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Floor Debate  
January 15, 2014

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SENATOR KRIST PRESIDING

SENATOR KRIST: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the sixth day of the One Hundred Third Legislature, Second Session. Our chaplain for today is Reverend Ryan Lewis of St. Thomas More in Omaha. He's a guest of Senator Mello and myself. Father Lewis.

REVEREND LEWIS: (Prayer offered.)

SENATOR KRIST: Thank you, Father Lewis. I call to order the sixth day of the One Hundred Third Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: (Read corrections, one re LR182.) And that's all the corrections I had, Mr. President. (Legislative Journal page 223.) [LR182]

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

CLERK: There are, Mr. President, hearing notices from the Government, Military and Veterans Affairs Committee. That's signed by the Chair, Senator Avery. And I have received communication from the clerk of the district court for Gage County as it is required by Section 25-21,205 of our statutes. That's all that I have, Mr. President. (Legislative Journal pages 223-24.)

SENATOR KRIST: Thank you, Mr. Clerk. Speaker Adams, you are recognized.

SPEAKER ADAMS: Thank you, Mr. President and members. As I went through some scheduling issues with you earlier this week I noted, and you got a memorandum to this effect, that on Friday we would work through the noon hour. It has come to my attention that there is an event that had been planned in the Rotunda. And at the risk of us interfering with them or them interfering with our business, we will plan on Friday to conclude by noon. Thank you, Mr. President.

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SENATOR KRIST: Thank you, Speaker. (Doctor of the day introduced.) We will now proceed to the first item on the agenda, Mr. Clerk.

CLERK: Mr. President, Senator Christensen would move to withdraw LB830. [LB830]

SENATOR KRIST: Withdrawn. Senator Christensen, you are recognized to open on your motion. [LB830]

SENATOR CHRISTENSEN: Thank you, Mr. President. This bill that I'm asking you to withdraw, when I got to looking at it, it was going to put constituents in a position where if somebody from outside could come in as a vendor and sell you a trailer, a vehicle, something that way, then we got no recourse over them once they leave the state, and it became obvious that it probably wasn't the right direction to go; so I'm working on something else to try and solve the issues of an in-state manufacturer to be able to show at in-state shows. So I just ask for your approval to withdraw this bill. [LB830]

SENATOR KRIST: You've heard the opening on Senator Christensen's motion. Is there any debate? Seeing none, Senator Christensen, you're recognized to close. Senator Christensen waives closing. The motion is whether to withdraw. All those in favor vote aye; opposed, nay. Please record. [LB830]

CLERK: 28 ayes, 0 nays, Mr. President, on the motion to withdraw the bill. [LB830]

SENATOR KRIST: It is withdrawn. Next item. [LB830]

CLERK: Mr. President, General File, Senator Cook offers LB359. (Read title.) The bill was introduced in January of 2013, at that time referred to Health and Human Services Committee. The bill was advanced to General File. I do not have committee amendments. I do have an amendment to the bill by Senator Cook, Mr. President. (AM1620, Legislative Journal page 203.) [LB359]

SENATOR KRIST: Thank you, Mr. Clerk. Senator Cook, you're recognized to open on your bill. [LB359]

SENATOR COOK: Thank you, Mr. President, and good morning, colleagues. I rise today as the introducer of LB359, a targeted and very modest reform to alleviate two shortfalls in our state's public policy related to the Child Care Subsidy program. The first is a public policy that does not support Nebraskans who are working hard to get off of public assistance programs. The second is a cliff effect where a Nebraska family becomes ineligible for crucial assistance because of their hard work but are unable to cover the cost of the lost assistance. Again, working Nebraskans who qualify for the Child Care Subsidy program are earning raises because of their hard work. The problem addressed by LB359 and by AM1620 is going to be addressed through this bill

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proposal. They're having to turn down raises and extra hours because that additional income would make them ineligible for the Child Care Subsidy program. This is because that extra money, while well earned and important to the progress of their career, is still not enough to cover the cost of childcare. The bill as originally introduced would give a three-year period to earn first a raise and then a promotion. That promotion, if earned, will ideally allow the family to bear the cost of its own childcare. Thank you, Mr. President. [LB359]

SENATOR KRIST: Thank you, Senator Cook. Mr. Clerk. [LB359]

CLERK: Mr. President, Senator Cook would move to amend with AM1620. [LB359]

SENATOR KRIST: Senator Cook, you're recognized. [LB359]

SENATOR COOK: Thank you, Mr. President. AM1620 to LB359, it amends the bill to better reflect how the Child Care Subsidy program really works in our state. The realities are these: The average time that a Nebraska family utilizes the Child Care Subsidy is only seven months, so the income disregard at 12 months does not impact the typical beneficiary of this subsidy. Second, there is a mandatory reporting requirement associated with the Child Care Subsidy so that attempting to avert the cliff effect at the 12-month reauthorization period does not impact those Nebraska families that achieve their modest raise before the mandatory 12-month reauthorization. AM1620 addresses this by replacing the 12- and 36-month graduated income disregard with an ongoing 10 percent income disregard for continued eligibility over the same time period. The initial eligibility for the Child Care Subsidy will remain unchanged but the ongoing eligibility would increase to 10 percent. Last year the Legislature passed Senator Conrad's LB625 as a part of Senator Campbell's LB507. This was important legislation which ensured better access to quality childcare. This law set the initial eligibility level for the Child Care Subsidy at 130 percent of the federal poverty level. Even with this increased investment in Nebraska families last year, the harsh reality still exists. For a family of three, 130 percent of the federal poverty level equals just more than \$400 per week in gross income. Per household member, that leaves only \$21 for housing, food, utilities, transportation, and childcare. For the average Nebraska family the cost of childcare amounts to about \$150 per week, or \$600 per month. Additionally, two policy shortcomings continue to weigh on our state. Public policy should support Nebraskans who are working to get off of assistance. Addressing the cliff effect where Nebraska families become ineligible for assistance is very important for us to address at this point. Again, as amended by AM1620, LB359 will alleviate this disturbing public policy consequence. Thank you very much, Mr. President. [LB359 LB625 LB507]

SENATOR KRIST: Thank you, Senator Cook. You've heard the opening. Senator Nordquist, you are recognized. [LB625]

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SENATOR NORDQUIST: Thank you, Mr. President and members. Thank you, Senator Cook, for bringing this issue forward. And I think Senator Cook made a key point that this does not expand eligibility, initial eligibility for the program. Our eligibility still after the bill last year is among the lowest in the country and we are not expanding it. We are saying once you are on the program you can get a little bump up in your pay and remain on the program. That is the only way we are going to get people to transition off of these programs to work because there is a very steep cliff in place right now. And I can read a number of examples but just one we've put together just so you know how steep this cliff is: If you're a single parent with an infant child, you take them to a childcare center, you make 130 percent of poverty, which is about \$10 an hour, \$10.50 an hour for 40 hours a week, or about \$1,600...between \$1,600 and \$1,700 a month. That's how much your family takes in. Right now under the childcare program, if you remain at that 130 percent of poverty you'd pay about \$180 a month towards childcare and then the state would pick up the remainder. Now if you were offered a 10-cent raise taking you from \$10.50 to \$10.60 an hour, 10-cent-an-hour raise, you would no longer...you would...because of that you would earn a little bit more a week, a little bit more a month. About \$4 more a week is what you would earn but you would become ineligible for the Child Care Subsidy. You would go from paying \$181 a month to \$649 a month. You would...and all of that for a \$12-a-month raise. So we are trapping people here. They cannot accept a \$12-an-hour...\$12-a-month raise, a 10-cent-an-hour raise, because they're going to lose nearly \$500 a month in childcare support. Unfortunately, because of this very steep cliff we are locking people into low-wage jobs for their family. So this bill takes us a small step forward. We have a long ways to go to smooth this cliff out. And this is an issue in many of our safety net programs. We have got to continue to focus on reducing that cliff effect, making it easier for people to transition to self-sustaining family financial situations. So I encourage you to support this. This is very much the pathway to getting people to self-sufficiency. Thank you. [LB359]

SENATOR KRIST: Thank you, Senator Nordquist. Senator Scheer, you are recognized. [LB359]

SENATOR SCHEER: Thank you, Mr. President. I rise to support the bill, LB359, and the underlying amendment. I would hope the rest of my fellow senators would look at this in the perspective of we're trying to get people back on their feet. We have to encourage people to better themselves. If we do not encourage that, they simply will fall back and become continually dependent upon the state for all the services and their income. If we want people to get off of public assistance we have to offer a way for them to move in a realistic fashion from public assistance to freedom from that. We cannot continue to put barriers that it's all or none in front of people as they transition from that type of assistance to no assistance at all. A lot of us have never experienced that and hopefully never will. But I have talked to people in my business that will come in and will tell me that they are receiving some different forms of government assistance. And they'll go to their counselor or their caseworker and the caseworker will simply tell them, you know,

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I've reviewed your financials and if you stay on the same basis that you are now you're going to make \$150 or \$250 too much this year and you're not going to lose part of your benefits, you're going to lose all of your benefits. As a state we need to do a better job. I commend Senator Cook for bringing this forward because this is one of a multitude of times that we put barriers in front of people trying to make successes out of their life. So I would certainly hope that you would all support both this amendment and the bill. Thank you, Mr. President. [LB359]

SENATOR KRIST: Thank you, Senator Scheer. Senator Mello, you are recognized. [LB359]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. First I'd like to speak in general about the fiscal note associated with LB359. The underlying amendment would change the fiscal note that you see on your computers. In speaking with the Fiscal Office, if AM1620 would be adopted it would lower the second year's fiscal note for fiscal year '15-16. That amount right now is indeterminate until we're able to get some more information back from the Department of Health and Human Services. But in that same vein, by lowering it that second year it would actually make the...it would make the income disregards permanent which would then increase it back up the third year and kind of level it off after that third year and beyond. So as you look at your fiscal note, that \$787,000 the second year would be lowered but it would go slightly back up in the third year and beyond because the income disregards would become permanent under the committee amendment. This is obviously the first bill that we're discussing this year that does have a fiscal impact to the General Fund bottom line and it will be my obligation and responsibility, and regardless of bills I support or oppose, to remind the body that in issues like this that we have to be able to make priorities as an entire Legislature, that there will not be enough funding available for all the tax cuts people want and all the new spending initiatives and investments people want. So we as a body will have to be able to sit down, discuss, compromise, negotiate what we want to see passed this year that has any kind of fiscal impact. With that said, I do appreciate Senator Scheer's comments that Senator Cook has brought us, I think, a very innovative but a long overdue welfare reform bill that tries to help people move out of public and economic assistance programs for them to staircase their way out of a system that right now, as you may read and see material, there is the cliff effect that Senator Cook hears about in Health and Human Services and members of the Appropriations Committee hears about on a regular basis where we have public assistance programs for those low-income families that once they get into a program, the moment they reach a certain threshold due to a 10-, 25-cents, or 50-cent increase an hour in their wages, they lose all of their assistance for childcare, lose possibly all of their assistance for ADC for their children. What Senator Cook is proposing is a commonsense welfare reform proposal that we should be looking at every one of our public assistance programs moving forward. If we want to help get people into good-paying jobs and help become better and more productive taxpayers, we have to

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be able to provide them a path forward that eases them back into a living wage job. And what you see in both AM1620 and LB359 starts that process. So I applaud Senator Cook for bringing this bill, and yet still the underlying reality is that we know this amongst many other pieces of legislation that will be in front of us we will have to continue to have dialogues throughout session as it relates to the underlying state budget. Thank you, Mr. President. [LB359]

SENATOR KRIST: Thank you, Senator Mello. Senator Harms, you are recognized. [LB359]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of the amendment as well as LB359. One of the things that this bill really causes us to focus on as colleagues is the fact that childcare is the largest single expense in the budget of a family and young families that have children. In 2012 it cost roughly over \$7,000 annually for a family. It's higher than any cost of any in-state tuition of any of our colleges and it's 35 percent of their budget is involved in this whole process. It also helps us focus on the fact that childcare affordability is a barrier to work. When you have both parents trying to work it's almost impossible. Even with two parents working you will find that the cost and the increase of expenses that's occurring to the family, you will find that it's most difficult for them to survive with this. And the current system simply sets families up for failure. And I don't know how many times over the last seven or eight years we've introduced legislation on this floor that said the only way out of poverty is through education and we had all kinds of barriers in those educational laws. We took all those out and now we're attempting to address the issue of this cliff effect. We need to do this, colleagues. This will help our families; this will provide our families with the necessary assistance. And we hope that in this process we can encourage them to get involved in some type of education because, I've always said on this floor, the only way out of poverty is through education. And this program is essential to just getting them to survive and take care of their families. So I would urge you to support the amendment and the underlying bill. Thank you, Mr. President. [LB359]

SENATOR KRIST: Thank you, Senator Harms. Senator Howard, you are recognized. [LB359]

SENATOR HOWARD: Thank you, Mr. President. I rise in support of LB359. And I have to say I'm supporting it mostly because the testimony in the hearing was incredibly compelling. We heard from families who specifically need this help. But what shocked me was the cost of childcare. Not having children myself yet, I had no idea that on average childcare in Nebraska costs over \$7,600 annually. That is an incredible chunk of money for people who, if they're eligible for subsidies, are making only \$28,000 a year for a family of four. But I was hoping I could ask Senator Cook a little bit about some of the families she's heard from that were the impetus for this bill. [LB359]

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SENATOR KRIST: Senator Cook, will you yield? [LB359]

SENATOR COOK: Absolutely. [LB359]

SENATOR HOWARD: Thank you, Senator Cook. Can you tell me a little bit about some of the families in your district who may be impacted by this legislation? [LB359]

SENATOR COOK: Well, interestingly, we had the ribbon cutting for a brand-new Walmart store in the 50th and Ames area in Legislative District 13 which will provide employment opportunities. I had a conversation with a mother, a young mother with two children who earns approximately \$29,000 per year, which certainly is more than we earn in this role, but everybody in here knows that that's not enough to support oneself and two young, busy children. What I learned is that through an extra shift--and sometimes these shifts are mandatory like you've got to work extra hours in a retail environment during the holiday season--just being put over by \$1 would kick her out of eligibility and then that is the end of \$15,000 of Child Care Subsidy. Once again, just trying to get ahead, it's very difficult in general to manage a young family by yourself, and I thank you very much for your support and the committee's support so that we can remove this barrier to people being able to take care of themselves. [LB359]

SENATOR HOWARD: Thank you, Senator Cook. And I would also like to note that I have a bill that reduces the cliff effect around SNAP which is our Supplemental Nutrition (Assistance) Program and helps people afford food when they need it the most. So I am in full support of LB359 and I urge my colleagues to vote for it as well. Thank you. [LB359]

SENATOR KRIST: Thank you, Senator Howard and Senator Cook. Senator Schumacher, you are recognized. [LB359]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. So far the support in favor of this bill has come from the perspective of the person who is receiving the Child Care Subsidy. But let's look at it from a little different angle. What about the businessperson, the employer--this state, mostly small employers--who have a good employee and that good employee is approaching this cliff and they want to give that good employee a raise? They want to employ the free market, the incentive, the you-can-better-yourself system, and reward that employee and within the context of their budget and what their business can afford says, you know, you've earned a 75-cent...a dollar raise, I want to give it to you. And the next day the employee comes back and says, you know, I really can't take that raise because it's going to cost me a chunk of money, a big chunk, far more than that. Well, okay, the raise goes away. What has that done to our economic system? What has that done to what we believe in, that people should be able to work their way up? It's created a very, very, very difficult situation in which we've broken the system. And regardless of how we feel about

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welfare and about subsidies and things like that, this thing isn't working the way it is structured right now. This idea that you can work hard, earn a raise, and then not be able to get it because of the way it's structured probably is not a terribly smart thing. The second thing that this discussion brings up today is, oh, my gosh, we're talking in terms of \$7,000 for childcare. How in the context of our responsibilities here do we make sure that that childcare is something more than sticking a kid who's three years old before a television set? How do we incorporate that into what the agriculture...educational system people are saying is necessary in order to augment the abilities of a child whose both parents are working and who is probably not receiving the proper level of nurturing simply because they're so tired? Incidentally, in Nebraska I think we're the second highest state in the union where both parents actually work and together they only receive the same median income as other states. So we've got some challenges, and all of those challenges have got to be integrated into our total spending, whether it's spending in tax cuts or spending in proposed program increases, as Senator Mello has indicated. This is not going to be an easy session, lot of tough decisions. But on this particular bill what we have now is broken. Employees who earn a raise should be able to get a raise. Thank you. [LB359]

SENATOR KRIST: Thank you, Senator Schumacher. Senator Kintner, you are recognized. [LB359]

SENATOR KINTNER: Well, thank you, Mr. President. You know, when you create a welfare state you have programs and you have cutoffs and stuff. We have unintended consequences and we spend an awful lot of time trying to repair the welfare state and very little time trying to take it apart. But I understand what we're doing here. I think it makes some sense that we've got a problem that we're trying to deal with. I'm not sure exactly why Senator Cook went about it the way she did, so I'd like to ask Senator Cook a few questions if she will yield. [LB359]

SENATOR KRIST: Senator Cook, will you yield to Senator Kintner's questions? [LB359]

SENATOR COOK: Yes. [LB359]

SENATOR KINTNER: Well, thank you, Senator Cook. I haven't made up my mind how I'm going to vote on it. It looks like we are exempting income for two years. Is that correct? [LB359]

SENATOR COOK: That is what the proposal...that's how the proposal reads in the green copy, yes. [LB359]

SENATOR KINTNER: And then in the third year you should be rolling and, yeah, and all income is treated as normal. Is that right? [LB359]



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SENATOR COOK: Correct. [LB359]

SENATOR KINTNER: Okay. Let me ask you this question. It looks like there's two ways to go about it. It looks like the other way to go about it would just be for every dollar you started to make above whatever the cutoff is. Why don't...why didn't you propose we just started to ratchet down the assistance ever so slightly? So if you make \$50 above it, we ratchet it down 2 percent; if you make \$500 above it, we ratchet it down 50 percent or something like that. [LB359]

SENATOR COOK: Administration. [LB359]

SENATOR KINTNER: Why didn't you take that approach and why did you take the approach you did? [LB359]

SENATOR COOK: Having the experience that I've had with Health and Human Services programming and knowing our challenges in staffing and administering any and all programs, the amount of money that it would take for a person or persons to administer a ratcheting down, as you've described it, would outweigh the benefit of the program. So it would cost more to administer through that methodology. [LB359]

SENATOR KINTNER: Thank you very much, Senator Cook. You've answered my question. That's what I was wondering. And thank you, Mr. President. [LB359]

SENATOR KRIST: Thank you, Senator Kintner and Senator Cook. Senator Carlson, you are recognized. [LB359]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I would like to address a question to Senator Cook if she would yield. [LB359]

SENATOR KRIST: Senator Cook, will you yield? [LB359]

SENATOR COOK: Yes. [LB359]

SENATOR CARLSON: Would you help me understand a little bit better what happens after 36 months? [LB359]

SENATOR COOK: The eligibility for the program is...you mean in terms of this proposal or in terms of a person who might remain eligible for this sort of assistance? [LB359]

SENATOR CARLSON: Well, earlier in that paragraph we're talking about a person who gets a raise and, therefore, the amount of income that would be considered is...well, I don't want to say ratcheted up, but the point is to help somebody that gets an opportunity for an advancement that they're able to take the advancement... [LB359]

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SENATOR COOK: Um-hum. [LB359]

SENATOR CARLSON: ...and we don't have the cliff. But currently--I don't have full understanding of this--what happens after 36 months? [LB359]

SENATOR COOK: The reason why 36 months is the time frame is that it's our understanding that a person would have had ample opportunity to move up in that job so that is where 36 months comes from. When you ask me what happens after 36 months, I'm thinking, of course, in ideal terms and a person would no longer be...have the subsidy be necessary. [LB359]

SENATOR CARLSON: So whether or not the subsidy goes on depends on what they've been able to do incomewise in that 36 months. [LB359]

SENATOR COOK: Yes, sir. [LB359]

SENATOR CARLSON: Okay. Thank you, Senator Cook. We provide many services at the state level in Nebraska, and these are all to be done in a manner that really helps people. What we do, I firmly believe, should be geared toward helping people help themselves, helping people provide for themselves, helping people become independent. And that's the right approach, in my opinion, to the services that we provide. And I think this bill is headed in that direction. I think that, by and large, an individual that receives subsidies in a sense should be earning those subsidies. I think this bill is addressing that and so I appreciate Senator Cook bringing it and I am in support of AM1620 and LB359. Thank you. [LB359]

SENATOR KRIST: Thank you, Senator Carlson and Senator Cook. Senator Gloor, you are recognized. [LB359]

SENATOR GLOOR: Thank you, Mr. President. Good morning, members. I want to continue with a line of thought, reason, rationale that Senator Schumacher brought forward and that is from an employer's perspective. My previous institution had its own in-house day-care center. We did that for a variety of reasons but the primary reason as an employer is the difficulty in getting employees when it came to their sitting down and taking a look at the numbers that it was going to cost to have care provided for their children. I'm one of the members of the Health and Human Services Committee that voted to advance this bill and that was my thought process as we had this debate, asked questions. This seems to be a pretty simple solution towards making it just a little bit easier for people to, for families to, for single mothers to remain in the work force. And it has been awhile, I admit, since I had children that were in some form of day care. But I know nowadays it's not uncommon for families to pay as much for the childcare that their children are getting, if not more, than children who are in one of our state

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colleges. It's hard to imagine that you would look forward to the day when your children would go to college because it would cost less than having them in day care but there's a cold, hard reality, and that's why we as an employer not only provided that opportunity but provided subsidies on our own based upon income needs of different employees. This is a pretty commonsense approach, relatively low-cost approach to address some of the work force needs that we have in this state and I would urge the adoption of AM1620 as well as the underlying bill, LB359. Thank you, members. [LB359]

SENATOR KRIST: Thank you, Senator Gloor. Senator Nelson, you are recognized. [LB359]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'm...I have some questions for Senator Cook if she will yield. [LB359]

SENATOR KRIST: Senator Cook, will you yield? [LB359]

SENATOR COOK: Yes. [LB359]

SENATOR NELSON: I think I should have asked for some water earlier. I'm looking at the fiscal note, Senator Cook, and now I think that your...in your opening you suggested that a family of three would be under the 130 percent federal poverty level, would be earning about \$400 per week. Is that correct? [LB359]

SENATOR COOK: That was in the opening statement for the green copy of the bill that that language appears. [LB359]

SENATOR NELSON: All right, for the green copy. If you know, let's just...what about a family of four? What would they be earning at...? [LB359]

SENATOR COOK: Well, I happen to have a chart here. After I read it to you, may I ask a page to get you a copy of it? It shows the number, the income for a family of four. This is a gross monthly income. That number, according to this chart, is the range of \$1,963 to \$2,158.99 per month for that size family. And I should also mention that the families are obliged to pay, on a sliding scale, part of the fee for the childcare. It's not what we might term "first dollar" subsidy. [LB359]

SENATOR NELSON: Is that figure then...thank you very much. Does that...where did...at the \$400 a week when you're multiplying by 4.3. Then I came up with about \$17,000 and now we're at \$12,000...I guess about \$24,000, so that's the raise there when you have a family of four rather than three. [LB359]

SENATOR COOK: I'm afraid I'm not following your arithmetic. Are you calculating the salary level or wage level? Or are you calculating the...? [LB359]

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SENATOR NELSON: Well, I'm just...you...your...you...and it's not worth, I don't think, pursuing. But my question is, looking at the financial statement, let me ask you first: How many families are receiving this subsidy across the state of Nebraska? [LB359]

SENATOR COOK: Right now the department supplied a number of 750 families, so that's at least one child per family, typically two, so 750 families. [LB359]

SENATOR NELSON: All right. And again we're talking about math and I agree that this cliff is a problem, we've got to solve it in some way. But how long is it going to take a family of three or four to reach the point where they don't need a subsidy anymore, that they can pay \$600 a month for childcare? You understand what I'm saying in...? [LB359]

SENATOR COOK: Yes, I do, and I understand that certainly, ideally, this proposal has them moving up in the world or moving on, getting educational opportunities as Senator Harms described, moving up or moving on to the point where they can support themselves within that 36-month period. That is the scenario that this proposal contemplates. [LB359]

SENATOR NELSON: Um-hum. And in the discussion here in the fiscal note it...when you get down to the point it's estimated that 13 children per month would continue to receive childcare under this program. Now that's 13...we're talking about 20 percent are going to lose it but 13 children would continue, so we're making a small step here, really, aren't we, in comparison with the number of families that it...are we...we're only going to help a few. [LB359]

SENATOR COOK: I would agree that it is a smaller step than... [LB359]

SENATOR KRIST: One minute. [LB359]

SENATOR COOK: ...would ideally be available to us. But just as Senator Mello described, we've got to keep in mind our fiscal reality here in Nebraska. I think this is a step in the right direction. [LB359]

SENATOR NELSON: All right. Thank you. I...thank you, Senator. I would agree this is a step in the right...the direction I...although I think that Senator Kintner introduced another thought. Is there some other way that we can move this up and make it more effective for the same amount of dollars? So I'll continue to study this and thank you very much for bringing the bill. Thank you, Mr. Speaker. [LB359]

SENATOR KRIST: Thank you, Senator Nelson and Senator Cook. Senator Brasch, you are recognized. [LB359]

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SENATOR BRASCH: Thank you, Mr. Speaker, and good morning, colleagues. I'm curious if Senator Cook would please yield to a question? [LB359]

SENATOR KRIST: Senator Cook, will you yield to questions? [LB359]

SENATOR COOK: Yes, absolutely. [LB359]

SENATOR BRASCH: I do commend you and support this bill and your amendment. However, I do have a question to ask. What if this parent chooses during this 36-month period...they go back to work and they decided where they really belong and want to be is at home. So does...how is that affected that they are no longer...but when they file their taxes jointly they will still receive a 10 percent...or does it terminate upon employment or how is...how are the funds distributed? [LB359]

SENATOR COOK: Thank you very much, Senator Brasch, because this permits me to reinforce an idea about the United States' and our state's safety net program. We haven't given money to people who do not work or go to school for a long, long time. We're all in here old enough to remember President Clinton's welfare-to-work reforms in the mid '90s. If you are not in the work force or in school or in some sort of training, you do not receive a safety net benefit in the United States if you're able and available for work. [LB359]

SENATOR BRASCH: Thank you. I have no other questions. [LB359]

SENATOR COOK: Thank you. [LB359]

SENATOR KRIST: Thank you, Senator Brasch and Senator Cook. Senator Hansen, you are recognized. [LB359]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I don't know why, but several months ago I just Googled on the gadgets just the cost of raising a child, and I thought that was very interesting what I found there. It's quite a range. It depends on lifestyle and it depends on football games that they have to buy football uniforms for and what their school is set up to do for student fees or free and reduced meals, a lot of variation. What it comes out to is from day of birth to 18 years of age, does not include any college, the low end is \$241,000 per child. So if you have two children for...from birth to 18 is 216 weeks, about \$2,200 a month, divided by the 40-hour work week, you've got to make \$55 an hour to raise a child at these rates today. These rates may go up, more than likely will go up. It's going to be extremely hard for a single mom with two kids to ever get off of some type of assistance until those children leave home. The only raise I got...we raised two children, two boys, a lot of food going through those two young men's bodies. I never got a raise in my salary until they left home. When they left home they were on their own. Well, not really. When they

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graduated from college they were on their own. But we appreciated that low income the whole time. I'm not sure...you know, this may be a starting point for Senator Cook. I just figure that this is going to be an ongoing consideration for a lot of people when we start giving subsidies out and unfortunately we're probably going to have to do it. But I just wish every young couple--Senator Mello and his wife are expecting a baby around Valentine's Day--would realize that that child may cost \$360,000 to raise until he's age 18, him or her. It's expensive. Thank you, Mr. President. [LB359]

PRESIDENT HEIDEMANN PRESIDING

PRESIDENT HEIDEMANN: Thank you, Senator Hansen. Is anyone wishing else to speak on AM1620? Seeing none, Senator Cook, you are recognized to close on your amendment. [LB359]

SENATOR COOK: Thank you, Mr. President, and thank everyone for participating in the conversation. You all brought wonderful arguments, I believe, in favor of consideration of this measure at this time. I would ask that you adopt AM1620 and vote green to advance it. Thank you very much. [LB359]

PRESIDENT HEIDEMANN: The question...thank you, Senator Cook. The question is, shall the amendment to LB359 be adopted? All those in favor vote aye; all those opposed vote nay. Have all of you voted who wish to vote? Mr. Clerk, please record. [LB359]

CLERK: 35 ayes, 0 nays, Mr. President, on adoption of the amendment. [LB359]

PRESIDENT HEIDEMANN: The amendment is adopted. Discussion on the advancement of LB359 continues. Is anyone wishing to speak? Seeing none, Senator Cook, you are recognized to close on advancement of LB359. Senator Cook waives. The question is the advancement of LB359 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all of you voted who wish to vote? Mr. Clerk, please record. [LB359]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB359. [LB359]

PRESIDENT HEIDEMANN: The bill advances. Mr. Clerk, items for the record? [LB359]

CLERK: I do, Mr. President. I have new bills. (Read LB902-904 by title for the first time.) In addition, Mr. President, I have hearing notices from the Judiciary Committee, those signed by Senator Ashford as Chair. And that's all that I have at this time. (Legislative Journal pages 224-25.) [LB902 LB903 LB904]

PRESIDENT HEIDEMANN: Thank you, Mr. Clerk. The Legislature will stand at ease for

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a little while.

EASE

PRESIDENT HEIDEMANN: Senator Kintner, you are recognized for a motion.

SENATOR KINTNER: Well, thank you, Mr. President. I move that a committee of five be appointed to escort the Governor of the state of Nebraska to the Legislative Chamber to deliver his State of the State Address.

PRESIDENT HEIDEMANN: Members, you have heard the motion. All those in favor say aye. All those opposed say nay. The motion is adopted. I would appoint the following to the committee: Senator Avery, Senator Crawford, Senator Pirsch, Senator Christensen, and Senator Brasch. Would the Escort Committee retire to the rear of the Chamber to escort the Governor. The Chair recognizes the Sergeant at Arms.

SERGEANT AT ARMS: Mr. President, your committee now escorting the Governor of the great state of Nebraska, Dave Heineman, and First Lady Sally Ganem.

PRESIDENT HEIDEMANN: The Chair recognizes the Governor of the state of Nebraska.

GOVERNOR HEINEMAN: Thank you very much. Thank you. Thank you very much. Thank you very much. Mr. President, Mr. Speaker, members of the Legislature, Tribal Chairmen, distinguished guests, friends and fellow Nebraskans: I want to begin my remarks today by thanking our fellow citizens for their dedication and their commitment to their communities, our state, and the United States of America. Our Nebraska values of personal responsibility, family, hard work, and fiscal responsibility have kept Nebraska in better shape than the rest of the country. We've learned how to compete in global markets. We've strengthened Nebraska's education system by focusing on academic excellence and academic improvement. We care about our children. Every legislative session we've tackled the tough issues head on and we have made the difficult decisions that move Nebraska forward. We have a responsibility to provide our citizens and future generations with the opportunity to succeed. This session will be no different. The issues that we need to resolve and the course that we need to chart for our state are serious and substantial. Not everyone will agree on every issue, but our decisions will greatly impact Nebraska's future success. So let's begin our conversation today about one of those challenging and important issues: healthcare. President Obama said if you like your current healthcare plan you can keep it, period. Unfortunately, that's simply not true. Millions of Americans have received cancellation notices of their current healthcare plans because of Obamacare. The implementation has been one disaster after another. Deadline after deadline has been missed or waived. President Obama promised the American people that if you already have

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insurance, his plan would reduce your insurance premiums up to \$2,500 per family per year. Again, this is not true. The facts show otherwise. The Manhattan Institute analyzed insurance rate changes as a result of Obamacare and found that Nebraskans will be among the hardest hit Americans. The required parts of the new federal healthcare law alone will cost the state of Nebraska more than \$200 million in state General Funds over the next six years. That's \$200 million in funding that could be used for education. President Obama and his White House political operatives are trying to pressure Nebraska into expanding Medicaid, but Nebraska will not be intimidated by the Obama administration. The United States Supreme Court said Obamacare's Medicaid expansion is optional. It is up to each state to decide how they want to proceed. The financial reality of expanding Medicaid is very simple. Expanding Medicaid will result in less future funding for state aid to education, special education, early childhood programs, the University of Nebraska, our state college system, and our community colleges. Additionally, the federal government is already trillions of dollars in debt, and is unlikely to fulfill its promised commitment. We have seen this happen before. For example, the federal government's commitment to special education funding has not been met. We've researched and studied the Medicaid expansion issue carefully, thoughtfully, and methodically. The responsible choice is to reject this optional Medicaid expansion. Another important issue that needs to be addressed is Nebraska's approach to crime and punishment. There are short-term and long-term components to this issue. Allowing the most violent criminals to enter into our state prison system and have their judge-imposed sentences automatically reduced by one-half through the use of the current good time program is not sound public policy. As you know, the current law allows violent criminals to automatically receive good time the moment they enter a Nebraska correctional facility. The public safety of our citizens should be priority number one and that should start with violent criminals being required to earn good time. I have done all that I can administratively by changing our rules and regulations that allow the Department of Correctional Services to take away twice as much good time when a prisoner assaults a corrections official or another inmate. Now it's up to you, the Nebraska Legislature, to reform the good time law. The recent murders were a wake-up call for every one of us. The people of Omaha and the citizens of Nebraska should be able to walk the streets of their neighborhoods without fear of being shot. Another important issue regarding prison capacity is a long-term Department of Correctional Services study. This study will provide us valuable information on the long-term needs of the state prison system. Since the study will not be completed until this summer, it would be premature to recommend what the future needs are for the Nebraska correctional system. In the meantime, we are addressing short-term prison capacity issues. My deficit budget request includes funding for additional security staff, contracting with county jails, increasing the McCook Work Ethic Camp prisoner population, and reducing the number of federal detainees in Nebraska's prison system. The other critical crime issue that should be addressed involves sentencing reform and punishment. I am prepared to work with the Nebraska Legislature, the Nebraska Supreme Court, the Department of Correctional Services, and the Council of State



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Governments in developing a long-term prison capacity strategy. There may be opportunities for our state to enact innovative solutions that ensure public safety at a lower cost for our taxpayers. I also look forward to a vibrant discussion of the proposal to enact a limited supervised release program in order to reduce the number of prisoners who reoffend after they leave the state prison system. Now let's discuss the biggest and most important issue facing the State of Nebraska: high taxes. Why is this issue so important? Tax relief is a major driving force for economic success. Nebraska's strong agriculture economy won't continue to exist with unreasonably high property taxes. When agriculture fares poorly, so does rural Nebraska. However, when agriculture succeeds, rural Nebraska and main street Nebraska flourish. The success of small businesses is also an essential component of Nebraska's economic vitality. High taxes limit their growth and their ability to create new jobs. Here is the reality we are facing. Over the past decade, median family incomes in Nebraska have declined. Food prices are up, healthcare costs are increasing, and middle-class family take-home pay is down. Here's the good news. You can help Nebraska families. The Nebraska Legislature can increase family take-home pay by lowering taxes. Middle-class families, farmers, ranchers, and small business owners need our help. I am going to fight for responsible and meaningful tax relief for Nebraskans and I hope you will too. They're counting on us to help them. You and I both know taxes are one of the toughest and most difficult issues to resolve, but that's what leadership is all about: solving complex challenges. Tax issues are multifaceted in Nebraska. Local governments decide property tax rates. State government sets income tax and sales tax rates. I appreciate the discussion that the Tax Modernization Committee had regarding taxes, but it's time for the Legislature to act. We don't need more time to study this issue. We already know taxes are too high and high taxes are detrimental to economic growth. It's time for a straightforward conversation about property and income tax relief. Nebraskans know that the Legislature does not set property tax rates. For example, the Kearney City Council decides Kearney's property tax rates, not Senator Hadley even though he is the Chair of the Revenue Committee. The Lincoln Public School Board sets the property tax rates for LPS, not Senator Sullivan even though she is the Chair of the Education Committee. The Tri-Basin NRD sets the property tax rates for their NRD, not Senator Carlson even though he is the Chair of the Natural Resources Committee. County boards, rural fire districts, community college boards, educational service units, and other local government entities set property tax rates, not the Legislature. When local government spending increases, property taxes go up. We need our partners in local governments to slow the rate of growth in local spending in order to achieve real property tax relief. In rural Nebraska, record high property taxes are hurting our farmers and ranchers because they have experienced dramatic growth in ag land values. Without action, their economic prosperity is at risk. We can help our farmers and ranchers by supporting the Nebraska Farm Bureau proposal to lower ag land valuations from 75 percent to 65 percent. That's one part of tax relief. The other challenge is Nebraska's high income taxes and the Nebraska Legislature sets those rates. Nebraska's high income tax rates are among the highest in America and higher than all

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of our neighboring states except one. Lowering Nebraska's income tax rates are essential to attracting higher paying jobs. Nebraska needs more middle-class jobs in the \$60,000 to \$120,000 a year category. Nebraskans don't want to leave, but to take care of their families they need good paying jobs. Small businesses need lower income tax rates to help grow their businesses and increase jobs. Nebraska does a significant amount of work to attract new businesses through the Nebraska Advantage program, but we need to do more to help existing businesses grow. The business community supports lowering income tax rates, and I agree with them. The bottom line is this: Taxes are too high in Nebraska and we can do something about it. We can help Nebraska's middle-class families, farmers, ranchers, and small business owners this session. Staying the course is not an option unless you support lower family incomes and more families on food stamps. We need higher paying jobs to reverse the decline in Nebraska's median family income. We need higher paying jobs to increase the state's population and growing jobs requires a more competitive tax environment. When we talk about lowering the top individual tax rate, some will argue that it only benefits the wealthy in our state. That is not accurate. If you are a single person in Nebraska with an adjusted gross income of just \$29,000 a year--\$29,000 a year--or a married couple earning \$58,000 a year, you are paying at Nebraska's highest income tax rate. A middle-class family with one spouse earning \$35,000 a year as a teacher and one spouse earning \$50,000 a year as a small business owner pays taxes at Nebraska's highest income tax rate. If you're a Nebraska farmer earning \$25,000 a year and your spouse works for the University of Nebraska earning \$55,000 a year, this middle-class family also pays taxes at Nebraska's highest income tax rate. Helping these hardworking Nebraskans benefits our middle-class families. Senator Hadley and members of the Revenue Committee, you can lower taxes on Nebraska's middle-class families, farmers, ranchers, and small business owners, and I'm willing to work with you anytime, anywhere to develop a responsible and meaningful tax relief plan. And Nebraska can afford tax relief. Today, I am providing you two financial status reports that clearly show that we can afford up to \$500 million in tax relief over the next three years, because Nebraska has a growing economy, a strong cash reserve, and we've worked hard to control state spending. I want to share with you one other important piece of financial information. The state of Nebraska has \$1.2 billion in cash in its checking and savings accounts. That's right. As I stand before you here today, the state of Nebraska has \$1.2 billion in cash. Nebraska is overtaxing its citizens right now, and we need to change that. Our choices are clear. We can sit back, do nothing, and put Nebraska's economic future at risk, or we can act and secure a better tomorrow for Nebraska. And while we are thinking of a better tomorrow, I want to recognize our military personnel and our veterans who work to preserve our freedom and our liberty. I am very proud of our veterans and the men and women serving in the Nebraska National Guard, the Reserves, and our active-duty forces. For their families and all Nebraska families, let's continue our hard work to make Nebraska an even better place to live, to work, and to raise a family. The choices we make today are about Nebraska's future. We must not mortgage Nebraska's future by expanding Obamacare's Medicaid

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program. We need to protect Nebraska citizens by reforming Nebraska's good time law. And we need to increase the take-home pay of Nebraskans by providing them tax relief. Thank you.

PRESIDENT HEIDEMANN: Thank you, Governor. Would the committee escort the Governor from the Chamber.

SENATOR MCGILL PRESIDING

SENATOR MCGILL: The Legislature will reconvene at this point. Mr. Clerk, you have items for the record.

CLERK: I do, Madam President. Hearing notices from the Revenue Committee signed by Senator Hadley as Chair. New bills. (Read LB905-909 by title for the first time.) And that's all that I have at this time, Madam President. (Legislative Journal pages 231-32.) [LB905 LB906 LB907 LB908 LB909]

SENATOR MCGILL: Mr. Clerk, we will proceed to General File, LB359A. [LB359A]

CLERK: LB359A is by Senator Cook. (Read title.) I do have an amendment to the bill by Senator Cook, Madam President. (AM1622, Legislative Journal page 203.) [LB359A]

SENATOR MCGILL: Senator Cook, you are recognized to open on LB359A. [LB359A]

SENATOR COOK: Thank you, Madam President, and thank you, colleagues, for your support of the advancement of LB359. As you understand, LB359A is the fiscal note. It is the cost to implement the program. If you would look on your laptops you will notice that there is a revised fiscal note. This is revision number three that I am looking at and it reflects a decrease from the original fiscal note. I think we have understood through the participation of the colleagues on the floor during the General File debate for the bill itself that children cost money and that if we as state policymakers want to encourage people to stay in the work force, work hard, and move up and move out of the welfare system, this is a great step in that direction. So with that, Madam President and colleagues, I would ask for your support of LB359A. Thank you. [LB359A LB359]

SENATOR MCGILL: Thank you, Senator Cook. Mr. Clerk. [LB359A]

CLERK: Madam President, Senator Cook would move to amend her A bill with AM1622. [LB359A]

SENATOR MCGILL: Senator Cook, you are recognized to open on your amendment. [LB359A]

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SENATOR COOK: Thank you very much. I think I already gave the opening for AM1622 to LB359A. I certainly don't want to belabor the point. There is...I will remind you this is a reflection of the fact that people only typically stay on the program for seven months. So the amended fiscal note reflects the amended language of the bill to reflect a lower cost for the implementation of the bill initially. I ask for your support of AM1622 to LB359A. Thank you, Madam President. [LB359A]

SENATOR MCGILL: Thank you, Senator Cook. Senators wishing to speak? There is no one in the queue. Senator Cook, would you like to close? Senator Cook waives closing. The question is, shall the amendment to LB359A be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB359A]

CLERK: 29 ayes, 0 nays, Madam President, on the adoption of Senator Cook's amendment. [LB359A]

SENATOR MCGILL: The amendment is adopted. Discussion on the advancement of LB359A to E&R Initial. Seeing no one in the queue, Senator Cook, would you like to close? Senator Cook waives closing. The question is the advancement of LB359A to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB359A]

CLERK: 28 ayes, 0 nays, Madam President, on the advancement of LB359A. [LB359A]

SENATOR MCGILL: The bill advances. Next bill, Mr. Clerk. [LB359A]

CLERK: Madam President, LB13, a bill introduced by Senator Krist. (Read title.) The bill was introduced on January 10, referred to the Health and Human Services Committee, advanced to General File. There are committee amendments pending, Mr. President...Madam President, excuse me. (AM260, Legislative Journal page 489, First Session, 2013.) [LB13]

SENATOR MCGILL: Senator Krist, you are recognized to open on LB13. [LB13]

SENATOR KRIST: Thank you, Madam President. Good morning, colleagues, and good morning, Nebraska. I'm here happily to introduce "Lucky 13," LB13. LB13 requires that all new residential homes would include a passive radon-resistant construction system. Radon is an odorless, colorless, tasteless gas. It occurs naturally, is radioactive, and created as uranium in the soil decays. Radon is a leading cause of lung cancer in nonsmokers. This should be an even greater concern for families in Nebraska. Our state has the third highest emission of radon gas in the country because of the concentration of uranium in our soil. Many federal home loan programs require radon testing and mitigation. To ensure that all families are protected, taking this step is necessary. Thank you for your attention and consideration and I would point out a few

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handouts, hopefully, that you have at this point. The average radon concentrations by county are listed in a handout that I have given you and color coded, and you'll notice that better than one-third of the eastern portion of the state lies in the highest concentrations in the highest risk areas. Those of you who live in the Sandhills fare a little better. I would also point out the other handout which gives you a very graphic display of what is required in order to install a radon-resistant system in new construction. I am privileged enough to be in the process of building a new home and I have ordered this construction to be put into my home. At the new construction phase, that construction with the system that is described here is less than \$1,000. In fact, my home is being installed for about \$650. If I would discover that radon, as any homeowner would, down the road a bit and an active system would have to be installed, those estimates are someplace between \$4,000 and \$6,000, so ten times the amount. And in some cases the mitigation of the radon requires an outside construction, which I don't know about you, gentlemen, but my wife would not like to mar the outside of our home with pipes going in different directions, or ladies. The point being, it's easy to do it at the beginning of the process, it is inexpensive to do it, and it is a good hedge on your bet to mitigate at the later point. Incidentally, putting the active system in place after there might be an issue is simply the addition of the forced ventilation system, a fan, an addition on which I think you can see by that simple description how it honestly would be more expensive after the home were in place should you want to add an active system there. That's it in a nutshell. I believe that the risk, hazards, health risk to our citizens is that great that we should talk about requiring it. I think you'll see, both in the bill and in the committee amendment that will follow, there really isn't a police force out making sure that this happens. It's our builders who, by the way, have come in, in support of this bill. Actually, technically neutral on the bill, but most of the real estate folks are in support of the bill because it is the cheapest option and it's the best option in mitigating the risk of radon. With that I would encourage your support for LB13. [LB13]

SENATOR MCGILL: Thank you, Senator Krist. As the Clerk stated, there are amendments from the Health and Human Services Committee. Senator Campbell, as Chair of the committee, you are recognized to open on the amendment. [LB13]

SENATOR CAMPBELL: Thank you, Madam President, and good morning, colleagues. LB13 stated that a county, city, or village that has adopted any ordinance or resolution regarding radon-resistant construction shall provide for its administration and enforcement. The committee amendment adds that in any such ordinance or resolution by no later than January 1, 2016, shall be at least as stringent as the rules and regulations for radon-resistant construction adopted by the Department of Health and Human Services. Additionally, in response to input from the Department of Health and Human Services Division of Public Health, the amendment makes several technical changes to the bill. First, the amendment clarifies that the United States Environmental Protection Agency, rather than the Nebraska Department of Health and Human Services, has identified radon emission in Nebraska as the third highest in the United

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States because of the high concentration of uranium in the soil. Secondly, definitions regarding "radon measurement specialist," "radon mitigation specialist," and "radon resistant construction" are added to the bill. The date by which new construction in Nebraska shall be required to include radon-resistant construction is extended from January 1, 2014, to January 1, 2015. And last, also the amendment also adds inspection and enforcement to the department's responsibilities for coordination, oversight, and implementation regarding radon. Finally, the amendment includes a professional engineer to the professions with representatives on the Radon-Resistant Building Codes Task Force. Thank you, Madam President. This concludes our remarks on the committee amendment. [LB13]

SENATOR MCGILL: Thank you, Senator Campbell. Mr. Clerk, there is an amendment to the committee amendment. [LB13]

CLERK: Madam President, Senator Krist would move to amend with AM920. (Legislative Journal page 907, First Session, 2013.) [LB13]

SENATOR MCGILL: Senator Krist, you're recognized to open on your amendment to the committee amendments. [LB13]

SENATOR KRIST: Thank you, Madam President. I'd like you to pay just a bit of attention because I have an apology to make, and an admission. Both of these amendments that you see on your gadget, AM920 and the next one, I will be withdrawing. The issue is that part of our community, our building community, has taken particular issue with some definitions. Now I think those of you who were around long enough to watch Senator Gloor and I spar a bit over the sprinkler issue will recognize that building codes are not an easy thing to manage. There is an international code; there is a building code; there is a...it gets very, very complex, and our local communities do a great job of making sure that what code they opt into and what date is on that code is very explicit for the builders. Now I glossed over the changes that were made in those two amendments and it was brought to my attention here in the eleventh hour that there is still some concern about those dates. This should not in any way diminish the sense of urgency that I feel to get LB13 across the finish line this year. I will between now and Select be looking at those dates and ensuring that I confer with the folks who have issue with these two amendments. So please give your support to AM260 and to LB13. But, Mr. Clerk, I would like to withdraw this amendment and the amendment that follows. [LB13]

SENATOR MCGILL: The amendments are withdrawn. Moving on to floor debate, Senator Harms, you are recognized. [LB13]

SENATOR HARMS: Thank you, Madam President. Senator Krist, would you yield?  
[LB13]

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SENATOR MCGILL: Senator Krist, would you yield? [LB13]

SENATOR KRIST: Absolutely. [LB13]

SENATOR HARMS: Senator Krist, first of all, I do support LB13 and the amendment. I just have a couple of questions I wanted to ask you. We use the term in your amendments and in your bill "construction." Are we talking about all construction, just talking about...you talk about home construction. What are you talking about when you use the term "construction"? Is that all of our construction in Nebraska or is it just home construction? [LB13]

SENATOR KRIST: It's new home construction, either single or multifamily. [LB13]

SENATOR HARMS: Do you think that there is any need in regard to other kinds of construction, like a business building a new facility, people who spend eight to ten hours a day in that facility, do you think that there is any danger here? [LB13]

SENATOR KRIST: Yes, sir, I do. And actually, that is one of the things that I needed to... [LB13]

SENATOR HARMS: Okay. [LB13]

SENATOR KRIST: ...confer with that will be changed theoretically, hopefully, with an amendment to follow between now and Select. [LB13]

SENATOR HARMS: I really hope that we would do that because I really do believe that if it's endangered in the time you spent in your home, for all of us who work and come back, it's going to be the same thing at work. So I would hope you'd address that. The other question I have: Do you have your map before you? [LB13]

SENATOR KRIST: Yes, sir. [LB13]

SENATOR HARMS: Senator Krist, would you help me better understand how...what the "Zone 1 - 4.0 pCi/L," what does that mean and how does that actually measure? I don't...I'm not sure I understand that. Do you see the side? [LB13]

SENATOR KRIST: I do. [LB13]

SENATOR HARMS: Okay. [LB13]

SENATOR KRIST: There is an EPA standard that the evaluation is per liter and it is the amount of radon gas that is exposed or can filter through after the uranium is decaying.

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And those zones...Zone 1 is just a color zone. It shows you those areas that are above, equal to or above, that EPA standard of 4 (pCi/L) and it shows you those that are below. So, for example, Zone 1, which includes a greater part of the state of Nebraska, probably has a pretty substantial clay base, not a sand base, so it's concentrated even more in terms of getting up through the home, and that measurement is...although it says equal to or above 4 (pCi/L), I can tell you that in my own county, in Douglas County, we have situations where it's above 15 to 20 (pCi/L), so that's a real hazard. [LB13]

SENATOR HARMS: Oh, I see where my own county is in the red and that draws my attention to this particular issue. One other final question, Senator Krist, is you talked about this creating cancer, lung cancer. Is there any other research that shows or leads us down the pathway that shows it's more than just lung cancer? And the reason I bring this up is I think that where I live there is a high rate of different kinds of cancer and we're becoming more aware of this and I'm just curious. I've always felt that there's a variety of reasons why people have cancer. I think I've drawn the conclusion it's what you breathe in, what you drink, what you eat, and certain to the genetics. I'm just curious, is there any other research that leads us down this pathway that there is more than just lung cancer that this creates? [LB13]

SENATOR KRIST: I think there has been a link. And I will say this publicly and I will confirm this for you both off the mike, but there's research that the Lung Association/Cancer Association have that this...it also is a contributing factor, or seems to be a factor, with some bone cancers. So it's the ingestion into the lungs and then diffusion. But I'll get that for you specifically and, as a matter of fact, during now and Select, make that information available. [LB13]

SENATOR HARMS: Thank you, Senator Krist. I would urge you to support this and... [LB13]

SENATOR MCGILL: One minute. [LB13]

SENATOR HARMS: Thank you, Madam Chairman...and let Senator Krist work out the other details and come back to us. I think this is something that we need to pay attention to. When you look at this map there's an awful large portion of Nebraska that's red. That has a...that's a real concern for me and should be a concern for all of us. So thank you, Madam President. [LB13]

SENATOR MCGILL: Thank you, Senator Harms and Senator Krist. (Visitors introduced.) Continuing with floor debate, Senator Gloor, you are recognized. [LB13]

SENATOR GLOOR: Thank you, Senator. Thank you, Madam President. Senator Krist gave me a quick flashback on one of my more enjoyable bills having to do with



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removing the requirement that all new homes being built were going to have to have sprinkler systems installed and all...I won't get into the specifics of it except to say that I was quite opposed to what was being proposed. We finally got the Legislature involved in providing for opportunities for individual communities to make that decision as is necessary. I believe that was the final resolution of all that. But I tell you that story and relate it because I keep a keen eye on those costs associated with construction of personal homes so that we don't find ourselves, with the best of intentions, pricing more Nebraskans out of the ability to own a home of their own. I felt pretty strongly about the fact that the way that the home sprinkler system requirements were coming about were going to have that effect. First of all, we were talking about costs that were going to be in the \$5,000, \$6,000, \$7,000 range without any requirement that you maintain them. And the reality is we're talking about a public health issue with LB13 that I think for modest cost can be very effective in addressing what is a real public health concern. So I've been supportive of LB13. I'm very supportive of the approach Senator Krist has taken to get some input on this as we roll out rules and regs. I'm pleased to say that my county isn't one of those counties that has a serious problem. Part of that probably has to do with the fact that with high groundwater levels we flush our...a variety of chemicals into and out of our system pretty regularly and we can't build basements the way a lot of communities can. But nonetheless, this is a very appropriate, commonsense approach towards a real public health problem that we have, very reasonable. And again I relate the fact that I've been keeping an eye on the costs associated with however we think to modify homes in ways that will benefit the public as an offset to the cost to the public, can support AM260 and LB13. Thank you, Madam President. [LB13]

SENATOR MCGILL: Thank you, Senator Gloor. Senator Ken Haar, you are recognized. [LB13]

SENATOR HAAR: Ms. President, members of the body, I rise in support of LB13. I also have done some study on radon and the incidence of radon in Nebraska. One of the very interesting things is kids breathe more air, and I found this out while I was working on Green Schools in the past. And so really the population that we're setting up for disaster if we don't do something about this is our children. They breathe more air. This is a predisposition to cancer later on and I think it's reasonable and necessary and I want to thank Senator Krist for bringing this bill. Thank you. [LB13]

SENATOR MCGILL: Thank you, Senator Haar. Senator Nelson, you are recognized. [LB13]

SENATOR NELSON: Thank you, Madam President, members of the body. I have a few questions for Senator Krist if he would yield. [LB13]

SENATOR MCGILL: Senator Krist? [LB13]

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SENATOR KRIST: Absolutely. Thank you. [LB13]

SENATOR NELSON: It's always difficult to see you from here, Senator Krist. I'm somewhat familiar with the radon mitigation system. We decided to have one installed in our own home. And the first question I would ask...I think our cost was about \$1,500 for that and that was interior because we also did not want any exterior pipes going out. But we had testing done even though we were at one point below the 4 millimeters or a little bit higher. We decided to go ahead and do that. But I have heard that other people have paid as little as, you know, \$700-800 to have it done. Where do you come up with the figure of \$4,000 or \$5,000 for this type of expenditure? [LB13]

SENATOR KRIST: The firms in the Omaha area gave us a range and came in and testified to what it could cost. And I think a lot of it depends...I know a lot of it depends upon your square footage and your construction. So in your case I would believe that you were lucky enough to have a square footage that was manageable and a central system that would mitigate all the problems. And obviously, those are at the extremes. As I said, my first estimate for the very basic in my home was \$400. I elected to go with the \$700 version because it was a better system in the event that I had to mitigate or do the forced air. But those numbers come from the industry and they came both in testimony during the transcript of the hearing, as well as my own investigation. [LB13]

SENATOR NELSON: All right. We do have a high level of...how shall we put it...a lot of radon in the Douglas County area. But it's not everywhere and I know now that it's...if you're going to sell an existing home or something like that, it's just a good idea or probably required to have radon testing and you're going to have to install it because of an instance where we ran into that. But there are areas where the radon level is below 4 percent and I'm just asking, why require this on every new home? Why not require testing first and then leave it optional with the owner who is constructing a new home as to whether they want to put this system in? [LB13]

SENATOR KRIST: Senator Nelson, the bill basically says that the builder will inform the owner of the possibility of putting the system in and then it's up to the owner to make a decision. There's really no enforcement by the department or by the code authority in the local area. It simply is an advisory that they would make it available. If the radon level is too high, obviously, it's smarter to do it on the front side than the back. [LB13]

SENATOR NELSON: I agree with that. Somewhere I got the impression in your introduction that all new construction would be required to have this but that's not the case. [LB13]

SENATOR KRIST: No. All new construction would be...the owner or builder would be advised of this possibility. [LB13]

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SENATOR NELSON: Yeah. I think that's a much better approach. I'm interested in your diagram here. It is necessary to install an electrical junction box for a fan if needed. Well, it's needed. I mean you've got to...if you think you have radon and you know you do, you've got to keep that fan going constantly and bringing that gas out. So that's...that would be part of the expense, would it not? [LB13]

SENATOR KRIST: In my new home construction right now... [LB13]

SENATOR MCGILL: One minute. [LB13]

SENATOR KRIST: ...I am not putting the fan in, but I am supplying an outlet in the event that the fan has to be put in at a later date. So the passive portion of it or the radon-resistant new construction does not require you to have a forced air or ventilation system attached. [LB13]

SENATOR NELSON: So are you suggesting that under this construction the gas itself is just going to flow up naturally through that pipe? [LB13]

SENATOR KRIST: There is some ventilation that's going to happen because the pipe, obviously, is going to have a crosswind or a wind that will suck gas out of it in a passive way. [LB13]

SENATOR NELSON: Um-hum. [LB13]

SENATOR KRIST: But if it's required, if there is a radon level that's required to be mitigated, we can force that air to go forward. [LB13]

SENATOR NELSON: So you don't have any device there that tells you when your radon level is...I mean are you going to have to monitor every week or every month to see where you are, to find out if you do need to install that fan? [LB13]

SENATOR KRIST: The monitor system is not part of this bill. However, as I stated in my opening as well, if you're... [LB13]

SENATOR MCGILL: Time. [LB13]

SENATOR NELSON: Thank you, Senator. [LB13]

SENATOR MCGILL: Thank you, Senator Nelson and Senator Krist. Seeing no other senators in the queue, Senator Campbell, you are recognized to close on the committee amendments. [LB13]

SENATOR CAMPBELL: Thank you, Madam President. And I appreciate the questions

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that we have had and certainly would pledge my help with Senator Krist to address the questions for the amendments. I want to remind the body that the committee amendment deals with some technical language that the department needed to have in the bill. I would certainly encourage your support of this. This is an increasing concern as we build new homes. And certainly for all of us that have older homes, we will need to be paying attention to this, to radon, and we've become far more aware of it in the past couple of years. So I thank Senator Krist for bringing it forward and would urge your yes vote on the committee amendment. Thank you, Madam President. [LB13]

SENATOR MCGILL: Thank you, Senator Campbell. The question is, shall the committee amendments to LB13 be adopted? All those in favor vote aye; all those opposed vote nay. Has everyone voted who wishes to? Record, Mr. Clerk. [LB13]

CLERK: 27 ayes, 0 nays, Madam President, on adoption of committee amendments. [LB13]

SENATOR MCGILL: The amendment is adopted. Discussion on the advancement of LB13 to E&R Initial. Senator Scheer, you are recognized. [LB13]

SENATOR SCHEER: Thank you, Madam President. I rise in support of LB13. And in listening to the discussion we were...seemed to be talking about the testing and, you know, what was included. To me, the analogy of what Senator Krist is providing us, if we had a map of Nebraska and it showed that it was...the whole state was literally on a very high water table and we were suggesting that new home construction or buildings be built with the capacity of putting a sump pump in and putting the well in for the sump pump and putting the drainage in on the basement, I don't think any of us would think twice. Well, this is the same thing. We do have a problem with radon gas in the state of Nebraska and this is a preventative way to solve a problem if and when it occurs, just like if you are in a high water table you would put a sump pump pit in. You may not put the pump in because you don't know if you're going to need it. But just as Senator Nelson asked, yeah, you will still monitor how high that water gets in the pit and at some point in time you may have to put a pump in that pit. Well, at some point in time you may have to put a fan up in your attic to pull the air out of the ground in order to move the radon out of the home. It's similar. It may not be exact. But I look at analogies and that's the closest thing I can come up with. And it is a danger. People do...I have known someone that has died because of that in my community. And so I would urge your support for LB13. Thank you. [LB13]

SENATOR MCGILL: Thank you, Senator Scheer. Senator Johnson, you are recognized. [LB13]

SENATOR JOHNSON: I rise in support. Thank you, Madam Chairman. We moved this summer into a house that was built in 1998 and one of the comfort levels we had when

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we walked through this house, it had a radon system in it already. And I applaud the farmer that moved to town and built the house and put the radon system in there and I just believe it's a good move as we look at all new construction. Thank you. [LB13]

SENATOR MCGILL: Thank you, Senator Johnson. Seeing no other senators in the queue, Senator Krist, you are recognized to close on the advancement of LB13. [LB13]

SENATOR KRIST: Thank you, Madam Chair. I would encourage your support of LB13 for the all the reasons that have already been stated. I apologize to you for not having the foresight to have the rest of the amendments done. I will work to make sure that the definitions in the local codes are, again, complied with and that I bring to you, if needed, an amendment later. But at this time I'd ask for your support in LB13. Thank you. [LB13]

SENATOR MCGILL: Thank you, Senator Krist. The question is the advancement of LB13 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk. [LB13]

CLERK: 28 ayes, 0 nays, Madam President, on the advancement of LB13. [LB13]

SENATOR MCGILL: The bill advances. Mr. Clerk, we'll proceed to the next bill on General File. [LB13]

CLERK: LB642 is a bill by Senator Mello. (Read title.) The bill was introduced on January of 2013, referred to the General Affairs Committee, advanced to General File. I do have committee amendments as well as an amendment from Senator Mello to the bill, Madam President. (AM363, Legislative Journal page 589, First Session, 2013.) [LB642]

SENATOR MCGILL: Senator Mello, you are recognized to open on LB642. [LB642]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. In the state of Nebraska the only legal place to wager on horse racing is at a licensed racetrack. Since the inception of the Internet, however, Web sites have been accepting pari-mutuel wagers on-line in violation of many state laws. These on-line wagering systems are often operated using what is known as an advanced-deposit wagering where individuals set up an on-line account with a set amount of money in the account, say \$100. The account holder can then immediately start placing wagers on horse races with wagers debited from the payouts credited to their accounts. These on-line advanced-deposit wagering systems that are based out of state not only violate Nebraska law but they also harm the existing racetracks who rely on simulcast racing to keep their operations going. In other states where racetracks have faced intense competition from these out-of-state on-line wagering systems, the horse racing industry has been able to deter this illegal behavior by increasing criminal penalties. Currently,

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conducting pari-mutuel wagering outside of a licensed racetrack is a Class I misdemeanor. LB642 would simply provide for an increased penalty for operating an advanced-deposit wagering system of pari-mutuel wagering outside of a licensed racetrack so that accepting on-line wagers from Nebraska residents in this manner would be a Class IV felony. During the committee hearing on the bill, representatives from Gambling with the Good Life testified in opposition out of concern for the language that was in Section 3 of the green copy of the bill. Their concern was that this language as written would have inadvertently expanded allowable forms of gaming at licensed racetracks which was not the intent of my legislation. Senator Karpisek will speak to the committee amendment shortly which replaces the problematic language from the green copy and try to address those concerns. While the topic of gambling is frequently a controversial one in the Legislature, I do not believe LB642 is of the same mold as other legislation dealing with this subject matter. Similar legislation that I introduced in 2012 was advanced to General File but died at the end of the session because it did not receive a priority designation. And LB642 was advanced by the General Affairs Committee on a 7-0 vote with one member not voting. I'd urge the body to advance LB642 to Select File. Thank you, Mr. President. [LB642]

SENATOR MCGILL: Thank you, Senator Mello. Senator Karpisek, as the Chair of the General Affairs Committee, you are recognized to open on the amendments. [LB642]

SENATOR KARPISEK: Thank you, Madam President. Senator Mello said it after his mike was off. I'll help him out. The committee amendment is meant to further clarify that LB642 would not prohibit Nebraska licensed racetracks from utilizing an advanced-deposit wagering system that is already in place. Now that would just be if you go get your own ticket at a track. We are trying to make sure that, as Senator Mello said, there were some questions, to make sure that this does not allow for offtrack betting. There were some concerns after this committee amendment and Senator Mello has another amendment following this to make it more clear. So with that I will take any questions or let Senator Mello open on his next amendment. Thank you, Madam Chair. [LB642]

SENATOR MCGILL: Thank you, Senator Karpisek. Mr. Clerk, there is an amendment to the committee amendment. [LB642]

CLERK: There is, Madam President, Senator Mello, AM1612. (Legislative Journal page 203.) [LB642]

SENATOR MCGILL: Senator Mello, you are recognized to open on your amendment to the committee amendments. [LB642]

SENATOR MELLO: Thank you, Madam President and members of the Legislature. As senators started to look over carryover bills a couple weeks ago, a few senators began

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to ask about LB642 and express concerns that, even as rewritten by the committee amendment, it was unclear that it would continue to be illegal for Nebraskans to wager on horse racing outside of a licensed racetrack. Since it was never my intention to expand gaming in any way through this bill, my office and the supporters of LB642 worked with Senator McCoy's office to draft the clarifying language which you have in front of you, AM1612. AM1612 simply clarifies that it would be illegal for anyone who utilizes an advanced-deposit wagering system to take or receive wagers from outside of a licensed racetrack enclosure, in violation of Article III, Section 24 of the Nebraska Constitution. While nothing in either the green copy or the committee amendment allowed the taking or receiving of wagers from outside of a licensed racetrack enclosure, AM1612 represents a belt-and-suspenders approach that should make this point crystal clear. I'd urge the body to adopt AM1612 and would just like to close in thanking Senator McCoy and his office in working with us on this clarifying amendment. Thank you, Mr. President...Madam President. [LB642]

SENATOR MCGILL: Thank you, Senator Mello. Moving on to floor debate, Senator Ashford, you are recognized. [LB642]

SENATOR ASHFORD: Thank you. Maybe I could ask Senator Karpisek a question. [LB642]

SENATOR MCGILL: Senator Karpisek, will you yield? [LB642]

SENATOR KARPISEK: Yes, I will. [LB642]

SENATOR ASHFORD: Thanks. I think I understand the intent here. But who asked for this bill? Who are the proponents of (inaudible)? [LB642]

SENATOR KARPISEK: Proponents the bill were the Horsemen's Park and the HBPA, so the horsemen themselves. [LB642]

SENATOR ASHFORD: Okay. And I understand the prohibition that has been in the law for some time. And what we're doing is making it a felony now to run... [LB642]

SENATOR KARPISEK: Correct, if... [LB642]

SENATOR ASHFORD: ...to basically have an offtrack betting operation or to do similar types of things? [LB642]

SENATOR KARPISEK: Right. And the main thing that was happening here, Senator Ashford, was Internet gaming on our tracks here in Nebraska and we're trying to stop that. [LB642]

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SENATOR ASHFORD: Okay. And what was it before this? Is it a misdemeanor I?  
[LB642]

SENATOR KARPISEK: Class I misdemeanor. [LB642]

SENATOR ASHFORD: Okay. So I just, as a...I think it's...the purpose of the bill is good and I agree with what you've said, Senator Karpisek. I just...this is going to be one of many bills that come through here or come through the Judiciary Committee where we're starting to create felonies out of whole cloth and I just want to make sure that we all know that, you know, part of our challenge this year is to deal with the impact of the kinds of crimes we are making felonies. The...and a lot of times what happens is these bills...and I don't have any problem with what you've said, Senator Karpisek, or with the groups that you...that brought this bill to you or to Senator Mello. But again, oftentimes these felonies get created out of whole cloth. They get created because a special interest group wants there to be a felony and instead of a high-grade misdemeanor. And the result of that, of course, is a felony IV is imprisoned...imprisonment, you know, in the Nebraska Department of Corrections potentially. So as we add to these felonies, this collection of felonies, we're going to again put stress on the prison system unquestionably. I mean it's going to happen. So it's not that Senator Karpisek and Senator Mello are...have brought us something that's a bad idea. It's been the policy of this state for many years since I was in the Legislature before that we restrict these gambling operations to a horse track. But again, we have Internet sales now. That's another aspect to this issue. I just raise the flag here that it's a felony. A felony IV is a serious crime punishable by imprisonment, sometimes a significant length of time. And is this the kind of offense we want to make a felony? So with that caveat, thank you, Madam Chair. [LB642]

SENATOR MCGILL: Thank you, Senator Ashford. Senator Chambers, you are recognized. [LB642]

SENATOR CHAMBERS: Thank you, Madam President. I would like to ask Senator Mello a question. [LB642]

SENATOR MCGILL: Senator Mello, will you yield? [LB642]

SENATOR MELLO: Of course. [LB642]

SENATOR CHAMBERS: Senator Mello, how would this law be enforced and against whom? [LB642]

SENATOR MELLO: That's a great question, Senator Chambers, and I had my light on to try to answer, I think, some of Senator Ashford's general statements. [LB642]



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SENATOR CHAMBERS: You mean to answer the question that I'm asking? [LB642]

SENATOR MELLO: Yes, yes. [LB642]

SENATOR CHAMBERS: Do you know what? On the Jimmy John's commercial, somebody at least dials the number before they're right there. He's here before I even call him. I'll take your answer then. Thank you, Senator Mello. And I might call you "JJ," and you know that's Jimmy John's. [LB642]

SENATOR MELLO: The main offenders of this...of the current statute, of the Class IV...the Class I misdemeanor are out-of-state companies that run on-line gaming systems. [LB642]

SENATOR CHAMBERS: Okay. [LB642]

SENATOR MELLO: And they would be the offenders of this bill, of this increased penalty from a Class I misdemeanor to a Class IV felony in part because misdemeanor...you cannot extradite a misdemeanor charge. And so the industry of trying to crack down on illegal gambling approached the Attorney General's Office and they were obviously very reluctant of trying to work a case and/or a violation of this since it only qualified as a misdemeanor. This has been an issue that's happened in other states of trying to crack down on illegal on-line gambling and states that have expanded it from a misdemeanor to a low-level felony charge have seen success in regards to being able to go after illegal on-line gamblers. [LB642]

SENATOR CHAMBERS: Okay, now before you take all my time, do you mean to tell me the Attorney General has told you he will seek the extradition of somebody who violates this law? [LB642]

SENATOR MELLO: They have not specifically told me that. It was an issue that was raised by the industry of why the Attorney General's Office may not go after these current lawbreakers under a Class I misdemeanor. And they said a misdemeanor is...you cannot extradite a misdemeanor charge. [LB642]

SENATOR CHAMBERS: I'm aware. Are you aware of whether or not the offices of governors of two states when an extradition is involved may have to have something to say about whether a person is extradited or not? [LB642]

SENATOR MELLO: No, I was not. [LB642]

SENATOR CHAMBERS: Okay. I'd like to ask Senator Schumacher a question. [LB642]

SENATOR MCGILL: Senator Schumacher, would you yield? [LB642]

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SENATOR SCHUMACHER: I will. [LB642]

SENATOR CHAMBERS: Senator Schumacher, when an extradition occurs, if you know, how is that carried out? [LB642]

SENATOR SCHUMACHER: Basically what happens is the state that wants...the county attorney or prosecutor that wants the person brought back petitions the governor's office to ask the other governor's office to go have his patrol deliver him to our patrol and they're brought back. I...that's as far as my knowledge goes. I think what we're dealing with here is international extradition and I haven't the foggiest idea how that would be done. [LB642]

SENATOR CHAMBERS: Thank you. Mr. President...Madam President, Madam President, please forgive me. I didn't mean to demean you in such a fashion. I think this is much ado about nothing. I don't like to see the Legislature enact laws just to make a point for some gambling operation at that. Gambling is not wholesome. It's not uplifting. There is a woman facing prison, I think, in Sarpy County and criminal charges in Douglas County for embezzling to take care of her gambling habit. You have a former senator who stole campaign funds to gamble with. And now here we have somebody...and I'm not making Senator Mello a bad fellow, he's just a water carrier, Gunga Din. This is a situation where I don't think we ought to do this. Let the misdemeanor be there if you want to show that you don't like it. But to involve the offices of governors and the State Patrol... [LB642]

SENATOR MCGILL: One minute. [LB642]

SENATOR CHAMBERS: ...for the horse tracks, horse racing? And I don't like horse racing anyway. I believe in demonstrations. Everybody won't see this, but pretend I have a scabbard at my side. I am extracting the sword. Tailgating on Senator Karpisek's example the other day, I will fall on my sword for this one. You have to decide how much time you want to waste on a bill like this. You're not going to go after anybody outside the confines of this country and there are some governors who might think this is so silly and trifling they won't get involved in it. And I don't mean the Governor of this state. I just want Senator Mello to know that I'm opposed to the amendment. I'm opposed to the bill. Thank you, Madam President. [LB642]

SENATOR MCGILL: Thank you, Senator Chambers and Senator Mello and Senator Schumacher. Next in the queue, Senator Mello, you are recognized. [LB642]

SENATOR MELLO: Thank you, Madam President, members of the Legislature. I will try to do my best to be persuasive to Senator Chambers in the sense that normally I understand where Senator Chambers, Senator McCoy, Senator Harms, and others who

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oppose gambling would be at. In this particular issue I felt that this was something that we could come together on because other states that have taken this similar approach of changing a misdemeanor to a felony have actually been able to cut down on illegal gambling that occurred in their states. Iowa and Arkansas, while they may not have extradited companies who violated their law, saw a dramatic drop in regards to illegal on-line gambling in their state as it related to placing horse bets and wagering through their horse track and their horse racing system. I understand that...and I can appreciate where Senator Ashford was coming at, too, of being the severity of doing any kind of a felony charge and I took that into consideration as I've introduced the bill before. But this being a potential deterrent to companies that we know are currently doing this I felt was a greater...outweighed, I would say, the concern of making it a felony charge because other states in a similar state that Nebraska is in right now have seen success of cracking down on illegal on-line gambling passing very similar legislation that's in front of you in LB642. I can respect colleagues who generally oppose gaming of all forms, all shapes, all sizes, all kinds. But LB642, I would say, helps those of us who maybe don't share that opinion come to an agreement that if we do have laws that oversee keno or horse racing, that those laws should be enact...should be enforced and they should be followed. And right now under our current horse racing system people can break the law by going on-line and placing bets on-line for races outside of a racetrack. That is breaking our current law. That's a Class I misdemeanor. We're simply trying to create, I would say, a stronger deterrent for those companies who do this that they would be violating a...they would be eligible for a felony charge if they were convicted of breaking our state statute over placing a pari-mutuel wager outside of a licensed racetrack. I'll talk with Senator Chambers and Senator Ashford more off the mike but my hope would be this is something that stops illegal gambling. And I think any of us who even maybe whether we support gaming or oppose it, I think there's a general consensus that we oppose illegal gaming because that runs counter to both, I'd say, perspectives on whether or not certain gaming should even occur. So my hope is that we can adopt AM1612, clarifies I think concerns that gambling opponents had with the language that came from the committee, and then advance LB642 to Select File and hopefully start being able to crack down on illegal on-line gambling. Thank you, Madam President. [LB642]

SENATOR MCGILL: Thank you, Senator Mello. Senator Wallman, you are recognized. [LB642]

SENATOR WALLMAN: Thank you, Madam President. Would Senator Mello answer a question, please? [LB642]

SENATOR MCGILL: Senator Mello, would you yield? [LB642]

SENATOR MELLO: Of course. [LB642]

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SENATOR WALLMAN: Thank you, Senator. How many cases do we have now, do you know? [LB642]

SENATOR MELLO: I'd have to get that information back to you. Let me talk with my legislative aide and see what we can find out. [LB642]

SENATOR WALLMAN: Okay. Thank you. And I think I'm not against gaming. And so how do we...you know, we had credit card fraud in Neiman Marcus and all these things. So how are you going to tie this down? It's almost impossible. And do we have the technology in our police force or international police force? And we're dealing with foreign entities here, maybe with Cuba, maybe with Russia. So this is far bigger than we realize and you probably never will stop it because that's a person's own deal, you know, And I'm for horse tracks, as you all know. I'm for horse racing. So would that help this out? Probably not, but I do think we have to look at things realistically. And I'd yield the rest of my time to Senator Chambers. [LB642]

SENATOR MCGILL: Senator Chambers, you're yielded 3 minutes and 45 seconds. [LB642]

SENATOR CHAMBERS: Thank you, Madam President. Members of the Legislature, what would we look like if there is a fight between Jesse James and Frank James on one side and the Dalton brothers on the other and we are going to intervene to help Jesse and Frank beat the Dalton brothers? As Shakespeare said, a pox on both their houses. I'd like to ask Senator Mello a question. [LB642]

SENATOR MCGILL: Senator Mello, would you yield? [LB642]

SENATOR MELLO: Of course. [LB642]

SENATOR CHAMBERS: Senator Mello, who asked you to bring this bill? [LB642]

SENATOR MELLO: The Horsemen's Park and the horse racing industry. [LB642]

SENATOR CHAMBERS: Are you aware of not long ago when that group had an 11-second horse race of maybe 200 yards to make an end run around the law so it could appear that they're conducting horse races? Are you aware of that? [LB642]

SENATOR MELLO: I am aware of that. That was done recently. [LB642]

SENATOR CHAMBERS: Do you think that was honorable? [LB642]

SENATOR MELLO: I think that was their decision to try to comply with the law which I think that was probably not the intent of the legislation that was passed by the

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Legislature but they felt that it met the intent of the legislative law. [LB642]

SENATOR CHAMBERS: So they weren't trying to carry out the intent of the Legislature, they were trying to circumvent what the law clearly indicated. Do you disagree with that statement that I just made? The law is understood based on the common meaning of words. Following that common meaning of words, what they did would not qualify as a legitimate horse race, would it? [LB642]

SENATOR MELLO: I would have to respectfully disagree, Senator Chambers. I... [LB642]

SENATOR CHAMBERS: Do you think Pimlico has conducted an 11-second horse race? [LB642]

SENATOR MELLO: What's that? [LB642]

SENATOR CHAMBERS: Pimlico, have they conducted an 11-second horse race? [LB642]

SENATOR MELLO: I am unaware. [LB642]

SENATOR CHAMBERS: Would Churchill Downs? [LB642]

SENATOR MELLO: I am unaware but I do not believe so. [LB642]

SENATOR CHAMBERS: You know...well, okay, I'm going to tell you so you know. No, they haven't. Members of the Legislature, I do not see that group as honorable and I want them to know it. And when they make end runs around the law I'm upset with that, just as I'm upset with Senator Scheer's colleagues on the State Board of Education who made an end run around the Legislature when the committee of Senator Avery rejected a bill requiring that schools set time aside every day for the flag salute. The Legislature rejected that and the State Department of Education did an end run around the Legislature and made it a rule binding on all the schools. So when you have people coming here and making these end runs, I'm going to resist it and I'm going to continue to mention... [LB642]

SENATOR MCGILL: One minute. [LB642]

SENATOR CHAMBERS: ...what Senator Scheer has done. Now I don't know if he was a part of that but he agrees with it very strongly. And I resent it, these end runs around the law, and I'm going to tell you when I get recognized by my light how the law enforcement people in Omaha and around this state are deliberately trying to beat the public schools out of money that the constitution says they should have. Thank you,

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Madam President. [LB642]

SENATOR MCGILL: Thank you, Senator Chambers, Wallman, and Mello. Senator Karpisek, you are recognized. [LB642]

SENATOR KARPISEK: Thank you, Madam President, members of the body. Senator Chambers has pulled out the sword. I'm not going to go anywhere around that sword. This is not a hill to die on either, in my opinion. You know what? In my opinion, great, let's leave it alone. I support expanded gambling. That's not a shock I don't think, Senator Chambers. But great, then let's leave it alone. I have no problem with that. I was trying to be somewhere in the middle and say, okay, we have people really doing something illegal in our state but nothing is happening about it and let's make it harder for them to do that or go after them if they do. If we don't want to do that, no skin off my back. I don't think that this is that fight. I have some bills that I hope to bring out here that we can have that fight on and then we'll both get out the sabers and we won't fall on them, hopefully. Well, yeah, we'll go at each other with them. That's more fun. I really thought that, yes, this was brought by the industry. I think the industry is trying to make itself look better. Senator Chambers is talking about making end runs around the law. I don't know. I think sometimes this...it's in the rules. Senator Chambers tells us about using the rules and how they're made and he'll use them to his advantage. I don't think that anything was outside of that. It's what was done. Was everyone happy about that? No, but I think it was within the rules. I don't really want to get into that but since I did I'm sure I'll hear about it. Again, to me, this bill, I could take it or leave it. It's not that big a deal to me. I thought we were trying to do a good thing for the antigaming people. They came in opposed to it. Senator Mello has tried to work with them to make it say what they think it should or what we're trying to do here. I don't know that...I think maybe people just don't trust what we're trying to do which is, again, that's fine. But I think you always see me coming. I don't try to hide behind a bush or jump on you without you knowing it because I can't. I've tried with Senator Chambers but he always sees me coming, or maybe hears me, I don't know. This is not that bill I don't think. I didn't bring the bill because I wasn't that crazy about the bill. Thought we were trying to do a good thing but if it's going to cause a huge problem, I've got other huge problems to bring. Thank you, Madam President. [LB642]

SENATOR MCGILL: Thank you, Senator Karpisek. Senator Chambers, you are recognized. [LB642]

SENATOR CHAMBERS: Thank you, Madam President. And with all the law and order of people in this body, with all the people concerned about education in this body, I am the only one who am concerned about law enforcement cheating the children in this state out of money they should get. There was a provision added to the constitution, and it was probably tied in with gambling somehow, where certain contraband would be confiscated and the money would go to the public schools. Well, what the local and

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some state agencies of law enforcement did was to come to a set of circumstances where they would want the federal government to step in and do the confiscating. The money then was in the hands of the federal government. I don't know if Senator Lathrop is aware of this or not. And then what the federal government does is keep 10 percent of it and give it all back to the local and state law enforcement agencies and none of it goes to the public schools as the constitution amendment says it should. You all are so quick to defend these cops on everything but then when they do things that are, in my opinion, immoral and unethical, silent night. Schools are talking right now about needing more state aid. Why are you going to let these cops beat you out of it, hundreds of thousands of dollars, cash, vehicles, boats, any of these things used illegally? And I'll find the provision of the constitution, the state constitution, to show you what I'm talking about. And you know why I'm speaking in general terms? I didn't realize that a bill like this would come up that would allow me to go into this. And I like to be far more precise and specific. I want to say enough to let you know what the issue is so when I bring that constitutional provision to you it will not be completely a surprise. And maybe you were unaware of that because you trust these cops, the ones who will beat people, throw an old lady out of a wheelchair in her house, and then begin immediately to cover it up. You love them. I don't. I don't trust them. And I'm going to tell you something else that upsets me. Whenever something comes up like this new form of drug that the Attorney General is on his hobby horse to do something about, when methamphetamine was a problem--these are white people's problems--they got the Legislature to do something. They passed laws. They formed task forces, multidisciplinary, local, state, and county, and even the federal government, to do something about the drugs. I have reached out to all of them about the ready accessibility of firearms, pistols in my community in the hands of teenagers, and not one of those agencies has shown me the professional courtesy to even respond. I'm talking about the Office of the Governor; the State Patrol; the Omaha Police; the sheriff's department; the U.S. Attorney's Office; Firearms, Tobacco and Explosives (sic--Alcohol). Where else can I go? Our children are killing and being killed by pistols. And if there were these guns in white communities, they would stop it at its source like you want to stop the drugs. [LB642]

SENATOR MCGILL: One minute. [LB642]

SENATOR CHAMBERS: But since black kids are perceived to be killing black kids, they don't do anything about it. But I have said that as soon as it bleeds into the white community it's going to be different. A white woman got killed and they even wanted to trace down the origin of the ammunition. And I'm talking about guns, not guns put together with baling wire and duct tape, I'm talking about the square kind of guns that you'll see in the holster of these State Troopers out here. If the kids know where to get them, the police don't know, I suggested that they deputize these children and let them show them where the guns are. You think I like the killing and the shooting, the carnage in my community? Babies die, old people, somebody in their home in an easy chair and they're shot through the wall. You think that because black people are doing it, I excuse

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it? I don't go for any marauder in my community, white, black, or whatever. But where can I go? I'm not a vigilante. [LB642]

SENATOR MCGILL: Time. Thank you, Senator Chambers. Seeing no other senators in the queue, Senator Mello, you are recognized to close on your amendment to the committee amendment. [LB642]

SENATOR MELLO: Thank you, Madam President, members of the Legislature. AM1612 is, as I mentioned, language that was drafted in consultation with Senator McCoy's office in respects to trying to ensure that the intent of the legislation was very crystal clear, that we were not trying in any which way, shape, or form to expand any kind of pari-mutuel wagering ability at our current racetracks. It was to ensure that we would go after those who are doing on-line illegal gambling to be able to make it so that the penalty would be more enforceable so we could try to provide a deterrent against those who are trying to skirt our state laws. I appreciate Senator McCoy and his office's work on this. I know that, once again, it was something that they brought to us in the middle of the summer, we revisited before session started, and we're here today with AM1612. I'd urge the body to adopt AM1612 to the committee amendment. Thank you, Madam President. [LB642]

SENATOR MCGILL: Thank you, Senator Mello. The question is, shall the amendment to the committee amendment to LB642 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish to? Senator Mello, you're recognized. [LB642]

SENATOR MELLO: Madam President, I'd like a call of the house. [LB642]

SENATOR MCGILL: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB642]

CLERK: 28 ayes, 0 nays, Madam President, to place the house under call. [LB642]

SENATOR MCGILL: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Ashford, Senator Bolz, Senator Kintner, and Senator Burke Harr, the house is under call. Senator Bolz, Senator Ashford, the house is under call. Please return to the Chamber. Senator Mello, all of the senators are accounted for. Would you like to proceed with call-in votes or a roll call? [LB642]

SENATOR MELLO: I'll take call-in votes first. [LB642]



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CLERK: Senator Larson voting yes. Senator Adams voting yes. Senator Harms voting yes. Senator Davis voting yes. Senator Johnson voting yes. Senator Conrad voting yes. Senator Krist voting yes. Senator Gloor voting yes. [LB642]

SENATOR MCGILL: Record, Mr. Clerk. [LB642]

CLERK: 25 ayes, 0 nays, Madam President, on adoption of Senator Mello's amendment to the committee amendments. [LB642]

SENATOR MCGILL: The amendment is adopted. The call of the house has been lifted. We return to debate on the amendment, the committee amendment to the bill. Senator Chambers, you are recognized. [LB642]

SENATOR CHAMBERS: Thank you. Madam President, members of the Legislature, I'm going to finish that statement I was going to make. I'm opposed to all marauders in my community. White or black, Catholic, Protestant, unbeliever, atheist, it means nothing to me. The enemy of my people is my enemy, and your enemy can be your same complexion, and that is the one you're most bitter against. Everybody feels more hostility toward their traitors than they do the regular enemy. That's why in wartime you can execute your traitors and your deserters but you cannot legally execute prisoners of war. So when people who are black do these horrible things in our community I feel more strongly against them than I do white people, if there is such a thing as quantifying how you feel about that. I tell black people we are not cops; it's not our job to track down these people who have the guns and who supply them. White people don't have to do that. On the drinking matter where young white kids were at these keg parties, the Governor's wife was at a task force meeting, the mayor, police from the state, the county, and the city were there, and you know what they were saying? We're not just going after the kids, we're going after the suppliers--after the suppliers. They don't say that where guns are concerned in our community. You're not going to solve this problem by every time you catch some kid with a gun you take the gun and say, look how many guns we took off the street. The fact that you take this many guns off the street out of the hands of kids ought to let you know how many are available, and that would make white people say something. It would be stated on this floor. But it will not. And this is what I mean when I say we as people are not viewed as full-fledged human beings. The issues that pertain to the safety and integrity of a community will be discussed, like the Governor did up there, when it involves white people only. Alcohol is not in and of itself lethal and is not intended to be. Methamphetamine of itself is not lethal, is not intended to be. Guns are lethal weapons and bullets don't have names, they don't have addresses. If it's shot into a house it doesn't stop at the last wall in that house. It will go forward until its motive force is exhausted or expended. If I knew something more to do I would do it. I am talking about literal life and death and I get no response from the law enforcement people. I've told people in my community because they know how strongly I feel, I will never come to any of your prayer vigils, I will never participate in the erection

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of some makeshift memorial. Our community is dotted with them and I tell them, I don't condemn you for doing that. When you are horribly frustrated it helps to feel like you're doing something, anything, even though you know it's completely futile and ineffectual. You're busy. You feel like you're doing something. Putting the memorial might catch the attention of somebody in a position of authority and they'll say, this has to stop. These decorations are not designed to beautify the city by spreading flowers. They commemorate the death of a human being, at least the death of human beings as we who are black regard ourselves, and it reaches nobody. I'm 76 years old and I will not walk quietly... [LB642]

SENATOR MCGILL: One minute. [LB642]

SENATOR CHAMBERS: ...into that so-called good night. I will not tire. I will not quit despite the lack of response, the ignoring of this horrendous situation by the officials whose sworn duty it is to do something about it. We are not law enforcement people. I tell the people in the community: It's not your job to go out here and collect these guns from people. You don't do it in your communities. Not one person was told to leave this Legislature and shut down a place where they're manufacturing methamphetamine. They say that's law enforcement. I say, well, what about the guns? Well, that's your community, you don't raise your children properly. We don't manufacture guns. [LB642]

SENATOR MCGILL: Time. But, Senator Chambers, you are next in the queue. [LB642]

SENATOR CHAMBERS: Madam President, let me give you all an example. There was this old preacher and he was in this church and this young guy became a preacher and he was trying to be unctious. He was trying to be enthusiastic in what he did. He wanted to be righteous so he'd come into prayer service every Wednesday. He'd say, Lord, kill the spiders in my life. He did that for about six months: Lord, kill the spiders...no, take the spiderwebs out of my life; Lord, take the spiderwebs out of my life. So finally the minister pulled him aside. He said, son, I've heard you give that prayer over and over, "Lord, take the spiderwebs out of my life." He said, what you need to do is stop asking the Lord to take the spiderwebs out and you kill the spider. The suppliers of the guns are the spiders. The guns are the spiderwebs. We as citizens are not the exterminators. The police are paid to do that. Do you know why people are not willing to snitch to the police? First of all, snitching is dangerous. There are some people in south Omaha, not the ones involved in the Nikko Jenkins affair, where killings occurred because of snitching. So it's a danger. Cops won't rat out each other because they don't want to be in bed with the rest of them. Then they'll tell these poor people who have no protection: You go and risk your life to rat out somebody who might be a snitch for the cops. And they will not pick him up and they'll let him know you snitched and that person will rub you out. That happens in my community. You might think I'm lying and I don't care what you think. But I want it on the record and someday it's going to be exposed and you will know that I told you. This isn't the first time I've said it. And it's pointless as far as trying

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to talk to white people as a black man. But when you bring problems here I try to help you because a lot of times it involves your children and I don't blame the children for what their foolish parents and grandparents do. I'm more just than God. God said in his word that the fathers have eaten sour grapes and the children's teeth are set on edge, the children suffer for the sins of the father. And I don't believe in that. I'm juster than God. If I had more lives than one, I understand. I won't tell you his name, but the guy was being hanged and he said, I regret that I have but one life to give for my country. If I had more than one life, I'd go out here and I'd collect some of these guns. I'd take down some of those who are selling them. But since I only have one life, there are better things that I can do that are more far-reaching than for me to make a point by going out here and acting like because I'm angry it makes me bullet proof. And they say, well, he died trying to help his community. My community needs me alive. It would be easier on me if I would commit that last ultimate, desperate act to try to get the attention of those who ought to pay attention. You know what they would just say? Good god, thank you, Jesus, we're rid of him. And they wouldn't even have anybody pointing out what it is they ought to be doing that they're not doing. I know what my responsibilities are. I come down here in season and out of season, when we're in session, when we're out of session, and I work this floor harder than anybody else. All these bills that come up, they don't all have something to do with my community. But they have something to do with what I think my responsibility as an elected official, what those duties are. So I plow through all these poorly written bills. I will argue for those I support, against those that I oppose. And if I lose, I don't go lick wounds. I don't go hide. If they knock me down I do like the song. [LB642]

SENATOR MCGILL: One minute. [LB642]

SENATOR CHAMBERS: I pick myself up, I dust myself off, and I start all over again. And that's the way I'm going to do it and I'm going to raise this issue periodically. You'll get tired of it, but you're only tired of hearing me talk about it. I live in that community. I'll continue to live in that community. And I'm aware of people dying in that community. Words can upset and offend you so much. What would you do if it was happening in your community? Is that my second or third time, Madam President, on this one? [LB642]

SENATOR MCGILL: That was your second time. [LB642]

SENATOR CHAMBERS: Thank you. [LB642]

SENATOR MCGILL: Senator Chambers, you are recognized and this will be your third time speaking. [LB642]

SENATOR CHAMBERS: Thank you. Madam President, members of the Legislature, I had said something about not casting pearls before swine. So if people don't listen, why

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do I keep doing it? There's another verse that talked about sowing, s-o-w-i-n-g: a sower went forth to sow. And all he did was threw the seed out there. That's all his job is, just throw the seed out there. You don't even have to water it. But even if you water it, it's not within your hands, not within your province, not within your job description, not within your pay grade to see that the seeds grow. You just throw it out there. Some will fall on thorny ground, some will fall on rocky ground, some will fall on good ground. That, that falls on the rocky ground will spring up quickly because it has no depth of earth, no root to speak of, and it will die just as quickly. That which lands on the thorny ground will be choked out when it grows. But that which lands on the good ground will grow, flourish, and produce an abundant crop. Not being an agronomist or even a farmer or even a gardener--I cut grass, the usual kind--I don't know who might hear what I say, take the flame and do far more with it than I ever could do with it. I think our plight, as black people, is hopeless, but I still have hope that something someday may be done and achieved. I could call it faith, except people misunderstand that, because the definition of faith is the substance of things hoped for, the evidence of things not seen. You see no evidence, nothing to make you think it's going to be a certain way. But nevertheless, you hope for it to come about anyway. So I'm the man of greatest hope and I'm the man who feels the most profound, intractable sense of total and utter hopelessness, futility, waste of time, waste of effort, casting pearls. Well, as far as the Legislature is, if somebody asked me, why don't you get out of the Legislature, I tell them I have more pearls to cast. So I'm going to be here. This is my third time speaking on this particular amendment, but this bill is going to be before us and I'm going to go ahead and use this bill to talk about something I raised earlier, because I quickly found in the constitution the provision I was discussing with you all earlier. And rather than have you take my word for it, which you don't like to do on anything, I'm going to read to you what your constitution says, a provision that I opposed putting on the ballot because of other issues that were intermingled, interwoven with it. But now it is in the constitution, it is a part of the constitution, and your law enforcement people are calculatingly, deliberately circumventing it. And by doing so, they're cheating the children of these schools... [LB642]

SENATOR MCGILL: One minute. [LB642]

SENATOR CHAMBERS: ...out of money they ought to have, so that the cops and their ilk have more money to spend on the toys and the instrumentalities of harassment and death. I'm going to have my say and I'm going to say it in my own way. And I'll do that every day until my soul, if I had a soul, would be satisfied, Senator Bloomfield. And if I had the voice of Senator Bloomfield right now, there's a song that Johnny Cash sang which I would sing for you, but I'm going to spare you that. There are things you ought to be punished for, but you haven't done anything sufficiently wrong to be punished by my singing a song this morning. Thank you, Madam President. [LB642]

SENATOR MCGILL: Thank you, Senator Chambers. Seeing no other lights on in the

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queue, Senator Karpisek, you are recognized to close on the committee amendments. [LB642]

SENATOR KARPISEK: Thank you, Madam Chair. Senator Mello, I think, has described what his amendment did, and it made it more clear that this whole bill is about not letting offtrack gambling exist. I don't know how much more clear we can make it. There are...I just think it's something that, if we want to crack down on illegal gambling, we do. With that, Madam Chair, I would ask for your support. Thank you. [LB642]

SENATOR MCGILL: The question is, shall the committee amendments to LB642 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those wishing to vote voted? Record, Mr. Clerk. [LB642]

CLERK: 26 ayes, 0 nays, Madam President, on adoption of committee amendments. [LB642]

SENATOR MCGILL: The amendment is adopted. Items for the record? [LB642]

CLERK: Madam President, new bills. (Read LB910-922 by title for the first time.) I have notice of hearing from the Health and Human Services Committee. I have Senator Larson would like to introduce LR404; that will be laid over. Also, a hearing notice from Health and Human Services. Reference Committee will meet upon recess; Reference Committee, upon recess. Senator Watermeier would like to add his name to LB300. (Legislative Journal pages 233-236.) [LB910 LB911 LB912 LB913 LB914 LB915 LB916 LB917 LB918 LB919 LB920 LB921 LB922 LR404 LB300]

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

SENATOR MCGILL: The Legislature is in recess. Oh, do all those (laughter) in favor say aye? All those opposed, nay. The Legislature is in recess.

RECESS

SENATOR KRIST PRESIDING

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

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Mr. Clerk, please record.

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

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

CLERK: I have a Reference report referring LB871 through LB901. (Also LR399 and LR400.) An announcement: The Urban Affairs Committee will meet in Exec Session now underneath the north balcony; Urban Affairs, immediately, north balcony. That's all that I have, Mr. President. (Legislative Journal pages 237-238.)

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

CLERK: Mr. President, continuation of discussion on Senator Mello's LB642. Senator Mello had an amendment to the bill and committee amendments have been adopted. At this time I have nothing further pending to the legislation, Mr. President. [LB642]

SENATOR GLOOR: Thank you, Mr. Clerk. Members, we move to discussion on LB642. Are there members who wish to be recognized? Senator Chambers, you are recognized. [LB642]

SENATOR CHAMBERS: Mr. President and members of the Legislature, I've had a chance to compose myself since I left here, but as I was leaving the floor a reporter asked me was I aware of some breaking news, and I said, no, what is it? And she called up something on that little magical gadget. It was probably during the time that I was talking. A five-year-old child was shot and killed by a stray bullet while she was eating breakfast in my community. You all don't believe me and you think that I'm crazy, and that's only because you cannot conceive of a black man being concerned about the children in the way that white people pretend to be concerned about their children. What could be more normal and ordinary than a child eating breakfast with her family? What I'm going to do, and you all can trash it if you want to, I'm going to copy the two columns I had written as examples and sent to this list of all these different law enforcement entities, politicians from Nebraska. And you might think I missed some of them, but if I included the FBI, the U.S. Attorney's Office, the Governor's Office, the State Patrol, the mayor, the chief of the Omaha police, who else should I have sent it to? But there are some others on there too. Then I'm going to copy the group of articles that I've been writing in The Omaha Star, which is the only black-owned newspaper in the state of Nebraska, to indicate the kind of things I've shared with my community and other people. And as I was trying to make clear this morning, we are not law enforcement people. We don't have the power to arrest anybody. We don't want that. We want to be able to look to law enforcement to do what it ought to do. Our people are not going to cooperate with the police. There are snitches that the police have. And you know how they get them to be snitches? These guys commit crimes. They sell drugs and some of them have even been involved in shooting. And if they'll snitch for the police, they get a

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chance to stay out there free. And sometimes a citizen makes a mistake of fingering one of these people to the police, and not only is that person who was fingered not arrested but the person who did the fingering somehow is made known to that criminal that I'm describing, and bad things happen to people. And they're not always careful to get the one that they're looking for, because if they get the wrong person then that just becomes an example of what will happen to you if you do the same thing. Now what would you do? That's a rhetorical question, because generally, as my seatmate "Professor" Schumacher had suggested, there are things that I will think about when I've set my mind to it that other people may not. I'm at a dead end now. I don't know what to do. I don't know where to turn. So all I can do is be repetitive in the same way that you all repeat the same prayers, even when you get no answer or it seems that the answer is always no. But at any rate, I'm going to share that kind of information with you so you can see the efforts that I've been putting forth. But since this is a public forum for us and we can articulate our agenda, in the way the Governor used the extension of courtesy that the Legislature makes to invite him into our Chamber, he uses that opportunity to turn this into a platform to attack President Obama and the Affordable Health Care Act. But when you open the door to somebody, that's what they do. [LB642]

SENATOR GLOOR: One minute. [LB642]

SENATOR CHAMBERS: Some people know how to behave when they're made a guest in somebody's house, and some people don't. Some people are respectful of that house and those who invited them; others are rude, discourteous, and unmindful of common rules or principles that govern civilized people when they're dealing with each other. If he was here to just argue, lambaste, and so forth, that's one thing, but I think he took advantage of an opportunity to attack the President in the way he took unfair advantage of an opportunity to attack Ombudsman Marshall Lux, and that's the kind of person that we're dealing with. It's difficult for me to get on one subject and just stay on it, because I see everything like a seamless web and they're all interrelated. Thank you, Mr. President. [LB642]

SENATOR GLOOR: Thank you, Senator Chambers. Mr. Clerk for a motion. [LB642]

CLERK: Mr. President, Senator Chambers would move to indefinitely postpone the bill. Senator Mello, you have the option to lay it over or take it up at this time. [LB642]

SENATOR GLOOR: Senator Chambers, you're recognized to open on your motion to indefinitely postpone. [LB642]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, to say something about the bill, I think it is a good effort on the part of Senator Mello to do something that he believed ought to have been done, so I'm not disparaging him, his effort, or impugning his motives. None of that has anything to do with what I'm talking

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about. I'd just say it's a bad bill. It was brought to...it was sent to us by an outfit that I think is lacking in credibility. And they have done things for the purpose of circumventing the law which the Legislature put in place, and they knew they were circumventing it and they also knew nobody would challenge them. There was no place to go. And I'm talking about that 11-second horse race, as they called it, with two or three horses. And in my mind, since I wasn't there, they could have had three greyhounds out there with monkeys on their back running around the track and that constituted the horse race, because they think that the people who bet on horses are no smarter than monkeys and are, therefore, thrown to the dogs. I'm going to tell you all where to look, if you're interested in this constitutional provision. In the Nebraska Constitution, it's Article VII, Section 5. And I'm not going to read it word for word, but it relates to fines, fees, and other amounts of money which will be collected, and they go to fund the common schools. And it also contains language about property and money confiscated pursuant to enforcement of the drug laws. Fifty percent...this is subsection (2) of Section 5 of Article VII of the Nebraska Constitution. "Fifty per cent of all money forfeited or seized pursuant to enforcement of the drug laws shall belong and be paid over to the counties for drug enforcement purposes as the Legislature may provide." That's one of the sweeteners to help get this on the ballot. Subsection (3): "Law enforcement agencies may use conveyances forfeited pursuant to enforcement of the drug laws as the Legislature may provide. Upon the sale of such conveyances, the proceeds shall be appropriated exclusively to the use and support of the common schools as provided in subsection (1) of this section." If the 50 percent of this confiscated money that is forfeited goes to the counties for enforcement of the drug laws, what becomes of the other 50 percent? It goes to the common schools, to support of the common schools. And here's how these rascals in uniform get around it. The local police could have done all of the work and made a drug bust. They could have stopped a vehicle on the highway and there are stacks and stacks of money. The vehicle is worth a considerable amount of money. But they will have the federal people make the seizure. Then when the federal people have seized it, that's how they launder the money. It goes to the feds. The local people know...now, see, they're going to get their 50 percent. That's not enough for them. They want to get that other 50 percent that would go to the support of the school funds, of the school...common schools. So when that seizure is made by the federal people, the 50 percent that would go to the common schools will not go there. The federals tell the local people, look, this was your activity; we'll keep 10 percent and we'll give you the rest. And the money has been laundered by going through the hands of the feds, and when it comes back to these local law enforcement agencies, the ones sworn to uphold the law and the constitution, they keep it. That money, that portion of that 50 percent that goes to the benefit of the common schools, now is kept by the local law enforcement people, and that's how they do an end run around the constitution. And as to these conveyances, they're talking about cars, boats, airplanes, anything. When the federal people get those in their hands and they sell them, the money doesn't go to the common schools. It goes to these local law enforcement agencies, the cops that you all love. The cops who can tell you, well, Chambers has a grudge against law



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enforcement. Or like the Governor, he's for the criminals. Well, the criminals are the cops, if the truth be told as the facts warrant, which is never going to happen. But I'm going to stay on their case. And after this is brought to the attention of the senators, do you think you all would join me in writing a bill that would prevent this from happening, and saying when the seizure occurs, no matter what...whose hands that money passes through, it comes back here and goes to the common schools? They can no longer do the circumvention of the constitution, your constitution. But you know why they'll do that? You don't care about your constitution. You'll amend it for a trifling reason or no reason at all because somebody comes and tells you amend the constitution. Again, there's no need for us to amend the constitution. We need to see that the words in that constitution are upheld, are adhered to by those sworn to uphold the law. When those sworn to uphold the law violate the law themselves, they bring the whole law into contempt. But there are people on this floor so locked into the police they'll say, well, that's all right, what difference does it make? That's why people on the street, who have an opportunity to see these rascals and scoundrels and outright criminals for what they are, don't worship them like you all do. What are you going to do about this? Read it for yourself, then ask your sheriff, ask the chief of police, what's he talking about how the feds make the seizure and they get the money and then give it back to the local law enforcement people and it's not turned over to the public schools? Is that true? They can't deny it. I had a bill to undo it, and these law enforcement interests came in and managed to get it killed so they could keep getting these goods which are ill-gotten. But that's my role, to be the voice of the one crying in the wilderness. As I say, I won't eat grasshoppers but I may as well be talking to grasshoppers. I'm not giving up on my time. I have some time left. But I'm going to pause for a minute. This is a notebook. In this notebook is a copy of our rules and a copy of the constitution, and this notebook pays more attention to what I say than the people on the floor of the Legislature. And sometimes I have to feel like I'm being paid attention to. I started to go over there and talk to those columns supporting the balcony, but I would have had to leave my place at the microphone, which I won't do. I believe in giving object lessons to people. A lot of times when I talk to you all, it's an object lesson, like you do children in school. You can say something and they might pay attention and they might not. If you give them an object lesson, they pay attention, they see that, then they may not want to make the application. If my mere words, no matter what they are, why they're uttered, or when they're uttered can upset and send some of you all over the edge, like they do, mere words that don't hurt you, that will not deprive you of anything, and you can get that upset, why is it that you cannot understand that I'm upset... [LB642]

SENATOR KRIST PRESIDING

SENATOR KRIST: One minute. [LB642]

SENATOR CHAMBERS: ...when actions, wrongful actions, hurtful actions, killing actions are directed against people that I care about, people we all should care about?

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But I'm a realist. I'm practical. I'm pragmatic. And I know you all don't care about the black people the way that I do, the Native Americans like I do, women like I do, children like I do, Latinos like I do, the poor, the hungry, those with no place to go, those who cannot take a bath and they "odoriferate." I know you don't care about them. You know you don't care about them. You'll never sit down and break bread with any of them. You know it and I know it. And if they're out there and temperatures are 10 below 0, you won't give them a thought. But if you do, you say, boy, I'm sure glad I'm not out there; but for the grace of God, there go I. If there's any grace of God in you, you'd say, I want to try to do something to help that person get out of that situation. [LB642]

SENATOR KRIST: Time, Senator. Senator Mello, you are recognized. You have 5 minutes to respond. [LB642]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I rise in opposition to Senator Chambers' IPP motion. As I mentioned throughout the debate on AM1612 and the committee amendment, I feel that this is an opportunity for us to help crack down on on-line, illegal pari-mutuel wagering that's being done outside of the state. It's something that I felt that would be beneficial both to the horse racing industry and to those who oppose gaming in the sense of trying to stop what something that everyone on both sides of the argument could agree is not good. I'm going to divert a little bit because I've just gotten word from some colleagues of something that happened over the lunch hour where I've tried, I think over the last week or so, take a more measured approach in regards to the Governor and sometimes statements he makes in regards about the Legislature, about offices of the Legislature, and now it appears just singling legislators out when sometimes they're not available to defend themselves. Over the lunch hour, apparently, the Governor decided at the Nebraska Ag Builders lunch to try to single out two Omaha senators who apparently just don't understand agriculture and don't understand how important agriculture is, that it's...they don't understand it's the backbone of Nebraska's economy. Well, obviously, I have a strange feeling the Governor is singling out myself and Senator Nordquist, in part because I've tried to remind colleagues and remind the press that there's some disagreement in regards to the Governor's economic philosophy and my philosophy, particularly as it relates to fiscal policy. In part, I will be here in 2015, where the Governor will not be. So decisions that he chooses to ask us to make, take action on, I'm a little more cautious than he is because ultimately I will be 1 of the 49 senators that have to deal with those consequences. If the Governor, as he travels the state today, I'll keep my cell phone on because he does have that number, he can give me a call and we can talk a little bit more about this privately. But the reality is, if he's going to go to lunches and attack senators when they don't have the ability to defend themselves, I hope he understands the precedent he's starting to set. I bit my tongue earlier this week when the Governor called out Marshall Lux in the Ombudsman's Office for an independent analysis report that they did on our very dysfunctional corrections system. After hearing this today, colleagues, I don't know how much longer I can continue to bite

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my tongue and give very measured responses to an executive branch who basically is just trying to either goad us into a public debate, trying to privately humiliate us, or, frankly, just doesn't care enough about the Legislature to give us the respect, the dignity we deserve when talking about public policy. I agree with the Governor on some things and I disagree with him on others. I thought we had a productive year last year even though we had some disagreements along the way. But for him to try to single senators out when they're not there at the event to be able to even remotely approach him afterwards, let alone mischaracterize a senator's statement or views purely for political punch lines, I hope, I hope we understand what he's trying to do. The reality is he's a lame duck Governor. This is his last year. He has to work with the Legislature to accomplish what he wants to accomplish. I've never, I guess, in my life ever been taught that if you want to work with someone to get something done you insult them, you ridicule them, you try to beat them down and make them feel that they just don't know what they're talking about. I'm convinced that there, one, is a good number of senators in this body who already understand this, that we have difficult decisions to make, that we're going to have disagreements. I think we all know that compromise is what we strive for. [LB642]

SENATOR KRIST: One minute. [LB642]

SENATOR MELLO: We try to accomplish what we feel is the best public policy and the best actions for the state. But mischaracterizing a senator's position when they're not available there to defend themselves and/or refute it, sometimes all we have left is to be able to use this microphone, to use this floor and be able to explain what we think. Agriculture is the backbone of our economy. I may disagree in regards to how we give property tax relief to large landowners, but I don't disagree with that. I look forward to a lot of fruitful discussions this session, colleagues, and I don't want to spend a lot of time on LB642, because I respectfully have to disagree with Senator Chambers. I think this is a good piece of legislation. I think it does do something. It helps stop on-line gaming, illegal on-line gaming. And I look forward to future conversations with colleagues and with the Governor about his statements today. Thank you, Mr. President. [LB642]

SENATOR KRIST: Thank you, Senator Mello. Senator Chambers, you are recognized. [LB642]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, in case any senator finds out something has been said that demeans him or her or the Legislature but has no opportunity to speak, you can do so on a point of personal privilege to protect your own integrity and then the dignity of the Legislature itself. So the means is there. And it's good some people will take issue with him. The only reason I'm offended is that he didn't take out after me. He excluded me. But then it occurred to me, he said people who don't understand agriculture, so certainly he would not include me in that because I've been on that Ag Committee. And those who are on it now have

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heard people come from the Ag Department and talk about how knowledgeable I am about those issues, how I participate in the hearings, and how I know what's going on. Isn't that what I'm supposed to do if I'm on a committee? Would that all my colleagues did that. Would that all my colleagues respected this Legislature like I do. I will lambaste you when I think you're not right, but also, if I think you're right, you won't find anybody who will support your position more strongly than I do, because I can look beyond those temporary, tertiary, insignificant, inconsequential sideshows and distractions. When we get down where the rubber meets the road, if you're on the right road I'll be going that way too. Even Senator Scheer, at some place, point, we're going to find something to agree on. But we don't agree on him helping and supporting the circumvention of the legislative process. I'm sure he doesn't want that done with his bills. I'll have an opportunity to find out because he's got a bill talking about contracts for superintendents of schools. Well, I think that school boards ought to have the opportunity to seek a waiver from the State Board of Education of the requirement that somebody who's going to be superintendent have taught two years. That doesn't qualify anybody to be a superintendent. In some cases, it doesn't qualify somebody to teach, especially if you look at what they did while they were teaching. But somebody who is incompetent to teach and lost his job for that reason, if they taught two years they're qualified to be hired as a superintendent. But somebody who may have got a doctorate, I don't know if they let a doctorate take the place of two years. But that's silly stuff. That has nothing to do with anything. So what I'm ultimately going to have to do is make a motion to pull that bill from the Education Committee because Senator Scheer isn't alone in that. And I don't think he's alone in that one about the flag salute. But I think there was a big guy on the committee who they were afraid of. He used to sit right next to me and they were scared of him. He wore a flag. Sometime he'd wear a stealth bomber. And I even talked to him about those things. When there's something on my mind that pertains to a person, I talk to the person about it. But on this bill, it is not wise to put in something and place something that is unenforceable, which is not going to be enforced. My colleague who is not here--I wish he was here now--"Professor" Schumacher, made a good suggestion. We could go for the bill if we were deputized to go down to the Cayman Islands, and I added, take as much time as we need, spend as much money as it would cost to deliver the summonses and whatever other papers these scoundrels need to have delivered on them so that they can be extradited back here to Nebraska to stand trial for accepting a wager from somebody in Nebraska on a horse race. I'd like to ask Senator Mello a question. [LB642]

SENATOR KRIST: Senator Mello, will you yield? [LB642]

SENATOR MELLO: Of course. [LB642]

SENATOR CHAMBERS: Senator Mello, to bring us back to this and away from the very serious things that you talked about, and I'm glad that you did, are you aware that there are offshore sports betting operations? [LB642]

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SENATOR KRIST: One minute. [LB642]

SENATOR MELLO: Yes. [LB642]

SENATOR CHAMBERS: Why don't we offer a bill to do that? Is it because sports betting is not legal here and no gamblers are hurt by these offshore sports betting operations? [LB642]

SENATOR MELLO: That was not the focus, I guess, of my legislation, Senator Chambers. That could be something someone could possibly bring up at some point in time. But I think because sports gaming is illegal in Nebraska, that's why it's not part of my legislation. [LB642]

SENATOR CHAMBERS: So we're not interested in just putting down illegal activity of a gambling nature that Nebraskans might participate in. [LB642]

SENATOR MELLO: No, I think... [LB642]

SENATOR CHAMBERS: We're not...that's not what we're interested in. [LB642]

SENATOR MELLO: I wouldn't say that, Senator Chambers. I think just my focus of the legislation that I brought that's in front of us today is targeted more towards specifically just the horse racing industry and what they know is something that is currently affecting the horse racing industry in Nebraska right now. [LB642]

SENATOR CHAMBERS: Thank you. Senator Mello's answer reminded me of a commercial I saw for... [LB642]

SENATOR KRIST: Time, Senator Chambers, but you are next in the queue, so continue. [LB642]

SENATOR CHAMBERS: Okay. This was an advertisement for the Rosetta Stone where it teaches these different languages, and this guy is looking at...he wants to have a human contact interaction with this guy, who's looking just straight ahead. And one fellow says, what I want to tell you, and he's cut off. This guy says, "Good morgen, maw naam is Brad" (phonetic). So the guy starts on a different course. He said, well, what I'd like to...what I'd like... "Good morgen, guten morgen, maw naam is Brad" (phonetic). I asked Senator Mello a question about gambling in general: "Guten morgen, maw naam is Brad" (phonetic). I know he will say however many times I ask him, however many ways I ask, that his legislation is not concerned with just gambling in general, which I know. But you all are aware of the fact that this is a very narrow bill brought by an outfit which is not too clean itself. Senator Mello is not a lawyer but he may have heard some

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version of that legal maxim: He who seeks equity must come with clean hands. The outfit who brought this does not have clean hands. And if you don't vote to kill it, then I'm going to show you how a bill can be badgered in the way that my death penalty bill had been badgered and some of you may have forgotten it. And some of these things we may as well get out in the open near the beginning of the session when we're not involved in the really heavy lifting that we're going to attempt to do as a Legislature. But sometimes there might be a person or some persons...but let's just say a person whom people think a way can be found to run roughshod over, but they need to consider the stakes. What will be involved? Let's say you have a black panther in a cage and you're going to bait him. You stick him with a pole. You swat him with it. You throw rocks at him, and he snarls and growls and roars and rears up and bunches his haunches as if he would spring, except he knows the bars of the cage are metal and he can't get through them. Then the panther notices something that you didn't; that the door is not locked and he need not break the bars but simply push the door. It swings open and he is now free. And there are consequences that must be borne. I don't really care about this bill. I don't think it's going to stop these offshore operations from doing what they're doing. Why doesn't the federal government do something? They don't care about this. Some of them might make big bets just like those Secret Service guys went down to some places in South America and invited the ladies of the night in for a night of fun and American secrets, and paid well for it. These are not moral men. They're not examples of moral rectitude. You all know that. And I just want to strip away that hypocrisy and let us deal with these issues in the way that they are. This is a bill brought to us by some people in a struggling operation involved with gambling that doesn't deserve to exist and never did, in my opinion. So they take... [LB642]

SENATOR KRIST: One minute. [LB642]

SENATOR CHAMBERS: ...as a serious threat anything, anything which seems to impinge on or restrict the amount of money they can rake in from the suckers. So I'm very serious about this motion. You ought to go ahead and adopt it and get rid of this bill. It doesn't mean that much to Senator Mello, doesn't mean that much to anything, to anybody, and it doesn't amount to a hill of beans. But it did give me an opportunity to say some things that I felt needed to be said. And I'm going to find bills on which I will speak on these same and similar issues in the future. Mr. President, I would ask for a call of the house. [LB642]

SENATOR KRIST: Are you closing, Senator Chambers? [LB642]

SENATOR CHAMBERS: Yes. [LB642]

SENATOR KRIST: Okay. Would you want the call of the house first or do you want to start your closing? [LB642]

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SENATOR CHAMBERS: I'm going to consider...let me say a few words so if anybody is listening they'll know. This is my closing that I'm presenting. I have said all that I think needs to be said to justify a vote to kill this bill. If you agree that this bill is not worthy of passage, you'll vote to go ahead and get rid of it now. The process of extradition is complex. If somebody is outside the confines of the United States where the U.S. government's jurisdiction doesn't reach, you can't do anything about them anyway. You can't extradite them. You can't touch them. These silly people who craft this legislation will give it to a senator, and it's brought in here and it will make us look silly too: The arm of the Nebraska Legislature is longer and more powerful than the arm of the U.S. government. You cannot reach them. Why do you think they're offshore? They're not just two or three feet out in the water. I'd like to ask Senator Mello a question, since I am going to go ahead and use the closing time. [LB642]

SENATOR KRIST: Senator Mello, will you yield? [LB642]

SENATOR MELLO: Of course. [LB642]

SENATOR CHAMBERS: Senator Mello, when the term "offshore" is used, I've said something that might include an improper or unjust presumption. Are these offshore entities within the legal jurisdiction of the United States? [LB642]

SENATOR MELLO: Senator Chambers, I would have to defer to you. I assume, when I interpret the word "offshore," I assume that they're not within the continental United States, but LB642 is targeted towards other racetracks in the United States who are taking pari-mutuel wagers from Nebraska on-line. So we're not going after international Web sites. We're going after horse tracks in other states that are doing this, trying to take bets from people in Nebraska outside of Nebraska racetracks. [LB642]

SENATOR CHAMBERS: So there's nothing in here about offshore bet wagering. [LB642]

SENATOR MELLO: That, it's not targeted at all, no, in regards to international Web sites or international outfits that are trying to take bets. It's other horse racing tracks that are trying to take pari-mutuel wagering on-line for...that should be those...those wagers should be made within a licensed racetrack in Nebraska. [LB642]

SENATOR CHAMBERS: Are the words "offtrack wagering systems" in this bill? [LB642]

SENATOR MELLO: I believe so. I'm trying to pull up the bill myself. [LB642]

SENATOR CHAMBERS: Okay. Well, let me read something: Any person operating an advanced-deposit wagering system or a secondary pari-mutuel organization that takes or receives wagers from residents of this state on any thoroughbred horse race in

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violation of these sections is guilty of a felony. It doesn't say they have to be within the United States, does it? [LB642]

SENATOR MELLO: No, it does not. [LB642]

SENATOR CHAMBERS: And these...this description can fit offshore wagering operations, so those would be exempt based on the legislative history you want to establish here. [LB642]

SENATOR MELLO: I wouldn't say they would be exempt, but that is not the focus and target of the legislation. [LB642]

SENATOR CHAMBERS: But it couldn't reach them if they're offshore, meaning outside the jurisdiction of the United States. It couldn't reach them anyway, could it? [LB642]

SENATOR MELLO: I believe it would be very difficult to reach them. You are correct. [LB642]

SENATOR CHAMBERS: So then if you wiped out every domestic, meaning in the United States, operation doing this, those others could continue to do it, couldn't they? [LB642]

SENATOR MELLO: That is a possibility. You are correct. [LB642]

SENATOR CHAMBERS: And they might do it...they might be the ones that these horse people are worried about but don't know that if they're outside the jurisdiction of the United States they can't be touched by a bill like this. So here's a question I will ask you. How many governors do you think will extradite somebody to Nebraska for violating this wagering bill? [LB642]

SENATOR MELLO: Senator Chambers, I think that is a hypothetical question that I do not know if I could give an answer to right now. [LB642]

SENATOR CHAMBERS: Well, it has to be hypothetical. Give me a hypothetical answer, speculate. [LB642]

SENATOR MELLO: (Laugh) [LB642]

SENATOR KRIST: One minute. [LB642]

SENATOR MELLO: It would be purely speculation for me to give any answer, I think, Senator Chambers. [LB642]



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SENATOR CHAMBERS: And I'll accept it from you. I like you. [LB642]

SENATOR MELLO: I would say, I would speculate that there would perhaps be, let's just throw out, 25 governors who would be willing to do that. [LB642]

SENATOR CHAMBERS: Is...would this happen...could this happen in Las Vegas, Nevada? [LB642]

SENATOR MELLO: If it was occurring on-line and it was breaking this law then, yes, that's a possibility it could be happening. [LB642]

SENATOR CHAMBERS: Do you think the governor of Nevada would extradite somebody for gambling like this? [LB642]

SENATOR MELLO: Once again, Senator Chambers, I think not working for the governor of Nevada and not understanding or knowing any particular views that governor may have, it would be purely speculation on whether or not they would extradite a company breaking Nebraska's law. [LB642]

SENATOR CHAMBERS: "Guten morgan, maw naam is Brad" (phonetic). (Laughter) Thank you. I will now ask for a call of the house. That constitutes my close. [LB642]

SENATOR KRIST: Thank you, Senator Chambers. There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; opposed vote nay. Mr. Clerk, please record. [LB642]

CLERK: 30 ayes, 0 nays to place the house under call. [LB642]

SENATOR KRIST: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. Unauthorized personnel please leave the floor. The house is under call. Senator McGill, Senator McCoy, please return to the Chamber. Thank you. Senator McGill, the house is under call. Please return to the Chamber. All members are present or accounted for. Senator Chambers, how would like to proceed? In regular order? Thank you. There's been a request for a roll call vote in regular order. Mr. Clerk. [LB642]

CLERK: (Roll call vote taken, Legislative Journal pages 238-239.) 4 ayes, 29 nays, Mr. President, on the motion. [LB642]

SENATOR KRIST: Motion fails. Raise the call, please. [LB642]

CLERK: Mr. President, I have a priority motion. Senator Chambers would move to

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bracket the bill until April 17 of 2014. [LB642]

SENATOR KRIST: Senator Chambers, you are recognized on your motion. [LB642]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, there was a goodly number of votes against killing the bill. I don't know if those will convert into votes in order to advance it. You can't always determine from one vote what will happen when another one comes. But I will be very blunt, if I haven't been blunt already. Again, these words are not addressed at Senator Mello. This is a foolish bill, this is a silly bill. You've got an industry that's struggling and they're going to make the rest of you abuse our legislative system by putting on the books an inane, unenforceable law just because you were asked to do it. Now there are going to be some other propositions to come through here that you'll feel about just the way I feel about this. I feel like I'm the gatekeeper. I have a hard job. I have to try to make people understand something first that they don't understand and don't want to understand. When the Legislature reduces itself to trifling nonsense such as this, you might begin to understand why people don't respect the Legislature as an institution. Almost as many jokes are made about the Legislature as are made about lawyers. We know that people comprising a legislative district can send anybody down here they choose, and that's the way it should be. As I've said to illustrate that point, if they want to send a mule skinner down here, that's for them to decide, not me. But when I have an interaction with that mule skinner, it might indicate that the people were not too wise in sending somebody like that to a place like this to represent their interests. This bill, if it becomes law, is not going to be enforceable. I'd like to ask another...Senator Nelson is a lawyer. I'd like to ask Senator Nelson a question or two. Maybe he can help me out and improve my education. [LB642]

SENATOR KRIST: Senator Nelson, will you yield? [LB642]

SENATOR NELSON: Reluctantly. (Laughter) [LB642]

SENATOR CHAMBERS: Senator Nelson, do you know how the process of extradition works, in general? [LB642]

SENATOR NELSON: I have about the...yes, about the same knowledge as Senator Schumacher that our Governor, for instance, would contact the governor in another state with a formal request that a certain party or group be extradited for prosecution in the state of Nebraska. [LB642]

SENATOR CHAMBERS: And if that governor agrees, that person extradited is not going to come here voluntarily in most instances. Isn't that true? [LB642]

SENATOR NELSON: That's correct. [LB642]

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SENATOR CHAMBERS: So how would that person get from state B to Nebraska?  
[LB642]

SENATOR NELSON: Well, there will have to be a proceeding in state B and he would have a lawyer, I suppose, to stall things off or put up defenses to put extradition off as long as possible. [LB642]

SENATOR CHAMBERS: And if that ultimately fails, how will Nebraska get that miscreant from state B to Nebraska? [LB642]

SENATOR NELSON: Well, what do you mean by fail? Refusal of the... [LB642]

SENATOR CHAMBERS: That the extradition is going to be, is going to take place; that the lawyer could not prevent the governor in state B from allowing the extradition to occur, and now the only thing that remains, all legal obstacles having been removed, is to deliver the body from state B to Nebraska. How do you get that person from state B to Nebraska? [LB642]

SENATOR NELSON: I can't be certain of that, but I would think either the governor of state B would order the state patrol or whatever authority they have to escort that person under custody of state A. Or they would permit Nebraska authorities to go in there and bring him back. [LB642]

SENATOR CHAMBERS: And would Nebraska...do you think state B is going to underwrite the cost of sending somebody back to Nebraska that Nebraska wants, or would they be more likely to say, you want him, come get him? [LB642]

SENATOR NELSON: The latter, I think. [LB642]

SENATOR CHAMBERS: Now if Nebraska is going to get this person, either...do you think they would have to send or be most likely to send a law enforcement person to pick this individual up and bring him back? [LB642]

SENATOR NELSON: Yes. [LB642]

SENATOR CHAMBERS: And would that person probably be in a status of arrestee? Would that person be under arrest by being in the legal custody of a law enforcement officer? [LB642]

SENATOR NELSON: I believe so, yes. [LB642]

SENATOR CHAMBERS: Okay. So this person is under arrest so Nebraska is going to

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pay the cost, whatever it is, to send that law enforcement person to state B to bring that person back. If they fly, then the cost of flying that person back to Nebraska would be paid by Nebraska also. Isn't that true? [LB642]

SENATOR NELSON: Well, I would hope, if the Governor had a plane, he'd send the plane out there with the law enforcement authorities to bring him back. [LB642]

SENATOR CHAMBERS: Well, if the Governor had a plane, there would be a cost for the pilot, a cost for the fuel, and other expenses connected with bringing that person back to Nebraska. Is that true? [LB642]

SENATOR NELSON: That's true. [LB642]

SENATOR CHAMBERS: Thank you. I don't see Senator Mello. Senator Mello, I'd like to ask you a question. [LB642]

SENATOR KRIST: Senator Mello, will you yield? [LB642]

SENATOR MELLO: Of course. [LB642]

SENATOR CHAMBERS: Senator Mello, how much money would you be willing to see the state spend to bring somebody back from another state for having violated this bill when it's a Class IV felony? How much, how much are you willing to see this state spend for that? [LB642]

SENATOR MELLO: Purely speculative in nature, Senator Chambers, as little as humanly possible. [LB642]

SENATOR CHAMBERS: Would you be...do you think it would be a waste of money to pay the fare for a law enforcement officer to go there, pick this person up, and bring that person back to Nebraska to stand trial for violation of a wagering law? [LB642]

SENATOR MELLO: Would it be...what was the dollar amount that you mentioned? [LB642]

SENATOR CHAMBERS: Let's not put a dollar amount. Whatever it is, do you think it would be worth spending that money for something like this? [LB642]

SENATOR MELLO: I think if the Attorney General's budget, if they felt that they could be able to do it in a very cost-efficient manner and that it would set the precedent for other racetracks in the country to stop this illegal on-line wagering in Nebraska, I think that first case would probably be worth the cost that could hopefully have a better precedent, yes. [LB642]

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SENATOR CHAMBERS: If you had an Attorney General that stupid, you would agree with that Attorney General coming to your Appropriations Committee and saying, include in the budget enough money to enforce this bill because we want to send somebody out to California to get a person who violated a wagering law. That's what you're saying? [LB642]

SENATOR MELLO: I'm saying that I would like to see the Attorney General's Office use as little financial resources as possible outside of their current day-to-day operations in regards to enforcing this law or any other new law we would create, so to speak. [LB642]

SENATOR CHAMBERS: "Good morgen, maw naam is Brad" (phonetic). Thank you, Senator Mello. Members of the Legislature, you still don't see how silly this is? I have asked others to tell you what is involved in extradition. I'd like to ask Senator Mello another question. Senator Mello, what is the punishment if a person is convicted of a Class IV felony, if you know? [LB642]

SENATOR MELLO: I do. A Class IV felony is a maximum penalty of five years' imprisonment or a \$10,000 fine or both. There is no minimum penalty. [LB642]

SENATOR CHAMBERS: So if there's no minimum, the person need not be given any time in jail. Is that true? [LB642]

SENATOR MELLO: That is true. [LB642]

SENATOR CHAMBERS: And could the person be fined \$1 in token damages to show him he shouldn't do this anymore? [LB642]

SENATOR MELLO: I would interpret, with no minimum penalty, they could probably charge a cent, if that's the case. [LB642]

SENATOR CHAMBERS: Thank you. Members of the Legislature, it might... [LB642]

SENATOR KRIST: One minute. [LB642]

SENATOR CHAMBERS: It might...they might fine that person a cent. Do you have any sense? Maybe you didn't think about what is entailed in this. Do you feel foolish now, as you should? You think that the Governor here,...it won't be Governor Heineman but somebody intelligent. Of course, it might be Senator Janssen or Senator McCoy, so let me strike that. And you know why I do it? Because they can defend themselves, unlike the Governor. They can defend themselves, can't they, if they choose to? Or "Parson" Carlson, I can see "Parson" Carlson. Now I don't think he likes gambling. He's sitting in

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the Governor's Mansion or in that Office and the Attorney General runs over there and say, Governor, we got a bad actor out there in California. Well, what did he do? [LB642]

SENATOR KRIST: Time, Senator, and you are next so you may continue. [LB642]

SENATOR CHAMBERS: And puffing himself up like the Attorney General has a way of doing, puffed up with his self-importance, (clears throat), well, you see, Governor, I won't call you "Parson," (laugh), "Governor" Carlson, what this miscreant did was accepted a \$30 wager on a horse race. And "Governor" Carlson would say, what does that have to do with Nebraska? Well, he's out there in California and we got to contact the governor of California, and the one who has to do that is you. And what I want you to do, I've prepared a script here for you. It says, in keeping with the Christian values of the Midwestern state of Nebraska, we do not tolerate crime and we do not believe in being soft on criminals, and you are harboring within your state a malefactor who committed a grievous crime against the dignity of the sovereign state of Nebraska, U.S.A. And we hereby...and, Governor, when you get that 'we,' it will be you--I, as Governor of Nebraska, here formally and officially request that you, honorable governor of California, apprehend this individual and hold him in custody until such time as we shall send appropriate individuals to arrest that person and return him to Nebraska for prosecution for accepting a \$30 wager on a horse race from a citizen of Nebraska. And "Governor" Carlson will say, Mr. Attorney General, surely you jest. And even Attorney General Bruning would pick up on that. He'd say, well, Governor, (laughing) actually I am jesting. I know that being Governor is hard and sometimes you need something to break that stress so I'm bringing you this little joke. And "Governor" Carlson will say, well, although it wasn't hilarious, it did kind of make the corners of my mouth turn up a bit. I enjoyed it. Thank you, Mr. Attorney General. Now I'm busy. Or "Governor" Carlson could say, and disappoint me, why, Mr. Attorney General, not only do I agree with you but I think the language is not strong enough. But you tell me how to contact the governor of California and we'll get on this immediately while you're in the office. Do you have the appropriate name, identifying characteristics, and where this miscreant can be found? And the Governor would look at the Attorney General. He'd say, well, I hadn't thought of that but we can get that taken care of. So the Governor, "Governor" Carlson, will say, okay. He has his staff dial the governor of California, and the governor of California would listen to something similar to what I've read to you. And he'd be...uproarious laughter. (Laugh) Oh, they have a sense of humor out there in Nebraska. You want me to arrest a California citizen because he accepted a \$30 wager on a horse race from somebody in your state? Well, why don't you do something about teaching the people in your state not to be making wagers that are against the law? You actually think that the people of California elected me to be involved in this kind of silliness in a football state? Why we'd show you what we think of you when we send UCLA out there to whip your football team. That ought to be enough connection to California for you. And then he'd hear a click. [LB642]

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SENATOR KRIST: One minute. [LB642]

SENATOR CHAMBERS: With sweat pouring down his face, he'd feel it coming from his armpits, running down his sides and tickling him, making him want to scratch, he'd say, well, Mr. Attorney General, I tried but I failed. Thank you, Mr. President. [LB642]

SENATOR KRIST: Thank you, Senator Chambers. Senator Mello, you are recognized. [LB642]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I rise in, obviously, opposition to the bracket motion. And I can only reiterate to my colleague, Senator Chambers, that I, in understanding Senator Chambers' past positions on gambling, gaming, I would have assumed that he would not want to make it easier for people to place wagers. Whether it's at a casino, whether it's at a keno parlor, or whether it's involving horse racing, that he would want to make it more difficult for people to access any kind of gaming venture, parlor, facility, whatever it may be. LB642 does that. It's a deterrent to outside horse racetracks and/or companies located with those tracks of accepting wagers on races outside of Nebraska tracks. It makes it more difficult for someone who tries to accept a wager on a horse race outside of a Nebraska facility. It makes it more difficult for them to do that because it makes them eligible to be found guilty of a Class IV felony. We use criminal penalties at times to try to deter individuals or businesses from an action. LB642 is exactly that. It's trying to deter a company, regardless if they're in California, Nevada, or Iowa or Arkansas, to accept wagers, easy wagers, advanced-deposit wagers, which is a very fast way to make ongoing bets on races outside of a licensed racetrack in Nebraska. It's currently being done now. It's being done through Web sites that are advertised on...anywhere on-line that involves horse racing. And, yes, there probably is a benefit in regards to the horse racing industry in Nebraska because that means the only...where in Nebraska you can go make a wager is you've got to do it at a horse track. And so I don't think this is a silly bill. I wouldn't use that connotation. I think, one, the likelihood of us extraditing multiple corporations and businesses from around the country for violating this, I'm not expecting the Attorney General's Office is going to create an investigative unit only to do this. But I do believe having a felony charge for illegal on-line gaming, in the sense of accepting advanced-deposit wagers, is a deterrent that does make a company think twice of whether or not they want to accept a wager from a resident of Crawford, Nebraska, or Wayne or Omaha or Lincoln or Scottsbluff. They see Nebraska show up when someone opens up an account, they get concerned. They know it's a felony charge to accept that wager if we pass LB642. I think that's a reasonable deterrent in regards to trying to stop what the horse racing industry says is a big problem. I would be willing to argue, we, as a body and as a state, over generations have passed laws and criminal penalties that may or may not have had a considerable number of cases involved in it, but we did it at one point in time because we felt that it was a deterrent and it was better for the common good to do it. I can appreciate Senator Chambers' disagreement. It's maybe

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one of those areas where we just have to agree to disagree. But I don't think it's silly. I don't think it's wasting the Legislature's time. I think it's a deterrent to something that we know is occurring and that those who oppose expanded gaming would naturally be supportive of something that makes it more difficult for someone to expand gaming electronically through the Internet. [LB642]

SENATOR KRIST: One minute. [LB642]

SENATOR MELLO: With that said, colleagues, I'd urge the body to not adopt the bracket motion, to continue to move forward and move LB642 to Select File. Thank you, Mr. President. [LB642]

SENATOR KRIST: Thank you, Senator Mello. Senator Karpisek, you are recognized. [LB642]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I did vote to IPP this bill because I do support expanded gambling. So this is cutting down on expanded gambling. I thought I would do that just to show you what this does. If it didn't do that would I vote for it? No. Would Senator Chambers answer a question, please? [LB642]

SENATOR KRIST: Senator Chambers, will you yield? [LB642]

SENATOR CHAMBERS: Yes. [LB642]

SENATOR KARPISEK: Thank you, Senator Chambers. I understand what you're saying about this being a frivolous bill. I don't want to say frivolous but I don't know. What word did you use? Well, a lot of words (laugh) I heard, but. Senator Chambers, what if we would just, instead of trying to make it a felony, what if we just take the whole thing off the books and just say that there is no penalty if people do this? [LB642]

SENATOR CHAMBERS: What does the original...is this...well, this amends existing language, so I'd have to see what the other language does. The existing law is amended. So you mean just strike all of this new language? [LB642]

SENATOR KARPISEK: Correct. And then strike the old language that says that it's a misdemeanor, because right now it's a misdemeanor, correct? Yes. [LB642]

SENATOR CHAMBERS: The existing language, right. And it has nothing to do with this that we're talking about here. [LB642]

SENATOR KARPISEK: No, this...the new is just saying that it would now be a felony. [LB642]



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SENATOR CHAMBERS: So what does the original language deal with? [LB642]

SENATOR KARPISEK: It deals with offtrack betting, I guess, or all horse...all violations of legal horse track betting. Sorry, Senator, I needed some help on that one. [LB642]

SENATOR CHAMBERS: And you trust whoever it was who gave you the help? [LB642]

SENATOR KARPISEK: I do,... [LB642]

SENATOR CHAMBERS: Okay. Well, no, I... [LB642]

SENATOR KARPISEK: ...(laugh) because it's Senator Mello's staff. [LB642]

SENATOR CHAMBERS: I think that when you're eating a meal and you take a bite, you should masticate and swallow that before you undertake to put more into your mouth. So I've bitten off what I can... [LB642]

SENATOR KARPISEK: Well, sometimes I get my button-pushing ahead of my mouth, I understand. [LB642]

SENATOR CHAMBERS: All I'm saying is I think I've bitten off as much as I can chew at this moment. [LB642]

SENATOR KARPISEK: Okay. Thank you, Senator Chambers. I guess my point is if it's silly to make this into a felony then it's silly to even have it on the books as a misdemeanor because it's not going to be used either way. And I don't think that that's good policy for the state or horse racing in Nebraska. I am...I'll switch gears a little bit. I'm glad, though, that Senator Ashford is looking at this and doesn't want to create more felonies. And I will have some opportunity for, hopefully, the body to try to take some felonies off the books for things that I don't think that the crime...punishment fits the crime. So I hope when we get to that point that we can have that conversation and hopefully I'll remember today, when Senator Ashford is concerned about putting felonies on the books and having more people in jail. I don't have that bill drawn up and dropped yet, but it's close. I know I'm really making a big cliffhanger on that one, aren't I? But we will see. And I do understand Senator Chambers' concern on this bill. I guess... [LB642]

SENATOR KRIST: One minute. [LB642]

SENATOR KARPISEK: ...if it's not being used now, then we should get rid of it. If it's not being used now, does it hurt to put a felony on it? Is it just the people who, like Senator Mello said, when they see someone from Nebraska trying to bet on their Web site go, oh, that's a felony, I'm not going to take that? I think that's the whole point of this, this

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whole bill. Thank you, Mr. President. [LB642]

SENATOR KRIST: Thank you, Senator Karpisek and Senator Chambers. Senator Chambers, you are recognized. [LB642]

SENATOR CHAMBERS: Thank you. Mr. President, let me tell you how serious my position is, even though I'm being lighthearted in the way I'm presenting it. Senator Mello wants to protect this horse racing industry, which I think has shown itself to be less than worthy of respect. I'm trying to protect the integrity of the Legislature. I'm trying to protect the integrity of this system and what it is that we do. If you're going to bring some trivial stuff like this and put it into law as a favor to Senator Mello, who's doing it as a favor to these horse guys who ran an 11-second horse race, so-called, with two or three horses so that they could qualify as a legal horse track so they can carry on the other gambling, that's what he ought to be opposed to--encouraging people to circumvent the Legislature's law, facilitating that circumvention of the law, enabling the circumvention of the Legislature's law. Senator Mello is actually better than this and he hadn't thought it through before he did this, but I'm going to continue what I did because I want it on the record so people will see how silly this is. Let's say that Senator Carlson temporarily lost his mind and did call the governor out there in California and said, I want you to extradite this guy for accepting this bet. But before I do that, let me ask Senator Mello a question. [LB642]

SENATOR KRIST: Senator Mello, will you yield? [LB642]

SENATOR MELLO: Of course. [LB642]

SENATOR CHAMBERS: Senator Mello, is the chairperson of the board of a corporation the one who will be served with the papers and guilty of the Class IV felony? [LB642]

SENATOR MELLO: Senator Chambers, I would have to assume that would be the case, whoever is the president or the main point of contact for the corporation or business. [LB642]

SENATOR CHAMBERS: Does this say something about whoever accepts a wager? [LB642]

SENATOR MELLO: Specifically the green copy or the amendment? [LB642]

SENATOR CHAMBERS: Whichever one you want to be taken seriously. [LB642]

SENATOR MELLO: I believe it says...I believe the bill says whoever "takes or receives." [LB642]

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SENATOR CHAMBERS: So you think you'd go after the chairman of the board of the corporation, if it's a corporation. You think you could prove beyond a reasonable doubt that the chairperson accepted or received this \$30 wager from somebody in Nebraska. Would they serve the papers on that person? You have to serve the papers on the one you're charging with the crime. Who would you charge with the crime, the chairperson of the corporation? [LB642]

SENATOR MELLO: I think the corporation itself, but that would be...that would be, I guess, my...it would be the business entity who is accepting the...who is accepting the wager through an advanced-deposit wagering system or a secondary pari-mutuel organization. [LB642]

SENATOR CHAMBERS: So the corporation is the one that accepted it, in your opinion. [LB642]

SENATOR MELLO: Yes. [LB642]

SENATOR CHAMBERS: So you have somebody, a county attorney or the Attorney General, draw up a paper charging a corporation. Temporarily insane "Governor" Carlson calls the governor of California and says, we want you to arrest the chairman of this corporation so we can bring him back to Nebraska and try him for a felony because somebody in his corporation...well, not somebody, he accepted a wager of \$30 on a horse race. And the governor of California, let's say he's crazy too, he says, by God, "Governor" Carlson, I've been just waiting for somebody to do this so we can stop this illegal... [LB642]

SENATOR KRIST: One minute. [LB642]

SENATOR CHAMBERS: ...gambling, so we're going to send somebody to arrest him. And after we got him locked up, how are we going to get him back to Nebraska? And "Governor" Carlson says, we're going to send law enforcement people out there to get him and we'll fly him back to Nebraska, and you will not be subject to any expense. And the governor says, okay. Then "Governor" Carlson regains his senses and he said, what in the world have I done? But whatever I did when I was in the fog, now that I see the light I'm not going to do it. Do you all see yet how silly this is? Probably not. So I've got to continue pounding, continue chopping. Thank you, Mr. President. [LB642]

SENATOR KRIST: Thank you, Senator Chambers. Senator Schumacher, you are recognized. [LB642]

SENATOR SCHUMACHER: Thank you, Mr. Chairman, members of the body. Would Senator Mello yield to some questions? [LB642]

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SENATOR KRIST: Senator Mello, will you yield? [LB642]

SENATOR MELLO: Of course. [LB642]

SENATOR SCHUMACHER: The bet that's taken presumably over the Internet here, and routed against an account somewhere else in the world, is that ultimately placed back on the race here in Nebraska at a Nebraska licensed racetrack? [LB642]

SENATOR MELLO: No. [LB642]

SENATOR SCHUMACHER: Okay. So the thing that we're concerned here is that...is that placed at another racetrack? [LB642]

SENATOR MELLO: Yes. [LB642]

SENATOR SCHUMACHER: Somewhere else in the world? [LB642]

SENATOR MELLO: Somewhere outside of a licensed racetrack in Nebraska. [LB642]

SENATOR SCHUMACHER: So it may be placed on a racetrack that's currently running in a race in Australia? [LB642]

SENATOR MELLO: Perhaps, yes. [LB642]

SENATOR SCHUMACHER: So we have somebody sitting at their computer in Nebraska that's placing a \$30 bet through a computer sitting in the...some island in the Atlantic Ocean to bet on a race in Australia. Is that kind of the scenario as one of the things that would violate this law? [LB642]

SENATOR MELLO: Senator Schumacher, I think with all due respect, the reality is this is happening on races in other states in the United States and it's not simply an international focus of what we're trying to do here. It's targeting races that are happening within the United States. Senator Karpisek has a document he could show you of companies in these states that are encouraging people to sign up on-line to use the advanced wager depositing system, which in itself is the equivalent or slightly like an electronic slot machine where every race that you put on or make a bet on, that would count as a separate account under LB642. [LB642]

SENATOR SCHUMACHER: How does this affect our horsemen and racetracks? [LB642]

SENATOR MELLO: Because it would eliminate anyone's ability to place a bet on a horse race outside of a horse race...a licensed horse racing facility in Nebraska. [LB642]

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SENATOR SCHUMACHER: So who would we be going after, the guy sitting in his basement on his computer, or the guy out in the middle of the Atlantic Ocean on a boat or anyplace else he can get an Internet signal? [LB642]

SENATOR MELLO: In that very hypothetical situation that you just mentioned,... [LB642]

SENATOR SCHUMACHER: It's not hypothetical. [LB642]

SENATOR MELLO: ...that it would not be the person placing the bet. It's the person, corporation, or entity receiving the bet utilizing an advanced wager depositing system. [LB642]

SENATOR SCHUMACHER: Okay. So we're ultimately going after somebody who might be riding on an ocean liner with his server on his laptop like Mr. Snowden, and he's running a server there, and that's who we're going to be chasing down. [LB642]

SENATOR MELLO: Senator Schumacher, in your scenario, I guess, in this hypothetical scenario, if they are the entity, person, or corporation, regardless if they're on a...in they're in Nevada, New York, Iowa, or in some boat liner, apparently, theoretically in the Atlantic Ocean, that would be the entity, you are correct, that would be guilty of the felony charge under LB642. [LB642]

SENATOR SCHUMACHER: Okay. Would not this activity already be illegal gambling under the laws of Nebraska because it's wagering outside of the confines of our constitution? [LB642]

SENATOR MELLO: It currently is illegal and it is a Class I misdemeanor. [LB642]

SENATOR SCHUMACHER: Are there any warrants outstanding for anybody for this crime right now? [LB642]

SENATOR MELLO: I think in regards to the general penalty of a Class I misdemeanor, there has been no real legal action taken against anyone because of the penalty itself. [LB642]

SENATOR KRIST: One minute. [LB642]

SENATOR SCHUMACHER: So if the skipper of this ocean liner were driving down I-80 right now, we'd let him go right on through because there wouldn't even be a warrant good in the state of Nebraska for him. [LB642]

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SENATOR MELLO: Once again, I think Senator Wallman asked the question earlier, Senator Schumacher, in regards to the number of cases that have been prosecuted under this statute, and the reality is there hasn't been any and that's why the industry has brought this forward because they feel the penalty is so weak it's not an incentive for anyone in law enforcement to go after these particular entities. [LB642]

SENATOR SCHUMACHER: What if one of the local tracks ended up being the recipient of a bet coming through this system, would we issue a warrant for them? [LB642]

SENATOR MELLO: Once again, if they were, yes, if it was done not in a licensed racetrack facility, they would be found guilty. [LB642]

SENATOR SCHUMACHER: Wouldn't they be co-conspirators with the guy placing the bet from the boat? [LB642]

SENATOR MELLO: No, I guess I...if a bet is not placed at a licensed horse racing facility... [LB642]

SENATOR KRIST: Time, Senators. [LB642]

SENATOR SCHUMACHER: Thank you. [LB642]

SENATOR KRIST: Thank you, Senator Schumacher and Senator Mello. Senator Mello, you're next in the queue. [LB642]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. With all due respect to my friend and colleague, Senator Schumacher, I could probably come up with a million hypothetical, I guess, questions about whether or not we're going to go after international gaming groups, businesses, or corporations, but the reality is, this is how it's played out in other states that have done this. An entity in the state of Kentucky takes an on-line bet through an advanced wager and deposit system of someone who wants to place a bet from Nebraska and they put \$1,000 in their account. That person places 100 bets utilizing that \$1,000. That entity or corporation in Kentucky that accepted those 100 bets would be found under LB642, could be convicted, and found guilty of 100 separate Class IV felony charges of accepting 100 bets. In the way this has worked in other states, businesses stopped taking bets in those states where they had similar felony charges because they knew the moment one person came into the system and placed multiple bets, they could be found guilty of multiple felony charges. Thus, they stopped taking bets from people in those states because they didn't want to be found guilty of 100 separate accounts of a \$10,000 maximum fine for someone who bet \$1,000. It became a deterrent because of advanced wagering system itself is natured to take as many bets as possible because you put in a dollar amount, and then just place your bet like you would a computer game, or you would a slot machine. So

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with all due respect to my friend and colleague, Senator Schumacher, this is not going after international spies on boat liners in the Atlantic Ocean. These are horse racing tracks in other states that are advertising in Nebraska asking people to join their system, put money in their account, and place hundreds of bets on different horse races where, if we passed LB642, that company who accepted them would be found guilty of multiple felony accounts, thus would not want to take bets from Nebraskans. That's how it worked in Iowa. That's how it worked in Arkansas. Other states recently, Texas and others, have done a very similar thing. It limits the people in your state's ability to place these on-line bets. Now, once again, I'm not an attorney. I don't deal a lot with the criminal code, so to speak, in regards to the certain process that someone is served a violation or a citation, or in this case, found the Attorney General or a law enforcement officer from the county or city or whoever it may be in the state of Nebraska serving a corporation, a business, an entity, the chairman of the board, whoever it may be, that's something that I'll have to rely on the Judiciary Committee and the General Affairs legal counsel. But the general premise of the bill is fairly simple, which is why we worked on it, why we've tried to find compromise with those who had some initial concerns, which is, if you want to stop the ability of Nebraskans to place on-line bets on horse racing, LB642 makes it a deterrent through the felony statute of a Class IV felony, which is imprisonment up to five years and a \$10,000 maximum fine, it creates and places a deterrent. So, once again, colleagues, as I've mentioned, this is not the most controversial, this is not the most important piece of legislation that will face this body this entire year, but I'm still, I guess, not understanding from those who naturally would oppose... [LB642]

SENATOR KRIST: One minute. [LB642]

SENATOR MELLO: ...expanded gaming, why they would oppose a bill that makes it extremely more difficult for a business that's not located in Nebraska, or even if they are located in Nebraska, from accepting more on-line bets. Because if they accept any more than one or two bets, they're going to be possibly put themselves in position to be fined hundreds of thousands of dollars in multiple felony accounts. And I don't know businesses that want to put themselves in that kind of position for a hundred \$10 bets. Hopefully, that provides, I think, a more global perspective of what LB642 is trying to do. Senator Karpisek can get up and talk a little about in regards to some of the marketing materials that we see coming into Nebraska from other states, but there just may be an agree to disagree on this with Senator Chambers, Senator Schumacher, myself and others, but I'd urge the body not to bracket the bill. I'd urge the body to move forward and let us move on to other more important issues that are on the agenda and move LB642 to Select File. Thank you, Mr. President. [LB642]

SENATOR KRIST: Thank you, Senator Mello. Senator Karpisek, you are recognized. [LB642]

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SENATOR KARPISEK: Thank you, Mr. President and members of the body. As Senator Mello said, and I probably should have had this run off and distributed, but I don't want to waste state paper because Senator Haar has me cut down to about ten pages this year, (laughter) you know, but I recycle them. Anyway, this...the e-mail that came out: DRF Bets Alert, Attention Nebraska residents. You trust DRF for the best news and analysis, now come wager with DRF Bets. Make DRF Bets your place to play. Sign up now. They'll give you a \$100 sign-up bonus. I can't believe I haven't done this. I forgot I had it in my folder. (Laughter) Maybe this afternoon. The thing is, Senator Schumacher asked, what does this have to do with Nebraska horse racing? This is allowing offtrack betting to go to some other company in some other state or ocean liner or wherever, but we don't allow it here. So Nebraska money, you know, we don't want people gambling in Nebraska for, Lord help us all, that was close, we don't want them to gamble, but it's going to be okay if we're going to let them get on-line and get on to this horse racing site. Now, if it's not a big deal and we're not going to pursue this, then why don't we let the tracks do offtrack betting? We can't do that because that would be bad. People will sit at home and bet on races all day. Well, they can do that now through this site. How does it hurt the industry? Because now, why do I have to go to the track? I can sit at home, eat bonbons and drink beer, or Cheetos, and I can make bets all day. That's what we are trying to say. I don't...I'm a little bit flabbergasted, too, and again, I'll be honest, I really don't care. But I think that that's what we're...I've heard for seven years, we can't gamble in Nebraska, but yet we're going to let them do this because we're not going to chase anybody down to California or an ocean liner or maybe a jet. I don't know. I just don't understand why people are against this when it is what I've heard, all along, we don't want. I don't know, but I'm just glad Senator Mello brought it and not me because everybody would have thought there was really something smelly about it. (Laugh) There is not. I mean, it's letting people do this, taking money away from our tracks, or maybe taking people's money away for groceries, as I always hear the argument against gambling. This is allowing them to do it. And to say that it's frivolous or anything, I don't think it is. Senator Chambers is right, the horsemen do have a stake in this because I don't have to go to the track anymore. And then we say, well, those people, they just don't do anything for themselves. We're not going to help them, but I'd like to help them, but they just won't do anything. Here's another fine example. We're just trying to...don't let them bet on the horse races from their home, make them go to the track if they want to. There's only... [LB642]

SENATOR KRIST: One minute. [LB642]

SENATOR KARPISEK: Thank you. There's only ten...eight to ten races at a track, but if you go on-line, I'm sure you could do it 24/7 all across the world. At least if they go to a simulcast place like the new one outside of Lincoln here, the industry in the state is capturing some of that money when they buy food. It creates jobs. This doesn't. I can sit at home and do this and it's legal, and just because the penalty isn't enough, people let me do it. I think if it was a felony, people might think different. Thank you, Mr. President.



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[LB642]

SENATOR KRIST: Thank you, Senator Karpisek. Senator Bloomfield, you are recognized. [LB642]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, as you'll note, I didn't vote for this in committee. I didn't vote against it, I simply didn't vote. That's the same position I continue to take. I have no intention of voting on the bracket or the bill, but I would like to remove some of the absurdity we've been discussing here today. And if Senator Mello would yield, I'd like to ask him a question or two. [LB642]

SENATOR KRIST: Senator Mello, will you yield to a question? While he's making his way back, if you'd like to pose your question, go ahead, Senator Bloomfield. [LB642]

SENATOR BLOOMFIELD: Senator Mello, we've been talking about hypotheticals where we're chasing somebody down to an ocean liner for a \$30 bet. Could this not just as easily be a \$10,000 bet placed in Council Bluffs? [LB642]

SENATOR MELLO: You're absolutely correct, Senator Bloomfield. It could be a \$30 bet placed in an ocean liner in the Atlantic or a \$10,000 bet placed in Council Bluffs. [LB642]

SENATOR BLOOMFIELD: Do you believe if the governor of Nebraska called the governor of Iowa and said we have an outfit in Iowa that is continually taking huge wagers from Nebraska, that possibly the governor of Iowa would allow us to go to Council Bluffs and pick that fellow up? [LB642]

SENATOR MELLO: There's a...once again, it's purely speculative, Senator Bloomfield, as my previous answer that maybe 25 governors in the country would do it. I imagine the state of Iowa could be one of those states in the United States that would allow us to extradite someone who broke this law because they're so close to Nebraska. [LB642]

SENATOR BLOOMFIELD: Again, colleagues, I am not going to vote for the bracket on this. I didn't vote for the bill in committee. I'm not going to oppose it or support it here, but we seem intent on wasting time here and we're doing a fine job. I just wanted to cut through a little bit of the hyperbole if I could. And I'd yield the rest of my time to Senator Mello, if he would like it. [LB642]

SENATOR KRIST: Senator Mello, you're yielded 3 minutes. [LB642]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. And thank you, Senator Bloomfield for that very, I think, real-world example of what we're looking at here in regards to LB642. Senator Karpisek, as I was just explaining to

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Senator Chambers, Senator Karpisek has a document he is more than willing to be able to show people in regards to what these businesses are doing in regards to marketing on-line horse racing wagering through the Internet and through e-mails. The reality is this. As Senator Chambers asked me and I would be the first to tell you, yes, this probably does help in regards to stopping competition to our current horse racing facilities in Nebraska. But the reason it probably stops it is because this is currently, already illegal. This is not something that currently is legal in Nebraska. It's illegal now, but it's a Class I misdemeanor. And the issue that ultimately what we're trying to address in LB642 is by making it a Class IV felony, what we're doing is saying that if a business tries to accept these wagers on-line through this kind of system, by simply having one person sign up and make multiple bets, it's going to be a deterrent for them not to want to do this. So that means if you want to wager on a horse race in Nebraska, the only place you can go is to a licensed horse racing facility and you can only place the bets inside of that facility. That's what the legislation does with the cleanup amendment and the committee amendment, and I don't know how much more clear we can be about this. I can respect that someone just doesn't want to see gaming occur and thinks that it's something that we just need to get rid of and by giving any inch whatsoever to the current industry in regards, even though this is illegal now, I remind you, it currently is a Class I misdemeanor, but making it a Class IV felony may have to direct people if they want to place a bet, they've got to go to a Nebraska licensed facility. [LB642]

SENATOR KRIST: One minute. [LB642]

SENATOR MELLO: We all know there's only a few number of facilities in the state so there's a good number of people who just aren't going to go to a facility to make a bet. So in that respects, it may cut down on someone's ability, obviously, to place a horse racing wager if they're nowhere near a horse racing facility. But right now, if you are in the western part of the state, closest place you can go, Grand Island. That was where you would have to go if we pass LB642 to be able to place a bet on a horse race. Now you can do it from the privacy of your own home on-line. I think, colleagues, right there is an example for those who oppose expanded gambling and/or any kind of gaming for that matter is a pretty good reason why you should be supportive of LB642. I appreciate Senator Bloomfield's comments. I'd urge the body, once again, let's move forward. Let's not adopt the bracket motion and move LB642 to Select File. Thank you, Mr. President. [LB642]

SENATOR KRIST: Thank you, Senator Bloomfield and Senator Mello. Senator Schumacher, you're recognized. [LB642]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Senator Mello, will you yield to some more questions? [LB642]

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SENATOR KRIST: Senator Mello, will you yield? [LB642]

SENATOR MELLO: For Senator Schumacher, of course. [LB642]

SENATOR SCHUMACHER: Thank you, Senator Mello. Senator Mello, if we're going after the evils of gambling, why did you restrict this just to horse racing? Shouldn't we also be included in this particular thing, offshore or international slot machine, poker tournaments, things of that nature? Why have we narrowed this? [LB642]

SENATOR MELLO: Senator Schumacher, I think first to be clear, I didn't say we were going after the evils of expanded gambling, actually. I think most people know that I'm not opposed to gaming and gambling. This particular bill, though, was to beef up an existing statute that is currently on the books now that makes this illegal and we're targeting it towards the advanced wagering deposit system which is becoming more prevalent nationwide in respects, specifically to horse racing. [LB642]

SENATOR SCHUMACHER: Okay. Why wouldn't we just do this for all Internet gambling and just get rid of it all right now? [LB642]

SENATOR MELLO: Senator Schumacher, if you would like to bring a bill to the General Affairs Committee, I'm sure Senator Karpisek would entertain and give you a fair hearing like he does any bill that comes in front of his committee, but LB642, that's not its purpose, that's not its focus and I would be probably not the best senator to talk about the details of what you'd like to see happen. [LB642]

SENATOR SCHUMACHER: Senator Mello, would it be in the purview of this act, we have occasionally folks and operations operating in the state making book on a lot of different things, football games and things of that nature. One point, I think, 20 years ago already, it was estimated that that industry was a half-a-billion-dollar industry particularly in the fall when some type of sport was being played here in the state. Those operations that are operating with virtual immunity in the state right now, they take bets on horse races against their accounts all the time. Would they be covered by this? [LB642]

SENATOR MELLO: They would not. This is only targeted towards advanced-deposit wagering systems. It's a specific way of doing rapid multiple wagers on an account that you prepay money into. So if the entity that you're talking about in Nebraska utilized this kind of system and they did it outside of a racetrack, they would be found guilty of this as much as anyone else would. [LB642]

SENATOR SCHUMACHER: But if they didn't have this advance...if they simply were making book on horse races, then that would be okay under this, we're not concerned about that. [LB642]

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SENATOR MELLO: That would still be a Class I misdemeanor. [LB642]

SENATOR SCHUMACHER: Okay. We're not...okay. Well, at least we've got a record here that protects a vibrant industry in Nebraska. Members of the Legislature, we've killed way too much time on this. I think at this point, no one really, really expects there to be any interstate or international warrants issued for somebody placing a bet on a horse race from Nebraska. I just tracerouted to this site that Senator Karpisek was mentioning. There's a mechanism you can use if you know how to work the Internet testing mechanisms, and this site can be found virtually all over. It's obviously going through some intermediate servers. It is a...it's probably mobile from the little I've been able to tell so far. This has not been shown to be causing our racetracks any financial loss. We've just wasted a lot of time. So we can continue to do that, or we can maybe move on to something that is meaningful for not only our people, but quite honestly, for the horse racing industry. There's things we can do to help them and really help them as well as many other aspects of our economy. [LB642]

SENATOR KRIST: One minute. [LB642]

SENATOR SCHUMACHER: And this is not one of them at this point. We are, literally, at this point, beating a dead horse. Thank you. [LB642]

SENATOR KRIST: Thank you, Senator Schumacher and Senator Mello. Senator Karpisek, you are recognized. [LB642]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I didn't expect to be next. Senator Chambers must be out of times. I disagree with Senator Schumacher that we don't know that this is hurting the horse racing industry. If I can sit at home and do it on my computer, why would I go out in the cold and place bets at a track? I think it does hurt. Churchill Downs is one of these places that does this. Other...our own people are doing this. And by God, if I hear you saying, it's okay if our people are getting on-line to gamble, I hope that you remember that and if not, I will remind you, how much this cuts across the grain of what I hear most of the time around here. I know it won't make any difference by the time we get there because, you know, we're not talking about the same thing because we're not, but we are. I've heard this same song and dance over and over and over and I'm tired of it. So, fine, you want to do this, fine. But remember what you're doing. Remember what you're doing. Gambling with the Good Life, at the last time I saw, was not outside of the glass. That should be an indication of something. Usually, she, who I will not speak her name, is right there. I don't know what else to say. I do completely agree with Senator Schumacher, this isn't worth this amount of time. Not at all. But I just think that you need to think about what you're saying here. Just because there's something on the books, and we don't think anybody will ever go after someone because of it, we could probably get rid of half the

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statutes in the state, just because nobody ever is going to prosecute or do it. This is allowing someone to take bets from out of Nebraska. I guess if that's what you want, okay. I'd rather keep that money here. But again, we'd rather send money over to Iowa and every other surrounding state when it comes to gambling, and pretend that we don't have the problems here, and pretend that no one gambles here. I think I remember one time Gambling with the Good Life said, all those cars in Omaha or in Council Bluffs were workers working there. They sure have a lot of fry cooks from Nebraska. I wonder why Nebraskans are such better cooks and waitresses. It is just crazy. Again, I'm for expanded gambling. You want to let them do it, let the money go out of state again. I guess, we will. It is not worth this amount of time. This is another one that should have just went right through. I would have never, ever guessed this amount of time on this. I think it's getting to just show that it doesn't matter what it is, we're going to spend a lot of time on it. But I do want to remember...or I will remind people when we're talking about being, we don't want so many felonies, I have a bill for that. [LB642]

SENATOR KRIST: One minute. [LB642]

SENATOR KARPISEK: When we don't mind people gambling, I have a couple of bills for that, so my bill should sail if this is the way we're going on this one. But again, I think we have a long and short memory here and we can twist it however sounds better for our own uses. But again, do as you will and I'll be back. Thank you, Mr. President. [LB642]

SENATOR KRIST: Thank you, Senator Karpisek, and that was your third time. Senator Schumacher, you are recognized, and sir, this is your third time. [LB642]

SENATOR SCHUMACHER: Thank you, Mr. President and I'd yield my third time to Senator Chambers. Thank you. [LB642]

SENATOR KRIST: Senator Chambers, you're recognized. [LB642]

SENATOR CHAMBERS: Mr. President and members of the Legislature, my colleagues ought to join in this. Time really goes fast when you're having fun, but when you're not, it plods along. I'm going to go back to what I was talking about. A law that is unenforceable should not be put on the books in Nebraska. If you have a law of the kind that Senator Karpisek mentioned that regulates the activity of horse race betting in Nebraska, that is enforceable in Nebraska. When you talk about extraditing people, and you can say it's not talking about extraditing, but that's the only way this can be enforced. That's the only way. Now if the states where this activity is going on, and it originates at a given state, and that state has not outlawed it, let's say it's happening...let me ask Senator Karpisek a question. [LB642]

SENATOR KRIST: Senator Karpisek, will you yield? [LB642]

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SENATOR KARPISEK: Yes, thank you for sharing your time. [LB642]

SENATOR CHAMBERS: Senator Karpisek, name one state for me where this is going on? [LB642]

SENATOR KARPISEK: Kentucky. [LB642]

SENATOR CHAMBERS: And that's where the wagering is being accepted? [LB642]

SENATOR KARPISEK: Yes. [LB642]

SENATOR CHAMBERS: Senator Karpisek, do you think the governor of Kentucky knows that this is happening in Kentucky and the legislators know? [LB642]

SENATOR KARPISEK: If they're like us, probably not. No, I don't know Senator Chambers, probably they'd make money on it. [LB642]

SENATOR CHAMBERS: Thank you, Senator Karpisek. I know what Senator Karpisek knows if he doesn't. And I'm going to bring it home to the rest of you if I can. This is happening in Kentucky. You think the governor of Kentucky is going to extradite somebody from Kentucky to Nebraska? Somebody is conducting a business in Kentucky, the governor of Kentucky is going to order that person arrested. Do you think their legislature has even made it a crime? Obviously, not. And that state is going to extradite somebody from that state to a pinhead state like Nebraska because somebody bet on a horse race through something going on in their state. They say...I say again, let them teach the people in their state to do what their values are supposed to be about, but they're not going to come meddling in Kentucky and think we're going to get involved in extradition matters over a bet on a horse race. Why, horse racing is the warp and woof of Kentucky. You ever hear of the Kentucky Derby? Why isn't it killing them? If people from Nebraska are making bets, then the bets are not benefiting some of the bookies trying to make an honest living in Kentucky. This is preposterous. Senator Mello is smarter than this. I never believed in demon possession before, but I think Senator Mello has a demon. That's what's the matter with Senator Mello. Next thing you're going to look up and you're going to see him suspended in the air up there by the ceiling of this Chamber because the demon sent him there. That's what they do when they possess you. I'm trying to show you how preposterous this is. I bet there's not one person who would stand on this floor and tell me there's a governor anywhere in this country... [LB642]

SENATOR KRIST: One minute. [LB642]

SENATOR CHAMBERS: ...who would agree to extradite somebody from his or her

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state to stand trial in Nebraska on a felony where the punishment is no jail time. No jail time, and you're going to send him here. Why, you'd be on CNN, you'd be the butt of every comedian that comes on at night. I know Senator Mello has gotten so deep into this, it's like being up to his ankles in that stuff he didn't want to spill out of the trucks in the neighborhoods in Omaha. He stepped into it and he doesn't know how to get out of it and I'm giving him a way out. This law is a nonlaw. You are the legislators. Is this what they sent you down here for? When you run for office will you stand and be honest enough to tell them the nonsense that you voted for? You will not, and you hope nobody will bring it up. [LB642]

SENATOR KRIST: Time, Senator. Seeing no one else in the queue, Senator Chambers, you're recognized to close on your motion. [LB642]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, anything I support I will tell anybody anywhere. Anything I oppose, I will tell anybody anywhere. Will you put this on your campaign cards when you send them out that you supported a law that can't be enforced, that will not be enforced, because in order for it to be enforced, a governor in another state would have to extradite somebody to Nebraska after the governor of Nebraska asked them to do it? That's silly. Senator Mello would not have brought this bill if had known what was entailed. He told you he's not a lawyer. Sometimes you have to save people from themselves. I'm trying to rescue him. Rescue our colleague, save him, vote for this motion. Can you proudly vote for a bill that cannot be enforced? It's silly. And I'm going to keep talking about extraditing. There are people who have committed genuine crimes and governors have refused to extradite the person. And a governor is going to extradite somebody to Nebraska for waging through a corporation in that governor's state. And that governor is going to have to have his law enforcement people arrest the head of a corporation in his or her state. And you think that's going to happen? Compared to what this bill says, I owe Senator Hansen an apology. I criticized him for saying that the packing houses would leave Omaha if that fine were put in place. Here they're talking about a governor in another state ordering the law enforcement people to arrest the head of a corporation to be sent back to Nebraska. Senator Hansen, I apologize. You gave the right example for what you're dealing with on this floor. You have sized them up better than I did. I said you were insulting their intelligence. You gave them credit for enough intelligence at least to understand what you said. You thought they would at least understand that. I thought because they'd understand it, they'd be against it. They don't understand what I'm saying. And I think what I'm saying is clearer than what Senator Hansen said. I want to see those votes go up on that board. And now, I am hoping that you will vote for this bill, and I will not let a day go by without ridiculing, mocking, scoffing, belittling, and I'll say, intelligent argument could not help them. The only thing that will help them perhaps is to bludgeon them. If they got enough brain cells working to understand what the ridicule is that is being directed against them. You ought to be ashamed of yourselves. You going to let a group of numbskulls in Senator Mello's district make you do

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something as foolish as he unwisely let them make him do? But at least they're his constituents. What are they to you? The ones who will make you behave as though you have no intelligence. I'll bet there are teachers who had some of you all in school and they'll look at you and listen to this and say, what did I do wrong? I had him or her in my class. I thought I taught them something. They're grown, they've had experiences. They're in the Legislature and they're passing something like that that they know is not enforceable. [LB642]

SENATOR KRIST: One minute. [LB642]

SENATOR CHAMBERS: And beyond that, the only way it can be enforced is for a Governor of this state to ask a governor in another state to enforce a silly law that the Legislature should have had sense enough not to pass in the first place. Oh, I can't believe it. You know what? I'm just waiting to wake up. That's all, I'm waiting. This is a dream. This is not real. This is not even surreal. But now it's funny to me. Dreams cannot hurt anybody. There's a Spanish expression: La vida es sueno, y los suenos, suenos son. Life is a dream and dreams are but dreams. And that's what I'm in right now, but it sure seems real to me, so I'm going to go along with the program and I'm going to continue offering motions. And... [LB642]

SENATOR KRIST: Time, Senator. [LB642]

SENATOR CHAMBERS: Thank you, Mr. President. I would ask for a call of the house. [LB642]

SENATOR KRIST: 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. Please record, Mr. Clerk. [LB642]

CLERK: 27 ayes, 0 nays, Mr. President, to place the house under call. [LB642]

SENATOR KRIST: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator McGill, Senator Pirsch, Senator Ashford, Senator Kintner, Senator Christensen, Senator Davis, please return to the Chamber, the house is under call. Senator McGill and Senator Davis, please return to the Chamber, the house is under call. Senator Chambers, everyone is accounted for. How would you like to proceed? There's been a request for a roll call vote in regular order. Mr. Clerk. [LB642]

CLERK: (Roll call vote taken, Legislative Journal page 239.) 6 ayes, 26 nays, Mr. President, on the motion. [LB642]



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SENATOR KRIST: The bracket motion fails. Raise the call. Items for the record, please, Mr. Clerk. [LB642]

CLERK: Thank you, Mr. President. New bills. (Read LB923-LB930 by title for the first time.) I also have hearing notices from the Natural Resources Committee, Mr. President. (Legislative Journal pages 240-241.) [LB923 LB924 LB925 LB926 LB927 LB928 LB929 LB930]

Mr. President, with respect to LB642, Senator Chambers would move to amend. (FA162, Legislative Journal page 241.) [LB642]

SENATOR GLOOR PRESIDING

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

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, you all have been persuaded. I won't say suckered. You all have been persuaded that by making this unenforceable law carry a Class IV felony, it will be a deterrent. Well, if making it a Class IV felony may serve as a deterrent, making it a Class II felony certainly will. So all my amendment does is strike Class IV and insert Class II. I mean we need to get down to business now. We've been playing around the edges. A Class II felony at least has a minimum, one year, but a maximum of 50, five zero big ones. Now I'm going to see how many of you all are going to support this. You want to deter what's being done. Senator Mello has acknowledged nobody is going to be extradited. So if nobody is going to face the penalty, we could make it a death penalty if we wanted to, but I'm against the death penalty in all circumstances. Although when I consider what Senator Mello is doing to us today, I would not even want it for him, not even metaphorically. But what I want you all to do is look over here and look at a very elderly gentleman who has been on his feet all day laboring in the vineyard of legislative futility. Cannot you see weariness infusing my entire being? Can't you see I'm on my last legs, that I'm about to keel over at any instant? And I may not even be able to use all of the time that I'm granted to discuss this amendment and the other amendments that are going to follow. When you give me a bill like this, I don't have to use my brains to draft amendments. All I have to do is change the penalty. I substituted, in fact, Roman numeral II in place of Roman numeral IV. Well, Roman numeral III is found between Roman numeral II and Roman numeral IV, so my next amendment has been written by itself by going through the progression of Roman numerals. And I assure you that I'm prepared to do it. And I have a hard day in front of me yesterday...tomorrow. See, I'm living in the past already. Today is gone. I've got a very hard day. I can't be staying here all night if I'm rational, but I'm going to stop trying to be rational and I'm going to come to where my colleagues are. And we're just going to take the time because it's here. And if I continue to chop away, then I may be able to bring down this tree of vincible ignorance. What is the difference between

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vincible ignorance and invincible ignorance? When a man named...I won't even tell you what his name is, but he was from Norfolk, or out there wherever they have this steel plant, and he used to carry a sour expression all the time, and people thought he and I would clash, but when you have sourness over here and sweetness over there, opposites attract. He and I got on famously. And I explained to him since he had a...he was studying for the priesthood at one time and I had a Jesuit education, and I know how to use a dictionary, the difference between vincible and invincible ignorance. Everybody except the truly ignorant know what the word ignorance means. It's just the lack of knowledge, that's all. Ignorance is vincible when it can be corrected through teaching, instruction, the providing of facts. Invincible ignorance exists when nothing can overcome it. And on this issue--not with everybody--I think I'm dealing with invincible ignorance. But I'm not convinced of that. That's a mere opinion unsupported by facts, but the ultimate vote on this bill if it's in favor of advancing it, will show to me the kind of ignorance that I'm dealing with. And I'm going to go back again. It's like that song. I used to always think the Beatles sang it, but they told me, Lynyrd Skynyrd, or some other group sang it. "I'm Henry the Eighth, I am, Henry the Eighth, I am, I am. I got married to the widow next door, she'd been married seven times before, and every one was an Henry, Henry, wouldn't touch a Willy or a Sam and my name is Henry, so Henry the Eighth I am, I am, Henry the Eighth, I am." Herman's Hermits. Herman's Hermits. And you can understand with the way they sang and what they said, why they'd be hermits. They didn't even like to be around each other. They just came together when they were going to make music. But then they'd say, second verse, same as the first. And then I'll add third verse, worst than all of them. And that reminds me of a little rhyme they had about the Georges. George vile. George the First was reckoned vile. Viler still was George the Second. And what mortal ever heard any good of George the Third? When from earth the Fourth descended, God be praised, the Georges ended. But they really didn't. There was a temporary hiatus, but some more Georges have cropped up since then. I'm going to start at the beginning. This is a Legislature. A Legislature is one of the three branches of government. The other two are the judicial branch and the executive branch. The governor is the head of the executive branch. The governor is charged under the Nebraska Constitution with seeing that the laws are efficiently and faithfully executed. The judicial branch interprets and applies the law. The Chief Justice is the administrator of the judicial system. The Legislature writes the laws. The Legislature is the only branch of government that represents the people. The Legislature is the only branch that represents the people. And such being the case, I would invoke something that George Will, a columnist whom I cannot stand, had attributed to Churchill. He had written in one of his columns that Churchill was naughty, if indeed he stated that if you want to see why democracy is a bad form of government, talk to any voter for five minutes. And that will let you know why democracy... [LB642]

SENATOR GLOOR: One minute. [LB642]

SENATOR CHAMBERS: ...is a bad form of government. I've spoken for nine minutes

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already? Mr. Chairman, I've spoken for nine minutes already? [LB642]

SENATOR GLOOR: Yes, you have, Senator. [LB642]

SENATOR CHAMBERS: My, time does pass fast when you're having fun. But at any rate, this branch represents the people so the people are entitled when they vote to send anybody here they choose. [LB642]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Karpisek, you are recognized. [LB642]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. This is kind of fun isn't it, Senator Chambers? It felt like you talked for at least 20 minutes, though, I will have you know, so it seemed much longer. I'm with you on this amendment, Senator. I don't know what you're going to do when it passes because I don't think that's what you intend for it to do, but I don't care. If you think this helps make the bill...make it enforceable, then I'm with you. Mr. President, would Senator Chambers yield, please? [LB642]

SENATOR GLOOR: Would you yield, Senator? [LB642]

SENATOR CHAMBERS: Yes. [LB642]

SENATOR KARPISEK: Thank you, Senator Chambers. Do you think this would make the bill more enforceable...the law? [LB642]

SENATOR CHAMBERS: This will make the bill more enforceable when I know how to make a silk purse out of a sow's ear. [LB642]

SENATOR KARPISEK: I used to make some sow's ears, I smoked them and sold them as dog treats and sold them for quite a bit of money, so that was close to a silk purse, but neither here nor there. So you...what...okay, I just want to know if we pass this, will that satisfy your angst on this bill? [LB642]

SENATOR CHAMBERS: No, I will offer an alteration in that penalty. [LB642]

SENATOR KARPISEK: Oh, okay. All right, now I see where you're going. Sorry, I thought, fine, we can agree on this part. Thank you, Senator Chambers. Again, I just think that this bill helps people not gamble, sitting at home on the Internet. The enforceability, I think Senator Mello will talk about. I think that...and I can see some correlations to other bills that we have or other laws, and they're meant to persuade people from doing something and maybe they don't work the way they're intended. I get that. But other states have done this and from what we have heard, it has worked. Why

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isn't Kentucky going broke on this? I suppose that they have just a lot better climate for horse racing. The state of Kentucky, I'm sure, has done much more for horse racing than we have, anybody has had to, because we don't do anything except say that we'd like to help them and then don't, but wish we would or could, but then we don't. Again, Senator Schumacher talked about why doesn't this go to all Internet gaming? That's a good question and I think that maybe it should. I think that if people are gambling in the state, which they are, we should be getting some money into the state coffers for it. We're missing a boatload, I guess literally, because of all the boats in Iowa. I wasn't even going there. But we are missing out on a lot of money and there's been a lot of time that we've sat here...had a special session because we didn't have money to pay our bills. Now, we have plenty of money in the state coffers and we want to give it back somehow. We don't want to do it by reinstating any of the programs that we cut to get this surplus, but rather give it back maybe in property tax relief. That's not how the state has this surplus money. [LB642]

SENATOR GLOOR: One minute. [LB642]

SENATOR KARPISEK: The state has a surplus of money by cutting programs like BSDC. Again, this bill helps people not sit at home and gamble. They have to get out and go do it. I think for a lot of people that could be a deterrent. Again, I guess I don't care if people gamble, but I think that we should get something for it and the more we don't let them gamble legally, the more we miss out. I think this is a sensible bill. I think that it helps our state economy, if nothing else, by getting people to do it here at the racetracks. Thank you, Mr. President. [LB642]

SENATOR GLOOR: Thank you, Senator Karpisek. Senator Chambers, you are recognized. [LB642]

SENATOR CHAMBERS: Mr. President and members of the Legislature, back to my civics lesson. I said it and I'll say it again. There is a difference between how a state constitution operates and a federal constitution. The federal constitution was agreed to by the states and the idea was to make the federal government limited in what it could do. It can do only what is explicitly or by reasonable extension that which is granted by the constitution. So the federal government is a government of granted authority. A state legislature has plenary authority. That means it can legislate on anything that it chooses by virtue of the very nature of a legislature. The only way the legislature can be restricted is by the state constitution. So the state constitution imposes limitations on the legislature. That's the difference between the two. A legislature comprises people sent to it by way of election. In this state there are 49 legislative districts, each one of which sends one member to the Legislature. The people get to this Legislature by being elected in that district, and they get elected by misleading, deceiving, tricking the people, and swearing a false oath once they're elected. They would not go out and say, vote for me for the Legislature because I'll vote for unenforceable laws if somebody in

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my district asks me to do it. I'll vote for a law that cannot be enforced because the only way it could be is if you can persuade two governors to be simpleminded enough to enter an extradition agreement to bring somebody from one state to another state because they placed a bet on a horse race, living in one state, and it was made possible by a company in another state. People who have maintained their sanity, which people who come to the Legislature seem to lose periodically, would say that makes no sense. That's stupid. That's not going to happen. And I am here to try to persuade enough of my colleagues to not do this foolish thing. But because I am not naive, I'm practical, I'm a realist, I'm a pragmatist, I know that you all like Senator Mello better than you like me. So what we have now is a popularity contest and he's far more popular. He's younger, he's richer, he's not smarter, he's not stronger, but he's far more ingratiating. He is far more likable in reality. I like him, not more than I like me. But with all of that going for him, I can understand why he would be able to persuade some weak-minded legislators... [LB642]

SENATOR GLOOR: One minute. [LB642]

SENATOR CHAMBERS: ...to go along with him. But let me let you in on my plan here. It hinges on whether or not I have enough stamina, determination, relentlessness to push on with it, is to chip, chip, chip away at the number of people who will support what Senator Mello has brought to us from whatever reason. There were more people on the last vote who were not voting. The first time around I got three votes, this time I got five. More people are going to be leaving here. When we have a call of the house next time we may not even have as many people still here. Chip, chip, chip. What is harder than stone? We can think of steel, and so forth. [LB642]

SENATOR GLOOR: Time, Senator. Thank you, Senator Chambers. Senator Mello, you are recognized. Senator Mello waives. Senator Chambers, you are recognized. [LB642]

SENATOR CHAMBERS: Okay. What could be...what is harder than stone? What is softer than the water that Senator Garrett is imbibing? Yet, the Colorado River cut the Grand Canyon just by steady, relentless, moving of that very soft element known as water. That stone which would crack every bone in your body if you came in contact with it, with enough force that put you in contact with that stone, you could rub your head on that stone as long as you want to, and stone is stronger than bone, and you'd rub all the way through the scalp, then through the bone, and I won't say into the brain because, well, if you're not in the Legislature, right on through your brain, right down to your spine. Every bone in your spine and it would wear you away until they get to the souls of your feet and wear those away too. But here is water, water, soft water, cutting the Grand Canyon, bringing it into existence. Who, if they didn't know that, would put water in a container over here and hold a rock of the kind through which the Colorado River cut and ask, which of these two do you think would prevail if they were put into a contest that would last until one or the other was no more? They'd say the stone. Then

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you take them out there and say, see the Grand Canyon? How much of this stone do you think was worn away by that water, that silvery ribbon that you see snaking along at what might be called the floor of the Grand Canyon? That won and it will continue to win and the majority of the surface of the earth is water. The majority of your body is water. Senator Bloomfield could sing this and I'll just say it, it was a song: All day I face the barren waste without the taste of water, cool, clear water. Dan, can't you see that big green tree with the water running free and it's waiting there for you and me. If they're on the desert, maybe it was, maybe it wasn't. It could be a mirage, but somewhere what you see that is a mirage here is a reality someplace else. It's just the trick that light and the atmosphere will play, but your eyes will see the result of that trick and it's real to your eyes. And if your mind is sufficiently affected, it's real to your mind. But if it hasn't been affected, your mind prevails and it tells your eyes what you see is not there. So you will see things that are not there as an existential reality in that spot, but it is there in another there, but it's just not the there that is here. And that's life. So I have to be like the Colorado River, and my colleagues are resistant like the stone. They are...they feel immovable. [LB642]

SENATOR GLOOR: One minute. [LB642]

SENATOR CHAMBERS: But I cannot accept that. This Legislature, of which I'm a part, which represents the people, mandates or insists on our doing that which is wise, just, and rational. This bill is not rational. [LB642]

SENATOR GLOOR: Thank you, Senator Chambers. Seeing no other senators in the queue, Senator Chambers, you're recognized to close. [LB642]

SENATOR CHAMBERS: Mr. President, members of the Legislature, this amendment would change the penalty from a Class IV felony, which has no minimum, to a Class II felony, which has a one-year minimum, but a 50-year maximum. And I may as well let you all in on another secret. Those of you all who haven't worked with the law and haven't read court cases, when a court wants to determine how seriously the legislature views an offense and it gives an indefinite sentence a range, so many at the bottom to so many at the top. The court said, it determines the seriousness with which the Legislature viewed the offense that's being punished by the lower end of the punishment, not the top. And it looks at the lower end because the Legislature is saying that this offense may be worthy of punishment no greater than this at the lower end. So it looks at the lower end, not the top end. And courts rarely even think about imposing the maximum allowed by statute. But when you're dealing with a situation like we are in connection with this bill, we're talking about unenforceability no matter what the sentence is. So I'm just going to carry us through an exercise as I try to defend the legislative process and the Legislature as an institution. What is Senator Mello trying to defend? The horse racing industry, he's been led to believe. This, that he sees as so destructive, is not having any role to play in whether or not the horse racing industry in

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this state survives. Probably, this bill is being brought because somebody talked to those people who make up this horsemen's group or whatever they're called. I'm crafting my next amendment. Members of the Legislature, the only person in this body, and I don't mind saying it because nobody else would dare try it, the only person in this body who can intimidate me is Senator Karpisek. And I want you all to know that that man just intimidated me and because he is so successful at it, Mr. President, shakingly, quakingly, waveringly, quaveringly, I withdraw that pending amendment that I have on the desk. [LB642]

SENATOR GLOOR: So ordered. Mr. Clerk, for a motion. [LB642]

CLERK: Mr. President...Senator Karpisek, would you like me to treat this as a unanimous consent request or as a motion, Senator? [LB642]

SENATOR KARPISEK: A motion, please. [LB642]

CLERK: Mr. President, Senator Karpisek would move to bracket LB642 until April 10, 2014, the fifty-ninth legislative day. [LB642]

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

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I'm not quite sure how I intimidated Senator Chambers, but I'll take any one I can get and I hope everybody writes it down. I do this bracket motion begrudgingly because I think that we are on to something, but it does not raise to the time that we are spending on it. I said that in the beginning, then I got a little bullheaded, said, well, we've taken this long, we can keep it up. It's not worth it. We'll let Senator Mello talk about it a little maybe, I don't know. Anyway, I'm not happy about it. I think this is...it is a good bill. I will say again, everyone that is so worried about expanded gambling better remember this day. But again, I know you'll have some silly excuse and make up all sorts of things that you can somehow make sound good because I'm not the orator and the...I don't even have the right word. Not the orator that you are and also not the person that can't just say things and not have it affect me. I try to tell the truth. I still think this is a good bill, but I do think it will let people gamble at home. So, good. I hope they win. It's not worth the time. It's worth the effort, but it's not worth the time and I guess that we would...I would, and I think Senator Mello would hope that you support the bracket motion so we can move to other business. I will be bringing other bills that, I promise, I will not back down on. Thank you, Mr. President. [LB642]

SENATOR GLOOR: Thank you, Senator Karpisek. Members, you've heard the opening on the motion to bracket. Senator Mello, you're recognized. [LB642]

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SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I will be brief. I think Senator Karpisek did a very noble and very eloquent job of explaining his bracket motion. After some consideration in regards to other priorities, I think both that I have on the legislative agenda as well as other priorities that do involve constituents of mine in the horse racing industry later this session, I've decided that sometimes it's best to know when to hold them and know when to fold them, know when to walk away, and I think that's what we're doing here with the bracket motion from Senator Karpisek. I'd urge the body to adopt the bracket motion. Thank you, Mr. President. [LB642]

SENATOR GLOOR: Thank you, Senator Mello. Are there other senators who wish to be recognized? Seeing none, Senator Karpisek, you're recognized to close. [LB642]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. Again, I would ask you to support this bracket motion, but I also want you to remember the reason we're doing this. We're trying to move out of the way for more important bills. I feel this is how politics should work. We've tried...we've tried to negotiate. We can't get there, so we're just going to try to get out of the way and move on to more important business. I hope that that's the way that we can proceed the rest of this session. Some things are worth the fight, some things aren't, not everything is. Senator Chambers pulled that sword out of its sheath early on in this one and he meant it. I was hoping that he wouldn't. But again, that's why we're here. That's how we, hopefully, do things in this body. And I would hope that you support the bracket motion and hopefully we'll get off on the next bill and go okay. Thank you, Mr. President. [LB642]

SENATOR GLOOR: Thank you, Senator Karpisek. Members, the question before us is the bracketing of LB642. This requires 25 votes if the motion is not made by the primary introducer. Those in favor vote yea; those opposed vote nay. Record, Mr. Clerk. [LB642]

CLERK: 25 ayes, 2 nays on the bracket motion. [LB642]

SENATOR GLOOR: The motion succeeds. LB642 is bracketed. Mr. Clerk. [LB642]

CLERK: Mr. President, before we proceed if I may read some items. New bills. (Read LB931-932 by title for the first time.) New resolutions: LR405 by Senator Avery, LR406 by Senator Kolowski, and LR407 by Senator Howard. Those will all be laid over. And an announcement: The Urban Affairs Committee selected Senator Crawford as the Vice Chair of the committee. (Legislative Journal pages 242-244.) [LB931 LB932 LR405 LR406 LR407]

Mr. President, the next bill, LB128, a bill by Senator Coash. (Read title.) The bill was introduced on January 11, 2013; referred to the Judiciary Committee for a public hearing. The bill was advanced to General File. I do have committee amendments, Mr. President. (AM238, Legislative Journal page 596, First Session, 2013.) [LB128]



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SENATOR GLOOR: Thank you, Mr. Clerk. Senator Coash, you're recognized to open. [LB128]

SENATOR COASH: Thank you, Mr. President. Good afternoon, colleagues. I present for you LB128 which creates the crime of disarming a peace officer while in the performance of his or her own duties. You may be surprised to know that here in Nebraska disarming an officer is not classified as a crime; however, it is currently addressed through a misdemeanor such as resisting arrest or obstruction of an officer. As introduced, LB128 made disarming a Class III felony because of the level of threat incurred by the officer but also by the general public when someone disarms a peace officer. These officers are trained in conflict resolution, and work to maintain a level of calm regardless of the situation. However, when an officer is confronted, it is his or her duty to protect those around him or her while gaining control of a dangerous situation. Undoubtedly such a situation is made more difficult and unpredictable when an officer's weapon is taken. When you remove an officer's weapon, it's a serious offense, and it significantly escalates the threat of injury or death to that officer and to the people and others of the area. To be guilty of this crime, a peace officer must be in uniform or displaying a badge of authority and must be engaged in the performance of his or her official duties. You may be surprised to hear that...may or may not be surprised that this happens to law enforcement with more regularity than you might be familiar with. In 2011 alone, approximately 7,400 police officers were assaulted right here in the Midwest. And in 2012, right here in Lincoln, the Lincoln Police Department reported 60 assaults on those officers, and some of those assaults were the result of a criminal trying to remove the officer's weapon. The Judiciary Committee advanced LB128 and made some changes of which I am supportive; and the amendment that you'll hear from Senator Ashford requires a peace officer to be in uniform or displaying a badge, and changes the penalty to a Class I misdemeanor. And rather than enumerating a separate crime, what we've done is we've added to the crime of obstructing a peace officer and making that. And so with that, colleagues, I would appreciate your support. You're going to hear an amendment from the Judiciary Committee and I support that amendment; and a following amendment by Senator Chambers which further clarifies the bill, and I am supportive of that as well. Thank you, Mr. President. [LB128]

SENATOR GLOOR: Thank you, Senator Coash. As the Clerk stated, there are amendments from the Judiciary Committee. Senator Ashford, as Chair of the committee, you're recognized to open on the committee amendments. [LB128]

SENATOR ASHFORD: Thank you, Mr. President. Senator Coash outlined the committee amendment. It was agreed to 7-0 by the committee, and it adds to the existing language regarding obstruction of a police officer's duties, the language of intentionally and knowingly removing a firearm or weapon from a police officer in uniform or a peace officer displaying a badge of authority who is engaged in his official

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duties. The amendment was agreed to by the committee. The penalty is a Class I misdemeanor up to a year, \$1,000 fine, or both, which is the current penalty with the existing statute. And I would urge its adoption. Thank you. [LB128]

SENATOR GLOOR: Thank you, Senator Ashford. Mr. Clerk, there is an amendment to the committee amendment. [LB128]

CLERK: Mr. President, Senator Chambers would move to amend the committee amendment. (FA161, Legislative Journal page 244.) [LB128]

SENATOR GLOOR: Senator Chambers, you're recognized to open on your amendment to the committee amendments. [LB128]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, this is an amendment that I talked to Senator Coash about, and he agrees that it's the type of amendment which doesn't substantially in any way modify the bill itself. But to give you an idea of what basically it does: whenever the officer involved is having an interaction with an individual, the officer has to be lawfully discharging his or her duties. It couldn't be a situation where an officer, say, may be working as what people call a rent-a-cop where he maybe even shouldn't be, and he can say, well, it's my duty to do this because I'm on duty 24 hours a day. Those kind of stratagems don't work and that's not what we're after. I would never support this kind of bill if that's what it was. When an officer is legitimately carrying out his or her duties, if a person is going to try to take that weapon, then there should be a penalty. The penalty is not excessive, but I think there should be a difference between a person doing something and a person trying to do it. In this case, a person can threaten to do something with the intent of obstructing what the officer is doing but before it becomes a crime is if it's an actual obstruction. If you let mere words do it, somebody could say to the cop: If you do that, I'll hit you in your mouth. That would be a crime. But it has to be something that actually obstructs the officer, and sometimes words or threats can do that. But we don't want it to be where somebody can just manufacture anything that was said and turn it into a crime. That's probably more explanation than is needed; but if anybody looks at the transcript they will know the nature of the amendment that Senator Coash and I agreed on. [LB128]

SENATOR GLOOR: Thank you, Senator Chambers. Members, you've heard the opening on LB128, the committee amendment, and the amendment to the committee amendments. We now move to floor debate. Senator Hadley, you are recognized. [LB128]

SENATOR HADLEY: Mr. President and members of the body, would Senator Coash yield to some questions? [LB128]

SENATOR GLOOR: Senator Coash, would you yield? [LB128]

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SENATOR COASH: Yes. [LB128]

SENATOR HADLEY: It seems to me that this...if someone is trying to take a weapon away from a police officer, they certainly aren't doing it just for the fun of it. And so it seems like the penalty seems awfully light for this kind of action. Would you like to comment on that? [LB128]

SENATOR COASH: Sure, Senator Hadley, I would. And I think it's important to understand...I mean, if we think through when this kind of crime might be committed, there's probably another crime that goes with it. You rarely would find, I would guess, a criminal who would go out and commit the crime of just trying to take a gun away from a peace officer. Normally that person would be in the commission of another crime. And so in practicality I would say this allows for an additional charge against that person. I wouldn't say it would be the only charge. And I will tell you, and I'm going to look it up here, the maximum penalty for a Class I misdemeanor--and I'll get that for you--is nothing to laugh at, okay? [LB128]

SENATOR HADLEY: Okay. Well, I...it just seemed to me that the person who is doing this is probably up to no good and there would be more serious charges filed. And is this just kind of a throwaway charge? Another question, Senator Coash: Would this apply to people who work in the corrections area also? [LB128]

SENATOR COASH: I don't believe so, Senator Hadley. This is for a peace officer, not a corrections officer. [LB128]

SENATOR HADLEY: Not a corrections officer. [LB128]

SENATOR COASH: Okay. And here...a Class I misdemeanor, you can serve a year in jail for. [LB128]

SENATOR HADLEY: Okay. Well, I...you know, I always go back to YRTC in Kearney where we're having problems with assaulting of the staff, assaulting of the teachers, and such as that. And, you know, I always come back to that and I worry about that out there, and it is a serious problem. So when I hear this, I'm trying to link the two together. Thank you, Senator Coash. [LB128]

SENATOR GLOOR: Thank you, Senator Hadley and Senator Coash. Senator Coash, you're recognized. [LB128]

SENATOR COASH: Thank you, Mr. President. And I wanted to clarify a couple things on my own time. Senator Hadley is right, you assault somebody in their duties, it's a big deal; and you assault a peace officer in the line of their duties, it's also a big deal. And

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the penalty provided for within the committee amendment, you can serve up to a year in jail for. And so I think that's appropriate. I think that's an appropriate crime...or excuse me, an appropriate sentence for the crime that we're talking about. And this bill does apply to police officers. It does not apply to corrections officers. So I want to make sure that that is clear. Thank you, Mr. President. [LB128]

SENATOR GLOOR: Thank you, Senator Coash. Are there other senators wishing to be recognized? Seeing none, Senator Chambers, you are recognized to close on your amendment to the committee amendments. [LB128]

SENATOR CHAMBERS: Waive closing. [LB128]

SENATOR GLOOR: Senator Chambers waives closing. Members, the question is, shall the amendment to the committee amendment to LB128 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB128]

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of Senator Chambers' amendment to the committee amendment. [LB128]

SENATOR GLOOR: The amendment is adopted. We now return to discussion on the committee amendment. Are there senators wishing to be recognized? Seeing none, Senator Ashford, you are recognized to close on the committee amendments. Senator Ashford waives. The question is, shall the committee amendments to LB128 be adopted? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB128]

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB128]

SENATOR GLOOR: The amendment is adopted. We continue discussion on the advancement of LB128 to E&R Initial. Senator Coash, you're recognized to close on the advancement of LB128. [LB128]

SENATOR COASH: Thank you, Mr. President, and thank you, colleagues. When this bill came on the agenda, I had several colleagues come up to me and say: Oh, what did you get yourself into, Senator Coash? And we listened to Senator Chambers this morning talk about police officers and how law enforcement is carried out in his community. And dare I say, I had a lesson in the committee hearing on how to work with Senator Chambers; and I'm here to tell you that it can be done. You can get cooperation. And I think the amendments that we just passed are evidence of that. And I appreciate the support on the first two amendments and would appreciate the support moving forward on LB128. Thank you, Mr. President. [LB128]

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SENATOR GLOOR: Thank you, Senator Coash. Members, the question is the advancement of LB128 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB128]

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB128. [LB128]

SENATOR GLOOR: Mr. Clerk, items for the record. [LB128]

CLERK: Mr. President, thank you. Senator Nordquist has an amendment to LB76 to be printed. I have a series of name adds: Senator Karpisek to LB773; Senator Watermeier to LB916; Senator Wallman to LB920. That's all that I have, Mr. President. (Legislative Journal pages 244-245.) [LB76 LB773 LB916 LB920]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR390 and LR391. [LR390 LR391]

CLERK: Mr. President, I have a priority motion. Senator Howard would move to adjourn the body until Thursday morning, January 16, at 9 a.m.

SPEAKER ADAMS: Members, you have heard the motion to adjourn. All in favor indicate with aye. Opposed. We are adjourned.