?

CLERK: I have just one item: a conflict of interest statement filed by Senator Burke Harr. That's all that I have. (Legislative Journal page 1138.)

SPEAKER ADAMS: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR146, LR147, LR148, LR149, LR150, and LR151. Mr. Clerk, we proceed to the first item on the afternoon's agenda. [LR146 LR147 LR148 LR149 LR150 LR151]

CLERK: Mr. President, LB104, a bill introduced by Senator Lathrop. (Read title.) The bill was introduced on January 10 of this year, referred to the Revenue Committee for purposes of conducting a public hearing. The bill was advanced to General File. I do have committee amendments pending. (AM525, Legislative Journal page 662.) [LB104]

SPEAKER ADAMS: Senator Lathrop, as the primary introducer of LB104, you are recognized to open. [LB104]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good afternoon. As most Nebraskans know, our state has enormous wind energy potential. A recent study has ranked our state fourth in the country with almost 1 million megawatts of wind energy potential. Over the last few years, Nebraska has finally begun to tap this potential as a result of legislative efforts that have encouraged investment in and removed barriers to the development of large windfarms. However, we know that we've only just begun to tap a potential that exists in Nebraska. I introduced LB104 in order to remove a barrier to the development and export of wind energy in our state. In order to do this, the introduced version of LB104 would have amended the Nebraska Advantage Act by adding a Tier 7, which would apply to investments in renewable energy. However, Senator Hadley had also introduced a proposal, and we quickly agreed that only one proposal should move forward this year. And together we worked with the Revenue Committee and asked that they advance LB104 to General File with an amendment that would replace the original contents of the bill with the original provisions of LB501. Senator Hadley asked me to sit down with developers and economic development professionals who have convinced me that simply adding the definition of renewable energies to the Nebraska Advantage Act is the right approach and will send a powerful message as major investment decisions are being made before the end of this year. It is no secret that Nebraska has an opportunity to see over \$300 million to \$400 million of investment yet this year, and that investment will bring significant new revenue and economic activity to our state. And given our debate on many important issues, including water, education, and Medicaid, how we grow our economy is crucial to this discussion. We are also sending what I believe to be a very important message to all businesses, both inside and outside of Nebraska. Many are making major long-term investment decisions now. Nebraska has an excellent

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reputation, and our actions on this bill will strengthen that message we send. Although I applaud Senator Schumacher for his bill to review the Nebraska tax system, it is also important that we act on an opportunity, and we have an incredible opportunity before us this year. I agreed to amend LB501 into LB104 because it is simple and effective and will provide the wind energy developers with the incentives they need to come to Nebraska. It puts Nebraska on a level playing field with competitors in our surrounding states who already have a sales tax exemption for these projects. Perhaps most importantly, it will attract large export projects, which are the best kind of all, as the development and taxes are paid for with money from outside the state and the power produced is bought with new money. All this activity translates into new investment, new jobs, and substantial new tax dollars that will be injected into Nebraska's economy. LB104 can be looked at as a renewable energy bill, but it's actually much more. LB104 is an economic development and a jobs bill that will greatly benefit rural parts of our state and all of Nebraska, including our existing manufacturing sector. Windfarms help the rural areas of Nebraska by producing good-paying jobs and providing property owners with annual payments of several thousand dollars per turbine. That's generally \$10,000 to \$15,000 per turbine that are located on the land. I talked with the people in Broken Bow this last year while touring the new windfarm who are witnessing firsthand the benefits to their communities. These same benefits should be spread across the state and LB104 can help do that. Windfarms also provide additional new local tax revenue for local governments in our rural areas in the form of nameplate capacity tax calculated at \$3,518 per megawatt. For a 200 megawatt project in rural Nebraska, for a county that translates into roughly \$700,000 in new tax revenue each and every year for the life of the lease. Current leases by one company are 40 years. This influx of new tax dollars can help reduce the reliance on property taxes of those who actually live in the areas. LB104 also helps the manufacturing sector of our state by providing a market for the goods they produce. One block away from my legislative district is Distefano's. It produces component parts for the wind turbines. I toured this facility last year and learned that they are ready to boost their production if more windfarms are developed. When this happens, new jobs will be created at Distefano's and in many other communities across Nebraska. It is vital that we continually look for ways to invest in our state, and LB104 is one way to do that as decisions are being made this year. Nebraska doesn't have much in the way of traditional energy resources, but we do have the wind. I strongly believe we need to do all we can to develop this resource because it will grow our economy, enhance rural areas of our state, and provide additional quality jobs across Nebraska. I'm also reminded that as we debate our other important resources, water, that in this case the wind-generating facilities do not use water to produce electricity. And finally, I want to thank the Revenue Committee for working with me on this legislation and the committee amendment and for recognizing that we have a time-sensitive opportunity before us that can significantly grow Nebraska's economy, especially in rural Nebraska. I think we can all agree we need to look at the state's tax policy, but it is just as important that we continue to do what Nebraska has always been able to do best--respond to opportunities that help Nebraska compete. Other states are

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not standing still because they know the decisions are being made now. And with that, I will ask for your support of LB104. Thank you. [LB104 LB501]

SPEAKER ADAMS: Thank you, Senator Lathrop. (Visitors introduced.) As the Clerk stated, there are amendments from the committee. Senator Hadley, you're recognized. [LB104]

SENATOR HADLEY: Mr. President, members of the body, thank you, Senator Lathrop, for that opening and for your willingness to carry and prioritize LB104. Colleagues, there were two proposals introduced before the Revenue Committee dealing with renewable energy this year. Senator Lathrop and I agreed that we needed to send a unified message to the development community. And frankly, after my little mishap that resulted in surgery, I asked Senator Lathrop if he would move forward with the bill and he agreed. He also generously agreed to allow the language I originally introduced to be inserted into his bill. After sitting down with developers and learning of their time line and intent to invest hundreds of millions of dollars in renewable energy somewhere before the year end, we both became convinced that it is in Nebraska's best interest for this bill to be discussed this year. I want to thank Senator Lathrop again for his help on this and for bringing forth the renewable energy proposal. He has long been a supporter of renewable energy, as have many in this body. I want to also thank Senator Mello, who has worked tirelessly on renewable energy legislation. And I want to thank the Natural Resources Committee. They advanced Senator Mello's bill as a committee priority this year, and I appreciate the hard work of the committee and many others on the issue. Senator Mello, we appreciate your hard work and support. I believe the discussion today is extremely important and time sensitive and that we can send a powerful message to the decision makers yet this year. Let me say again: This discussion is extremely important and time sensitive as many decisions are being made this year. It is one of the reasons why the committee ultimately advanced LB104. Let me share some thoughts of those reasons for you. One, timing is critical. As I've said, many companies are making strategic, long-term decisions this year about where to invest and create jobs. We need to make sure Nebraska is positioned to take advantage of those decisions. Read the article about Facebook in the Omaha World-Herald paper today if you haven't already. That's why LB104 via AM525 includes the emergency clause. The sooner we level the playing field the sooner Nebraska will reap the benefit of new investments and jobs in rural Nebraska. Economic development never rests. If we are truly committed to continually attracting new investment and creating more jobs, particularly in rural areas of Nebraska, we simply cannot stand at ease with respect to the Nebraska Advantage Act. That sends a very negative message to the development community and business leaders and will do damage to Nebraska's ability to start new investment. Nebraska is behind and as a result we are losing out on revenue for our state. We lag behind other states in wind development. Why is that? Because we do not define the generation of electricity as manufacturing. Therefore, renewable energy companies pay sales tax on their equipment in Nebraska but not in other states. We

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have placed ourselves at a competitive disadvantage. Senator Lathrop and I believe that LB104 will significantly change the renewable energy landscape in Nebraska and help us catch up and compete with our neighboring states. Four, LB104 is the right way to do it. The language is simple. It is an amendment to the Nebraska Advantage Act. The act lists the qualified types of business activities. LB104 adds one new qualified business activity--the production of electricity by using one or more sources of renewable energy to produce electricity for sale. It defines the phrase "renewable energy." What this accomplishes is simple. Any facility that wants to qualify for benefits under the act must meet all the requirements of the act and remain in compliance with the act. It imposes a far more accountability than the straight-out exemption from the sales tax. It positions our state to capture new opportunities not only in wind but in other areas as well, such as solar energy. And LB104 is the only legislation that will attract large-scale wind projects that meet economies of scale required for export projects. This is about energy for export. LB104 is about exporting energy, not importing energy, which means a double bonus for Nebraska. New money will be invested by out-of-state businesses to pay for the development of renewable energy. Second, the people purchasing renewable energy are essentially paying money back to Nebraska. This is the best kind of economic development for our state. LB104 and AM525 has the support of the following groups: the State Chamber, Nebraska Farm Bureau, Greater Omaha Chamber, Sierra Club, Distefano Manufacturing, TradeWind Energy, and Invenergy. A word about C-BED: I have shared this information with Senator Mello. When we asked developers about C-BED legislation, they provide us with the following input. C-BED may work for smaller projects, but it is too complex for large export projects. These investors will simply choose to invest their dollars in other states rather than trying to comply with the C-BED requirements. I still urge you to consider it, but for purposes of our discussion today and the time sensitivity involved, there is only one proposal on the docket that will help us compete and catch up in wind...especially wind for export and that is LB104. Fiscal note--the renewable energy for export will not happen in Nebraska without LB104. So in my opinion, we can't lose anything we never had. And I would argue that we have lost significant new revenue by not acting sooner. Look at the investment jobs, long-term landowner lease payments, and construction. The benefits to Nebraska are significant and obvious. In summary, we know four things for certain about these developers. They are doing business in other states; they know competitive markets; they are making investment decisions now this year; and they have, without question, landed on the one issue hurting Nebraska development efforts--our tax policy. If we act now, we are confident that the components...the companies watching this debate will choose Nebraska. Let's send a strong message that these dollars are welcome here. Nebraska can compete. We compete Kansas, Oklahoma, Iowa, Texas, and other states that are vying for these renewable energy projects. Rural Nebraska is open for business and LB104 will help ensure we keep the lights on for them. I would ask that you support the committee amendment, AM525, and the underlying bill. And one last thing: We have heard a lot this year on South Dakota and its reliance on sales tax. This year the haven for sales tax, the state that taxes a rodeo clown's fee,

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exempted wind energy from sales tax in South Dakota. Not only did they exempt it, it is a direct payback. The companies do not have to meet any particular standards. They pay the sales tax. They get it back. This is South Dakota. It's my understanding I believe that's the last state around us that is now getting sales tax exemptions on wind energy. I believe I saw the other day we're 4th or 5th in wind energy generation and 26th in the actual energy we produce from wind energy. We need to pass this bill and this amendment. Thank you, Mr. President. [LB104]

SENATOR COASH PRESIDING

SENATOR COASH: Thank you, Senator Hadley. Mr. Clerk, you have an item. [LB104]

CLERK: Mr. President, I have a priority motion. Senator Chambers would move to recommit LB104 to the Revenue Committee. [LB104]

SENATOR COASH: Senator Chambers, you're recognized to open on your motion to recommit. [LB104]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Johnny One Note. Once again, I cannot be left in peace. Here's another bill from the Revenue Committee dealing with the tax system. Everybody's bill comes out. Everybody's bill comes out. Every imaginable kind of bill comes out--incentives, exemptions, and I don't know what you would call this one. But I listened very carefully to Senator Hadley, and I listened more carefully to him today and took more seriously what he said than I did at any other time before last night because I met his wife. He introduced me to this fine woman who has all this understanding. She's got to be overflowing with charity of whatever variety. And as I told her, people always want to give credit to the Founding Fathers, but they never give credit where it ought to go to the Founding Mothers who had to deal with those irascible Founding Fathers. So I'm paying more attention to him now for that reason. But because I paid attention, I heard him say that it was decided in his committee that they should give a unified message and a powerful message, not to their colleague who labors with them in the vineyard of the Legislature, but to the investors. The investors have a higher priority and are accorded more respect and a higher level of dignity than their colleague. He said that this bill is time sensitive. They are sensitive to everything and everybody except their hardworking colleague. Again, this is not a trifling issue. It's not a trifling bill. But in the same way that I offered this motion on Senator Hadley's bill and did not talk about the merits of his bill, that college savings plan, I'm not talking about the merits of the bill. I don't care what the merits of the bill are. I'm talking about the process that people invoke when it's to their benefit and convenient to do so. He didn't stop there. He actually used the term "level the playing field," not for his colleague, burnished by the hot sun of Africa, whose complexion shows what the hot sun of Africa leaves, but not level the playing field for me, but for these investors and where other states are involved. So everybody gets that

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consideration and I'm just giving back to Senator Hadley what he gave. It's the same way as if you approach a mirror. That mirror throws back at you the reflection. Whatever comes toward the mirror the reflection is thrown back, and that's what I'm seeing. Other committees, I think they might have mentioned Natural Resources, other committees got involved to help in this project--another slam against me. The committee Chairs stood up and had their speech against a motion I made to pull my bill from their unfair committee. Even Senator Mello, a mellow fellow, got a plug. His bill, I don't know if it came out of the Revenue Committee, but they made him, in my view, a coconspirator. They're all in it together. And I don't care how anybody tries to slice it. I don't care how anybody tries to dice it or prettify it. This to me is an act of overt, dyed-in-the-wool racism. It is no longer the fact that it's a tax bill to repeal an earlier tax bill. It goes to how I am being treated and am to be treated in and by this Legislature. But I'm not coming here saying I'm seeking quarter. I'm not asking you to lighten up on me. I'm saying like that young woman sang in her song, "Hit me with your best shot." But unlike her, I'm not going to crumple and fall and be counted out. I will use a slogan that I heard a man on 60 Minutes give, who spent time training dogs to sniff out explosives. And he said in the training when that dog reaches a certain level of competency, that dog is set loose to run down one of the fellow trainers who naturally is in a padded garment. And when this trainer is fighting back, the man said it gives the dog the opportunity to cut and run or to manifest by his conduct. I'm going to stay here with you, I'm going to fight you, and I'm going to beat you. That is my credo and that is what it's going to be. I didn't try to kill anybody else's bill, although I have my designs on a particular bill, but it didn't come from the Revenue Committee. It came from the Executive Board where I cast an inappropriate vote because, as the courts say, I was not totally advised in the premises. I didn't realize what all was going on. And that is the condition you want the person to be in when you intend to con him, when you intend to trick him, when you intend to make a sucker out of him, when you intend to stab him in the back. And they did a good job on me. I give my colleagues credit for that. You did a whale of a heck of a job on me. But I'm not going to be broken. I am not going to be conquered. I am going to fight you. And any way you want to come after me, I welcome you. There is nothing that means so much to me that I will back away from what my core principles are. So anything that I have out there, do what you want to with it, but I'm not going to let this issue go. And I'm going to find other bills to try to amend with my bill. But since I'm just now mentioning that, I won't do as the Speaker does us--send us a memo in the afternoon and say, oh, by the way tonight you're going to stay late. So if you happen to have day care problems that are going to arise, well, that's life. Well, I won't do this bill any differently from the way I've dealt with other bills that came out of the Revenue Committee. How much time do I have, Mr. President? [LB104]

SENATOR COASH: One minute 40 seconds. [LB104]

SENATOR CHAMBERS: I'm going to turn on my light so I can finish, and I'm only going to speak that one more time. [LB104]



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SENATOR COASH: Thank you, Senator Chambers. Members, you've heard the opening to the motion to recommit. (Visitors introduced.) Returning to discussion on the motion, Senator Mello, you're recognized. [LB104]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I'll break my four comments into two different sections or two different, I should say, topics. One, if you look at the original LB104, there's a fiscal note of more than \$5 million in General Fund lost each year. But with the adoption of AM525, which essentially is Senator Hadley's LB501, that would change the fiscal note to roughly \$7.4 million in General Funds the second year of the biennial budget in lost revenue. Just for clarification's purposes, I know I've had a number of senators come and ask me about the fiscal note associated with LB104. The green copy of the bill does have over a \$10 million fiscal impact over the biennium. But with the adoption of the committee amendment, that changes it to roughly about \$7.5 million in General Funds in lost revenue. My second I guess topic, so to speak, or what else I'd like to share with the body is Senator Hadley, Senator Lathrop, and ultimately Senator Chambers also mentioned, I have a piece of legislation that I introduced regarding renewable energy development that was in the Natural Resources Committee. Ultimately, LB402 changed our existing C-BED laws, the community-based economic development laws, in the hopes of trying to utilize those existing statutes that were passed in 2007 a little bit more than what have been...what has been utilized over the last five years. Right now if you look at the bill on your computer, you'd see that the bill has a proposed fiscal note of roughly \$6.5 million in lost revenue the second year based on a wind project of roughly 80 megawatts that may be able to qualify for that. Ultimately, as I expressed to Senator Lathrop and Senator Hadley, as ultimately as a cosponsor of LB104, I support the general concept of wanting to try to expand our state's ability for renewable energy generation. Whether that's export focused, which essentially is what we see in LB104, or community-based focus, in-state development that would be utilized in Nebraska through my legislation, LB402, I think it's good public policy. I think at the end of the day we have seen Nebraska fall further and further and further behind in regards to renewable energy generation. And as Senator Hadley mentioned briefly ago, that we may have lost out on a billion dollar capital construction and investment project from Facebook because of our state's inability to generate more renewable energy. If that doesn't provide a case for businesses and business development of why we need to consider this, I don't know what does. Senator Chambers, unfortunately I think, labeled me as a coconspirator in regards to a bill that was not in the Revenue Committee that ultimately did not get passed out of the Revenue Committee and ultimately has a designation of a committee priority out of the Natural Resources Committee. In part, Senator Chambers, just as a point of clarification, we change existing statutes and you actually were here, I believe, when C-BED was created when Senator Preister, former Senator Preister and former Senator Dierks worked on that legislation. Thus, it did not go through the Revenue Committee and while, yes, it does have a fiscal note attached to it, it changes what is

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already in existing law in regards to what kind of ultimate business types or corporation types could qualify for C-BED as well as make changes in regards to what payments actually qualify for a project to seek its reimbursement of the sales tax exemption that the Legislature "priorly" passed. The underlying point I would say, to some extent, is this: That I think both pieces of legislation are good pieces of legislation and they come at things in a different angle. And I've expressed this before that I think LB104 is a good public policy. [LB104 LB501 LB402]

SENATOR COASH: One minute. [LB104]

SENATOR MELLO: It's trying to utilize something we don't have now for large export renewable energy projects, but it's different from what my piece of legislation is. And so I wanted to make sure to clarify to the body my hope would be that both pieces of legislation would become law because I think there's a way to be able to do both, but we have to get there and there's some work that needs to be done. In relationship just as Senator Chambers well knows this, as me and him have had private conversations in the body, people who were here last year remember, I did not support the half cent sales tax expansion from last year that passed. And as I expressed to Senator Chambers, if LB266 was brought in front of us, I would vote to support it because I share a very similar philosophical view he does on sales tax being a very regressive tax. We can talk about that at a later point in time, as I know Senator Chambers will on other bills. But I just wanted to clarify for the record a couple comments that were made. And I'd urge the body to strongly consider adopting LB104. Thank you, Mr. President. [LB104 LB266]

SENATOR COASH: Thank you, Senator Mello. Senator Nordquist, you're recognized. [LB104]

SENATOR NORDQUIST: Thank you, Mr. President and members. I don't know what Senator Hadley has against me, but I can't seem to get my priority bill out of that darn Revenue Committee either. But I stand in strong support of LB104 as a cosponsor. I also introduced a bill related to creating a state-based renewable energy production tax credit with the federal one, with great potential that the federal one will expire at the end of the year. And I do so because of some of the points Senator Lathrop brought up--the fact that we are fourth in wind energy potential in Nebraska, only behind Texas, Kansas, and Montana. But yet if you look at the map that Senator Lathrop distributed, we are trailing every neighboring state, including some by tenfold or more in wind energy production. We are losing out on...we are failing to utilize probably one of our best natural resources, our most abundant natural resources and that is wind energy potential. All things being equal, Nebraska would be a great place for wind energy potential and wind energy production, but all things aren't equal because these states have all...all of these states that are moving forward without us have taken actions like this to get in the game and to incentivize this. And as Senator Hadley said, the timing

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now is probably as crucial as ever with the federal credit very much in question. These developers have to start getting shovels in the ground. The federal law changed. It used to be when they started production that's when you qualified for the credit. Now it's when you hit the shovel in the ground, as long as you get that in by the end of the year, you can qualify for the federal production tax credit. And that is going away. That is why the timing now is more crucial than ever getting this bill passed and creating this incentive so we can get these developments in. I just want to say also this certainly is focused on rural Nebraska. Governor Heineman had a great quote back in October in the Journal Star where he said: Clearly we're not going to build these big towers on Dodge Street or O Street in Lincoln. This is about rural economic development. And another quote that the Governor had that I think is right on: Nebraska is on the move in wind energy. I fully expect Nebraska to be a top ten wind energy producing state within the next ten years. That was in 2010. You can see we're still trailing now. If we don't take action on LB104 and enact this bill, we certainly won't be in the top ten production states within the next ten years. So with that, I'll yield the rest of my time to Senator Lathrop. [LB104]

SENATOR COASH: Senator Lathrop, will you yield? [LB104]

SENATOR LATHROP: Yeah, I'll take the time. [LB104]

SENATOR COASH: Excuse me, Senator Lathrop, 2 minutes. [LB104]

SENATOR LATHROP: How much time do I have? [LB104]

SENATOR COASH: Two minutes, Senator Lathrop. [LB104]

SENATOR LATHROP: Okay. Let me take just a couple minutes that I have and thank you, Senator Nordquist, to talk about the cost. There is a fiscal note that is associated with any one of these incentive bills. It is the revenue that wouldn't normally come in. That's...you can spend it or you can not receive it because you allowed an exemption like this is. And the point I want to make is this about the cost. If we do nothing, the project won't come. If we don't provide the exemption, the project won't come and we'll never realize the sales tax. If we allow the exemption, the project comes and there will be benefits that I want to talk about when I get another opportunity to speak on the mike. So in some sense it's one of those things while we do have to account for the cost of the exemption in our budgetary process, recognize that if we don't do this the project doesn't come here... [LB104]

SENATOR COASH: One minute. [LB104]

SENATOR LATHROP: ...and we never realize the tax either way. So it's one of those things that's a little bit different than spending money on something where you're writing

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checks. This is revenue we will never realize unless we...we'll never realize either way. We can not pass the bill and the project doesn't come here, we don't have the sales tax. If we passed it, we'll have the benefits of the project and we will have forgone the sales tax revenue that would be created as a result. So I'd like you to keep that in mind when we talk about the cost of business tax incentives like this, recognize that if it doesn't...there are other benefits that make this a good investment for the state of Nebraska. Thank you. [LB104]

SENATOR COASH: Thank you, Senator Lathrop. Senator Burke Harr, you're recognized. [LB104]

SENATOR HARR: Thank you, Mr. President, members of the body. The Revenue Committee has taken a little bit of flak this year. We were given a bill, LB405 and LB406, that by all accounts were not well thought out and not ready for prime time, not my words. Those are the words of the introducers and of the Governor. And so we decided it was probably best that we do a study. Do we need LB613? I'm not quite sure we do. I think we can do this without LB613, but we can do it with LB613. But what we can't do is put the state on hold and say we're doing nothing. UPS has a line traveling...their tag line is "traveling at the speed of business" or something to that degree. Well, we can't travel at the speed of business because government and business are different and our objectives are different. But we can't just put our head in the sand for a year and do nothing. We have to realize that we have to work with the business community and they us. There are...we are not the only government entity out there. If we want these projects, we have to coordinate it with the feds and that program comes to an end. So we can't wait for next year. If we want to bring a business to the state, bring revenue to the state, bring money to the state, these are foreign companies that are willing to spend money in Nebraska. And then we get the multiplying effect. And the beauty is they're not going to spend it just in the big cities. It's no secret that small towns are not as populated as they were 10, 15, 20, 50 years ago. And the reason for that is it takes less farmers to farm the same amount of land. And we also enjoy other efficiencies in our economy that did not exist 50 years ago. So we have to find ways to bring new economy to rural Nebraska, to greater Nebraska, and that's what this does. It takes advantage of something we already have in Nebraska, some would say too much of in this room, and that's hot air and cool air together to create the wind energy. And we're taking advantage of what we as a state already have, and we're finding a way to export energy and import money. Can't think of a better way. And by the way, without depleting our own resources. You can export all the oil you want, but you're depleting your own resources. With wind, it's renewable. But every second we waste, that wind is escaping us. You can't capture wind and hold it and say, stay, sit, stay, wait till next year. It's not like oil where you can go ahead and grab it the next year. You can't do that. It's gone. It's here today, gone tomorrow. So it's important that we do this and we do it now. I can understand people being upset. I'm upset when my bills don't get through, believe you me. And I sometimes take it personally, sometimes I don't. But I

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don't think my bills not getting through are not personal. But what I do think is we need to do this now. Many companies are going to make a decision in the next year, in the next six months. And the longer we wait, they're just going to pass us right by, and we can't get that back. And that's money we'll lose forever. [LB104 LB405 LB406 LB613]

SENATOR COASH: One minute. [LB104]

SENATOR HARR: Thank you, Mr. President. And this is money, as Senator Lathrop, and he'll go into greater detail, it's not as though we give these companies the money up-front to build. No. They pay the tax and then they have to meet certain criteria. You meet those criteria, then and only then will we give you a refund. So it's no money up-front, they have to meet certain criteria. We hold these businesses accountable. We're not giving them away willy-nilly. We have set criteria. If we want to debate what those criteria are, we can do that. And I would entertain any conversation on that. I think the criteria set are good. Can we do better? Well, that's for the body to decide. But I would encourage you to not recommit this to committee and please vote for AM525. Thank you. [LB104]

SENATOR COASH: Thank you, Senator Harr. Senator Scheer, you're recognized. [LB104]

SENATOR SCHEER: Thank you, Mr. President. I rise in support of LB104. I don't have any skin in this game. I'm not on the Appropriations, I'm not on the Revenue, I'm not on Natural Resources. I'm just a senator, and I'm looking at a piece of legislation that can help the state. We talk a lot about rural economics and the rural development and trying to keep population in the rural areas. Well, this is one way we can do that. As one of the other senators said, they're not going to build these things on Dodge Street or O Street in Lincoln. They're going to be built out in rural Nebraska. And Senator Hadley was correct. You can't lose something you didn't have. And there's been a large discussion or a large part of this discussion talking about the money that we lose, the sales tax income that we lose. Well, the fact of the matter is you don't lose it because you never had it. And if we don't build the facility, you'll never even have the thought of having it. They aren't going to come if we don't do this. But what we are talking about is the tax revenue that is coming in and the economic benefits that go with it. When these are built, the people...the construction crews are going to come into that facility and they're going to build things. They're going to build towers. But they've got to sleep somewhere at night. What's that mean? Oh, yeah. They're going to pay tax on that room. Oh, yeah, they're going to go have something to eat. They're going to pay tax on that food when they have their dinner at night or their breakfast in the morning or they go into the local cafe at noon and have something. They're paying sales tax. Well, okay, they're not going to eat at the restaurant so they're going to go to the grocery store. Well, they're going to buy stuff at the grocery store they're going to pay tax on as well. They're going to buy a candy bar. They're going to pay tax on that. This is revenue that's going to be

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generated for the state of Nebraska, money we never would have had. It's not we're losing money. It's not we're breaking even. We are making money from the tax basis on allowing these to come into the state and providing these type of incentives. And you know, this isn't about investors. This is about Nebraskans. It's about providing employment and income for rural Nebraska. That's what this is about. I don't care who owns them. Nebraskans are going to build them. They're going to maintain them. When they're done with the construction, they're going to walk out of the state and they're going to have somewhere between five and seven employees that are going to have to do maintenance on those. They're going to be new inhabitants of whatever communities these things are located by. That's new jobs. That's new families for the schools. That's somebody to buy the house that Grandma Jurgens (phonetic) passed away and it's been on the market for two years. That's what this is about is trying to regenerate rural Nebraska. This isn't about giving breaks. This is about helping Nebraskans, and it's not helping people in Lincoln and Omaha. And I find it quite ironic as we're listening to the discussion our fellow senators from the metropolitan areas are the ones that are supporting us here. Usually this is a burnout fight trying to get a rural and a metro to agree on much of anything. This is an economic bonanza for rural Nebraska, as many as we can get put up because they develop jobs and they develop income. It shouldn't...we shouldn't rely on our fellow senators from the metropolitan areas in Omaha and Douglas County and Lancaster County to support this legislation. We ought to be taking the forefront. This is for rural Nebraska. This is something that the metropolitan areas helping support us and trying to attract. This is a big deal. We got to quit giving lip service about economic development in the rural area. This is it. [LB104]

SENATOR COASH: One minute. [LB104]

SENATOR SCHEER: And we've got people and our fellow senators that aren't going to benefit from this that are leading the charge. My fellow senators, get on your horses and let's start riding. This is for us. This is for Nebraska. This is for rural Nebraska. This is for every Nebraskan. Thank you, Mr. President. [LB104]

SENATOR COASH: Thank you, Senator Scheer. Senator Wightman, you're recognized. [LB104]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I also rise in strong support of LB104 and AM525. I agree and I want to compliment both Senator Lathrop and Senator Hadley for working on this bill. Sure, we're going to lose some sales tax, but I think we'll probably make it all back up and probably more in addition from increased revenues and increasing income taxes, both at the corporate level and on employees that come here. So I think that it will be very small, any amount that we would lose. I happen to have a wind energy organization company that formed a rather large wind energy plant around the Broken Bow area in Custer County. And they didn't have this advantage so there are a few that have built, but they will, I think, receive

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advantage as time goes on with regard to their continued manufacturing or wind development of wind energy. With that, I might have a question or two to Senator Lathrop. [LB104]

SENATOR COASH: Senator Lathrop, will you yield? [LB104]

SENATOR LATHROP: I'd be happy to. [LB104]

SENATOR WIGHTMAN: Thank you. Senator Lathrop, I assume that even a plant like the one near Broken Bow, Nebraska, will get benefits from this as time goes on and they sell wind energy. Is that correct? [LB104]

SENATOR LATHROP: I don't know that they will benefit from this bill directly because I think it applies to those projects that happen after the bill is passed. [LB104]

SENATOR WIGHTMAN: Okay, even the sales tax. [LB104]

SENATOR LATHROP: I'd have to check on that. I'm not sure. [LB104]

SENATOR WIGHTMAN: Okay. Well, I didn't know for sure that it did, but I'm still in strong support of this, whether that happens or not. As you know and has been discussed previously here, there are a lot of companies that...a few companies that have come in and built some plants. And I think there are some in the 50 to 100 range as far as wind towers. But I think we've lost a lot we should have had that we are...I don't know. I've seen various figures from about a third to perhaps fifth or sixth with regard to wind energy that's available in the state of Nebraska. I know it's real high out of the 50 states. And I think we've passed up a great opportunity probably already when every state around us has passed similar legislation. So I think it is important that we do grant this tax benefit that we're talking about here. I don't think it's going to cost the state any money or very, very little because I don't think many of those wind energy developments are going to be here if we don't have this, particularly when every surrounding state of the state of Nebraska, I'm not sure about Missouri, but it looks like all of them other than that have passed such legislation and have done the same thing that we'll be doing with the passage of LB104. So I certainly am a strong supporter even though maybe I represent an area that has one of the... [LB104]

SENATOR COASH: One minute. [LB104]

SENATOR WIGHTMAN: ...one of the plants that will not see quite all of the benefit, if they see any of the benefit. But...so I want to compliment both Senator Lathrop and Senator Hadley for getting the bill this far and would ask for your support for LB104. Thank you. [LB104]

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SENATOR COASH: Thank you, Senator Wightman. Senator Lathrop, you're recognized. [LB104]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I just want to...and I'm glad I had an opportunity to follow Senator Scheer. He was right on the money. I've been here, this is year seven for me, and it's almost an annual thing where we see an amendment to the Advantage Act. We are generally amending the Advantage Act to try to secure things like Google and Facebook and some of those big tech companies to bring in investment and jobs into the state. And what I've noticed about most of those is most of those folks that we're trying to incentivize to come to the state are going to land somewhere in a metropolitan area or at least a city of the first class and so up and down the interstate and primarily in Omaha and Lincoln. We provide these incentives to try to attract people to Sarpy County, Douglas County, Lancaster County, more recently to Kearney. But that's been the exception. It's rare that we have the opportunity with the Advantage Act to do something so beneficial to rural Nebraska. And it is difficult to conceive of a economic development strategy better than wind development. For the reasons that Senator Scheer mentioned, and he's exactly right, let me tell you a little bit about what a 200-megawatt project would bring to a community in Nebraska. First of all, \$300 million of investment; 40-year lease payments for Nebraska landowners averaging \$10,000 to \$15,000 per turbine. Then we would be beneficiaries of the income tax on those lease payments. Over 200 jobs during the construction phase of the project, and state income tax resulting from those positions; over 10 new jobs that pay on average \$50,000 in rural Nebraska. This is the equivalent of about 500 new jobs in Omaha and the income taxes that result from those jobs as well. The new nameplate capacity tax, this is like a personal property tax or something in lieu of a personal property tax on each one of those towers; \$700,000 a year for the next 20 to 40 years. That's local tax revenue going into the county where this project will be done. In addition, there will be new property taxes to the local county. And all of this spells rejuvenation of the rural communities to the local spending, the local community economy, and the creation of new jobs within the community. This summer Senator Wightman and I and some others had an opportunity to go up and tour the project in Broken Bow. Those people are so excited about it. These developers would like to come to Nebraska because, unlike some states, when they get to Nebraska and they try to deal with the landowners here, they are received, they are embraced. People or places like Petersburg and Broken Bow welcome these developers, recognize the economic benefit to their communities. And, colleagues, there isn't a better tool for bigger economic development in rural areas than these wind projects. And they don't pollute, they don't use water. The benefits go to the landowners regardless of whether it rains, doesn't rain. We don't have to irrigate these towers. It is clean energy that we're exporting to other states. It is a wonderful opportunity. It is the coming together of several good policies and... [LB104]

SENATOR COASH: One minute. [LB104]



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SENATOR LATHROP: ...several good reasons. And with that, I would tell you that the rural development is a huge piece. I do want to take a moment to talk about the window of opportunity that we have. One of the last budget fights led to an additional period of time where we have tax credits. They're available for the rest of the year. These wind energy tax credits are available for the end of the year. That's why this is time sensitive. That's why it's important that we pass this, this year and not put it off to next year. It isn't something that we can delay because when we delay this, the federal tax credits are going to be gone. The decisions on where these projects are going to be built, and they need to be started before the end of the year, are being made now. They're literally being made in the next couple of months. Let's move LB104 so that we can bring this project to Nebraska. Thank you. [LB104]

SENATOR COASH: Thank you, Senator Lathrop. Senator McCoy, you're recognized. [LB104]

SENATOR McCOY: Thank you, Mr. President. Would Senator Lathrop yield? [LB104]

SENATOR COASH: Senator Lathrop, will you yield? [LB104]

SENATOR LATHROP: Yes, I will. [LB104]

SENATOR McCOY: Thank you, Senator. You mention these projects that pass LB104 and these projects will come to Nebraska. Are they coming to Nebraska? Is that contract already in place? [LB104]

SENATOR LATHROP: I'm sorry, I can't hear you. [LB104]

SENATOR McCOY: Is that contract already in place for them to come to Nebraska, Senator? Are they coming? Is this project going to happen? [LB104]

SENATOR LATHROP: My understanding is with these incentives we will have this project. [LB104]

SENATOR McCOY: Is that a guarantee? Does that mean that's a guarantee or how is that going to work with the passage of LB104? [LB104]

SENATOR LATHROP: I don't think anybody ever gives a senator a guarantee that a project is coming any more than Facebook that we just saw that we lost to the state of Iowa. I guess the short answer is if they don't come then we're not out anything. But what I am told is that if we provide these incentives they will develop the project and we will realize the advantages that I just addressed. [LB104]

SENATOR McCOY: And neither you or I, Senator, have the benefit of serving in

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Washington in Congress. But why are those federal credits expiring at the end of the year? [LB104]

SENATOR LATHROP: They have a sunset on them. [LB104]

SENATOR McCOY: Is there a move to extend that? [LB104]

SENATOR LATHROP: I think the best information that's...well, first of all, what we do know is they're set to expire. The question I suppose is, will they renew them? And, Senator McCoy, your guess is as good as mine. What I'm told right now is the expectation is they will not be renewed. Well, I don't have to tell you what the dysfunction is in Washington, D.C., or try to chart out why that might be a difficult undertaking. [LB104]

SENATOR McCOY: But that is a...renewable energy is a priority of the current administration in Washington, right? [LB104]

SENATOR LATHROP: It would be apparently the priority of the current administration but not the current House of Representatives. [LB104]

SENATOR McCOY: But I don't know that the current administration has proposed to extend or renew these federal tax credits, have they? [LB104]

SENATOR LATHROP: You might be right, which means the window closes at the end of the year. [LB104]

SENATOR McCOY: I think, though, that that's an important question to ask as to why, Senator, that when the President has expressed his priority towards renewable energy that is not an administration policy at this point to extend those tax credits. I think it would be incumbent upon us as a Legislature in light of the bill that we have before us when a lot of the conversation, not only in committee, and I do serve on the Revenue Committee, centered around those federal tax credits. I think some good questions would be as to why those tax credits are set to expire at the end of this year after being extended through this year and why, even though the President in his State of the Union speech earlier this year renewed his fervent and strong support of renewable energy and why the administration is not asking for those tax credits to be extended past the end of this year. And if that were to be the case, Senator, if that were to happen, would we still have a need for LB104? [LB104]

SENATOR LATHROP: Yes, and great question, here's why. Right now the folks that do this work and develop projects like this at the \$300 million range, 200 megawatts, they're looking at the window closing at the end of the year. So it doesn't matter what happens in fact in Washington. They're going to make a decision in the next two months

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whether they're going to build a project in Nebraska... [LB104]

SENATOR COASH: One minute. [LB104]

SENATOR LATHROP: ...and bring the benefits with them or take that project down to Kansas or Oklahoma where the cost to do the project is less than it is in Nebraska. And so if you wait until the end of the year in the hopes that the feds will extend the tax credit, the project will be gone. It will then be down in Kansas, and Kansas will have the benefit of the things that I've just outlined, regardless of what Washington does in November or December. [LB104]

SENATOR McCOY: It's my understanding, Senator, there's a move afoot right now in the Kansas Legislature to strip these such incentives out of their statute. [LB104]

SENATOR LATHROP: Well, I don't know anything about that. That borders on a rumor and if they pass a bill down there, then I suppose it will put Nebraska on the same playing field or we will have an advantage if LB104 passes over Kansas. The wind is the same down there as it is up here. And the difference between the development there and the development in Nebraska... [LB104]

SENATOR COASH: Time, Senator. [LB104]

SENATOR LATHROP: ...is a function of our tax policy. [LB104]

SENATOR COASH: Thank you, Senator Lathrop and Senator McCoy. Senator Chambers, you're recognized. [LB104]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, my motion is still up there. If they had let me go ahead and say my say, I would have pulled it. I'm not going to pull it now. I'm going to take it to a vote, and it's going to be a test vote. With all of this talk about rural development, I'm thinking of that against the backdrop of the debate I heard against Medicaid for the people in rural Nebraska. If you don't have a healthy populace, what is all this other stuff about? Senator Scheer I think was the one who said it's not about investors. It is about investors. It's all about investors. Without investors, this is nothing. It is about investors. Why do we have to make it something other than what it is? Because maybe there are some problems with it standing on its own merits. But the other day Senator Carlson, we were discussing Senator Christensen's bill, he said we should let it go forward because some people who would benefit from that bill are the very ones who have a lawsuit against the state. And he said maybe I shouldn't say this on the record. I listen to my colleagues. He said, but we're going to let the bill go and see whether they're willing to dismiss their lawsuit quid pro quo. Do you know how you can get me off the bill? Give me my bill. Are you going to let me get my bill on the floor? Senator Nordquist, bless his heart, said that he's

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got a bill in Revenue and what does Senator Hadley have against him? I bet nobody from the committee came to Senator Nordquist and told him how he could get his bill out of his committee and then reneged on it. I bet that didn't happen with him. Senator Harr talking about he has a bill in committee somewhere and he doesn't take it personally. Well, he's white. They didn't keep his bill because he's white. What is the nature of his bill? We're talking about taxes. My bill would take away a bill that's on the books now that allows taxes to be taken from the state's tax base. And you're going to say these other bills are like that then you send this bill out here? Senator, I believe it was Senator Harr who said you can't put the state on hold, meaning you got to keep bringing these bills out here even though you're going to have the tax study. And he said you have to work with the business community. I don't remember who it was, but some potentate was having a dispute, some military, with the Pope. And when the Pope made his statement, this guy said, how many divisions does the Pope have? In other words, on this field his words mean nothing. I'd like to ask Senator Harr on this bill, how many votes does the business community have? I bet my one vote, my one person stand against this bill will overcome anything that the business community can do. Have you got 33 votes? You challenging me today, this is where we draw the line; this is where we make the fight? I'm willing, wherever you want to make it. You shouldn't have referred to me. You should have let me have my say because I told you what I was doing. I'm going to make my point like I did the other day and leave it alone. Senator Hadley didn't say anything. He let me say what I had to say and I pulled it. I'm not pulling it and we're going to take a test vote. And we're going to see if there are 33 votes against my motion. I know that you're not going to vote to recommit the bill. I know that. But when you vote, your vote ought to say whether you're for the bill or not. And you don't have to do that. You all get together, you listen to each other talk,... [LB104]

SENATOR COASH: One minute. [LB104]

SENATOR CHAMBERS: ...and you think that what you're saying is going to influence everybody. Well, your agenda is the rural community. My agenda is the poor people in Omaha who got to pay some additional sales tax and you don't care about that. Why should I care about what you're talking about today? You just showed me your vulnerability. You're against Medicaid to help the poor, sick people all over the state, including rural Nebraska. You want to help lay a heavier tax, the most regressive one, on the people that I represent. I think the battle has been joined, and we're going to see what we shall see. Thank you, Mr. President. [LB104]

SENATOR COASH: Thank you, Senator Chambers. Senator Ken Haar, you're recognized. [LB104]

SENATOR HAAR: Mr. President, members of the body, I rise in support of LB104 and also LB402 which we're going to see a little bit later. LB402, of course, is the one...I'm sorry. LB104, of course, is the one that's before us right now. LB402 is a change in the

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C-BED legislation, and I will vote for both of those. A couple of years ago I got to visit a solar production plant in Fort Collins, Colorado. And first of all, I was amazed by the technology, but second, then we got a chance to talk to the person who owned the place. And I said to him, how can we bring manufacturing like you're doing here to our state, to Nebraska? What does it take to bring manufacturing and jobs based on renewable energy? And I'd like to share that with you because I found it interesting. First of all, he said you have to have intellectual capital. Of course, Fort Collins is close to Boulder and the university there, and there's a lot of research going on at the university on wind and solar in Colorado. And then he said, and so you have to have intellectual capital, you have to have dollars capital. And he said that can come from all over if you meet the other criteria. And the other criteria were tax policy--and that's what we're talking today--is you have to have favorable tax policy, and then he said you have to have the resource. Well, of course, Colorado and Nebraska both have sun. But Nebraska has more wind. So if you go back and look at these criteria for bringing manufacturing, we'd certainly like to have the wind turbines and the tax money that it brings and so on. And I'll talk more about that again. But I'd also like it to bring manufacturing to Nebraska, manufacturing and those kinds of jobs. It takes the intellectual capital. We have UNL with a fantastic engineering department. It takes the dollars capital which we will draw, as Senator Lathrop has talked about, if the other things are in place. We need a tax policy that's favorable because investment is going to follow good tax policy if there's a choice. And finally, if you have the resource. And, folks, if you've lived through the last week in Nebraska, you know that we have the fourth greatest wind potential, some people say the third, in this country. And so what we're talking about today and what we're going to be talking about in LB402 is a tax policy that will bring wind development and wind manufacturing to Nebraska. You can't just have the wind. You can't...because there are other states that...where the balance will be against the fantastic wind. But we've got the fantastic wind; we've got the intellectual capital; we can draw the money, the investment money; and now we need a tax policy that's similar to the states around us. One of the things that certainly brought this whole issue to a head has been what I call show and tell. Anywhere you drive around Nebraska you see whole ridges of wind turbines: Colorado, Wyoming, South Dakota, Iowa. One of the reasons I think that Nebraskans are so supportive, they drive out of this state and they say... [LB104 LB402]

SENATOR COASH: One minute. [LB104]

SENATOR HAAR: ...why can't we have that...thank you...why can't we have wind turbines here? Well, unfortunately, you don't drive to those other states and immediately see what their tax policy is that draws that wind development. That's what we're talking about today. That's a missing element, and I want to thank Senator Lathrop for bringing this bill to the floor. Thank you. [LB104]

SENATOR COASH: Thank you, Senator Haar. Senator Davis, you're recognized.

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Senator Larson, you're recognized. [LB104]

SENATOR LARSON: Thank you, Mr. President. I rise in opposition to the recommit to committee motion. I support LB104 and AM525. District 40 has benefited greatly from wind, both in the Crofton School District and the Bloomfield School District. I know O'Neill is looking at a project in Holt County, and I know Dixon County has one as well. So as I said, I just wanted to get on the record that I do support LB104 and AM525 and do not support the recommit to committee motion. For those reasons, I think it will be a big beneficial...District 40 will be a big beneficiary of this bill and I appreciate it. And if Senator McCoy would yield to a question, I'd appreciate it. [LB104]

SENATOR COASH: Senator McCoy, will you yield? [LB104]

SENATOR McCOY: Yes. [LB104]

SENATOR LARSON: Senator McCoy, I noticed that you voted no on the committee amendment. I'd yield you the rest of my time to talk about why you did vote no. Because as I said, this is very important to District 40, and I'd love to hear that reason because this has a big effect on our property taxes and things of that nature. Thank you. [LB104]

SENATOR McCOY: I'd be happy to do that, Senator Larson. I do serve on the Revenue Committee. I spent the four years, first four years my first term here in the Legislature serving on the Natural Resources Committee, along with a number of my colleagues that are here currently and that are former members of the Unicameral. Many of you know that were here, we passed LB1048 three years ago now in 2010, which was a landmark bill, I believe, or we hoped anyway and I still hope that it is, in not only wind energy production but hopefully in export. I've supported wind energy in my years here in the Legislature--I think my record shows that--and I still do. But I did oppose LB104--I was one of three senators who did--out of the Revenue Committee for the reason that there are a lot of priorities that have to be made this session. And there were many bills that--I think 89 as I recall--that came through our Revenue Committee. I may be off on that exact number. I'm sure the committee staff will correct me if I'm incorrect, I believe it was 89 bills that came through the Revenue Committee, a lot of them very good pieces of legislation, a lot of important priorities. I think LB104 is a priority. I just question whether or not it's a priority this session that has to be done in light of all of the other things that are before us. I think this falls under the guise of some of the other pieces of legislation that are going to sit, either in committee or here on General File or some that have been voted on that didn't advance, until we get done with the tax study. I think whether it's LR155 Senator Chambers is working on or whether it's LB613, which happens to be my priority bill, one way or the other we're going to have a very comprehensive study of our tax structure in Nebraska, something that hasn't been done for almost 50 years, long before wind energy was really even of concern, not only here in our state but in any state. I appreciate what Senator Lathrop is doing with his bill, just

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like I've appreciated many other bills and now four and a half years... [LB104 LR155 LB613]

SENATOR COASH: One minute. [LB104]

SENATOR McCOY: ...in the Legislature. But when we have chosen, because of a comprehensive study, to ask Nebraskans to continue giving their hard-earned dollars to the state of Nebraska in the way of taxes and ask them to wait on tax relief, I question whether or not now is the time for LB104. That is why I did not vote to advance it out of committee. And I hope we continue to have conversations along those lines yet this afternoon. [LB104]

SENATOR COASH: Time, Senator. [LB104]

SENATOR McCOY: Thank you, Mr. President. [LB104]

SENATOR COASH: Thank you, Senator McCoy. Senator Dubas, you're recognized. [LB104]

SENATOR DUBAS: Thank you very much, Mr. President and colleagues. It's really exciting for me to hear the conversation that is going on here today. When I came into the Legislature seven years ago, wind energy was something that I was very, very interested in. Senator Dierks was here. He was certainly one of the premier leaders in the development of the original C-BED legislation and the development of our wind energy resources in Nebraska, Senator Preister. And at that time there was a pretty small group of senators, and I think for the most part we were rural senators who really saw what renewable energy development would mean to our state as a whole but also to rural areas of the state. And as a member of the Natural Resources Committee, I took opportunities to introduce my own legislation as well as other legislation that was introduced along the way that I was able to support. You know, the fact that we're a public power state has created some of its challenges, some unique challenges for our ability to develop our renewable energy resources. But Senator Langemeier, along with the rest of the Natural Resources Committee, in 2009 we had an interim study, LR83, and I'd encourage you to go onto the Web site and look up that report. There's some great information in that. I believe that was done in 2009. Out of that came LB1048, and some of what, excuse me, Senator Lathrop has been talking about refers to that legislation--nameplate capacity, those types of things. That legislation came from a great deal of collaborative work by all the stakeholders, whether it was public power, whether it was wind energy developers, landowners. I mean, again, just stakeholders from all across the state came together. It was a long, involved, drawn-out process, but ultimately LB1048 was what we were able to put forward, and I think that has certainly sparked the additional wind energy development that we have in our state. It's been really exciting for me to sit on the Natural Resources Committee and have people come

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in and testify when we have wind energy bills. There's a group out in Banner County. Talk about enthusiasm and excitement and a belief in what wind energy will do for their county and for their region. Their enthusiasm is just contagious. And they have a Web site. If you go onto that, they see what they believe what wind energy development will do for their...they see it as a way to reinvigorate, definitely reenergize, and repopulate their state--lots of enthusiasm there. I, too, have been to Broken Bow and toured that facility and the additional turbines that they're putting up. And when you talk to those businesspeople and the landowners, their excitement, their belief in what they have already seen economically come from that development and what they believe will continue to come. Petersburg, the banker in Petersburg especially, but all the citizens in the community of Petersburg are excited about that farm. I believe the banker always says, it's really exciting now to walk out on his porch and see baby strollers up and down the sidewalks of Petersburg. Petersburg is a small community, and to see that there are young people and young families either staying or coming back to that community, it's just very, very encouraging for the future of our rural parts of the state. We have additional challenges, whether it's transmission or whatever it is. But the point is Nebraska, while we are a top leader in...as far as our resources that are available to us, we are sorely lagging behind in the development of those resources, and all of our neighboring states are just... [LB104]

SENATOR COASH: One minute. [LB104]

SENATOR DUBAS: ...running away from us. Thank you, Mr. President. If you...I was looking at a Web site earlier today, looking at the development of wind energy since 1999. Iowa has gone from 242 megawatts all the way up to 5,137 today. Nebraska was at three megawatts in 1999. We're at 459 as of 2012. I just firmly want to believe that--what Senator Lathrop is putting forward in LB104 and what Senator Mello is putting forward in LB402--these are doors, multiple doors that we're opening, and there's surely a way to make these two pieces of legislation work together so that we are definitely putting the message out there that Nebraska is open for business. We want to encourage and support wind energy development and what is the best way to put our best foot forward in that respect. Thank you. [LB104 LB402]

SENATOR COASH: Thank you, Senator Dubas. Senator Johnson, you are recognized. [LB104]

SENATOR JOHNSON: Thank you, Mr. Speaker and colleagues. I'm a member of the Natural Resources Committee. In fact, I come from the same district that Senator Langemeier represented, and I'm proud of the work that he did. And I will admit that I'm not Chris Langemeier. But I've heard the testimony on LB402. The approach that it takes is a little bit different than what LB104 and supportive of what LB402 can do with the C-BED and those types of programs. I'm going to talk, just in general, about the taxes that we lose. We keep talking about the tax cost to us. The fiscal note identifies



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\$5.5 million, losing that much tax revenue. Well, it's not the taxes that we have...revenue that we have in the General Fund right now that we're going to have to pay to anybody. Yeah, we're going to write a check out once they create some money, but I think the fiscal note needs to focus as much on the value of those businesses or this business, the wind energy business, that it brings to the state, the other taxes that it's going to create in the long run. So I think we have to focus a little bit more not on the tax cost but the tax benefit that each of the communities will receive. We talked about the time being critical. If the federal program for some reason is extended, it doesn't affect Nebraska. It affects everybody. But if we don't do something to create an incentive, we're still going to be at a disadvantage regardless of what the federal government does. I've been in an organization where the Nebraska Advantage program has benefitted greatly. I'm not an investor in it, so I don't have a conflict of interest that way. But it has been a benefit, and I think it came to the state because of that incentive. Now I know, and this is a rural area, I know that those communities and those producers in that area are benefitting from that. It's not the same program here as we talk about with TIF, but we give up tax, sales tax revenue, coming into communities when we put TIF...allow that to be part of a project. Again, I don't think the municipalities and the villages look at that as being a tax cost because they look at what's going to happen after the business is developed, after it's improved, or whatever the project is, and they look at the value of coming...that it brings to schools and it brings to the businesses. So it's not the same program, but I think it has somewhat the same concept of giving something out there in order for future value, future benefit. I know where I'm at on LB402. I'm listening very carefully on LB104. I believe it's a very good bill. I believe it approaches it from a different direction. It probably gives us a jump-start on getting caught up in the wind energy where maybe LB402, with smaller business, smaller projects, will take a little bit longer time to...for those businesses to help create the volume of wind energy that we can produce in Nebraska. Thank you. [LB104 LB402]

SENATOR COASH: Thank you, Senator Johnson. Senator Janssen, you are recognized. [LB104]

SENATOR JANSSEN: Thank you, Mr. President and members. I rise...I'm not supportive of LB104. I did vote against that in committee for many of the same reasons that Senator McCoy voted against it. And I'm certainly not saying that wind is not a valuable resource and something that we need to explore. In fact, my very first year down here I sponsored a net metering bill, in 2009, to the surprise of a few. So it's just a matter of what we're talking about with tax policy right now, not wind energy per se. I heard somebody say that Kansas is taking their incentives out, and that was a rumor, and it's the same rumor that we heard in the committee that the feds are going to take away an incentive. That's probably true in Kansas. It's a rumor, can't be substantiated. It's probably true in D.C. It's a rumor that at this point can't be substantiated. If it can, I'm certainly willing to get corrected on the record or off the record. Good tax policy brings good investment. Yes, it certainly does. I was hopeful on my own committee, Revenue,

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that LB75 and LB74...LB75, my priority bill, is stuck in committee, that I think would have been good tax policy, giving the retired military veterans a tax benefit and also recipients of Social Security. I thought that was good tax policy and could have been discussed. But in a statesman fashion, I said, we can go ahead and we can look at this over the summer, we've got a great tax modernization study coming forward and we can see how it fits. I didn't push. I haven't pushed the committee on that. I've asked them to put it in good enough shape so we can study it this summer, and that's about as far as I went on that. Would Senator Chambers be willing to yield to a question? [LB104 LB75 LB74]

SENATOR COASH: Senator Chambers, will you yield? [LB104]

SENATOR CHAMBERS: Yes. [LB104]

SENATOR JANSSEN: Thank you, Senator Chambers. You mentioned...we talked baseball the other day. And I love baseball, and the one thing I left out is my favorite team, the Los Angeles Dodgers. And you'd made mention about Jackie Robinson earlier in debate, and I don't know what it was about. Do you recall what number he wore? [LB104]

SENATOR CHAMBERS: 42. [LB104]

SENATOR JANSSEN: You are correct, 42. What's half of 42, if you'll humor me? [LB104]

SENATOR CHAMBERS: Say it again? Twenty-one. [LB104]

SENATOR JANSSEN: Twenty-one. So when this bill comes to my committee with another senator's name on it and this is the great bill, and then we switch out the name of the bill--nothing against the two people that switched it out--I'd never seen that before. Perhaps you have. I get to wondering, what is going on here? Not looking to the sky, but I wonder. And then, I'm kind of told, led to believe--and I do support the recommit motion on the particular legislation you brought forward, which I agree with, I think, needs to be on this floor, needs to be debated--that, well, something was worked out, something. That's my fault. I should have dug deeper to find out what something was. But I did vote for...I was one of three, I believe, that voted to push that bill out to the floor so we could all debate. I am supportive of LB402 as amended. I think that would be great policy to look at, and we should look at it along with LB104. I'm not sitting here, saying, everything is bad about LB104. It should be part of what we look at throughout the tax modernization study. I think wind is certainly a great resource that this state could make great benefit from. We have to decide how it fits... [LB104 LB402]

SENATOR COASH: One minute. [LB104]

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SENATOR JANSSEN: Thank you, Mr. President. We have to decide how it fits into our tax policy though, not rushed, pushed on the floor of the Legislature with 24-26 days, whatever we've got left, to push this to the finish line on, possibly, the false hope or promise, false promise of a company that may or may not come here and what legislation may or may not happen. So I'm going to listen, and I...LB402 is fine. We want to study it again next year. Four plus 0 plus 2 is 42; half of 42 is 21. I just get worried sometimes when I see things happen the way they did on this particular legislation. Thank you, Mr. President. [LB104 LB402]

SENATOR COASH: Thank you, Senator Janssen. Senator Mello, you are recognized. [LB104]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I first want to clarify something that Senator Johnson had raised in regards to the fiscal note. Like probably most new senators who come down to the Legislature and see a revenue-related fiscal note that ultimately is an incentive that in theory is supposed to create some kind of job, some kind of investment, and you see a loss of revenue, normally--and I was in the same boat when I first got in the Legislature--you ask the question, well, this should generate revenue for the state, right, this is something that ultimately is going to generate more revenue than we lose? The reality is this...is that, if that was the case, we wouldn't need any tax incentive in the first place. We wouldn't need any tax credits in the first place if it always did that, and so ultimately you see tax incentives and tax credits, pieces of legislation that have fiscal notes, that have reduced revenue because it's an incentive. We're trying to incentivize a behavior or incentivize a business to relocate here or to expand here, and we are willing to give up part of our tax base to do that. So just for a point of clarification--because I know I had the same questions when I first got to the Legislature and speaking with the Fiscal Office and learning more about it this year as Chair--I've come to fully appreciate the change that I had as a freshman senator now, as I'm in my fifth year in the Legislature, that revenue-related bills have revenue losses for a reason. It's not because the Fiscal Office just does it because they want to do it. It's because we know there is an incentive that we're trying to provide, and that incentive is to reduce our tax base in one form or another. A couple points have been raised on this bill that I feel just need to be ultimately clarified or ultimately refuted. One, this is about wind energy development. Yes, there is a tax component in here. But Senator Janssen and Senator McCoy joined me in the last five years in voting for every single Nebraska Advantage change this body has passed, every single one. Senator McCoy, Janssen, and myself have voted for every single one the last four years, and not once have I heard in the last four years that we were talking tax policy. We were talking about job creation, economic development, and what was good to help grow the state's economy. We were in agreement then, and my hope is that we could see some kind of agreement in regards to wind energy development because I can tell you this, colleagues, if Nebraska ranked

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fourth in oil drilling and 25th in capacity, you would see a rush, a rush, of legislation every year to incentivize oil drilling in Nebraska, every year, dozens of bills to incentivize us to drill oil in this state, if we rank fourth in potential and 25th in capacity. What we're talking about is a different kind of energy development, one that we know the Legislature has been thoughtful of trying to put forward legislation over the last five years to figure out a way that works for our state and our very unique public power system. Now I support LB104, and ultimately I support the bill that I have in Natural Resources Committee, LB402, which goes at it at a different angle for different projects and different sizes. And Senator Lathrop and I have agreed that we know that, if both bills move forward off General File, we have work to do together. But the reality is that you can make changes in energy policy with the understanding that it may have a slight change in tax policy. We've done that every year I've been down here. I appreciate Senator McCoy's perspective in regards to the tax study, LB613. It's his priority bill that I support. I cosponsored it. I worked on it before we introduced it. [LB104 LB402 LB613]

SENATOR COASH: One minute. [LB104]

SENATOR MELLO: I think it's good public policy. But, specifically, in that bill we don't talk about tax incentives, we don't talk about tax credits. For one reason or another we chose not to incorporate that. I'm not saying they wouldn't be discussed. I'm not saying they shouldn't be looked at, shouldn't be part of the bigger, broader conversation, but they're not listed specifically in LB613. And what LB104 does is it changes the Nebraska Advantage Act. I understand that. But I think we can do this and still do a tax study because ultimately Senator Lathrop's point is we are under a short time frame here for this large project. If we pass it and they don't...it doesn't come, it doesn't come. We'll go back to the drawing board, reevaluate, and see what, if any, projects do come. But I think we just need to clarify a couple points here as we're trying to debate not just only Senator Chambers' recommit motion but the underlying policy, which is not purely tax policy, colleagues. It's economic development and energy policy as well. Thank you, Mr. President. [LB104 LB613]

SENATOR COASH: Thank you, Senator Mello. Senator Chambers, you are recognized. [LB104]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, is Senator Larson in the Chamber? If so, I would ask him, would he yield to a question or two? [LB104]

SENATOR COASH: Senator Larson, will you yield? [LB104]

SENATOR LARSON: Yes. [LB104]

SENATOR CHAMBERS: Senator Larson, as I said, I listen to my colleagues even when

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they're very young and rambunctious and enthusiastic, and I listened to you. If I understood you correctly, you said this project would benefit your area and your constituents. Did I hear you correctly? [LB104]

SENATOR LARSON: Yes. [LB104]

SENATOR CHAMBERS: Okay. [LB104]

SENATOR LARSON: Holt County is...oh. [LB104]

SENATOR CHAMBERS: Do you feel you have an obligation to fight for the things that will benefit your constituents? [LB104]

SENATOR LARSON: On many issues, when the majority of my constituents feel a certain way on an issue, I do stand up and try to do... [LB104]

SENATOR CHAMBERS: Thank you, that's all I have. Now the question to myself: Should I feel the same way toward my constituents? Are the concerns of the other senators of more weight and value, because a majority of them are pushing in one direction, than my concern for my constituents, though I be the only one willing to speak for them? That's not the way I see it. I will be the last one standing, only one standing. My constituents...let me put it a different way. Just imagine, as hard as it might be, that I care as much about the interests of my constituents as you care about yours. Imagine, if you can, that I don't want unfair burdens placed on my constituents in the same way you don't want what you perceive to be unfair burdens placed on yours. But whether or not your imagination can embrace those concepts, I am concerned for mine and I am going to fight for them. You should have left me alone today but you didn't, so now I'm in the fray. We're on my motion. I can still talk on whatever amendment is on the bill and I can talk on the bill, and I'm able to talk and talk and talk. Have you got 33 votes? That's what I want to know. Senator Lathrop, I think correctly, indicated that there is a narrow window of opportunity here, time is of the essence, it's very important that something be done. Is it more important that you get this done than it is to keep my bill the Revenue Committee? I'm not going to let that go. You all are not convinced that I mean it. You think I'm going to forget it because I'm old and I told you I've got Teflon brain cells, everything slides off and nothing sticks. Oh, when you're old like me, what needs to stick does stick, what needs to be remembered is remembered, and what it is convenient to forget is forgotten. But don't you think that there was not some reason that they said, elephants--which are some of the longest-living land mammals--never forget? And elephants live a long time. I'm not going to go away. If you'd have let me have my piece said and left it alone, I'd probably be downstairs, doing other work and letting you all argue this out. But then you talked about all of the benefit to the rural community. But that wasn't the attitude on Medicaid. There are other agendas that occur in a legislative assembly. There are currents. There are crosscurrents. Foes yesterday become

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collaborators today. [LB104]

SENATOR COASH: One minute. [LB104]

SENATOR CHAMBERS: But I don't look for collaborators because I don't need anybody to tell me that I'm all right or what I'm doing is right. I have some...I have one friend, one friend, and that friend is deep down inside of me. And that friend is the one that I have to satisfy, not anybody out here, not all of the somebodies out here. And maybe we may as well have it out today and see if you all can beat me down on something that means something to you as you think you've beaten me down on something that means something to me and the people that I represent. Thank you, Mr....was that my third time, Mr. President? [LB104]

SENATOR COASH: You still have an opportunity to close on your motion. [LB104]

SENATOR CHAMBERS: Thank you. [LB104]

SENATOR COASH: Senator Davis, you are recognized. [LB104]

SENATOR DAVIS: I've been listening to the discussion this afternoon--thank you, Mr. President and members--and I find it very interesting and informative. I happen to be a representative of a co-op in the Sandhills and southwest Cherry County, southeast Cherry County, which has an acreage commitment of over 400,000 acres. That co-op was put together specifically with the idea of trying to do some wind development, and NPPD is intending to put a line from the Gerald Gentleman plant at Sutherland north into southwest Cherry County, southeast Cherry County, and then on to the east. So I have a lot of interest in this bill and in the other one. The interesting aspect of this that puts me in a quandary is that my group is much more supportive of LB402. So if Senator Lathrop would yield to a few questions, and then maybe Senator Mello, I would appreciate that. [LB104 LB402]

SENATOR COASH: Senator Lathrop, will you yield? [LB104]

SENATOR LATHROP: I'd be happy to. [LB104]

SENATOR DAVIS: So, Senator Lathrop, can you ease my mind a little bit and tell me why your bill is going to be good for Nebraska, in fact, better than LB402? [LB104 LB402]

SENATOR LATHROP: I think it is important that LB104 be available to the large developer for export. And if you'll let me...and I don't want to chew up all your time, but there is economics involved. And, if I can explain it this way, LB104 basically clears out the limitations and the barriers to developing wind energy at the lowest price. So where

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you have C-BED...and there is a place for C-BED. I'm not knocking C-BED, but it does require certain things to happen that benefit Nebraskans, right, certain investments, certain manufacturing requirements, those kinds of things. Each of those requirements, as important as they are to economic development in Nebraska in a bigger sense, when you put those into a large project like a 200-megawatt export project, now what you're doing is this electricity has to be able to compete with the electricity generated from wind projects in Kansas that don't have those requirements. So the developer that would take advantage of LB104 would go to find the best, least-expensive turbines, the best, least-expensive towers, the best, least-expensive components to build it so that he can generate electricity from wind that will compete with the cost of like wind energy from Kansas. When you tell somebody they have to get so much of their money from Nebraska, you've made the cost of money more expensive because you have fewer people that are competing for the right to loan you the money or be an investor. When you say components have to come from Nebraska, you limit your ability to get the lowest price. And so while C-BED is...C-BED accomplishes more while it provides that incentive, it also marginally increases the cost of the project. That marginal increase in the cost of the project is okay if you're generating electricity for Nebraska use, for a cooperative agreement, a proper power purchase agreement with NPPD, perfect. But if you are trying to compete with the cost of making electricity through wind generation in Kansas, it creates another barrier to being competitive, and that's the economics of LB104 versus Senator Mello's approach. [LB104]

SENATOR DAVIS: And, Senator Lathrop, I can buy into that and I understand what you're saying. I really like that C-BED model. I think it's a good model for Nebraska. [LB104]

SENATOR COASH: One minute. [LB104]

SENATOR DAVIS: And the other thing--thank you, Mr. President--I would say is if we just say, well, we're never going to be competitive in these products so we need to not worry about Nebraska being a...in the manufacturing process or in the development process, then basically we're not ever going to develop any more manufacturing industry in this state. We are the fourth-largest wind producer. That's a very important place to be. Fifteen years ago I went through northeast Iowa and it was full of turbines because they've worked hard at it. And I appreciate all the work you've done. I will support this bill, but I...my question is, can we kind of merge them together and get a happy medium? Is that a possibility? [LB104]

SENATOR LATHROP: I...what we have to remember is the people who are going to develop the 200-megawatt project for export are...we have to be competitive in price and in wind with Kansas and Oklahoma because that's the alternative. I mean, there are other states, but that's primarily where the great wind is, and that middle Plains... [LB104]

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SENATOR COASH: Time, Senators. [LB104]

SENATOR LATHROP: Thank you. [LB104]

SENATOR DAVIS: Thank you. [LB104]

SENATOR COASH: Thank you, Senator Davis and Senator Lathrop. Senator Brasch, you are recognized. [LB104]

SENATOR BRASCH: Thank you, Mr. President. Good afternoon, colleagues. And I do not support the motion to recommit to committee although I understand why Senator Chambers is doing so, and at some point I will yield him a question on that. And I do support LB104 with the AM525. Part of what we're also doing, besides legislation, is working with constituents. And in drafting a letter that I'm addressing to high school seniors about to graduate, I think about our legislative body here, too, because I was looking for a strong quotation. And one I found that I really thought, you know, maybe this will work, I'm not sure, but I think of Nebraska with this quote, too, and I'm going to quote. It says, we know what we are, and then it says, but we know not what we may be. And that's William Shakespeare, Hamlet, Act 4, Scene 5. With Nebraska, we know what we are. We're a strong ag economy. And when rural Nebraska does well, so goes the state. We all benefit. And looking at this legislation...and it has merit because we need to know what else can we do, what other business can help sustain our economy, what more can we bring in, what other jobs, opportunities, fields that complement all of us across the state. And yes, Senator Chambers does...you know, we all care. We're guardians of our constituents and our district and work towards everyone's well-being. And with this legislation, yes, we do have surrounding states that have all joined in, in looking at energy, renewable energies, wind, solar. There are opportunities for everyone to benefit from this, and it is my hope to support legislation that would also benefit the smaller businesses in rural development. And I also want to...years ago, it's been at least three, maybe more, I remember sitting down, looking at the World-Herald, and there was a quote from Keith Olsen then, from Farm Bureau, and he said that if we're not sitting at the table, then we are on the menu. I want to make sure that all the opportunities, whatever they may be--rocket science, wind energy, all the fields--that we give them an opportunity. And this is when I would like to see if Senator Chambers would yield for a question. [LB104]

SENATOR COASH: Senator Chambers, will you yield? [LB104]

SENATOR CHAMBERS: Yes. [LB104]

SENATOR BRASCH: Thank you, Senator Chambers. I see, with great interest, how you are coming back to...is it LB266? [LB104 LB266]



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SENATOR CHAMBERS: Yes. [LB104]

SENATOR BRASCH: And you have shared a lot of wisdom, a lot of experience. Does this...is this methodology to bring this subject in effective? Has it proven to work well for you in the past? [LB104]

SENATOR CHAMBERS: Are you...now... [LB104]

SENATOR BRASCH: By bringing...I have bills, too, and I... [LB104]

SENATOR CHAMBERS: Are you asking me,... [LB104]

SENATOR BRASCH: Yes. [LB104]

SENATOR CHAMBERS: ...do I think that what I'm doing will work? [LB104]

SENATOR BRASCH: Has it in the past? The first question: Has this happened before, and has... [LB104]

SENATOR CHAMBERS: I haven't had to do it like this in the past. [LB104]

SENATOR BRASCH: It...this is a first, okay, all right. And I'm sorry to hear that... [LB104]

SENATOR COASH: One minute. [LB104]

SENATOR BRASCH: ...because I do think that there are...you know, we need to look at--I don't know how, whether it's the rules--but when you do have a lot of support or some support, that there are other avenues to work with our committees or to work with the body. But you did answer my question. I thought, if this has precedence, then perhaps we need to incorporate that into something else. So thank you, Senator Chambers. Colleagues, again, this is another type of economic development. It's bringing more opportunities as our high school kids leave and go into...whether it's education or a job, that we need to have places for them to go. As they're making a life, they need to also make a living. I do stand in support of this legislation and other renewable energy legislation that comes before us. Thank you, colleagues. [LB104]

SENATOR COASH: Thank you, Senator Brasch. Senator Watermeier, you are recognized. [LB104]

SENATOR WATERMEIER: Thank you, Mr. President. I rise in opposition to the motion to recommit but in favor of the LB104 and the proposed amendment to it. I have,

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sometimes, always struggled with wind energy, as far as whether it's really efficient and we should be supporting it. But I just don't want to be the one to stand in the way of development and to be "regretive" of not having to do it five years from now, ten years from now. But that's not the only reason I'm going to support this bill. And I really hate to think that this is a rural versus urban issue that just because it happens to be built in northeast Nebraska or the project we're talking about. If this were being built in downtown Lincoln or Omaha, I'd like to think that I would support it because of the fact that we're talking about pouring concrete, bringing in steel, putting in new projects, and I think that's progressive. But I do have a question, I guess, in regards to how the property tax will be evaluated or how it comes to the table. So if Senator Lathrop would ask...would yield to a question? Or, just simply, I'll yield my time to him and have him explain the property tax issue. [LB104]

SENATOR COASH: Senator Lathrop, four minutes. [LB104]

SENATOR LATHROP: Okay, thank you. And I appreciate the time and I'm happy to try to share what I know about the taxes. Generally, for personal property, there is a personal property tax like we pay on our automobile. The way we have worked out the development of wind energy, we have something in lieu of personal property for those towers and the turbines that they hold or support, and that's called a nameplate capacity tax. And basically, the nameplate suggests that you go read on the tower. There's literally a nameplate that says, this tower generates 1.6 megawatts of electricity. Then we have a tax based upon the number of megawatts that it generates. So for a 200-megawatt project, the expectation is it will generate, or the math is that it will generate, \$700,000 a year during the life of the project to the community, to the county, in lieu of the personal property taxes. There is also real estate taxes for the ground that that sits on. Now it probably sits on ground about the size of the floor of the Chamber, so it's not acres and acres. It's just space, but there is property taxes for that. And that's how the taxes work out on the development or each one of the towers and the turbines. So it's a boon for the local communities. I mean, it's farm ground right now, or it might be pasture, grazing ground, relatively low value in terms of property taxation. And these communities are getting a great deal of money over the life of the project, and that's in addition to the taxes that the landowner pays on the lease payments, which are \$10,000-15,000 per tower. So in some respects it is an investment. This is an investment by the state which will pay dividends in the form of income taxes for the people that work on the project, the people who maintain the project for the life of the project, and the people who will receive the lease payments. And that's in addition to the benefits to the coffers of the local county. So thank you. [LB104]

SENATOR COASH: Thank you, Senator Lathrop. Senator McCoy, you are recognized. [LB104]

SENATOR McCOY: Thank you, Mr. President. Would Senator Lathrop yield? [LB104]

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SENATOR COASH: Senator Lathrop, will you yield? [LB104]

SENATOR LATHROP: Yes, I will. [LB104]

SENATOR McCOY: Thank you, Senator. Well, I received in my office--I assume probably everybody did, all 49 of us did, but I'll give benefit of the doubt; I don't know if they did, and so I'll mention--a letter of opposition, from the Nebraska Farmers Union, to LB104. [LB104]

SENATOR LATHROP: I'm having trouble hearing you. The Nebraska what? [LB104]

SENATOR McCOY: Nebraska Farmers Union. [LB104]

SENATOR LATHROP: Okay. [LB104]

SENATOR McCOY: Senator, I wanted to see if you could talk about that and...because it mentions both LB402 and LB104. And the letter--it's fairly lengthy letter--goes on to say and to talk about why they believe that LB402 is much more important to rural Nebraska, which I, as all of us do, I think, care quite a bit about. So I wonder if...why is that, that you believe that Nebraska Farmers Union and now the Center for Rural Affairs, both of which I understand...I believe, actually, the Center for Rural Affairs testified in support of LB104, and now they've retracted that support. Can you talk about that? And that's both been...and those letters have both been in the last 24 hours, and... [LB104 LB402]

SENATOR LATHROP: Yes, I'd be happy to. I have not read the letter, but I think it gets back to something I was just talking to Senator Davis about. He provided me a letter from someone who shares that same philosophy, perhaps, generated by Farmers Union. Farmers Union is a fine group, have no criticisms whatsoever. I worked with them in the early days on early legislation involving C-BED and the development of wind energy, and there are two competing...they're not mutually exclusive. They serve two different purposes and, frankly, if you are going to have an incentive that makes development for export workable, then you have to clear out the barriers that might increase or result in increased costs to the developer. LB104 does that. LB402, Senator Mello's bill, is a good bill. It's a very good bill. It will be a wonderful thing to have the requirement that some of this all happen in Nebraska, right? Whether it's the investment or the manufacturing or the inputs, that's fine. But when you narrow or make the process less competitive, whether it's the turbine or the components or any of the parts that go into it, you take the large exporter and you make Nebraska too expensive to compete. But it will work fine if they are working with NPPD or OPPD to sell the electricity they generate from a C-BED project because cost is...it's OPPD and NPPD can pay a little bit more because the cost of a C-BED project is...it would be expected to

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be a little more because it's a less competitive process. [LB104 LB402]

SENATOR McCOY: Well, Senator, if I may? And I don't mean to interrupt you, but you are on my time. But, well, that leads me to the question and segue--you kind of segued into it--and that is, public power, NPPD and OPPD, testified in support of LB402. They did not testify in support or against LB104. Why is that? Because I value public power. I think you do too. I think we all do. I value public power in our state, and I'm concerned that we're building a system of inequity here. And when he gets back in the room I intend on asking Chairman of the Appropriations Committee, Senator Mello...we have a finite pool of resources, Senator. [LB104 LB402]

SENATOR COASH: One minute. [LB104]

SENATOR McCOY: Thank you, Mr. President. And with that finite pool of resources, if we get down to prioritizing and if LB104 and LB402 were to advance, we don't have the resources, members, for both of these bills. We just don't, not with juvenile justice, not with child welfare. All the other bills that we have that have advanced this session or might or should, depending on the priority, we just don't have the money. And I'm just not sure, based upon the level of new opposition I see to LB104...we're going to have to prioritize here. And where would that priority be, Senator? [LB104 LB402]

SENATOR LATHROP: Well, first of all, I don't see any opposition. Near as I can tell, you and Senator Janssen have stood up and expressed some concern. [LB104]

SENATOR McCOY: I'm speaking of the Center for Rural Affairs, Senator, and Nebraska Farmers Union. [LB104]

SENATOR LATHROP: Oh. They'd like to see their C-BED project bill go through. I don't blame them. But they...that's not to suggest that... [LB104]

SENATOR COASH: Time, Senators. [LB104]

SENATOR LATHROP: ...that they disagree with LB104. [LB104]

SENATOR COASH: Thank you, Senator Lathrop and Senator McCoy. Senator Janssen, you are recognized. [LB104]

SENATOR JANSSEN: Thank you, Mr. President and members. And I'd reiterate that I have no hostility toward LB104 and the advancement of wind energy. It's more of a timing issue with me and also taking a look, comprehensively, at everything we do. Senator Mello made a comment, and I'll take him at his word, that Senator McCoy and I and he all voted together on certain bills. And I didn't research that, but I'd certainly take him at his word because I agree, we need to bring jobs to Nebraska and we need to

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look for businesses and ways to do that. Now I will say that, in the past, if that were the case, we never had this Tax Modernization Committee sitting before us with the opportunity to look at all of our taxing policy, which is exactly what I said, it's an opportunity. Perhaps we could make LB104 better, LB402 better. It gives us a year, not even a year, really, just the summer, to look through this and decide what is the best tax policy for Nebraska. And it won't be hastily done on the floor, sitting here with however many days that we have left. So again, I'll support the recommit motion. And if Senator Mello...or, excuse me, Senator McCoy would like the remainder of my time, I will yield. [LB104 LB402]

SENATOR COASH: Senator, who did you want to yield the balance? [LB104]

SENATOR JANSSEN: Senator McCoy. [LB104]

SENATOR COASH: Senator McCoy, you're yielded 3 minutes, 30 seconds. [LB104]

SENATOR McCOY: Thank you, Mr. President, and thank you, Senator Janssen. Would Senator Mello yield, please? [LB104]

SENATOR COASH: Senator Mello, will you yield? [LB104]

SENATOR MELLO: Yes. [LB104]

SENATOR McCOY: Thank you, Senator. I believe you talked about, in an earlier time on the microphone, what the fiscal impact to our budget that LB104 will be in the second year of the biennium. Did I hear you correct, that that would be \$7.5 million in the second year? [LB104]

SENATOR MELLO: And based on the fiscal note on LB501, which essentially is the committee amendment, it will reduce revenues the second year of \$7,476,000, I think, and then there would be a \$300,000 reduction in cash funds as well. [LB104 LB501]

SENATOR McCOY: Thank you, Senator. And what would be the fiscal impact of your bill, LB402? [LB104 LB402]

SENATOR MELLO: I believe it would be \$6.7 million in lost revenue. [LB104]

SENATOR McCOY: Six-point-seven million. Now is that before the committee amendment or after the committee amendment? [LB104]

SENATOR MELLO: Well, the committee amendment, once again, has not been adopted, thus, there would be no change to the fiscal note. And ultimately I have an amendment that strikes that committee amendment because I viewed it as a hostile

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amendment to the bill. [LB104]

SENATOR McCOY: Well, that may be a topic for another day. But in and of itself...so \$6.7 (million), so we're looking at roughly \$14 million between the two bills. And what is the available pool of resources, as Chair of the Appropriations Committee, Senator Mello, that we have as a Legislature for A bills this session? [LB104]

SENATOR MELLO: Forty-one-point-six million dollars, roughly, right now is the estimated amount but, no doubt, that ultimately can change depending upon, ultimately, I think, what we see may happen with TEEOSA. [LB104]

SENATOR McCOY: And that's \$41.6 million available first and second year of the biennium, correct? [LB104]

SENATOR MELLO: Correct, combined, combined. [LB104]

SENATOR McCOY: In total, combined. So, Senator, between LB104 and LB402, notwithstanding the committee amendment, we're looking at spending, essentially, about a third, more or less, maybe a little bit more than a third, well, about a third,... [LB104 LB402]

SENATOR COASH: One minute. [LB104]

SENATOR McCOY: ...between these two bills. And where are we currently with some of the other bills that have had...advanced? Are we beyond the \$41.6 million or...as far as bills that have moved on? [LB104]

SENATOR MELLO: I believe, without looking exactly with what all bills are currently on Select File and without Final Reading, Senator McCoy, I would sense that we are not at that \$41.6 million number, understanding that a good number of--actually, almost every--senator who has a bill with a fiscal note has approached me and has worked to lower that fiscal note. And with the exception, ultimately, of what we discussed last night on LB561, Senator Ashford's bill, which we'll be working on between General and Select to change that fiscal note amount of what is slated right now at roughly \$21 million. [LB104 LB561]

SENATOR McCOY: But it's your belief, as Chair of the Appropriations Committee, that both LB104 and LB402 are a worthwhile expenditure of a... [LB104 LB402]

SENATOR COASH: Time, Senators. Thank you, Senator McCoy and Senator Mello. Senator Mello, you are recognized. [LB104]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. A

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couple points of clarification. I mentioned a previous time on the mike that LB613, the Tax Modernization Commission (sic), it doesn't specifically address tax incentives, but it does mention the word credits. If you look at the first page of the E&R amendment on Select File it does, at the very end, talk about it's purpose of the Legislature. It mentions credit, so I wanted to clarify that when I spoke on the mike prior to...in regards to that specific bill. Also, on a point of clarification, in speaking with what Senator McCoy's line of questioning was, my amendment...or the committee amendment, Natural Resources Committee amendment, on LB402 has a couple changes that are not hostile to the intent of the what the original bill was. There is a part of the amendment that is considered to be extremely hostile, which essentially is what Senator Smith also has put on LB104, which, no doubt, we will discuss that later this afternoon. I can ultimately...I think my reasoning, I think...and I can deduct here from what Senator McCoy is asking on the mike, in the sense that if it's a worthwhile investment to be able to do LB104 and LB402 and trying to draw a construct for the body to say, you can't vote for one, you have to pick one or the other, you can't vote for both, I get what he's trying to do logically. It's where he was going with that conversation, I think. The reality is, as Senator Lathrop and myself both spoke with Senator Hadley when LB104 came out of committee and was prioritized by Senator Lathrop, LB104 and LB402 deal with very similar areas. One is dealing with the current statute of C-BED. The other one is dealing with our Nebraska Advantage statutes. If both bills move from General File, ultimately, there will have to be some compromises made because, ultimately, both bills, with their fiscal notes as they are, won't continue to move forward because they're both modeled, in theory, after certain sizes or projections and estimates of certain sizes of wind projects. Ultimately, the LB402 model or the LB402 fiscal note, my bill, is off an 80-megawatt project, and I'd have to go dig deeper in regards to the LB501 estimate. And if that's a similar project size, 80 to 100 megawatts, we will have to figure out, ultimately, with the people who supported our bills, what would be the best approach to move forward. Senator Lathrop has agreed with me on that. I've agreed with him on that. Senator Hadley, I think, understands and agrees with that. And that's why, ultimately, members who have come up and asked me about LB104, I've expressed I support it, I'm a cosponsor. And I know that my bill, LB402, will come up, and I would encourage people to support that as well, and we'll have to figure out what the best path forward is. But the policy is really not debatable in the sense of whether or not you support expanding wind energy development. And at the end of the day, I believe that the entire body will make that determination. As I explained to Senator Ashford, the Appropriations Chair doesn't get to determine what bills...what A bills pass and which ones don't pass. That's never been the precedent. It's simply my job to remind the body on a regular basis of how many A bills are out there, understanding that we won't be able to do everyone's bill if it has a cost. And ultimately the body, ourselves, will have to figure out what is our priorities as a body. It may be Senator Hadley's bill on educational savings program. It may be Senator Campbell's bill on our childcare subsidy rating system. It could be Senator Dubas' bill in regards to keeping our current payments to foster care parents and Senator Ashford in Judiciary Committee's bill, ultimately, on

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reforming our juvenile justice system. There's a variety of different pieces of legislation, colleagues, that are always in the mix every year after we finalize the budget. So ultimately, I think, where Senator McCoy was leading... [LB104 LB613 LB402 LB501]

SENATOR COASH: One minute. [LB104]

SENATOR MELLO: ...our dialogue back and forth was, how can we do both, and if we do both, that's going to account for all...that's going to account for a third of the \$41.6 million that's available. Well, if you use that logic, one could probably come to that reasoning. But the reality is, as Senator Lathrop said it and I said it, both bills won't pass in their current form, let alone both bills may not even pass at all. But the reality is we know LB104 takes wind development one way, LB402 takes it another way, and we've got to come together to find a way to be able to move that forward. I trust Senator Lathrop in working with me on that, Senator Hadley in working with me on that. We'll figure it out when that time comes. But to believe that this is an either-or dialogue or conversation, colleagues, unfortunately, I feel, is just not the case and it's just not the facts. Thank you, Mr. President. [LB104 LB402]

SENATOR COASH: Thank you, Senator Mello. Senator Janssen, you are recognized. [LB104]

SENATOR JANSSEN: Thank you, Mr. President and members. And I understand we can't afford everything and we shouldn't pick our tax incentives based on whichever way the wind is blowing, pun intended. But I want to get back to the modernization study, and I think we have an opportunity to go across the state and find out from everybody where they're at on this. And I look forward to that, and that's why I'm supporting the recommit motion. I don't have a lot more to say on this bill. I would like to ask Senator Chambers a question. [LB104]

SENATOR COASH: Senator Chambers, will you yield? [LB104]

SENATOR CHAMBERS: Yes. [LB104]

SENATOR JANSSEN: Senator Chambers, as per usual, I'm sorry. How do you feel today? [LB104]

SENATOR CHAMBERS: I feel wonderful. [LB104]

SENATOR JANSSEN: Would you feel better if I yielded you the remainder of my time? [LB104]

SENATOR CHAMBERS: I'd be ecstatic. [LB104]



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SENATOR JANSSEN: Mr. Chairman, I'll yield the balance of my time to Senator Chambers. [LB104]

SENATOR COASH: Senator Chambers, four minutes. [LB104]

SENATOR CHAMBERS: Thank you, Senator Janssen. Members of the Legislature, I've been told they've got 33 votes easily, so then indulge me to be repetitive like pedagogues are, like preachers are, like anybody who is trying to give instruction to recalcitrant students or a congregation would be. I'm going to say it over and over on this bill. And I want Senator Mello to know that I will not try to derail the budget bill, but I want somebody to count the number of sections there are in the budget bill and then add up the number of minutes that I can get if I make a motion on each one of those sections to merely strike it from the bill. I don't have to study the budget bill. Will you get a cloture vote on a budget bill, which has never happened before? And if you get a cloture vote, that means there will be no further debate. The only amendment that will be voted on is the one of mine which happens to be there, and then you vote immediately to move the budget. And if you don't vote cloture, based on the way they've done things traditionally--and Senator Lautenbaugh would probably be interested in this--that bill drops. It's taken off the agenda. Now which is more important, that you get a budget done timely or stick with tradition and the rules? Well, I know what will happen. You'll panic and the rules have to go out the window because you've got to get this budget bill. But you haven't gotten rid of me because I still got amendments and motions that I'm going to ask, use. You can vote to extend the session, and I'm not aware of that having been done in order to pass a budget bill. So I have alternatives. I'm going to remind you again: I don't trick you. I told you that I'm going to turn my light on one more time, then that's all I'll speak on that. Before the Chair could recognize me, because I put my light on, other lights came on and we're still discussing my motion which would have been pulled. So don't get things out of focus. You all have met the enemy and the enemy is you, you. The lobby can't make you do anything. I can't make you do anything. You do things on your own because you're your own worst enemy. Nobody has to do anything to you. But I intend to try to create a set of circumstances where I can claim that distinction, that I did...I stuck it to the Legislature. I haven't done that yet. I haven't talked about the merits of this bill. [LB104]

SENATOR COASH: One minute. [LB104]

SENATOR CHAMBERS: I didn't talk about the merits of Senator Pirsch's bill, other than to express regret for saying that I hadn't said I would fight it or whatever it was. I didn't discuss the merits of Senator Hadley's bill. And it's interesting, isn't it, that the version of the bill is the Chairman's bill, the Chairman of the Revenue Committee? All of this talk about the committee structure, and look at who all is involved in sticking it to me. It's not enough to knock me down, it's not enough to put your foot on top of me, but you have to grind me into the ground. But I'm one of those...they put fragrances on paper, and the

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more you rub it, the stronger the fragrance. The more you step on me, the more determined you make me. And I'm prepared now to do what needs to be done, and you'll find that out as we do it. [LB104]

SENATOR COASH: Time, Senator. [LB104]

SENATOR CHAMBERS: Thank you, Mr. President. [LB104]

SENATOR COASH: Thank you, Senator Chambers. Senator McCoy, you are recognized. [LB104]

SENATOR McCOY: Thank you, Mr. Speaker. And would Senator Mello yield, please? [LB104]

SENATOR COASH: Senator Mello, will you yield? [LB104]

SENATOR MELLO: Yes. [LB104]

SENATOR McCOY: Thank you, Senator. I appreciate you extending what you thought were my comments on your time on the microphone a few moments ago. I didn't know you had the ability to be clairvoyant and read my mind. That's somewhat of a scary thought. Notwithstanding that, I wanted to get back to, actually, what I was going to continue the thought of, which was not what you extended, but, however, that was a good dissertation on the challenges that lie before us as it relates to the available resources to the Legislature. My question is, Senator Mello, while we haven't had discussion on LB402...we will, at some point, because it has been designated a committee priority bill by the Natural Resources Committee. But today we are talking about LB104. But because you and others have interjected LB402 into the conversation, you know, you talk often, as Chair of the Appropriations Committee, with bill sponsors and others about, well, we've sat down, we've talked about how we're going to trim this down, the fiscal note down on this so it'll fit, if it'll fit. Well, my question to you is, have you had conversations about LB104 and LB402 and about how they can be trimmed down? [LB104 LB402]

SENATOR MELLO: Well, to some extent, Senator McCoy, I have on LB402, in part, I think, in meeting and researching information the Department of Revenue initially utilized and the department of the Fiscal Office utilized. Ultimately, if you looked at the original LB402 fiscal note, it was based off a 100-megawatt project estimate the Department of Revenue and Fiscal Office utilized for a C-BED project. Since there has only been one C-BED project that's...it was roughly about 80 megawatts, and so we ultimately asked a little bit more questions about why they used a 100-megawatt compared to an 80-megawatt project. And ultimately, I think, in the sense of both the Department of Revenue and the Fiscal Office, they realized that, yes, there probably

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could be an 80-megawatt project as well as there were components of our bill and LB402 that changed what ultimately qualified for payments under C-BED, and that also was not completely taken in consideration when the original fiscal note was created. And if you look at it, it was roughly estimated \$7.8 million, give or take, the original LB402 fiscal note. Now the fiscal note is roughly \$6.5 million, and it's been changed the second year to kind of mirror what Senator Hadley's LB501 was. So in the case of LB402, we did some due diligence, did some research, had conversations with the Department of Revenue to find out their modeling. That, ultimately, I think, led to their information being transferred over to the Fiscal Office, and that was changed. [LB104 LB402 LB501]

SENATOR McCOY: Has that been done with LB104? Have you had that conversation with the introducer of this bill, as Chair of the Appropriations Committee, about ways to chop the fiscal impact of this bill to fit within the confines of the budget? [LB104]

SENATOR MELLO: Well, ultimately, I've spoken with Senator Lathrop in the sense that the fiscal note that they've arrived at in regards to Senator Hadley's original LB501 has to be adopted to General File with that amendment. And at the end of the day, Senator Lathrop knows that I've...as we've discussed, that he's going to have to look at the bill and look at the projections and the estimates that were used to create it and see what those projects were, what they are, and if they meet, ultimately, the similar project that we're talking about with the TradeWind project that may come to Nebraska. And at the end of the day, some revenue-projection bills, as I've mentioned, can't always be changed because they're incentive bills. It's not the same equivalent. A tax expenditure is not the exact way our fiscal note operates as a General Fund spending bill. While they're both spending money, one through the tax code, one through the General Fund ledger,... [LB104 LB501]

SENATOR COASH: One minute. [LB104]

SENATOR MELLO: ...one can be changed, in the sense of the General Fund ledger, by changing the scope or simply putting a maximum dollar amount that can be spent. That's a little bit more difficult to do through the Nebraska Advantage Act, but Senator Lathrop knows it's something that he's going to have to explore and look at if LB104 gets to Select File. [LB104]

SENATOR McCOY: And that's a good point, I think, Senator Mello, is...you're correct in that. But because we can't look at things dynamically, we're forced, just by nature of government and the way it operates with our budget, to look at it one and the same, correct? I mean, we're still required to look at this as a budget impact whether it's on the General Fund side or through the tax code side, is that correct? [LB104]

SENATOR MELLO: The process that's laid out through our legislative rules would

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necessitate that a revenue bill that reduces revenues is the equivalent of a General Fund spending bill, correct. [LB104]

SENATOR COASH: Time, Senators. [LB104]

SENATOR McCOY: Yes, and... [LB104]

SENATOR COASH: Thank you, Senator Mello and Senator McCoy. Senator Chambers, you are recognized to close on your motion to recommit. [LB104]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I had no idea, when I offered this motion, that we would be on the motion this long. But the discussion has been about the bill. Nevertheless, it is my motion. I told Senator Lathrop I wasn't going to hound his bill, whatever the term was. I haven't said a word about his bill, so that part has been delivered on. But the discussion took a turn and comments were made that invite a response from me. Now when the vote is taken on my motion, we really won't know whether people are voting against the idea of recommitting or showing their support for the bill. But I think those who support the bill should hope that, for whatever reason, they come very close to 33 votes. And what I'm going to do, to help us see where we are, is to call for the house. And I'm going to ask for a roll call vote, and I'll ask it in regular order. I don't want to complicate anything. But if there's so much importance to this bill and another bill that has been mentioned, is keeping my bill in the Revenue Committee more important than that? Accommodating Senator Hadley more important than that? Accommodating this so-called sanctity of the committee process so important? It's up to you. You all make the decision, and then I abide by your decision. Thus far, you have shown me that everything is less important than keeping my bill in committee. Now I know the League of Municipalities has been bringing pressure to people on that committee to keep my bill in committee. If no other bill stays in committee, LB266 has to stay there. I want a bill that's identifiable as a League of Municipalities bill. I'm going to show you all that I can be vengeful on the floor of the Legislature. They struck the first blow. They threw the first stone. And the Revenue Committee is doing their work, or maybe they're equally in it together. This that I'm doing could be brought to a halt whenever anybody on that committee chooses to bring it to a halt. It doesn't matter to me. I'm going to be back here next year if the International Harvester does not take me wherever I'm going to go when I leave here. And if I come back next year and I'm unsuccessful, I'll be here another year. Then a bunch of you all are going to be gone. You won't even be here. And if I decide to run again, I'll have four more years to try to get done what I want. When something is a matter of principle for me, I'll draw that line in the sand and that's where I'll stand. I'm something like the beach is to the ocean, provided that climate change doesn't melt a lot more of the ice cap and the oceans rise. But as of now, the beach can tell the ocean, this far will you come and no further. Well, that's my line. You've pushed me to it, and I won't back up any further. And I'm going to move forward, and I won't tell you exactly

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when. You'll know it when I do it, but there are other bills that I'm going to work and take time on. And either you're going to take it...you're going to invoke cloture or the Speaker is going to take it off the agenda. Do I have a bill like that? Sure, I do. What's goose for the gander...what's sauce for the gander is sauce for the goose, or however it goes. (Laugh) [LB104 LB266]

SENATOR COASH: One minute. [LB104]

SENATOR CHAMBERS: And I can take it. I dish it out. I can take it, and there's nothing you can take from me. I say again, and I'll say it until it takes root in your brain, I don't have anything, anything, that means so much to me that I will back away from the course I've embarked on here, and I'm going to do it. Which bill will be next? Right now, I haven't made up my mind. And, brothers, sisters, friends, enemies, and neutrals, I cannot tell you how pleasurable it is to be in that position where you can make the decision, either for a substantive reason or on whim, and all they can do is go along. And if any one of them provokes me, maybe all they do is say, Ernie, I've got a bill over here, you want to take my bill on next, and I'm happy to oblige. Mr. President, I would ask for a call of the house and a roll call vote in regular order. [LB104]

SENATOR COASH: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB104]

CLERK: 35 ayes, 0 nays to place the house under call. [LB104]

SENATOR COASH: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unexcused personnel please leave the floor. The house is under call. Senator Sullivan, Senator Scheer, Senator Kolowski, please return to the Chamber. The house is under call. Senator Ken Haar, please check in. All members are present and accounted for. Members, the question for the body is, shall LB104 be recommitted to committee? There has been a request for a roll call vote in regular order. Mr. Clerk, please read the roll. [LB104]

CLERK: (Roll call vote taken, Legislative Journal pages 1138-1139.) 3 ayes, 38 nays, Mr. President, on the motion to recommit. [LB104]

SENATOR COASH: The motion to recommit is not successful. Raise the call. Items, Mr. Clerk? [LB104]

CLERK: Yes, Mr. President, I do, thank you. I have an amendment to be printed to LB543 by Senator Coash. Enrollment and Review reports LB522, LB583, LB296, and LB476 to Select File. New A bill. (Read LB366A by title for the first time.) And a conflict

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of interest statement filed by Senator Mello will be on file in the Clerk's Office.  
(Legislative Journal pages 1139-1141.) [LB543 LB522 LB583 LB296 LB476 LB366A]

Mr. President, with respect to LB104, committee amendments were presented by Senator Hadley. Senator Smith would move to amend the committee amendments with AM1123. (Legislative Journal page 1141.) [LB104]

SENATOR COASH: Thank you, Mr. Clerk. Senator Smith, you are recognized to open on AM1123. [LB104]

SENATOR SMITH: Thank you, Mr. President, and good afternoon, colleagues. I will begin my opening on AM1123 by saying that I am in agreement with the intent of LB104 and the amendment, AM525, which I understand is to encourage the development of renewable projects in Nebraska and to encourage private investment in Nebraska. I simply don't think that it goes far enough to develop new markets for Nebraska wind resources. I believe, colleagues, that we need to be bold in finding the best solutions, and that's why I brought AM1123 forward. As is, LB104 limits developers to only providing nonfirm, nonreliable energy to export markets; that is, only when the wind is blowing is power generated and energy delivered. However, we know that demand for energy does not only follow the pattern of the wind. AM1123 allows for the construction of low-emission generation in tandem with renewable generation so that the developer can offer continuous, guaranteed energy to its markets. An example of this would be when the wind is not blowing and renewable generation is not producing energy. Low emission, combined-cycle natural gas turbines would bridge the supply. And we heard about wind turbines being low water users for the generation of electricity. The same could be said for natural gas combined-cycle generators. They, too, are low water users, so it preserves our water in our state. I think it makes for a good complement to the wind energy. I want to echo Senator Lathrop's words in his opening. I believe, too, that Nebraska is rich with wind resources and that we need to remove hurdles from developing these resources in our state. I believe that my bill, as my amendment, AM1123, further improves LB104 and AM525, and it opens new markets for the renewable energy. AM1123 is consistent with the intent of LB104 in that it makes the development of renewable projects in Nebraska more attractive and encourages investment in Nebraska. Additionally, AM1123 supports the reduction of carbon emissions and the creation of new export markets using private investment dollars. With that, I will conclude my opening. Thank you, Mr. President. [LB104]

SENATOR COASH: Thank you, Senator Smith. Members, you've heard the opening to AM1123 to AM525. We will begin debate. (Visitors introduced.) Senator Schilz, you are recognized. [LB104]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. I would just like to stand and say that, as we've sat here, and me having served on the Natural

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Resources Committee now for what's now my fifth year, we've talked about how to get renewables into our state. And it always comes back, at least in my neighborhood out in western Nebraska it always comes back, to the cost of transmission, so we understood that. You say, well, what does that mean? What do you mean, the cost of transmission? And you say, well, it just costs too much to only have power that runs 30 to 40 percent of the time. So as I look at this, if you're going to be honest about reducing the cost of transmission and actually being beneficial to renewable exporters of power, this amendment needs to be discussed because this takes away the argument that that transmission would cost too much because it firms up the power and it makes it available at a consistent basis so that folks that are looking for that power have it and it's reliable. So I'm very interested in this conversation, I'm very interested in seeing where it goes, and I will...I would give the rest of my time to Senator Smith if he would like it. [LB104]

SENATOR COASH: Senator Smith, you're yielded 3 minutes, 15 seconds. [LB104]

SENATOR SMITH: Thank you, Mr. President, and thank you, Senator Schilz. I appreciate those words, Senator Schilz, and I think you're spot on. It does provide for a firmness of load so you have a better efficiency in the loading of the transmission lines. That would be necessary with some of these wind projects. But it's not necessary that every wind project or solar project that's constructed would have a tandem low-emissions generator. It simply opens the opportunity for that if that makes the development of that project better for that developer. If that is a better incentive, if it provides an incentive, then they have that option available to them, but it's not necessary that they do that. Thank you, Mr. President. [LB104]

SENATOR COASH: Thank you, Senator Smith. Senator Lathrop, you are recognized. [LB104]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Senator Smith and I talked about this amendment in advance. He promised me it was going to be offered for the purpose of a discussion, and we're having that discussion now. I will say there's a certain logic to it. You can say, you know, if the wind isn't blowing, then they ought to be generating something and putting it on the transmission line. But I will say this, or make this observation, that people who are doing the wind energy development haven't asked for it. They don't need it. And the bigger problem--and Senator Smith can certainly respond to this after I get done--is that we're...we will now provide an opportunity for a gas-powered plant to compete with public power. And that's a bigger policy question than we're going to get answered in LB104, which is, to some extent we've carved out an exception for export of power generated by wind, by solar, and on and on. But if you put into this class electricity generated by another power plant, then we have to have the conversation about where...what direction are we going in with public power. It's a fair discussion. You may say, well, full speed ahead. But I can tell you, in order for the

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project to come to Nebraska...that will come to Nebraska with the passage of LB104, then I will tell you AM1123 is not necessary. It doesn't make it a better bill, but it does provoke the question about the type of low-emission plants Senator Smith is talking about, whether they have a place in the generation of power in this state, and what that means to public power. And that's all probably something that has happened or may happen or should happen over in the Natural Resources Committee at a different time and not on the floor on my bill. (Laugh) So with that, I'll give the balance of my time to Senator Smith, and he's welcome to respond or otherwise refute everything I've just got done saying. Thank you. [LB104]

SENATOR COASH: Senator Smith, 2 minutes, 30 seconds. [LB104]

SENATOR SMITH: Thank you, Senator Lathrop, and thank you, Mr. President. And this is a friendly exchange, Senator Lathrop. I'm not going to refute everything you've said. I do find it offensive though that public power, it...you know, the whole discussion of public power is being brought into this. I don't think that that's necessary. This is for export, and the export of power or electrons, electricity from wind is the same as exported electrons and electricity from low-emission fuels or transmutation of elements, whatever that means. And from what I understand, transmutation of elements could include nuclear power. So, I mean, we...you know, somehow we are ruling out low-emission fuels but we're allowing renewable fuels, including transmutation of elements. So it's...I don't believe that we are being consistent here. And so I do believe in the development of these renewable resources. I believe we need to think beyond just the renewables though. I am not willing to go forward on this to the point where I cause harm to your bill. I do support this bill. But I do believe we need to make this better and I do believe the amendment, AM1123, that I've offered does make it better. But at the conclusion of the discussion here, let's see how it goes. I'm more than willing to pull that amendment. Thank you. [LB104]

SENATOR KRIST PRESIDING

SENATOR KRIST: One minute. Oh, thank you. Thank you, Senator Smith. Senator McCoy. I'm sorry, Senator Smith, you're next in the queue. [LB104]

SENATOR SMITH: Yes, Mr. President. I would like to yield my time to Senator McCoy. [LB104]

SENATOR KRIST: Okay. Senator McCoy, you are yielded 4 minutes and 50 seconds, and you are next in the queue. [LB104]

SENATOR MCCOY: Thank you, Mr. President, and thank you, Senator Smith. Would Senator Mello yield, please? [LB104]



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SENATOR KRIST: Senator Mello, will you yield for a question? [LB104]

SENATOR MELLO: Yes. [LB104]

SENATOR McCOY: Thank you, Senator Mello. We've had some conversations off the microphone a little earlier, and my question here, Senator Mello, is...you talked about, earlier, about if both LB402--which, again, we haven't had yet the opportunity and the advantage of debating and we will, which is your bill and a Natural Resources Committee priority bill--if...and you talked about that you and Senator Lathrop, when I asked you questions, have had conversations about what would happen if both these bills advanced beyond General File. I guess my fundamental question is...these two bills are...philosophically approach wind development in a very different way, which is why I've asked Senator Lathrop about the letters of opposition from the Center for Rural Affairs and the Nebraska Farmers Union. If both of them are to advance, Senator Mello, beyond General File and they both come at wind development through two very different manners, how would you remedy that? How would that be remedied without prioritizing one over the other? Now we've already talked about how these two bills, essentially, would consume almost exactly one-third of the available resources that we have as a Legislature. How would you go about marrying these two bills together? [LB104 LB402]

SENATOR MELLO: Well, Senator McCoy, as we were just discussing, I think that's what comes...that's what we do when we sit down to negotiate at a table in regards to what may be the best policy when two legislative bills try to address a similar policy issue. Senator Lathrop's bill addresses wind energy developed through the Advantage Act. My will addresses wind energy development through our C-BED statutes, which I think the underlying construct is both fiscal notes are based on a hypothetical wind project to be developed the second year of the biennium. So you wouldn't have that same project fall under both bills, which is why both bills wouldn't pass, because it would...you would only need one statute or the other or a marrying of them, so to speak, to help encourage a wind project to occur in the biennium. Once again, Senator Lathrop and myself have spoken. The reality is we have to start discussing with the people who have come in support of our bills in the sense of, if both bills get beyond General File, figuring out what is the best course of action, short term and long term, for the state to encourage wind energy development. Once again, I think the bigger issue at hand is less how Senator Lathrop and myself would do some kind of shadow negotiations on General File with his bill when my bill hasn't even been heard yet and I haven't been able to get feedback from members of the floor yet to figure out what aspects of LB402 they like and what aspects they don't like. So I think, at a moment in time, my hope would be Senator Lathrop and his supporters, as well as those who have supported LB402, which there is significant overlap in that area, would be able to sit down together and figure out what's the best path forward to achieve what I think Senator Lathrop wants to achieve, what I want to achieve, and a good number of members of this body

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want to achieve. It's finding a way to encourage wind development in this biennium.  
[LB104 LB402]

SENATOR McCOY: Well, I would agree with that, Senator, and I appreciate the hard work that you do, along with your committee and the staff of the Appropriations Committee, on putting together a budget and understanding the fiscal impact--...  
[LB104]

SENATOR KRIST: One minute. [LB104]

SENATOR McCOY: ...thank you, Mr. President--of legislation that comes before us. And I appreciate what Senator Lathrop is attempting to do with this legislation. I stand though, as I said earlier, concerned over the fact that we're talking about a huge chunk of the available resources to our Legislature being tied up with not only this piece of legislation but LB402 that we've talked about before, notwithstanding the importance of wind development in our state. And as I said when I stood up the very first time, I have vigorously supported wind development in our state in my time in the Legislature. I think it serves a very worthwhile purpose. But we have a lot of things to talk about this session, so I think this has been a good discussion and one that I'm sure will continue. Thank you, Mr. President. [LB104 LB402]

SENATOR KRIST: Thank you, Senator McCoy. And, Senator McCoy, you're next in the queue. Senator McCoy waives his time. Senator Janssen, you are next. [LB104]

SENATOR JANSSEN: Thank you, Mr. President. Members, I don't have much, and I agree that this is for discussion purposes. And I'm glad that we get the opportunity to discuss AM1123, and I understand that it's going to most likely be pulled after that. And, Senator Smith, before you go too far, I would like to ask you a few questions about the amendment. [LB104]

SENATOR KRIST: Senator Smith, will you yield to a question? [LB104]

SENATOR SMITH: Yes, I will. [LB104]

SENATOR JANSSEN: Thank you, Senator Smith, and thank you for bringing the amendment. How...one of the biggest knocks you hear about wind energy--which, one, the transmission, but that's not something that you hear all the time from just, you know, Joe Public driving down the road--and I see this every day when I head back to Fremont, exit 405, I see these two windmills there that aren't churning, and it's even on a windy day they're not churning. Now I don't know if they're down for maintenance or whatnot. And your amendment spoke to other sources but it specified natural gas, is that correct, or compressed natural gas or...? [LB104]

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SENATOR SMITH: Natural gas in any form. [LB104]

SENATOR JANSSEN: Okay, and how would that work? Now is that standard practice in wind energy generation to have, in some cases, diesel engines or any other type of generation to ensure that the flow is constant? [LB104]

SENATOR SMITH: Well, with renewable energy, particularly wind energy, wind blows oftentimes whenever there's not the greatest demand for the energy. And so this is a kind of a new and developing methodology to where they put some type of a fossil fuel or reliable fuel source in tandem with the renewable in order to provide a firm load. [LB104]

SENATOR JANSSEN: Thank you, Senator Smith. I have no further questions for you. But that's interesting. I'm glad that he brought that up. I have no particular point other than that, you know, this is something that we also will get a chance to look at as we, you know, not only do the tax study but how we had bills this year, at least one bill that I'm familiar with, that dealt with compressed natural gas and LNG, which is a liquid natural gas, and I believe it was a taxation issue. But from the Natural...or a resource side, anyway, I would like to continue that discussion, and I'm thankful that Senator Smith brought this forward. And hopefully we can do some studies on that. If not, probably on the tax side, as incentivewise this summer, perhaps on...through the Natural Resources Committee, could do something along those lines as well. Thank you, Mr. President. [LB104]

SENATOR KRIST: Thank you, Senator Janssen. Senator Hadley, you are recognized. [LB104]

SENATOR HADLEY: Mr. President and members of the body, earlier it was brought up about Kansas. And I have an article from The Kansas City Star that quotes the American Wind Energy in a report that was released, let's see, on Thursday, April 11, so it's about ten days old. In 2012, only two other states built more wind generation than Kansas. Kansas more than doubled its production capacity during 2012. Eight windfarms completed in the state added 1,441 megawatts of capacity; \$3 billion to build. Four thousand jobs in the state are credited to wind energy. It was talked about that maybe the legislature in Kansas is going to do something about the credits. I couldn't find anything about that, but I did find in this same story an interesting quote. We spent on the tax...when we had the tax bills, a lot of people talked about Kansas and Senator Brownback, or now-Governor Brownback, and changing the tax climate in Kansas and moving ahead. Let me quote Senator Sam Brownback. A big supporter of wind energy said, the report confirms Kansas' place as a wind energy leader. He goes on to say, we had a tremendously strong year in 2012 and we'll continue to take full advantage of this opportunity to create jobs and grow the economy of Kansas. That certainly doesn't sound like a governor who is trying to stop wind energy in Kansas, the credits. I ran

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across a quote in an Omaha World-Herald article that talked about, leaders in the wind energy industry say the extension of the wind turbine production tax credit as a part of the fiscal cliff legislation was welcome news, but uncertainty about the December 31 expiration has already done damage. The legislation is expected to help projects already or soon to be in the pipeline. That's what this project is. It is already in the pipeline. So if we don't do something, we won't do it. Let me take you back to a year ago. We had a firm named GeneSeek that we were going to start taxing biochips. And they said, fine, if you do that, we're going to move. What would have happened if we'd have said to them, we're going to do a tax study, so if you just bear with us for the next year, we'll let you know in a year how that's all going to work out? We'd have watched the moving vans. Now they're expanding here in Lincoln. They're expanding their work force. They're doing better. And if we're going to sit and base our hopes on the U.S. Congress on December 31, when the fiscal cliff comes again, I think that's absolutely wrong. There is a time frame in this bill. There's a reason that it's coming. There's a reason that five people voted it out of the Revenue Committee. And fine, if you don't want to have a \$300 million project, then you vote no on it. And it will go to Kansas or Oklahoma. I will guarantee you it will go to Kansas or Oklahoma because they can't afford to wait because if the production tax credits, which means they must be 10 percent along this year, if that expires they're done, so they're going to act this year. I did give the bill to Senator Lathrop. [LB104]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: One minute. [LB104]

SENATOR HADLEY: We had a meeting. He said he wanted to prioritize it. I had another bill that I wanted to prioritize it. I'd have given the bill to Senator Janssen or Senator McCoy. If they'd have come to me and said, I like that wind energy bill, would you give it to me, I'd have said yes. But Senator Lathrop came to me. He had a wind bill that this is a better bill. And he says, I will prioritize it, Senator Hadley, you don't have to use your personal priority to get this out, to get it on the floor, to have it heard. So that's why I did it. I'd have given it to any other of the 48 senators here. So if you're mad about where it went or who put it out, blame me. I wanted the bill heard on the floor because I think it's an important bill, it's an important bill for the state of Nebraska, and we can stick...you know, we can say no and you can vote no and that's fine. Lastly, do you remember last year when we all got... [LB104]

SENATOR CARLSON: Time. [LB104]

SENATOR HADLEY: Thank you. [LB104]

SENATOR CARLSON: Thank you, Senator Hadley. Senator Smith, you are recognized. [LB104]

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SENATOR SMITH: Thank you, Mr. President. Senator Hadley, would you like to finish your comment there? I will yield you some time. No? All right. I'm going to use this as my closing because at the conclusion of this I'm going to ask, Mr. President, that you withdraw AM1123. I do appreciate the discussion on this, and I really do believe that the diversity of fuel sources is really critical to reliability and lower rates for our region going forward. I hope, in time, that we can entertain the development of other sources of energy for export. And remember, this is for export. This is not in competition with public power. I am a public power guy. I retired from public power. I also worked in investor-owned utilities, and I believe in the public power model. But I do believe that we need to be innovative as we go forward. We're faced with some unusual and, you know, challenging circumstances when it comes to energy and the generation of electricity for our region, and we are going to have to break out of the mold if we're going to stay competitive. Remember, public power is about reliability, affordability, and accountability. And affordability is something that's very important to my constituents and the citizens of Nebraska. So I'm hoping, going forward, that we can be open to new concepts, and I'd like to look at this in the future. And with that, Mr. President, I ask for AM1123 to be withdrawn. [LB104]

SENATOR CARLSON: Thank you, Senator Smith. Your request to withdraw AM1123 without objection is so ordered. We return, members, to discussion of LB104 and AM525. Are there senators wishing to speak? Seeing none, Senator Hadley, you're recognized to close on AM525. [LB104]

SENATOR HADLEY: Mr. President, thank you. AM525 is a very simple amendment. It basically specifies what we mean by alternative energies. I would appreciate your green vote on this amendment and then moving forward with the main bill. Thank you. [LB104]

SENATOR CARLSON: Thank you, Senator Hadley. Members, the question is, shall AM525 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB104]

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB104]

SENATOR CARLSON: AM525 is adopted. We return to discussion of LB104. Are there senators wishing to speak? Senator Nelson, you're recognized. [LB104]

SENATOR NELSON: Thank you, Mr. President and members of the body. I do have a question for Senator Lathrop, if he will yield. [LB104]

SENATOR CARLSON: Senator Lathrop, would you yield? [LB104]

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SENATOR LATHROP: Yes, I would. [LB104]

SENATOR NELSON: Thank you, Senator Lathrop. I've had to be in and out and I may have missed some of this. But the fiscal note that is applying here to LB104 actually comes from LB501, is that correct? It's the fiscal note for LB501? [LB104 LB501]

SENATOR LATHROP: I think that's right. [LB104]

SENATOR NELSON: Okay. And it shows, I think, \$7 million-some the first year that we're giving up. [LB104]

SENATOR LATHROP: That's true. [LB104]

SENATOR NELSON: Okay, why...just explain to me why it's all in one lump there and then the next succeeding years we're not giving that much. [LB104]

SENATOR LATHROP: My best answer for that is, because the federal tax incentives expire at the end of the year, I think the expectation is that the project will be...the incentives will be expended during that time period. [LB104]

SENATOR NELSON: The federal... [LB104]

SENATOR LATHROP: Right. [LB104]

SENATOR NELSON: Okay. There was mention in there, and I don't have it in front of me, it's just going to take three or five years to build this...put up, what are there, 75 altogether, wind turbines and everything, if I understand... [LB104]

SENATOR LATHROP: Oh, it's more than that, but 200 megawatts, yeah. [LB104]

SENATOR NELSON: Okay, okay. Down the road then, in three or four years, are we going to be losing revenue in those years up until how many years, do you...if you know? [LB104]

SENATOR LATHROP: I don't think you're going to be losing revenue. You're going to be...it depends. If you're the county, you're going to be making an awful lot of revenue. [LB104]

SENATOR NELSON: Well, well, but, I mean, we're going to be... [LB104]

SENATOR LATHROP: But from the state's point of view, if there are other people... [LB104]

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SENATOR NELSON: But yeah, point...I'm talking about losing sales tax proceeds. [LB104]

SENATOR LATHROP: Right, the incentives will be available for another project at some point down the road if they qualify. [LB104]

SENATOR NELSON: All right, thank you. I think that answers my question. Thank you, Senator Lathrop. [LB104]

SENATOR CARLSON: Thank you, Senator Nelson and Senator Lathrop. Seeing no other senators wishing to speak, Senator Lathrop, you're recognized to close on LB104. [LB104]

SENATOR LATHROP: Thank you, Mr. President and colleagues. This is a bill about economic development in rural Nebraska. Much of the amendments to the Advantage Act--which, by the way, probably everybody who has been here before this year voted for every one of them--they rarely have opposition. This one takes economic development and the benefits of the Advantage Act out into rural Nebraska, incentivizes wind production, the production of electricity through wind, and it is going to be a boon for rural Nebraska. You can't bring more money and more development to rural Nebraska by any other way than the development of windfarms. This is good for Nebraska. It makes sense. It will bring jobs. It will bring economic development into the rural parts of our state. I would encourage your support of LB104. Before I sit down, I do want to talk about Senator Mello's bill. It is the C-BED model with some changes that the Natural Resources Committee has seen appropriate to put out. We can have that discussion when we get to Senator Mello's bill, and we can contrast the two. And at some point we can make a decision about whether Senator Mello's bill serves a purpose for certain wind development or renewable energy development, namely, the smaller projects, and LB104 is available for the larger projects that involve exporting of wind-developed energy. We can have that conversation. I welcome the conversation. I look forward to working with Senator Mello. I encourage your support of his bill as well. And with that, I would ask for your support and your vote on LB104. Thank you. [LB104]

SENATOR CARLSON: Thank you, Senator Lathrop. You've heard the closing on LB104. The question is, shall LB104 be advanced to E&R Initial? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB104]

CLERK: 30 ayes, 0 nays on the advancement of the bill, Mr. President. [LB104]

SENATOR CARLSON: LB104 does advance. Mr. Clerk, any announcements or items? [LB104]

CLERK: I do. Thank you. Senator Crawford, new resolutions, LR159 and LR160. Those

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will both be laid over. Communication from the Governor to the Clerk. (Read re LB55, LB79, LB79A, LB153, LB153A, LB158, LB203, LB230, LB263, LB271, LB388, LB495, LB495A, LB528, LB612, and LB629.) That's all that I have, Mr. President. Thank you. (Legislative Journal pages 1142-1143.) [LR159 LR160 LB55 LB79 LB79A LB153 LB153A LB158 LB203 LB230 LB263 LB271 LB388 LB495 LB495A LB528 LB612 LB629]

SENATOR CARLSON: Thank you, Mr. Clerk. Next item.

CLERK: LB140. It's a bill by Senator Krist. (Read title.) The bill was introduced on January 11, referred to the Government, Military and Veterans Affairs Committee, advanced to General File. There are committee amendments, Mr. President. (AM210, Legislative Journal page 607.) [LB140]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Krist, you're recognized to open on LB140. [LB140]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues and good afternoon, Nebraska. I don't often have this long of intro, but I'd like to establish a baseline for what we're trying to do here today and it may take a few minutes. It is a bit technical. As indicated on the committee statement, LB140 advanced to the Government, Military and Veterans Affairs Committee on an 8-0 vote, with all members voting for the bill. I want to thank the committee. It was not without diligent effort that it worked out issues and as the Clerk has stated, there are amendments that Senator Avery will present. LB140 proposes to redefine the term airport hazard area found in Nebraska Revised Statute 3-3013, the airport zoning statutes that have not significantly been updated since 1945. That's right, 1945. And now it's important time to update these statutes to adequately protect our investment in this infrastructure. The bill intends to be more precisely defined in statute the hazard area and to extend the approach zones accordingly. The current statutory definition of airport hazard area is considered by many to be both vague and incredibly outdated, and it does not allow for the consideration of the effect of safety of height of structures more than three miles from the airport, particularly the airport approach zones. Regarding structures, I'm referring as to an example...as an example of tall buildings, water towers, cell, or other towers, windmills, electricity...poles, electrical poles, trees, etcetera, not to mention silos. The bill amends the existing airport hazard area definitions by redefining the airport hazard zone and by providing descriptions of the very safety zones within the hazard area. An airport hazard reduces the size of the area available for landing, takeoff, and maneuvering of the aircraft thus tending to destroy or impair the utility of the airport. Lengthening the approach zone from three miles to ten miles helps Nebraska statutes conform with the current Federal Aviation Administration and the Nebraska Department of Aeronautics zoning and licensing standards. It is important to note...to realize that these are not our standards. Let me say that again. These are not our standards. These



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are the standards that are adopted from the FARs, that is the Federal Aviation Regulations. In other words, if you want to have an instrument approach in your runway to promote business coming in and out or private use, you have to comply with the FARs. There's no exception. These are not specifically addressed to, or referred to, in the 1945 regulations which is why we are updating. Just a quick story or note. The last time that these regulations were actually updated, those of you who remember, our beloved Sally Gordon was flying on a World War II vintage B-17 that was acquired by the family for the then-governor of the state of Minnesota. She rode in that B-17 as the governor of Minnesota picked up other governors to ride to Hollywood for a conference. That's how long ago these were updated, is significantly. She tells me she met Clark Gable while she was there. That's the last time that these procedures were really looked at. Please note the entire radius of the airport is not protected in this bill. Note: The entire radius of the airport is not protected in this bill. It's not ten miles all the way around. And I'll answer questions specifically about the zoning here in a minute with some handouts that you have been given in case there are questions. The entire radius of the airport is, however, protected in other zones and not surface to infinity, but sometimes a few feet above or a hundred feet above unto 3,000 feet. Regarding instrument type approaches. Remember, there's two types of approaches going into a runway. VFR, that's using visual conditions. Instrument approach, IFR, using instrument approach conditions. If you're going to invest an incredible amount of money in your runway and in the approaches, you need to protect those clear zones so that you can continue to fly those approaches. More importantly, it used to require a great deal of investment to put a navigational aid on the ground on those runway surfaces. Today, believe it or not, some of these approaches are actually inside the cockpit of the airplane in the GPS. We have something called the WAAS approach, which is a wide area augmentation system. Those approaches are designed within the GPS structure to allow a pilot to fly an approach without having a ground navigation aid. These airplanes include Cessna 150s, which is probably one of the smallest ones you'll see out there. It is one of the smallest ones you'll see out there, all the way up to a Gulfstream V or a GV. In some of our smaller airports, that's about the biggest airplane that they can handle. It increases the safety margin and allows us to medevac people also. That is, if there's a medical emergency, get them out of places as remote as Banner County and get them into a hospital area in all weather conditions. And that's the important part really of an instrument approach. I don't know how many of you have been on the other end of a medevac flight, but if your only choice is to be medevacked out of the middle of nowhere and into a proper medical facility, you have to have an instrument approach in that runway for all weather conditions in order to do it successfully. This bill, the Airport Zoning Act, helps strengthen zoning regulations by airport zoning boards for the protection of the airports across the state. Both big and small airports benefit. Interested parties have been working on this legislation intensively over the last four and a half years. Let me say that again. Four and a half years, this effort has been going on. It started with Senator Lautenbaugh, was carried through for several years, and then he asked me to pick up the ball. I asked him...I thank him for that because it is my area, I

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feel, of expertise. And again, we had airport authorities in Lincoln, Omaha, the Department of Aeronautics and anyone else who was interested. Also it may be noted, some of our major opposition came from, interestingly enough, our wind towers and that opposition needed to be massaged. And I thank again the Government Affairs Committee for doing that on my behalf. I provided you with two handouts that I will touch on briefly. The first is the map of Nebraska and it shows an airport which has the inside circle of three mile zone, and I should add, the map is not to scale. Obviously, the map is not to scale. If you refer to the legend in the bottom of the map, you'll see that the thin red line is approximately three-mile zone. The thick red circle, it's a visual only, there's no ten-mile approach within those zones. Red hatching is existing ten-mile approaches. Those are your instrument approaches. And the green hatching are actually proposed ten-mile approaches or proposed instrument approaches going into your airports all over the state of Nebraska. I will also be handing out another page that will give you a blowup of that section down below. You should have it already. I'll talk to that also during question and answer, if you any. The other large handout gives you an overhead view of what the instrument approach zone, clear zone, and cone zone clearances are and these are...come right out of the FARs. So, if you wanted to have an instrument approach in and out of your runway, you would...this is the kind of thing that the FAA would require your local airport authority to complete in order to diagram the airport...the approaches into your airport. The smaller of the handouts gives you a profile view of the actual distances and the actual footage in the clearing of an approach area. And then I gave you an instrument approach. This one is actually the NDB runway 36 approach into Wayne Muni, and I think Senator Bloomfield loves this approach. I'm going to stop there. And I know that the committee amendment will further refine, and then I'll come back and answer any questions on any of the handouts. I do have a couple more points that I'd like to make in terms of why this is so important. Thank you for your attention. [LB140]

SENATOR CARLSON: Thank you, Senator Krist. As the Clerk mentioned, there are committee amendments. Senator Avery, as Chair of the Government, Military and Veterans Affairs Committee, you're recognized to open on AM210. [LB140]

SENATOR AVERY: Thank you, Mr. President. As Senator Krist indicated, this bill has a long history going back at least three years, I believe, with Senator Lautenbaugh. The committee has been trying to work this out and this amendment reflects the work of the committee over those years, and in particular, intense negotiations this session. The parties involved in developing LB140 are now all in agreement with the changes that I am going to present to you in this amendment, and there is no remaining opposition to the bill that we know of. These parties include the wind industry, utility companies, and airport authorities. The amendment, AM210, redefines airport hazard to include any structure or tree or use of land that penetrates any approach, operation, transition, or turning zone. The amendment allows a political subdivision or a joint airport zoning board to include modifications or exceptions to the airport zoning regulations adopted

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under the Airport Zoning Act that the political subdivision or joint authority...or joint board deems appropriate. These modifications will not be considered a conflict under Section 3-306. Let me explain what that is. Section 3-306 deals with conflicts between any airport zoning regulations and any other regulations that apply to the same area. It provides that the more stringent limitation or requirement will govern. That's important, and repeat it. It provides that the more stringent limitation or requirement will govern when you have conflicts. Any structure that has not yet been constructed but has received zoning approval from the political subdivision exercising zoning jurisdiction over the structure, will be considered an existing structure. So if a project is already underway or has been approved for construction, it will be considered under this amendment an existing structure. A permit for a nonconforming structure to be replaced, altered, or repaired will be granted if the applicant shows that the replacement, alteration, or repair of the structure will not result in an increase in height or a greater hazard to air navigation than the condition that existed when the regulation was adopted. For nonconforming structures other than electrical facilities, no permit is required for acts of God. Let's say, for example, that you have a nonconforming structure that is destroyed by a tornado, there is no permit required for that structure to be rebuilt. The reason that electrical facilities are excluded in this amendment is that they have, in the green copy of the bill, a rather extensive section that governs their interest. If an applicant demonstrates that the proposed structure or alteration does not require any modification or revision to any approach or approach procedure as proved or written by the Federal Aviation Authority on either an existing or proposed runway, and the applicant provides signed documentation from the FAA that the proposed structural alteration will not require any modification or revision of any airport minimums, such documentation may constitute evidence of undue hardship, and the board of adjustment may grant the requested variance without such findings. Finally, the amendment requires the board of adjustment to fix a reasonable time for the hearing of appeals, give due notice to the parties in interest, and decide the appeal within 60 days after filing of the appeal. The committee advanced the bill and this amendment on a 7-0 vote with one member absent. Mr. President, I urge that the body consider this amendment. It was worked out with a great deal of effort among the various parties. And it is now, if we add this to the bill, the bill is ready to go. Thank you, Mr. President. [LB140]

SENATOR CARLSON: Thank you, Senator Avery. Members, you've heard the opening on LB140 and the committee amendment, AM210. The floor is now open for debate. Those wishing to speak include Brasch, Gloor, Lautenbaugh, Krist and Harms. Senator Brasch, you're recognized. [LB140]

SENATOR BRASCH: Thank you, Mr. Speaker and thank you, fellow colleagues. And I do rise in support of AM210 and LB140 and want to thank Senator Krist and Senator Avery for the importance of this bill and bringing it forward out of committee to the floor today. I would like to ask if Senator Krist would yield to a question, please. [LB140]

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SENATOR CARLSON: Senator Krist, would you yield? [LB140]

SENATOR KRIST: Yes, yes. [LB140]

SENATOR BRASCH: Thank you, Mr. Speaker. Thank you, Senator Krist. I'm looking at the airports here that we have across the state and can you tell me, are they open for commercial flights? Who are the pilots that use these airports? [LB140]

SENATOR KRIST: These airports are actually all of our public use airports. So any private pilot, Senator Watermeier, or when I go out on the weekend flying for fun, we can use them. And then your commercial, your medevac flights, they're public use. These are not...I did not put on this all of the private airports which are dirt strips or ranch strips around the state. These are just public use. [LB140]

SENATOR BRASCH: Thank you, Senator Krist. [LB140]

SENATOR KRIST: You're welcome. [LB140]

SENATOR BRASCH: That is very important information because as we talk about rural economic development, having worked for a private education company and a national education company, as well as farming, I had the opportunity to fly to about 35 different states where each owner of the company would have their own planes, and the first question they would ask are about the airports nearby that they can fly their planes into and looked for opportunities to do business where they could fly. Lost time in vehicles was also equal to lost money. I believe that is very important moving forward into making our state accessible through these many fine airports. I have two such airports in District 16, one in Tekamah and one in Blair, and one nine miles from our farm. They're in Pender, and I do know that their use, their locations are greatly valued. I did get an e-mail today from the city administrator, Rod Storm in Blair, and he reiterated how important this was to the safety. It says, this airport zoning bill here, they've been working on for many years as I know I was on Government Committee and had heard this before. This bill is important to airport statewide to give us the ability to protect the investment that we have in our airports for the safety of our pilots, safety of the public, access to healthcare, and emergency transportation to help, enhance our rural communities ability to attract new business and industry by protecting the viability of precision instrument approaches. During the interim, it was a pleasure to help at a ribbon cutting there in Blair where the opportunity to expand their business and to bring in more commercial flights was welcomed and celebrated by the community. Again, I stand in support. I encourage my other colleagues to support AM210 and LB140. Thank you, colleagues. [LB140]

SENATOR CARLSON: Thank you, Senator Brasch. Senator Gloor, you're recognized.

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[LB140]

SENATOR GLOOR: Thank you, Mr. President. I wonder if Senator Krist would yield to a question or two. [LB140]

SENATOR CARLSON: Senator Krist, would you yield? [LB140]

SENATOR KRIST: Yes. [LB140]

SENATOR GLOOR: Thank you, Senator Krist. Senator Krist, as you know, you have an interest in air charts and I have an interest in nautical charts and so I understand the issues that have to do with impediments. Although when it comes to boats, if somebody builds too far out into a boat channel and it holds a boat I might be in, I can swim. And I'm particularly, you know, understanding that if that happens to an airplane, people can't fly. So I know this is an important bill. I'm trying to understand whether there is a...other than safety, whether there is a business case for this as relates to some airports. In other words, is this important to some commercial cargo carriers or passenger carriers that we do this? Again, above and beyond the safety issue, will they not consider looking at certain communities unless this is done? [LB140]

SENATOR KRIST: Yes, sir. Great point. In order to operate part 135 or 121, and that would be the FARs that cover passenger carrying and cargo carrying aircraft around the state, they require an instrument approach into the runway. If they're operating with passengers, they operate on a very strict minimum. In other words, if the weather is below a certain height, certain visibility, they can't go into the runway even with an instrument approach. So it would restrict it even further. More importantly, I think, safety is always important, don't get me wrong. But more importantly than that is, most of our airports are not controlled. So these kind of instrument approaches give order to where you are. In other words, if I were flying into an uncontrolled airport, I would say, "This is Charlie 22 on final to Runway 4 in the blind," and that will tell everyone around me what I'm doing and where I'm going or I'm on downwind for Runway 12. If I'm on the instrument approach, for example, the one I gave you for the NDB at 36, at 360 (degrees) is the direction of the runway, into Wayne, I would say "Charlie 22 is reporting final for NDB Runway 36 at Wayne, full stop." That tells everyone where I am and it's a deconfliction mechanism for the private pilot as well as the commercial and/or cargo carrier. [LB140]

SENATOR GLOOR: Thank you, Senator Krist. I think there may be another question out there in your answer but if necessary, I'll punch up the light and ask again. Thank you. [LB140]

SENATOR KRIST: Thank you. [LB140]

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SENATOR GLOOR: Thank you, Mr. President. [LB140]

SENATOR CARLSON: Thank you, Senator Gloor and Senator Krist. Senator Lautenbaugh, you're recognized. [LB140]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do rise in support of this bill, and looking around the Chamber I can tell that many of you have been on the edge of your seats trying to see where I would come down on this. I did carry this bill twice, I believe, and it was truly one of my passions until the corn board came along this year and, you know, no man can serve two masters so I've thrown in my lot with the corn board reform and Senator Krist took this one. And I joke, but this is a serious bill and it's a good bill. It is important for these smaller airports to maintain access, maintain the approaches unobstructed. It is vital that these airports be able to continue operation consistent with FAA guidelines and whatnot. It is good that this is finally going forward. I never felt that I could adequately, adequately explain both the problems we are facing, and the needs that we were trying to address with this bill, and what the bill actually does. I think it has become clear. I think several parties have worked very hard to hammer out differences on it and it is an important piece of legislation, to be blunt about it, for the nonmetropolitan Nebraska, non-Lincoln, I guess, I would say, rural Nebraska. I formerly had the city of Blair in my district and the city administrator that Senator Brasch referenced, Rod Storm, was very passionate about this and took a leadership role in getting this done. And people from cities and towns all across the state that had airports certainly chimed in and expressed their support for this over the years. I'm very happy that the differences have been worked out and that this does appear to be at long-last going forward. And I would urge you to support it and vote green, or return to the Chamber and vote green, whatever the case may be, when the time comes. Thank you, Mr. President. [LB140]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Senator Krist, you're recognized. [LB140]

SENATOR KRIST: Is there anyone else in the queue? [LB140]

SENATOR CARLSON: Yes. [LB140]

SENATOR KRIST: Okay. Then I'll use this time to talk to you again about the profile view which...to make sure that you understand the premise. Existing or proposed instrument runway approach zone profile. It's a smaller piece of paper and it gives a bunch of lines. The end of the runway arrow points to the baseline and that is the ground. The ground extends out. The lines down below will show you a three-mile typical and a ten-mile typical. In order to have an instrument approach going into the runway, that clear zone has to be ten miles out and the extended approach slope, if you will look at it, is a fifty-to-one glide path, 50 feet to one foot as it comes down to a

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landing at the end of the runway. Important to note that that glide slope, which is basically right below the fifty-to-one extended approach slope, the slope comes down and if you have a question about whether or not Senator Bloomfield can build a silo on the runway, on the final approach course of the runway going into Wayne, the answer is yes. He could put a silo or his own windmill or anything else. The only problem is it has to be below the safe zone or the slope coming in. Once you penetrate that zone, you have basically nullified that instrument approach. And as Senator Brasch talked about and Senator Lautenbaugh talked about, it is indeed economic development and accessibility to the airport that keeps people coming in and out, and once you nullify the instrument approach, you may be restricting traffic. Two years ago, if the colleagues who were here remember, we passed a bill. Senator Avery brought a bill that actually said, you know, if you're going to build something around an airport that is a military airport, there was no...there was no Nebraska requirement to notify the military base. Well, lo and behold, Bellevue built a hospital right on dead center line for an approach coming into Runway 30...I'm sorry, Runway 12; 120 (degrees) is the direction of the compass heading for the approach in Runway 12 at Offutt. Well, what that did was, for a short period of time, decommissioned or nullified that approach and they had to go back out and survey because it penetrated the cone zone, the clear zone, on that instrument approach within the final approach course line by about 60 feet. And you say, well, what's 60 feet? Sixty feet is a tower that's going to take the bottom of your airplane out. And as Senator Gloor said, that's not comfortable. You can swim to shore on a boat, and it's kind of tough to swim to shore in the air. The point is that it is a matter of safety and these again, just to emphasize with you, these are parameters that are set up by the FARs. All we're doing is educating the planners out there and the folks who have airports in their area to carefully look at the construction zones around your...or potential construction zones around your airport, and now they'll have some applicable procedures and policies to follow in order to make that decision. And once again, folks, I'm saying, it is not necessarily a restriction. If the local authority decides to close the airport and build the windmill right there, they can do that. But if they don't want to close the airport and they want to keep the instrument approaches and the approaches alive, they need to comply with these FARs. Thank you, Mr. President. [LB140]

SENATOR CARLSON: Thank you, Senator Krist. Senator Harms, you're recognized. [LB140]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Krist, would you yield? [LB140]

SENATOR CARLSON: Senator Krist, would you yield? [LB140]

SENATOR KRIST: Yes. [LB140]

SENATOR HARMS: Senator Krist, I noticed in your--I'm getting my computer up

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here--in regard to your committee statement that you had some opponents and then you had some people speak neutral. Let's start with the opponents. What were their concerns since I was not a part of that, nor did I have time to read the transcripts or I would normally not ask this question? [LB140]

SENATOR KRIST: The main concerns were that we were being too restrictive that that might be the only spot that they could put a windmill, or for wind purposes and wind generating purposes, or that an electrical company might have a power pole that needed to go in that particular location in order to facilitate utilities in and out of the town. And again, there's no restriction in terms of preventing construction, but the local planning authority needs to keep it in mind, needs to keep these parameters in mind, if they're going to allow that to happen. We worked extensively, and Senator Avery I think can talk to that. We worked and his committee worked extensively with those concerns to make sure the final product that came out, came out on an 8-0 because we cleared up all those concerns on the committee statement. [LB140]

SENATOR HARMS: Okay. And then in regard to neutral, that always...I always find that kind of interesting that it's pretty hard to talk about being neutral. You're one way or the other. What was the neutral conversation kind of like and then I'll go to my other questions. [LB140]

SENATOR KRIST: Most of the neutral conversation was simply that people didn't want to be held to a standard that they weren't already held to within the construction. And understandably so. It was a matter of education which I'll emphasize again and again. We're not telling you, you can't build a windmill wherever you want to build a windmill or a silo, but once you do that, the ramifications of how it affects your airport zoning and your airport environment is a reality that you need to face. [LB140]

SENATOR HARMS: Okay. Thank you. One other question then. In regard to the charts you gave us that has the effects of LB140 on the public used airports. If we were to plug in the private, how many private do we have and what would this look like? What would this map actually look like if you put in all the privates that were in here? [LB140]

SENATOR KRIST: I think the number is about 300 privately owned or maintained airports across the state. Those are grass strips. There's a few prepared surface runways, but there's a good deal of them out there. The point, though, is that those airports usually will not have an instrument approach procedure going into them, and usually it's on private land where the owner is the person who is going to decide how he corrupts that air space or not corrupts it. [LB140]

SENATOR HARMS: You know when I look at the...listening to you speak about the private and I look at the public, the question that comes up in my mind, I'm not a very good...first of all, I'm not a very good flyer. You need to understand that. I'm kind of



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chicken to a certain degree about that aspect of it, but I always worry about the safety and if you had 300, you know, private, and then what we have here public. When I look at places like Lexington, you know, Cozad and Gothenburg, how are we assured of the safety of that? They seem to be awful close together to me, you know, for airplanes, I mean for airfields, to land. And then if you plug in all these privates and all this movement, I'm sure that it's all pretty well controlled but I don't understand how that actually works. Could you help just a little bit have me have a better understanding of that, how that works and functions? [LB140]

SENATOR KRIST: Sure. Whenever possible...first of all, you're absolutely right. There's probably 80 percent of the airports out in the state that are called uncontrolled. That means there's no control tower in and out of there. That doesn't prohibit you from landing there. In fact, you can be on an instrument flight plan and be talking to Minneapolis air space and he can hand you off to Omaha approach and you can land at Blair which has no control tower. Now, you're making calls in the blind, as I described before. The important thing is to allow the accessibility for air traffic control whenever possible and then procedurally making sure that these clear zones are... [LB140]

SENATOR CARLSON: One minute. [LB140]

SENATOR KRIST: ...clearly charted. And that's the most important thing. There is a huge...I'll tell you, Senator Harms, not to take up all your time, but if you want to be scared, look at the East Coast and the number of airports that are crunched in. [LB140]

SENATOR HARMS: Well, thank you. And I always have trusted your views on flying because you're...that's been your life and I think you really have a good handle on this. I would urge you to support AM210 which underlines the bill LB140. I think it's a good bill and I think we finally have worked this out to where it's comfortable and that we've got the right components in it. So, thank you, Mr. President. [LB140]

SENATOR CARLSON: Thank you, Senator Harms and Senator Krist. Those still wishing to speak include Senator Schumacher and Bloomfield. Senator Schumacher, you're recognized. [LB140]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Would Senator Krist yield to some questions? [LB140]

SENATOR CARLSON: Senator Krist, would you yield? [LB140]

SENATOR KRIST: Yes. [LB140]

SENATOR SCHUMACHER: Senator Krist, how many of these airports marked on this map are equipped with, I think the navigation system is called LORAN? [LB140]

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SENATOR KRIST: Not very many. The LORAN systems are being phased out with GPS, ILS, TACAN have taken its place. [LB140]

SENATOR SCHUMACHER: So, most of the landings at these particular airports marked on this map, particularly the smaller ones, are GPS landings when you talk in terms of instrumental landing? [LB140]

SENATOR KRIST: The preponderance of small airplane navigation is internal GPS, the cockpit. Commercial airplanes are WAAS systems, which is the wide area augmentation, or ILS, instrument landing system. The ILS requires ground navigation...ground navigation aids in order to facilitate their landing. [LB140]

SENATOR SCHUMACHER: Thank you, Senator Krist. Now, particularly along the Interstate and also some other areas, there are large bluffs alongside the Interstate due to the Platte River. Is the 150 feet measured from the ground on the bluff, or is it measured from the end of the airport? [LB140]

SENATOR KRIST: All calculations begin at the end of the runway. And because some of our runways were built with no intention of having instrument approaches, some of them aren't capable of having an instrument approach because that slope or that zone won't allow for the clearance for the approach. [LB140]

SENATOR SCHUMACHER: So the farmers and folks along this...particularly along the Interstate area here, who are on the top of a 90-foot bluff, they basically are limited to structures on their property of 70 feet. [LB140]

SENATOR KRIST: If that bluff was within the cone zone or the airport approach zone, then you're right. But I would note to your point, this bill does not affect 97 percent of what is currently logged on this map. In other words, about 97 percent of what's out there is already in compliance with these instructions. It is the future building that we want to make people aware of that would decommission or take out of effect the instrument approach or the airport area zone. [LB140]

SENATOR SCHUMACHER: So, if I live on the bluff north of Columbus and I need to put up a 60-foot antenna in order to put my...get TV signal, and get over the trees, I may not be able to do it. [LB140]

SENATOR KRIST: You may have to put a 30-foot tower in, yes, sir. [LB140]

SENATOR SCHUMACHER: Okay. Thank you, Senator Krist. I didn't like this bill when I was on Government Committee and I'm no greater lover of it today. I think that most of these particular facilities you can get in and out of without the help of this bill. I think that

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the larger facilities where we have some possibility of real commercial flights, may have a necessity for these. But the small facilities out state, people have been flying in and out of them with GPS really well, and I don't think you want to fly in a fog situation in any of these tiny facilities. You will try to get to a bigger airport like North Platte rather than try to put down at Gothenburg. If you want to look at something, fly south out of the Cozad airport and you better pull back on the stick awful hard to get over the grain elevators there. But this is unneeded regulation in the bulk of these particular small airports and you would not use it anyway. I think we are seeing a terrific land grab or air grab here by regulators that is not necessary. And I think that there's some justification when you start talking of size of towns... [LB140]

SENATOR CARLSON: One minute. [LB140]

SENATOR SCHUMACHER: ...10,000 or more, I don't see that we need this type of regulation in the bulk of these airports that are out. I also think that it's wrong to, along that Platte River, make people not be able to use their property as they might have thought when they purchased the property, have to restrict the size of either their homes or TV antennas just because there's a theoretical thought. I don't buy the idea that you need this to have emergency vehicles going in and out. If they're going in and out, they're going in and out already. I think that there are big airports close enough that you will divert to if you have to do a...land in a fog. I simply cannot support this particular grab at regulation that is not necessary and seems to be more of theoretical value than of real value. If you want to promote these airports, put courtesy cars on the ground. [LB140]

SENATOR CARLSON: Time. Thank you, Senator Schumacher. Senator Bloomfield, you're recognized. [LB140]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I don't believe it's by coincidence that you have a map of the Wayne airport. I had many of the same concerns that Senator Schumacher just went off on or explained. I think we called it a tangent the other day when somebody did that. Senator Krist worked with me. I made several calls to our little airport authority up in Wayne. I talked to the city fathers. I talked to the commissioners. I had a lot of heartburn about this. That has been relieved. The city of Wayne supports this, the county commissioners support it. They said it is good for the economic...possible economic development of the small towns, the county commissioners. Those of you that are familiar with Wayne, there's a large hill just to the east of it. You see in this map that Senator Krist passed out, an approach that avoids that. So those farmers will not be hurt up there. If there's a way around it and they can keep from doing damage to people, they will, if they want this approach. So, in the final analysis after a lot of consultation with Senator Krist and with the folks in and around Wayne, I'm supporting this bill. And though it may add some regulations to a few people here and there, as I understand it, there's nothing says that the airport has to have this

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approach, only if they want this approach do they then need to comply with these regulations. And I would ask Senator Krist if I am correct in that and I would yield him the rest of my time. [LB140]

SENATOR CARLSON: Senator Krist, you're yielded 2 minutes 50 seconds. [LB140]

SENATOR KRIST: Absolutely. Thank you and you're correct. To Senator Schumacher's points, I would only say this. This set of updated aeronautics directives does not change anything that is currently in compliance with the FARs that direct us to do just that. Ninety-seven percent of what's out there right now is in compliance with the FARs. What we have done is adopt some regulations that are...now will be added to the Department of Aeronautics and will give people some guidelines to look at. A collection, if you will, in one place to look at everything that is up-to-date so far. And by the way, we don't try to, within these...and you can read it in the bill itself, we don't try to take the place of the FAR, we try to reference them back to the FAR so they can look at where those actual references are so in case they case, we don't have to continually update. My goal would be to go another 60 years to make an addition to these rules and regulations. Thank you for your courtesy, Senator Bloomfield. [LB140]

SENATOR CARLSON: Thank you, Senator Krist and Senator Bloomfield. Senator Watermeier, you're recognized. [LB140]

SENATOR WATERMEIER: Thank you, Mr. President. I rise in support of the AM and the bill that Senator Krist brought forward. And I wanted to speak to Senator Schumacher as well there. He made a comment about if they want to fly into fog, you want to go to a bigger airport, but really in the small airport that I fly in and out of at Tecumseh, Nebraska, there's quite a number of different airplanes that use it on a...not a real regular basis, but it needs to be there. And I'm probably the last person in this building that want to add regulations to anything. But when you talk about the safety aspect of this, I think it's warranted and I think it's justified, and I support this completely. And if Senator Krist needs more time, I'd allow the rest of my time for him. [LB140]

SENATOR CARLSON: Thank you, Senator Watermeier. Senator Krist, 4 minutes. [LB140]

SENATOR KRIST: Thank you for your courtesy. I won't use all that time. I will just say that I believe you're right on target. This is a subject matter, and I know I've killed a few trees handing out the pieces of paper, but this is a subject matter that if you want to talk more in depth over the desktop and go through it between now and Select, be happy to do that with you. I think I can handle that discussion and instruction, if you will. This is my life and I would hope that if you ever want to buy, sell, or fly in an airplane, that you at least ask my opinion because I feel very comfortable with this. But this is important. It's a safety issue. It's an economic development issue, and it's a preservation of

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investment in our existing infrastructure. Thanks again, Senator Watermeier, for the time. [LB140]

SENATOR CARLSON: Thank you, Senator Krist. There are no other senators wishing to speak. Senator Avery, you're recognized to close on AM210. [LB140]

SENATOR AVERY: Thank you, Mr. President. I just want to reiterate that this amendment, AM210, satisfies the major parties that were concerned about the green copy. The wind energy has signed on to this amendment, utility companies and airport authorities. Those are the major interests that were involved. Those are the parties most likely to be affected by this bill. It is a good amendment. It is much needed in order for us to move LB140. I urge your support for AM210 and the underlying, LB140. Thank you, Mr. President. [LB140]

SENATOR CARLSON: Thank you, Senator Avery. The question is, shall AM210 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB140]

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB140]

SENATOR CARLSON: AM210 is adopted. We return to discussion of LB140. Seeing no senators wishing to speak, Senator Krist, you're recognized to close on LB140. [LB140]

SENATOR KRIST: I want to thank, first of all, Director Ronnie Mitchell, director of the aeronautics for the state of Nebraska for his staff's participation in this effort, the airport authorities in Lincoln, in Omaha, and those folks that came together on the issue. I also want to thank some lobbyists who came in initially, completely against and for their time and their consideration in working out the detail and, of course, Senator Avery, and Government Affairs, and I ask you for a green vote. Thank you. [LB140]

SENATOR CARLSON: Thank you. Members, you've heard the closing on LB140. The question is, shall the bill be advanced? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB140]

CLERK: 28 ayes, 1 nay, Mr. President, on the advancement of LB140. [LB140]

SENATOR CARLSON: LB140 does advance. Mr. Clerk, the next item. [LB140]

CLERK: Mr. President, LB366 is a bill by Senator Cook. (Read title.) Introduced on January 18 of this year, referred to the Education Committee, advanced to General File. There are Education Committee amendments, Mr. President. (AM785, Legislative Journal page 821.) [LB366]

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SENATOR CARLSON: Thank you, Mr. Clerk. Senator Cook, you're recognized to open on LB366. [LB366]

SENATOR COOK: Thank you, Mr. President. Good evening, colleagues. I rise as the introducer of my personal priority bill for this legislative session, LB366, the diploma of High School Equivalency Assistance Act. The intent of LB366 is to recognize the vital challenge in preparing an adult work force in which all individuals possess adequate basic skill levels in reading, writing, mathematics, and computer skills, to establish and fund a statewide system for providing general education development certification, to require the Nebraska Department of Education to adopt rules and regulations for institutions to apply for aid pursuant to the act. Studies have shown that workers who have a high school diploma or a General Education Development certificate have both greater employment opportunities and greater earning potential than those who do not. In order for the state to continue to attract employers that provide reliable and gainful employment, it is important that we continue to provide easy access to educational opportunities to all Nebraskans. Beginning in 2014, there will be two major changes in the federal requirements for the general education development process. First, the national standards for attaining a GED will become more strict with the expectation that the exam will become more challenging for students to successfully complete. Second, administration of the exam will be entirely via computerized testing and will require that authorized testing centers acquire and maintain the necessary computer hardware and software for administration of the exam. As originally introduced, LB366 is a bill that requests the Legislature to allocate funds from the state General Fund to the Nebraska Department of Education to reimburse providers of GED prep classes for the cost of administering the program. All providers of state approved GED programs would be eligible to receive funds. This includes local school districts, community colleges, and other authorized providers. Each provider of GED prep classes would receive a designated amount per student at the time the student enrolls in the GED preparation class, and would receive a designated amount when the student sits for the first part of the GED exam. Each provider would also receive a designated amount for each walk-in who does not engage in the prep classes at that testing center. This bill as drafted proposes a performance-based structure of reimbursement, providers would not receive additional funds for a student who fails the exam and continues in the preparation class and/or retakes the exam. Additionally, this bill also provides a one-time payment of state matching funds to GED preparation and testing providers for acquisition and upgrade of computer equipment, establishing computerized testing centers, and software necessary to come into compliance with the new GED standards and regulations which go into effect in 2014. There is a committee amendment to LB366 and I urge the body to adopt that amendment. I would like to take a moment to thank Chairwoman Sullivan and Education Committee staff for their work to refine and advance the legislation. I appreciate your thoughtful consideration of this proposal and ask for your support of the advancement of LB366 as amended by the committee amendment. Thank you. [LB366]

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SENATOR CARLSON: Thank you, Senator Cook. As the Clerk mentioned, there are committee amendments. Senator Sullivan, as Chair of the Education Committee, you're recognized to open on AM785. [LB366]

SENATOR SULLIVAN: Thank you, Mr. President. The committee amendment strikes the original section and becomes the bill, and I will point out the features of it. First of all, it establishes the diploma of High School Equivalency Assistance Act. We don't refer to it as GED because GED is a proprietary term. The purpose of the act would be to provide assistance to institutions which offer high school equivalency programs in order to defray the cost borne by participants into such programs. And it qualifies who that institution is and that would be a public provider, meaning a state agency, a school district, or a community college. The amendment provides legislative intent to appropriate \$750,000 from the General Fund for the next two fiscal years, 2013-14, and '14, '15, to the State Department of Education for providing the purpose of providing assistance to these public institutions to offer these high school equivalency programs. Now, each institution would receive one assistance payment for...and it would be one of these parameters. Each participant who enrolled in its high school equivalency program in the most recently completed fiscal year, or each individual participant who took an initial examination for a diploma of high school equivalency in the most recently completed fiscal year, and each participant not enrolled in the institution's high school equivalency program who took the examination for a diploma of high school equivalency in the most recently completed fiscal year. As Senator Cook mentioned, institutions would receive no additional assistance for any participant who failed his or her initial examination for a diploma of high school equivalency and requires additional training and testing. The institutions receiving such assistance would be required to report annually to the department. In addition, she mentioned that we're moving from testing going away from paper and pencil to on-line, and so with this amendment, there would be an allocation of \$85,550 from the Education Innovation Fund--those are lottery dollars--to the department for fiscal year 2013-14 to provide for each institution, public institution offering that high school equivalency program, a one-time payment for the upgrade or acquisition of equipment and software necessary to administer the examinations. The other final technical detail in this amendment is that it does give the Department of Education have the authority to promulgate rules and regulations to carry out this act. And this amendment does include and be subject to an emergency clause. That's the substance of the amendment. Thank you, Mr. President. [LB366]

SENATOR CARLSON: Thank you, Senator Sullivan. Members, you've heard the opening on LB366 and the underlying amendment, AM785. The floor is now open for debate. Senator Christensen, you're recognized. [LB366]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Cook yield to a couple of questions, please? [LB366]

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SENATOR CARLSON: Senator Cook, would you yield? [LB366]

SENATOR COOK: Yes, I will. [LB366]

SENATOR CHRISTENSEN: About what is the payment cost that's going to be received on this? I didn't get a chance to get over the fiscal note but I was reading through the bill. [LB366]

SENATOR COOK: The institution would provide a report to the Department of Education and would be reimbursed on the basis of the parameters set forth, the student who sits for the preparation class, the student being...the institution would be reimbursed for the student sitting for the first part of the exam, and a third portion of the reimbursement based on whether or not that student passes the exam. If you're asking for the amount of money, the fiscal note estimates the...the fiscal note based on the number of testing centers and the high end of the maximum people who would be eligible to take the exam. [LB366]

SENATOR CHRISTENSEN: But is this like \$100, \$300, \$600 to execute the test? Do you know what each individual test...? [LB366]

SENATOR COOK: I'm looking at the fiscal note, the original fiscal note because there is a reference to how much they base that on. If you'll bear with me. Yeah, the test itself, the cost of it will go up to \$120 per exam, but we are talking in terms of the administration for this bill, it's \$310 because we're really talking in this proposal about the proctoring of the bill, the cost associated with seating the person at a computer terminal, getting them familiarized with how to successfully complete the exam. [LB366]

SENATOR CHRISTENSEN: So, the reimbursement you're saying would be about \$310 per school for each passed test then? [LB366]

SENATOR COOK: No, that's not what I'm saying. I'm saying that the estimate before you...and I'm looking at the original fiscal note, I'm looking on page 3 of that, and they're talking about the one reimbursement and they're estimating a certain number of students. So, they're saying in about the third line there in that paragraph, 4,864 students at \$310 equals that \$1.5 million. [LB366]

SENATOR CHRISTENSEN: Yeah, but...correct. But I was trying to get for one individual, is it a set deal for the school or is it going to range amongst different schools, colleges, things that provide this? [LB366]

SENATOR COOK: The way that it would range would be, there are going to be different outcomes because it's performance-based. So if you are a student and you have



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participated in the organization's preparation course, and you sit for that exam at that same institution and you've passed the exam, the reimbursement can be \$310 for that one student to that institution. [LB366]

SENATOR CHRISTENSEN: Okay. So, is there...can the individual pay for the test themselves and the schools still get full reimbursement, or is it taken off if they can pay for it? Is there a qualifier here? [LB366]

SENATOR COOK: This bill proposal has nothing to do with the payment for the test itself. The bill proposal is related to the administration of the exam. This is a bill to set up a mechanism for people who take the preparation course, sit for the exam... [LB366]

SENATOR CARLSON: One minute. [LB366]

SENATOR COOK: ...in the institution, and ideally, successfully, complete that exam. [LB366]

SENATOR CHRISTENSEN: Okay. So I guess what I'm trying to say is, if I choose to walk in, take a GED, for reference, and will they charge me like 120 bucks and the school still get the \$310 or...? [LB366]

SENATOR COOK: No That's...the \$310 is separate from...the pot of money that the \$310 would come out of in terms of how it is administered from the community college, for example, is a separate pot of money from the money that they would take for the exam itself. [LB366]

SENATOR CHRISTENSEN: Okay. So will the individual be charged also for the test? [LB366]

SENATOR COOK: There's a \$120 fee as of next January 2014 for taking the test. From my understanding, there are many, many institutions that offer the exam... [LB366]

SENATOR CARLSON: Time. [LB366]

SENATOR COOK: ...that don't demand the full amount. [LB366]

SENATOR CARLSON: Thank you, Senator Christensen and Senator Cook. Senator Harms, you're recognized. [LB366]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Cook, would you yield? [LB366]

SENATOR CARLSON: Senator Cook, would you yield? [LB366]

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SENATOR COOK: Yes. [LB366]

SENATOR HARMS: I just have a couple questions. First of all, I do support the amendment, as well as the underlying bill. My questions center around the fact that they're now going to raise the standards for this test, correct? [LB366]

SENATOR COOK: Yes, that is what the proposal is focused on. [LB366]

SENATOR HARMS: So, do we know what the criteria was to raise those standards and is it equivalent to what a high school senior is going to get when he or she graduates? How do they actually put that together? Because my biggest concern has been even with the present program that we have, whether or not some of our high school seniors when they graduate could actually pass the present exam. And that's what I'm really asking. What criteria did they use and what standards did they use to get...to raise this higher than what it is today? [LB366]

SENATOR COOK: It's my understanding that these changes in the standards are the result of a federal mandate to standardized the kinds of questions and to introduce a new level of rigor to the exam really to match what the demands are not only within the high school environment, but within the competitive work place. If you're expecting someone to use this as potential opportunity to go on to postsecondary education or go on to career training, the thought was nationally that you needed to raise that level of rigor. [LB366]

SENATOR HARMS: Yeah, I don't disagree with that. I'm just questioning the fact is, does our seniors who graduate meet the same standards from the public school system? I know that's a hard question. I'm not trying to trick you. [LB366]

SENATOR COOK: And in researching the proposal, I cannot say that I researched what the standards are for if you had student coming out of our K-12 system here in Nebraska, whether or not if you handed them what we're going to call the GED exam, whether or not they could pass it, that didn't go into the consideration. I'm concerned about access for people who are showing up and to take the exam with or without a preparation course wanting to go on to postsecondary education who do not currently hold a diploma. [LB366]

SENATOR HARMS: Thank you. The other question I have is the fee for \$120. A lot of the students, at least from my past experience of working...making sure you have these programs in your school, a lot of the students who take this or adults or young adults take this are people who can't hardly afford to pay, you know, \$25 or \$40. And that's what bothers me is that if we have to...we've raised that fee to \$120, there are going to be a lot of young people and a lot of students who will not be able to take this test

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because they can't afford it. Now a lot of people say, well, \$120, John, is not very much. It is for a lot of people because they don't have it and I watched just in...historically what's happened in an organization that I worked at how difficult it was for them to pay the present fee. So, I guess that's the other side I think we need to think about is to make sure we're not pricing ourselves out of getting a student to be able to take the high school equivalency test. I worry about that because a lot of the things that I've done here recently, you know, in the last four or five years with TANF when we start breaking down those barriers, we realize that the high school diploma, diploma or the equivalency is...it's just the base. It's just the base for someone to move on to be more successful in the future. And I worry a little bit about this... [LB366]

SENATOR CARLSON: One minute. [LB366]

SENATOR HARMS: Thank you, Mr. President...how they got the standards, but more of the cost and are we going to actually cause ourselves some difficulty in regard to people being able to afford to do this. What are your thoughts about that? [LB366]

SENATOR COOK: Well, I would absolutely agree with you and as a fan of opportunities like dual enrollment and students being able to start all over, whether it's for a career or to continue on to postsecondary education, I am concerned that the increase in the price for the test could present an additional barrier. What I'm hoping that my proposal will do is to have the proctoring in the administration taken care of and each institution can manage how they...maybe they take the \$25 and fill it in with foundation money or money from another pot. This bill proposal is to do with the proctoring, essentially, of the exam. [LB366]

SENATOR CARLSON: Time. Thank you, Senator Harms and Senator Cook. Those still wishing to speak include Christensen, Nelson, and Mello. Senator Christensen, you're recognized. [LB366]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Cook yield again, please? [LB366]

SENATOR CARLSON: Senator Cook, would you yield? [LB366]

SENATOR COOK: Yes. [LB366]

SENATOR CHRISTENSEN: On this \$310, I just maybe don't understand what it really costs. But I guess it seems to me like it's a little high once the schools get it set up to have a program where all you got to do is come in and show the people how to use the computers, and where the class is, and you set it up, to have that as an ongoing expense for them, when the students already paying \$125, which I can agree with Senator Harms might put some of the people that need this the worst, out of range for it.

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Are we subsidizing the school too much here instead of taking care of the kids that really need it? [LB366]

SENATOR COOK: Your question is whether or not we are subsidizing the institution. They're not all schools. Some of them are school districts, some are community colleges, some of them are actually other agencies in communities across the state. My short answer to your question is, no, absolutely not. What...I can offer an example of what I have been told by Metropolitan Community College which is the institution that offers this exam in my community. They had 500 students who registered and participated in the preparation class and then the day of the exam, an additional 1,000...or not the day, but in that preparation period, instead of being able to count on 500 people that day and getting them in front of computer screens, or right now they can still use paper and pencil, they have three times as many as the capacity. And they are making it work, but I saw this as an opportunity for Nebraska to really position itself to best offer the opportunity of education and open the door for continuing education for students of all ages. I think the typical age for participation in this exam is age 25. [LB366]

SENATOR CHRISTENSEN: So did I hear you right in saying, instead of the 500 that took the background test, you could have had 1,500 show up to take the final exam? [LB366]

SENATOR COOK: Not an additional 1,500. What I said was that there...let's say there are 500 people that for the period of the course... [LB366]

SENATOR CHRISTENSEN: Right. [LB366]

SENATOR COOK: ...to prepare for the exam, 500 people will take advantage of that within that system and the system of the four-county area of Metropolitan Community College. The day that the exam would be available, an additional 1,000 people would show up at testing centers, whether those are actually on the campus of the community college or other testing centers that Metro has worked in collaboration to set up around the city of the four-county area of Metropolitan Community College. [LB366]

SENATOR CHRISTENSEN: So, of that 1,500 that showed up, let's say 1,000 of them passed the test, so the school gets reimbursed \$310 times that 1,000. [LB366]

SENATOR COOK: Yes. [LB366]

SENATOR CHRISTENSEN: Okay. That follows that question I wanted. What happens if somebody from Council Bluffs drives over, can they come in from out of state and sit and take the test? [LB366]

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SENATOR COOK: No, they're ineligible. [LB366]

SENATOR CHRISTENSEN: They're ineligible. How is that determined? Do they have to...? [LB366]

SENATOR COOK: They're currently ineligible and they would remain ineligible. Those are the guidelines for the state's current administration. It's on your handout under eligibility. The act will provide funding to state agencies, school districts, to community college areas that offer high school equivalency--or we're calling it GED, that's a brand name--training, and testing to Nebraska residents. [LB366]

SENATOR CHRISTENSEN: So, we do have the safety there that we don't have people crossing the border. That was one of my concerns there also, so. [LB366]

SENATOR CARLSON: One minute. [LB366]

SENATOR CHRISTENSEN: I guess I think that answers my questions. If you got more you want to share in the next minute, I'll give it to you, Senator Cook. [LB366]

SENATOR COOK: Oh, thank you, Senator Christensen. I'll yield my time back to the Chair. [LB366]

SENATOR CARLSON: Thank you. Senator Nelson, you're recognized. [LB366]

SENATOR NELSON: Thank you, Mr. President. Members of the body, I have some questions for Senator Cook, if she will yield. [LB366]

SENATOR CARLSON: Senator Cook, would you yield? [LB366]

SENATOR COOK: Yes. [LB366]

SENATOR NELSON: Thank you, Senator Cook. The only fiscal note I have in my file is revision "00." Is that the one that you have? Is there anything more current? [LB366]

SENATOR COOK: I'm looking for the revision number before I say. [LB366]

SENATOR NELSON: That's right. [LB366]

SENATOR COOK: Yes, this is the one I'm referring to, and I am on the front side of the second page, or page 3. [LB366]

SENATOR NELSON: Right, right. If we may, let's start with your fact sheet here. I see in the bill itself, or the amendment, at least, that they're appropriating \$750,000 a year, or

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\$1.5 million, over the biennium. And you say here, that money is to go to defray costs of high school equivalency education and testing. Now I'm hearing two things here. We're talking a lot about testing, people coming forward to be tested. But what's the education portion of this? How... [LB366]

SENATOR COOK: That is the...that refers to the preparation class, the class to prepare people to do their best, to familiarize them with the environment, especially now that it's going from paper and pencil to a computer monitor. [LB366]

SENATOR NELSON: Okay. So people who haven't...they're working toward getting a diploma and equivalency as if they'd gone four years in high school, as I understand it. Where...so there...none of these payments or none of the money is going for that purpose. How are...how is that being done for students who are trying to get to the point where they take the GED test? [LB366]

SENATOR COOK: How is which portion being done? [LB366]

SENATOR NELSON: I mean, in the community colleges? High schools? What... [LB366]

SENATOR COOK: If they're... [LB366]

SENATOR NELSON: Who is providing this educational service to get them to the point where they're ready to...well, I don't mean to prep them for, but at the point...is this a refresher course? Is that what you're talking about, that they're coming... [LB366]

SENATOR COOK: It would be...I would use the example of if you were to send a student who was headed to a postsecondary institution that looked at SAT courses. It would be somewhat similar. That student, ideally, of course, has reading comprehension skills and mathematics skills. But the preparation and SAT prep course would familiarize them with the format of the test, the kinds of questions, that sort of thing. In a prep, that would be what would be offered. [LB366]

SENATOR NELSON: So if I understand, you've got, maybe, an estimated 1,000 or 1,500 persons that have just never taken the test? They've never... [LB366]

SENATOR COOK: These are the numbers that I received from one institution that would be eligible for these funds, that there were 500 people per...I think their system quarter goes on an 11-week quarter. So there were 500 people who were there, they were taking the preparation course, and then, the day that the exam happened, an additional 1,000 people from the community. Perhaps they prepared on their own or prepared through some other program. But the testing sites are...there are only 29 of them, I believe, in the...across the state. [LB366]

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SENATOR NELSON: And the basis of this is the fact that they are not financially able to afford to take the test? [LB366]

SENATOR COOK: No. The 29 official sites, they're the only authorized sites that are permitted to offer the exam for the certification. So the site is having, I guess, a capacity issue, in terms of proctoring and staffing, to accommodate people who have not previously participated in their program. [LB366]

SENATOR CARLSON: One minute. [LB366]

SENATOR NELSON: All right. We're...the bill or the...as amended provides for state funding out of the General Fund. What are the lottery funds that are going to be used? [LB366]

SENATOR COOK: Thank you. [LB366]

SENATOR NELSON: And where does that money go? [LB366]

SENATOR COOK: Thank you very much. In working, again, with Senator Sullivan and the staff, we identified \$85,000 from what we will call the lottery funds, the Innovation Funds, to go toward hardware and software for the mandated changes that go into effect, come January 2014. The \$1.5 (million) is for the reimbursements that we discussed earlier. [LB366]

SENATOR NELSON: So the extent of participation by the Education Innovation Fund is just the \$85,000. It doesn't go beyond that. [LB366]

SENATOR CARLSON: Time. [LB366]

SENATOR COOK: Yes, Senator. [LB366]

SENATOR NELSON: Thank you. Thank you, Mr. President. [LB366]

SENATOR CARLSON: Thank you, Senator Nelson and Senator Cook. Senator Mello, you are recognized. [LB366]

SENATOR MELLO: Mr. President and members of the Legislature, actually, I was just discussing the fiscal note with some senators over there, under the balcony. The committee amendment, AM785, dramatically changes the initial cost that had been discussed regarding LB366 in the sense that, if you look at the committee statement, as well as you look at the committee amendment, it reduces the General Fund impact for this program down to \$750,000 each year, in comparison to where it was prior to, which

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is, roughly, twice that amount out of General Funds. Ultimately, also--and Senator Sullivan can speak to this a little further, if she'd like, as well--it does utilize some funding from the Education Innovation Fund for administrative costs in the Department of Education to implement LB366. So in conversations both with Senator Sullivan and Senator Cook, I think, the three of us have had the dialogue that, while the committee amendment dramatically changes the fiscal note down lower, Senator Cook understands that that number, ultimately, is flexible, based on what are the priorities of the Legislature as we finalize the budget and finalize and see how much money is available, left for the floor. I appreciate her willingness to work with myself and Senator Sullivan on that flexibility. The underlying policy at hand, ultimately, is whether or not the state sees it necessary to start focusing our efforts and, ultimately, our dollars on trying to help people gain a GED diploma. I think that's good public policy in the sense of the focus that we've tried to put this session on early childhood education, more funding in...more funding for basic K-12 education, and a renewed focus on trying to focus on higher education to help train the work force of tomorrow. Senator Cook's bill is a nice complement to all of those areas that we've tried to focus on this year. And I appreciate her willingness to be flexible in the funding of this, in the sense of trying to make it work within the greater overall fiscal picture. Thank you, Mr. President. [LB366]

SENATOR CARLSON: Thank you, Senator Mello. Senator Scheer, you're recognized. [LB366]

SENATOR SCHEER: Thank you, Mr. President. Senator Cook, if you would yield to a question...but I want to preface it because I know there might have been some confusion, because there was a little bit of confusion at the time that the bill was introduced. And some of the questions, probably, were a little more in depth and were not positive about the direction. And just to clarify, at one point, we were not sure, as far as if an individual came in to take the test and was willing and able to pay that fund to take the test, if the institution would be receiving a reimbursement for that person, even though they had paid for the test. And I think you had some different information that you were sharing with me, and I thought that might be well to be on the record. So if you... [LB366]

SENATOR CARLSON: Senator Cook, would you yield? [LB366]

SENATOR COOK: Yes, thank you, Mr. President. And thank you, Senator Scheer. I did, indeed, do some additional research related to that reimbursement. We had a concern that there might be an opportunity to use a term for an institution to double dip into this pot of money if somebody were to walk in with their money for the test, give that to the institution, and then them be reimbursed. This bill, the way it's drafted now, through the committee amendment, focuses on the costs to administer the exam to the individual. If an institution decides to take just \$25, for example, from a student because of the reasons that Senator Harms mentioned, then they are to look to a different source to



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make up for that. That's not the intention of this proposal. [LB366]

SENATOR SCHEER: Thank you, Senator Cook. I just wanted to make note that that was one of my concerns as well, as she has covered the...another one. That was the eligibility of nonresidents of Nebraska to be able to utilize the service as well. And both of those seem to have been looked at and found not to be part of this bill. And so, with that, I'd be glad to support it because it seems like it's going to do some good things for a lot of people. So thank you, Mr. President. [LB366]

SENATOR CARLSON: Thank you, Senator Scheer and Senator Cook. There are no other senators wishing to speak. Senator Sullivan, you're recognized to close on AM785. [LB366]

SENATOR SULLIVAN: Thank you, Mr. President. I think there's been some good discussion and good questions asked. Just to clarify, the reference that both Senator Cook and Senator Mello made, with reference to the Education Innovation Funds, that \$85,000 makes sure that all the institutions that do currently offer this test will be able to upgrade their equipment and their software. And then Senator Cook's willingness to be flexible in the remaining money that is made available, I think that we are speaking in the spirit of offering these resources to people who really need it and provide for adult education and helping lift people up. So I urge your support of AM785. [LB366]

SENATOR CARLSON: Thank you, Senator Sullivan. You've heard the closing on AM785. The question is, shall the amendment be adopted? All those in favor vote yea; all opposed vote nay. Senator Cook. [LB366]

SENATOR COOK: I would request a call of the house, please. [LB366]

SENATOR CARLSON: There is a request to place the house under call. The question is, shall the house go under call? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB366]

CLERK: 26 ayes, 0 nays to place the house under call. [LB366]

SENATOR CARLSON: Thank you. The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Avery, Senator Smith, Senator Ken Haar, the house is under call. Senator Burke Harr, the house is under call. [LB366]

SENATOR COOK: Go ahead, Mr. Clerk, Mr. President, please. [LB366]

SENATOR CARLSON: Would you accept call-ins, Senator Cook? [LB366]

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SENATOR COOK: Oh, absolutely. [LB366]

CLERK: Senator Mello voting yes. Senator Ken Haar voting yes. Senator Hansen voting yes. Senator Coash voting yes. Senator Schumacher voting yes. Senator Price voting yes. Senator Murante voting yes. Senator Howard...Senator Murante voting yes. Uh-oh. Senator Howard voting yes. Senator Harms voting yes. [LB366]

SENATOR CARLSON: Record, Mr. Clerk. [LB366]

CLERK: 26 ayes, 0 nays, Mr. President, to adopt the committee amendments. [LB366]

SENATOR CARLSON: The amendment is adopted. The call is raised. We return to discussion of the underlying bill. There...Senator Christensen, you're recognized. [LB366]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Cook yield to another question, please? [LB366]

SENATOR CARLSON: Senator Cook, would you yield? [LB366]

SENATOR COOK: Yes. [LB366]

SENATOR CHRISTENSEN: Senator Cook, let's say somebody comes in and takes the test and fails it. So they paid \$125. [LB366]

SENATOR COOK: Yes. [LB366]

SENATOR CHRISTENSEN: If they take it a second time, do they pay another \$125? [LB366]

SENATOR COOK: Yeah, that individual would be responsible to pay the exam fee however many times she or he took the exam. [LB366]

SENATOR CHRISTENSEN: So if we're trying to help people that are needing this education to better themselves in life, we're really putting the pressure on them to perform the first time because they may have trouble raising the \$125 the first time. The second time it's going to be equally or more difficult. Again, I come back to the same analogy I used earlier, Senator, that I feel like we're reimbursing the schools too much and putting too much cost onto the individuals that we're trying to help in this program, and that's...my concern here is maybe we're not helping the people we need to as much as we're "overhelping" because I just can't see that, once you've got the setup done for a community college or a school, whatever, that's doing the GED, that it's going to

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continue to cost them \$310 every time. I think we need to be subsidizing the student more and the colleges less. How do you feel about that? [LB366]

SENATOR COOK: I think that, by setting up administration to assist in a successful passing of the exam the first time, this bill goes a long way to address your concerns. [LB366]

SENATOR CHRISTENSEN: Do we know what kind of success...the first time that we have, what's the success rate? [LB366]

SENATOR COOK: I can get that information to you between now and Select File, but I do not have that information available to me for individual institutions or for the sites across the state. The report that this statute requires does have a category for that information, so we would be gathering information about success of remedial education testing in the state. [LB366]

SENATOR CHRISTENSEN: And is there a way of finding out from the community colleges or schools, things that way, what their actual costs are and if we are really in the ball game of where we should be reimbursing them? Because, again, I might be just totally wrong, but it seems to me like we're, again, putting too much onto the one that...the individual trying to pass this test and giving too much to the colleges. And I could just be wrong, but that's just my thoughts. Thank you. [LB366]

SENATOR COOK: Oh. [LB366]

SENATOR CARLSON: Thank you, Senator Christensen and Senator Cook. Senator Harms, you're recognized. [LB366]

SENATOR HARMS: Thank you, Mr. President, colleagues. To answer your question, Senator Christensen, I understand they can take the test. They pay \$120, and then they can take that test for a year. So not immediately but, in a year, they can continue to take that test and, after a year, you have to pay \$120. So that's not too bad. Originally, I was concerned that we were pricing ourselves out, so...but once you make that payment, according to people who, I guess, understand this better than I did, once you pay the \$120, there's limitations in there but you can take it more than once. So I think that's probably, Senator Cook,...kind of answers our question. Thank you, Mr. President. [LB366]

SENATOR CARLSON: Senator Chambers, you're recognized. [LB366]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, not an alibi but an explanation: I had what I considered to be an important meeting that I had to attend in my office, so I'm not really conversant with this bill. I'll have to ask Senator

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Cook a few questions, just so I can find out what the bill does. [LB366]

SENATOR CARLSON: Senator Cook, would you yield? [LB366]

SENATOR COOK: Yes, I will. [LB366]

SENATOR CHAMBERS: Senator Cook, did I understand that each person who takes the test will result in some \$300-something going to the institution? [LB366]

SENATOR COOK: That is an estimate coming on the fiscal note from the people who are in charge of the program, adult-ed program, now in the Department of Education. And that estimate is... [LB366]

SENATOR CHAMBERS: Okay, well, the dollar amount... [LB366]

SENATOR COOK: It's not necessarily \$300. It is a performance-based, tiered reimbursement, based on whether or not they participated in the prep class, if they passed the first part of the exam, and... [LB366]

SENATOR CHAMBERS: Well, here's what I need to find out: Is that amount based on a person taking the test? Is that when the determination is made of how much money will come from the state to the institution? [LB366]

SENATOR COOK: No, the Department of Education determines the reimbursement. The \$310 is an estimate. I was using that in response to Senator Christensen's question. It would be... [LB366]

SENATOR CHAMBERS: Well, the dollar amount doesn't matter. Let's...it could be \$10, \$20, or whatever. [LB366]

SENATOR COOK: Okay. [LB366]

SENATOR CHAMBERS: Here's what I'm trying to find out: Is there a certain amount that the state pays to the institution for each person who passes the test? [LB366]

SENATOR COOK: There is no one, certain amount. It would be based on the rules and regs established by the Nebraska Department of Education and based on the criteria of the number of students enrolled in the program at that institution, the number of those students who participated in the preparation course at that institution, and if that student passes the exam. The reimbursement is based on those three criteria. So it's tiered, if you will. Three hundred ten is a number that I think they used to estimate, to kind of make the...maximize, as they do with fiscal notes, in terms of estimates. [LB366]

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SENATOR CHAMBERS: Well, does the reimbursement occur, or the pay over of the money, based on a person passing this test? [LB366]

SENATOR COOK: One... [LB366]

SENATOR CHAMBERS: If a person participates in everything and doesn't pass the test, then the state does not give that money over to the institution or...? [LB366]

SENATOR COOK: The state does not give...let's say there were A, B, and C. There are three eggs in the basket. The institution would get the first two eggs but not the third egg, described in Section 4(1)(c), one payment to each institution for each unenrolled walk-in who takes...wait, I'm sorry, one payment to each institution for each enrollee who takes the exam and who passes the exam. [LB366]

SENATOR CHAMBERS: Now if there are 10 people enrolled, as opposed to 20 people enrolled, would the state pay more for the 20 who are enrolled? [LB366]

SENATOR COOK: They... [LB366]

SENATOR CHAMBERS: What I'm trying to find out: Is it a per-person basis that the money is paid over? Or is there a lump sum, and then you divide however many have taken this course and say, that's how much each person accounts for? [LB366]

SENATOR COOK: There...it... [LB366]

SENATOR CHAMBERS: In other words, is it a per-person basis for collecting from the state? [LB366]

SENATOR COOK: It is collected per participant, and the amount that the institution collects per that participant... [LB366]

SENATOR KRIST PRESIDING

SENATOR KRIST: One minute. [LB366]

SENATOR COOK: ...is based upon the criteria of whether or not they were enrolled in the program, if they sat for the exam,... [LB366]

SENATOR CHAMBERS: And if this... [LB366]

SENATOR COOK: ...and in the performance base if they pass the exam. [LB366]

SENATOR CHAMBERS: Is the...if this bill doesn't pass, would this program not be in

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existence? [LB366]

SENATOR COOK: The GED preparation program is in existence, and I can only use the example of Metropolitan Community College, which is in our Omaha four-county area. The challenge is that more students...they're dipping into another aspect of their operating budget to meet the needs of students who are walk-ins because they are the only sites. And they've been very creative about creating sites to offer the examination. [LB366]

SENATOR CHAMBERS: And, excuse me, my time is up. I'll put my light on again. Thank you. [LB366]

SENATOR KRIST: Senator Chambers, your time is up, but you are next in the queue. Go ahead, sir. [LB366]

SENATOR CHAMBERS: So you gave me the cue that I'm in the queue and, for that, I thank you. Senator, here's what I'm trying to get at: Right now, this program is operational, is that true? [LB366]

SENATOR COOK: Yes. [LB366]

SENATOR CHAMBERS: And these institutions are absorbing the cost of administering the program right now, is that true? [LB366]

SENATOR COOK: They are absorbing it as it is administered, per the 2013 federal guidelines, yes. [LB366]

SENATOR CHAMBERS: And if this bill does not pass, would that program cease to operate? [LB366]

SENATOR COOK: The program would not cease to operate. In answer to your question, it would not, in terms of...it would not cease to operate. [LB366]

SENATOR CHAMBERS: So the institutions are trying...okay, let me go back. Where is the money coming from that pays for the administering of this program right now? Is it included in the budget that these community colleges or other institutions prepare? Is this program accounted for in that budget? [LB366]

SENATOR COOK: From the description that I received, it is paid for out of their budget. I cannot tell you, not having seen their budget proposal, whether or not it is currently a line item or if they shift funds around to meet that requirement. [LB366]

SENATOR CHAMBERS: So what did they say was the reason they want this bill

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passed, in addition to getting more money? Because everybody wants that. [LB366]

SENATOR COOK: The changes in the federal guidelines which will require that students all take the test in front of a computer...right now, students can take it in...with paper and pencil. [LB366]

SENATOR CHAMBERS: Is...one... [LB366]

SENATOR COOK: And the additional preparation that would be required as the federal requirements lift the rigor of the exam to a new level. [LB366]

SENATOR CHAMBERS: Okay. And I'm not trying to cut you off but, before my time runs out, is this a program that the federal government requires these institutions to participate in? Or do they participate in order to obtain federal money? [LB366]

SENATOR COOK: I can't answer that. I guess I'd like to believe that they offer it as a part of their mission to prepare people for participation in the work force or to prepare them to be able to go on to postsecondary education, that they included with just enough enlightened self-interest but also as a service to promote education of the citizenry. [LB366]

SENATOR CHAMBERS: Okay, let me try to ask the question, maybe, in a more precise fashion. The federal government does not dictate to these institutions what their curriculum must be, in my view. [LB366]

SENATOR COOK: I don't know the answer to that question. My...in the case of a community college, there are probably federal guidelines and statutes and rules and regs about what you have to have to call yourself a community college. Whether or not offering a high school equivalency exam or something like that is part of it, I don't know the statute for the qualifications for a community college or a school district or the Department of Corrections or another authorized institution. [LB366]

SENATOR CHAMBERS: Because of time, then I'm going to ask Senator Harms, if you don't mind. [LB366]

SENATOR KRIST: Senator Harms, will you yield? [LB366]

SENATOR HARMS: Yes. [LB366]

SENATOR CHAMBERS: Senator Harms, you have had experience with community colleges, is that correct? [LB366]

SENATOR HARMS: That's correct. [LB366]

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SENATOR CHAMBERS: Okay. Does...is this something the federal government requires the community colleges to do? And if so,... [LB366]

SENATOR HARMS: No. [LB366]

SENATOR CHAMBERS: Okay. So they voluntarily participate in exchange for what from the federal government? [LB366]

SENATOR KRIST: One minute. [LB366]

SENATOR HARMS: Well, they can just volunteer to participate like we have done now and which they've done for years. They've given the test. Now they've changed that, and I think they're now paying them for that participation, the setup, the computer system and that, and all the other sort of things that go with the new system. [LB366]

SENATOR CHAMBERS: But the federal government is paying money to these community colleges? [LB366]

SENATOR HARMS: That's my understanding. [LB366]

SENATOR CHAMBERS: And in order to continue to get that money, there are certain strings attached, one of which would be to upgrade the method for... [LB366]

SENATOR HARMS: They would have to...yeah, they'd have to upgrade their computer equipment. [LB366]

SENATOR CHAMBERS: So then, if the community colleges felt like they couldn't do this with the amount of money they're getting from the federal government and they choose to eliminate the program, they're free to do that, is that correct? [LB366]

SENATOR HARMS: That's correct. They're not mandated to do it at all; they can do whatever they'd like. [LB366]

SENATOR CHAMBERS: Thank you. [LB366]

SENATOR HARMS: Um-hum. [LB366]

SENATOR CHAMBERS: And again, I know my time is up. Thank you, Mr. President. [LB366]

SENATOR KRIST: Thank you, Senator Chambers. And, Senator Chambers, you are in...you're next to be recognized. [LB366]



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SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, generally, I am better prepared than I am on this bill. I come to it ice cold. But I'm wondering if these community colleges would have placed on them the same, metaphorically speaking, type of obligation that society tries to persuade corporations to assume in order to be what's called a good citizen of the community. If the community colleges have the wherewithal to upgrade their computer system now, then maybe they ought to start at some point when they've prepared their budget. Let me ask Senator Harms another question, if I may? [LB366]

SENATOR KRIST: Senator Harms, will you yield? I don't see him in the Chamber, sir. [LB366]

SENATOR CHAMBERS: Oh, then I will ask Senator... [LB366]

SENATOR KRIST: He is coming. [LB366]

SENATOR CHAMBERS: Oh. [LB366]

SENATOR KRIST: And I'll assume that you will yield. [LB366]

SENATOR HARMS: Yes. [LB366]

SENATOR CHAMBERS: Senator Harms, when do these...where do the community colleges get the bulk of their operating money? [LB366]

SENATOR HARMS: From three sources. [LB366]

SENATOR CHAMBERS: From where? [LB366]

SENATOR HARMS: From three sources. They'll get it from state aid, from tuition, and from property taxes. [LB366]

SENATOR CHAMBERS: Okay, well... [LB366]

SENATOR HARMS: And then, I guess, there would be a fourth sources also, would be through some federal grants for special programs. [LB366]

SENATOR CHAMBERS: Okay, but I'll leave that out for now. [LB366]

SENATOR HARMS: Okay. [LB366]

SENATOR CHAMBERS: But the state aid, what percentage would you say the state aid

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from the state provides to the operational budget of the community college, if you can estimate? [LB366]

SENATOR HARMS: You know, I don't know for sure because it would...it will vary by college and by size of the institution. [LB366]

SENATOR CHAMBERS: But at any rate,... [LB366]

SENATOR HARMS: Let me give you an example from where I came from that might help you better understand. At one time we were probably...received about 49 percent or almost 50 percent of our operational funds from the state aid that we got. The rest of it was based on property tax and tuition. Now each institution will be different because they have higher assessed valuations and other things that help make those kind of payments. [LB366]

SENATOR CHAMBERS: Okay. [LB366]

SENATOR HARMS: Okay. [LB366]

SENATOR CHAMBERS: Okay, so then it's not a flat rate that every community college necessarily would get in state aid. It would depend on factors that can vary from community college area to community college area? [LB366]

SENATOR HARMS: Senator, every community college will receive some state aid; it just varies on the kinds of students they have. The other side of the state aid, it's probably more than you want to know. But it's weighted also. So if you're in a heavy vocational/technical, you're going to, probably, receive a few more dollars than you would if it was in the...if it was in a biology room or in a science room. So those things are kind of weighted. [LB366]

SENATOR CHAMBERS: Okay. And the reason I asked you, Senator Harms: not to be tricky but to see, kind of, how the community college system works. So that's all that I will ask you. [LB366]

SENATOR HARMS: I...okay, thank you. [LB366]

SENATOR CHAMBERS: I don't know enough about this bill to vote for it. And I certainly would not vote against it, lacking information that I have. But I don't want a program to take on the appearance of a bounty system whereby more state aid comes to one of these institutions based on how they structure a program whose avowed purpose is to assist individuals who need that service. Thank you, Mr. President. [LB366]

SENATOR KRIST: Thank you, Senator Chambers. Senator Schumacher, you are

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recognized. [LB366]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Senator Chambers occasionally comments that people actually watch this and watch what he is telling them. And apparently, that's true because his recent comments and exploration of the community college issue has resulted in a communication to me from someone who was privy to the last board meeting of the Central Community College. And apparently, they decided to spend a million dollars on a backup program for their computers by sending the signal or the backup continually to some facility with the university--I take it was in Lincoln--while they just got done spending money for a bunker on premises at Grand Island to back up the same computer system. And it seems, to me, that people are very, very easy, as we found out here, to spend money, maybe not in the wisest and prudent measure. I think Senator Cook's efforts here to try to get people encouraged to do GEDs and facilitate that are a fine effort. But at the same time, we are going to start facing severe budget reality here shortly. And it's nice and easy to press the green button and feel sorry and try to help people, and I, probably, will press the green button on this one because it's, probably, helping people. But we're going to have a day of reckoning here shortly as we begin to face the fact that our national economy is not producing. We don't produce, over the long haul, at the rate of the national economy. We come close to it at times and, once in a while, exceed it. And we can't expect a gravy train of money. But we've got a management problem if we have to start sacrificing programs like this to have a backup to a...a bunkered backup at the community colleges and say that they need more money through this program. I understand that this program gives money to other entities besides the community colleges. But people are watching these boards and watching us spend money, and you can't keep going like we're going. Thank you, Mr. President. [LB366]

SENATOR KRIST: Thank you, Senator Schumacher. Seeing no other lights on, Senator Cook, you're recognized to close on your bill. [LB366]

SENATOR COOK: Thank you, Mr. President, and thank you, colleagues, for all of your input. I do appreciate the questions. To close, I would reinforce the motivation for bringing the proposal. Since I've started here in the Legislature I have identified as a priority preparing people, through education, for employment. We do, of course, ideally, hope that all Nebraskans, Nebraska residents, are prepared minimally to be at a high school level, in terms of their education. In this competitive market, whatever kind of employment they would seek would demand that. This proposal was brought with that in mind. Another point I would like to reiterate: Many of the questions and comments...and thank you, Senator Harms, Senator Chambers, Senator Schumacher, for your questions related to community colleges. Community colleges are not the only institutions who would be eligible to apply for reimbursement through the Nebraska Department of Education and the education...the NDE would be developing rules and regs toward that reimbursement. Public school districts offer this training and testing.

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The State Department of Corrections offers it. So we're talking about community colleges. They've come up before. But bear in mind that is not the subtotal of who would be eligible, in terms of your institution. With that, Mr. President, I would ask for a call of the house and ask everyone here for your green vote to advance LB366 from General File. Thank you very much. [LB366]

SENATOR KRIST: Thank you, Senator Cook. There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB366]

CLERK: 26 ayes, 0 nays to place the house under call. [LB366]

SENATOR KRIST: 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. I understand you want to proceed. [LB366]

SENATOR COOK: Yes, please, I would like to proceed. And call-ins are fine, thank you. [LB366]

SENATOR KRIST: Thank you, Senator Cook. We didn't take a vote, so we need to actually take a vote--on the machine, if you'd like to. [LB366]

SENATOR COOK: Yes, let's take one on the machine, please. And I'd also accept call-ins. (Laughter) [LB366]

SENATOR KRIST: The question is the advancement of LB366 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB366]

CLERK: 31 ayes, 2 nays on the advancement of LB366. [LB366]

SENATOR KRIST: LB366 advances. Next item. [LB366]

CLERK: Do you want to raise the call, Mr. President? [LB366]

SENATOR KRIST: Sorry. Raise the call, please. [LB366]

CLERK: Mr. President, LB384 is a bill by Senator Nordquist. (Read title.) Introduced on January 18, referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. I do have committee amendments, Mr. President. (AM597, Legislative Journal page 679.) [LB384]

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SENATOR KRIST: Senator Nordquist, you are recognized to open. [LB384]

SENATOR NORDQUIST: Thank you, Mr. President and members. I'm here today to introduce LB384, the Nebraska Exchange Transparency Act. This bill would create an Exchange Stakeholder Commission, composed of Nebraska consumers, small businesses, healthcare providers, health insurers, and agents, to work with the federal government and provide input regarding the new health insurance marketplace that's to be established in our state. The commission created by LB384 would: provide oversight and recommendations regarding implementation and operation of the health insurance exchange; create technical and advisory groups, as needed, to discuss specific issues related to the exchange; and identify challenges and problems in the exchange and prepare recommendations both to the state and to the federal government to alleviate any problems that are identified. As you well know, the Affordable Care Act requires a health insurance exchange to be operational in each state by January 1, 2014. The Governor, Governor Heineman, has decided to pass on the opportunity to create a new health insurance exchange by the state. So in Nebraska, we will have what is called a federally facilitated exchange, or FFE. It's the intent of a health insurance exchange to create a competitive marketplace that gives consumers more control, quality, choices, and better protections when buying insurance. It's intended to be an easy Web site that will allow consumers and small businesses to make educated comparisons between plan options so they can find the one that is best available to meet their needs. In a nutshell, it's intended to make buying insurance easier for those who need it. In Nebraska, the Department of Insurance estimates that approximately 135,000 people will obtain health insurance through the exchange in 2014. Enrollment in the exchange ultimately ramps up to 230,000 by 2018. Low- and middle-income families will be able to receive premium tax credits on the exchange to help them purchase health insurance. These credits are determined on a sliding-fee scale and the credits are structured so people will be protected from having to spend more than a percentage of their income on health insurance bought through the exchange. I've introduced LB384 because I believe Nebraskans deserve a say in the process of creating a health insurance marketplace. The federal government has expressed desire, both...largely through regulations and, quite frankly, they have a need to work with states and stakeholders in the states to develop an exchange that works best. The exchanges...the federal exchange in our state will be charged with five core functions: eligibility; enrollment; plan management; consumer assistance; and financial management. Federal guidance from the Centers for Medicare and Medicaid Services on federally facilitated exchanges say that HHS is committed to seeking a transparent process for the development of the exchange in each state and will seek input from stakeholders and provide technical assistance to those stakeholders working with an FFE. Since we have defaulted to a federally run exchange, we no longer have a say in what the exchange can and can't do in our state. But the federal government has been very willing to work with stakeholders to determine how best to conduct the core functions. And this stakeholder commission could provide a ready and willing group of educated stakeholders to collaborate with the

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federal government to make sure that this works as best as it possibly can with the decision of going to an FFE. The membership of the commission includes: members to be appointed by the Governor; four consumer representatives, one of which must specifically represent the interests of rural consumers; one representative of small business; two representatives of healthcare providers; one representative of a health insurance carrier; one representative of health insurance agents; and, as introduced in the original bill, three ex officio members--the director of the Department of Insurance, director of Medicaid and Long-Term Care, and the director of Children and Family Services--or their representatives. We have an amendment to the committee amendment which would remove that last one, and I'll talk about that when we get to that part of the bill. The term of the members will begin July 1 of this year, and there is a sunset for this commission in 2017. At that point we will make a determination, or future legislatures will make a determination, if we need to continue this, how the federal exchange is working, or if other alternatives are needed at that point. There was no opposition at the hearing. The...Senator Gloor worked very, very closely with me and, kind of, took the lead on the committee amendment, and I think it clarifies and corrects a few issues. And it came out of the committee unanimously. There is a small, I think, \$5,000 cash fund requirement. Department of Insurance says they can handle that within existing resources. So with that, I would appreciate your support of establishing this commission to give Nebraskans an organized stakeholder commission to work through when they come up upon challenges on...with the future federally facilitated health insurance exchange. Thank you. [LB384]

SENATOR KRIST: Thank you, Senator Nordquist. As the Clerk stated, there are amendments from the Banking, Commerce and Insurance Committee. Senator Gloor, as the Chair, you are recognized to open on that amendment. [LB384]

SENATOR GLOOR: Thank you, Mr. President. Good evening, members. As Senator Nordquist pointed out, there was considerable dialogue between myself and Senator Nordquist and the Department of Insurance and the Governor's Policy Research Office. And I think what we've come up with, in terms of both the bill and amendments, make this a good bill and one worthy of a green light. Understand that this bill is about oversight and transparency, considering the fact that we're not dealing with a state exchange anymore. We're dealing with a federal exchange. The committee amendments make changes in three key areas of the bill. First, and most importantly, the amendments make changes in the composition and appointment process of the commission members. The committee took great interest in the consumer representation of the commission. As introduced, the bill would require appointment of three members who are healthcare consumer advocates, and appointment of one of those members would be someone who's served on the Nebraska Rural Health Advisory Commission. Committee amendments would strike these provisions and, instead, require appointment of four members to represent the interests of consumers who will access health insurance in the exchange, with at least one such member to

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represent the interests of rural consumers. The committee amendments would make no change in the requirement that the Governor shall appoint a voting member. However, the committee amendments would strike the requirement that these appointments be made from a list of names submitted by committees of the Legislature, avoiding, therefore, a constitutional discussion. Also, the committee amendments would make no change in the requirement that appointment of nonvoting members shall be subject to confirmation by the Legislature. There are some technical matters. The committee amendments would provide for members' terms to commence on July 1, 2013, and the committee amendments would also provide that the annual report by the commission to the Legislature shall be submitted electronically. Finally, the committee amendments put a sunset on the bill. The date of that sunset would be July 1, 2017, giving the commission four years to operate, and sunset at that period of time. Remember, please, again, that we're dealing with a federal exchange. And this was felt to provide some degree of input and oversight within our state. And remember, also, that this is just an advisory board. Thank you, Mr. President. [LB384]

SENATOR KRIST: Thank you, Senator Gloor. Mr. Clerk, there is an amendment to the committee amendment? [LB384]

CLERK: There is, Mr. President. Senator Nordquist would move to amend the committee amendments with AM1092. (Legislative Journal page 1144.) [LB384]

SENATOR KRIST: Senator Nordquist. [LB384]

SENATOR NORDQUIST: Thank you, Mr. President and members. This amendment is quite simple. It amends the committee amendment to remove the director of Children and Family Services. The...and this was brought to us, the issue raised, by Policy Research, the reason being, when we introduced this bill and it moved out of committee, there was still the understanding that, right now, Children and Family Services does determination for Medicaid eligibilities. And part of that is worked through the exchange, so we thought it made sense to have them on the task force or on the commission. But now there is going to be a reorganization in HHS that's come to our attention over the last couple of weeks. And no longer will the Division of Children and Family Services be doing the determination but, rather, the...just Medicaid and Long-Term Care will be doing that determination. So there really isn't a clear role or purpose for the director of Children and Family Services to be on this commission, so we are removing that ex officio position. Thank you. [LB384]

SENATOR KRIST: Thank you, Senator Nordquist. The floor is open for debate. Seeing no senators wishing to speak, Senator Nordquist, you are recognized to close on your amendment to the committee amendment. [LB384]

SENATOR NORDQUIST: I think I'll waive (inaudible)... [LB384]

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SENATOR KRIST: Senator Nordquist waives. The question is, shall the amendment to the committee amendment to LB384 be adopted? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB384]

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of the amendment to the committee amendments. [LB384]

SENATOR KRIST: The amendment is adopted. Seeing no other lights on, Senator Gloor, you're recognized to close. Senator Gloor waives closing. And the question for the body is, shall the committee amendment to LB384 be adopted? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB384]

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB384]

SENATOR KRIST: The amendment is adopted. [LB384]

CLERK: I have nothing further on the bill, Mr. President. [LB384]

SENATOR KRIST: Thank you, Mr. Clerk. Seeing no other lights on, Senator Nordquist, you're recognized to close. Senator Nordquist waives closing. The question is the advancement of LB384 to E&R Initial. All those in favor vote aye; all those opposed, nay. Please record, Mr. Clerk. [LB384]

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB384. [LB384]

SENATOR KRIST: The bill advances. Next item. [LB384]

CLERK: LB384A is by Senator Nordquist. (Read title.) [LB384A]

SENATOR KRIST: Senator Nordquist. [LB384A]

SENATOR NORDQUIST: Thank you, Mr. President. This just appropriates some cash funds for the Department of Insurance to administer the act. It's about \$5,000, I believe. [LB384A]

SENATOR KRIST: Seeing no lights on, Senator Nordquist, you're recognized to close. Senator Nordquist waives closing. The question before the body is the advancement of E&R Initial for LB384A. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB384A]

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB384A. [LB384A]



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SENATOR KRIST: Thank you. Returning to Select File, first item, Mr. Clerk.

CLERK: Mr. President, the first bill back is LB553. Senator Murante, I have Enrollment and Review amendments, first of all, Senator. (ER62, Legislative Journal page 1061.) [LB522]

SENATOR KRIST: Senator Murante for a motion. [LB553]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB553]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. Motion passes. [LB553]

CLERK: Senator Nordquist would move to amend with AM1073. (Legislative Journal page 1120.) [LB553]

SENATOR KRIST: Senator Nordquist. [LB553]

SENATOR NORDQUIST: Thank you, Mr. President and members. This is a very short amendment that just...it was written in conjunction with the Revisor's Office, but was considered to be a little bit more in depth than what they felt comfortable putting in, in an E&R amendment. So I would appreciate your support of that. [LB553]

SENATOR KRIST: The floor is open for debate. Seeing no senators, Senator Nordquist, you're recognized to close. Senator Nordquist waives closing. The question is the amendment to LB553. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB553]

CLERK: 25 ayes, 0 nays on adoption of Senator Nordquist's amendment to the bill, Mr. President. [LB553]

SENATOR KRIST: Senator Murante for a motion. Oh, I'm sorry. There is another amendment. Mr. Clerk. [LB553]

CLERK: Excuse me, Senator. Senator Lautenbaugh would move to amend, Mr. President, with AM1130. (Legislative Journal page 1145.) [LB553]

SENATOR KRIST: Senator Lautenbaugh, you're recognized. [LB553]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And simply put, I'll go through and describe what the amendment does which I guess isn't shocking to those of you who are familiar with what we usually do when we open on an

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amendment. But I'll start by saying that I do apologize to Senator Nordquist in that I did not raise these issues on General File. It was not my intent to lie in the weeds. I did let him know this afternoon that I was looking at this and provided copies of it, and thankfully, some time passed so that no one was completely shocked by any of it. But what this does, the amendment that I've submitted, it takes out the second tier, if you will, and puts the sunsets back on for everyone and basically undoes the long-term nature of this, which leaves time to actually contemplate other long-term solutions. It's offered to keep the fix that's in this and the provisions for the short-term issues that are needed so that our budget can work or move the provisions again that were presented on General File as addressing long-term funding problems. The amendment does two things. It strikes the 100 percent state contribution...or 100 percent increased to state contribution, which has been referred to as the additional 1 percent, by keeping the current contributions made by employees, employers--meaning schools districts in this particular amendment, and the state of Nebraska in place through 2017, and removes entirely the different treatment for all new hires that is in the bill. And make no mistake, I do appreciate the efforts of Senator Nordquist and the Retirement Committee to craft a long-term solution to the issues onto this defined benefit plan, and the school plan, in particular. I don't agree that LB553 does enough to solve the long-term issue. I agree that we need to make the budget work, and with this amendment it still will work, but I think this is an issue, as far as the long-term goes, that needs additional study. This is a complex area that would again warrant additional study for our long-term options, as there are many moving parts in this. I feel that many of my colleagues share these concerns and are desirous of trying to look at other possible solutions or a variety of approaches for the longer term. So it is with that in mind that I do bring this amendment. Again it is not to try to take a shot at Senator Nordquist or the committee, but I believe we can maybe take a little more time when some of the urgency is off when we deal with these short-term issues and focus more on what we might want to do to more adequately address the long term. So I would ask you to support this amendment and I do look forward to the debate on this. Thank you, Mr. President. [LB553]

SENATOR KRIST: Thank you, Senator Lautenbaugh. The floor is now open for debate. Senator Nordquist, you're recognized. [LB553]

SENATOR NORDQUIST: Thank you, Mr. President and members. And I appreciate Senator Lautenbaugh's comments. This has been a bill that's essentially work began on it in August and September. We continued work on it with all of the interested parties in November when we got the hard numbers from our actuary by the August and September. That was kind of in response to knowing that the last market year performed, only received about a 1 percent rate of return on our investments. Then as I said, in November, we got the hard actuary numbers. Continued our work, our discussion. We had, or course, that was part of an interim study that we do every year on our defined benefit plans. We then introduced legislation that was part of an agreement reached between all three school groups, the boards, the administrators,

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and the teachers...or yeah, the education association. And it is a complicated balance when we're trying to come up with this. I would say that negotiating this package is probably as close to, as the state, at least in the Legislature, that we get to any kind of collective bargaining. It certainly isn't that but we set policy and negotiate what the pension benefits are going to be, what the contribution rates are going to be. And I rise in opposition to this amendment because it essentially undoes all of that and it is very much a short...it is a short-term solution. It's a very shortsighted solution. What it does is it essentially takes one piece out of the bill and saves that, and that is the change in amortization rates. And what that means is we take our total unfunded liability every year, however much that amounts to. Right now, we divide that up into 30. We amortize it over 30 years. We pay a level dollar amount over 30 years, much like most people probably do with their mortgage. What the standard is for most actuary public pension plans is what's called level percent of pay. Instead of paying a level dollar amount you pay a percent of what your total payroll is toward the unfunded liability over 30 years. So as your payroll grows, so does your payment...or your burden on that. And we put that in the bill because that was pretty much our only short-term solution. What that does though is it kind of pushes off the liability long-term. And I said, as we were negotiating this package, we weren't going to be able to come up with the \$108 million right away, up-front, so that was off the table. This was about the only other alternative to get us some short-term breathing room. But I said we're not going to do that unless we make long-term fixes, because all you're doing is kicking the can down the road. This amendment equates to saying I don't really want to pay my credit card bill this month, so I'm just going to push it off and we'll start paying on it next month or maybe the month after that or maybe the month after that. That is not the responsible way to budget here, folks. And you know, we've worked with this package in conjunction with the budget to make sure that we were fully funding our pension plan. Everyone gave a little bit, even though it is, in statute, a state obligation; even though the Supreme Court has ruled, has set court precedent that this is an obligation of ours. Everyone still gave. We came to a compromise. And now there's some people who don't like it, and that's their prerogative. But I would say there is a lot going on here. We are going to run into a \$108 million wall if we don't pass LB553. [LB553]

SENATOR KRIST: One minute. [LB553]

SENATOR NORDQUIST: Now you could say with this amendment we will, but we'll see if the bill passes if this amendment gets adopted. I think we have an obligation. And if we're talking about a state budget and we've got to choose what we want to spend our money on, the first thing we need to spend our money on is our obligations. And it's not just a statutory obligation; it's a contractual constitutional obligation. That should be our first priority. And unfortunately, you know, we had to work on the Appropriations Committee through a budget that didn't address that at all. The Governor brought us a budget that had a \$108 million hole through our work over the interim on LB553, and now through the bill on LB553. We addressed that hole. We took that \$108 million.

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Everyone gave a little bit. The state share was \$20 million. That's what we're moving forward with. So I encourage you to vote down this amendment. [LB553]

SENATOR KRIST: Time, Senator. [LB553]

SENATOR NORDQUIST: Thank you. [LB553]

SENATOR KRIST: Thank you, Senator Nordquist. Senator Mello, you're recognized. [LB553]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I'll try to remain as calm as I can in regards to what I would argue is the most fiscally irresponsible amendment or issue brought forward to this Legislature this entire year. Senator Nordquist, I think did a very ample job of explaining what is currently brought in front of us, which is if you don't like the policy, just don't pay for it. And that's essentially what AM1130 does, is that the Governor, for the first time in recent history, refused to introduce a piece of legislation to deal with the state's \$108 million obligation for our retirement system. Almost unprecedented. And instead of trying to work with the Retirement Committee or the Retirement Committee Chair, we have spent the last few months getting needled from the administration, the DAS Budget Office, and PRO in regards to why this is not a good solution. The reality is this, no one in the administration has brought forward a long-term solution to deal with our retirement system plan. And I think the one unique thing I learned when I got on the Retirement Committee is that the state of Nebraska is not like local municipalities who have large unfunded obligation with their pension systems. The state of Nebraska has it in statute that we deal with our state obligation every two years. And so when the administration fails to provide this body their idea, instead this is what we get. We're not going to pay our credit card payment this year. Instead, we're going to let it build up over the next year and maybe try to do something on it next year. Oh, by the way, we're leaving office in a year. Good luck. That is the most fiscally irresponsible thing anyone could do. The reality is, LB553 as amendment by the committee provides a surplus to the state retirement system starting in 2036. It's going to take us, colleagues, 23 years to meet our pension obligation, and that's what this long-term plan does. And I applaud Senator Nordquist for doing something that I and the Appropriations Committee asked them to do, which is to reduce the \$108 million liability the Governor left us. And he was able to bring that \$108 million down to \$19 million, which we accounted for in our preliminary budget. I'm sorry that the administration feels bad that they didn't do something about this, didn't negotiate with the three interested parties who wanted to negotiate with them. And ultimately, the administration chose not to continue dialogue with them. So they came to our branch of government in which the Retirement Committee decided to work with them, which is why we have both a short-term and long-term solution in LB553. Colleagues, the reality is this: This is not something that everyone wants to do, but we have a state obligation and a fiscal responsibility to make sure we handle this

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and we do it right. I've heard from enough of you throughout this session in the sense of we don't spend money we don't have and we don't go into debt when we don't need to. This is a situation where we've accounted for it in the budget, as difficult as it was. We're going to put forward I believe a good budget next week to the body. And ultimately, instead, what AM1130 does is try to throw that out the window and say we'll just deal with it next year, maybe. Colleagues, that's not good public policy. That's not good fiscal policy. And as I said before, this is the most fiscally irresponsible thing we could do. We would start walking down a path that the state... [LB553]

SENATOR KRIST: One minute. [LB553]

SENATOR MELLO: ...has not walked down with our retirement system, which is delaying the inevitable. We don't do that. I know the Business and Labor Committee has heard about this for years when we talked about the CIR reform, about cities not meeting their obligations. And that's why cities have hundreds of millions of dollars in pension liability, because they don't do what we do. We meet our obligations, as difficult as it is. We don't put it off for another day. We don't put it off for another administration to deal with. And I promise you this: If this gets adopted, we have serious challenges to deal with, not just the budget. We have serious challenges to deal ultimately with everything else that this body has passed that has a fiscal note, because this is not going to make our budget work and it's not going to ultimately deal with the problem that's been trying to be worked on by the Retirement Committee for the last six months. Thank you, Mr. President. [LB553]

SENATOR KRIST: Thank you, Senator Mello. Senator Burke Harr, you're recognized. [LB553]

SENATOR HARR: Thank you, Mr. President and members of the body. I'm going to start out by saying that my wife works for a public school and, God willing, she will receive a retirement plan. I'm not sure if this affects her or not but I want that out front. But that's not why I'm getting up to speak. I'm getting up to speak because we as Nebraskans have a responsibility as elected officials. We have a responsibility to the citizens of Nebraska to plan for the future, to avoid problems if we know they're coming. This amendment that Senator Lautenbaugh brought at the eleventh hour is fiscal irresponsibility at its greatest. And I noticed he dropped the amendment and ran. And if I dropped an amendment like this, I'd probably run too. This is politics, pure and simple. This is horrible policy. Good politics makes for bad policy, and that's what you have here. Why are we picking on the teachers? I don't know. I don't know if this is I don't like the teachers or if it's I don't like defined benefits or if it's I don't want to pay for something today so I have more money to pay for something else. This is not the fiscally responsible Nebraska way that I have heard repeated in my head over and over again until I say it in my sleep. The other line is, we don't spend money we don't have. Well, you also plan for a rainy day, and we know there's something coming. I've heard

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criticism after criticism about how the federal government doesn't work and they spend money they don't have. Welcome back, Senator Lautenbaugh. This is what we're doing. We are not saving up for a rainy day. This is horrible. We know this obligation is coming. You know it's coming, we know it's coming...to not pay for it. And I haven't really heard a policy reason not to...other than we don't want to. And that's great and there are a lot of things I don't want to do. But there's a time and a place to do the right thing and that's what this is. I'd yield the rest of my time to Senator Nordquist. [LB553]

SENATOR KRIST: Senator Nordquist, 2:20. [LB553]

SENATOR NORDQUIST: Thank you, Mr. President and members. I will just say that, you know, we don't have any actuarial analysis done on AM1130. This...we have a thorough actuarial analysis done on LB553 as it is right now, and that shows that it reduces, eliminates our shortfall in the first part of the...first few years of the biennium. If we continue a rate of return of 8 percent, we will continue to see surpluses for quite a while, and even at a reduced rate of return, 7.75 percent, which is a possibility that the Public Employees Retirement Board will reduce our assumed rate of return for actuarial analysis in the future. We have a surplus for some years and then we continue...and then we may see challenges beyond that. But overall, if we did nothing, our payments or our actuarially required contributions between now and 2041, over the next 30 years, would be \$3.6 billion. That's on top of everything that's going into the plan now--\$3.6 billion. If we assume an 8 percent rate of return, that is...actually we would have a surplus of a billion dollars over that time frame. [LB553]

SENATOR KRIST: One minute. [LB553]

SENATOR NORDQUIST: And even at a reduced rate of return, 7.75, we would have a \$400 million surplus over that time period. So this puts us on a plan going forward. It's not an instant fix, folks. Ten years down the road our plan is still going to be 78, maybe 80 percent funded, maybe a little better than that. This plan puts us on the path toward 100 percent funded but it's going to be a long time before we get there. So anything that delays that or says I don't...you know, I don't want to pay my credit card bill, I want to go buy golf clubs this month, is just not the approach we should be taking. So again I urge you to vote down this amendment. Thank you. [LB553]

SENATOR KRIST: Thank you, Senator Nordquist. Senator McCoy, you're recognized. [LB553]

SENATOR McCOY: Thank you, Mr. President. I would yield my time to Senator Lautenbaugh. [LB553]

SENATOR KRIST: Senator Lautenbaugh, 4:50. [LB553]

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SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I understand some of us are going to disagree about this and I appreciate Senator Nordquist's work; and I appreciate, believe it not, Senator Mello's passion. I don't appreciate Senator Harr at this moment. I did not run from the Chamber. I left the Chamber for a few moments. I even took...had the courtesy to tell Senator Mello where I was going because Senator Nordquist was at the mike. It never occurred to me to check in with Senator Harr because I didn't know him to be responsible for anything on this or ever. So I would thank you not to accuse me of fleeing the Chamber or dropping an amendment and running, Senator Harr, because I'm here. And if you want to talk about it, let's talk about it. But I don't bring this lightly. I've already apologized for the timing and it is what is it. And I'll be here and we can discuss this. Thank you, Mr. President. [LB553]

SENATOR KRIST: Thank you, Senator Lautenbaugh and Senator McCoy. Senator Larson, you are recognized. [LB553]

SENATOR LARSON: Thank you, Mr. President. Would Senator Nordquist yield to a question or two? [LB553]

SENATOR KRIST: Senator Nordquist, will you yield? [LB553]

SENATOR NORDQUIST: Yes. [LB553]

SENATOR LARSON: Thank you, Senator Nordquist. I raised concerns on General File concerning the state doubling its contribution and the teachers just not sunseting theirs. And I'm going to kind of follow through with a few questions. If the state contribution remains at 1 percent, is there a need for more state funds in the 2013-2014 fiscal year? [LB553]

SENATOR NORDQUIST: If the state contribution needs more funds, is there need for additional in 2013-2014? There is a projected surplus at 8 percent...at an 8 percent discounted rate, but at a 7.75 discounted rate there is a shortfall, so there would be. So depending on market performance, we don't know. Yeah. [LB553]

SENATOR LARSON: Don't know but not necessarily. [LB553]

SENATOR NORDQUIST: I would...we don't know and every year we have an actuarial analysis done and we look at those numbers and we address them. But we would only be...we're going to be at, like, 75 percent funded at that point, and I think that is...we need to make progress towards our funding ratio. Are you comfortable with a pension plan that's 75 percent funded? [LB553]

SENATOR LARSON: Well, Senator Nordquist, I asked that because I know we didn't as

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an Appropriations Committee put in any money during the first year. And LB553 doesn't. It is backloaded on the second year. And that's...and I guess that's kind of why I asked the question, that no...that since we as an Appropriations Committee didn't and LB553 doesn't, we're not accounting for it in our preliminary thus far. So that was that question. And I guess the follow-up would be, what about 2014-2015? Is more state funds needed if we remained at that 1 percent for '14-15? [LB553]

SENATOR NORDQUIST: Again it would depend on the market performance if...depending on where it lands, around our assumed rate of return, maybe. I did...sorry, I did...you're right. I misheard your question or I misthought about the years. We didn't put money in the first year of the biennium because we are...Public Employees Retirement Board over the interim has spent a lot of time looking at moving our assumed rate of return to 7.75. They haven't done it yet, so that's why we didn't put \$20 million in the first year, because that change hasn't been made. But once that change is made or if it's made in the future, which our investment advisors tell us we should make that change, then we do need that \$20 million. So we are preparing and putting that \$20 million in now, because if we come back next year and now they say we do need the \$20 million, we're spending with A bills out here. I don't know where we're going to come up with \$20 million like that in a mid-biennial budget next year without cutting appropriations we have appropriated. [LB553]

SENATOR LARSON: So you're saying the logic of including an appropriation to ensure that next year in the mid-biennial budget that that money is set aside, and that's why it's in appropriations instead of possibly leaving...knowing, and we need to leave \$20 million on the floor or transferring it to the Cash Reserve or something of that nature. Thank you, Senator Nordquist. Does the state have an obligation to contribute to the unfunded liabilities of Class V's retirement system? [LB553]

SENATOR NORDQUIST: That's right. Um... [LB553]

SENATOR LARSON: It's the Omaha Public School District. [LB553]

SENATOR NORDQUIST: Yeah. We...I don't know that we have a statutory obligation. I'll check with the legal counsel. But we have...it has been precedent that we do live up to our...we do help out that plan as well. I think it's certainly a... [LB553]

SENATOR KRIST: One minute. [LB553]

SENATOR NORDQUIST: ...fairness argument for taxpayers that if I live on the dividing line between Millard and OPS or Ralston and OPS, that as a taxpayer I have equal coverage depending on which side of the street I'm on. The state is supporting... [LB553]



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SENATOR LARSON: I can understand that. It's my understanding, and you can correct me or legal counsel can correct me if I'm wrong, that the state doesn't have an obligation to contribute to the unfunded liabilities of the Class V retirement systems. But we'll continue on. Assuming that the change in the state's contribution to 2 percent also provides additional funding for the Class V retirement system, though, correct, in LB553? [LB553]

SENATOR NORDQUIST: Yeah, we have always, as long as we've had the state plan, as long as there has been a state contribution, it's been an equal amount to the state employees plan and...or to the school employees state plan and the OSERS plan. So as we increased it from 1 percent to 2 percent for the state plan, we did the same for the Omaha plan. [LB553]

SENATOR KRIST: Time, Senators. [LB553]

SENATOR LARSON: Thank you. [LB553]

SENATOR KRIST: Thank you, Senator Larson and Senator Nordquist. Senator Davis, you are recognized. [LB553]

SENATOR DAVIS: Thank you, Mr. President and members of the body. I've got to say I'm amazed and astounded that we are back to discussing this after all the work that was done by the Retirement Committee in negotiations last summer, this fall. And if Senator Lautenbaugh would yield to a few questions I would appreciate that. [LB553]

SENATOR KRIST: Senator Lautenbaugh. I don't see Senator Lautenbaugh. He's not in the Chamber right now. [LB553]

SENATOR DAVIS: I'm just going to take people back, some of you will remember this, back to the Commonwealth Savings Bank some years, which was a state-chartered bank that made all the representations about insurance and things that were available, which actually weren't available. But a lot of people invested their resources there thinking that the state had chartered this and it was a protected asset. And it...when that...the state did not follow through in what was the perception of the obligation. It left a very bad taste in a lot of people's mouths. And this is what we are going to do if we back off on the commitment that we've made to the retirement people in this state. Our teachers have stepped up. Our judges have stepped up. To just scrap all the work that we've done makes absolutely no sense, and I can't imagine where the idea came from, but I will certainly be putting my thinking cap on as to that. I would yield the rest of my time to Senator Mello. [LB553]

SENATOR KRIST: I don't see Senator Mello either, Senator Davis. Thank you. Senator Schumacher, you are recognized. [LB553]

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SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. I'm told that on September 15, 2008, Treasury Secretary Hank Paulson went door to door through the House Office Building in D.C., until he found a meeting that Congresswoman Pelosi was attending, and literally busted into the room. He said, Madam Speaker, as he fell to his knees...Madam Speaker, I need \$700 billion and I need it now. America, welcome to your nightmare. For 30 years we spent like drunken sailors. We borrowed money from the Chinese and the Middle East and the Japanese. We were borrowing \$800 million...billion a year to finance our addictions to whatever we wanted to buy, and it was great fun, and our financial industry was borrowing 30 to 1. We were all presuming we could have defined benefit plans. This would go on forever and ever and we would all be able to pull in 8, 9 percent. Our homes could be refinanced as automatic teller machines, and every time you want to go you just need some money, you refinance your home. That all stopped on the 15th of September, 2008. These plans are unsustainable. What we all counted on for our retirement is unsustainable. We can pretend that the money is there, and maybe if we were the federal government we could print it. We can't pretend in Nebraska. We can't pretend that we're going to have 5 percent increase in revenue ad infinitum just because it always was that way and we can justify it through some averaging mechanism, when nobody but nobody thinks in the long term we're even going to be able to do 3 percent as a nation. And Nebraska's overall GDP over time has never varied that much from the country. Maybe it lagged behind a little bit. Last few years we're a little ahead of the curve; probably be a little behind the curve if commodity prices go down. But whatever, this is unsustainable. We need time to sober up and realize where we're at. We cannot expect to continue to have what we thought we would have. We certainly cannot expect 7.75 percent or 8 percent return on investment, based upon salaries that are in your last, whatever, three or five years of your career, which means your retirement is inflation adjusted to a great extent. We can't do that. Now I'm not sure and I have had a chance, because I haven't seen any of these numbers ahead of time, to study Senator Lautenbaugh's proposal as to whether or not it makes any sense. But I know any dream that we're hearing as long-term solution doesn't make sense either. We're pretending. We need some time to sober up on this. The same time we're doing this, we're cutting taxes by, what, another \$30 million next year? That we just voted through because we could push that down the road. Folks, I think that if we can take a pause here, we should. If we can adjust our expectations, we need to. [LB553]

SENATOR KRIST: One minute. [LB553]

SENATOR SCHUMACHER: Thank you, Mr. President. This is serious money. This is long-term repeated serious money. It's not a million or two here or there or \$600,000 here or there. This is serious. Eight percent return on investment in this market? Who, where, what ever pays that? We may be stuck on some of these things, but it's a stuck that's going to get passed through to all of us one way or the other. This is major, as are

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a lot of the other things that we're going to be looking at in the next few days, few weeks. We've got to adjust our expectations to a realization that we spent ourselves to riches and now we're broke, and we're going to have to adjust our expectations accordingly. Thank you, Mr. President. [LB553]

SENATOR KRIST: Thank you, Senator Schumacher. Senator Kolowski, you are recognized. [LB553]

SENATOR KOLOWSKI: Thank you, Mr. President. Fellow senators, I'd like to chime in on this as well. I would also be a red light on the AM1130 and a green light on the LB553. I want to thank Senator Nordquist, being on his committee and the work that he's done over this last year in preparation for this bill moving on. I hope it will be successful. I don't doubt the passion and the even accuracy of Senator Schumacher, what he's talking about, the warnings for our future and what that may hold. But we're faced with this situation right now and trying to get a solution to it that's extremely important to the educators in the state of Nebraska. I am a user, after a 41-year career in public education in this state, of the retirement system in 2008, when I retired, my wife three years before that, also an educator, and it is a good plan and I know that. I've talked with teachers concerning this adjustment, teachers in multiple districts all over the metro area and other parts of the state. And they know it will continue to be a good plan, and they are willing to step up to the plate to increase their percentage of some of the giving. And hopefully, over time we'll have a balance and hopefully a positive result of all this planning, trying to put this back together after the difficult times of the last four years. One of the things I've always talked to other educators about, how teaching staff that I'd hired or people in general as we worked on...staff members in general throughout the districts, as we looked at retirement years, I think it's important that you realize it's not a lot of money. It's not talking about a great deal of wealth, but it's a combination of things that I always talk to staff about. You have your teacher retirement program. You need to, in this state, and not all states do this, but teachers are also paying into Social Security, and hopefully that would be the second of the three legs of the stool that they'd build for, for the future. And the third leg of that stool is simply their own savings or planning for their future for 401(k)s or whatever else they'd be working at to put together their own plan, their own savings plan for their future. That would be important for their stability to have a three-legged stool to depend on for their own financial future as they look ahead to retirement and whatever they were doing as far as their planning in that way. So it's important to understand what our teachers are facing and the resources that would be available to them and for them in the state and, when they put in a career of 30, 35, or 40 years, how much we owe them for their dedication to the task at hand and educating the youth of our state and taking care of business in that way. I would yield the rest of my time to Senator Nordquist, if he'd like that. [LB553]

SENATOR KRIST: Senator Nordquist, you're yielded 1:10. [LB553]

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SENATOR NORDQUIST: Thank you, Mr. President and members. I don't have too much to add. I would just...you know, I understand Senator Schumacher's concern, and I guess I'm the young one here and I'll just try to bring some long-term perspective to this. We are coming out of the worst market performance since the Great Depression. [LB553]

SENATOR KRIST: One minute. [LB553]

SENATOR NORDQUIST: And our pension plans are still recovering from that, and that's what we're trying to fix. All I can do, as Chair of the Retirement Committee, or our entire Retirement Committee, is rely on the advice of the Nebraska Investment Council, which is made up of investment experts in our state appointed by the Governor, confirmed by the Legislature, and their national consultants which say that, you know, 7.75 percent or even 8 percent is not outside of reach, by any means. So I mean that's the best we got, unless we want to look at reforming those systems. So that's the plan, that we base our plan on their returns. They make recommendations that the actuary incorporates and this plan does...makes a long-term fix with the best...with the information that we have... [LB553]

SENATOR KRIST: Time. [LB553]

SENATOR NORDQUIST: ...before us at this time. Thank you. [LB553]

SENATOR KRIST: Thank you, Senator Nordquist. Still wishing to speak: McCoy, Nelson, Nordquist, Harms, Mello, Brasch, Lathrop, Kintner, and Larson. Senator McCoy, you are recognized. [LB553]

SENATOR McCOY: Thank you, Mr. President and members. Would Senator Nordquist yield, please? [LB553]

SENATOR KRIST: Senator Nordquist, will you yield? [LB553]

SENATOR NORDQUIST: Yes. [LB553]

SENATOR McCOY: Thank you, Senator, and thank you for your work on this. I know this is a complex piece of legislation because it's a complex situation when we're talking about this retirement system. And I appreciate the work that you've done to lead this committee and the work of your committee. This reminds me in some ways back when, I think it was, when Senator Pankonin, former Senator Pankonin was the Chair of the Retirement Systems Committee in you and my early years here in the Legislature, and when we talked about CIR and all that. And I guess my question to you would be, as you look in the out years of this, is there...I mean was there any thought given to what if you restructure this to a hybrid plan going forward in those out years and...or to a

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defined contribution plan? I know I've had conversations with Senator Ashford because this is something he's worked on for longer than you and I have been around. And is there any...did you give any thought to that? I mean, would you have any insight to that? What would that mean if you looked at that in the out years? [LB553]

SENATOR NORDQUIST: Well, we, yeah, we had. Senator Nelson actually brought bills before us this year to move us to a cash balance plan. Senator Heidemann, now Lieutenant Governor Heidemann, brought a couple bills before that when he was a member of the committee. There the issues certainly are great in the short term on both a defined contribution and a cash balance plan, but there are also long-term issues too. With a DC plan, a defined contribution plan, you stop all inputs into this plan right now and you set up separate accounts over here that are individually managed or each individual gets to pick their investment choices. And typically under those plans, individuals who don't have investment experience don't get a very good rate of return. And if it's set up outside of state government, the fees are pretty bad. On the cash balance plan, what we have right now, if you look at our actuarial analysis, the actuary every year says what are the benefits/costs that are accrued in that year. And our current...or our new employees are going to be contributing much more than their benefits are actuarially going to cost. And that extra money is helping us pay off the obligation of current members and retirees right now that either they didn't contribute enough for their benefits, because of the way the system was established, or the market didn't perform well enough to hit the assumed rate of return. So if we start taking and cutting accounts up for all those individual people and say, you, new hire, all of your money is going into this account now, so your lockbox, we are no longer making any payments towards that unfunded liability. That's going to be all state money. That's going to be a pretty big check over the next 30 years for us to pay that. So either way, with this change, maintaining a defined benefit plan with a smaller benefit for new hires, we are contributing more money now, we will be contributing more money to that unfunded obligation that we have to pay off for everyone that's in the system now. So that's the two short-term problems. There's other. The long-term problem is, in states that rely more on DC plans and even hybrid plans, is those employees have an account; when the account runs out those people, which used to be public employees, rely on public benefits. They rely on Medicaid and food stamps, and the state pays for it on the back end. [LB553]

SENATOR KRIST: One minute. [LB553]

SENATOR NORDQUIST: But...sorry. So we did look at that, yeah. [LB553]

SENATOR McCOY: No, I appreciate that. Thank you. Thank you, Senator. I'm just trying to think, and both you and I are...I guess I won't say young but we're younger members of the Legislature, Senator Nordquist, and I'm trying to think like a new hire here. And under the scenario, and I think it's plausible what you just laid out, if you're

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that new hire and you're talking about a smaller benefit, and you talk about, well, sometimes those...in a DC plan, maybe they get a lower rate of return if they don't have investment experience. If I'm a new hire--I'm just trying to think like that--do I look at that and say, well, I'm getting a smaller benefit but with a defined contribution, and maybe I don't know what I'm doing investmentwise, do they sit here and say, well, I'll take that risk? I know that's a hypothetical or rhetorical, I should say. I don't expect any answer to that. I'm just saying that you would think with people our age, are they thinking through that, I'd rather have more control of that? Is that something you talked about? [LB553]

SENATOR KRIST: Time, Senators. [LB553]

SENATOR NORDQUIST: Sorry. [LB553]

SENATOR KRIST: Thank you, Senator McCoy and Senator Nordquist. Senator Nelson, you are recognized. [LB553]

SENATOR NELSON: Thank you, Mr. President, members of the body. Senator McCoy hit upon some questions, some things that I intended to discuss with Senator Nordquist, and so I will have a few questions for Senator Nordquist. [LB553]

SENATOR KRIST: Senator Nordquist, will you yield? [LB553]

SENATOR NORDQUIST: Yes. [LB553]

SENATOR NELSON: Senator Nordquist, thank you. And you did acknowledge that I had brought at least one bill but actually it was two. [LB553]

SENATOR NORDQUIST: There are two, yeah. [LB553]

SENATOR NELSON: It was LB638,... [LB553 LB638]

SENATOR NORDQUIST: Yeah. [LB553]

SENATOR NELSON: ...I think, and LB639. The first one dealt with the teachers, right,... [LB553 LB639]

SENATOR NORDQUIST: Yep. [LB553]

SENATOR NELSON: ...and the second one with the Patrol and the judges. Basically, my proposition in those bills was to go to a cash balance for new hires. Would that be correct? [LB553]

SENATOR NORDQUIST: That's right, yep. [LB553]

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SENATOR NELSON: Okay. All right. Would you mind sharing with us what consideration, if any, the committee gave to the cash balance bills that I presented? [LB553]

SENATOR NORDQUIST: Yeah. We, as I just explained to Senator McCoy, we had a discussion about them before, because we heard those bills first, and then we heard the big fix to the school employees' plan. And the discussion...and we also had information from an interim study that was done, I believe, two years ago and the actuary ran an analysis on it and the fact of the matter is the cost is too great at this time up-front, hundreds of millions of dollars up-front that would be all state General Funds. What we're doing under this proposal is essentially new employees are helping us subsidize our system, helping us, they're helping us fix our system. Current employees are helping fix the system, and the state is all coming together to fix our system. Under a cash balance plan, it would all fall on the back of the state. [LB553]

SENATOR NELSON: Well, yes, I would agree with you. The new employees would be helping fund the defined benefit plan for those long-time employees, but aren't you in fact penalizing the new employees, because not only are you asking them to pay more but also you've reduced the COLA that they would get eventually? And also, what we're taking out here or what this amendment takes out, Senator Lautenbaugh's, is going from a retirement calculation... [LB553]

SENATOR NORDQUIST: Yeah. [LB553]

SENATOR NELSON: ...of three years to five years. [LB553]

SENATOR NORDQUIST: Yeah. [LB553]

SENATOR NELSON: So, in a way, it seems to me like one way or another you're penalizing the new employees that come on and part of it is because we're under the thumb of a defined benefit plan. And perhaps another way, if we were to study this and hold off for a year, we could find a way that doesn't penalize those new employees that much. And it doesn't necessarily have to be the state that brings in the amount that would have to come in as far as the defined...existing defined benefit plan. There could be other ways to reduce that. Do you have any comment on that? [LB553]

SENATOR NORDQUIST: Well, I would like to know what other ways there are to reduce. These plans are not...well, while we look at actuarial studies and they can be complicated, they're all based on a basic equation that the contributions into the plan, plus the investment return, has to equal the benefits paid out and the expenses, the expenses to administer those benefits. All we're trying to do here is bring that equation back into balance by reducing benefits, bringing contributions up. Now will there be

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some cross-subsidization? That's the way these plans have always worked. It's the way Social Security kind of works, too, although they don't...they kind of don't worry about their obligation. They just push it off, like we would do under this amendment. [LB553]

SENATOR KRIST: One minute. [LB553]

SENATOR NORDQUIST: But I think the school employees...the NSEA surveyed their members, including people who are young and haven't been vested yet. They see a value in the defined benefit plan and it becomes a real retention tool. At about that five- to seven-year range of employment when we see a lot of teachers leave, unfortunately, leave the system, it becomes for those that stay a real retention tool. They see it at that five- to seven-year point and say, hey, I'm going to have, you know, a decent retirement at the end here. I have that promise to me. And it's not...it's not a, you know, elaborate benefits. Our average benefit in the state is \$1,700 a month, so no one is fleecing the system. But employees do see a value in having this system and that's why they're supportive of protecting it. [LB553]

SENATOR NELSON: Thank you. How much time do I have left? [LB553]

SENATOR KRIST: Three seconds. [LB553]

SENATOR NELSON: How much? [LB553]

SENATOR KRIST: Three seconds. [LB553]

SENATOR NELSON: Thank you, Mr. President. I'll come back. [LB553]

SENATOR KRIST: Thank you, Senator Nelson and Senator Nordquist. Senator Harms, you are recognized. [LB553]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in opposition to AM1130 and support the underlying bill. And just listening to the discussion that's taking place, if I was a teacher listening to this I'd be really concerned that maybe I shouldn't have stayed in Nebraska. I don't know how you feel, but I grew up saying...or I grew up with my parents telling me that you pay for your obligations, son. You don't walk away from what you've committed. This great state has made a commitment. This great state has said we will pay for these obligations. And the very fact that we're starting to argue and debate this particular issue at a time where we can fix this, it's long term, it's a long haul to get it done, but when we get to the end and you get it fixed, if you want to make the changes you can make them then. This is not the time to do it. This state is not broke. This state has been ultraconservative. We have a strong economy. We have not operated like our federal government. We've not made commitments beyond what cash we have. We've put a reasonable solution to this long-term issue. We have a



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responsibility that we owe to our teachers and the people in education to fulfill this. They've stepped to the plate. They're willing to contribute more money to make this balance. To be frank with you, listening to this discussion, I'm glad I don't have my retirement in this program. I'm glad I have it somewhere else where people are willing to pay for the obligation and the commitment they made to me 40 years ago in education. So I'd ask you, colleagues, is this the Nebraska way? Is this truly the Nebraska way not to stand up and pay for the obligations and the commitments we've made? I don't believe that it is and I'd urge you to vote against AM1130 and support the underlying bill. Thank you, Mr. President. [LB553]

SENATOR KRIST: Thank you, Senator Harms. Senator Mello, you are recognized. [LB553]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. And this really is my last time speaking on this amendment. A couple points of clarification, and I know Senator Nordquist mentioned this in discussing this with legal counsel. I've been on the Retirement Committee for the last four years and ultimately the solutions that we've come up with, that ultimately still rests in LB553, is that the state is picking up 9.2 percent of the unfunded liability over the next 30 years in comparison to the employees' employers of this plan, who pick up more close to 91 percent of the obligation. I'll repeat that in the sense of those who are making an argument that we can't do this or we shouldn't do this. The state has picked up 10 percent of the unfunded liability obligations the last 4 years and are going to drop that over the next 30 years to 9.2 percent. Those are numbers that, one, do not lie. Those are bills that we have passed and supported and ultimately it's the basis of what LB553 is based on. My good friend and colleague, Senator Nelson, had questions about Senator Nordquist, as did my other good friend and colleague, Senator Larson, who brought this up on General File, in the sense of what other options could we go about besides LB553. Colleagues, to move anything besides LB553 to a defined contribution plan not only costs us the \$400 million to \$500 million to even start the process, but the complete liability that we would have needs to be backfilled over a number of years. You try to change a plan and say, well, future employees are going to move into a different plan, that's fine. You still have to take care of the obligations of the current plan users, which to even move in that front is hundreds of millions of dollars that, frankly, the state doesn't have to do now and won't have to do in the future. And what LB553 does, it's based on, obviously, a retirement system that's based on actuary reports that show investment returns taken from the employee, the employer, and obviously the state's 9.2 percent contribution. And based on investment returns, which, by the way, Senator Schumacher, I don't disagree with you that the 8 percent investment return is probably not accurate and it is probably high, which is why LB553 puts \$20 million in the second year to account for what we anticipate is going to be a drop from 8 percent to 7.75 percent. So if we want to talk about being cautious and conservative in regards to dealing with our retirement system, LB553, colleagues, is your plan. We're taking into account a lower investment return because ultimately we

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know the 8 percent number is not hitting. So instead of trying to delay this, we're addressing an issue which, frankly, the biggest point of contention probably on this entire debate is every single one of us has heard the attacks on public service; that people who run for public office look for short-term gain at the expense of taxpayers and the expense of the public; that we don't have the courage to solve the big problems that face our country and face our state. And when we have a solution that's been driven and created by consensus to deal with what we know is a courageous issue to deal with, which is solving the state's long-term pension liability, we forget... [LB553]

SENATOR KRIST: One minute. [LB553]

SENATOR MELLO: ...the long-term focus. We forget the courage it takes to solve big problems. So AM1130, look, if we want to take the easy way out, we want to not deal with the problem, we want to not pay our credit card payment for the next year, vote for AM1130. Let's not show the courage of Nebraskans that we can deal with something in our own unique way in the sense of doing it in an affordable, fiscal way. Thank you, Mr. President. [LB553]

SENATOR KRIST: Thank you, Senator Mello. Senator Brasch, you are recognized. [LB553]

SENATOR BRASCH: Thank you, Mr. President, and good evening, colleagues. And I did want to thank Senator Schumacher for finally sharing his story on the floor and on the mike. And it is not a story; they are facts. I have heard it in the district or in the region, and he has spent a lot of time looking at numbers, talking with experts about our fiscal cliff, about sequestration, about there is no money. And that is really important also in this. Our teachers are great. They're phenomenal, like the Kodak commercial--priceless. There is no dollar that we can thank them for something and everything. However, the reality is money. It all boils down to what can we afford. We do need more time. We need time to study taxes. We need time to study the impact of water, being without water, and also the impact of benefits and sustainability and what can we do to adequately help our teachers but looking at the long range, what are we doing to the future. And so this is something to think about. When LB553 came forward, I understood it was a financial obligation that had no conversation with it. I'm now understanding AM1130 as an option. I'd like to yield the rest of my time to Senator Nelson, please. [LB553]

SENATOR KRIST: Senator Nelson, you're yielded 3:13. [LB553]

SENATOR NELSON: Thank you very much, Senator Brasch, for giving me some time. This has been a good discussion and it served, I think, perhaps to frame things and make things a little more clear for the members of the Legislature here or the body as to what we're doing. I'd like to ask my esteemed colleague and Chair of the Appropriations

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Committee to answer a question or two. Senator Mello. [LB553]

SENATOR KRIST: Senator Mello, will you yield? [LB553]

SENATOR MELLO: Yes. [LB553]

SENATOR NELSON: Thank you, Senator Mello. You are very passionate about this and very vocal, and I just have a question or two. For the first year of the biennium, is the state of Nebraska putting any money in? [LB553]

SENATOR MELLO: No, Senator Nelson, and that was part of the negotiation that I asked Senator Nordquist to make on behalf of the Appropriations Committee in regards to helping us provide, I think, a balanced budget. In the preliminary committee...that all of us discussed in the committee, as hopefully you remember,... [LB553]

SENATOR NELSON: Okay. [LB553]

SENATOR MELLO: ...that we wanted to put the money in the second year in the sense... [LB553]

SENATOR NELSON: And how much? How much in the second year? [LB553]

SENATOR MELLO: Roughly about \$19.5 million. [LB553]

SENATOR NELSON: And so that's been included in our budget. [LB553]

SENATOR MELLO: Yes. [LB553]

SENATOR NELSON: How is it going to blow up the budget if we don't put that money in? [LB553]

SENATOR MELLO: Well, ultimately, if AM1130 gets adopted, LB553 may not pass in the sense of the potential liability, legal liability that could come from this kind of an amendment. And for the simple fact of not wanting to... [LB553]

SENATOR NELSON: But that has...that has nothing to do with this biennium. [LB553]

SENATOR MELLO: Senator Nelson, I will not put the state at any kind of financial legal liability by discussing what may or may not occur if AM1130 passes and ultimately LB553 does not pass this session. [LB553]

SENATOR NELSON: Senator Mello, what kind of plan are the rest of our state employees on? [LB553]

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SENATOR MELLO: Senator Nelson, state employees are in a variety of different plans. The judges are in a defined benefit plan. Our State Patrol members... [LB553]

SENATOR NELSON: No, I'm not talking about judges. I'm talking about all the other state employees. They're on a cash balance, they're on a hybrid plan. [LB553]

SENATOR MELLO: Actually, state troopers are on a defined benefit plan, and state employees can choose between a defined contribution plan... [LB553]

SENATOR NELSON: Right. [LB553]

SENATOR MELLO: ...or a cash balance plan. [LB553]

SENATOR NELSON: And they went over, they had that ability I think probably eight or nine years ago. My question is,... [LB553]

SENATOR KRIST: One minute. [LB553]

SENATOR NELSON: ...how in the world did they manage that, to convert to a cash balance plan if they wanted to do that? [LB553]

SENATOR MELLO: Senator Nelson, they did not move from a defined benefit plan nine years ago. The creation of a cash balance plan occurred about nine years ago in which state employees could choose to stay in their current defined contribution plan or choose to elect to move to a cash balance plan, and which this body voted two years ago to offer that option again to state employees not covered by the judges, the State Patrol, or the school employees' defined benefit plans. [LB553]

SENATOR NELSON: But is there some reason, in planning for the future, if we can work it out after a study, why we couldn't take a look at that for our teachers and for those on the defined benefits plan? [LB553]

SENATOR MELLO: Was that...I'm sorry, Senator Nelson. I got pulled away. [LB553]

SENATOR NELSON: Is there some reason why, with some more study and things, we perhaps couldn't find a way to convert over and take that path, which actually, although it might take a little longer to get there, would serve... [LB553]

SENATOR KRIST: Time, Senators. [LB553]

SENATOR NELSON: ...to reduce our obligation? Thank you, Mr. President. [LB553]

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SENATOR KRIST: Thank you, Senator Nelson and Senator Mello. Senator Kintner, you're recognized. [LB553]

SENATOR KINTNER: Well, thank you, Mr. President. First, I'm told at home that Ma Howard is watching this, former Senator Howard is at home watching this, and I just want to say hi. And, you know, we...well, actually my colleague, Senator Harms, talked about the Nebraska way, and I don't think it's the Nebraska way to take teachers and put them into a program or keep them in a program that's unsustainable. That's not the Nebraska way. You know, only in government do we have a plan like this that we have to guess how we're going to invest the money and how well it's going to do, and we have to keep adjusting those projections, when the rest of the country and most of the private sector is in a much more market-oriented plan. And I think it's time that government catch up with that plan. Yeah, Senator Schumacher was absolutely right. Senator Howard, would you yield to a question? [LB553]

SENATOR KRIST: Senator Howard, will you yield? [LB553]

SENATOR HOWARD: Yes, I will. [LB553]

SENATOR KINTNER: Are you on a defined benefit plan? [LB553]

SENATOR HOWARD: Yes, I am. [LB553]

SENATOR KINTNER: You are? I thought you said you were on a 401(k) plan. [LB553]

SENATOR HOWARD: Oh, I'm on a 401(k). [LB553]

SENATOR KINTNER: So you're on a defined contribution plan, right? [LB553]

SENATOR HOWARD: Yes. [LB553]

SENATOR KINTNER: That's what I thought. Thank you very much. Senator Murante, will you yield to a question? [LB553]

SENATOR KRIST: Senator Murante, will you yield? [LB553]

SENATOR MURANTE: Reluctantly. [LB553]

SENATOR KINTNER: Senator Murante, are you on a defined benefit plan? [LB553]

SENATOR MURANTE: No, I am not. [LB553]

SENATOR KINTNER: Thank you. Senator Schilz, will you yield to a question? [LB553]

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SENATOR KRIST: Senator Schilz, will you yield? [LB553]

SENATOR SCHILZ: Yes. [LB553]

SENATOR KINTNER: Are you on a defined benefit plan? [LB553]

SENATOR SCHILZ: No. [LB553]

SENATOR KINTNER: Would you like to be? [LB553]

SENATOR SCHILZ: I don't know, actually. I have my defined benefit (sic) program and I'm somewhat happy with that because I can adjust it and manage it and I don't have to worry about things like this. What did I say? Is it getting late? You better ask somebody else. Thank you very much. [LB553]

SENATOR KINTNER: Okay. Got it. Thanks. (Laughter) Senator Bloomfield, can I ask you a question? Would you yield, please? [LB553]

SENATOR KRIST: Senator Bloomfield, will you yield? [LB553]

SENATOR BLOOMFIELD: Yes. [LB553]

SENATOR KINTNER: Are you on a defined benefit plan? [LB553]

SENATOR BLOOMFIELD: I'm going to elaborate a little bit, if you give me a minute. [LB553]

SENATOR KINTNER: Yeah, well... [LB553]

SENATOR KRIST: Please do. [LB553]

SENATOR BLOOMFIELD: I was on a defined benefit plan. The private company that paid that totally a number of years back, just as the GM fiasco was going on, bought us out. They gave us a lump sum to pay us off. And I have reinvested that myself. So, no, I am not, unless you want to call Social Security a defined benefit; then I am. [LB553]

SENATOR KINTNER: Well, thank you. And we know what kind of shape Social Security is in. You know, the only people anymore on defined benefit plans are people who are public employees, and now we're starting to move public employees off of defined benefit plans because it's just not sustainable. If we care about our teachers, and I think we all do, and we understand that having a good benefit plan is part of the teaching experience, we're not going to pay you the world but we're going to take care of you.

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But when we can't take care of you, something is going to happen. The taxpayers are going to be on the hook for that money year after year after year after year, and then we're going to keep asking teachers, we need more, we need more, we need more. At some point, they're not going to want to be on it anymore. I think it behooves us to study this and I think it makes a lot of sense to start looking at alternatives in the way that we can get into a sustainable program, which should be some kind of hybrid, which might be some kind of just defined contribution plan. I think most of the private sector... [LB553]

SENATOR KRIST: One minute. [LB553]

SENATOR KINTNER: ...has figured that out. And of course, government moves pretty slowly because it's not their money. It's someone else's money. And we need to recognize, if it was our money, we would be out of defined benefit a long time ago. And, Mr. President, thank you very much. [LB553]

SENATOR KRIST: Thank you, Senator Kintner. Senator Nelson, you're recognized. [LB553]

SENATOR NELSON: Thank you. Thank you, Mr. President, members of the body. I think that Senator Kintner expressed pretty well my feelings on this. I sit on the Appropriations Committee and I certainly respect, although it's in a bill here on the floor, what the Retirement Committee has done and all the consideration that they had given. And from my standpoint, I concur with my colleague here that we can't continue with defined benefit plans anymore. We've got to find a way to get off of those. We have to either go to a hybrid plan or a cash balance plan of some sort, and how we're going to do that, you know, remains to be solved. That's why I'm going to support this amendment, even with the work of Senator Nordquist and his committee, because I don't think it's going to hurt us that much if we wait a year. We aren't going to contribute anything anyway, any more than we are now, the 1 percent. The sunsets are not removed. The teachers continue paying what they had agreed to do, the 9.8 percent for another couple of years. We can take a look at this in another year and see if perhaps we can make some improvements on LB553 that will start us on the way to going into a cash balance and still protect those long-term teachers that are paying in and hoping to get their defined benefits. So how we go about that, we would just have to see. So what we are doing...I shouldn't say what we are doing. The advocates of staying, putting things off for another year, is not going to do us that much harm. It delays us a year. And if we can find a better way to reduce the \$108 million, that's what I'm arguing for here. I think that it would be well worth our time to study it some more and see what we can do. I asked Senator Mello about the plans that are managed under NPERS for all the other state employees. The benefit of a cash balance plan is like it's a 401(k). A new teacher coming on can take that money or make a contribution, put it in a 401(k). They can manage it themselves. Yes, they may not make as much in the long run as they

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would like to, but at least we have ended this never-ending problem of paying for defined benefit plans. I say either go to a cash balance plan for new hires or have a hybrid of some sort that's based on the contributions that you make, and work it out that way. In all of the plans here under defined benefit, it's, as Senator Kintner has said, it's an insurmountable problem if we keep on doing it that way. We have to make adjustments, and effective judgments. And I would argue that we need to go to a hybrid plan or cash balance plan. Thank you, Mr. President. [LB553]

SENATOR KRIST: Thank you, Senator Nelson. Those still wishing to speak: Senator Watermeier, Carlson, Nordquist, Kintner, and Johnson. Senator Watermeier, you are recognized. [LB553]

SENATOR WATERMEIER: Thank you, Mr. President. I was a little bit slow to engage in this debate, but let me tell you what goes on in the Watermeier household. It's a Watermeier household, is really a household of teachers. My wife is a teacher, my oldest daughter is a teacher, my middle daughter was going to graduate and become a teacher. Who knows what my middle daughter will be? But I have a household of teachers. And I see, as I see the benefits and I see how this works, I mean everybody is avoiding the issue of the defined benefits. We're starting to talk about it a little bit now, but it's obvious what's going on here. And I'm not sure whether I would want to support AM1130 or not, but we certainly need to be talking about this. And my feelings are right now is that I will support it if it engages more discussion. But what's really going to happen is if you're hired...my middle daughter, for example, is hired next year or the year after as a teacher--it will be a year or two--she's going to end up paying the same amount as my wife is, the same amount as my oldest daughter is but having half the benefits. That's it. That's the way I see it in a nutshell. That's the way I've had it described to me. So, really, is that the way we want to treat our teachers? Is that the way we want to sell the state of Nebraska as being fair to our teachers? And I may be off on my numbers and you could certainly bury me with those numbers, but that's the way I see it. And I guess if Senator Mello would rise to a question, I'd ask him just one simple question...or Senator Nordquist. [LB553]

SENATOR KRIST: Senator Nordquist, will you yield? [LB553]

SENATOR NORDQUIST: Yes. [LB553]

SENATOR WATERMEIER: I really respect you, Senator Nordquist. You know your numbers and I certainly would not want to get into a numbers battle with you. But if we give you the \$20 million in the second biennium, as you propose in LB553, would you never come back for more money? [LB553]

SENATOR NORDQUIST: No, we put that \$20 million in every year as part of an agreement that was reached that the state puts in some additional money, teachers



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retain the higher contribution rate, and new hires get less benefits, and districts also contribute. [LB553]

SENATOR WATERMEIER: Let me interrupt you. I apologize. I understand that. You put it in the second year of the biennium, it's part of the base, it's going to be in there forever. But would you need another \$20 million after that, in '15-16, after that? There's really guarantee behind that. [LB553]

SENATOR NORDQUIST: Yeah. [LB553]

SENATOR WATERMEIER: I don't want to pin you in there,... [LB553]

SENATOR NORDQUIST: No. [LB553]

SENATOR WATERMEIER: ...but I mean I think you answered my question. [LB553]

SENATOR NORDQUIST: It would all depend on market performance. And we...the Governor asked that question in a letter. I sent him a letter back which included a letter from all three education groups saying, look, we know the market is volatile and if future markets determine that we need to come back and negotiate again, we will. [LB553]

SENATOR WATERMEIER: Yeah, I understand that. That's why I asked the question. And I just really think that we to struggle with this whole idea of where we're headed with this, and I gave a personal example of what is probably going to happen in my family, and will. But not only that. I think what's happened over the years is Nebraska was, you know, maybe somewhat embarrassed 20, 40 years ago when we weren't paying our teachers up to snuff in what our bordering states paid. So we offered these benefits at the time and they were innocently put into place, probably right at the market value. But today that's not realistic. So we darn well better get our arms around this and figure it out. All the pieces of this puzzle have got to come together, and by pieces I mean vested interests. Executive branch, we need to get involved, all of us are going to come to the table on this. And I really would probably support AM1130 but I just wanted to be part of the discussion and share my personal view. Thank you, Mr. President. [LB553]

SENATOR KRIST: Thank you, Senator Watermeier. Senator Carlson, you're recognized. [LB553]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. And I would like to address Senator Nordquist, if he would yield. [LB553]

SENATOR KRIST: Senator Nordquist, will you yield? [LB553]

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SENATOR NORDQUIST: Yes. [LB553]

SENATOR CARLSON: And, Senator Nordquist, this not fun for you. I know that. And yet we're in a discussion we just have to have. So I'm going to ask you a few things. You referred to, several times, to an agreement that was made. Now who was involved in making that agreement? [LB553]

SENATOR NORDQUIST: That would have been...started through discussions in the interim with myself, members and representatives of the school board association, school administrators, and school education association. And then ultimately we hammered out an agreement. They took that to the Governor's Office in December. They got really no response. And then we got a budget that didn't include anything for retirement, but yet he didn't endorse any plan to fix the retirement plan. The short answer is I worked on the agreement with the three groups, but the administration was approached several times and, up until AM1130 was filed to this bill, never had any solution to this problem. [LB553]

SENATOR CARLSON: Okay. Now, Senator Nordquist, I served on the school board and I was involved in negotiations I think every year I was on the school board, but the school board had the authority to come to a conclusion and actually bargain and decide upon...agree upon a result. Are you saying...who has the final say on whether or not this agreement is legitimate? [LB553]

SENATOR NORDQUIST: I mean it's a...like any piece of legislation that I'm sure you've worked on, a water agreement around a table with people and you walk up and say we all agree. That's essentially what the deal...I mean, that's how the agreement worked. There's no signed affidavit or anything. We're passing a law here to put in statute what the components of the bill are. [LB553]

SENATOR CARLSON: Okay. I go back to my school board days' negotiations. And once we decided upon something as a committee, the board had to affirm what we had negotiated. And the teachers' union, they also agreed amongst themselves whether our negotiation was legitimate or not. But in this case, and I'm not blaming you whatever, but you negotiate and come to a decision, then you give it to the Governor. Does the Governor have any say on that? Is he supposed to? [LB553]

SENATOR NORDQUIST: He sure could have, yeah. And he sure could have approached me like he did two years ago with a bill and say we would like you to introduce this bill to address the problem. He could have sat down, said let's work on a compromise between the bills. But we heard absolutely nothing from him, Senator Carlson, until AM1130 was filed on Select File. [LB553]

SENATOR CARLSON: Okay. And I believe you on that. Now the school district

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contributes 101 percent of what the teachers contribute. Is that correct? [LB553]

SENATOR NORDQUIST: That's correct. [LB553]

SENATOR CARLSON: How long has this been the case? Do you know? [LB553]

SENATOR NORDQUIST: I will have to have legal counsel do that research... [LB553]

SENATOR CARLSON: Okay. That's okay,... [LB553]

SENATOR NORDQUIST: ...but it's been at least a decade,... [LB553]

SENATOR CARLSON: ...because I'm going to ask you several... [LB553]

SENATOR NORDQUIST: ...probably more than that. [LB553]

SENATOR CARLSON: I'm going to ask you several questions, so if legal counsel could determine that, that would be good, because my next question was how long has this been in effect. Now what percent do the teachers contribute now? [LB553]

SENATOR NORDQUIST: 9.78 (percent). That was...in 2009 they were contributing 7.28 (percent). That has ratcheted up to 9.78 (percent) because that was in instant response to the market downturn and that was Senator Pankonin who kind of led that initial piece. I carried another bill two years ago. We're at 9.78 (percent), but that was supposed to sunset in 2017. This bill removes the sunset so all teachers current and new would contribute 9.78 percent of pay. [LB553]

SENATOR KRIST: One minute. [LB553]

SENATOR NORDQUIST: And districts would match 101 percent, which is 9.88...would be 9.88 percent. [LB553]

SENATOR CARLSON: Okay. And we're going to run out of time here, but, Senator Nordquist, another question. The state contribution is going, in your plan, is going up from 1 percent to 2 percent. That is a 100 percent increase, but it ought to relate back to how long has the state been paying that 101 percent. Now assumed rate of return, who gives you the material on an assumed rate of return? [LB553]

SENATOR NORDQUIST: It is...it's based on EnnisKnupp is the national investment consultant that the Nebraska Investment Council contracts with. They advise our council, who's made up of members with great investment experience, people like Gail Werner-Robertson in Omaha and people who make a career of investing. That's our Investment Council. They are advised by a national investment consultant, EnnisKnupp,

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and... [LB553]

SENATOR KRIST: Time, Senators. [LB553]

SENATOR NORDQUIST: Yeah. [LB553]

SENATOR CARLSON: Thank you. [LB553]

SENATOR KRIST: Thank you, Senator Carlson and Senator Nordquist. Senator Nordquist, you're next in the queue. [LB553]

SENATOR NORDQUIST: Thank you, Mr. President and members. I just want to clarify some misinformation. First, Senator Nelson kind of misinterpreted what our cash balance plans are. They are not individually invested or individually managed. The state manages them, just like we do with our defined benefit plans, and individuals are given a guaranteed rate of return. There's this discussion here that, oh, if we go to this, there's going to be no liability for the state anymore. It reduces the liability to the state. It certainly doesn't eliminate it. If we don't hit what that guaranteed amount is, we are equally as liable for that amount as we are for the defined benefit plan amount. Senator Watermeier, certainly it is not correct to say new teachers are getting half the benefits of current members. The only two changes we're making to their benefits, but it does make a substantial actuarial difference, is their COLA is reduced from 2.5 percent to 1 percent and for their benefit calculation, to determine their final average salary, instead of averaging three years we average five years, which brings it down. It is, for an individual member, it's not going to be a significant amount. I believe Senator Nelson or Senator Carlson said...or maybe it actually might have been Senator Watermeier about we should have a study of this, and we have. We have an interim study every year. We had an actuarial analysis on the idea of moving to a cash balance plan that Senator Heidemann brought forward. We spent a lot of money on that. It showed it was going to cost hundreds of millions of dollars in the short term, and it was put on the shelf. Now if we want to spend tens of thousands on another study like that to tell us the same information, that is certainly a possibility. You said we need to have everyone around the table, and everyone is invited to be around the table. But let me just reiterate the time frame. July, we knew our investment return wasn't that great and that compounded the problem of the previous years, in '08 and '09. In November we got hard actuarial numbers, and these are the best numbers we can trust. If anyone else has better numbers in here, I'd like to know. We got those numbers in November. We continued to work on a plan. I introduced a bill in January. We had a hearing on it in January, again, no discussion from the administration. It came out of committee unanimously, no opposition at the hearing from anybody. The administration was sitting in the room. It was on General File, no dissenting votes, no amendments. Now here we are, the eleventh hour, this is not how we make policy or it's not how we should make policy. Folks and anyone who is insinuating that by moving to a defined contribution plan or a

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cash balance plan somehow eliminates our obligations to the people that are in the system now are flat-out wrong. The courts have said we owe that money, and it's a lot of money. Hundred...probably...I mean we've never done a full spin on it but...well, no, I guess we do, all the way out to 2041 and people say we need to look at our plan long term. We spent money together, Senator Heidemann was in on this a year or two ago, we agreed to it, got money out of the Appropriations Committee to do a 30-year model of our plan. It's not like we're just grasping at straws here, folks. We have real information that we're basing real decisions on. But all the way out to 2041, under our current plan, if we do nothing, \$3.6 billion. This bill creates a surplus over that time, a \$1 billion surplus at an 8 percent rate of return; \$400 million surplus at 7.75 (percent). If we don't hit 7.75 (percent),... [LB553]

SENATOR KRIST: One minute. [LB553]

SENATOR NORDQUIST: ...we have a \$400 million surplus to help us even more. This fixes the long-term problem. It doesn't kick the can down the road. All the school groups are out there supporting it because they know it's good to attract and retain teachers, including young teachers. I think it's good policy partly because we don't leave seniors, when their account runs out, to fend for themselves. That's what's wrong with our current system. We have too many people who are in defined contribution plans who run out at the end of the day and have to rely on Medicaid and food stamps. That's not what we want for our public servants. That's not what we should want for anybody. So this is a way to fix this plan as best we can in a fiscally responsible manner, and I would appreciate your support of it. Thank you. [LB553]

SENATOR KRIST: Thank you, Senator Nordquist. Senator Kintner, you're recognized. [LB553]

SENATOR KINTNER: Well, thank you, Mr. President. I do want to thank Senator Nordquist for all of his hard work and his knowledge and the time he spent with me explaining this. You know, we started these defined benefit programs, it was back 30, 40, 50 years ago when there was a lot of young workers after World War II but not that many retirees. And you know, so if you have a little downturn in the market and things, it didn't matter as much because we had so many workers. Well, we've flipped that now. All these young workers from the '50s and '60s and '70s are now old workers or retirees now and we've got a lot of pressure on the system, something that wasn't looked at when it was first set up. That is part of our problem and that's why we need to move to something that's sustainable. And you're right, we're going to have to bite the bullet as we transition to a new program, if we decide to do that. It's not going to be easy, but in the long term I think it's something that we need to do. And with that, I'd like to yield the balance of my time to Senator Carlson. [LB553]

SENATOR KRIST: Senator Carlson, you're yielded 3:50. [LB553]

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SENATOR CARLSON: Thank you, Senator Kintner. And I would like to address Senator Nordquist again, if he would yield. [LB553]

SENATOR KRIST: Senator Nordquist, will you yield? [LB553]

SENATOR NORDQUIST: Yes. [LB553]

SENATOR CARLSON: Now let's go back to the 8 percent as an assumed rate of return. And so in the figures that you've got, if these contributions are made and over a period of time, and I don't know if it was 20 years or whatever it was, but we could end up with a \$1 billion surplus. That's using an 8 percent rate of return and the contributions that are being proposed in LB553. Isn't that correct? [LB553]

SENATOR NORDQUIST: Sorry, Senator Carlson. I just wanted to clarify for the sheet that I read that off of. So this assumes, those numbers I read, the \$1 billion surplus actually assumes a 7.75 percent rate of return. Now this gets a little bit beyond my understanding of actuarial science. There's a different discount rate. He uses an 8 percent discount rate, gives us a \$1 billion surplus, and a 7.75 (percent) discount rate gives us a \$400 million surplus. But it does assume a 7...both those assume a 7.75 (percent) rate of return. [LB553]

SENATOR CARLSON: Okay. And I understand that that's assuming that these contributions are made that are a part of what's included in LB553. [LB553]

SENATOR NORDQUIST: That is exactly right. [LB553]

SENATOR CARLSON: Now this next question, I don't even expect you to have the answer. I don't know what the answer is to this, but we've got conversation about possibly changing from a defined benefit plan to a defined contribution plan. That's a big change. Do you have any idea how long a period of time you would have to allow in order to make that change? Because teachers that are...well, anywhere near retirement, that is not going to be a change that's made. [LB553]

SENATOR NORDQUIST: No. [LB553]

SENATOR CARLSON: And I don't know how far away from retirement it would have to be so that it would work out. [LB553]

SENATOR NORDQUIST: Well, just if you're talking legal precedent here, we can't force any current employee who is even...anyone who has started work at 8:06 on April 24, they're a current employee. Our court, Supreme Court, in Nebraska has upheld that that person is under a contract that is protected by the constitution and we cannot touch

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their benefit package at all. [LB553]

SENATOR CARLSON: Okay. I understand that and I believe that and I think it's important that everybody does understand that. This, if there were a change made, it's got to apply only to new hirees. And so it may be...and there's nothing wrong with long-term solutions but that's what it is, it's a long-term solution. It's not...it's not short-term at all, and it would be a significant change. That kind of thing certainly needs discussion and study. [LB553]

SENATOR KRIST: One minute. [LB553]

SENATOR CARLSON: And so I appreciate your cooperation here on answering these questions, and I did ask a couple of things that you didn't know and I hope your LA can get those answers. Thank you. [LB553]

SENATOR NORDQUIST: Oh, I do...oh, okay. [LB553]

SENATOR CARLSON: You do? [LB553]

SENATOR NORDQUIST: I have one of the answers is 19...I flipped the page here. It was like 1986 that the state started contributing 101 percent. Oh, here we go. The employer, yeah, the employer started contributing 101 percent of pay in 1986. Prior to that it was 100 percent, and less than that prior to that. [LB553]

SENATOR CARLSON: Okay. [LB553]

SENATOR NORDQUIST: So since 1986 the employee...the districts have been contributing 101 percent of the employee's contribution. [LB553]

SENATOR CARLSON: And in 2009, the teachers were contributing 7.28 percent and then in 2013 they're contributing 9.78 (percent). [LB553]

SENATOR NORDQUIST: Yeah, we did a stairstep up over a few years because that's a... [LB553]

SENATOR KRIST: Time, Senators. [LB553]

SENATOR NORDQUIST: Thank you. [LB553]

SENATOR CARLSON: Okay. Thank you. [LB553]

SENATOR KRIST: Thank you, Senator Carlson and Senator Nordquist. Senator Larson, you are recognized. [LB553]

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SENATOR LARSON: Thank you, Mr. President. I think going off what Senator Carlson just said leads me into my segue, that Senator Nordquist talked about this deal that he had with the school boards and the administrators and the teachers, and I mentioned this on General File. A few years ago when the teachers agreed and the state agreed as well, the teachers went from 7.2 (percent) up to...or right around 7.7 (percent) or 7.2 (percent) up to 9.78 (percent) and they were supposed to sunset back down. The state went from .7 (percent) up to 1 (percent), and they were supposed to sunset back down. Under LB553, the teachers are just staying at the 9.7 (percent) that they bumped up to, but the state isn't staying at the 1 percent. We're just removing the sunset for the teachers. We're not only removing the sunset for the state; we're doubling what the state puts in to 2 percent. So not only is the state putting in more money here in LB553, we have the employer side, which is 101 percent, the state taxpayers are funding on that side through property tax dollars and state aid to schools. So I think those are things that we need to continue to look at. And with that, I'd yield the rest of my time to Senator Lautenbaugh. [LB553]

SENATOR KRIST: Senator Lautenbaugh, you're yielded 3:18. [LB553]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And interest of full disclosure, and this is going to shock no one, I'm not terribly comfortable with this subject matter and bringing this amendment was not my first choice. You're probably thinking, well, who made you? It was my choice, but it was not my first choice. But I think it's devolved into kind of a good discussion. I apologize for getting so upset with Senator Harr, but I was out of my comfort zone, let's say (laugh), to say the least. And this is not terribly fair to bring this up to Senator Nordquist the day of the Select File debate and it's not my intention to be unfair to Senator Nordquist, but it's not my obligation either because this is kind of an important topic. And we've heard good points made by Senators Kintner, Carlson, Nelson, Larson, and to be sure by Nordquist and Mello as well, but even if we're coming late to this issue I have a feeling we're going to have other chances to discuss this issue this year, more than likely, in one form or another, with one motion or another. So it is good that we're thinking about this. I apologize for the lateness of the amendment, if you will. I could say it's not my fault. But if I think it's a serious issue you could ask, well, why didn't you bring it on General File. Well, I didn't, so I apologize for that too. But in no way does that detract from the seriousness of the discussion we had, despite my fumbling introduction of the amendment, we covered some good ground here. And I hope we're ready for this discussion when it comes around again, because it surely will. And at this time I'm not going to make anybody take a vote on this, but I think we served a purpose here. I thank you all for your indulgence and your patience. And for those of you who didn't ask me questions because you knew I probably didn't know the answer, I thank you as well. And with that, Mr. President, I will pull the amendment. [LB553]



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Floor Debate  
April 24, 2013

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SENATOR KRIST: Seeing no objection, it is pulled. Senator Schumacher, you are recognized. [LB553]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. It's getting late, almost time to go to bed, and as every kid knows, right before bed you need a good fairy tale. So this fairy tale says that we're going to spend \$20 million here. We're going to throw in an extra \$50 million a year toward TEEOSA. We're going to throw an extra \$30 million a year or so into a tax cut. We're going to throw an extra \$60 million or so into LB84 roads. And we will have a 5 percent year over year revenue growth, even though our GDP and national GDP may be around half that. And we will end up with a fully funded reserve in 2016 to '17 with \$133 million left over. Sleep tight. Thank you. (Laughter) [LB553]

SENATOR KRIST: Thank you, Senator Schumacher. Seeing no one else in the queue...I'm sorry. Senator Lautenbaugh, you are recognized. [LB553]

SENATOR LAUTENBAUGH: Thank you, Mr. President. And briefly, if I did not acknowledge the brilliance of Senator Schumacher's comments while I was thanking everyone, I meant to. Thank you again, Senator Schumacher, as always. Thank you, Mr. President. [LB553]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Seeing no one else in the queue, Senator Murante for a motion. [LB553]

SENATOR MURANTE: Mr. President, I move to advance LB553 to E&R for engrossing. [LB553]

SENATOR KRIST: You have heard the motion. All those in favor? Opposed, nay. Ayes have it. Mr. Clerk for items for the record and announcement. [LB553]

CLERK: Thank you, Mr. President. Amendments to be printed: Senator Lathrop to LB3; Senator Hadley to LB23; Senator Murante to LB299; Senator Sullivan and others to LB407. Senators Davis and Dubas would like to add their name to LB402. (Legislative Journal pages 1145-1146.) [LB3 LB23 LB299 LB407 LB402]

And, Mr. President, Speaker Adams would move to adjourn the body until Thursday morning, April 25, at 9:00 a.m.

SENATOR KRIST: You have heard the motion. All those in favor, aye. Opposed, nay. We are adjourned till 9:00 tomorrow morning.