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Floor Debate  
May 31, 2013

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[LB57 LB195 LB198 LB199 LB298 LB392 LB568A LB568 LB613 LR22 LR40 LR155  
LR373 LR374 LR375 LR376]

SENATOR CARLSON PRESIDING

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

SENATOR SULLIVAN: (Prayer offered.)

SENATOR CARLSON: Thank you, Senator Sullivan. I call to order the eighty-seventh day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

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

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

CLERK: (Read corrections re LB298, Legislative Journal page 1708.) That's all that I have, Mr. President.

SENATOR CARLSON: Thank you. Are there any messages, reports, or announcements?

CLERK: Enrollment and Review reports LB613 as correctly engrossed, LR22 as correctly enrolled, and a lobby...excuse me, a series of reports that have been received in the Clerk's Office that are on file electronically and available on the legislative Web site for member review. That's all that I have, Mr. President. (Legislative Journal pages 1711-1714.) [LB613 LR22]

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

CLERK: Mr. President, LB568. Senator Murante, I have Enrollment and Review amendments, first of all. (ER103, Legislative Journal page 1447.) [LB568]

SENATOR CARLSON: Senator Murante for a motion. [LB568]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB568]

PRESIDENT CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The amendments are adopted. [LB568]

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CLERK: Senator Burke Harr would move to amend with AM1545. (Legislative Journal page 1693.) [LB568]

SENATOR CARLSON: Senator Harr, you're recognized to open on AM1545. [LB568]

SENATOR HARR: Thank you, Mr. President and members of the body. If you recall, this LB568 was originally brought on General File and a number, probably closer to 19 amendments, were filed on this. And we had said, hey, we're going to work on an agreement between General and Select. And after many, many hours of hard work, a deal, in fact, has been struck. So I want to, first off, start by thanking Chairman Gloor, who showed the patience of Job on this to continue to keep the parties together when sometimes it wasn't easy. I want to thank also Speaker Adams for sticking with this, and also I want to thank Senator Lathrop for his hard work on this. To Senator Conrad and Senator Howard I would offer that they are great advocates for what they believe in. They have worked hard. They have been tireless. Every word has been read over by all sides probably 20 times, and they've been great, great advocates and they've been very good to work with, so I want to thank them specifically for their hard work on this. Anyone who has them as their lawyer down the road is a very lucky person. So on this navigator bill, we have...and this is what a lot of the...oh, I also want to thank Senator Nordquist; there you go. [LB568]

\_\_\_\_\_ : How about your wife? [LB568]

SENATOR HARR: And my wife. (Laughter) And the Academy. But on this we have attention. On the one side we have...you have individuals who have probably never had insurance before who don't necessarily understand what health insurance is, how it operates, and the terms of an insurance policy. And what we have are navigators who will be navigating them through the system, not providing advice on the actual underlying insurance but navigating them on how to work the system. That's what a navigator is. And the individuals doing that are your federally qualified health centers, most likely, and nonprofits. And if past performance is any guarantee, or any future performance, we're not going to have any problems. So the question is: Why should navigators be regulated? Well, the insurance exchange will be a new insurance purchasing mechanism with a completely new kind of consumer advisor, these navigators, who will be an important and essential part of the exchange insurance mechanism. Federal law has reserved the regulation of insurance to the state since 1945. The federal PPACA regulators have repeatedly said that states remain the primary regulators of insurance marketplace, and it will be relying on the states to perform day-to-day oversight, handle consumer complaints, take enforcement actions, etcetera. So LB568 recognizes the principle of state regulation of insurance activity. This long-established principle with the enactment of LB568 will apply to the new insurance activity and insurance navigator under the P...under Obamacare, as it is

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carried out in Nebraska. And I think we all know what Obamacare is. Even Justice Scalia referred to it as Obamacare, I believe. So for more than a century, the Nebraska Department of Insurance has regulated insurance activity in Nebraska. The principle of state regulation has been formally recognized on the federal level since the enactment of the McCarran-Ferguson Act of 1945. The act declares that the regulation of insurance is in the public interest, that the business of insurance is a subject of state, and that no act of Congress shall overturn the state regulation of taxation of insurance business unless, quote, such an activity specifically relates to the business of insurance. So as we go forward with Obamacare, we need to be mindful of the consumer protections afforded by state departments of insurance and state regulations. LB568 creates no greater burdens than that are already found in the Obamacare. It contains the basis and foundations for effective state regulation of insurance activity to be carried out by the navigators so that we can ensure Nebraska insurance consumers have a base level of confident, informed, and responsible insurance marketplace. And that's what this does. We've made a lot of changes between the committee amendment and the final amendment that is AM1545. I think a lot of the amendments have made the bill stronger; and so I would ask if you have any questions, read AM1545, and to please advance AM1545 and to advance the underlying LB568. Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Harr. Members, you've heard the opening on AM1545. The floor is now open for debate. Those wishing to speak include Gloor, Howard, Conrad, Harr, and Scheer. Senator Gloor, you're recognized. [LB568]

SENATOR GLOOR: Thank you, Mr. President, and good morning, members. I rise in support of LB568. I rise in support of AM1545. As a reminder for the body, I'm Chair of the Banking, Commerce, and Insurance Committee. I'll start with thanks also: Senator Harr, for his persistence on this bill. The same holds true for the Banking, Commerce, and Insurance Committee, who spent ten hours in Executive Session on this bill alone; basically rewrote huge sections, if not the entire bill, to a large extent. And I would remind the body that we adopted, in General File, advanced the committee amendment; amended it to LB568. So the committee's work already is represented in LB568. We continue to tweak it with AM1545. I appreciate also Senator Conrad, Nordquist, Howard, and Schumacher, who got involved in continuing to work, and I appreciate their patience and also that of Senator Lathrop who entered at the final moments, bringing a different view of this bill, and that was extremely helpful. The one person I need to thank that doesn't get thanked nearly enough is Committee Counsel Bill Marienau who spent even more hours than in some cases a number of us combined. I feel bad for the hair that Bill lost in scratching his head over wondering why we're spending so much time on what otherwise should be a pretty simple bill. But it is not a simple bill. We fear those things that we don't understand. We fear those things we don't know. And the Affordable Care Act, known a Obamacare...and forget Justice Scalia. When the President himself refers to the Affordable Care Act as Obamacare I think we've gotten permission. Certainly

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most of our constituents recognize it as Obamacare and aren't as confused as they are when we talk about the Affordable Care Act. But we fear those things that we don't understand and we don't understand yet the Affordable Care Act and its ramifications or implications for us, and that's the reason we need this bill. It's a good bill. It needs to be advanced. I'm glad we're going to have some of the participants speak on this. We need to understand the Affordable Care Act and we also need to understand a couple of things about this bill, and that is that the concept of a navigator is completely new. It's not spoken to in state statute. Without the passage, there's no clear-cut authority that the Department of Insurance has when it comes to the regulatory aspects of it, and the feds aren't doing that for us. The feds almost always let the states regulate insurance. The same is true with the Affordable Care Act--Obamacare. The same is true as relates to the issue of navigators. So this is an important bill. It's also important for the body to understand that you will have questions about this when you go back to your constituency, specifically the insurance producers in this state. You will still have insurance agents who are concerned and frightened by navigators because, as I said during General File debate, the navigators are actually not a peripheral player. They're in the heart of the process of insurance determinations of eligibility and selection. They don't do it but they're right there in the midst of it, and that's part of what we don't understand yet. That's part of the fear that's out there. That's part of what this amendment, as well as LB568, will correct. And if necessary, we can certainly come back and raise or lower the bar next year as we understand more and as that fear factor fades. [LB568]

SENATOR CARLSON: One minute. [LB568]

SENATOR GLOOR: Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Gloor. Senator Howard, you're recognized. [LB568]

SENATOR HOWARD: Thank you, Mr. President and members of the body. If I should have a daughter and she should ask me about my first year in the Legislature, I will tell her that my favorite part was learning about my colleagues and working with them to pass meaningful legislation that actually helps everyday Nebraskans live better lives. I will tell her that I loved hearing stories about my mother's work here and getting to know the staff of the Legislature. But if she should ask me about my least favorite part of this year, I will have to say the navigator bill, not because of the critical work these individuals will do in our state. Indeed, the very nature of a navigator is to assist individuals who have any challenge at all, from poverty to low literacy to a disability to enroll in the exchange and acquire health insurance that meets their needs. No, this negative experience isn't about the navigators themselves. It was the undertow of the vested interests in this bill that was challenging. I've been told there are two things you never want to show someone how you make: laws and sausages. I think I would have

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preferred never to know how this bill came into being. The legislative process should not require that anyone's intelligence or integrity be impugned either inside or outside the glass. All members of this body have made the commitment to act in the best interest of their constituency, and regardless of the length of time in this body, each and every member deserves respect. During this process things have been said, and I have been reminded how important it is to act always with honesty. I have appreciated that my opinions and knowledge have been treated with equal validity to that of my more senior colleagues. I have appreciated parsing the language of this legislation into the amendment before you, and now I truly understand the difference between the words "any" or "all," "may" or "shall," and "and" and "or." Between our time here in Lincoln, the 30 hours I put in every week at the health clinic and the personal time I committed to working on this bill, I have gotten to know Senators Harr, Gloor, Nordquist, Conrad, Lathrop, Speaker Adams, and my favorite troublemaker Senator Schumacher, better. The amendment you see before you is a result of our compromise and efforts to improve the bill. I would also add that the bill in its current form now creates a framework to ensure successful enrollment not only in the exchange but in the future for all state health insurance programs, including Medicaid and CHIP, once individuals below 100 percent of the federal poverty level are eligible for them. I urge the adoption of AM1545 and LB568. Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Howard. Senator Conrad, you're recognized. [LB568]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. Just a brief comment at the outset without getting into the specifics on personality or process. This has, by far, been one of the most, if not the most, difficult negotiations that I've been involved with during my seven years in the Legislature, and I will leave it to each of you to determine what that says about the personalities and politics involved. That being said, let's be clear: There is nothing new or scary about the subject matter that we're dealing with in LB568. We already have navigators who are nothing more than community educators operating all throughout our healthcare system and all throughout our state, when it comes to CHIPRA, when it comes to Medicaid, when it comes to Medicare Part D. These are folks on the front lines, usually working for our trusted partners, like AARP or the federally qualified health centers or a church group or another nonprofit committed to healthcare like Community Action or Appleseed or what have you that are out there empowering consumers with information about how to make a decision that's best for them, their family, and their healthcare needs. That's what navigators are going to be doing as we implement the Affordable Care Act moving forward. And it was because of their very success in reaching vulnerable populations and helping them to meet their healthcare needs that they were incorporated into the terms of the Affordable Care Act. So it remains puzzling why all of sudden there is a rush on a national basis to paint this as new, to paint this as scary, to paint this as different, because indeed it is none of those things. Moving forward though, I think it's

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important to be clear about the distinctions from the original legislation to where we are with AM1545. And this is no longer a regulatory act but rather, by its very terms, a state registration. And I think it's important that we are very clear in not only the terms of the amendment but also the legislative history about who this act applies to. It doesn't apply to volunteers who are out there at their church group maybe helping a fellow parishioner try and figure out how to interface with the exchange. It does not apply to social workers, including medical social workers, who are helping their clients potentially interface with the exchange. It doesn't help with family members who are helping a struggling aunt or a grandparent or a child figure out how to interface with the exchange. It doesn't apply to the folks who will be providing services through on-line chat or over the phone to those consumers that are seeking to interface with the exchange. So who does it apply to? And the definition is critical and it's contained in Section 3...I'm sorry, Section 2(3). It applies to this small group of folks who will be doing the duties that are clearly outlined in federal law and that receive funding to carry out these duties. And to be clear, there is no regulatory black hole that exists if we don't move forward with LB568 or AM1545. There is an extensive set of federal laws, regulations, and guidance on this topic, and these navigators are held to a very high standard in terms of their expertise and knowledge before they start interfacing with consumers in need. I think where this amendment is in its current form is a step forward in this state's eventual embrace of the Affordable Care Act. This state has taken millions of dollars from the federal government for planning to implement the Affordable Care Act. Our budget that we just passed had millions of dollars in savings in it, thanks to the Affordable Care Act. And what LB568, with AM1545, does is... [LB568]

SENATOR CARLSON: One minute. [LB568]

SENATOR CONRAD: ...if it's not a consumer protection act, it now becomes a consumer empowerment act where the state gets more skin in the game and says we hold these folks who have specific expertise and guidance out to you, Nebraska consumers, to get help so that we can aggressively pursue coverage in the Affordable Care Act and on the federal exchange. And that is indeed a good step forward. Moving forward, we will have more opportunities to improve this framework and ensure that more Nebraskans in need get the healthcare coverage that they deserve. Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Conrad. Senator Harr, you're recognized. [LB568]

SENATOR HARR: Thank you. And thank you for the kind words from Senator Howard and Senator Conrad. This has been an exciting negotiation and I've enjoyed it quite a bit; so I want to thank them for everything that they have done and for being tireless in their advocacy. So what we have here is...and I'm glad we all realize it's a first step. And this is based on the fact that these navigators themselves will not be selling insurance.

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They'll receive probably about eight hours, I think it is, of training, and that training is not on insurance or the sale of insurance. It's a how to navigate the system, how to use a navigator system. It's not the underlying what the policy says or means. That's not to say they won't acquire knowledge as they work on these...and read these policies. And nothing prohibits them for reading them. And as a matter of fact, I hope they do. Again, federally qualified health centers: they're awesome. They do a great job in our society. Senator Howard works for one and she will tell you they're great. Senator Nordquist is on a board; he will tell you they're great. No one disputes that they're great. What we're doing is...and I've used it a ton of times and I'll use it again: It's trust but verify. We have regulations. We have a lot of businesses out there. They're great businesses. But we still want to keep an oversight on them. That's what this does. And it creates it on a state level. So let me give you an example. If you have a policy right now and you have an issue with what's in the policy and you think, "I thought I had coverage over that but I don't." Right now you call your insurance agent and they're the person that provides that assistance. Well, you don't have an insurance agent here and a navigator isn't trained and that's not their job. So who you would call is your Nebraska State Department of Insurance consumer advice office and their hotline, and they're going to provide that assistance and they're going to provide that help. So I think it's important with this bill that allows that to happen. Otherwise, you're calling some nameless entity in D.C., or somewhere else we don't even know yet. There are a lot of questions that remain. There will be new rules and regs that come out. And I guarantee you, there will be bills probably next year or the year after that to amend LB568 and AM1545. But what this does is it creates the foundation and the framework to grow from to say that we as a body recognize the importance of the marketplace of insurance being regulated on the state level. Now again, that regulation, we've got to be very clear: it is no greater than the federal regulation. It to a large degree will mirror it but it's local control and it allows us to, if we see something, to suspend a license, to revoke it, or to place the person on probation. So between October 1, 2013, and January 1, 2014, we are going to have to sign up over 217,000 people. Let me restate that: 217,000 people will be eligible for the subsidies that are available under Obamacare. That's a lot of people. The role of the navigator is very, very, very important. And so we want to make sure we have navigators, make no bones about that. We want them to know what they can and what they can't do. We want them to reach out to the communities, their communities, the people they serve, whether that be self-employed through the Chamber of Commerce, or... [LB568]

SENATOR CARLSON: One minute. [LB568]

SENATOR HARR: Thank you...or your federally qualified health centers. We want them to reach their core constituency and encourage them to sign up. We want people to be insured. That is the goal. We want people on insurance. I don't think anyone out there says I don't want someone to receive health insurance. That's what this does is it's an outreach program to say, hey you, come here, come to this computer screen, fill this

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out. And it's very easy. If you're single, it's like two pages. It's very simple. So again...and it helps you navigate through the system. That's why it's called a navigator. It helps you navigate the system. It is not a sale of insurance. So thank you very much, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Harr. Those wishing to speak include Senators Scheer, Chambers, and Schilz. Senator Scheer, you're recognized. [LB568]

SENATOR SCHEER: Thank you, Mr. President. I rise with concerns about AM1545. I would ask if Senator Harr would yield to a few questions. [LB568]

SENATOR CARLSON: Senator Harr, will you yield? [LB568]

SENATOR HARR: Yes. [LB568]

SENATOR SCHEER: As I understand it, these are going to be licensed by the state of Nebraska? [LB568]

SENATOR HARR: Well, it's not a license. It's a...I think the analogy, given by Senator Schumacher, was it's like a driver's license. You get a federal driver's license. You can then use that on the state level. So it's a registration. [LB568]

SENATOR SCHEER: Okay. So they're going to register with the state. [LB568]

SENATOR HARR: Um-hum. [LB568]

SENATOR SCHEER: You've mentioned in your comments that they will not be giving advice. [LB568]

SENATOR HARR: That is correct. [LB568]

SENATOR SCHEER: Okay. [LB568]

SENATOR HARR: They cannot. They are forbidden under the federal regs to give advice. [LB568]

SENATOR SCHEER: Okay. And what happens when they do give advice? [LB568]

SENATOR HARR: Then that's where the penalty stages come in that you can suspend, revoke, place on probation of that individual. [LB568]

SENATOR SCHEER: The state of Nebraska would do that? [LB568]



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SENATOR HARR: The state of Nebraska and/or the federal government. [LB568]

SENATOR SCHEER: Okay. And if they give some erroneous advice to an individual, even though they are not supposed to and they do, and that impacts their healthcare, who is liable for the erroneous advice? [LB568]

SENATOR HARR: Under the federal law, again that has nothing to do with this, that is... [LB568]

SENATOR SCHEER: But quite the contrary, it does have to do with this, Senator Harr. And I think what you're telling me is that no one is going to be held liable for someone's error. Is that correct? [LB568]

SENATOR HARR: Yeah, there's no errors and omissions. You cannot require an errors and omission policy. [LB568]

SENATOR SCHEER: Okay. Therein lies the problem, Senators. I don't have a problem with somebody at a front desk providing some information. I do not have a problem with somebody helping somebody be able to navigate a computer program that you punch this arrow to get to the next page or you make sure that they put the correct name or their Social Security in the right place. But what happens when they get to the next page and it says, you now have an option of an 80/20 coinsurance or a 50/50 coinsurance for the next \$5,000. They say, "Gee, what does this mean?" And what would your response be as a navigator? [LB568]

SENATOR HARR: My response would be that navigator at that point should say I can't give you...I can explain to you what the terms mean. I can't... [LB568]

SENATOR SCHEER: Okay. But how do they explain what the terms mean, Senator? That's the problem. Because I have...when you mentioned that they are receiving eight hours of technical knowledge in order to be registered by the federal government, an insurance agent is required to take 40 hours to be licensed. [LB568]

SENATOR HARR: Yeah. [LB568]

SENATOR SCHEER: Now I will give you that all those 40 hours can be in different types of insurance. But when we're talking about the eight hours, I'm going to guess that at least half, if not more of that, is going to be...and probably all of it, is going to be just in the computer program in and of itself, not coverages. [LB568]

SENATOR HARR: Yeah. [LB568]

SENATOR SCHEER: So we will have people trying to explain coverages that are not

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licensed agents. And if and when they make a mistake that impacts the healthcare of that individual, there is no recourse for those people. I'm not the Grinch here. I'm trying to consider the people that are going to be utilizing these facilities and they're going to be helped by people that are perhaps not as well versed in the insurance field as an insurance agent. And like it not, they will be giving advice, I know that. I think everyone on this floor knows that. And so we have the most vulnerable getting perhaps either no advice, which is in my opinion terrible, or bad advice, which is even worse, and...or incorrect advice that will impact how they receive their healthcare. [LB568]

SENATOR CARLSON: One minute. [LB568]

SENATOR SCHEER: Now I don't know the answer to this and I will have more questions for Senator Harr, but I want the body to listen very closely. We have people that are going to be providing information, technical information about an insurance policy, without taking any insurance courses or education as it relates to health insurance. They're not going to be licensed; they're going to be registered. There's a big difference. And there are no recourses, none, for that individual if something that is said during those conversations goes awry. This has nothing to do with the front service person handing a brochure to somebody. I have not a problem with somebody sitting down next to somebody that is not as proficient on a computer making sure they fill in their name, their address, and their Social Security number. I do have a concern when we try to start explaining different coverages when they haven't been. [LB568]

SENATOR CARLSON: Time. [LB568]

SENATOR SCHEER: Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Scheer and Senator Harr. Senator Chambers, you're recognized. [LB568]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I had nothing whatsoever to do with this bill or the effort to bring to fruition the expansion of Medicaid coverage. That is my own fault. I did not properly assess the lay of the land. You must remember that I come here as a freshman legislator. I know nothing about the participants. And those who did participate did the best that they felt they could under the circumstances and I'm not going to say what all I would have done, because I didn't do it. But you can get an idea from the way I conduct my affairs on other issues how I would have done. I'm not nice when somebody is doing something to hurt those who should be protected. I'm not nice at all. I don't try to be nice. This that we're looking at is what would be called a political decision, a political accommodation or accord that has been reached. That is not to say that because people have agreed to it that it is the best thing that could have been done. Words are important and right now I'll touch on three of them. Briefly, "could" is a word that relates to possibility or feasibility and there's not

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necessarily any judgmental element at all. "Should" brings in moral or ethical considerations. It deals with what under the circumstances would be the appropriate thing to do. This before us represents what could be done under the circumstances given the players and the factors that they're going to play with. Should relates to what ought to have been done if we were going to do what is right. But before we talk about navigators, we need something to navigate, and I'm not talking about finding your way through a program from one part to another. I'm talking about the program of Medicaid and the need to expand it and the moral and ethical obligation all of us on this floor had to see that that was done. But political considerations intervened. Racism intervened. And there is more hatred for our black President than there is love for a Jewish Jesus. So the hatred for a black President overruled that purported love of this Jewish Jesus who was supposed to be a savior to whom you all pray every morning. As a practical, realistic, pragmatic politician, we're past the point of could, past the point of should, and we come to the word "is." We must face, and I for one, reluctantly accept what is. You cannot make a silk purse from a sow's ear. You cannot convert... [LB568]

SENATOR CARLSON: One minute. [LB568]

SENATOR CHAMBERS: ...a backbone made from Jell-O into one infused with iron. You cannot bring sight to the morally blind. And the morally blind are those people who do not see because they refuse to see. And I'm going to have a few more things to say this morning as others of us will. And I think the advice given by Senator Scheer should be listened to. His conclusion may not be the same as yours but you need...we need to pay attention this morning. Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Chambers. Senator Harr, you're recognized, and then the next time would be your close. [LB568]

SENATOR HARR: Okay. Thank you, Mr. President. I just wanted to address some of the issues brought up by Senator Scheer, and they're valid. Unfortunately on the federal level, we are prohibited from providing errors and omissions insurance, so if there is bad advice given...and that's why the navigator bill is written as it is, that they can't give advice and shouldn't be...and that is why they shouldn't give advice and merely state what the facts are, because there is no recourse. And we are prohibited from creating barriers higher than the federal. I think I might have said eight hours. I don't think it...it's somewhere around in there. I don't know the exact hour. It's not as though it's eight hours of, but you have to watch...you have to take some training. I don't know the exact hours. But what I would say is if you do believe that we should have a higher requirement for these agents...excuse me, for these navigators, there's only one way to do that, and that's to become a state-based exchange. When you become a state-based exchange, you are able to set your own parameters of what you think a navigator should and shouldn't be. Under the federal, which is what we have abdicated to, you are prohibited from making any requirements greater than what the federal

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government allows. So I understand Senator Scheer's concerns. And it is too bad that those who are probably the less educated, who are the most vulnerable, who may not even speak English, who may not be able to read very well, will not have available to them an insurance agent or someone who is more knowledgeable in how insurance policies work. But this is what we have chosen by going with a federal health exchange. I would like to see consumer protection on a greater level. But it's very important to remember that the individuals, these navigators, will be going to your hospitals, will be going to your federally qualified health centers, will be going to your nonprofits who fortunately I don't think...they will do as much as they are legally able to do to help their clients. They are strong advocates for their clients and they will know where that line is and they will not cross that line. But they will do everything they can to make sure that their individual that they are servicing receives as much information as possible. I thoroughly believe that. I hope so. Do they have the knowledge of an insurance agent? No. But I think they are great advocates. I think they are great people and I think they will do what they can to help their people that they are providing, to whom they are navigating. So with that I would yield the remainder of my time back to you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Harr. Senator Scheer, you're recognized. [LB568]

SENATOR SCHEER: Thank you, Mr. President. Senator Harr, could I ask you a couple questions perhaps? [LB568]

SENATOR CARLSON: Senator Harr, would you yield? [LB568]

SENATOR HARR: Yes. [LB568]

SENATOR SCHEER: You talked about the education of the navigator. Is there a test, any type of a test that they take at the end of the...at the conclusion of their training? [LB568]

SENATOR HARR: Yes. It is a federal test. But there is, yes. [LB568]

SENATOR SCHEER: And what type of test is that? [LB568]

SENATOR HARR: It is...well, it's a navigator test. The exact test I don't believe has come out yet. [LB568]

SENATOR SCHEER: So we're taking for...we're assuming that the federal government is going to provide a test that we don't know, hasn't been written, we don't know what it consists of, that will provide us as a legislative body and the state of Nebraska's residents' assurance that these folks know what they're doing as of today. [LB568]

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SENATOR HARR: That is, in essence, what we did when we agreed to be a federal exchange instead of a state-based exchange. [LB568]

SENATOR SCHEER: Have we thought about having a state examination for navigators? Had that been part of your discussion? [LB568]

SENATOR HARR: It was. Under federal rules and regs it was prohibited from having anything greater than the federal requirement under...if you're in a federal exchange. [LB568]

SENATOR SCHEER: Okay. Thank you, Senator Harr. Senators, we have a void. If we stop and think about what we're doing, we are trying to provide coverage...we will be providing coverage to those that possibly did not have coverage or will be able to have coverage at a reduced rate than they had before. Those are good things. The problem is the people that may be helping them and will be providing them the assistance, although specifically stated that they're not supposed to give advice, I'm going to suggest that they probably will on occasion be giving advice. It's almost impossible once somebody asks a defining question about a coverage not to consider that advice. They will not have the knowledge of insurance products, certainly not individual ones, because when we're talking about an exchange, there are going to be different companies providing products on that. If they have not been educated in health insurance, how will they be able to know the difference in order to even explain the difference not necessarily telling that individual which is better for them? I'll give you that they will not give advice to the extent buy A, B, or C. But how do they have the knowledge and the technical expertise to be able to explain to that individual that product A provides this and this is what that is, and product B provides this and this is how that reacts? That's not advice. That's technical information. But how do they get that technical information if they have never been schooled or educated in insurance products? This is...and my comments certainly are not to be meant in relationship to the work that Senator Harr and Conrad and Howard put into this, and Senator Lathrop trying to negotiate some type of a resolution to the impasse that they had reached. The law itself, although federal in nature, or federal, does present the state with a void. And somehow we have to find a way to protect those individuals that are going to be purchasing insurance through the exchange that we as a state have opted to join from inappropriate or inaccurate information... [LB568]

SENATOR CARLSON: One minute. [LB568]

SENATOR SCHEER: ...from those that are providing information? Everyone else in the state of Nebraska that will buy a policy, a health insurance policy, will have that protection afforded to them. Everyone of us here that have insurance have that protection afforded to us. But yet when we try to provide those products and services to

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those that are less fortunate and that will be new to the industry, that may have never been able to purchase insurance before and will not have knowledge, we provide them no recourse if they are given inaccurate, even inaccurate technical information. Not advice; inaccurate technical information. What do those folks do? All of sudden they find out that they have much more to pay than what they thought they were going to have to pay because someone explained it inappropriately. This is...this is not inherent necessarily in LB568. It is inherent in the federal bill,... [LB568]

SENATOR CARLSON: Time. [LB568]

SENATOR SCHEER: ...but we have to find a solution. Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Scheer. Those wishing to speak include Johnson, Conrad, Lathrop, Lautenbaugh, Chambers, and others. Senator Johnson, you're recognized. [LB568]

SENATOR JOHNSON: Thank you, Mr. Speaker. And I would like to talk about a program that's part of the Nebraska Department of Insurance. It's a program that us that are seniors utilize. And if you're not in that category, you've probably not had a lot of access to it unless you are an insurance guru and want to read about insurance when you have some spare time. It's called the SHIIP program, S-H-I-I-P, which is the Senior Health Insurance Information Program and it's in the Nebraska Department of Insurance. And I would like to ask Senator Harr to respond to how this compares to the navigator program. This first paragraph, "Since Medicare and other types of health insurance can be confusing, the state of Nebraska has developed a program to educate older Nebraskans and people with disabilities about their health insurance. This program is known as the Nebraska Senior Health Insurance Information Program, or SHIIP. Nebraska SHIIP does not sell any products or policies, does not conduct market research and is not related to any insurance companies. SHIIP not only provides presentations at senior centers and other organizations, but also maintains a counseling program for Nebraskans who request one-on-one assistance. SHIIP counselors provide accurate, objective information; they help you understand your options, so that you can make a better-informed decision." That's a program that I'm familiar with. What we use this person, it's a lady, is for supplemental prescription. What she provides for us, we give her our records or she has access to our records--we authorize that--of what our prescription needs were for last year. She asks us, do we see any changes in that, some coming off or some going on? With that, she collects the data and said here are the insurance companies, here's the group that appears to fit your situation the best. We talk about that. Then we go to here's the program, the four that you've narrowed it down to, and here's the differences. This one has a higher copay than the other one; this one has a bigger deductible; various options as far as what the costs are. If we choose one, they come out with the information and say this will be comparable and this will be your

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anticipated costs. My question is the navigator program, how does it look in comparison to the SHIIP? And I would ask Senator Harr if he would yield to that question. [LB568]

SENATOR CARLSON: Senator Harr, would you yield? [LB568]

SENATOR HARR: Yes, I will. [LB568]

SENATOR JOHNSON: Did you catch the question? [LB568]

SENATOR HARR: I sure did and I was actually over talking to the wise old man, Mr. Marienau, because I did not know the answer and I didn't get a chance to get an answer from him. I can tell you that they are very similar but not the same. I believe when you do the SCHIP you go to your insurance agent, do you not? You do not? [LB568]

SENATOR JOHNSON: No. [LB568]

SENATOR HARR: Okay. And I will say you get...one big difference is, as I understand it, SCHIP you get paid per policy. This you cannot get paid per policy. So that's a big way of how you're funded is the difference. I do know that currently how they are the same is that these federally qualified health centers and 501(c)(3)s do do these programs, and quite frankly, do a good job at it. And so that's why I'm encouraged that they will continue to do a good job as navigators. But I do not...to answer your question specifically, I do not know how they are the same or how they differ because I'm just not familiar with the SCHIP program. [LB568]

SENATOR CARLSON: One minute. [LB568]

SENATOR JOHNSON: Okay. Thank you. Thank you, Mr. Chairman. Well, when we get an appointment with our SHIIP representative, she knows what program we're on. She knows what company we're on because we authorize her to get that information from our pharmacy. I would say this person probably comes closer to helping us, whether you want to call it advising or giving advice. She's more there for information, and I think she has navigated all the resources out there. And so whether it's terminology or not, I'm very comfortable with the way the SHIIP program is structured and I think it serves, at least the clientele that I'm part of, very well. And so I would hope that the navigator program can somewhat echo what the SHIIP program is. Thank you. [LB568]

SENATOR CARLSON: Thank you, Senator Johnson and Senator Harr. Senator Conrad, you're recognized. [LB568]

SENATOR CONRAD: Thank you, Mr. President. Thank you, colleagues. I really appreciate Senator Johnson's real-life example from the programs that I mentioned earlier because I think indeed it reinforces my very point that there's nothing new,

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different, or scary about having community educators helping consumers navigate through the different options that are available to help them meet their healthcare needs. Moving forward, two quick points. One: I believe Senator Chambers' assessment of where we are with this legislation is spot-on. This is indeed a political compromise rather than grounded in policy. But that is part of our work as political animals in a political arena, and moving forward I think that it is the best option on the table and it should be adopted. The other point and the reason I hit my light because I think it's important that again we be crystal clear here. There's been some misinformation and inaccurate information presented about what's required under the federal standard. I don't have time, in five minutes, to read it verbatim so I'm going to give you a highlight, just a highlight, of what's already required in the federal standard: 30 hours of training, not eight...30 hours of training, including standards for certification and recertification. Continuing education requirements: being certified or recertified on an annual basis. Registration with the exchange, certification with the exchange, complete an HHS-approved training and taking a test before carrying out any consumer function. You have to receive a passing score, of course. There are clear conflict of interest standards and assurance, including a written plan to remain free of conflicts of interest during your term as a navigator. There's requirements that navigators inform consumers of the full range of qualified health plan options, insurance affordability programs such as Medicaid and CHIP, premium tax credits, and cost-sharing reductions. Navigators have to be prepared to serve small businesses and their personnel in the small business health options program shop. There are training standards ensuring navigators have expertise in eligibility and enrollment, rules and procedures. The range of QHP options and insurance affordability programs, the needs of underserved and vulnerable populations, rules regarding privacy and security applicable to personal identifiable information, and licensure, certification, and other standards as may be prescribed by the state, i.e., the registration component put forward in AM1545. So we continue to get additional guidance from our partners in the federal system about how these consumer educators will empower consumers to aggressively interface with the exchange and meet their healthcare needs. We will see more guidance over the course of the next few months and probably the next few years, and it's important that we keep a careful set of attention on those standards as they continue to be specified and evolve. But to be clear, again it's 30 hours of training. There's conflict of interest standards. There's clear privacy considerations. There's continuing education. And these are not insurance producers, friends. These are consumer educators. Let's not miss that critical distinction moving forward. Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Conrad. Senator Lathrop, you're recognized. [LB568]

SENATOR LATHROP: Thank you, Mr. President, and colleagues, good morning. I may be standing here to repeat what you've already heard coming from someone else, and so at the risk of doing that I'm going to go ahead and maybe make this point, having



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been involved in this just a little bit. I certainly do not know as much about it as those who were involved in trying to come to a solution and ultimately to this amendment. But let me share with you what this is about. Going forward there are going to be people who have, for the most part, never had insurance before, and they're going to go to places like OneWorld and they're going to go in there looking for care. That's because that's where they've typically gotten care before the Affordable Care Act passed. And they'll go in and someone will ask them, so do you have coverage? And they'll say, well, no, I've never had coverage before. And they'll say, well, come on over here and talk to one of our navigators. And that person...understand something, that person would be a volunteer and probably wouldn't have to do any training except for the nature of what they're participating in and the fact that it's part of the bigger Affordable Care Act picture. And so the navigator sits down with someone who has never had insurance before, mostly, who's scared to type stuff into the computer because the whole process is intimidating, and assists them while they get a plan. And understandably, the people who sell insurance for a living are a little nervous about this: Are these guys going to start becoming insurance agents inside the OneWorld health clinic? That's what's at play here. That's what the concern is and that's what the bill ultimately tries to address. How do they do it? Believe me, and you just heard Senator Conrad recite what they have to do to be a navigator. These aren't just people that they pull off the street that would otherwise be helping over at the Red Cross but today they're going to go down to OneWorld and turn the computer on and then start giving advice about insurance. That's not...they've gone through a lot of training. But here's the thing: In the amendment that prohibited...there's a prohibition against the unauthorized practice of law. Senator Schumacher and I are well aware of that and we're always watching for people that are going to start practicing law and giving legal advice without the background and without the bar exam. Insurance guys have the same thing. It's 44-4050. It's the prohibition against essentially practicing insurance sales. Right? That's in the bill. So those things that are...that we don't want these people to do, which they're prohibited from state law from doing at all anyway, and which they don't want to do, these people do not want to become insurance salespeople. They're trying to help poor people get on to a plan that's part of the Affordable Care Act and now available to them. But if they start doing things that are essentially the unauthorized practice of insurance sales, then they violate subparagraph (2), which is the prohibition found in 44-4050. So that's sort of how this gets policed. But understand, these people don't have any business or interest in being insurance people. They'd be volunteers if the job wasn't so important and if the federal law didn't require so much of them in the form of training that you heard Senator Conrad talk about. [LB568]

SENATOR CARLSON: One minute. [LB568]

SENATOR LATHROP: They are not going into the practice of trying to sell policies to guys like me that can go out and afford one or to buy one for my law firm. They're going to be stationed generally at the clinics, places like that where the folks that have never

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had insurance before come, and somebody helps them walk through the computer screens and fill things in. Now, they can give facts; they can't give advice. And they'll be the first people to tell you, we don't want to give advice; we don't want to do what insurance agents do. And that's why there's that prohibition in there about engaging essentially in the unauthorized practice of insurance sales, and that's what this amendment accomplishes. And then we let these people be. Let them go and sign up and help the folks that need and have this available to them. And for that reason I think AM1545 is a good compromise. [LB568]

SENATOR CARLSON: Time. [LB568]

SENATOR LATHROP: Thank you. [LB568]

SENATOR CARLSON: Thank you, Senator Lathrop. Mr. Clerk for an announcement. [LB568]

ASSISTANT CLERK: Mr. President, the Judiciary Committee will hold an Executive Session under the north balcony now.

SENATOR CARLSON: Thank you, Mr. Clerk. Those still wishing to speak include Chambers, Schumacher, Lautenbaugh, Bloomfield, and others. Senator Chambers, you're recognized. [LB568]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, there's a song--I'm not going to try to sing it--that would be appropriate in terms of some of the lyrics that may be addressed to Senator Howard. You've got to give a little, take a little, and let your poor heart break a little. The song then says, that's the story of, that's the glory of love. But in this setting, that's the story of, that's the end glory of the political process. But as Senator Conrad pointed out, we have to deal with the circumstances we find ourselves in. I will support this bill. I will not be critical of the people who arrived at this agreement. The subject matter itself can be very contentious. But when I put all of what we're talking about today within the context of the Medicaid program as it exists and as administered now and what has been made available through the Affordable Care Act in terms of expanding medical coverage, I don't see how we can avoid discussing what Auditor Foley discovered about the way HHS is messing up the current Medicaid program. Over \$6 million is the figure I believe that was mentioned that has been expended through this program, the components of which are overseen by one individual paid \$28,000 a year. I don't see how the Governor could have the gall to oppose expanding Medicaid coverage for the reasons he gave. As an editorial in this morning's World-Herald points out, he has had two terms to get the ship of HHS righted and he has not done it. Auditor Foley has produced and released a number of very critical and accurate reports condemning what HHS has not done that it should do, has done what it ought not do; and this latest disclosure of what I would call a scandal was

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met with apologies from the head of HHS and some other top officials. That doesn't change anything. And to hit at my colleagues, I was miffed the other day but I didn't even comment on it, when there was a failure, a refusal to override the veto that the Governor put in place relative to money that should go to the Auditor's Office, and it dealt with providing protection against a reduction in staff. I can understand why the administration wants to cripple that office, because you see what keeps coming out. These are not little things--\$6 million. A piddling amount was being offered to keep the integrity of the Auditor's Office intact. And I fault,... [LB568]

SENATOR CARLSON: One minute. [LB568]

SENATOR CHAMBERS: ...on this one, the Appropriations Committee. They should have been concerned about the amount of money that is misspent, misused, and in some cases even criminal conduct may be involved and not necessarily on the part of the mismanaging people in HHS but those who were receiving money that they ought not to have received. But because they have this notion that all nine of them have to forsake their own judgment and stick together. That veto should have been overridden, and the anti-Foley attitude in this Legislature is inexcusable. I don't have enough time to finish right now so I will stop, Mr. President, but I will put my light on again. Thank you. [LB568]

SENATOR CARLSON: Thank you, Senator Chambers. Senator Schumacher, you're recognized. [LB568]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. It's been said that it's not the strong that survive, not the smart that survive, but the adaptable that survive. And it is our ability to adapt that tests whether we are successful or not in so many different fields. We're dealing with navigators today. Those are the people who help people work through a computer program by which people will buy their insurance. And that computer program is called an insurance exchange. Not sure why they didn't just call it a computer program, but apparently sounded better to call it an exchange. And as any of you who have worked with computer programs know, where you click and how you click is important and it leads you to a final "Do you want to check out now?" click on the end of the Web page for those of you who buy things off of Web pages. People need help going that process. And the entire idea of an exchange of what this program would look like and how it would work was optional to the states. The states could do their own computer programming. That's pretty hard when you only have 1.8 million people and it's supposed to be an expensive integrated program that looks at tax records and everything else. But that was the responsibility of the Banking and Insurance Committee to make that decision. Banking and Insurance Committee, however, had faith. We had hope. And we bought the line that, you know, we shouldn't look at that very seriously because, after all, the Supreme Court was going to overrule Obamacare and it would all go away and that cross would be lifted from us. And if we

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even thought about it very much, we might influence the Supreme Court's decision, as if they gave a hoot about what the Insurance Committee in Nebraska did. So we didn't. And then as it was constituted before this year, the Banking Committee learned the Supreme Court didn't throw out Obamacare, put a wrinkle in it but didn't throw it out, largely affirmed it, and we were told not to look at things like essential healthcare benefits, not to look at insurance navigator rules, not to look at whether or not we were going to run our own insurance exchange, because have faith, Romney was going to win, and it was all going to go away and everything would be wonderful again. And that bet didn't come true and that's why we're here today trying to struggle to put the pieces together. Now as far as somebody getting to the end of this computer program and the "click here" and buying the wrong policy is concerned, every policy offered on the exchange is going to have to offer essential health benefits. And because Nebraska defaulted, didn't do what it was supposed to do, didn't conduct the studies it did, and its Johnny-come-lately suggestion that was made wasn't feasible as far as the feds were concerned, we were imposed with a standard of the largest plan available in the state's small group insurance market. That's what people will get when they get through the insurance exchange. And it's not just the poor people that are going buy stuff off of this exchange. If you want the insurance subsidy, which is good for up, I think, to 400 times the poverty level, I think, roughly \$80,000 a family of four, you have got to buy it through the exchange; otherwise, you won't get the subsidy. You can pay more if you like but you have to buy it. This lack of understanding of the program, this somehow faith that if we just say no one more time it will go away, is going to... [LB568]

SENATOR CARLSON: One minute. [LB568]

SENATOR SCHUMACHER: ...cost us a ton of money. And we're going to continue to treat people in an extremely inefficient way that's going to get billed back through the back door through our insurance premiums. Having faith in something which no longer exists is dysfunctional, and that's what we've accomplished and that's what's reflected in this legislation. The best we can do but it isn't maybe the best we could have done. And it's what we're casting the state for another year as we try to somehow bring unreality back to life. Thank you. [LB568]

SENATOR CARLSON: Thank you, Senator Schumacher. Senator Lautenbaugh is recognized. Senator Bloomfield, you're recognized. [LB568]

SENATOR BLOOMFIELD: Mr. President, I'd yield my time to Senator Scheer. [LB568]

SENATOR CARLSON: Thank you, Senator Bloomfield. Senator Scheer, 4 minutes and 50 seconds. [LB568]

SENATOR SCHEER: Thank you, Mr. President. Thank you, Senator Bloomfield. I think what my concern comes down to is do we have an obligation to protect the residents of

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the state of Nebraska or not? I heard Senator Conrad get up and give us the description of what navigators do. One of those was to discuss coverage or explain coverage. We talked about educating. That is what an agent does. He educates you on coverages. They don't tell you which coverage to buy. They explain the different coverages and how they react. We have a system that is going to be in place that does not afford any citizen of the state of Nebraska any recourse to a problem that will...that may exist or will exist when somebody provides inaccurate information regarding an insurance purchase. Again, I am not talking about the person at the front desk of a health center that provides a brochure. I'm not talking about somebody that is actually doing exactly what the bill says in relationship to going through and making sure that all the dots are filled out and the person may not be comfortable working on a computer. But when they start explaining coverage, when they are educating that individual about coverages, that is where the concern comes into place. I will give you an example...and one, I want to clarify, because Senator Lathrop pointed out that insurance guys. I am an insurance guy but I will tell you I have never sold a health insurance policy in my life. I'm not licensed to do so. And why? Because I don't have enough knowledge base behind me for over 30 years of insurance to feel comfortable in trying to help someone buy a health policy. There is a difference. So this isn't me trying to protect my turf. I have no skin in this game whatsoever. What I'm wanting to do is protect those people that utilize the exchange...and Senator Schumacher may be correct, this is what we've got because we selected it. But I got news for him. It wouldn't have made any difference if we provided our own exchange. It would still follow the same federal requirements and that exchange would not have any recourse for any individual that purchased anything with the help of a navigator. Somewhere we need to be able to provide protection for the citizens of Nebraska when they go on the exchange with the help of a navigator, and if some erroneous information is provided to them and it hurts them financially because of that, there should be recourse somewhere via the state or whatever agency that would be falling into place; and maybe the protection has to be given by this floor, I don't know. But we do have an obligation to protect the residents of the state of Nebraska. We are not doing this. I understand that this is a political floor. [LB568]

SENATOR CARLSON: One minute. [LB568]

SENATOR SCHEER: And what I would suggest, having looked at LB568, I feel that that had much more stringent protection for the average citizen of those that would be buying products on the exchange than AM1545. My request to you is to vote no, red, on AM1545 and vote green on the underlying bill LB568. Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Scheer. Senator Campbell, you are recognized. [LB568]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. A

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couple of points that I want to make: I sit on the Banking and Insurance Committee, and spent all of those hours with a number of my colleagues working on the navigator bill, and much appreciate the extended work of the people who then took it to the next stage. Want to remind colleagues of a couple of things. One is not only do you have the regulations that certainly we're going to be under, the ACA from the federal government, because we are a federally based exchange--it's not like we're a state exchange--so that will come into play, but we have an extensive set of regulations on insurance in statute already. And one of the real benefits of this bill, to me the primary benefit, is the fact that you are involving the Nebraska Department of Insurance. If somebody has got a concern about what's happening, they can dial up our own department rather than having to call someone in Washington. And the federal government isn't going to fly out here every time there's a concern or a complaint. That's why it's important to be at the Department of Insurance. Secondly, I want to remind all of the colleagues that if someone walks in and a navigator starts talking to them, and there is some indication that they might reach the eligibility for our current Medicaid Program, they're going to be sent to a whole new door. We put in the budget 170-plus new FTEs for the Medicaid department to handle the ACA. So a number of the people that have not had insurance or not had to deal with it may be what they're calling woodwork people. Those are people that are eligible for Medicaid right now that may not know it or they may not have thought about it, but now they will. So they'll be sent to a whole new door. One of the other aspects of this is, how complicated will it be? Those of us who had an opportunity this past summer to see one of the programs, computer programs that was used, I think from the state of California--Senator Nordquist or Senator Gloor might correct me on that--but it was a step-by-step process and I thought fairly easy to understand and that someone could say, well, now make sure that you put this information in and make sure you get that information in. I think the navigator is going to have that, ask questions, and make sure that you're putting into that program all valuable information. This bill can ensure that Nebraskans have a place to go with a complaint or a concern to the Department of Insurance, who is armed to the teeth already with a lot of regulations that would protect the insurance industry. And with that, I'll yield the rest of my time to Senator Gloor. [LB568]

SENATOR CARLSON: Thank you, Senator Campbell. Senator Gloor, a minute and a half. [LB568]

SENATOR GLOOR: Thank you, Mr. President. And I will be brief, but I will say most of what I needed to say Senator Campbell stated, and I would reiterate her comment about this gets the Nebraska Department of Insurance involved. We have a federal exchange, not a state exchange, that limits our abilities to make decisions about this greatly, so we're doing the best that we can. Without this legislation, the Department of Insurance isn't involved. [LB568]

SENATOR CARLSON: One minute. [LB568]

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SENATOR GLOOR: Without this legislation, the registration that navigators go through resides with the feds, not with the state, so we don't even know where the navigators are or who they are. And it is going to be an extremely small number of navigators, by the way. I would also point out, as Senator Johnson pointed out with the SHIP program, this is a process that's pretty straight forward and one that I went through in my own way back in the days when I had benefits of some kind where I could go on-line and sign up for the benefits offered by my employer, including health insurance. I could do it with the computer or I could pick up the phone and call somebody who would help me understand what my options were. But they didn't know whether I had a spouse who had insurance. They didn't know if I had a child who had extenuating health problems that were out there. They didn't know what my income level was. All information that I would share with an agent, all the things that an agent would help me with, that's... [LB568]

SENATOR CARLSON: Time. [LB568]

SENATOR GLOOR: Thank you. [LB568]

SENATOR CARLSON: Thank you, Senator Gloor. Senator Chambers, you're recognized. This is your third time. [LB568]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. I was not even going to speak on this bill, but I think it's necessary. When I hear the concern expressed about these navigators and no concern, except from a few people, about the refusal of this state to expand Medicaid, then I am sorely miffed. But I won't go into all of that today. I'm going to go back to what was done to the Auditor's Office. I don't like Tom Osborne. He knows it. It's been that way for years. I'm probably the only person in this state who would dare say that. To me, Tom Osborne is just a man and he's been a hypocritical man. When it came to treating the players properly and supporting an effort to give them some measure of compensation or recompense for the hard work they did for the university and provided him a salary and a plush job, he had talked about that being the thing to do. Then, went behind the back of the Legislature and persuaded then-Governor Orr to veto a bill that was a step in that direction and which the chancellor of the university had said they have no objection to because it's in line with what the university was trying to get for the players and trying to get the NCAA to do. Why do I bring that up? Because if somebody that I don't like is doing something that I agree with, I will work with that person. I worked with him on fighting a casino bill, because he was right on that. Auditor Foley and I have had many disagreements, but this Legislature should look at the office, the function of the office and what it takes to make that office function effectively. And the very day that the Legislature refused to override the veto came the information from the Auditor's Office of a disclosure, after discovering information that nobody else knew about. The Legislature wasn't looking for

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it. The Legislature didn't find it. The Appropriations Committee was not aware of it. So the office that has been doing the kind of work that needs to be done, and nobody else is doing, was to have a staff reduction by this Legislature, this Legislature, which had acted on the basis of other reports issued by that office in the realm of child welfare, and action was taken by the Legislature. But when it came to protecting the integrity of the office, the dislike of Auditor Foley overrode everything else. If I can overlook the distaste I have for Tom Osborne, then certainly this body should have been able to overlook the distaste it had for Auditor Foley. And I cannot think of any other basis for the refusal to override that veto. My fault was not in speaking as forcefully as I needed to, but I thought the issue was so clear-cut that even...that anybody should have been able to understand what was at stake. You do not punish an individual who's in an office, and you don't like the individual, by crippling the office. [LB568]

SENATOR CARLSON: One minute. [LB568]

SENATOR CHAMBERS: I talk about the Legislature as an institution and I'll do everything I can to protect and uphold that, but my interest does not stop there. We should be concerned about every activity of the state government, especially when you have an office where things are being done that can be documented and quantified which cannot even be done with the Legislature. What I had thought about doing was either gutting somebody's bill on Final Reading just to make the argument, and that was one of the reasons I had those motions on all those bills, A bills. I couldn't decide which one I was going to try to mess with and who would get heartburn as a result. Knowing that I couldn't get the amendment adopted, I had even thought about crafting a piece of legislation and trying to suspend the rules. [LB568]

SENATOR CARLSON: Time. [LB568]

SENATOR CHAMBERS: Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Chambers. Senator Murante, you're recognized. Senator Murante waives. Those still wishing to speak include Crawford, Bloomfield, and Lautenbaugh. Senator Crawford, you're recognized. [LB568]

SENATOR CRAWFORD: Thank you, Mr. President. I stand in support of AM1545 and I appreciate the hard work of all those who were involved in that negotiation. I was not involved in that negotiation, but I was on the Banking, Commerce and Insurance Committee and so have seen this bill many times, many versions of this bill, and have talked through the different components. And so I would like to stand in support of AM1545 and I would like to spend some time talking about the consumer protections that are in AM1545. I do think that this is...that AM1545 has important consumer protections and I want to make sure for the record and for our debate and votes here that we understand that. I do think the navigators are very much like the SHIP program



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that Senator Johnson mentioned. It is the case that they are able to explain terms and talk to people about what they are doing in terms of understanding what some of the basic concepts are. And as Senator Conrad mentioned, they get 30 hours of training, and in the bill they must pass those exams and they must have continuing education. So the bill includes consumer protections in the forms of the hours of...in terms of making sure they comply with the federal rules in terms of hours of education, and we require that they pass the exams, and we require that they continue with continuing education. That's built into the bill. I have seen SHIIP at work and so I have seen the way that the outreach workers work with someone coming in and when they ask them and talk to them about how to look at the information and how to think about their situation. But when they say, well, which one should I pick, the person always says, well, I can't tell you that; I'm just here to help you understand what the terms are and how you interface with the system. And when I was at the hearing, I asked the director of Insurance about the SHIIP program and I asked, have we had any problems in Nebraska with the SHIIP program? No. So we have not had problems with a very similar program in the state and so I believe that we will...do not expect to have the problems with the navigator program. The main difference, if I remember from the hearing discussion, between the SHIIP program and the navigator program is that the navigator program is a bigger scope. It's also the case that the bill clearly indicates that the navigators cannot do the job of an insurance agent, and that's spelled out and very...and is an important protection there. More than anything else, in my mind, one of the important reasons to pass this bill, in addition to making sure that we have those protections in and, as Senator Campbell said, making sure that our Department of Insurance is involved in this process...even though we defaulted to a federal exchange. What was most important to me is to make sure that we have this in our state statutes so that Sam Jones, you know, in Bellevue doesn't say, hey, you know what, I think I'd like to be a navigator, and put a shingle out, put an ad out, call themselves a navigator. It was important to me that we had this in place so that we are protecting the consumers from someone who just decides, hey, I'd like to be a navigator. I wanted to make sure we have in our statute, here's what a navigator is; it's not an insurance agent but there are standards you have to meet to be a navigator. And so I believe that this AM1545 accomplishes all of those pieces that are necessary to make sure that it's protected. And in terms of its comparison to the old bill, really it's not the case that if you vote against AM1545 that we default to some strong protection in terms of recourse. I mean the only thing that you get if you don't vote for AM1545 is a possibility of a fine,...  
[LB568]

SENATOR CARLSON: One minute. [LB568]

SENATOR CRAWFORD: ...and I don't think that that really is the recourse that you might be concerned about. I believe AM1545 provides the necessary consumer protections, especially as we're starting this program, and I urge you to vote in favor of it. Thank you. [LB568]

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SENATOR CARLSON: Thank you, Senator Crawford. Senator Bloomfield, you're recognized. [LB568]

SENATOR BLOOMFIELD: Mr. President, I'd yield to Senator Scheer. [LB568]

SENATOR CARLSON: Thank you, Senator Bloomfield. Senator Scheer, 4 minutes and 50 seconds. [LB568]

SENATOR SCHEER: Thank you, Mr. President. Thank you, Senator Bloomfield. I want to respond to a couple things that were said, first by Senator Campbell, that one of her thoughts of the positive nature was that we do have the state of Nebraska Department of Insurance looking after these people; that if you have a problem you can call the state Department of Insurance. Well, that's true. But I will tell you, you can call the state Department of Insurance, if Bill Kintner happens to try to become a navigator, and they will tell you that they have no authority over him because he's not a licensed agent. And even if this person is, again, a registered navigator--they're not licensed, they are registered--there is a difference, folks. So when we talk about all the laws on the books that protect us for the Department of Insurance, take a look, folks. This is a brand new being. This is a registration; this is not licensure. All the things that are in the Department of Insurance have to do with licensed agents. I'll defy you to go find me something that deals with registered navigators in the statutes. It's not there. That's because they're not here yet. There is no protection with the Department of Insurance. And if they do something wrong, the only thing that they can do, as a department, is either remove the registration or temporarily confine them not to be able to perform those services or whatever the third one was. Can't fine them. Can't do anything. And back to my original point, which no one, absolutely not one person, has refuted on this floor this morning, is where is the protection for the consumer? There is none. Senator Campbell has talked about, well, you know, the great deal of these people will become the woodwork clientele. That has nothing to do with what we're talking about. Those folks will be going to the Medicaid Program. That is a state-sponsored program. They're not purchasing anything. They are being given a product and services. We need to think pretty hard about what we're doing here. These are...we've heard a lot about, from Senator Johnson, about the program he used. But let's remember, these folks are not sophisticated buyers. If they were, they wouldn't need someone to help them go through the program and tell them what the different coverages are. If they are in need of that assistance, then we need to protect them if somebody gives them the wrong information. That's all I'm talking about: Where is the consumer protection? There is none. Senator Crawford made the point, well, she asked and there hasn't been a problem. Well, my concern is what happens when there is a problem? We develop laws based on what can happen, not what has happened. This is a brand new process. It is not comparable to anything we have right now on the books. [LB568]

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SENATOR CARLSON: One minute. [LB568]

SENATOR SCHEER: So for us to make assumptions that it's like this, so we haven't had problems, we're not going to, don't think that's fair. Is it fair to say that we've got the Department of Insurance involved so we don't have to worry? No, can't say that, because they don't have anything on the books that define navigators. There is a big void here. We are putting our citizens and residents at risk with not having any recourse available to them for any information that is provided to them by navigators or anybody else. And again, I am not talking about the person that is helping them fill out the forms. I'm not talking about the person that walks in and they hand them a pamphlet. Those are not what I'm talking about. I'm talking about when they define information and they define coverages and they are wrong, and people make a buying decision based on inaccurate information. Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Scheer. Senator Lautenbaugh, you're recognized. [LB568]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I wonder if Senator Harr would yield to a couple questions. [LB568]

SENATOR CARLSON: Senator Harr, would you yield? [LB568]

SENATOR HARR: Yes. [LB568]

SENATOR LAUTENBAUGH: Senator, are the federal regulations regarding navigators somehow not sufficient or are they heavily regulated now? [LB568]

SENATOR HARR: I guess what I'd say to that is that regulation of exchange navigators at the state level is one of the few actions that state lawmakers can take which is supported by the federal government under Obamacare. And that's true both in the federally and the state controlled exchanges. The HHS, the federal regulators, have stated that the authority to regulate navigators extends to the state where a federal navigation system exists. [LB568]

SENATOR LAUTENBAUGH: I guess... [LB568]

SENATOR HARR: So are you asking that do they have the authority? Is that what you're asking? [LB568]

SENATOR LAUTENBAUGH: No, I'm asking are the federal regulations adequate as they are to cover this or do we need to do this at the state level? [LB568]

SENATOR HARR: We need to do this at the state level because there is...while it is

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duplicative, government closest to the people is probably the best government so that you are able to respond more quickly. There isn't necessarily a consumer affairs set up underneath the navigator program as there is in the Nebraska Department of Corrections...or Insurance. Let's correct that. [LB568]

SENATOR LAUTENBAUGH: (Laugh) And I'm assuming other states are weighing in on this as well. We're not alone in this, are we? [LB568]

SENATOR HARR: No. As of May 15, the last time I looked, there were...I believe it was 33 states, but I know Illinois just passed it last week and I believe Indiana has too. So I think we're pretty high up there. It's definitely the majority of the states have some form of navigator policy. [LB568]

SENATOR LAUTENBAUGH: Okay. Thank you, Senator Harr. Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Lautenbaugh and Senator Harr. Senator Karpisek, you're recognized. [LB568]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. That was, I thought, a very good question of Senator Lautenbaugh, as what happens if we don't do this. I haven't been involved with this bill much, other than sitting by Senator Conrad and hearing a little bit about it. I think that we need to vote for the amendment. I know that it's been worked on a lot. I also have the same feelings that Senator Scheer does and what's going to...what happens here if something is wrong. But also, I think when bad advice is given, it's a little bit of who's the judge of if it's bad advice or not. And I realize that these people probably don't understand how to pick an insurance program, but if they pick a higher deductible and then need it, I mean it's just like any of us picking an insurance program. It depends. If the higher deductible...if you don't use it, it's fine; if you need it, it's not. It's kind of a...it's a little bit of a gamble. But I think we need to move this. I think without the amendment the bill doesn't go. I think we need the amendment and move the bill. And Senator Lautenbaugh talked about, I think this needs to be done here and moved on. And with that, Mr. President, I would yield the remainder of time to Senator Chambers, should he wish to take it. [LB568]

SENATOR CARLSON: Thank you, Senator Karpisek. Senator Chambers, 3 minutes. [LB568]

SENATOR CHAMBERS: Thank you, Senator Karpisek. Thank you, Mr. President. As I stated at the outstart, this bill I'm going to support. I have no criticism of anybody who played any role in bringing the bill to the condition it's in, and it's the only vehicle we have for the purpose of navigating these floodwaters. But I'm going to go back to the Auditor's situation, because I'm not just going to condemn in vague, indefinite terms, but

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I want to hit the Legislature, the obligation and responsibility we have. What I was going to say earlier when I ran out of time, I had even considered having a bill drafted and I was going to talk to the Fiscal Office, not to make them complicit, but a way to restore, through a legislative enactment accompanied by an A bill, the money unwisely vetoed out by the Governor and irresponsibly not overridden by the Legislature. Then I would have presented it and I would have had to make a motion to suspend the rules that allow us only ten days for the introduction of legislation. And during the discussion of that motion, I would be able to say everything that was on my mind about what was done in the case of the Auditor's Office. I'm going to tell you all one thing. If Jack the Ripper was over there and I knew he was Jack the Ripper but he had not been brought to justice and, based on the law, was lawfully in that office, I would support giving money to an office presided over by Jack the Ripper when that office was doing what the constitution, what the laws, and what the people expected to be done... [LB568]

SENATOR CARLSON: One minute. [LB568]

SENATOR CHAMBERS: ...of that office. It doesn't matter who that person is and whether we like the person or dislike the person. Show me any office, including the Attorney General, who occasionally will jump on a bandwagon when some big company has had to pay a fine, but somebody who dug up problems in this state of a magnitude that is before us in just this latest scandal. And everybody wants to soft-pedal it and say there have been apologies all around, that the top officials are going to make sure that no additional harm occurs in this particular area, but there is nothing done to really rectify the damage that has already been done, and we aided and abetted and aggravated that bad situation. [LB568]

SENATOR CARLSON: Time. [LB568]

SENATOR CHAMBERS: Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Chambers. Senator Gloor, you're recognized. [LB568]

SENATOR GLOOR: Question. [LB568]

SENATOR CARLSON: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB568]

CLERK: 26 ayes, 5 nays, Mr. President, to cease debate. [LB568]

SENATOR CARLSON: Debate does cease. Senator Harr, you're recognized to close on AM1545. [LB568]

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SENATOR HARR: Thank you, Mr. President. And just like a very good Academy Award speech, there are certain people I forgot to thank. I want to thank Senator Schumacher for his work in mediating on this as well; Senator Campbell; the entire Banking, Commerce and Insurance Committee. And I would be remiss and I save for last and certainly not the least, Bill Marienau, legal counsel for the Banking, Commerce and Insurance. His tireless work in this effort cannot be understated (sic). He has been a strong advocate of the facts and in trying to find a solution, and so I really want to thank him for his patience as well. Folks, we can't let perfect be the enemy of good. As you can see, there's not quite agreement on how we should be doing this, but this is a good, solid compromise. The registration requirement in LB568 and AM1545 is a mechanism that allows Nebraska to have jurisdiction over navigators and the ability to take action if necessary. It is not a barrier, a burden, or a roadblock. In fact, a person can obtain a navigator license by being 18 years of age, passing the federal navigation exam, and identifying the entity for which they are affiliated. The bill requires a license, but the bill...but the license is easily obtained. It does not create an additional liability for navigators. The suggestion that the Nebraska Department of Insurance would have jurisdiction over navigators without LB568 and AM1545 is somewhat inaccurate. While the Department of Insurance does have the ability to issue a cease and desist order for violating insurance laws and then file a suit in district court, it does not have jurisdiction over people or entities that are not licensed in industries regulated by the department, i.e., navigators. Hopefully, Nebraska regulators--the Department of Insurance--will not need to ever take action against a particular navigator, but it is important that we have the ability to act when necessary on behalf of our fellow Nebraska consumers. LB568 is a consumer protection measure which provides for registration and regulation of navigators by the Department of Insurance, nothing more, nothing less. I know there are concerns. I want to first of all, Senator Schumacher did a great job of summarizing the whole issue. He made a very complicated issue seem simple. So if you listened to his speech, you learned a lot. I know I did and I'm always enlightened when he speaks. One of the important things that may not have been brought up yet but I think is important to note is that...and Senator Schumacher alluded to it, as did Senator Crawford, and that's the fact that these insurance policies are prescreened, so they've already got, in essence, a "Good Housekeeping Seal of Approval." So these aren't just a lot of policies. They've been approved and they're now part of the navigator and the exchange or marketplace, depending on how up to date you are. So there are a lot of amendments in AM1545. Like I said, I think for the most part... [LB568]

SENATOR CARLSON: One minute. [LB568]

SENATOR HARR: Thank you...I think they're for the best. And with that, I would yield the remainder of my time to Senator Chambers. [LB568]

SENATOR CARLSON: Senator Chambers, 50 seconds. [LB568]

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SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Harr. And I will use the few seconds remaining to join in the accolades directed towards Senator Schumacher. I call him the "Professor." And I've actually told him that when he explains something he starts out at the beginning and carries us right through from there to where we are now so we'll understand what it is we're dealing with. And even though there may not be the attention given to it on this floor that ought to be the case, there are people watching. The transcript can be obtained, and I think would be very good, productive reading for anybody interested in this matter. Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Chambers. You've heard the closing on AM1545. The question is, shall the amendment be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB568]

CLERK: 34 ayes, 1 nay, Mr. President, on adoption of Senator Harr's amendment. [LB568]

SENATOR CARLSON: The amendment is adopted. [LB568]

CLERK: I have nothing further on the bill, Mr. President. [LB568]

SENATOR CARLSON: We do have people wishing to speak concerning the underlying bill, LB568. Those are Bloomfield, Schumacher, Scheer, Krist, and Chambers. Senator Bloomfield, you're recognized. [LB568]

SENATOR BLOOMFIELD: Thank you, Mr. President. Senator Chambers and I will probably be voting differently on this particular bill, but I am in complete agreement with him on the short shrift we gave the Auditor's Office. And I would yield the rest of my time to Senator Chambers. [LB568]

SENATOR CARLSON: Thank you, Senator Bloomfield. Senator Chambers, 4 minutes and 40 seconds. [LB568]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Bloomfield. And the reason I'm going to continue, I think the work on this bill has been done. The adoption of the amendment means that it's going to move forward. But for all I know--now don't you all applaud--I could croak before we come back Monday and I would probably have been cremated. I'm not trying to hasten that. But when I have the opportunity to do something that I think ought to be done, I take that opportunity and I attempt to do it. I don't want the Legislature to feel good about what was done by not overriding that veto that the Governor handed down against the Auditor. Can you not understand the negative political fallout when you have an operation as huge and

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far-flung and widespread in its reach as HHS and you're the Governor and every time you turn around there is a serious flaw, investigations of every variety, and HHS has never come forth clean? You can understand why the Governor would want to cripple that office, if you thought about it. But all you can see is a tall guy that you don't like. Well, from out of the East a stranger came, a law book in his hand, a man, the kind of a man the West would need to tame this troubled land. But the point of a gun was the only law that Liberty understood, and when the final showdown came to pass a lawbook was no good. Now in this, which is Liberty Valance? Which is the stranger from the East? Well, Foley came her from somewhere else. And the landscape of Nebraska, as far as HHS, did need some taming, and that's what he attempted to do. But there was a showdown between these two individuals--Liberty Valance and the guy from the East. Liberty Valance was a gunfighter, a gunslinger, a killer; and the guy from the East wasn't. Liberty Valance had two guns; and the guy from the East had a lawbook. So when they met in the street, everyone heard two shots ring out. One shot made Liberty fall; the man who shot Liberty Valance, he was the bravest of them all. But in the movie, he really wasn't. You know who shot Liberty Valance? John Wayne. John Wayne had a rifle and he had a flunky who gave him the rifle. And while Liberty Valance was looking at the person in front of him who was to be the sacrificial lamb, John Wayne was drawing a bead on Liberty Valance. And from the shadows in the alley in the small town, in the nighttime, John Wayne shot Liberty Valance, and that certainly did not take any bravery. So... [LB568]

SENATOR CARLSON: One minute. [LB568]

SENATOR CHAMBERS: ...the Legislature...the Governor is Liberty Valance; Foley is the man from the East; and I'm the one who attempted to shoot Liberty Valance. But the Legislature spiked my weapon, took away my ability to do what needed to be done. But by taking the ability from me to do it, the Legislature did not step in and do that work itself, and I think it's to the shame of the Legislature that it did not. Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Chambers. Senator Schumacher, you're recognized. [LB568]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Senator Scheer raises some good concerns. How do we know that when the person gets to that computer page that says select and click here to checkout that they will not have made a mistake? And the way we know is because everything that they can select is preprogrammed. It has the essential healthcare benefits, that we didn't select because we waived our right to select them but the federal government selected and reviewed. It's like selecting from a list of five cars. Every one has got to have a windshield wiper, a transmission, an engine with certain capacity. One may be a Kia, another may be a Mercedes, but, by and large, they all have the essential features of the plan. And that's



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the consumer protection built into the selection part of the mechanism. I think while Obamacare is here, it is not going to collapse, it's not going to go away, it's not going to be repealed, it's going to become institutionalized, all those things, it will evolve. And people in good faith, states in good faith across this country, working together to take what is for certain an imperfect product and have it evolve, in this case regarding navigators, to include the talents and the physical facilities of folks who spent their life in the healthcare business. They should be included in the process as agents instead of somehow excluded. I think we will see that evolution provided we put aside the animosities and the differences and start working together to modify to evolve this mechanism into something that is workable. This is a small step in that direction. It gets our state Department of Insurance and some level of local control involved, so as the federal system evolves, we are able to become involved in the management and the adaption and the customization of the program to best fit our needs and we will give the federal government, as evolution happens, the ability to withdraw from some of the predicament it was put in when states said, look, federal government, we're defaulting to the federal exchange; we didn't study it, we don't know for sure, but whatever, we're defaulting to you, putting the federal government in a rather precarious situation in having to do it all for those states that defaulted. But I think that we can work together. We have no alternative. What we had before was failing--10 percent insurance increases a year. Together, with small steps like the one that Senator Harr has brought us, we can begin to build a strong and smart healthcare system, and that's what this is all about. It's not about fights. It's not about trying to hope that something will fail. It's not about trying to win the next election. It's trying to deal with the problem that we have with healthcare and the cost of healthcare, and together, as Americans, we should be able to do that. And if we can't, we deserve the penance we will pay. Thank you. [LB568]

SENATOR CARLSON: Thank you, Senator Schumacher. Senator Scheer, you're recognized. [LB568]

SENATOR SCHEER: Thank you, Mr. President. Ironically, I will rise to support LB568 in its amended form. It is not necessarily what I would have liked to have seen, but I'm not naive to think that nothing is better than something. We have to have something in place, and this is the vehicle to do that. I might find myself in a year or two looking back and seeing that I was raising issues that perhaps didn't exist. I don't know. I don't know today anyhow. And perhaps I raised some issues that we should have looked at more soundly than we did this morning; don't know that either. But I do know that we need to have something. This will be taking effect on October 1 and we need to have something in place that at least protects the citizens of the state to whatever extent this does. It may be exactly what we need. Unfortunately, we won't know. We don't really know exactly what navigators are going to do. We don't know how they're going to be trained. We don't know how they're going to be tested. This is a whole new being. Once we know more about that, perhaps next year we'll make changes. Maybe next year will be

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too soon and we won't really fully understand exactly the extent that they are doing whatever it is they will be doing. But at least we will have something in place that will have some protections for the citizens in the state. We'll have some directions for those navigators, at least from a state basis. And so from that vantage point, it is a good policy to have something in place. And with that, I would support and urge you to support LB568. Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Scheer. Senator Krist, you're recognized. [LB568]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. In response...not in response to LB568, because I am in total support of the bill, but there have been several comments made about the Auditor's function and the lack of override, and I do agree with Senator Chambers to some extent. But I would like to remind the body that we may have made a decision, but that decision can be reversed in some ways. I wonder if Senator Mello would yield to a question. [LB568]

SENATOR CARLSON: Senator Mello, would you yield? [LB568]

SENATOR MELLO: Yes. [LB568]

SENATOR KRIST: My premise here, Senator, is that had that audit report been released a few days prior to us making a decision based upon the veto, we may have had a different response. And we did follow the Appropriations Committee lead on the overrides. I do appreciate the hard work you've done. But in light of all the things that have happened and in some of the conversation that's gone on here this morning on the mike, for the record, as I understand this process, the Auditor could come back or we could come back with deficit requests next year and restore some, if not all, of what we have taken away. Is that correct or would you correct me if I'm wrong? [LB568]

SENATOR MELLO: Senator Krist, and, yes, you are correct. The State Auditor, next year, in preparing his office's midbiennial budget request, could put forward a deficit request for the current fiscal year of the amount which was vetoed, line-item vetoed by the Governor, which the Legislature chose not to override, as well as he could put a request in for the next fiscal year as well, which was also line-item vetoed. That's an option that the Auditor's Office, as well as every state agency, has that ability come next year when the Appropriations Committee and the Legislature as a whole takes up the midbiennial budget adjustments. [LB568]

SENATOR KRIST: Always ending things on a positive note would be my goal, and I believe that that is something that we need to look for. January is not really a long time away. So we can make a different decision as we come back into session in January. And again, agreeing with Senator Chambers about 80 percent of what he has said here

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today, but my personal experience and what I have talked about on the mike over and over again is the experience that I've had in the Health and Human Services Committee and watching Director Chaumont dismantle, and I think I'm using an appropriate word, dismantle our Medicaid Program at the expense of saving money; taking away services when a child turns 21, taking a feeding tube away from them, as someone who has been under care for their entire life. But because they are now 21 years old, they are no longer eligible for Medicaid. And I think the audit was very clear in saying some of those Medicaid dollars could have been spent and it would have been a better option than what was exercised within the body. And I believe I've been saying that in my own committee, in Health and Human Services, for the last few years. So it's a wake up call, but I don't think that we have crossed a line that we cannot come back and address next year, knowing the process. And I thank Senator Mello for reminding us of what is possible. Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Krist and Senator Mello. Senator Chambers, you're recognized. [LB568]

SENATOR CHAMBERS: Thank you, Mr. President. People might wonder why I do like this on a day when we can get out of here early. We're in session, and I'm going to do what I think I need to do whenever we are called here. And if it means being here all day, I will do it. I like what Senator Krist said, but I have to disagree with him on one thing. He said that from now to January is not really a long time. Oh, it's a long, long time from May to December, and for me, it's an excruciatingly long period of time. Now I think I've demonstrated that I will stand up for what I believe and fight as hard as necessary. We started out on LB613 with me trying to get that sales tax authorization undone. The part that I really wanted ultimately was undone. I had told the Speaker and I had mentioned when I was engaging in some of my extended debate that everything that needs to be passed will pass, and that's the case. But I added, not everything that should pass will pass, and that also is the case. So here's what I will say today. And my memory is long. My memory is long...is as long as my life, and I've been here going on 76 years. And I remember what I need to remember and I forget what I want to forget. But if I have to remember what I forgot, you'll see that I remember it when necessary. If that deficit appropriation is not acted on favorably, you can take this as a threat, a promise, or anything you want to...and I don't speak out of emotion. There may be emotion in my voice but I've thought about what I'm doing and what I'm saying. If that Appropriations Committee doesn't do the right thing, I will tie up the budget. Thirty hours we debated the budget bills this year. That will be as nothing. And if you think I can't do it, test me. When Senator Foley was a senator here, he and I fought like scorpions in a bottle. But you have to mature. You have to look beyond those kind of things and consider what the lay of the land is now. I didn't need this latest disclosure by the Auditor. I have been aware of things that that office has done. And we shouldn't need some big fireworks display just before we take a vote to cause us to vote the way we should. We can think. We can remember. We can analyze, then we can synthesize. We

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put things together and we arrive at a conclusion to which we apply our best judgment, and our judgment should have been that the Auditor's Office has functioned more efficiently and effectively than any other office in this state, and I defy anybody to show me one that has done a better job, especially the Legislature. Why, I would give you an F, but somebody else may give a different grade. So on that score, like others, there are differences of opinion. But like I told some of those lobbyists, especially some of the people with the League of Municipalities, I've got a vote on this floor and you don't. I have a voice on this floor and you don't. So do all you want to do out there in the lobby, but you have to contend with me in here. And I can use the rules here to punish the Legislature, and I choose that word on purpose. [LB568 LB613]

SENATOR CARLSON: One minute. [LB568]

SENATOR CHAMBERS: If this Legislature does not behave as it should toward one of the most effective offices in this state, it will be my job to become the punisher, not the destroyer, the punisher, and I will enjoy it. And I got something to say next time I'm recognized that the "Parson" can verify as far as the accuracy of what I say, but he might disagree with the conclusions that I draw therefrom. Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Chambers. And your light is on again. [LB568]

SENATOR CHAMBERS: There's a verse that says: Vengeance is mine, saith the Lord; I shall repay. Now if the "Parson" were able to acknowledge, he would agree with that. Do you know why the Lord that you all pray to said that the Lord will repay? Because vengeance...what is the expression? Revenge is sweet. Revenge is sweeter than honey. It is sweeter than high-fructose sugar or syrup. It is the sweetest thing known to a human being, and your Lord knew that. You think that an apple was what was eaten in the Garden of Eden, even though no fruit was named by name? Vengeance was the forbidden fruit, vengeance. And that voice of God walking in the garden said, stop them from eating that fruit because if they eat that fruit they will become as gods. And that God you worship said that vengeance is His, but once you tasted of it, you now are as a god and you're going to reek that revenge yourself. But it is so sweet, so dangerous that it should be applied, invoked only by a god. A human being cannot handle it appropriately because there will be collateral damage. As when your President sends those drones to kill people, innocent people are killed, but they're just collateral damage. So when I reek my revenge, there may be some collateral damage. But, brothers and sisters, it is going to be sweet. But I'll tell you where the bitterness in the form of an aftertaste occurs, and I will know that in the beginning. It shouldn't even be necessary that that point be reached where somebody on the floor of a Legislature is going to talk about reeking revenge against the Legislature of which he is a part. But I believe in flying a flag that lets you know what I am. I will not fly a flag to get close to you that has

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a red cross against a white background, and then when I'm close enough I strike that flag and I run up the Jolly Roger. And you know what the Jolly Roger is and you know what it's for. The Jolly Roger has on it the same thing that was the S.S.'s symbol--the death's head with crossbones. That means I'm a pirate. And in this territory, everything that happens is done according to my law, and I am the law, and I'm going to take what you've got and you cannot stop me. And you better just hope that I don't take your life along with it. I'm not going to fly the red cross flag. If you think what I'm talking about is like a pirate, make it whatever you want to make it, but I'm trying to identify and describe it so clearly so that when and if I have to do it, nobody can say, I was surprised. I am very much offended at what this Legislature did by not overriding because they did it for a flawed and inappropriate motive. If you really thought that the work wasn't done, you should have challenged me when I was up here even telling you that Foley could walk on water, then told you that if it was frozen into ice. You should have called my hand. [LB568]

SENATOR CARLSON: One minute. [LB568]

SENATOR CHAMBERS: But you couldn't, so you sat there. And nine people who could have made the difference and understand when money is inappropriately spent, taxpayer money, as everybody talks about here, they could have made the difference. But they chose not to. And where is the hottest place in hell? Those who maintain a position of neutrality under circumstances that involve a moral crisis. So the nine know which of those nine rings of hell they deserve to be in, speaking allegorically, of course, because I'm more merciful than your God. I wouldn't put Hitler in hell to burn forever. Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Chambers. Senator Schumacher, you're recognized. [LB568]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I was rather intrigued by Senator Krist's suggestion and Senator Mello's confirmation that perhaps this anomaly that we brought upon ourselves could be handled with a deficit appropriation after the first of the year. I've been in the executive branch of government "middlely," just at the county level as a county officer. One thing that a person does not want to do in those positions, and I would assume somebody as decent and honest as Mike Foley would not want to do, is deliberately overspend their budget on the assumption that they were going to get a deficit appropriation of some kind. That's not the way to run business. But I think, as we contemplate our failure to override that portion of the vetoes, we probably, at least 30 of us, figure there was a mistake made. It would have taken 30 people to override that particular veto. And the fact there were not 30 is probably due to the fact that this ill-advised or maybe historic, or whatever it is, pact among the Appropriations Committee to vote consistently. Well, the wisdom of that pact notwithstanding, that pact does not extend to a legislative resolution. And as I

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understand the rules, you can introduce a legislative resolution, suspend the rules, introduce a resolution and pass it as the very last item of business on the last day of the session. So one thing we might consider doing over the weekend and thinking about whether it would be the right thing to do is to pass a legislative resolution resolving that should the Auditor's Office come in with a deficit request at the beginning of the next term, that we will approve it and that we...he has our implicit consent to go ahead and do it. And then we...all we need to do is stand by our word next year. I think that would give sufficient indication to the Auditor that we recognize, particularly in light of that last report, that we need his efforts, we need his continued good work, and we're surely not going to deny him the funding that would be necessary in order for him to continue that. It's not our intention to cut his budget, not our intention to choke his office. And we've got a chance now to signal to him what our intentions would be, very consistent with apparently what is our power with deficit appropriations. As, and I thank as Senator Krist and Senator Mello for pointing out that as an option, I think we need to indicate to him that we are prepared to exercise that option. Thank you. [LB568]

SENATOR CARLSON: Thank you, Senator Schumacher. Senator Chambers, you're recognized. This is your third time. [LB568]

SENATOR CHAMBERS: Thank you. Members of the Legislature, you notice how when "Parson" is in the Chair, he never says this is your last time. He says this is your third time, because I have enough alternatives today, and the business of the day is completed, I can carry us till 11:59 p.m. And I haven't had the opportunity to demonstrate that yet. And I didn't take any bill that meant something to somebody, even my opponents, and do that on their bill. And I will not try to torpedo this bill. But there's enough time, no matter what I decide to do, to let the bill go forward. But if it's necessary for me to find a way to speak again, then I will do it. And in fact, for those gunsels around here, if you think you're going to be in a gunfight, you should never venture forth with a beanshooter. So since people are irritated with me already, I may as well give them a real reason to be irritated with me. I'm going to prepare a motion that will allow me to continue speaking. We all know that this bill is necessary. You may even vote for my motion. That we'll have a chance to see. This is what sometimes you have to be able to do when you have to use a tactic that nobody else has to use, but I'm going to be heard. And let me tell you one of the things that helped harden my resolve. I read a lot of history and I paid attention to those currents that had a lot of effect on the course this country wound up ultimately following. And one of them, as you might suspect, dealt with slavery. And there were people called abolitionists and they put out handbills, they put out pamphlets. They had conventions, they had meetings. They agitated, and John Brown went further. He was a man who believed that faith without works is dead. And he knew the type of people he was dealing with when it came to those who felt that they had the right to recognize and acknowledge property in a fellow human being. So there were some people around the Kansas area who had been terrorizing people around the Nebraska area, and there were people who wrung their hands and said, oh, woe is us,

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this is such a terrible thing that those people from down South who want to put slaves everywhere are doing. But John Brown knew that you fight fire with fire, and he went to that place and took care of business in a way that John Brown knew how to take care of business. And when he was asked did he have anything to do with that,... [LB568]

SENATOR CARLSON: One minute. [LB568]

SENATOR CHAMBERS: ...in effect he said that, well, first of all, he was a very religious man; that he did the right thing and if the Lord gave him the strength and the wherewithal, he was going to do it some more in other places. And when finally he tried to take over an arsenal, some of his sons died. And when he himself went to the scaffold, he didn't ask for mercy. He didn't cry. He did not plea. He knew what they were going to do to him, and he was a man who knew in advance what the cost would be, and he was willing to pay it. So when somebody asks me, has there ever been a good white man, right away I say John Brown, go do like John Brown. They say, well, I don't know if I'm really that interested in being good in the way John Brown was. So then I say don't ask me... [LB568]

SENATOR CARLSON: Time. [LB568]

SENATOR CHAMBERS: ...for my opinion. Thank you, Mr. President. [LB568]

SENATOR CARLSON: Thank you, Senator Chambers. Mr. Clerk, you have an announcement? [LB568]

CLERK: I have some items, Mr. President: a Reference report with regards to a study resolution; Judiciary Committee reports LB392 to General File; Senator Brasch offers LR373, LR374, LR375, and LR376, and those will all be laid over; and a series of amendments to LB57 by Senator Avery to be printed. (Legislative Journal pages 1714-1717.) [LB392 LR373 LR374 LR375 LR376 LB57]

Mr. President, I have a priority motion. Senator Chambers would move to bracket the bill until June 3, 2013. [LB568]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Senator Chambers, you're recognized to open on your motion to bracket. [LB568]

SENATOR CHAMBERS: Thank you. And I may have written the date wrong. I wanted to bracket it until June 1, which would be tomorrow. But it doesn't matter because you're not going to accept my motion anyway. That now puts me in the driver's seat, doesn't it; end as we began. That gives me time to read from this editorial that appeared in this

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morning's World-Herald, and it went from the top of the page almost to the bottom, a subheadline, "Latest audit of HHS," then a big headline, "Taxpayers get 'grand mess.'" Here the World-Herald editorial board, Auditor Foley--and I've had contentious fallings out with both of them--and I are on the same wavelength; the day of miracles has not passed. Reading from that editorial: "State Auditor Mike Foley has thrown another log onto long-burning public concerns about how the Nebraska Department of Health and Human Services manages taxpayers' dollars." And because I have time, I can digress. "A long-burning public concern," and they make the concern, the word "concern," plural. It's ongoing and we on this floor knew it. We knew it, and a couple of our members gave examples of where Auditor Foley had brought significant information to our attention. It says, "Auditor Mike Foley has thrown another log." Well, I would have, where it says "Auditor Mike Foley," if this were a bill I would say stop there. Strike the remaining language and insert the following so that it would read: State Auditor Mike Foley was thrown under the bus by the Nebraska Legislature in one of the most small-minded, stupid acts of revenge that could be done by a civilized...not by, in a civilized society by a Legislature who behaved like adolescents in junior high school with pimple faces and all. But let me go back to reading the editorial: "Foley's examination of a state health insurance program, the latest in a series of critical audits of HHS, brought an apology from top agency officials." And I have to digress. Did you say time? Oh. Mr. Foley, we're sorry you caught us again. That's what they are apologizing for, because they got caught again. How many times do you have to catch them before they'll make a change? Well, they know the gutless Legislature is not going to do anything about it. Continuing: "But the findings indicate a continuing cultural problem in an agency of caring people," that's the editor's conclusion, "who too often seem to forget the source of the funds they give out." It's not a matter of forgetting the source of the funds. It's carelessness, incompetency, and a lack of concern. "These are tax dollars, after all. It is incumbent on Governor Dave Heineman, who has had two terms to right the HHS ship, to make certain that the agency spends each one wisely. The Legislature, too, could step up its oversight, as it did with the troubled child welfare system." And the Legislature had a chance to do the right thing and chose to do the wrong thing, so I can point the finger at HHS; the rest of you, who didn't vote for the override, cannot. You just sit there and be quiet, because you had a chance to help with the oversight that we're not going to provide by making sure the Auditor had the staff necessary to do what they had demonstrated that they will do. Continuing: "Foley and his auditors reported finding 'one grand mess'--significant failures of oversight in a program that was designed to save money. The program helps pay the private health insurance premiums of people eligible for publicly funded health insurance, or Medicaid, but who have access to employer-provided insurance. It pays when the cost of using both private insurance and Medicaid would be cheaper than using Medicaid alone." This is the Governor's watch. This is HHS. This is the Governor, who's against expanding Medicaid when the federal government will pay 100 percent of it. "The program's success hinges on doing a cost-benefit analysis in each case to determine which route is the least expensive. However, not one of the 70 cases examined by the auditors showed adequate



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documentation. In not one case was HHS paperwork available to prove that the costs and benefits had been weighed. If that weren't enough, the audit found incorrect payments in three-fourths of those 70 cases, leading to overpayments totaling more than \$150,000." All of which is under...continuing to read: All of which understandably raises doubts about the more than \$6,500,000 the program spent overall in 2.5 years--\$6.5 million. And you all were over here quibbling about peanuts that you did not want to restore to the Auditor's budget. And this is a quote within the editorial: "The dollar magnitude wasn't the biggest find,' Foley told the World-Herald. 'But the error rate and the magnitude of the breakdown was way up there with anything we've ever seen.'" Continuing with the editorial: "In one case, a monthly private insurance premium," a monthly private insurance premium, "reached more than \$5,000." A \$5,000 premium per month, Senator Watermeier, and in keeping with your 8 percent rule when you purchase something new, you would tell them that is unheard of and totally inexcusable. Continuing: "The administrator flagged it, sending a letter to the individual participant saying the state would no longer pay. But the person still was allowed to remain in the program, and the state eventually paid \$9,000 a month for the individual's private insurance premium. Medicaid clearly would have been cheaper, the audit said. At first blush, the audit's findings could seem the fault of the lone \$28,000-a-year employee," and I bet it was a female, "who oversaw the program. But the problems ran deeper. No manager verified the employee's decisions, a situation that state Medicaid director Vivianne Chaumont says has now changed." But for Foley, it would continue, but for Foley, and you all cut him. He's fighting a nine-headed hydra with I don't know how many tentacles, and he's got two spindly little arms, and you cut one of them off. [LB568]

SENATOR GLOOR: One minute. [LB568]

SENATOR CHAMBERS: Continuing: "HHS oversees more than \$3 billion in annual spending. State and federal taxpayers, who provide the money, deserve more respect for their hard-earned dollars than Foley's audit found." Thank you, Mr. President. [LB568]

SENATOR GLOOR: Thank you, Senator Chambers. Members, you've heard the opening on the motion to bracket. There are senators wishing to be recognized. Senator Mello, you are recognized. [LB568]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I have to respectfully rise and express some disagreement with my colleague and friend, Senator Chambers, in the sense of, one, what the Appropriations Committee chose to do in regards to our report of choosing to override 16 of 25 vetoes that the Governor line-item vetoed. As I mentioned when we discussed that on LB195 and LB198 and LB199, the committee made a priority of choosing aid to individuals and aid to local governments over staffing within state agencies. As I mentioned multiple times on the floor, it was a

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decision we made out of our report to prioritize individuals over state government bureaucracy. I'm not saying that state government bureaucracy doesn't serve a valuable purpose at times, as Senator Foley and his recent audit did, but to some respects, the Auditor's Office is not completely, I would say, always the white shiny knight, so to speak, rushing to the aid of taxpayers in certain instances. As a member of the Performance Audit Committee, I can attest to the Auditor's Office trying to actually get information on individuals' in state government personally identifiable health records. It was an instance where the Governor's Office and DAS had strong disagreement, as was there members of the Legislature who had strong disagreements with the Auditor's Office of them trying to actually get personally identifiable health information for individual state workers. We felt that was an area that crossed a line in the sand, so to speak, in regards to the audit that the Performance Audit Committee had empowered the State Auditor's Office of trying to help us come to some kind of conclusion in our evaluation of the state health insurance program. So I can appreciate Senator Chambers' concern of, one, what this decision was made both by the Appropriations Committee and ultimately the entire Legislature of not choosing to override that specific line-item veto. And as Senator Krist mentioned, the committee chose actually to appropriate more money to the Auditor's budget than the Governor did. And no doubt next year we will take this issue up again. And I have a feeling, obviously the Auditor has done, I think, a very noteworthy job in a number of recent audits of the Department of Health and Human Services that would warrant his budget not being cut the way it was this year. But to lay claim that the Auditor is always in the right and is always making good decisions, is always putting forth audits and information and requesting information that serves the public's interest, I would provide a counterpoint to that because I was involved in that Performance Audit Committee where we raised serious questions about what the Auditor was doing; that his office was requesting information that we felt an Auditor should not be able to get, not only due to HIPAA, because it wasn't serving the purpose of what the Legislative Performance Audit Committee was requesting. The Auditor goes after financial and fiscal information, not performance audit information, not information, documents, and papers that supersedes the focus and scope of what the State Auditor is intended to do. That's why we have a Legislative Performance Audit Committee and our own legislative auditors who do that kind of work. I think the Auditor's recent audits in regard to the LIHEAP Program in HHS, the recent health insurance/Medicaid Program in HHS were good audits that went and, I think, met his statutory obligation of looking at the fiscal side and financial side of what the Auditor does. Sometimes the Auditor, I think, sometimes oversteps his boundaries, which at that appropriate time the Legislature, I think rightfully so, has tried to pull him back from that... [LB568 LB195 LB198 LB199]

SENATOR GLOOR: One minute. [LB568]

SENATOR MELLO: ...and exercised our own auditors and our own legislative auditor's authority in those situations. I think Senator Chambers has made very valid points in the

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sense of we need to revisit this issue next year because the Auditor's Office has been doing yeoman's work in regards to fiscal audits of the Department of Health and Human Services. But I also think the Appropriations Committee I think made good priorities in regards to our decisions to override the Governor's vetoes. We didn't override all 25 of them. We overrode 16 of the 25. And we prioritized what we felt and what we thought the body had relayed to us were the priorities of this Legislature, was aid to those federally qualified community health centers, aid for dental services, aid for public transit, amongst many others. So I can appreciate Senator Chambers' passion on this and can appreciate our disagreement, and I always appreciate when he quotes Dante, which is one of my favorite quotes he used. But I think at this moment in time, we simply chose different priorities. [LB568]

SENATOR GLOOR: Time, Senator. [LB568]

SENATOR MELLO: Thank you, Mr. President. [LB568]

SENATOR GLOOR: Thank you, Senator Mello. Senator Watermeier, you're recognized. [LB568]

SENATOR WATERMEIER: Thank you, Mr. President, colleagues. I rise in support of LB568, but I was against the amendment for many of the reasons that Senator Scheer had mentioned, but I didn't hit my light in regards to LB568. It was as soon as Senator Chambers started talking about the override of the spending for the Auditor's Office. I was in the minority on that vote. I voted for that, but it failed and I was in complete support of it. And I would...rose and hit the button, actually, to give my time to Senator Chambers, and if he's ready, I'll give it to you. But one of the reasons that I was in support of it is any time we can talk about performance measures, whether they're on financial issues or actually health issues or water issues, I'm going to be all in support of that. I also serve on the Legislative Performance Audit Committee, and I understand the concerns of when somebody goes over and beyond what they maybe should be doing. But I'm totally in support of supporting the Auditor's position and the office. I believe it's a key ingredient to what I would like to do in the Legislature, is to make sure that everything has a performance measure on it. So with that, I'd give the rest of my time to Senator Chambers, if he wants it. [LB568]

SENATOR GLOOR: Thank you, Senator Watermeier. Three minutes fifty seconds, Senator Chambers. [LB568]

SENATOR CHAMBERS: Thank you, Senator Watermeier. Thank you, Mr. President. And I thank Senator Mello, because if the Auditor overstepped his bound, then the Legislature, the legislators in a position to do so should pull him back. But Senator Mello might be too young to have heard this song: "Hold that Tiger." It says hold the tiger, don't kill the tiger, just pull him back. But to cut the budget is an act of pique, p-i-q-u-e.

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There was no justification to do that. That money, as Senator Mello pointed out, was put in the Legislature's version of the budget. We out here have confidence in what the Appropriations Committee does, but some of us have more confidence in it than what the Appropriations Committee itself has. And as a member of the Legislature, as a citizen of this state...and I have a birth certificate which I can show, but it could have been forged. I don't even know if I was born. I don't remember being born. As long as I can remember, I have been here. Never was there a time that I remember not being here. But I don't think the Appropriations Committee, even if the Auditor went after information which his office should not have gotten, just slap his hands and say you don't get that; but you don't have to cut the budget. If the Appropriations Committee is feeling a bit of discomfort from what I'm doing this morning, I am glad. That's why I did it. You think I don't want to have an impact? You think I take all this time for nothing, just because I want to talk? I want there to be an impact. And when I brought that motion, I told you all the differences that Senator Foley and I had in this Legislature, but I was looking beyond all of that and whatever I may have felt about Senator Foley then to what we're dealing with now, and that's the office and the work. I didn't say that everything they did is perfect. I didn't use that word. So Senator Mello, I don't think he was trying to misrepresent what I said or misstate it, but he was making a point. And I'd like to make a point based on what I actually said here several times: Show me another office in government that in doing its work is as effective and consequential and impactful as the Auditor's Office has been. That's what I did. I provided a standard by which a comparison could be made. Compare the office to others. You going to compare it to anything in HHS? Certainly not. You can't compare the Attorney General's Office, who deliberately misled the Nebraska Supreme Court and the Douglas County Attorney's Office in trying not only to get a death warrant issued but in trying to back it up. He's not doing his job. The courts, ask Senator Karpisek what he thinks about what the courts have done and ask me what I think about what they've done on occasion. [LB568]

SENATOR GLOOR: Time, Senator. But you are next in the queue. Please continue. [LB568]

SENATOR CHAMBERS: Thank you, Mr. President. There is not perfection anywhere. We don't look for perfection out of anybody, although we may look for perfection out of ourselves; and even if that's not possible to be achieved, some of us will strive for that and not be satisfied with anything short of it. Do you think I'm satisfied with this bill? No. I've pointed out that this is the best that we can get under the circumstances and I'm supporting it, but that's not to say it's what I like or what I want. But we don't always get what we want. I didn't get what I wanted when the "claqueites" prevented us from getting a vote to abolish the death penalty. But that's one of those things that has been going on, as far as I'm concerned, for years, and will continue. I didn't get what I wanted when the "claqueites" managed to forestall a vote on expanding Medicaid coverage. But we just keep rolling right along. We have to go beyond those things. I didn't run down in

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my office and pout and sulk. In fact, when I'm in my office you need to be more afraid than when I'm on this floor. When I'm on the floor, you can watch me and see what I'm doing. When I'm down there, you don't know what I'm doing; you don't know what I'm putting together in preparation for dealing with my esteemed colleagues on this floor. Let me continue this editorial, because I can wrap it up. "HHS oversees more than \$3 billion in annual spending. State and federal taxpayers, who provide the money, deserve more respect for their hard-earned dollars than Foley's audit found. It is heartening to hear from both Foley and HHS that these problems are being addressed aggressively, with tighter internal controls and increased supervision." It's like the thief saying: You've got me; I won't steal again until you're not watching me again. Continuing: "HHS promises its own review of each case and an assessment of the cost effectiveness of the entire program." Foley's office has already dealt with the cases. But continuing: "The agency has replaced the program manager. Those are needed steps, but taxpayers will remain leery." Is that program manager the single individual who was assigned to handle all of this? Was that person the scapegoat, the sacrificial lamb? Was that the only one responsible? Brothers and sisters, whether you know it or not, during the war crimes trials at Nuremberg they were looking at general officers as being largely responsible, not rank-and-file individuals who carried out orders; and some of those higher officials wanted to say, we were only carrying out and following orders. But it was those who were responsible who were the ones put on trial and executed. Continuing: "Foley credits the quick actions of HHS CEO Kerry Winterer and Chaumont for making sure more harm wasn't done. 'I'm glad we have Kerry Winterer and Vivianne on the scene,' the auditor said. 'they are aghast. They want to get it fixed. They want to get it right,'" [LB568]

SENATOR GLOOR: One minute. [LB568]

SENATOR CHAMBERS: After the fact, we all do. "Winterer told the World-Herald that he knows HHS trustworthiness remains an issue. It's the job of everyone who works at the agency to help turn that around, to show that they are as respectful of public dollars as they are of their own." Thank you, Mr. President. [LB568]

SENATOR GLOOR: Thank you, Senator Chambers; and you are next in the queue. [LB568]

SENATOR CHAMBERS: And this is the last paragraph in the article: "As Foley says, when government has the right to reach into people's pockets, government accepts the responsibility to be good stewards of their money." Do you see now how everybody is singing "Kumbaya"? Whose head is the only one to roll? The lowest person on the ladder. That person has been replaced. Others are being praised because they're not going to do it anymore. There was a guy charged with being a thief--one who steals--and the defense lawyer said, "Your Honor, I don't think my client is responsible for what he did; I don't think he is responsible in the sense of how the law reckons

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responsibility. My client could not help himself. There is a term that would define and describe my client. That term is kleptomania. My client afflicted with kleptomania is a kleptomaniac, and he could not help himself stealing." This was one of those judges who injected himself in the proceedings. He said, "Counselor, I'd like to ask you a question." And the counselor said, "Yes, Your Honor." He said, "Are you telling me that your client, being a kleptomaniac afflicted with kleptomania, will be seized with an overwhelming urge--or even stronger than an urge, a compulsion--to steal, to take that which is not his?" And the lawyer, feeling that the judge is getting the message, said, "Yes, Your Honor, that's true." He said, "And whenever your client feels this overwhelming urge or compulsion to steal, he must steal?" And the defense lawyer said, "That's right, Your Honor." And his smile was getting broader. And the judge said, "I have one more question for you, Counselor." And the lawyer said, "Yes, Your Honor." He said, "Has this overwhelming urge or compulsion ever seized your client when he was standing next to a police officer?" And there went the whole case. You've got Jessie James and Frank James over at HHS saying we're going to conduct our internal investigation of the Dalton Brothers, just like when the police through their internal affairs offices will--I won't say protect their fellow officers; I will just make an assertion--say that they're going to conduct an investigation of their fellow officers' misconduct. Once the light is focused on HHS, which official would be stupid enough to say when all the goods are spread on the table, we didn't do anything wrong; everything is done as it should be. They've got to say we're going to not let the harm spread any farther. We're going to take steps to make sure it doesn't happen again. We're going to impose greater controls, greater oversight, more watchfulness. So everybody says, fine, and everybody goes home smiling, except that low-level employee making \$28,000. That person's head rolls. However, there might be hope for that person. The word used was "replaced," not necessarily "fired." [LB568]

SENATOR GLOOR: One minute. [LB568]

SENATOR CHAMBERS: But we don't need this thing of working from the ground up, because they stop after they go about two rungs up. We need to work from the top down and the top is the Governor. If something good had resulted, the Governor would say "my administration." The Governor, the Governor, the Governor, the Governor...how much time do I have, Mr. President? How much time do I have? [LB568]

SENATOR GLOOR: Thirty seconds. [LB568]

SENATOR CHAMBERS: Okay. You can withstand it for that long...the Governor, the Governor, the Governor, the Governor, the Governor, the Governor, the Governor, the Governor, the Governor, the Governor, the Governor, the Governor, the Governor, the Governor, the Governor, the Governor is responsible. Thank you, Mr. President. [LB568]

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SENATOR GLOOR: Thank you, Senator Chambers. Senator Mello, you are recognized.  
[LB568]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. And I want to make sure, at least for those who are still in the body and still engaging in this debate, while it doesn't really evolve around LB568, that Senator Chambers' point shouldn't be lost upon us; that as a Legislature we do have the ability to provide oversight over state agencies. And no doubt, just as this issue came up with Auditor Foley and the Department of Health and Human Services, I received an e-mail from someone who recently resigned a position in the Department of Health and Human Services in the Medicaid and Long-Term Care Division. Their e-mail was to me and said, "My resignation came as a direct result of being improperly trained by the administrator of my program who hired me and then gave me no formal training plan. However, in my short tenure in the Medicaid and Long-Term Care branch of Nebraska's Health and Human Services Department, only reinforces the truths behind the recent stories of the systematic mismanagement in the department itself." I won't go at length of reading the rest of this constituent e-mail that was sent to me in regards to someone who recently was employed in the Department of Health and Human Services, now resigned; and the person is a veteran who felt that they were disrespected within the department in regards to how the department not only is managed but how they treat employees, how they train employees. And I think Senator Chambers' bigger point, outside of the issue of the Auditor's budget, is the ability for this branch of government to provide oversight over the executive and judicial branches. The Appropriations Committee tries to do that on a regular basis through our public hearings, through the Legislative Fiscal Office, through the interim as they look into issues that are brought forward. Fiscal issues, the Performance Audit Committee does that every year through numerous study requests that individual senators bring. But each of us as individual members have that same responsibility as we get constituent e-mails, phone calls in meetings like the one I received last night from a former employee at HHS who only sounds the alarm bells that much further outside of Auditor Foley's recent audit. But there is mismanagement. There are issues within state agencies that we need to dig into, whether it's certain committees or whether it's joint committees or select committees, the Fiscal Office, or the Performance Audit Committee and their staff. I think Senator Chambers' bigger point is that we do have to exercise our oversight responsibility, and that should not be lost on any of us regardless of what happens with the future of the Auditor's budget or any future audits or current audits that the Auditor is currently engaged in; that for our government truly to be responsive, not just on the fiscal side but on the programmatic side is that it requires us as a body to exercise that oversight. So I appreciate Senator Chambers' general theme and general arguments and comments that, yes, the Auditor provides that from an executive branch role. But we as a Legislature have that same authority, as we passed LB613 yesterday to Final Reading, that gives the Legislature a little bit more authority in regards to putting subpoenas out to individual as we seek to provide oversight or to try to get information

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on policy areas that we ultimately feel needs more information or clarification. With that, I'd urge the body to ultimately not support the bracket motion. I think it's a bill that Senator Harr, Senator Conrad, Senator Howard, others, Senator Schumacher, Senator Gloor and the committee--Banking, Insurance, and Commerce Committee--worked diligently on; and I think we need to move forward on it. But I can appreciate Senator Chambers' overall perspective... [LB568 LB613]

SENATOR GLOOR: One minute. [LB568]

SENATOR MELLO: ...of his years of experience of seeing a variety of issues being brought up, not just in HHS but various state agencies, where the Legislature needs to provide that authority. It needs to experience that authority to ensure that where our tax dollars go, that they're trying to meet the purpose in which we appropriated them for. And this recent audit in the Department of Health and Human Services only should raise more red flags for this body moving forward to evaluate what is occurring in that agency as well as other state agencies. Thank you, Mr. President. [LB568]

SENATOR GLOOR: Thank you, Senator Mello. Senator Bloomfield, you are recognized. [LB568]

SENATOR BLOOMFIELD: Thank you, Mr. President. I will be very, very brief. And since we seem to have moved toward political attacks here on the Governor and such, I have to say maybe on the federal level we should be looking at Benghazi, Mr. Holder, and the President, the President, the President, the President, the President, the President, the President. Thank you, Mr. President. [LB568]

SENATOR GLOOR: Thank you, Senator Bloomfield. There are no senators remaining in the queue. Senator Chambers, you're recognized to close on your bracket motion. [LB568]

SENATOR CHAMBERS: Thank you, Mr. President. Obviously Senator Bloomfield and others are not aware of the criticisms I made of this government when they talked about imposing a no-fly zone over Libya and supported people in murdering Colonel Kaddafi and pointed out what was going to happen. I pay attention. I don't...I haven't been in Libya, but I read. There were factions warring against each other there now, and I said America is going to oversee the killing of Kaddafi because Reagan tried it and couldn't do it. Carter couldn't do it. Clinton couldn't do it. And under Obama, they did it...and I condemned him for that more than any of you would dare to do it. And now what have they got on their hands? The revenge of Muammar Kaddafi. He reached back from the grave and he is punishing all of those who unjustifiably made his murder possible. I have been watching what happens in Libya for decades and I watched how Colonel Kaddafi was trying to unite the continent of Africa, and that's what frightened not only the political leaders of this country but those big industries, corporations, that were



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stealing oil from African countries such as Nigeria. Stealing diamonds from South Africa. That's what they cared about, not the people of Africa. So insist that they bring up something about Benghazi, and ask them, why did Congress go along with what was done against Libya and Muammar Kaddafi? Get them all. And Senator Bloomfield's compatriots who run for office at the national level are always talking about doing away with corruption and waste. And look what he's got right here in his own state with HHS. How many of these people here have talked about when they ran for office, we can cut the spending by getting rid of waste and corruption? And here, HHS is sitting up there doing what it's doing, and you don't even look at them. Senator Mello is not the only one who gets this kind of mail. There are people who try to appeal to us to try to get something done and we don't do anything. We yakety-yak. So you don't hurt my feelings when you say "the President." You don't even know what they're doing in the drone program, and I do, not because I'm a part of it. I read. I don't agree with what his administration is doing. I say he was a fool to surround himself with white people and Jews when he got in office, and they've told him you cannot be a black President; don't say anything that will indicate you even have anything to do with black people; and he never did. I'm the one who went to New York and said he's a white man in black face. He appeals to white people. He tries to cheese up to Israel. He's going to let the Israeli tail wag the American dog. Who did he pick to be his head of the Defense Department? Somebody who went, right away, and said: Israel, we're for you all the way. And Israel is going to plunge this country, if it can, into a war with Syria and Iran. And then here's where you're going to see the anti-Semitism. They're going to say: We're not going to go over there and all of our girls and boys be killed for them Jews. Hell no. Pardon the language. But that's what I have read. [LB568]

SENATOR GLOOR: One minute. [LB568]

SENATOR CHAMBERS: Those are the things, if you're going to say "the President," you ought to talk about. Not just because I go after your Governor. It goes way beyond him. But we're talking about the Governor because this is where we are. This is the state. We can do something about this. And you won't. You won't even say anything about it, but I will. And you opened the door for me now, which you should not have done. You can't hold the tiger now. You should have left him alone. But no, you think like the senator who went to George Washington University, that I'm bluffing, that I'm blowing smoke. Well, we'll see who is going to smoke who out today. Thank you, Mr. President. And I'll ask for a call of the house and I want a roll call vote. [LB568]

SENATOR GLOOR: Thank you, Senator Chambers. Members, there's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB568]

CLERK: 26 ayes, 0 nays, Mr. President, to place the house under call. [LB568]

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SENATOR GLOOR: Members, the house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators McGill and Lathrop, please return to the Chamber and record your presence. Senator McGill, please return to the Chamber and record your presence. Thank you, Senator Chambers. Members, the question is, shall LB568 be bracketed until 6-3-13? Mr. Clerk, roll call vote, regular order. [LB568]

CLERK: (Roll call vote taken, Legislative Journal pages 1717-1718.) 1 aye, 35 nays, Mr. President. [LB568]

SENATOR GLOOR: The motion fails. Raise the call. [LB568]

CLERK: Mr. President, Senator Chambers would reconsider the vote just taken on the bracket motion. [LB568]

SENATOR GLOOR: Senator Chambers, you're recognized to open on your motion to reconsider. [LB568]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I was not even going to take that motion to a vote because I wasn't so concerned about going after the bill. But Senator Bloomfield opened a new front. I'd like to ask Senator Bloomfield a question or two. [LB568]

SENATOR GLOOR: Senator Bloomfield, would you yield? [LB568]

SENATOR BLOOMFIELD: Yes, I would. [LB568]

SENATOR CHAMBERS: Senator Bloomfield, who is in charge of the executive department of government? [LB568]

SENATOR BLOOMFIELD: Much as the President is in charge of the federal executive branch, the Governor is in charge of the executive branch here. [LB568]

SENATOR CHAMBERS: Now who appoints people to fill executive positions in the state of Nebraska? [LB568]

SENATOR BLOOMFIELD: Again, much like the President does on the federal level, the Governor does here in the state of Nebraska. [LB568]

SENATOR CHAMBERS: Now, based on what you said earlier, who is responsible when an agency of government in the state of Nebraska does not function as it should? Who is responsible? [LB568]

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SENATOR BLOOMFIELD: I have always believed that the buck stopped at the top, and the state of Nebraska that would be the Governor. [LB568]

SENATOR CHAMBERS: Now when we have information which indicates that there is very serious mismanagement in a state agency, who is responsible to see that that comes to an end? [LB568]

SENATOR BLOOMFIELD: When we're dealing with financial issues, and I assume we're getting back to the--and I know what assume does, Senator--but if we're going back to what the Auditor discovered, the ultimate authority would again lie with the Governor. But he needs to be made aware of it. And again, as with the President, if that has been done then it lies there. [LB568]

SENATOR CHAMBERS: Senator, how long have you been a member of the Legislature? [LB568]

SENATOR BLOOMFIELD: This is my third session. [LB568]

SENATOR CHAMBERS: You, therefore, have some knowledge of how the political system works and you probably had that knowledge even before you came here. Would you agree? [LB568]

SENATOR BLOOMFIELD: Somewhat. [LB568]

SENATOR CHAMBERS: Does it seem to you, and you may have to speculate to answer this question, that with the widespread mismanagement that is continuing to crop up in HHS, do you suppose that the Governor is unaware that these problems are in existence? [LB568]

SENATOR BLOOMFIELD: I believe the Governor has brought in people in the last two or three years to try to get a handle on this situation. Ms. Chaumont and Mr. Winterer have not been here all that long yet to have found every item that is wrong within that humongous department. [LB568]

SENATOR CHAMBERS: How long have they been, if you know, employed in their current positions? [LB568]

SENATOR BLOOMFIELD: Mr. Winterer came in after I did, which would have been in...three sessions ago; let's get the year right, if I could, but...and I think Ms. Chaumont was just before that. [LB568]

SENATOR CHAMBERS: Was Mr. Winterer, if you know, an employee at HHS before he

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was elevated to his current position? [LB568]

SENATOR BLOOMFIELD: I do not know that, Senator. [LB568]

SENATOR CHAMBERS: When the Governor finds out that there has been this kind of mismanagement, what should he...I'll rephrase the question. Should the Governor place responsibility at the doorstep of those who are in charge of these agencies in the same way that responsibility can be placed at his doorstep for the overall management? [LB568]

SENATOR BLOOMFIELD: I need you to repeat that if you would, please. [LB568]

SENATOR CHAMBERS: All right. We both agreed that the Governor is ultimately responsible for these things that occur. And you said if he's been informed--and I'm going to let that go just like it was because I know what you mean when you say it--by bringing it down to the agency level, would the head of the agency have the same responsibility for what happens in that agency as the Governor would have overall? [LB568]

SENATOR BLOOMFIELD: I would think so, yes. [LB568]

SENATOR CHAMBERS: And since the agency head's responsibility deals only with this agency, there might even be a heavier kind of responsibility on the agency head than on the Governor, because the agency head has the job of focusing on this agency alone. Do you agree or disagree? [LB568]

SENATOR BLOOMFIELD: That is why I made the statement I did in a bit of a rebuttal of your "the Governor, the Governor, the Governor," and I went to "the President, the President, the President," is because I believe there is an equal relationship there. If the head of the department knows it's going on and has been involved in it, then I think probably that head should roll instead of an underling. [LB568]

SENATOR CHAMBERS: Now let's assume that these two people you mentioned by name over at HHS didn't have any knowledge of any of this. Should they have had knowledge of it? The law says you know or you should know. [LB568]

SENATOR BLOOMFIELD: Given the size of that bureaucracy, I am not sure that the two years that they have been there--or the two and a half years now--that they've... [LB568]

SENATOR CHAMBERS: Have you heard of agency heads being fired or pressured to resign when bad things go on in their agency? [LB568]

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SENATOR BLOOMFIELD: Absolutely. [LB568]

SENATOR CHAMBERS: Thank you. Oh, one other thing. A captain is responsible for whatever happens on his ship, or her ship, is that correct? [LB568]

SENATOR BLOOMFIELD: That's why they frequently choose to go down with it. [LB568]

SENATOR CHAMBERS: And we know that a captain is not going to be aware actually of everything that may have occurred. But nevertheless, the responsibility still is on the captain, and the captain knows that this is the kind of responsibility that is assumed when you become the captain of the ship. [LB568]

SENATOR BLOOMFIELD: I believe that to be correct, but I would be...I would want to say that if the captain has been dropped in because another captain left, and he's dropped in in the middle of the tour, that perhaps he shouldn't be held quite as responsible. [LB568]

SENATOR CHAMBERS: If a private can be replaced, why should not the general be replaced if something very serious has gone amiss? [LB568]

SENATOR BLOOMFIELD: I believe that was my point. [LB568]

SENATOR CHAMBERS: So then you think that those people at HHS ought to be replaced. The only way you can get rid of the President is by impeachment, and you know that's not going to happen. The Governor can fire these people. The President can fire people in his administration. The woman who is the head of the IRS was suspended when she refused to testify. But let's keep it here, so...because I don't want you...I know you don't like Obama. A lot of people in America don't like Obama. I know that. But let's deal with this. [LB568]

SENATOR BLOOMFIELD: I think you may be mistaken there, Senator. I am, in fact, related to President Obama. [LB568]

SENATOR CHAMBERS: Well, we all are. I'm related to you. But let's think... [LB568]

SENATOR BLOOMFIELD: I have a line of evidence showing mine, though. [LB568]

SENATOR CHAMBERS: Let's stay on this. Well, you find the greatest contention within a family. That's the worst place to have a feud: family members. The first two boys on the face of the earth, and one killed the other one. Let's come back to this, and I'm going to ask you a direct question. Do you think an apology delivered by those two top officials should be sufficient to exonerate and excuse them of responsibility for all the

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things that are continuing to be disclosed that are wrong with HHS? [LB568]

SENATOR BLOOMFIELD: Given their relative newness to the positions, I don't think they can be held totally responsible for what has been going on for years inside of HHS. [LB568]

SENATOR CHAMBERS: If you had a ranch and you had a foreman and there are ten ranch hands and that foreman's responsible and you lay out what the duties are of that foreman, and fences wind up being broken and not repaired, animals get loose and run all over up and down the whole creation, and the foreman just got hired a year ago, well, you couldn't hold the foreman responsible for what these other people are doing, could you? [LB568]

SENATOR GLOOR: One minute. [LB568]

SENATOR BLOOMFIELD: If the fences were in general disrepair when I hired the foreman, I could not go in a year later, depending on the size of the ranch and the fences, and fire the foreman because the fences were in disrepair. Had some of the fences been fixed--which they have been within HHS--I would not feel it was appropriate to fire the foreman at that point. [LB568]

SENATOR CHAMBERS: Thank you, Senator Bloomfield. And I know you don't have a ranch. Thank you, Mr. President. [LB568]

SENATOR GLOOR: Thank you, Senator Chambers. Members, you've heard the opening on the motion to reconsider. We now move to debate. Senator Chambers, you are recognized. [LB568]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I wanted to banter with Senator Bloomfield a bit, and he ought to get the transcript of our discussions and just see what he thinks about his responses. But the Governor is responsible. And I don't care whether they like Obama or hate Obama. The Governor is responsible and Senator Bloomfield cannot shift responsibility from the Governor by saying that in the Benghazi situation everything ought to be brought forth. There is no connection whatsoever. And if he can so readily point a finger at the President, then point a finger at the Governor, because the Governor has direct responsibility and this state is not as large as the entire United States. And these top officials should not be allowed every time something wrong is pointed out to say, I'm sorry and we won't do that particular thing again. You wouldn't have a corporation with this kind of incompetency going forth, and the officials, the top dogs and CEOs are going to keep their jobs. Everything is going wrong and they're going to keep their job. And they say, well, I'm sorry. I know it happened over here yesterday in Section A, it happened in Section B, day before that it happened in Section C, a week before that...but I didn't

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know that was going on. So the person who runs...who owns the company is going to say, okay, I can't hold you responsible for that. And then the guy says, oh, but I do have one thing going for me, because he sees the stern look on the company owner's face. He says, what have you got going for yourself? He said, well, I fired the janitor. You fired the janitor? A low-level employee was replaced who had the overseership of all of this that was going on. The record showed that none of her supervisors looked at what was being done. None of them verified. None of them took issue. And none of them has been replaced. They're the ones with the responsibility. And you're going to get rid of the private. You're going to leave the corporal alone. You're going to leave the sergeant alone. You're going to leave the second lieutenant alone, the first lieutenant alone, the captain alone, the major, the colonel, the general? And you get through all of them without seeing the need to do anything, and then you see a little private walking across the company area and you say, "Hey, come over here, Private." And the private comes over, knees shaking, knocking together. "What is it, General?" "We're going to give you an Article 15 and be lucky that we're not giving you a general court martial." And the private says, "What did I do?" The general looks at him with contempt and sneers and says, "You're a private, that's what you did; you should have been a general." So they replaced a private. And who on this floor even cares about it? You talk about all this other stuff. Again, when we're dealing with the big shots, there's all of this concern expressed...if I hadn't brought this up, we wouldn't be talking about it; and I don't care if nobody listens. I want it in the record. The position that I take on these issues when they come before us--and Senator Mello acknowledged that we have a responsibility as a Legislature. [LB568]

SENATOR GLOOR: One minute. [LB568]

SENATOR CHAMBERS: And what are we going to do? We're going to give excuses to the Governor. We're going to give excuses to the top officials in the department, in the agency: well, they didn't know. Well, they should know. I'll say again, read the list of those who were put on trial for the war crimes committed by those in the German military and those in the Japanese military, and see how these things are done in the real world. But this is not the real world in the Legislature. This is where you alibi, you excuse, you justify, because you're afraid to face the one whose duty it is. The constitution says the supreme executive authority is in the Governor. Thank you, Mr. President. [LB568]

SENATOR GLOOR: Thank you, Senator Chambers. The chair recognizes Senator Bloomfield. [LB568]

SENATOR BLOOMFIELD: Thank you, Mr. President. Senator Chambers, I think we need to carry on our dialogue just a hair bit longer. [LB568]

SENATOR GLOOR: Senator Chambers, would you yield? [LB568]

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SENATOR CHAMBERS: Yes, I will. [LB568]

SENATOR BLOOMFIELD: I was simply pointing out--and I'm well aware that you are aware of it--that the comparison can be made between the federal government and the state government when we have an Attorney General, if you want to talk about a general, that is embroiled in controversy; and we are taking this one and placing it on the head of the Governor and we are not calling for the same thing on the federal level. And that...I just wanted to throw that little bit in there. You're well aware of what I'm talking about and we're both aware that we're on the same side of this issue with the Auditor's position. So if you have a statement further you'd like to make, you're welcome to the rest of my time. [LB568]

SENATOR CHAMBERS: And don't sit down, Senator Bloomfield. Thank you. You said I know what you know. What do you know? [LB568]

SENATOR BLOOMFIELD: You know what I meant is what I said. [LB568]

SENATOR CHAMBERS: Okay. You said... [LB568]

SENATOR BLOOMFIELD: I was making the comparison. [LB568]

SENATOR CHAMBERS: You said the Attorney General. The federal...you mean Eric Holder, you mentioned him. [LB568]

SENATOR BLOOMFIELD: Yes. [LB568]

SENATOR CHAMBERS: What are you referring to? [LB568]

SENATOR BLOOMFIELD: I'm referring to the scandals that have moved to the White House at this point. [LB568]

SENATOR CHAMBERS: Well, give me a specific one like I've been giving you a specific one here, since you're making the comparison. [LB568]

SENATOR BLOOMFIELD: IRS. The IRS scandal I think you're pretty well familiar with that. [LB568]

SENATOR CHAMBERS: And you say that's the Attorney General who did that? [LB568]

SENATOR BLOOMFIELD: Well, between that and Benghazi we've got... [LB568]

SENATOR CHAMBERS: Did the Attorney... [LB568]



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SENATOR BLOOMFIELD: There are a lot of questions to be answered and there has been a lot of obfuscation going on. [LB568]

SENATOR CHAMBERS: Well, I know that Glenn Beck and Fox News, but we're talking facts here. I'm giving you facts. Give me some facts. Now, you've mentioned IRS. You cannot make the Attorney General responsible for that. You mentioned Benghazi. He's not even a part of the military machinery. What did he have to do with Benghazi? [LB568]

SENATOR BLOOMFIELD: I believe he was involved in what appears to be a cover-up at this point. [LB568]

SENATOR CHAMBERS: Who said it's a cover-up? The "Repelicans" in Congress, didn't... [LB568]

SENATOR BLOOMFIELD: No. I said I believe it to be a cover-up. [LB568]

SENATOR CHAMBERS: Oh, okay, you believe...okay. Are you yielding me your time or only for this exchange? [LB568]

SENATOR BLOOMFIELD: I yielded you my time, so have at me. [LB568]

SENATOR CHAMBERS: Thank you. No, I'm not... [LB568]

SENATOR GLOOR: Two minutes forty seconds. [LB568]

SENATOR CHAMBERS: Thank you, Mr. President. And Senator Bloomfield, I'm not going to have at you. I believe you are a very sincere person. But here's...I compare you to Johnny Cash. When you come after me, here's what he said: "I stepped into a burning ring of fire. I went down, down, down, and the flames went higher. And it burns, burns, burns." But that's what happens on the floor of the Legislature. I'm not offended by what you did. You gave me the opportunity to explore this area further and I appreciate the fact that you're willing to engage me, and I like it when somebody calls me out. That is what we need to do here. But what cannot be done away with is the Auditor's report where there were specific allegations backed by evidence. There are alibis and apologies by the top officials, and the only one we know that anything was done to was the case manager or whatever they call her; she was replaced. And I'm offended because you're not bothering the Governor or all these other people. And forget the Governor. These people in HHS, one of these people who is her supervisor has to be the one who replaced her, and the supervisors are the ones who are not supervising her. And I don't know what they did with her. I don't know if they gave her a promotion and said, now, keep your mouth shut. We don't have a way of knowing that.

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But what I see happen too many times is when hands are caught in the cookie jar--and this happens at the federal level--a low-level individual is going to be sacrificed. And sometime that person is told: Who's going to believe you? [LB568]

SENATOR GLOOR: One minute. [LB568]

SENATOR CHAMBERS: And even if they believe you, who is going to come to your aid? Nobody. We as members of the Legislature are too comfortable in the face of things that happen. Senator Kintner was worried about Agenda 21 and the United Nations; and here right down the street and around the corner we got HHS, and he hasn't said a word. Waste and corruption in government and we've got it right here in HHS, and he sits there playing like he's reading. That's what gets me in this place. How am I going to be humble? I look around me... [LB568]

SENATOR GLOOR: Time, Senator. [LB568]

SENATOR CHAMBERS: Thank you, Mr. President. [LB568]

SENATOR GLOOR: Thank you, Senator Chambers. You are next in the queue. [LB568]

SENATOR CHAMBERS: Mr. President, this is...we're having too much fun to go home early today. We want to stay here. We want to continue in doing what we're doing. But I'll tell you what: You all have not done what it is that I'm attacking with reference to HHS in terms of their mismanagement, whoever is responsible. I'm upset because we allowed personal animosity toward an individual to lead us to do something that harmed the functioning of an office. I have been displeased with things that involved the State Patrol. I've never brought a bill to cut their budget or say take away employees. I even supported Senator Karpisek adding some state troopers, because if they have a job to do and it takes a certain number of people to get the job done, we should give them those people. And if they don't do the job when they have everything they need, then we can come down on them with both feet. But we cannot create a responsibility and hold people accountable without giving them what it takes to carry out the responsibilities we place upon them. We want the Auditor to continue doing what the Auditor is doing. That's what we should want. And I say again, if the Auditor gets rambunctious or somebody in the Auditor's Office and the Auditor doesn't do what we think ought to be done in reining somebody in, let the legislators speak. Let the legislators take the action that we can take. But we're not even confronted with that today. And we're not even confronted with trying to restore money today. But I think what Senator...I'm going to call him, what "Professor" Schumacher suggested would be very good, that before we leave here we formulate a resolution. And if he brings it, I'd like to cosponsor it with him. And if he draws it up and he doesn't want to be involved, I will sign my name to it and bring it before us and see if once again we're just talking. Now a resolution is not binding. It has no force whatsoever other than moral force--and we know how far morality goes in this

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place. But that would be a good thing to do. And I'm going to support such a resolution. And when we say a deficit appropriation, we're not going to put a dollar amount in. We're not going to deprive the Appropriations Committee of using its discretion. But we know the amount that was cut out of that budget and we know that what costs a dime today might cost 12 cents this time next year, or maybe 20 cents. And if you put gasoline in a car, it can go up even more than that. But what I'm trying to do with all that I've said here today is sensitize my colleagues to the fact--and I'm not saying you all--"we" have a responsibility that we flubbed when we did not override the Governor's veto. And enough has been said here today... [LB568]

SENATOR GLOOR: One minute. [LB568]

SENATOR CHAMBERS: ...to suggest that perhaps we should have behaved differently. But we cannot undo what has been done. But we can take a position that states our intention, and that's what I think ought to be done. Thank you, Mr. President. [LB568]

SENATOR GLOOR: Thank you, Senator Chambers. Seeing no further senators wishing to speak, Senator Chambers, you're recognized to close on your motion to reconsider. [LB568]

SENATOR CHAMBERS: Thank you. Members of the Legislature, we went past 12:00 and I appreciate all of you all staying here with me to allow me to engage in this exercise which I will do any time I think it's necessary. If you all don't want to hear me always raising these issues, some of you all raise them. Somebody stand on this floor, offer a motion, and say that this is not an important matter. And when I say this, I mean what happened at HHS and the fact that we would not override that veto. Stand up and say it's not important. It's your opinion. I can't make you change your opinion, but I don't really think that's your opinion. But I don't think anybody had any intention of bringing any of this up this morning. There are a lot of things that nobody has an intention of bringing up around here. But I'm going to put it on the record. Do I think it will persuade you to do anything? No. Do I think it'll convince you to do anything? No. But it makes you sit here, huh? And I do it by your rules. Power does corrupt, and absolute power does corrupt absolutely. But when that guy made that statement, guess to whom he was talking and guess what the entity was? He was talking to a prelate, a religious official, and it had to do with a church. You all thought that it was some tyrant out there in the secular world, didn't you, exercising absolute power and being corrupted absolutely. No; a religious person. And while I'm on that point, I regret that he was described as an outspoken person, and I can't even recall his name, but it was in yesterday's paper. High-ranking member of the hierarchy. And said that he even dared to condemn the hierarchy of the Catholic Church because of the child abuse scandal. So before you all get mad at me, realize that there's some people in the Catholic Church who don't like it and they hate it even more than I do because they're a part of the whole thing. There is an order of priests in Milwaukee who are designating themselves as the

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whistle-blowers and they're trying to get other like-minded priests everywhere to blow the whistle on these no-good scoundrels who are raping these little children and being covered up for by bishops, archbishops, cardinals, and the Pope. I'm not the only one but I'm the only one you hear because you're not going to read and you're not going to pay any attention, but you have to play like you're paying attention to me, whether you are or not. And these are the things I'm going to bring up, because when you have a worldwide organization and child abuse is running rampant and you're afraid to say anything about it, then you're going to say we cannot expand Medicaid coverage because that came from that Obama fellow in the White House. What about that Pope fellow in the Vatican? Even Senator Bloomfield doesn't accuse the President of laundering dirty money as the bank of the Vatican has done. But you don't talk about it. [LB568]

SENATOR GLOOR: One minute. [LB568]

SENATOR CHAMBERS: You know what happens outside this state when it's convenient or Fox or this guy, whatever his name is, who got fired even from Fox. They tell you this and run out and you repeat it. They say President O, in Washington, and in Nebraska we hear it repeated: bama, bama, bama. President O...bama, bama, bama. The echoes are here. Not an original thought but an echo that bespeaks ignorance of the facts and a total disregard for the facts. But I'm going to bring you home and bring you back down to earth where we belong. Mr. President, I'll withdraw that insignificant, inconsequential motion. [LB568]

SENATOR GLOOR: Seeing no objection, so ordered. [LB568]

CLERK: I have nothing further on the bill at this time, Mr. President. [LB568]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Murante for a motion. [LB568]

SENATOR MURANTE: Mr. President, I move to advance LB568 to E&R for engrossing. [LB568]

SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. Those opposed say nay. LB568 is advanced. Mr. Clerk. [LB568]

CLERK: Senator, LB568A. I have no amendments to the bill. [LB568A]

SENATOR GLOOR: Senator Murante for a motion. [LB568A]

SENATOR MURANTE: Thank you, Mr. President. I move to advance LB568A to E&R for engrossing. [LB568A]

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SENATOR GLOOR: Members, you've heard the motion to advance LB568A. Those in favor say aye. Those opposed say nay. LB568A is advanced. Mr. Speaker for an announcement. [LB568A]

SPEAKER ADAMS: Thank you, Mr. President. Members, one of the things that we need to do is to get LB568 back from E&R before we leave today; and I'm also concerned about numbers. So I think what we're going to do is to pass over the confirmation reports today and we will go on to Senator Davis' resolution. And it's very likely, in having talked with E&R, that by the time that we have taken time on his resolution we might have to stand at ease for just a few moments until we get LB568 back and then we can adjourn and we'll take up those confirmation reports on Monday. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Mr. Speaker. Mr. Clerk.

CLERK: Mr. President, LR40 was originally introduced by Senator Davis. It's a resolution that asks the Legislature to request the United States Forest Service to reconsider its original decision not to pay a proportionate share of the replacement cost of fences destroyed by wildfires. Mr. President, the resolution was introduced on January 23. It was referred to a committee for purposes of conducting a public hearing. The Natural Resources Committee has referred the resolution back to the floor for further consideration. [LR40]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Davis, you're recognized to open on LR40. [LR40]

SENATOR DAVIS: Thank you, Mr. President and members of the Legislature. This resolution would express legislative resolve to request that the U.S. Forest Service reconsider its original decision not to pay a proportionate share of the replacement costs of fences destroyed by 2012 wildfires between private and public lands in Dawes and Sioux Counties in Nebraska. The federal government stated it does not have funds available to be used for cost-sharing to replace fences destroyed by wildfires between private and public lands in those counties. From mid-August to mid-September, wildfires in the northern Nebraska Panhandle areas and immediately north in South Dakota burned over 202,000 acres. Based on feedback to the USDA and the Sioux-Dawes-Sheridan Fire Fund, approximately 22,000 miles of fence lines were burned, resulting in emergency movement and/or sale of additional cattle. The United States Forest Service told the members of the Sugarloaf Grazing Association, at their October meeting last year, that they could not secure funds to cost-share fence replacement costs. So the U.S. Forest Service's stance now is that the fence lines are owned by the landowners, since the U.S. Forest Service is only required to have boundary markers. This contradicted earlier stances by the U.S. Forest Service that claimed coownership of the fences, allowing them to require certain construction

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standards. Security First Bank Vice President Clayton Riesen has indicated that a group of bankers estimate the economic impacts of the drought fire complex to be \$100 million over the next three to seven years in the northern Panhandle. It is traditional for owners of adjacent lands to share the replacement costs of common fences; but the affected private landowners have already been devastated by drought and forced to liquidate approximately 40 percent of their livestock. Adjacent landowners who have been devastated by drought and fire will be hard-pressed to secure the funds for their half of the fence and it will be a significant hardship for them to pay the entire cost. UNL and the USDA estimate that in the northern Panhandle, forage production was at 28 percent of normal forage growth in 2012. If this pattern repeats, the operators will not have the financial wherewithal to make necessary fence improvements and repairs. LR40 would demonstrate that the Legislature is supportive of efforts to maintain a partnership with the federal government on the issue of good stewardship of federal land in the state of Nebraska. I encourage your support of LR40 and I will take any questions. [LR40]

SENATOR GLOOR: Thank you, Senator Davis. Members, you've heard the opening on LR40. We now move to floor discussion and debate. Senator Krist, you're recognized. [LR40]

SENATOR KRIST: Thank you, Mr. President. Good afternoon...or good morning still, I guess, colleagues and Nebraska. I wondered if Senator Davis would yield to a few questions. [LR40]

SENATOR GLOOR: Senator Davis, would you yield? [LR40]

SENATOR DAVIS: I will. [LR40]

SENATOR KRIST: Do I understand that at one point during the discussion and while the disaster was in progress, and I assume that all of these fences were in an area that was declared an emergency? [LR40]

SENATOR DAVIS: Yes. Yes, Senator Krist, it was. [LR40]

SENATOR KRIST: Okay. And do I understand that the Forest Service and/or FEMA and NEMA at one point had made an agreement to try to find the money to replace some of the those fences? [LR40]

SENATOR DAVIS: In prior years they have made funding available for fence replacement. There are programs available through the Natural Resources Conservation Service and the Farm Service Agency for cost-share on interior fences but not on exterior fences. So this is boundary fences between Forest Service ground on the one the hand and private landowners on the other. And I should also say that Nebraska law traditionally indicates that each person pay half of their share. The

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Nebraska Game and Parks Commission was an entity that did that on their ground that burned. They put in half of the cost of the fence and the landowner next door put in the other half. [LR40]

SENATOR KRIST: So to be clear, if you and I had adjoining ranches, I would have 50 percent of the responsibility, you would have 50 percent of the responsibility. If you were abutting a Nebraska park or land, owned land, the state of Nebraska would have 50 percent and you would have 50 percent. But if you're...at this point what you're saying within this LR is that the federal government now is not going to be a good partner and pay their 50 percent if your property adjoins their property. [LR40]

SENATOR DAVIS: That's what I understand, Senator Krist. The federal government has indicated they will put interior fences back in but they will put the cost of replacement of the exterior fences completely on the private landowner next door. [LR40]

SENATOR KRIST: And that's contrary to basically any law that we have in place with 50 percent shared by two private landowners. [LR40]

SENATOR DAVIS: That is correct. [LR40]

SENATOR KRIST: And how much assistance has NEMA been in this process? [LR40]

SENATOR DAVIS: NEMA didn't participate much in this process. As I understand it, there were applications made to the federal government to FEMA for cost-share assistance, and Nebraska did not qualify based on low population and the cost of the damage. And that's one of the things we always fight with FEMA is the low population, because the reimbursement is based somewhat on population and loss. [LR40]

SENATOR KRIST: Well, certainly, you know. And I guess, not to be sarcastic, but to be sarcastic, they had bigger things to do in New Jersey in repairing damage there for a larger population base rather than Nebraska. I guess we have to start counting cows' heads rather than population to get to that point. My point, folks, is this: This is a good resolution and it brings to mind where most of us fall in good stewardship. If Senator Davis and I had a piece of property that adjoined each other and we lost, we would have 50 percent of the share. If the state of Nebraska was on my property line and I lost, Nebraska would have 50 percent of the share. And in this case, the federal government, who has no problem collecting our taxes at the federal level and putting them in these funds, is now reneging on their responsibility to replace the fence, their share of the fence. I make this point not just because I'm trying to kill time and wait for bills to get back to us, but also to tell you that this is not new. Anyone who has been involved in a flood activity will tell you that depending upon how NEMA... [LR40]

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SPEAKER ADAMS: One minute. [LR40]

SENATOR KRIST: ...asks FEMA and presses them for assistance, you may not be getting the response that you think you're getting from FEMA. After the floods we saw a few years ago, there are communities right now, SIDs along the river, that are just now seeing some light of day in terms of getting their help as it's been asked for. NEMA is an extremely important part of the process, as is the Forestry Service in this particular case. I applaud you for bringing this forward, Senator Davis; and I hope that all of you will vote green on LR40. [LR40]

SPEAKER ADAMS: Thank you, Senator Krist. Senator Dubas, you are recognized. [LR40]

SENATOR DUBAS: Thank you, Mr. Speaker. I, too, stand in support of this LR. Fences are a very costly structure to put in, especially if you're putting it in to really try to keep livestock in or other things out. It takes a great deal of work, a lot of supplies, and those are not inexpensive supplies. And for many, many generations the law is...or the standard has been on those boundary fences, it's 50-50 between the landowners. Not to say that we haven't had issues across rural Nebraska as far as putting those types of fences in, but that's just...you know, the old saying, "good fences make good neighbors," is very true, especially out in rural parts of the state where we have livestock. And what makes this particular legislative resolution important is understanding the circumstances, it's not only that the fences were lost in the fire, but because of the fire and because of the drought the livestock that were confined within those fences have had...those herds have had to be drastically reduced because the forage just isn't there anymore to feed them. So now not only does the landowner have to replace the fence, but the landowner has lost a significant portion of their income in order to be able to help replace that fence. And so it's really a double whammy. If Senator Davis would yield to question I'd appreciate it. [LR40]

SPEAKER ADAMS: Senator Davis, would you yield? [LR40]

SENATOR DAVIS: I will. [LR40]

SENATOR DUBAS: Senator Davis, you mentioned in your introduction about the standard or the qualifications for a boundary fence. If you could...I think it would be helpful for the body to understand that this isn't just putting up a couple of posts and stringing a little bit of wire; that there are some specific requirements. And even with the federal government basically saying, okay, this is all your responsibility now, would those same standards still apply to the fences that need to be put up? [LR40]

SENATOR DAVIS: Fencing between federal ground and private ground has higher



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standards that any fence that I would put between you and me. So there are rules and regulations that go into that, and that's one of the arguments that the federal government has made is that's why they're not going to participate in that. I think it's a bogus argument, personally. But, you know, we're talking between probably \$6,000 and \$10,000 a mile in that particular ground because if you're putting in a four- or five-wire barbed wire fence, and then the posts every three or four steps, you're looking at a significant investment. One hundred twenty-two miles, you can do the math. People just don't have the resources to do it. And it's federal property. They have responsibilities that they shouldn't be shirking. [LR40]

SENATOR DUBAS: I hope the body heard those financial figures that Senator Davis just said. That's...you know, we're talking about thousands of dollars per mile to put in these fences. That is significant. And again, when you've reduced your income and still have to put in that investment, it is a significant impact on those landowners and their ability to do this. I know legislative resolutions may not carry an extreme amount of weight, but I think we need to send the message that if the federal government is going to own this property, and those rules and regulations have been in place and those requirements are being put on landowners, that, you know, they need to live up to their end of their bargain. And we need to send that message to the federal government that this is their responsibility. You're expecting if from the landowners; the landowners should expect nothing less from them as a neighbor. I think it's great and it's a great example that our Game and Parks have stepped up to the plate. They did what they felt... [LR40]

SPEAKER ADAMS: One minute. [LR40]

SENATOR DUBAS: ...was their responsibility. So I hope that this resolution will make its way to the places that it needs to go and that there will be a reconsideration for what needs to be done to help the landowners across our state. Thank you, Senator Davis, for this resolution. [LR40]

SPEAKER ADAMS: Senator Davis, there are no other senators in the queue. You're recognized to close. [LR40]

SENATOR DAVIS: Thank you, Mr. Speaker and members of the Legislature. I'm going to repeat those figures again because I think they're pertinent, that it was around 23,000 miles of total fence that were lost; 122 miles of that is fencing between private landowners and the Forest Service. So if you consider what we're talking about here, the Forest Service aspect of that, at \$10,000 a mile, is \$1,220,000. That's just the property between the two landowners. Now these other landowners who have the other 21,000 miles of fence, that's interior and exterior fence between private landowners and on particular ranches. So if there's cost-share money available for that, it's not going to be at 100 percent cost-share; it's going to be 50 percent. So they're looking at a huge

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investment. What we're just trying to do here is send a message to the federal government that we expect them to be good neighbors just like we would want to be with them if we had the opportunity. So I would urge the body to pass the resolution. Once that's done we will see to it that it gets sent off to the appropriate federal agencies, our congressional representatives, and our President. Thank you, Mr. Speaker. [LR40]

SPEAKER ADAMS: Thank you, Senator Davis. Members, you've heard the closing on LR40. All those in favor of its passage indicate with aye; all those opposed, nay. Have all voted that wish to? Record, Mr. Clerk. [LR40]

CLERK: 25 ayes, 0 nays, Mr. President, to adopt LR40. [LR40]

SPEAKER ADAMS: The resolution is adopted. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR155, LR22, and LR40. Members, we will stand at ease...oh, excuse me, Mr. Clerk. If you have announcements. [LR40 LR155 LR22]

CLERK: I do, Mr. President. Thank you. Enrollment and Review reports LB568 and LB568A as correctly engrossed. [LB568 LB568A]

Mr. President, a priority motion. Senator Kolowski would move to adjourn the body until Monday morning, June 3, at 10:00.

SPEAKER ADAMS: Thank you, Mr. Clerk. Members, you have heard the motion to adjourn until Monday morning at 10:00 a.m. All those in favor indicate by aye. Opposed. We are adjourned.