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Floor Debate
February 20, 2009

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SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirtieth day of the One Hundred First Legislature, First Session. Our chaplain for today is Reverend Leroy Adams Jr., of the Morning Star Baptist Church in Omaha, Nebraska, in Senator Cook's district. Please rise. []

PASTOR ADAMS: (Prayer offered.) []

SPEAKER FLOOD: Thank you, Pastor. Good morning. I call to order the thirtieth day of the One Hundred First Legislature, First Session. Senators, please record your presence. Senators, please check in. Mr. Clerk, please record. []

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

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

CLERK: I have no corrections, Mr. President. []

SPEAKER FLOOD: Are there any messages, reports, or announcements? []

CLERK: Hearing notices from the Business and Labor Committee and the Transportation and Telecommunications Committee, signed by the respective chairs. Judiciary Committee has selected LB403 as one of its two committee priority bills for this session. Report of registered lobbyists for this week to be inserted into the Journal. And a series of reports received in the Clerk's Office on file available for member review. That's all that I have, Mr. President. (Legislative Journal pages 499-501.) [LB403]

SPEAKER FLOOD: Thank you, Mr. Clerk. We now proceed to the first item on the agenda. Mr. Clerk. []

CLERK: Nebraska Retirement Systems reports on the gubernatorial appointment of Ms. Gail Werner-Robertson to the Nebraska Investment Council. []

SPEAKER FLOOD: Senator Pankonin, as Chairman of the committee, you are recognized to open. []

SENATOR PANKONIN: Good morning and thank you, Mr. President and members of

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the Legislature. The Nebraska Retirement Systems Committee held a confirmation hearing on February 5 for Gail Werner-Robertson. Ms. Werner-Robertson has been reappointed by the Governor to serve a second five-year term on the Nebraska Investment Council. The Nebraska Investment Council manages the investments of 30 different entities for the state, including our pension funds and endowment funds. She received a Juris Doctor from Creighton Law School with a tax and finance major in 1984 and has worked in the field of investments for over 20 years. Ms. Werner-Robertson is currently the owner and CEO of an investment company. She brings serious real world business and investment experience to the Nebraska Investment Council, and is well-qualified to make decisions regarding the investment of public funds. The Retirement Committee unanimously voted to move Ms. Werner-Robertson's appointment to the Legislature for confirmation. I would ask for your support in confirming this appointment to the Nebraska Investment Council. []

SPEAKER FLOOD: Thank you, Senator Pankonin. Members, you've heard the opening. Senator Nordquist, you are recognized to speak. []

SENATOR NORDQUIST: Thank you, Mr. President. I rise in strong support of this confirmation report in support of the reappointment of Ms. Gail Werner-Robertson. We have a strong Nebraska Investment Council with qualified people, and Ms. Werner-Robertson is a key part of that. They make sure that they're working hard with us in the Legislature to make sure that we have a professional staff in the Investment Council in these challenging times with complex and more challenging investment strategies. And I appreciate her service to this board. I appreciate the service of other members of the Nebraska Investment Council and I look forward to continuing our relationship with them in the future. Thank you. []

SPEAKER FLOOD: Thank you, Senator Nordquist. Senator Pirsch, you are recognized. []

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I also rise in strong support of Ms. Robertson's reappointment to this important position. She is a constituent of mine. In looking at her qualifications, her background, she is exactly the type of person that we need in this important position. So I would also join in recommending her for reappointment. Thank you. []

SPEAKER FLOOD: Thank you, Senator Pirsch. Are there other members wishing to speak? Seeing none, Senator Pankonin, you are recognized to close. []

SENATOR PANKONIN: Waive. []

SPEAKER FLOOD: Senator Pankonin waives closing. The question before the body is, shall Ms. Werner-Robertson be confirmed following the Governor's appointment to the

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Nebraska Investment Council. All those in favor vote yea; all those opposed vote nay.
Mr. Clerk, please record. []

CLERK: (Record vote, Legislative Journal page 501.) 38 ayes, 0 nays, Mr. President, on the adoption of the confirmation report. []

SPEAKER FLOOD: The confirmation report is adopted. We now turn to Final Reading. Members, please take your seats. Prior to Final Reading, there is another confirmation report. Mr. Clerk. []

CLERK: Mr. President, a second report from Retirement Systems Committee involves the appointment of Janis Elliott to the Public Employees Retirement Board. []

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Pankonin, you're recognized to open. []

SENATOR PANKONIN: Mr. President and members of the Legislature. The Nebraska Retirement Systems Committee held a confirmation hearing on February 11 for Janis Elliott. Ms. Elliott has been appointed by the Governor to serve a five-year term on the Nebraska Public Employees Retirement Board as one of the two members representing schools. The Nebraska Public Employees Retirement Board oversees all the state's retirement plans. Ms. Elliott has her master's from UNO in science education with an emphasis in physics. She has taught in Nebraska public schools from 1984 through 2007, most recently in Bellevue as a science educator. She has also conducted and assisted with the retirement seminars held in the Bellevue schools for the past several years. The Retirement Committee unanimously voted to move Ms. Elliott's appointment to the Legislature for confirmation. I would ask for your support in confirming this appointment to the Nebraska Public Employees Retirement Board. Thank you. []

SPEAKER FLOOD: Thank you, Senator Pankonin. Are there members wishing to speak? Seeing none, Senator Pankonin, you're recognized to close. Senator Pankonin waives closing. The question before the body is, shall the confirmation report be adopted? All those in favor vote yea; all those opposed vote nay. Mr. Clerk, please record. []

CLERK: (Record vote, Legislative Journal page 502.) 39 ayes, 0 nays, Mr. President, on adoption of the confirmation report. []

SPEAKER FLOOD: The confirmation report is adopted. We now move to Final Reading. Mr. Clerk. Would all senators please take their seats. Mr. Clerk. Senators, please take your seats. Mr. Clerk, the first bill on Final Reading is LB24. [LB24]

CLERK: (Read LB24 on Final Reading.) [LB24]

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SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB24 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB24]

CLERK: (Record vote read, Legislative Journal pages 502-503.) 41 ayes, 0 nays, 8 excused and not voting, Mr. President. [LB24]

SPEAKER FLOOD: LB24 passes. The next bill, Mr. Clerk, LB75E. [LB24 LB75]

CLERK: (Read LB75 on Final Reading.) [LB75]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB75E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB75]

CLERK: (Record vote, Legislative Journal pages 503-504.) 40 ayes, 0 nays, 2 present and not voting, 7 excused and not voting, Mr. President. [LB75]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB75E passes with the emergency clause attached. (Visitors introduced.) Continuing on Final Reading, Mr. Clerk, LB80E. [LB75 LB80]

CLERK: (Read LB80 on Final Reading.) [LB80]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB80E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB80]

CLERK: (Record vote read, Legislative Journal page 504.) 43 ayes, 0 nays, 6 excused and not voting, Mr. President. [LB80]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB80E passes with the emergency clause attached. Mr. Clerk, LB85. [LB80 LB85]

CLERK: (Read LB85 on Final Reading.) [LB85]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB85 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB85]

CLERK: (Record vote read, Legislative Journal page 505.) 33 ayes, 10 nays, 6 excused

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and not voting, Mr. President. [LB85]

SPEAKER FLOOD: LB85 passes. Mr. Clerk, LB87E. [LB85 LB87]

CLERK: (Read LB87 on Final Reading.) [LB87]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB87E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB87]

CLERK: (Record vote read, Legislative Journal pages 505-506.) 43 ayes, 0 nays, 6 excused and not voting, Mr. President. [LB87]

SPEAKER FLOOD: LB87E passes with the emergency clause attached. Mr. Clerk, we now proceed to LB99E. [LB87 LB99]

CLERK: (Read LB99 on Final Reading.) [LB99]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB99E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB99]

CLERK: (Record vote read, Legislative Journal page 506.) 42 ayes, 0 nays, 1 present and not voting, 6 excused and not voting, Mr. President. [LB99]

SPEAKER FLOOD: LB99E passes with the emergency clause attached. Mr. Clerk, we now proceed to LB100. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB99 LB100]

CLERK: 39 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB100]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB100]

CLERK: Mr. President. (Read title of LB100.) [LB100]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB100 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB100]

CLERK: (Record vote read, Legislative Journal page 507.) 43 ayes, 0 nays, 6 excused

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and not voting, Mr. President. [LB100]

SPEAKER FLOOD: LB100 passes. Mr. Clerk, LB101E. [LB100 LB101]

CLERK: (Read LB101 on Final Reading.) [LB101]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB101E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB101]

CLERK: (Record vote read, Legislative Journal page 508.) 44 ayes, 0 nays, 5 excused and not voting, Mr. President. [LB101]

SPEAKER FLOOD: LB101E passes with the emergency clause attached. We now proceed to LB123. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB101 LB123]

CLERK: 42 ayes, 0 nays, Mr. President, to dispense with the at-reading. [LB123]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB123]

CLERK: (Read title of LB123.) [LB123]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB123 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB123]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 508-509.) 44 ayes, 0 nays, 5 excused and not voting, Mr. President. [LB123]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB123 passes. Cookies are being handed out this morning in honor of Senator Utter, whose 40th birthday plus 30 is tomorrow. (Laughter) Happy birthday, Senator Utter. Mr. Clerk, we now proceed to LB166E. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB123 LB166]

ASSISTANT CLERK: 41 ayes, 0 nays, on the dispensing of Final Reading, Mr. President. [LB166]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the

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title. [LB166]

ASSISTANT CLERK: (Read title of LB166.) [LB166]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB166E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB166]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 510.) 44 ayes, 0 nays, 5 excused and not voting, Mr. President. [LB166]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB166E passes with the emergency clause attached. Mr. Clerk, we now proceed to LB189. [LB166 LB189]

ASSISTANT CLERK: (Read LB189 on Final Reading.) [LB189]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB189 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB189]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 510-511.) 44 ayes, 0 nays, 5 excused and not voting. [LB189]

SPEAKER FLOOD: LB189 passes. (Doctor of the day introduced.) Mr. Clerk, we now proceed to LB192 where the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB189 LB192]

ASSISTANT CLERK: 38 ayes, 0 nays on the motion to dispense with the at-large reading, Mr. President. [LB192]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB192]

ASSISTANT CLERK: (Read title of LB192.) [LB192]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB192 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB192]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 511.) 44 ayes, 0 nays, 5 excused and not voting, Mr. President. [LB192]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB192 passes. Mr. Clerk, we now proceed to

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LB251E. [LB192 LB251]

ASSISTANT CLERK: (Read LB251 on Final Reading.) [LB251]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB251E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB251]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 512.) 42 ayes, 0 nays, 2 present and not voting, 5 excused and not voting, Mr. President. [LB251]

SPEAKER FLOOD: LB251E passes with the emergency clause attached. Mr. Clerk, we now proceed to LB120. [LB251 LB120]

ASSISTANT CLERK: Mr. President, with respect to LB120, I do have a motion to return LB120 to Select File for a specific amendment. Senator Wightman would offer AM380. (Legislative Journal page 489.) [LB120]

SPEAKER FLOOD: Senator Wightman, you are recognized to open on AM380. [LB120]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. We brought this motion to return to Select File for the purpose of amending LB120. In reviewing the bill as it had advanced to Select File and finally to Final Reading, it was detected that we did not make any provision...the bill generally provides a penalty for failure to initiate a proceeding that would result in the determination of an inheritance tax within one year. LB502, which was the original bill two years ago, provided for a 5 percent penalty per month up to 25 percent total for the failure to timely file an appropriate proceeding for the determination of inheritance tax. LB120 was to add a new provision that the county court could abate a 5 percent penalty for good cause shown, and it clarified and made clear that the filing of a petition for probate of a diminished...of an estate or an administration of estate would be an appropriate proceeding that eliminates the triggering of the penalty provision. It became clear that we did not deal with fractional months. Similar legislation, including the failure to file an income tax return, a timely income tax return, does have a 5 percent, and then it provides or for any part thereof, or 5 percent per month or any part thereof, so that if you were ten days into a month you would also incur the 5 percent penalty. In order to clarify this bill and also to make it harmonious with other similar legislation in the state of Nebraska, it was felt that this bill should come back and we should provide for that fractional month. And what AM380 does is to provide that in addition to 5 percent for each month, it would also apply to any fractional month that would have expired during the five-month period. So it's my opinion that this will be better legislation if we do provide for that fractional month. County courts and county treasurers are going to be

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left not knowing what they do with that fractional month and it will not be harmonious with other legislation that deal with the same topic, which is penalties for failure to file. So I do ask that we return to Select File for purposes of amending by AM380. Thank you, Mr. President. [LB120]

SPEAKER FLOOD: Thank you, Senator Wightman. There are no other senators wishing to speak. You have the right to close on your motion. Senator Wightman waives. The question before the body is, shall the Legislature return LB120 to Select File for a specific amendment? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB120]

ASSISTANT CLERK: 44 ayes, 0 nays on the motion to return, Mr. President. [LB120]

SPEAKER FLOOD: LB120 is returned to Select File for a specific amendment. Senator Wightman, AM380 has been filed. Mr. Clerk. [LB120]

ASSISTANT CLERK: Mr. President, Senator Wightman would offer AM380. [LB120]

SPEAKER FLOOD: Senator Wightman, you're recognized to open on AM380. [LB120]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. The amendment is simple. On page 2, line 17, after the word "month" we would insert "or fraction thereof." I've already discussed this on the motion to return to Select File, so I don't think further explanation is probably necessary. So all it would do would provide that the 5 percent penalty would apply to a fractional part of a month that expired prior to the time that the proceeding was filed to determine the tax. Thank you, Mr. President. [LB120]

SPEAKER FLOOD: Thank you, Senator Wightman. Senator Stuthman, you are recognized. [LB120]

SENATOR STUTHMAN: Thank you, Mr. Speaker and members of the body. I would like to ask Senator Wightman a question. [LB120]

SPEAKER FLOOD: Senator Wightman, will you yield to a question from Senator Stuthman? [LB120]

SENATOR WIGHTMAN: Yes, I will. [LB120]

SENATOR STUTHMAN: Senator Wightman, does this mean that if it's one day over a month, then it will be considered a whole month? [LB120]

SENATOR WIGHTMAN: That's correct. And this is in keeping with the, as far as I know,

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every similar section in the Internal Revenue Service Code for failure to file the timely return. It's also in keeping with the legislation that's in effect with regard to all income tax matters as well. This is a penalty and not an interest. Now, there's also a separate 14 percent interest, and that interest would apply and be calculated on the exact number of days. So it's really to create harmony with other provisions of the law. [LB120]

SENATOR STUTHMAN: So, Senator Wightman, it's the failure to file? Is that the issue? [LB120]

SENATOR WIGHTMAN: It is failure to file, not failure to pay. [LB120]

SENATOR STUTHMAN: Okay. Whose responsibility is it to file? [LB120]

SENATOR WIGHTMAN: The individual who owes the inheritance tax. [LB120]

SENATOR STUTHMAN: The individual that owes the inheritance tax or the attorney handling the estate? [LB120]

SENATOR WIGHTMAN: It may be that it's the attorney handling the estate. In that case, it may well be the attorney who pays that penalty. And I suppose every attorney somewhere has probably paid such a penalty. [LB120]

SENATOR STUTHMAN: Okay. Thank you. Those are the questions that I had. Thank you, Mr. Speaker. [LB120]

SPEAKER FLOOD: Thank you, Senator Stuthman. There are no other lights on. Senator Wightman, you are recognized to close on AM380. [LB120]

SENATOR WIGHTMAN: I just urge your support for the amendment. I think the bill is a better bill and then certainly far more clear with the addition of the amendment. Thank you, Mr. President. [LB120]

SPEAKER FLOOD: Thank you, Senator Wightman. Members, you've heard the closing on AM380. The question is, shall this amendment be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB120]

ASSISTANT CLERK: 42 ayes, 0 nays on the adoption of the amendment, Mr. President. [LB120]

SPEAKER FLOOD: The amendment is adopted. Senator Nordquist, for a motion. [LB120]

SENATOR NORDQUIST: Mr. President, I move LB120 to E&R for engrossing. [LB120]

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SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB120 is advanced to E&R for engrossing. Mr. Clerk, items for the record or announcements. [LB120]

ASSISTANT CLERK: Mr. President, Health and Human Services would like to have an Executive Session at 10:15 in Room 2022. Reports: Committee on Education reports LB72 to General File with amendments; LB479 and LB578 as indefinitely postponed. In addition to that, Mr. President, the Banking Committee would like to hold an Executive Session under the south balcony now. That's the Banking Committee under the south balcony. (Legislative Journal page 513.) [LB72 LB479 LB578]

SPEAKER FLOOD: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB24, LB75, LB80, LB85, LB87, LB99, LB100, LB101, LB123, LB166, LB189, LB192, and LB251. Mr. Clerk, proceeding now to General File discussion. LB165, Mr. Clerk. [LB24 LB75 LB80 LB85 LB87 LB99 LB100 LB101 LB123 LB166 LB189 LB192 LB251 LB165]

CLERK: Mr. President, LB165, a bill originally introduced by Senator Cornett. (Read title.) The bill was discussed yesterday, Mr. President, at that time Senator Cornett presented her bill and presented the Revenue Committee amendments. Those amendments are pending. (AM121, Legislative Journal page 343.) [LB165]

SPEAKER FLOOD: Senator Cornett, would you apprise the body of your bill and give us a short reintroduction. [LB165]

SENATOR CORNETT: Thank you, Mr. Speaker and members of the body. I would be happy to do so. LB165 was a bill brought to me by the Department of Revenue that contains a number of items, including cleanup language. For a brief overview, Section 1 of the bill deals with increasing costs dealing with the Petroleum Remediation Fund. Section 2 amends the corporate officer liability. Section 3 would provide the Tax Commissioner authority to mandate electronic filing. Section 4 would relieve the seller of liability for collecting sales tax if not properly notified by the state. Section 5 amends telecommunication law to conform with streamlined sales tax. Section 6 is a clarification on sales made on on-line auction sites. Section 7 amends the law again regarding telecommunications to conform with streamlined sales tax. Section 8 amends and clarifies sales and tax exemptions from mobility enhancing equipment. Section 9 clarifies the sales and use tax exemptions for purchases made by certain nonprofits. This amendment would exclude Section 9 pending a bill that is being heard in our committee. Section 10 again deals with streamlined sales tax and telecommunications. Section 11 allows the Tax Commissioner to provide certain municipalities additional sales and use tax information. Section 12 relieves purchasers of penalties of failure to pay the correct amount of tax if the failure was upon the state. Section 13 changes the

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period of time in which the department administrative decisions shall become final. This change will bring us into conformity with the Administrative Procedures Act. Section 14 states when this act would become operative. Section 15 and 16 and 17 repeals certain sections. And Section 18 is the emergency clause. [LB165]

SENATOR ROBERT PRESIDING []

SENATOR ROBERT: Thank you, Senator Cornett. You have heard the opening to AM121 on LB165. Those wishing to speak, Senator Pirsch. [LB165]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I just want to, I guess, continue just on the section that we had left off with the section that dealt with treating sales of items over the Internet for periods of time, three days or less, similar to the way in which, I guess, garage sales items are excluded from tax. And so that's the section that I, just for purpose of reference, I'm talking about. I wonder if Senator Cornett would yield to a quick question or two? [LB165]

SENATOR ROBERT: Senator Cornett, will you yield, please? [LB165]

SENATOR CORNETT: Yes, I'd be happy to. [LB165]

SENATOR PIRSCH: Very good. Now, and tell me if I'm wrong as I looked into it, the paradigm or structure right now when it comes to Internet sales and who pays, assuming an outstate seller and a buyer within the state of Nebraska, is that the outstate seller is primarily or first responsible for paying to the state of Nebraska sales tax if, in fact, that particular vendor is licensed with the state. And if not, if the vendor is not, this outstate vendor is not licensed with the state, then by default instate Nebraska customer, Internet customer, becomes liable for paying the tax not as a sales tax, but as a consumer use tax. Is that the paradigm? Is that correct? [LB165]

SENATOR CORNETT: Basically that is correct. Senator Pirsch, yesterday when you mentioned the fact that for people that weren't on the Revenue Committee and were new to this, that you needed a little tutorial in taxes. Streamlined sales and use tax agreement began in 2000. State legislators and governors and tax administrators, along with representatives of the retail industry and business community began to develop a simpler, more uniform, fairer system of sales and use taxation. The streamlined sales and use tax agreement was the result. It was developed to remove the burden of sales tax collection imposed on retailers and encourage Congress to grant states the authority to mandate collection of sales tax on remote sales by out-of-state retailers. Nebraska began participating in streamlined sales tax in 1999, and became a full member in 2005. Basically what this means is sellers can agree to collect that tax and remit it to the state of Nebraska, but they do not have to do that. [LB165]

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SENATOR PIRSCH: Right. They can agree to be what's called "licensed" or they don't have to, correct? [LB165]

SENATOR CORNETT: Correct. [LB165]

SENATOR PIRSCH: Okay. And I'm trying to figure out what is the...I guess the question of whether or not these outstate sellers are or are not, as a general rule, licensed and therefore the entities submitting the tax on the matter may help frame people's view of this bill proposal. If through this exclusion we are excluding remittance of taxes from outstate vendors, that might shape the way people in the Legislature look at it differently, as opposed to if a majority of the taxes are not paid by these outstate vendors through sales tax but rather through instate Nebraskans paying use tax. [LB165]

SENATOR ROBERT: One minute. [LB165]

SENATOR PIRSCH: And so to get at that do you have a...I mean, is there a pretty clear understanding of...and you can put it...couch it in terms of percentage or general rules, are most of these taxes being paid for by outstate sellers or are they being paid by instate buyers through a use tax? [LB165]

SENATOR CORNETT: Again, it depends on if they have agreed to conform. We have the dollar amounts of how much has been collected in regards to taxes under streamlined. I do not have the numbers of how much has been collected under the user tax. [LB165]

SENATOR PIRSCH: Okay. And I pressed my button, but I guess that would be...and tell me if I'm incorrect, but if this is...it could have the potential if taxes are flowing into the state coffers through out-of-state vendors from New York or California or whatnot... [LB165]

SENATOR ROBERT: Time, Senator. [LB165]

SENATOR PIRSCH: Very good. [LB165]

SENATOR ROBERT: Thank you, Senator Pirsch and Senator Cornett. Senator Wightman, you are next and recognized. [LB165]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. I would like to ask a few questions of Senator Cornett if she would yield. [LB165]

SENATOR ROBERT: Senator Cornett, will you yield to a question? [LB165]

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SENATOR CORNETT: I'd be happy to. [LB165]

SENATOR WIGHTMAN: Senator Cornett, I see in Section 3 you would be legislating a requirement that professional preparers of returns, and I assume that would include income tax returns, state income tax returns, but basically all returns after 2010 could be required to file electronically, and they would be subject to penalties if they attempted to file other than electronically, is that correct? [LB165]

SENATOR CORNETT: No, sir, that is not. It would be if the tax preparer filed other than electronically. This bill is set up...first of all, this provision was brought to the Department of Revenue by the professional tax preparers. What this does is they can still prepare the tax form. They still sign off on the tax form that it was prepared by a professional tax preparer. If the client chooses to not have it filed electronically, they can take the form, they can file it electronically, or they can mail it in. But the tax preparer, if they are going to file it, if they file more than 25 of these returns a year it is mandated that they file it electronically, but there is no mandate that the form has to be filed electronically. The person who has their taxes done can mail that in themselves and still have the assurances that it was prepared by a professional tax person. [LB165]

SENATOR WIGHTMAN: Okay. So it gets down to who mails in the return, is that correct? [LB165]

SENATOR CORNETT: Correct. [LB165]

SENATOR WIGHTMAN: So the client could take the return and mail it in. How is the Department of Revenue going to determine who mailed it in? Just by the envelope or... [LB165]

SENATOR CORNETT: The Department of Revenue tracks all of the professional tax preparers. If that preparer turns in more than the 25 tax forms a year, the preparer has to submit it electronically. The preparer can do 300 tax returns a year and just hand the form to their client if they do not wish to file it electronically or the client does not wish it to be filed electronically. [LB165]

SENATOR WIGHTMAN: It's still all going to get down to who mails in the return to the Department of Revenue, isn't it? [LB165]

SENATOR CORNETT: Yes. [LB165]

SENATOR WIGHTMAN: So if a professional preparer wanted to continue to prepare returns, then they dare not send in the returns as long as they send in more than 25 of them or they will be subject to a \$100 fine for each return that they've prepared and sent in. [LB165]

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SENATOR CORNETT: That is correct. Again, the professional tax preparers brought this bill to the Department of Revenue because it simplifies things for them. They can file electronically or they can prepare it as they have in the past and hand the hard copy to their client to mail in. [LB165]

SENATOR WIGHTMAN: Have you heard anything from professional tax preparers who did not file electronically? And I know there are a number of them throughout the state yet, that do not file electronically, and some of them prepare a good number of returns each year. [LB165]

SENATOR CORNETT: I have not had a single e-mail or phone call. [LB165]

SENATOR WIGHTMAN: Thank you. [LB165]

SENATOR ROBERT: Thank you, Senator Wightman and Senator Cornett. Senator Pirsch, you're next and recognized. [LB165]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I just continue on from the prior conversation I had. And I guess I'll hit to the key issue. Insofar as there's two potential payers of this tax, this bill concept is a way to give certain individuals who pay taxes in the state coffers an ability not to pay taxes. It's an exception to the general rule of paying taxes. And so the question I have is if it is, in fact, instate purchasers who are paying taxes, you know, that's one thing. We certainly don't want, you know, Nebraska residents paying, you know, high taxes. The question is, is this exclusion going to fall rather to benefit out-of-state vendors--New York companies, California companies, Florida companies--rather than instate Nebraska purchaser who would pay use taxes? And to know that I would think we'd have to have an understanding of who currently...you know, the structure is primarily they look to these out-of-state companies to pay the sales tax first. And if they don't, then it falls upon the backs of the Nebraska purchasers, in-state purchaser through the Internet. And so I'm trying to get an understanding of what, you know, what's typically happening there? In 99 percent of the purchases, is it the out-of-state New York/California companies who are paying the taxes? In which case the 99 percent of the benefit of this would perhaps fall to these outstate companies. Or is it conversely 99 percent of the tax being paid by the Nebraska in-state consumers through a use tax, in which case 99 percent of the benefit of this exclusion would then fall to the benefit of Nebraskans, so? I don't know, if you could address that? And I'd yield the balance of my time to Senator Cornett. [LB165]

SENATOR ROBERT: 2:40, Senator Cornett. [LB165]

SENATOR CORNETT: Senator Pirsch, I think you fail to understand this exemption. This is simply for personal goods that are sold for three days or less on an auction site.

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This does not include any businesses. To qualify as an occasional sale, which this is only an occasional sale which they are bringing it under the terms of like a garage sale which is listed as an occasional sale. The sale must include the sale of household goods and personal effects. The items sold must have been originally acquired and used for personal use. Items cannot be sold in the course of a taxpayer's business. There are no companies involved in this. The items must be sold at the taxpayer's residence and the sale must last less than three calendar days a year. We are not talking about on-line sales for corporations or businesses. [LB165]

SENATOR ROBERT: Thank you, Senator Cornett and Senator Pirsch. Senator Pirsch, your light is on again. You may continue. [LB165]

SENATOR PIRSCH: Very good and I appreciate that. And I should recouch in terms. You're correct. We're not talking about businesses, corporations, and we're talking about sale of household goods. Be that as it may, the same principles are...I have a question about then. Will this accrue to individuals selling household goods and personal goods who are from out of state or how does that affect it? Even though it's not a company, it would be an individual in New York or an individual in California. Could you respond to that? [LB165]

SENATOR ROBERT: Senator Cornett. [LB165]

SENATOR CORNETT: Senator Pirsch, it doesn't affect streamlined sales tax as we know it, which is a nationwide agreement between states. It would affect only the people that would be on one of the on-line auction sites selling something from their home that is a personal effect. It does not touch any of the businesses or affect how we determine sales tax or use tax in the state. [LB165]

SENATOR PIRSCH: Okay. So would the same...and I described a paradigm that applies with company, does that paradigm apply to, say, a vendor who's had something, I don't know, a couch, a household good from Iowa who was selling via the Internet on Craigslist to somebody in Lincoln, the couch? Would he ordinarily be then responsible for paying the sales tax on the couch if it...before this bill went into effect? And then would it fall on the back of the Nebraskan if the Iowan seller didn't pay the sales tax on the couch, or does that not apply? [LB165]

SENATOR CORNETT: That doesn't apply. If you sell something on the Internet, you do not have to collect and remit sales tax. It is up to the purchaser to remit the user tax if the seller does not. A seller is never responsible for the tax paid. They are only responsible for the collection of said tax. [LB165]

SENATOR PIRSCH: Right. But would it fall onto the back of the purchaser of a couch here in Lincoln if he purchases it in Iowa and who doesn't pay the sales tax ordinarily?

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[LB165]

SENATOR CORNETT: Without this bill, yes. [LB165]

SENATOR PIRSCH: Okay. So the same general principle applies then whether it's a company or whether it's individuals selling personal goods, the paradigm, so to speak, that I described before. [LB165]

SENATOR CORNETT: Without this amendment, if you sold an item like your couch, if you lived in Council Bluffs, on the Internet, theoretically you would need...the purchaser would need to pay that use tax. With this amendment it would make it no different than if they drove across the river and bought the couch at a garage sale. [LB165]

SENATOR PIRSCH: Okay. So the seller of a couch, personal goods, who resides in Council Bluffs, sells it over the Internet, is not ordinarily looked to first to pay sales tax to Nebraska? [LB165]

SENATOR CORNETT: No, no. [LB165]

SENATOR PIRSCH: Okay. [LB165]

SENATOR CORNETT: No. Did you say purchaser or seller? [LB165]

SENATOR PIRSCH: The seller who is in Council Bluffs of the couch on Craigslist to a Lincoln purchaser via the Internet is not ordinarily looked to by the state of Nebraska to pay the sales tax first before they look to the Nebraska resident for use tax. [LB165]

SENATOR CORNETT: Again, a seller is never required to pay the sales tax. Sales tax falls on the purchaser. The requirement for collection...if the seller... [LB165]

SENATOR ROBERT: One minute. [LB165]

SENATOR CORNETT: ...over the Internet chooses to collect sales tax, they remit it to the state of Nebraska. There is no requirement for them to pay the sales tax out of their pocket and there is no requirement for them to collect sales tax on the Internet sales. [LB165]

SENATOR PIRSCH: Okay. But some out-of-state sellers do pay the sales tax, correct? [LB165]

SENATOR CORNETT: I'm sorry, repeat that? [LB165]

SENATOR PIRSCH: Some sellers who are out-of-state selling to Nebraska residents do

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collect the sales tax and remit it to Nebraska, correct? [LB165]

SENATOR CORNETT: Some businesses do and some do not. [LB165]

SENATOR PIRSCH: And I'm trying to figure out what the percentage then...is Nebraska getting a lot of sales tax from out-of-state sellers? [LB165]

SENATOR CORNETT: I have the dollar amounts of that and I can provide you with those what was collected under the streamlined sales tax. I can provide you with those in a few moments. [LB165]

SENATOR PIRSCH: Okay. And as a percentage too. Again, it makes a difference... [LB165]

SENATOR ROBERT: Time, Senator. [LB165]

SENATOR PIRSCH: Thank you very much. [LB165]

SENATOR ROBERT: That was your third time. Senator Nelson, you are next and recognized. [LB165]

SENATOR NELSON: Thank you, Mr. President and members of the body. I would like to discuss Section 3 again just a little bit with Senator Cornett if she would entertain some questions. [LB165]

SENATOR ROBERT: Senator Cornett, will you yield to a question? [LB165]

SENATOR CORNETT: Yes, sir, I would. [LB165]

SENATOR NELSON: Senator Cornett, I talked with you yesterday, expressed some concerns about this section. Obviously, Senator Wightman who is a lawyer like myself with either a sole or a small practice, Section 3 imposes a mandate upon tax practitioners, attorneys, CPAs or anybody that does tax returns, saying that if they file more than...or if they do more than 25 tax returns, as I understand it, they're going to have to file them electronically. Is that correct? [LB165]

SENATOR CORNETT: If the preparer is going to file the taxes, and they're the ones that are going to file it, not prepare it, if they file more than 25 a year, yes, they must file it electronically. [LB165]

SENATOR NELSON: Okay. And they're required to notify their clients that they're going to be filed electronically. So I assume that notification would say, if you don't want me to do this, talk to me about it. And then they would tell them that I can prepare the tax

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return for you, it'll be in hard copy. I'll sign it asserting that I've, you know, prepared it correctly, but you're going to have to mail it in and send it in that way. Is that the way that works? [LB165]

SENATOR CORNETT: Yes, and that was a point that the tax administrator made in the hearing. It does not require a tax professional that prepares and files on behalf of the taxpayer for profit to file electronically; only if they file more than 25 a year. And it does not require, if they prepare it they are the ones that file it. They can hand it to the taxpayer; say if you do not want this filed electronically, just drop it in the mail. [LB165]

SENATOR NELSON: I think, in response to a question from Senator Wightman, you indicated that this provision here was at the request of tax preparers. Is that correct? [LB165]

SENATOR CORNETT: That is what the Tax Commissioner, Doug Ewald, stated to us when he was getting the department bill together. This was an item that the professional tax preparers had brought to them and requested that they include as part of a transition towards e-filing. [LB165]

SENATOR NELSON: Do you know whether those were small tax practitioners, you know, that do a few returns? [LB165]

SENATOR CORNETT: I do not. [LB165]

SENATOR NELSON: Okay. I wonder why any tax petitioner with a large capacity, where they're filing hundreds of returns and they're doing it already by that process, why would it be necessary to have something in the statute to that effect. [LB165]

SENATOR CORNETT: I think simply because it's easier, sir. [LB165]

SENATOR NELSON: Uh-huh. And I assume it saves the Tax Commissioner money. They don't have to have as many people processing hardcopy returns. Would that be correct? [LB165]

SENATOR CORNETT: That's also correct, sir. [LB165]

SENATOR NELSON: You know, I...thank you very much, Senator Cornett. I have reservations about this because I'm not sure that the small tax...tax...shall we say those that prepare, tax preparers that do it on a smaller scale, were aware of this, that this was part of this bill, and I think we need a little time to contact some of those. If they have no objection with it then I have no objection. But, again, I'll ask Senator Cornett a question. Rather than have a floor amendment on this matter at this time, would you be willing to work with Senator Wightman and myself prior to Select to see if we can kind of

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find out what their positions might be and whether it might be necessary to amend things to accommodate them a little better? [LB165]

SENATOR ROBERT: One minute. [LB165]

SENATOR CORNETT: I would be happy to work on that between now and Select File. [LB165]

SENATOR NELSON: All right. Thank you very much, Senator. Thank you, Mr. President. [LB165]

SENATOR ROBERT: Thank you, Senator Nelson and Senator Cornett. Seeing no other lights on, Senator Cornett, you are welcome to close on AM121. [LB165]

SENATOR CORNETT: Thank you very much, Mr. President and members of the body. Again, this is a bill that was brought to me by the Department of Revenue. It contains many provisions, a number of them that bring us into compliance with streamlined sales tax; that correct mistakes in the tax code and define occasional use...occasional sales. I would urge the body to support the bill and the...support the amendment and the underlying bill, and I will be happy to work with Senator Wightman and Senator Nelson on their concerns in regards to the tax filing. Thank you. [LB165]

SENATOR ROBERT: Thank you, Senator Cornett. You have heard the closing to AM121 to LB165. The question before the body is, shall AM121 be adopted? All those in favor say aye or vote aye; and opposed, nay. Have all those voted who wish? Record, Mr. Clerk. [LB165]

CLERK: 31 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB165]

SENATOR ROBERT: AM121 is adopted. [LB165]

CLERK: I have nothing further on the bill, Mr. President. [LB165]

SENATOR ROBERT: Returning to discussion on LB165, anyone requesting to speak? Seeing none, Senator Cornett, you're recognized to close on LB165. Senator Cornett waives closing. The question before the body is, shall LB165 advance to E&R Initial? All those in favor vote aye; opposed vote nay. Have all those voted who wish? Record, Mr. Clerk. [LB165]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB165. [LB165]

SENATOR ROBERT: LB165 does advance. Next item on the agenda, Mr. Clerk.

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[LB165]

CLERK: Mr. President, the next bill is LB83. It's offered by Senator McGill. (Read title.) The bill was introduced on January 8. Senator McGill presented her bill to the full body on February 12, Mr. President. There are Judiciary Committee amendments pending. In addition, I have an amendment from Senator McGill to the committee amendments. [LB83]

SENATOR ROBERT: Senator McGill, you are recognized to open on LB83. [LB83]

SENATOR MCGILL: Mr. President and members of the body, I'll give you a quick refresher on where we left off last Thursday. I introduced LB83, which adds to protection orders for victims of domestic abuse provisions to care for and protect from harm any domestic animal held or owned as a pet by either party or a minor child residing in the household. The committee had worked out some amendments leading into the debate that we had on the board last week. I'm going to pull my amendment to the amendment and I'm going to ask you to vote no on the committee amendment because we've actually worked out a new amendment with Senator Stuthman that we think is superior to the amendments that we were debating last week. So with that, we'll move on to pulling those amendments and I hope that you will vote no on the committee amendment so we can get to the appropriate one that Senator Stuthman and I have worked out. Thank you, Mr. President. [LB83]

SENATOR ROBERT: Thank you, Senator McGill. Mr. Clerk. [LB83]

CLERK: Mr. President, there are Judiciary Committee amendments. Senator McGill, did you talk about your amendment, Senator, yet? [LB83]

SENATOR MCGILL: I'm sorry? [LB83]

CLERK: You had an amendment to the committee amendments. [LB83]

SENATOR MCGILL: I did, and that's the amendment I'd like to pull. [LB83]

CLERK: Okay, right. [LB83]

SENATOR ROBERT: Senator McGill withdraws her amendment. [LB83]

CLERK: We're back to the committee amendments, Mr. President. (AM96, Legislative Journal page 356.) [LB83]

SENATOR ROBERT: Senator Lathrop, AM96, you're recognized to open. [LB83]

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SENATOR LATHROP: Thank you, Mr. President and colleagues. As Senator McGill has indicated, and you won't hear me say this very often, I'm going to ask you to take a red vote on AM96. The purpose of that is that Senator McGill and Senator Stuthman, who's been concerned about the cattle industry, have worked out an amendment that takes care of the problem and apparently addresses a concern of those in the cattle industry. And in order to do that, we'll have to vote red or no on the Judiciary Committee amendment, after which time Senator Stuthman will put in his amendment and we'll be able to move on Senator McGill's bill. Thank you. [LB83]

SENATOR ROBERT: Thank you, Senator Lathrop. You've heard the opening to AM96 on LB83. Are there any wishing to speak on AM96? Seeing none, Senator Lathrop, you're recognized to close on AM96. [LB83]

SENATOR LATHROP: Vote no. [LB83]

SENATOR ROBERT: Thank you, Senator Lathrop. You've heard the closing on AM96 to LB83. The question before the body is, shall AM96 be adopted? All those in favor vote aye; opposed vote nay. Have all those voted who wish? Record, Mr. Clerk. [LB83]

CLERK: 0 ayes, 31 nays, Mr. President, on adoption of committee amendments. [LB83]

SENATOR ROBERT: AM96 is not adopted. [LB83]

CLERK: Mr. President, Senator McGill would move to amend the bill with FA14. (Legislative Journal page 514.) [LB83]

SENATOR ROBERT: Senator McGill, you're recognized to open on FA14 to LB83. [LB83]

SENATOR MCGILL: Mr. President, members of the body, thank you for voting no on the committee amendments. Senator Stuthman came to me over the last few days and decided...we decided that we did not need that other language; that instead, on page 2, line 23, we are striking "domestic animal" and replacing it with "household pet." We feel that language is more specific. And I'm going to yield the rest of my time to Senator Stuthman so that he can explain his reasoning. [LB83]

SENATOR ROBERT: Senator Stuthman, 9 minutes and 40 seconds. [LB83]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I had real concerns with this bill originally, the fact that the domestic animal issue, when it surfaced I was really very concerned about it. But there was a committee amendment that, you know, put in commercial agriculture and then there was an amendment to that that made it any commercial livestock operation that this did not pertain to. I was

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concerned about the fact that, you know, we were putting something in there that dealt with, you know, animal agriculture, with livestock, anything with agriculture, and that we put that into the bill. And once you put that into a bill, you know, it's very easy to strike it out and continue on with the bill and then that...those items of livestock, of animal agriculture could be included in a couple years. What I would like to say, and I would like to discuss this a little bit with Senator McGill, there is another portion in this bill that we have to strike the domestic animal and that's on page 3, the first line, any household pet, and that will be...will be adopted possibly in another amendment as a cleanup amendment so we get this identified, and I have been working on that. My reasoning for this is, I think the real issue in this, in this bill, seems to me that, you know, that the people are very concerned about the protection of their little cat, kitten, dog, or any household pet. You know, very few times would you ever say that, you know, a bucket calf would be a household pet. Yes, it would be a pet, but in my opinion it's not a household pet. And it's a pet of an individual that's residing in the household. I just think that this, hopefully, will identify the problem that we are trying to address in this issue. I think that there are instances when judges are already taking care of the situation with restraining orders or protection orders as far as pets or animals are concerned. So I am trying to go back to the original copy and try to eliminate all of the chances of the issues of a domestic animal. And I think that's very, very broad, although in one of the amendments it didn't state, not limit...not commercial livestock operations. So I think...I think, you know, if we can take any issue out of there that really is a concern of the livestock operations, you know, and just address the fact, what this bill, in my opinion, is trying to address, and that is the cat or dog in a protection order or a restraining order or anything that has to do with the possibility of harming that household member's family pet. So with that, those are my comments and I would like to see a lot of debate on this, this morning. So with that, thank you, and I'll turn the balance of my time to Senator McGill, if she would want it. [LB83]

SENATOR ROBERT: Senator McGill, 6 minutes. [LB83]

SENATOR MCGILL: I am good. Thank you, Mr. President. [LB83]

SENATOR ROBERT: Thank you, Senator Stuthman and Senator McGill. Discussion proceeding on FA14, those wishing to speak are Senators Schilz, Loudon, and Fulton. Senator Schilz, you are next and recognized. [LB83]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. I stand here before you today once again talking about LB83, and I'm very concerned that we may turn this into another LB5 discussion if we're not careful here, so just...I just want everybody to know. But I think that as we look at this, and I appreciate Senator Stuthman's and Senator McGill's willingness to work together on this, but I think...I maybe think that Senator Stuthman might not be seeing the point. And if Senator McGill would yield to a question, I would appreciate that. [LB83 LB5]

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SENATOR ROBERT: Senator McGill, will you yield to a question? [LB83]

SENATOR MCGILL: Yes. [LB83]

SENATOR SCHILZ: Senator McGill, isn't it nice not to have to strain our necks and turn back? [LB83]

SENATOR MCGILL: (Laugh) It is. I can look right at you. [LB83]

SENATOR SCHILZ: We'll have to do this more often. Hey, the question that I have for you today is what exactly is this bill supposed to do? Because I think we're getting confused. [LB83]

SENATOR MCGILL: The bill...and I think so, too, and Senator Stuthman talked about how it's to protect a pet. Really, it's about giving the woman the security to get out of a domestic violence situation by being able to bring that animal with her, have custody of the animal. It's more about the human being involved than it is about the pet and protecting the pet. [LB83]

SENATOR SCHILZ: And to clarify that just a little bit more... [LB83]

SENATOR MCGILL: Uh-huh. [LB83]

SENATOR SCHILZ: ...we're not just talking about women. We're talking about anyone that would be... [LB83]

SENATOR MCGILL: Yes. Yeah, anyone who's abused and those, you know, the children are seeing this and are attached to the animals, too, so. [LB83]

SENATOR SCHILZ: And it could be...it could be for the children as well. [LB83]

SENATOR MCGILL: Exactly. [LB83]

SENATOR SCHILZ: And I'm not disputing that. In fact I've seen cases, I've heard of cases where this is exactly what happens. And as I understood it before, if it's correct that if an intelligent attorney, somebody that knows what they're doing, understands how things are, they can place a pet within an affidavit. Is that correct? [LB83]

SENATOR MCGILL: If the person is wise enough to list it there, they can list it in the affidavit. But right now it's not clear if the judge can include that in the protection order or not, in the ultimate protection order. [LB83]

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SENATOR SCHILZ: I see. [LB83]

SENATOR MCGILL: We're just trying to clarify it to make sure that all judges everywhere in Nebraska know that they can for sure in the statute do that. [LB83]

SENATOR SCHILZ: Understandable. Okay. And I understand your intention there too. And thank you very much, Senator McGill. [LB83]

SENATOR MCGILL: Yeah. [LB83]

SENATOR SCHILZ: It comes back to this fundamental issue for me, you know: Are we going to, as the proponents of this bill said the other day during testimony, raise pets to the level of children and other household members? And I think that is the crux of the question. I'm not disputing that certain things are used against other people for leverage. That happens all the time. It could be a car. It could be...it could be an heirloom, like an old rocking chair. It could be a boat. Somebody runs their key alongside the boat or threatens to, or a car, or anything like that, you could be in the same situation. So I think what this fundamentally comes down to, and we need to keep this in mind, is do we want to start down that slippery slope? Do we want to...do we want to start to bring pets or other animals, or other animals, up to this level? We've seen this in California. In fact, last year there was a bill introduced here that would take away certain traditional practices and economical practices from hog producers and egg layers that are in the business to do this, and in California that law actually was put into the constitution. So it looks to me like in California, where they have a large urban population, that's how they move forward and try to get their tentacles into this animal rights deal. In an agricultural state like Nebraska, they come about it the other way. And with no...with no disrespect to Senator McGill, there are forces out there that understand what they're doing and are coming at this through pets,... [LB83]

SENATOR ROBERT: One minute. [LB83]

SENATOR SCHILZ: ...through people that...or through the pets and through the people that have these pets and have a special place in their heart. So as this looks, I understand where everybody is going, I will probably vote for the amendment. But still, I think the bill is fundamentally flawed and I think the bill needs to be killed. Thank you very much. [LB83]

SENATOR ROBERT: Thank you, Senator Schilz. Senator Loudon, you are next and recognized. Oh, I'm sorry. Hold on a second, Senator Loudon. Mr. Clerk. [LB83]

CLERK: Excuse me, Senator Loudon. Mr. President, thank you. Hearing notices from the Natural Resources Committee and from Health and Human Services Committee, signed by their respective Chairs. Senator Schilz offers LR30; that will be laid over. And

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Senator Stuthman has an amendment to be printed to LB151. And finally, bills read on Final Reading this morning were presented to the Governor at 10:20 a.m. (re LB24, LB75, LB80, LB85, LB87, LB99, LB100, LB101, LB123, LB166, LB189, LB192, LB251). Thank you, Mr. President. (Legislative Journal pages 514-516.) [LB83 LR30 LB151 LB24 LB75 LB80 LB85 LB87 LB99 LB100 LB101 LB123 LB166 LB189 LB192 LB251]

SENATOR ROBERT: Thank you, Mr. Clerk. Senator Louden, you're recognized. [LB83]

SENATOR LOUDEN: Thank you, Mr. President and members. As I've looked this over and with the amendments, I think I'm still somewhat confused on what we have going on here. Would Senator Stuthman yield for a question, please, since it's his...one of his amendments he's working on? [LB83]

SENATOR ROBERT: Senator Stuthman, will you yield to a question? [LB83]

SENATOR STUTHMAN: Yes. [LB83]

SENATOR LOUDEN: This amendment here, it's on page 2, line 3, and you're supposed to put in...strike "domestic animal" and put in "household pet." Well, are you talking about on the green copy or which copy are we talking about, I guess, that has "domestic animal" on here? [LB83]

SENATOR STUTHMAN: Senator Louden, on...when you're looking at the machine, it should have stated line 23, on page 2, line 23. [LB83]

SENATOR LOUDEN: Okay. [LB83]

SENATOR STUTHMAN: Any place where it... [LB83]

SENATOR LOUDEN: Well, that's your floor amendment? Okay. Okay, then how come that... [LB83]

SENATOR STUTHMAN: That was Amanda's floor amendment. [LB83]

SENATOR LOUDEN: Okay. Then on your machine it says page 2, just line 3. Okay. Okay, now I understand. You're down here on the domestic animal. And...okay, thank you, Senator Stuthman. When we start adding animals into your protection order, when serious offenses like this are being necessary, and a protection order really doesn't mean that much. How many of you have heard about people that are under protection order and got seriously injured or sometimes nearly killed? So I question whether to add animals into it is going to help the situations any. I think there's other ways that this can be done. I think what happens now, when you start adding the animals into it, then the question is, is what kind of an animal do you have? Are you talking about a little cat or

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dog, or are you talking about a chimpanzee, or what are you talking about? And so whether it's a bucket calf or a saddle horse or whatever it is, I think this is something that has to be considered. I was involved not too long back in a situation back in our part of the country where as a divorce-type proceedings like that and they come to get the guy's saddle horse. And so how do you do this then? Does he declare that as one of his pets and is it eligible? And that was considered property. But on the other hand, would you consider that saddle horse as a pet? So I think you're opening up something that is going to go a lot farther than what we have as far as the unintended consequences out of it. I really don't see where something like this is necessary and I would...I would like to see this thing set aside and a little bit more discussion on it rather than pushed out of the Judiciary Committee in some of the first bills that they had out. I think they had about 100 bills in there and this happens to be about 1 or 2 of them that they kicked out of committee. So I question whether there was complete debate and discussion on the thing in committee or whether it was up and sent out of there as something that they could put on the floor to take up time, which I certainly think it should be. I would like to see something...I would like to see this bill probably perhaps bracketed for a length of time. I don't know if it has to be bracketed until the end of the session, but it certainly needs more debate than what we have done on the thing. And I think it either needs to be referred back to the committee or something to have it straightened out. Here we are with a bill that came out of committee and we're putting on several amendments, trying to make something out of it. [LB83]

SENATOR ROBERT: One minute. [LB83]

SENATOR LOUDEN: This is all work that should have been done in the committee. So I think we either refer the thing back to committee for further work or someplace else, but I certainly do not think this is a bill that should go forwards and be something that we'd be putting into statutes at the present time. There's no reason to put a protection order on animals. Thank you, Mr. President. [LB83]

SENATOR ROBERT: Thank you, Senator Louden. Senator Fulton, you are next and recognized. [LB83]

SENATOR FULTON: Thank you, Mr. President, members of the body. Would Senator McGill yield to a question? [LB83]

SENATOR ROBERT: Senator McGill, will you yield to a question? [LB83]

SENATOR MCGILL: Yes. [LB83]

SENATOR FULTON: Senator, when we...when I'm nearing the end of my term, I'm going to yield you some time to, you know, fix the amendment, pull your amendment and fix the amendment, so be aware of that. With regard to the bill itself, I'm hearing

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Senator Schilz and I have...it evoked some concern on my part. Maybe you can answer some questions. Is this...is this bill necessary to accomplish your aim? And your aim... [LB83]

SENATOR MCGILL: It's necessary to let all judges know that they can include pets in a protection order. Theoretically now, if a woman lists a pet in an affidavit, the judge could perhaps choose to include that pet in the protection order, but it's not clear to them that they can. [LB83]

SENATOR FULTON: Okay. [LB83]

SENATOR MCGILL: So this clarifies that. And I am working with Senator Schilz on another amendment that may help relieve some of his concerns. [LB83]

SENATOR FULTON: Let me...let me share with you what my...how I...as I read through this, through this statute, a number of items are listed as being capable of enjoined by a judge. Part (f) "Awarding the petitioner temporary custody of any minor children not to exceed 90 days," and then part (g), the new language for your bill. Is there any concern? So I'm reading along and I find...and it's appropriate that children be involved or be included as matter for a protection order, and then after children we see household pets. Is that a concern? Is that not a concern? I guess how would you assuage the concern that I have that we're elevating pets to the...maybe not to the idea of a child but... [LB83]

SENATOR MCGILL: I don't think that this bill at all elevates them to the level of a child. A child is clearly more important. But the children, just as much as the woman, form attachments to that pet that keep them in a household that cause the children fear and cause the woman or man fear of that animal being hurt. To me this isn't, per se, elevating them to that level; it's just including them in the list of things that can be protected or taken custody of. [LB83]

SENATOR FULTON: Why would we then not include a list...within that list personal property? [LB83]

SENATOR MCGILL: Well, that's what we're trying to work out and talk to Senator Schilz with. But to me, the manipulation of a living creature is different for a child or a woman. If somebody is an animal abuser, it's very likely they're also going to abuse people. I mean we have all kinds of statistics and if you give me a moment I can look through some of them and cite them for you, but...and children seeing animal abuse take place causes psychological and mental damage to them. [LB83]

SENATOR FULTON: Okay. Well, Senator, I don't disagree that if we're going to make a hierarchy of living things and inanimate objects, I don't disagree. Certainly a pet rises to

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a higher level than a piece of furniture. I just...I have some concern that we're elevating...that we are elevating pets. I'll listen to debate. I would like to yield the rest of my time to Senator McGill. [LB83]

SENATOR ROBERT: Senator McGill, 1 minute and 40 seconds. [LB83]

SENATOR MCGILL: Thank you, Senator Fulton. I am going to pull my floor amendment. I had to throw that up there because Senator Stuthman was not on the floor when we got to my bill. He actually had a bill...or an amendment drafted in the last day that is more inclusive and cleans up all of the language referring to domestic animal and changing it to household pet so that we don't have to sit here and keep amending it to clarify that. And I do want to address real quick something that Senator Louden said about the committee not having this bill in proper shape. We thought we did. We had worked it out with the Farm Bureau and the Cattlemen, but it was a senator...senators on the floor who had additional concerns that we did not see coming. We spent more time in Exec Session on this bill than any so far, so we truly did spend time trying to clarify this language and work with both sides. [LB83]

SENATOR ROBERT: One minute. [LB83]

SENATOR MCGILL: But of course, when you get out to the floor, you want to work with your colleagues to try to make them happy and get it in as best condition as possible to get the most votes for a piece of legislation moving forward. So I think we've been doing a good job with trying to meet everyone's needs. And with that, I will pull my floor amendment so we can move to Senator Stuthman's amendment. Thank you. [LB83]

SENATOR ROBERT: Thank you, Senator McGill. FA14 is withdrawn. Mr. Clerk. [LB83]

CLERK: Mr. President, the next amendment I have to the bill: Senator Stuthman, AM419. (Legislative Journal pages 516-517.) [LB83]

SENATOR ROBERT: Senator Stuthman, you're recognized to open on AM419 to LB83. [LB83]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. This amendment strikes the original sections and all amendments thereto, and insert the following sections, and I'll address where this amendment really pertains to. And if you have the green copy, the green copy and on page 2, line 23, it strikes the "domestic animal" and inserts "household pet owned." And then on page, of your green copy, page 3, in line 1 it strikes the "domestic animal" and puts in "any household pet" owned. There was also an issue that was brought to my attention that in the next portion of it there was a part that was omitted and in my new amendment, on page 2, in line 8, starting there: offering (sic) such other relief deemed necessary to provide for the safety

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and welfare of the petitioner and any designated family or household member, or any household pet that is owned, possessed, leased, kept, or held by the petitioner or at (sic) any such family member, household member (sic). So that was omitted in the original green copy. This cleans it up a lot. It takes care of all the issues. And in my opinion, it identifies the fact that we're not just talking about a domestic animal. We're talking about what the issue is and that is a household pet. And I think...I think, you know, this does identify what the original intent of the bill was, in my opinion. So, yes, I know there's a lot of conversation about, you know, what do you mean by a pet, and you could...we could have a list, you know, three pages long, if you really wanted to identify or mention or name every one of the pets. So I think this brings it down to where it eliminates the portion of the animal agriculture, and that's what I'm trying to avoid. We do not want to have, you know, in any one of these types of bills like this that addresses anything about the animal agriculture. So with that, I'm trying to make this bill a little bit better and identifying it and keeping the issue of the animal...commercial animal or agriculture portion out of it. So with that, I would give some of my time to Senator McGill, if she would like it. [LB83]

SENATOR ROBERT: Senator McGill, 7 minutes. [LB83]

SENATOR MCGILL: Thank you, Mr. President. Thank you, Senator Stuthman. I'd like to talk a little bit in general about domestic violence and animals and some of the other legislation across the country dealing with this issue. At least ten other states have passed legislation very similar to what we're doing here today. Some have even passed bills that are stronger, that are beyond those ten states. In Alaska, they made it a crime last year in most instances to knowingly kill or injure an animal with the intent to intimidate, threaten, or terrorize another person. That goes well beyond the inclusion in a pet protection...a protection order, but it's saying that it is wrong, it's a crime to even intimidate or threaten a person through the means of threatening to hurt this animal. I also have some information from the American Bar Association's Commission on Domestic Violence, and this is from one of their newsletters in 2007 that talks about some of the correlations between animal abuse and partner violence. There are about five points that they make in this. The first is that animal abuse is consistent with and often co-occurs with the power and control mechanisms prevalent in intimate partner violence. Second, if he's hurting animals, he or she is hurting animals, then the victim and children could very well be next. One study of battered women in Texas reported that in 323 cases where pet abuse was present, 97 percent of the women reported emotional violence also occurred, 91 percent reported physical violence. The third point is the fear for the welfare of household animals is a significant barrier that prevents thousands of battered women from escaping abusive situations. Fourth, female pet owners often have strong emotional ties to their animals that make them particularly vulnerable. And what's interesting is that they point out that this is of particular concern in rural communities. And fifth, in addition to harm to animals and battered women, cruelty to animals often has significant effects on children's development. Animals have

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unique and important roles in child development, as direct contact with and emotional attachments to animals can help children develop empathy with other living creatures. Children often intervene to protect their mothers and their pets from being battered. There is a great deal of evidence that links domestic abuse with animal violence. I think it's very clear that pets are used as a manipulation tool and that a bill like this will definitely help many women get out of a situation, feel better about it and not have that fear hanging over them. Thank you, Mr. President. [LB83]

SENATOR ROBERT: Thank you, Senator McGill and Senator Stuthman. You have heard the opening to AM419 to LB83. Those wishing to speak are Senators Council, Price, Hansen, and Schilz. Senator Council, you are next and recognized. [LB83]

SENATOR COUNCIL: Thank you, Mr. President. I rise in support of AM419 and the other underlying piece of legislation. I'm quite confused as to the failure of the understanding of the purpose of this particular piece of legislation and I think Senator McGill just accurately described what the intent of the legislation is. And before getting to that, I want to address the suggestion by Senator Loudon that this bill was not properly or adequately discussed and considered in committee. In fact, in my opinion, the committee spent far too much time in addressing an issue that was raised during the course of the hearing. The committee believed that the bill, as originally presented, was innocuous in terms of what it was designed to do, and that is to give a judge a specific tool that could be used when individuals use threat of harm to household pets as a means of abusing their partners. And you notice, Senator Price, I made special effort not to say "he." And last week I provided Senator McGill with a copy of an article that was reprinted in the Omaha World-Herald as reprinted from the Los Angeles Times that I believe puts this issue in as clear a perspective as it could possibly be put: Furious that his girlfriend had stopped taking his calls, Mr. Butcher, 23, took out his anger on their puppy. "Every time you don't pick up the phone, I am beating the dog," he said in voice mail messages left on his ex-girlfriend's telephone. When police arrived at Butcher's home, they found a puppy shivering in a sink of cold water, her jaw broken, eye sockets fractured, and several ribs cracked. The intent of this legislation is to provide a means for the victims in this situation, in this case the girlfriend, to go to court, present an affidavit, introduce evidence like the tape off of this voice mail, and ask the judge that this individual not only be restrained from contacting me, threatening me, intimidating me; that this person also be restrained from having any contact with the household pet, that this person be restrained from having any contact and, in fact, that the court says that I shall have custody of this animal until such time as there's further order of the court. That is the intent. I really don't understand this issue, and maybe I'm missing it, that there's some suspicion that we're elevating pets to some status of humanity that will result in all types of unintended consequences. The only intent of this legislation is that if there are individuals who are using threats and violence towards pets as their means of threatening and intimidating and harming their partners in a domestic relationship, that the courts should have a means of specific remedy available for that person. And in

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this bill, the specific remedy is an order restraining that person from making threats. If there's no evidence that they've harmed the animal... [LB83]

SENATOR ROBERT: One minute. [LB83]

SENATOR COUNCIL: ...then there's not going to be an order to that effect. But if all they've been doing is threatening, then the court can order that that person be restrained from making telephone calls like Mr. Butcher made. And if there's evidence that he or she has actually harmed the animal, the order can be issued restraining that person from having contact and awarding custody of that animal, a property right, to the individual who files the petition. That's all this legislation was intended to do. That's all the revision through the amendment of Senator Stuthman will do. It was intended to address that situation and it was only when there was an issue of whether or not it would affect commercial livestock operations, if it would give someone a tool to prevent someone from doing anything with commercial animals... [LB83]

SENATOR ROBERT: Time. [LB83]

SENATOR COUNCIL: ...that we got to this point. I urge you to pass AM419. [LB83]

SENATOR ROBERT: Thank you, Senator Council. Senator Price, you are next and recognized. [LB83]

SENATOR PRICE: Thank you, Mr. President and members of the body. Following Senator Council gives one caution and reserve, because I really did want to take a moment to ask some questions and point out some potential rabbit holes to go down. But first and foremost, I stand in opposition, and here's why. A judge can do this now. The judge can do this now. You're going before a judge. You're telling him all the reasons. A judge can do this now. And without trying to open myself up to too much criticism, I already had someone tell me this is a slap in the face of the judges, if you look at it. Because someone says, well, it's not clear enough, it's not. I'll tell you, if you're standing there in front of a judge and all this information is available and that judge can't do it, then what is this, the judge is not the sharpest tool in the shed, as was quoted to me? I don't know, but I have great confidence in our judges, that our judges can make good decisions. They don't need every point, every detail of something done. So that's my big question here. I mean, we have these judges here for a reason. We entrust them and they can do it now. Why this? Now again, I'm glad we covered the point about pets not being elevated to the point of children because that would take us to places we never wanted to go, like if that pet had to go to obedience training would they go to a public school, and would that be on the public dollar? If they went to a public school, would we need interpreters, you know? And if we didn't have interpreters and public dollars and public schools, would they need a learning community? But I'm glad we don't have to go there now because we already have that, thankfully. But again,

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I stand in opposition because a judge can already do this, as I understand it, and I believe that to say anything other is a slap in the face of that judge. Thank you, Mr. President. [LB83]

SENATOR ROBERT: Thank you, Senator Price. Those wishing to speak: Senators Hansen, Schilz, and Friend. Senator Hansen, you are next. [LB83]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I'm going to do something that I...I'm not sure I've ever done before, but this is a cowboy asking an attorney a question, if Senator Council would yield. [LB83]

SENATOR ROBERT: Senator Council, will you yield to a question from Senator Hansen? [LB83]

SENATOR COUNCIL: Certainly. [LB83]

SENATOR HANSEN: I just would like clarification, Senator Council, about threats to property in a divorce proceeding, threats to property and damage to property. What does the judge do about that now? [LB83]

SENATOR COUNCIL: Well,... [LB83]

SENATOR HANSEN: I mean a house, a car, swing set, swimming pool and all the damage that someone could do to any of those properties. [LB83]

SENATOR COUNCIL: Okay. First of all, a divorce proceeding is markedly different from a protection order proceeding. A protection order proceeding is based on an ex parte, which means one person coming in, making allegations in the form of an affidavit. Contrary to Senator Price's understanding, the judge doesn't hear any testimony when the protection order application is filed. All he or she receives is an affidavit. In the case of a divorce, if there are issues about damage to personal property, threats to children, custody issues, the party that has those concerns has to file a motion before the court. While the divorce action is pending, they can file a motion requesting that the court enter a temporary order addressing those very issues. They can enter a temporary order as to who can continue to reside in the marital home. They can issue a temporary order as to who should have custody of the children. They can issue temporary order as to who is to have the use of a particular vehicle. They can do that through the form of a temporary order pending final resolution of the divorce action. I trust that answers your question. [LB83]

SENATOR HANSEN: Probably more than I will ever... [LB83]

SENATOR COUNCIL: Well, that's unfortunately what you get when you ask a lawyer a

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question. [LB83]

SENATOR HANSEN: That's why I gave (laugh) that's why I gave a little prelude to what I was going to ask, but thank you, Senator Council. My main point is that, you know, if Senator Stuthman wants this amendment, I would agree with the amendment. There's nothing wrong with the amendment. I disagree with the underlying bill and I made a few comments here that I'd like to read, the difference between children and pets. And if we don't...we don't dare, in any way, shape or form, want to raise or elevate the level of a pet to a child when we're talking about protection orders, I still don't think so. Children are loving. Pets are loving and they give unconditional love no matter what you do, what mood you're in when you come home. Pets are loyal. Children are loyal, at least till they're teenagers. Pets return home at night for food. Kids return home for food and usually some money. The children will grow to understand the language, and the pet will only recognize voices. Our children bless us with grandchildren, and our pets we spay or neuter. Our children need our protection until they go out on their own, but our pets oftentimes provide us protection, in the case of a pit bull or maybe a chimp that we've heard on the news this week. If our children violate the law, they're either scolded or incarcerated. If a pet, like a chimp or a pit bull, violate the law, they're either scolded or euthanized. Children learn Bible versus as they grow up. [LB83]

SENATOR ROBERT: One minute. [LB83]

SENATOR HANSEN: Pets learn to stay off the couch. Our children are baptized for a lifetime of faith in God. Our pets learn to hate bath time. Our children will jump in the lake or the pool, and Labs are best at that. Almost any two humans of the opposite sex can have kids, but registered Labs are the best. Our children need strong parents. Our pets, especially dogs, need a pack leader. You can legally tie or tether a dog in...I believe it's in Douglas County to a tree for 15 minutes; you can't do that to kids, not even grandkids. Last night I was watching television when I returned home and I ran across a show that...I think it was the History Channel. No, it was the National Geographic, and Cesar the Dog Whisperer was on. It was explained... [LB83]

SENATOR ROBERT: Time. [LB83]

SENATOR HANSEN: Thank you, Mr. President. [LB83]

SENATOR ROBERT: Thank you, Senator Hansen. Senator Schilz, you are next and recognized. Mr. Speaker, can I recognize you for announcement? [LB83]

SPEAKER FLOOD: Thank you, Mr. President and members. It's that time of the legislative session where committees are starting to select priority bills and I know we've spent a considerable amount of time on General File worksheet order. It has come to my attention that the Judiciary Committee has identified LB403, introduced by Senator

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Karpisek, as its first committee priority bill. It relates to immigration. It will be up Tuesday morning at 9:00 a.m. In accordance with trying to accomplish our priority bill load this session, we will continue on General File Monday morning at 10:00 a.m. and we will take up the first committee priority bill from the Judiciary Committee, LB403, Tuesday morning at 9:00 a.m. Thank you, Mr. President. []

SENATOR ROBERT: Thank you, Mr. Speaker. Returning to discussion on AM419, Senator Schilz, you are recognized. [LB83]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. I once again stand up and thank Senator Stuthman for attempting to try and get here. I, once again, just as Senator Hansen spoke, I think these are wonderful, noble attempts to get to where we want to go to try to find compromise. I'm just not sure that it's there. On the amendment, and I'm not sure, trying to look...trying to look on my computer and wonderful technology, isn't it, when it works. On page...on page 2 or 3, it says in there that you want to keep, let's see, you want to keep from enjoining the respondent from harming or killing without justification any household pet owned, possessed, leased, kept, or held by the petitioner or a minor child residing in the household. And once again, just to show you that we're being redundant here, is if you go to 28-1009, it says here, any "person who intentionally, knowingly or recklessly abandons or cruelly neglects an animal is guilty of a Class I misdemeanor unless abandonment or cruel neglect results in serious injury or illness or death of the animal, in which case it is a Class IV felony." And then 2(b) of that section, "A person who cruelly mistreats an animal is guilty of a Class IV felony if such cruel mistreatment involves the knowing and intentional torture, repeated beating, or mutilation of the animal." Once again, I want to make sure that we're not going over territory that's already been covered. I think everybody understands how people can use and people can mistreat animals or any other property to further their goals, be they noble or not, and so we need to make sure that we don't end up piling on legislation where we don't need it. The statutes are here. This is the...this is the offenses to animals statute. It's almost a half-inch thick, guys. We got laws to deal with this kind of stuff. I appreciate it. I will probably vote for this amendment as it is, with me bringing some amendments later to change that possibly, but I'm still very uncomfortable with the underlying bill. And with that, I'd let the rest of my time go to Senator Hansen. [LB83]

SENATOR ROBERT: Senator Hansen, 2:28. [LB83]

SENATOR HANSEN: Thank you, Senator Schilz. Just very briefly, I just wanted to finish my little story about Cesar. And Cesar the Dog Whisperer was on television last night, and the lady called him and said, I need help with my dog; he won't mind; I have to carry him down the stairs when it's time to go to work and all this thing. And he said...he explained it very simply to this lady that she'd raised a family; she had worked out in the corporate world and had a lot of people under her, and he tried to explain the difference

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between having an employee or a dog or children. And he said they're different. You have to treat them different, you have to look at them different, and they should never be raised to the same level. If that's the underlying course of this bill, I think it's really, really wrong. According to Cesar, and this is a quote, humans need to be that pack leader. A weak pack leader leads to disobedient dogs. I don't think we can raise our pets...I have several cows, I have several horses, and they're certainly a friend and a comrade, the horses. They're certainly a friend and a comrade in times of...good times and bad, but they're still property. We still put them on our depreciation list. It's hard to get rid of an old horse now that's past his prime, so... [LB83]

SENATOR ROBERT: One minute. [LB83]

SENATOR HANSEN: ...we're still dealing with that. But when you start calling...you start determining what pets are, I think we're going down a long, slippery slope. So thank you, Mr. President. [LB83]

SENATOR ROBERT: Thank you, Senator Hansen and Senator Schilz. Senator Friend, you are next and recognized. [LB83]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. There are a lot of views about...and I don't feel obligated to talk about every bill, but sometimes I just...sometimes I just get involved, right? There are a lot of views and thought process relating to legislation. I mean one of the things that I tried to determine, and I think Senator Landis helped me with this years ago. He didn't know he helped me but I think he did. When you're looking at this language, to me, when I looked at it, I always try to decide whether we have, (a) a problem, and (b) it's a problem that we can solve with the legislation that we're proposing, that one of us in the body is proposing. Can you solve the problem, if you determine that there is one, without a piece of legislation? How many times have we had an attorney tell us some guy is building a...some guy is building a retaining wall on our property? How many times do you have an attorney say, well, work this out because, believe me, you don't want to go to court with this; this is a problem, but you can handle this? You don't want to go to war, you don't want to fight people unless you've got a problem that's unsolvable without dealing with it in a violent manner. I think we'd all kind of agree on that. The analogy holds here. It's been submitted, it's been submitted by many out here today and in the previous discussion I think last week that the judicial system can handle...can probably handle this type of issue now. I mean, let me read some of the language really quickly. The judge or court, this is 42-924, Section 42-924(1), "The judge or court may issue a protection order without bond granting the following relief: (a) enjoining the respondent from imposing any restraint upon the petitioner or upon the liberty of the petitioner; (b) enjoining the respondent from threatening, assaulting, molesting, attacking, or otherwise disturbing the peace of the petitioner." Now if somebody stuck a fork in my dog, that's disturbing my peace. And if I'm a judge, I'm thinking Friend's peace was just disturbed, he's got a

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fork in his dog, his peace is disturbed. Yeah, it would be because I'm going to end up having to do something about it. That's a violent act against property that I own. If an animal is property, if it's property of the victim, then the opponents of this bill are correct. There is relief for that victim under these statutes. That's the way I read this. Judges can deal with it now and the legislation is not necessary. Now we pass legislation all the time that's not necessary. I would hope that if we knew legislation wasn't necessary, that we wouldn't pass it. Sometimes it slips by us. Maybe we're...maybe, if we know or we strongly believe that legislation is not needed and we advance it and pass it anyway, we're doing it for other reasons. We're doing it because it makes us feel better. Ding, ding, ding. Safe haven? Safe haven. It made us all feel a lot better. We all voted for it. Well, 16 of you weren't here; I'm not going to blame you. [LB83]

SENATOR ROBERT: One minute. [LB83]

SENATOR FRIEND: You weren't here. But it made us all feel a heck of a lot better. That legislation wasn't needed in the form that it was written and it caused us more harm than good. Members of the Legislature, if this legislation is not needed, if that's a determination that we can make or we strongly believe that, we do not advance this forward. I don't think it's a killable offense. I wouldn't try to kill this bill. I understand where Senator McGill is going with it. We got to know what we're doing and we got to know whether it's worthwhile or not. That's all I'd really have. Thank you, Mr. President. [LB83]

SENATOR ROBERT: Thank you, Senator Friend. Senator Nelson, you are next and recognized. [LB83]

SENATOR NELSON: Thank you, Mr. President, members of the body. Would Senator Council respond to a question or two, please? [LB83]

SENATOR ROBERT: Senator Council. [LB83]

SENATOR COUNCIL: Be delighted. [LB83]

SENATOR NELSON: Thank you, Mr. President. Thank you, Senator Council. I'm looking at the green sheet and on page 2, Senator Council, line 10, this has already been covered by Senator Friend and answered...or made some of the points that I was going to take. But let's move up a little bit where reading in Section 1 says that, "Any victim of domestic abuse may file a petition and affidavit for a protection order." You gave us a good commentary I think on what happens in divorce cases where there are motions and appearance before the judge by the petitioner saying what their concerns are. This is a protection order and I'm going to imagine that there's just a lot of boilerplate in these petitions that go in for a protection order. Would that be true? [LB83]

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SENATOR COUNCIL: That's not correct, Senator Nelson. What is boilerplate is the form, but the petitioner has to state in writing what are the grounds for their request, and they...and most of them handwrite it and attach... [LB83]

SENATOR NELSON: Okay. [LB83]

SENATOR COUNCIL: ...additional sheets of paper. [LB83]

SENATOR NELSON: All right. [LB83]

SENATOR COUNCIL: But it's not a "check a box" form. [LB83]

SENATOR NELSON: Well, that's good. And this leads to my next question. If a petitioner is concerned about an animal or a pet, then they can certainly include that in the petition and, thus, advise the judge. Even...there's no hearing on a protection order before a judge. It just comes before the judge and they're going to take a look at it, but they can certainly make the judge aware that a household pet is part of their concern and they could also include that in the affidavit, could they not? [LB83]

SENATOR COUNCIL: They certainly could, Senator Nelson. And with regard to the paragraph that was read, the subparagraph that was read by Senator Friend, you don't get a dispute from me that action such as that which he described is disturbing the peace, but look what it allows the judge to do, is to simply enjoin the respondent. I think if there's a concern about any portion of the bill not being necessary it would be subparagraph (h), which begins at line 25, but lines 22 through 24 deal with allowing a judge to remove what I'm going to confess and admit is property of one of the parties, arguably, and provide who has the right to the control, care, and custody of that particular item. I don't think that's an issue of disturbing the peace. I don't think that's an issue of enjoining from telephoning. It's not an issue of excluding someone from the residence. The issue is, in that situation, particularly lines 22 through 24 give a judge express authority in their order of protection to allow the petitioner to take custody of the animal that is the subject of the threats. [LB83]

SENATOR NELSON: Well, thank you, and I don't agree...or that language is fine if we want to include it, but let me invite your attention then to the top of page 3 there, beginning with line 4: The judge is empowered to order any other relief deemed necessary to provide for the safety and welfare of the petitioner and any designated family or household member. [LB83]

SENATOR ROBERT: One minute. [LB83]

SENATOR NELSON: Now certainly...I mean there's a question about what household member is, but if the petitioner makes it clear to the judge that they have a pet, whether

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or not they have custody of it or not and they would like to have it because they're worried about it, that can certainly be done in the petition and in the affidavit, and then it's up to the judge to decide whether it's necessary to include that pet or property. And I don't see anything here about property such as valuable jewels or anything that might be destroyed, but I'm fairly certain that, if the petitioner asked for it, that could be part of the protection order. Would that be true? [LB83]

SENATOR COUNCIL: Well, what could be part of the protection order is to restrain the respondent from damaging, spiriting away, transferring... [LB83]

SENATOR NELSON: Correct. [LB83]

SENATOR COUNCIL: ...any such property, and certainly I've seen that as the term of protection orders. But the point you raise, Senator Nelson, is what makes this debate almost... [LB83]

SENATOR ROBERT: Time, Senators. [LB83]

SENATOR COUNCIL: ...almost laughable, and that's the whole issue of household member. When the committee was discussing this and whether or not it was necessary, the same kind of arguments were made as, well,... [LB83]

SENATOR ROBERT: Time, Senators. [LB83]

SENATOR COUNCIL: ...you're going to tell me a pet is a household member? So...I mean, the intent was... [LB83]

SENATOR ROBERT: Senator Council. [LB83]

SENATOR COUNCIL: ...to make it clear. [LB83]

SENATOR ROBERT: Thank you. [LB83]

SENATOR NELSON: All right. Thank you very much, Senator Council. Thank you, Mr. President. [LB83]

SENATOR ROBERT: Thank you, Senator Council and Senator Nelson. Seeing no other lights on, Senator McGill...excuse me, Senator Stuthman, you're recognized to close on AM419. [LB83]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. We have debated this for a little bit of time now this morning and I think...I think by inserting the words "household pet," I think we're trying to identify what the real subject matter is of

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this bill. It addresses that. So I'm not going to take a lot more time. I think it has been debated enough and I would just like to ask for your support on this amendment. Thank you, Mr. President. [LB83]

SENATOR ROBERT: Thank you, Senator Stuthman. Members, you have heard the closing to AM419 to LB83. The question before the body is, shall AM419 be adopted? All those in favor vote aye; opposed vote nay. Have all those voted who wish? Record, Mr. Clerk. [LB83]

CLERK: 28 ayes, 1 nay, Mr. President, on adoption of the amendment. [LB83]

SENATOR ROBERT: AM419 is adopted. [LB83]

CLERK: At this time, Mr. President, I have nothing further on the bill. [LB83]

SENATOR ROBERT: Returning to discussion on LB83, is there anyone wishing to speak? Senator Schilz, you're recognized. [LB83]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. I once again stand up and, yes, I begrudgingly voted for the amendment, to put it in there, because I think it does bring us a little farther to where we need to go. But I still...still have major concerns about this and I...this will be...this will be the last time that I speak on this bill. I would encourage everyone to really think about what we're doing here, really think about the direction that we want to go and, whether it is unintended or not, this does open up the questions and does, according to the proponents, raise pets to the level of children or other household members. Is that the direction we want to go in? Is that what we need in this bill? And I would just...I would just say to everyone that if...I would appreciate it if everyone would vote against this bill and let's move on and get on to some of the other important issues we have to deal with. Thank you. [LB83]

SENATOR ROBERT: Thank you, Senator Schilz. Senator McGill, there is...you are the only light on. You may. You can close. [LB83]

SENATOR MCGILL: I'll use this as my closing then. Thank you, Mr. President, members of the body. I'll use my closing to respond to several of the things that were said in the fore by some of the opposition, the first being, you know, Senator Price was saying that this is a slap in the face to our judges because, you know, they can already do it. It's just not clear to them. In our statutes, it's not clear whether they can do this or not. I think putting it in the statutes will provide consistency across domestic violence cases, letting judges know. I mean, the judges have to follow the laws which we write. Right now, it's ambiguous. We've had a long discussion about is a pet a household member, is it not? Those thoughts are going through the judge's mind as well, and so this language will help clarify to the judges that they can include the pet and the concern the woman or

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child may have for that pet in a protection order. Second, I do not believe that this bill elevates pets any more than our law already does. We do have abuse statutes that have been brought up here already today and if a man does go and kill the pet, that's a crime in and of itself, yes. But the protection order will help in cases where the man is only threatening violence or has done something more minor. This...it captures a different group of people. And if a man does go and needlessly kill the animal, he can be got for...they can get him for breaking the protection order and for harming the animal then. I mean, that's a separate thing. And I will point out in some of the statutes that Senator Schilz was referring to we do already acknowledge that animals do play a role in domestic violence. There's a definition provided dealing with Nebraska's family code, included and expanded definitions of domestic intimate partner abuse. That definition provided, in part, that domestic intimate partner abuse included cruel mistreatment of animal, neglect of an animal, or threat of such act. It's already acknowledged in our statutes as part of the definition of this sort of abuse, but it's not included right now as a clear...the threat is clearly something that can be brought into consideration for a protection order. You know, we wouldn't be here with this bill if it was completely arbitrary and we absolutely didn't need it. This does not elevate animals any more than anything has in the past. So, members, I sincerely hope that you will do the right thing. You know, we've gotten letters from Domestic Violence Coalition saying that this piece of legislation will help women and men, who are being battered, get out of the situations that they're in. This is not so much about protecting the animal or elevating it as it is giving the woman the confidence to get out of that situation, knowing that her pet, she can take that pet with her, knowing that her kids won't have to sit and watch that abuse anymore. This is about people and helping people. So, members, please, I ask for your advancement of LB83. Thank you, Mr. President. [LB83]

SENATOR ROBERT: Thank you, Senator McGill. Members, you have heard the closing on LB83. The question before the body is, shall LB83 advance to E&R Initial? All those in favor vote aye; opposed vote nay. Excuse me, there has been a request for a call of the house. The question before the body is, shall the house go under call? All those in favor vote aye; opposed vote nay. Record, Mr. Clerk. [LB83]

CLERK: 37 ayes, 0 nays, Mr. President, to place the house under call. [LB83]

SENATOR ROBERT: The house is under call. Senators, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. Mr. Clerk, there has been a request for a roll call vote. Call the roll. [LB83]

CLERK: (Roll call vote taken, Legislative Journal pages 517-518.) 24 ayes, 18 nays, Mr. President, on the motion to advance. [LB83]

SENATOR ROBERT: LB83 does not advance, and I raise the call. Mr. Clerk. Items for the record, please, Mr. Clerk. [LB83]

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CLERK: Mr. President, your Committee on Judiciary, chaired by Senator Ashford, reports LB403 to General File with committee amendments attached. Agriculture Committee, chaired by Senator Carlson, reports LB254 to General File, and LB677 indefinitely postponed. Notice of hearing from Judiciary Committee. And your Committee on Enrollment and Review reports LB5, LB28, LB48, LB53, and LB204 as correctly engrossed. That's all that I have, Mr. President. (Legislative Journal pages 518-523.) [LB403 LB254 LB677 LB5 LB28 LB48 LB53 LB204]

SENATOR ROBERT: Thank you, Mr. Clerk. (Visitors introduced.) Mr. Clerk. []

CLERK: Mr. President, LB89, introduced by Senator Cornett. (Read title.) Introduced on January 8 of this year, referred to the Revenue Committee. The bill was advanced to General File. There are Revenue Committee amendments. (AM92, Legislative Journal page 365.) [LB89]

SENATOR ROBERT: Senator Cornett, you're recognized to open on LB89. [LB89]

SENATOR CORNETT: Thank you, Mr. President and members of the body. LB89 simply addresses a tax inequity on single tobacco product, snuff, and modifies its taxation from a sales tax to an excise tax. The committee believes...I will open on the committee amendment next. [LB89]

SENATOR ROBERT: Thank you, Senator Cornett. Mr. Clerk, we have amendments. [LB89]

CLERK: Revenue Committee amendments, Mr. President. [LB89]

SENATOR ROBERT: Senator Cornett, as Chair of the Revenue Committee, you are recognized to open on AM92. [LB89]

SENATOR CORNETT: Thank you very much. The committee believes this modification corrects a tax inequity. The committee amendment basically replaces the green copy of the bill. The green copy of the bill mirrored LB106 from the 2007 Legislature. That bill was vetoed by the Governor after the body increased the excise tax on tobacco products during floor debate. The Governor indicated in his veto message that the tax, as imposed in the final copy of the bill, represented an unnecessary tax increase. The committee amendment guards against any unnecessary tax increase. It strikes the delineation between smoking tobacco and tobacco products and, instead, simply carves out snuff from the definition of tobacco products. The snuff definition in the amendment is the same as found in federal law. Finally, the committee then lowered the proposed tax rate on snuff from 65 cents per ounce to 40 cents per ounce in the amendment. The committee was informed by the Legislative Fiscal that 40 cents per ounce rate would be

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revenue neutral and, thus, generate no tax increase or tax decrease. Since that time, we are...Fiscal has said that they would like to reevaluate that 40-cent amount. We will...if that has changed, I will address that on Select File. Members, I ask you for your support for the adoption of this amendment as a matter of retaining equity for our tax policy. Thank you, Mr. President. [LB89]

SENATOR ROBERT: Thank you, Senator Cornett. Members, you have heard the opening to AM92 to LB89. Is there anyone wishing to speak? Senator Stuthman, you're recognized. [LB89]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to address a question or two to Senator Cornett. [LB89]

SENATOR ROBERT: Senator Cornett, will you yield to a question? [LB89]

SENATOR CORNETT: I would, Senator Stuthman. [LB89]

SENATOR STUTHMAN: Thank you, Senator Cornett. I was busy with something else when you were giving your opening on the amendment. This does not change the amount of revenue taken in? Or...and does it change the amount of tax on the weight amount? [LB89]

SENATOR CORNETT: Well, sir, it currently is an ad valorem tax, where it's taxed on the price. This would switch it to an excise tax, so all products then would be taxed equally. And it does not...the amendment should be revenue neutral. It would not be a tax increase or a tax decrease. [LB89]

SENATOR STUTHMAN: So, in other words, Senator Cornett, the cheaper, cheaper products, they would be paying more tax then? [LB89]

SENATOR CORNETT: They would be paying more tax based on weight than they are currently paying based on price now. What we're doing is there are a number of different types of tobacco products out there and it is...each product is being taxed on what's called an ad valorem price, so they're being taxed on the price of what it is. So if you have 27 different types of tobacco and 20 different prices for that tobacco, then you have 24 or 25 different sales tax being collected. What this would do is make it like a pack of cigarettes where every pack has a set amount taxed upon it and it's the same amount for everyone. [LB89]

SENATOR STUTHMAN: So, in other words, the cheaper, cheaper chewing tobacco products will be paying a lot more tax. [LB89]

SENATOR CORNETT: I...they will be paying more, yes. [LB89]

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SENATOR STUTHMAN: And then the ones that are the most expensive ones, those chewing tobaccos will be probably paying less then? [LB89]

SENATOR CORNETT: In the middle of the road; will be paying about the same. [LB89]

SENATOR STUTHMAN: Paying about the same. But the concern that I have is, you know, the lower income people, you know, that want to utilize, you know, the habit of chewing tobacco and they probably chew Longhorn or Red Man or something like that, and this is really going to affect the price of that, in other words, because that price then will go up quite a bit. Theirs would increase drastically. Am I correct in saying that? [LB89]

SENATOR CORNETT: It would increase but...under this tax and they would be able to chew a better brand of tobacco than they probably are now for the same price as...I mean...the middle of the road will be taxed in the middle of the road, the lower brands will become a little more expensive based on tax, and the more expensive ones will become cheaper. [LB89]

SENATOR STUTHMAN: So is this going to have effect on the lower priced chewing tobaccos? The people that have been chewing tobacco, they're going to be paying more in tax for that brand of product? And would the people switch to a better brand if they can buy it for the same price? Is this going to be a situation where the ones that manufacture the cheaper product, are they going to have to suffer? Is this going to put them out of business? [LB89]

SENATOR CORNETT: I doubt it will put them out of business. I've got a basic breakdown. The cheaper brands are currently paying approximately 20 cents per can and it would go up to 40 cents. The middle of the road are paying between 27 and 40-some cents, and it would stay...go to 40 cents. The expensive brands are...the most is paying 62 cents, and it would come down to 40. [LB89]

SENATOR ROBERT: One minute. [LB89]

SENATOR STUTHMAN: So, in other words, the higher priced tobaccos, they're going to be paying less taxes. [LB89]

SENATOR CORNETT: To have it revenue neutral, yes. We originally set it so they were all going to be paying more, but it would be a tax increase and the Revenue Committee did not feel that a tax increase at this time would be appropriate. [LB89]

SENATOR STUTHMAN: The concern that I have, and I haven't had enough time to look this over totally yet, and I did oppose this bill last year as far as, you know, raising the

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amount of fee on the cheaper...the amount of taxes on the cheaper brands because, you know, that would mean that they would have to charge a lot more. And the ones that had the most expensive brands, the better products that people were utilizing, would be paying less tax, and that is correct? [LB89]

SENATOR CORNETT: Well, actually, in 2007 everyone was going to be paying a considerable amount more. We raised... [LB89]

SENATOR ROBERT: Time, Senators. [LB89]

SENATOR CORNETT: ...it, I believe, to \$1.05. [LB89]

SENATOR STUTHMAN: Thank you, Mr. President. [LB89]

SENATOR ROBERT: Thank you, Senator Stuthman and Senator Cornett. Those wishing to speak are Senators Council, Pirsch, and Louden. Senator Council, you are next and recognized. [LB89]

SENATOR COUNCIL: Yes, thank you, Mr. President. Senator Cornett, would you yield for a couple of questions? [LB89]

SENATOR ROBERT: Senator Cornett, will you yield to a question? [LB89]

SENATOR CORNETT: I'd be happy to. [LB89]

SENATOR COUNCIL: Okay. Maybe I misunderstood your opening remark, but you indicated that by the change in the method of taxing snuff, for lack of a better term, it will bring it on par with other tobacco products? [LB89]

SENATOR CORNETT: That is correct. Currently, cigarettes are taxed per pack and not by the price, so your cheapest brands of cigarettes are taxed the same as your very most expensive brands of cigarettes. What this will do is tax snuff the same as...it's an even tax system. [LB89]

SENATOR COUNCIL: Okay. Well, maybe I'm misreading this but I'm looking at the AM92, page 2, the tax on tobacco products other than snuff shall be 20 percent of the purchase price of such tobacco products paid by the first owner or the price at which a first owner who made, manufactured, or fabricated the tobacco product sells the item to others. That is not a tax based upon, though, its weight or the individual brand. It's based on the purchase price of the product. [LB89]

SENATOR CORNETT: What page on the amendment are you looking at? [LB89]

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SENATOR COUNCIL: Page 2, unless I've been given an incorrect version of the amendment, page 2, line 1. [LB89]

SENATOR CORNETT: That is other than snuff. We are talking about...you're talking about loose tobacco there. [LB89]

SENATOR COUNCIL: Okay, so... [LB89]

SENATOR CORNETT: So you have three different types, basically, of tobacco products. You have cigarettes and you have chewing tobacco and then you have loose tobacco and cigars. What we are doing is mirroring the federal here so we're pulling out the loose tobacco and cigars, basically, from that, where they will be taxed upon their...they are remaining to be taxed the way they are now. [LB89]

SENATOR COUNCIL: Well, I guess I need help understanding why. What's the necessity of treating the tobacco products differently? [LB89]

SENATOR CORNETT: Cigars are sold individually, and it is very...it would be very difficult to track them. And the distributors and we had a number of people come in and testify that this would just be way too hard to track and they do not do...tax that way at the federal level. What this bill does is mirror federal regulation in regards to taxation. The cans of snuff are prepackaged. They're based on a weight. [LB89]

SENATOR COUNCIL: Okay. But cigarettes are taxed on the basis of their price or weight? [LB89]

SENATOR CORNETT: They are based on per pack. [LB89]

SENATOR COUNCIL: And is that, again, is that on the basis of their weight or is there a percentage of the price... [LB89]

SENATOR CORNETT: It's based on, basically, on the weight rather than the price. So if you have a pack of cigarettes that was \$1 and you have a pack of cigarettes that's \$2, they both have the same amount of tax on them. [LB89]

SENATOR COUNCIL: And with regard to snuff versus loose tobacco, there's some rationale, maybe I'm not following it, for treating those products differently? [LB89]

SENATOR CORNETT: Yes, there is. It's just...it's much different and more difficult to track the loose tobacco based on weight, because it can be sold in different amounts, like the cigars. The snuff is prepackaged like your cigarettes are and they can... [LB89]

SENATOR ROBERT: One minute. [LB89]

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SENATOR CORNETT: ...easily track and tax them. Our system currently is, for all the different brands of snuff we have, each one has a different tax that's being collected and remitted, and it...so if you sell 27 different brands of snuff, you have to collect 27 different sales tax rather than the same amount on each one. [LB89]

SENATOR COUNCIL: Okay. But the tax you do collect on each of those is based upon your sale price. [LB89]

SENATOR CORNETT: The sale price. [LB89]

SENATOR COUNCIL: And... [LB89]

SENATOR CORNETT: The price, not the weight. [LB89]

SENATOR COUNCIL: Right. And so a product that weighs the same, a snuff product that weighs the same as another snuff product but costs markedly more ends up getting a tax cut under this amendment. [LB89]

SENATOR CORNETT: The original bill, everyone was taking...would have had a tax increase and we would have been revenue positive. We... [LB89]

SENATOR ROBERT: Time, Senators. [LB89]

SENATOR CORNETT: Thank you. [LB89]

SENATOR ROBERT: Time. [LB89]

SENATOR COUNCIL: Thank you. [LB89]

SENATOR ROBERT: Thank you, Senator Cornett and Senator Council. Mr. Clerk, do you have items? [LB89]

CLERK: Just one, Mr. President. Judiciary Committee would report LB307 to General File; that's signed by Senator Ashford, as Chair. (Legislative Journal page 523.) [LB307]

And I do have a priority motion, Mr. President. Senator Pankonin would move to adjourn until Monday, February 23, at 10:00 a.m. []

SENATOR ROBERT: Members, you have heard the motion to adjourn until Monday, February 23, at 10:00 a.m. All those in favor signify by saying aye. Opposed, nay. We are adjourned. []