

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

Floor Debate
January 26, 2010

[LB183 LB226 LB235 LB254 LB258 LB261 LB325 LB522 LB579 LB650 LB690 LB691
LB698 LB721 LB722 LB736 LB738 LB751 LB762 LB791 LB814 LB872 LB996 LB1014
LR290 LR291 LR293]

SPEAKER FLOOD PRESIDING

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

SENATOR SULLIVAN: (Prayer offered.)

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

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

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

CLERK: I have no corrections.

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

CLERK: A Reference report referring LB961 and LB1074. Banking Committee, chaired by Senator Pahls, reports LB738, LB762, and LB814 to General File. I have a series of hearing notices from the Revenue Committee, signed by Senator Cornett, as Chair; and two Attorney General's Opinions, one to Senator Langemeier (re LB691), a second opinion to Senator Haar (re LB235); both will be inserted in the Journal. That's all that I had, Mr. President. (Legislative Journal pages 349-360.) [LB738 LB762 LB814 LB691 LB235]

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 LR290, LR291, LR293. As previously announced, Senator Mello is not with us today. For that reason, we will pass over LB635. Mr. Clerk, the new first bill on our General File agenda today is LB579. [LR290 LR291 LR293 LB579]

CLERK: LB579 is a bill originally introduced by Senator Cornett. (Read title.) Introduced on January 21 of last year, referred to the Business and Labor Committee for public hearing, the bill was advanced to General File. There are Business and Labor Committee amendments, Mr. President. (AM1323, Legislative Journal page 1771, First Session, 2009.) [LB579]

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SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Cornett, you are recognized to open on LB579. [LB579]

SENATOR CORNETT: Thank you, Mr. Speaker and members of the body. I introduced LB579 last session because of my concern for small businesses in Nebraska. Small businesses are the backbone of our economy, but small businesses in Nebraska and elsewhere in our nation sometimes struggle with all the regulatory burdens government at all levels places upon them. It is especially difficult for small businesses to comply with the myriad of government rules and regulations regarding their employees' wages, benefits, and taxes. To help small businesses, professional employer organizations, or PEOs, were created. They allow a small business to outsource some of their human resources functions. This allows small businesses, through a PEO, to access and manage employee benefits. Small businesses can have a professional processing...professionals processing their payroll checks and withholding for taxes and Social Security. PEOs have been operating in Nebraska for over 15 years. The intent of this bill is to regulate an industry in the state that is currently unregulated. LB579 would regulate PEOs to protect their customers and lay a foundation for further development so more small businesses in Nebraska can benefit from their services. LB579 is based on a model act adopted for Nebraska. Provisions from the model legislation have already been enacted in 35 other states. It is estimated there are over 700 PEOs operating across the country. Because of how complicated this bill is, I'm going to first explain what a professional employer organization is and does. A professional employer organization, referred to as a PEO, enables clients to cost-effectively outsource the management of human resources, employee benefits, payroll, and workers' compensation. PEOs can focus on their...allow their clients to focus on their business operations and not have to worry as much about the personnel details that a PEO can handle for them. Businesses today need help managing increasingly complex, employee-related matters, such as health benefits, retirement benefits, flexible saving plans, workplace safety, workers' compensation claims, payroll processing, tax compliance, and unemployment insurance claims. Clients can contract with a PEO to assume these responsibilities and provide expertise in human resource management. A PEO provides integrated services to effectively manage critical human resource responsibilities and employer risks for clients. A PEO delivers these services by establishing and maintaining an employer relationship with the employees at the client's work site and by contractually assuming certain employer rights, responsibilities, and risks. Essentially, a PEO establishes a co-employment relationship with the client's employees. Businesses across America have discovered the incredible value of PEOs because they provide relief from the burden of employment administration, a wide range of personnel management solutions through a team of professionals, improved employee...or employment practices, compliance and risk management to reduce liabilities, a safer work environment, access to a comprehensive employee benefits package, allowing clients to be competitive in the labor market. LB579 accomplishes

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two primary purposes: One, it defines PEO industry terms, relationships and responsibilities, and addresses common issues involving PEO services used by small businesses. It requires those offering PEO services to annually register with the Department of Labor so small businesses can know that the minimum financial operational standards have been met. With the introduction of this bill last year, we have been working with the executive branch, the Department of Labor, the Department of Insurance, workers' compensation, and the Department of Revenue, along with the industry to work out the details of this legislation. We've had many meetings involving these departments with the Policy Research Office. I am very grateful and want to thank all of the people who have put in hundreds of hours working to improve this legislation. While the amendment that you will hear achieves most of our goals, we still have some technical issues to work through between now and Select File. What I would like the body to remember is this is a very complex bill dealing with a complex set of issues. It is an innovative bill dealing with an important problem for many small businesses. Nebraska prides itself on being pro business. Nebraska can take a big step forward in truly being pro business, especially pro small business with this legislation and the increased availability of PEOs to help small businesses across our state. I'd like to further add that the two amendments filed significantly reduce the fiscal note. We are still waiting for a determination of what the actual fiscal note was, but it is our goal to make it revenue neutral. Thank you. [LB579]

SPEAKER FLOOD: Thank you, Senator Cornett. Members, you've heard the opening on LB579. (Doctor of the day introduced.) Continuing with discussion on LB579, Mr. Clerk, we now move to the committee amendment, AM1323. Senator Lathrop, you're recognized to open on AM1323. [LB579]

SENATOR LATHROP: Thank you, Mr. President. Colleagues, good morning. Last year this bill was heard before the Business and Labor Committee. At that time, the industry and several departments testified and raised several issues that needed to be addressed. Afterwards, the Workers' Compensation Court, the Department of Insurance, the Department of Labor, the industry, the Workers' Compensation Court, and other stakeholders worked to address some of the issues raised during that hearing. LB579 was reported out of committee with AM1323, which represents the work done by the Business and Labor Committee. Afterwards, the parties continued their discussions and have reached a consensus. That further consensus is represented in AM1566, which will be offered by Senator Cornett momentarily. Senator Cornett's amendment essentially will become the committee amendment, and I will be supporting that amendment and urge you to do likewise. Thank you. [LB579]

SPEAKER FLOOD: Thank you, Senator Lathrop. We now turn to discussion on AM1323 and LB579. Mr. Clerk. [LB579]

CLERK: Mr. President, Senator Cornett would move to amend the committee

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amendments with AM1566. (Legislative Journal page 347.) [LB579]

SPEAKER FLOOD: Senator Cornett, you're recognized to open on AM1566. [LB579]

SENATOR CORNETT: Thank you, Mr. Speaker and members of the body. AM1566 again is a technical amendment to the committee amendment. As I said, this is a very...has been a very difficult process to work through because so many state agencies were involved, so we are still working on technical corrections. AM1566 represents the work of the four state agencies, as I said earlier, including Workers' Compensation Court, the Department of Labor, Revenue, and Insurance. These agencies worked over the summer to develop a proposal they believe would work within existing Nebraska law and safeguard the interests of small business employers and employees in this state. The draft was given to the insurer agents and other interested parties. This amendment has been the subject of meetings with NAPEO and the national trade organization for PEOs. We are still getting comments as we progress forward with this bill from the insurance organization. As a result of all of this work, AM1566 gets us very close to an agreement between the agencies and the PEOs. It is my belief that the remaining issues will be worked out between now and Select File. I ask you to advance AM1566, the committee amendment, and the underlying bill. Thank you. [LB579]

SPEAKER FLOOD: Thank you, Senator Cornett. Members, you've heard the opening on AM1566 to AM1323. We now go to discussion. Senator Campbell, you are recognized. [LB579]

SENATOR CAMPBELL: Thank you, Mr. President. Would Senator Cornett entertain a question, please? [LB579]

SPEAKER FLOOD: Senator Cornett, will you yield to a question from Senator Campbell? [LB579]

SENATOR CORNETT: I will. [LB579]

SENATOR CAMPBELL: Senator Cornett, I had a very good friend who ran a business that was very much like you have described. Could you give us the latest in explanation of how the health benefits would work between the PEO and the employee? [LB579]

SENATOR CORNETT: Yes, the PEOs and the clients are basically co-employers under a PEO contractual arrangement, so the employee that is hired through the business, the business then contracts for the...with the PEO to...the PEO gets insurance policies, and they can be umbrella policies for a number of different businesses, so the small business is able to get insurance and insurance benefits and workers' comp at a lower rate for their employee and, therefore, provide these benefits. [LB579]

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SENATOR CAMPBELL: As a follow-up to that, at one point in the bill it was described that they may...the PEO could be self-insured, but I think you've changed that. Is that correct? [LB579]

SENATOR CORNETT: Correct. That is something that we've been working with through the Department of Insurance. Again, this is an industry that has been unregulated in this state so the potential for abuse was there. And I would like to commend the Department of Insurance and all of the hard work they've put in on this and, as part of the amendment, that self-insured aspect has been removed. [LB579]

SENATOR CAMPBELL: I would like to say that, for my colleagues, it's extremely important in this situation that the employees who affiliate with the PEO have some form of health insurance, and I would guess that across the state that has not always been the case, so I very much appreciate Senator Cornett's work on this bill. Thank you, Mr. President. [LB579]

SPEAKER FLOOD: Thank you, Senator Campbell. Senator Carlson, you are recognized. [LB579]

SENATOR CARLSON: Mr. President and members of the Legislature, I would like to address a question or two to Senator Cornett, if she would yield. [LB579]

SPEAKER FLOOD: Senator Cornett, will you yield to a question from Senator Carlson? [LB579]

SENATOR CORNETT: I would be happy to. [LB579]

SENATOR CARLSON: Senator Cornett, I know that initially Department of Insurance had some questions about this bill, and I think that those have been resolved. Would you agree that they probably have? [LB579]

SENATOR CORNETT: I would agree that 98 percent of the concerns have been addressed. Pretty much at this point all the concerns from the Department of Insurance, to my knowledge, have been. We are getting feedback from the industry so we may have another amendment between now and Select File, but the draft in the amendment you see is work from the Department of Insurance. [LB579]

SENATOR CARLSON: Okay. And part of the reason for a professional employers organization is to allow small businesses to band together to form a larger group to have an advantage in procuring an insurance plan. Would this be correct as a partial reason for their existence? [LB579]

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SENATOR CORNETT: Yes. They have a myriad of reasons for their existence, not only health insurance but workers' comp insurance. The PEO can provide on-site inspections for OSHA, they can help with withholding and taxes and with benefit plans. [LB579]

SENATOR CARLSON: Okay. And so it is insurance related and these PEOs are asking employers to place their confidence in them on insurance matters for their advisement so that employers don't have to hire somebody or have somebody else be concerned about these issues and changes in the law that might occur as time goes along. Would that be a fair statement? [LB579]

SENATOR CORNETT: Yes. I do want to emphasize, though, we are not making PEOs insurance agents. If they wish to do that, they have to go through the insurance licensure process. But they do provide the policy information to the employer...or to the client and the employees. [LB579]

SENATOR CARLSON: Now I thought part of this was that the PEO has to have a licensed insurance agent in whatever area of insurance that they're dealing in. [LB579]

SENATOR CORNETT: I'm sorry, sir, could you repeat the question? [LB579]

SENATOR CARLSON: I thought that part of your amendment and part of this agreement was that a PEO has to have a licensed agent in whatever area of insurance they're working in or dealing with. [LB579]

SENATOR CORNETT: If they are selling, if they are actually selling the insurance, yes. [LB579]

SENATOR CARLSON: Okay. Okay, if they're selling the insurance, and I think that that is an important point. I would have a concern about that, that a professional agent be involved in the selling process, and I think that your amendment has addressed that. [LB579]

SENATOR CORNETT: I believe so also. [LB579]

SENATOR CARLSON: Okay. And with that, I am in support of AM1566 and the underlying bill. Thank you, Mr. President. [LB579]

SPEAKER FLOOD: Thank you, Senator Carlson. There are no other lights on. Senator Stuthman, your light is now on. You are now recognized. [LB579]

SENATOR STUTHMAN: Thank you. Thank you, Mr. President, members of the body. I would like to ask a question of Senator Cornett. [LB579]

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SPEAKER FLOOD: Senator Cornett, will you yield to a question from Senator Stuthman? [LB579]

SENATOR CORNETT: I will. [LB579]

SENATOR STUTHMAN: Thank you. Senator Cornett, will there be a service fee for these small employers to belong to this or get the information? [LB579]

SENATOR CORNETT: They enter into a contract, contractual agreement with the PEO to provide services, so, yes, but it is a mutual agreement between them. The employer pays the PEO to provide these services. [LB579]

SENATOR STUTHMAN: So for a small employer, you know, there will be a cost to them but it will be a service also provided to that small employer. [LB579]

SENATOR CORNETT: Most of the...why small businesses enter into these arrangements with PEOs is because it's cheaper and easier for them to have someone else handle all of their human resources than for them to try and meet all the federal regulations and state regulations and insurance on their own. [LB579]

SENATOR STUTHMAN: Okay. That is the question that I had. Thank you, Senator Cornett. Thank you, Mr. President. [LB579]

SPEAKER FLOOD: Thank you, Senator Stuthman. Senator Nelson, followed by Senator Lautenbaugh. Senator Nelson, you are recognized. [LB579]

SENATOR NELSON: Thank you very much, Mr. President. I'd like to address a question or two to Senator Cornett. [LB579]

SPEAKER FLOOD: Senator Cornett, will you yield to a question from Senator Nelson? [LB579]

SENATOR CORNETT: Yes. [LB579]

SENATOR NELSON: Senator Cornett, I support the amendment to the extent that I'm able to read through it here and also the underlying bill. This PEO, they can represent any number of small businesses? Is there any limit to the amount that they can take on and contract with the individual small businesses? [LB579]

SENATOR CORNETT: No, I do not believe there is, but part of the amendment is that they have to have fiduciary responsibility for every client that they take on. [LB579]

SENATOR NELSON: A fiduciary responsibility. All right. I think you said that they can

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contract to do HR, human resources, for the small business? [LB579]

SENATOR CORNETT: Yes. [LB579]

SENATOR NELSON: Okay. My understanding of that is that then if a small business is looking for a certain employee or number of employees, why, then the PEO can go out and try and find them and hire them on behalf of the client. [LB579]

SENATOR CORNETT: You know, that is something I'll have to get back to you, because mostly what we have been talking about is the client already having employees or there being a co-employee relationship with the employer. [LB579]

SENATOR NELSON: Right. Well, I see some problems there about hiring and firing, and so I'm just wondering to what extent is the HR. And that doesn't have to be answered right now but it raises some questions in my mind. If you have a number of employees and one of them may be particularly difficult, who handles the process of annotating in their record what the...whatever you want to call it, what...their performance is not up to par and things of that... [LB579]

SENATOR CORNETT: I understand what you're saying and... [LB579]

SENATOR NELSON: Yeah. [LB579]

SENATOR CORNETT: ...both the client and the PEO have certain responsibilities in that it is all of the records, if they are contracted with that client for human resources. They can just do insurance, but they can also do human resources. [LB579]

SENATOR NELSON: Okay. [LB579]

SENATOR CORNETT: That obligation we spelled out in the contract, but it is a co-employer relationship so they come in and they can train the employees on different things regarding, like, sexual harassment. If an employee is terminated, then the...they document the reasons for that. [LB579]

SENATOR NELSON: All right. Part, I suppose, of a fiduciary responsibility would be confidentiality. That's pretty hard, I guess, to put in a contract, but do you know how that's...how that's worked out, if a PEO is representing a number of businesses, how they preserve the confidentiality of a particular business and who they hire and what their work is? [LB579]

SENATOR CORNETT: The confidentiality requirements are the same as with any health...or with any human resource department. That is spelled out in the bill that all that information is private under...subject to penalty. [LB579]

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SENATOR NELSON: So it pretty well has to be spelled out in the contract what they're going to do... [LB579]

SENATOR CORNETT: No, that part is... [LB579]

SENATOR NELSON: ...and what their obligation is. [LB579]

SENATOR CORNETT: That part is in, if you look at the bill, the requirements of the PEO for confidentiality for, like, Social Security numbers and everything is... [LB579]

SENATOR NELSON: All right. All right. [LB579]

SENATOR CORNETT: ...covered. [LB579]

SENATOR NELSON: And so the business contracts. They are the client. They contract with the PEO and they agree on a fee for the services that are provided by the PEO. [LB579]

SENATOR CORNETT: They agree to both a fee and to the types of services they wish to contract for. They can contract for just insurance and workers' comp, or they can contract for everything from payroll to benefits packages to retirement packages to workers' comp to insurance. It all depends on what that business's needs are. [LB579]

SENATOR HEIDEMANN PRESIDING

SENATOR HEIDEMANN: One minute. [LB579]

SENATOR NELSON: So this would enable the small business to operate more economically because they don't have to hire these people for their small business, as I understand it. [LB579]

SENATOR CORNETT: Correct. [LB579]

SENATOR NELSON: All right. Thank you very much. You've answered my question, Senator. Thank you, Mr. President. [LB579]

SENATOR HEIDEMANN: Thank you, Senator Nelson. Senator Lautenbaugh. [LB579]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I do rise in support of the two amendments and the underlying bill, and I applaud Senator Cornett for bringing this bill. I think PEOs have proven to be a valuable tool for small business in helping them control costs, and I feel like we may be catching up right now

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with this bill, and I think it's probably overdue. And that's not a criticism of Senator Cornett. I think it's great that she's bringing this and I'm glad we're taking care of this. These are valuable tools for small businesses, and I think we should give them the support by passing this bill, and I'll yield the rest of my time to Senator Cornett. [LB579]

SENATOR HEIDEMANN: Senator Cornett, you are yielded 4 minutes and 23 seconds. [LB579]

SENATOR CORNETT: Thank you, Senator Lautenbaugh. I would just urge the body to again, please, pass this bill to Select File and I'll be happy to answer any of the technical questions, because, like I said, this is an extremely technical bill, off the floor or between now and Select File. With that, I just urge the body to support the amendments and the underlying bill. Thank you. [LB579]

SENATOR HEIDEMANN: Thank you, Senator Cornett. Senator Utter. [LB579]

SENATOR UTTER: Thank you, Mr. President and colleagues. I would like to address a couple of questions to Senator Cornett, if I may, please. [LB579]

SENATOR HEIDEMANN: Senator Cornett, will you yield? [LB579]

SENATOR CORNETT: I will. [LB579]

SENATOR UTTER: Senator Cornett, as I understand the bill, the PEO does not represent employee organizations but strictly employers and groups of employers. Is that correct? [LB579]

SENATOR CORNETT: Yes. [LB579]

SENATOR UTTER: A second question I have and the second concern that I have has to do with the fiscal note. Can you shed some additional light on the fiscal note for me, please? I notice in...not in this fiscal year but in the fiscal years to follow there's a substantial General Fund impact projected. [LB579]

SENATOR CORNETT: There is in the original fiscal note. We believe we've addressed the majority of that in the amendments. Again, until the bill is passed to Select File, we won't know exactly where we are. But what it was originally was...and that's why we have the Department of Revenue involved heavily in the bill, is it was forgoing of projected revenue. We have reduced that by fees for registration for the PEOs and through other methods. But again, that is something that I do not have the exact amount, but I know we have reduced it significantly. [LB579]

SENATOR UTTER: The source of the fiscal note, what was the source of that General

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Fund impact? [LB579]

SENATOR CORNETT: I'd have to look again at the fiscal note specifically, but I believe it was forgoing of revenue the way the original bill was drafted. I believe we've, like I said, taken care of that, but I would be happy to go over that with you in a minute. I just have to find the fiscal note. I had it tabbed wrong. [LB579]

SENATOR UTTER: Well, the fiscal note shows...the original fiscal note, and I'm not sure what the impact of the amendments are, but showed a '10-11 impact of \$375,000, '11-12 of \$750,000, and '12-13 of \$800,000 in forgone revenues. [LB579]

SENATOR CORNETT: Correct. That's what I was saying, that it was forgone revenue and we have addressed that with the Department of Revenue in the bill...or in the amendment. [LB579]

SENATOR UTTER: So are you telling us then there would be no fiscal note? [LB579]

SENATOR CORNETT: We are still trying to determine how low we have brought the fiscal note. We know we've significantly reduced it. I do not have at this time, until the amendment is passed, a new fiscal note. [LB579]

SENATOR UTTER: Okay. Thank you, Senator Cornett. Thank you, Mr. President. [LB579]

SENATOR HEIDEMANN: Thank you, Senator Utter, and thank you, Senator Cornett. Senator Harms. [LB579]

SENATOR HARMS: Thank you, Mr. President, colleagues. Senator Cornett, would you yield just for a quick second? [LB579]

SENATOR CORNETT: Yes. [LB579]

SENATOR HARMS: I want to give you this fiscal note because I'm going to ask you a question on this. [LB579]

SENATOR CORNETT: I was going to...yeah, I've looked at it this morning. I must have left it on my desk. [LB579]

SENATOR HARMS: I know, but I know how that is. I sometimes can't find my fiscal notes. But my question for you is that in regard to basically a follow-up of the previous comments about it, the amount of money that this is calling for is fairly high and what I really want to know is, is the clients still going to be the same? The statement in there talks about the client and the amount of money. Is that still going to be the same? Are

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they responsible for that aspect of it? [LB579]

SENATOR CORNETT: Yes. [LB579]

SENATOR HARMS: Okay. It's not going to change at all from what it has in the past? [LB579]

SENATOR CORNETT: No. [LB579]

SENATOR HARMS: Okay, that was my question. That's what I wanted to know. [LB579]

SENATOR CORNETT: No. No, the...what we've been trying to do through the amendments, and we just filed the amendment I believe yesterday so we do not have the fiscal note exactly where it would be, but the amendment should reduce the fiscal note to close to zero or very low. We've been trying to go for revenue neutral without limiting or releasing the PEOs of any of their responsibilities. [LB579]

SENATOR HARMS: Okay. Thank you. Thank you, Mr. President. [LB579]

SENATOR HEIDEMANN: Thank you, Senator Harms, Senator Cornett. There are no other lights on. Seeing no other lights, Senator Cornett, you are recognized to close on your amendment. [LB579]

SENATOR CORNETT: Thank you, Mr. President, members of the body. I urge the body to pass the amendment, the committee amendment, and the underlying bill. What we are doing with this bill and which was the intent and involved hundreds of hours over the last year, year and a half between multiple agencies and the industry is to put regulations in place for an industry that has been working unregulated in this state so we can protect our small businesses, provide them services, and protect their employees. With that, I urge the body to support the bill and the underlying...or the amendments and the underlying bill. Thank you. [LB579]

SENATOR HEIDEMANN: Thank you, Senator Cornett. You have heard the closing on the amendment. The question on the amendment shall be, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB579]

CLERK: 41 ayes, 0 nays, Mr. President, on the adoption of the amendment to the committee amendments. [LB579]

SENATOR HEIDEMANN: The amendment is adopted. We are now back to discussion on AM1323. Senator Cornett. [LB579]

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SENATOR CORNETT: Waive close... [LB579]

SENATOR HEIDEMANN: Excuse me. It's Senator Lathrop's. [LB579]

SENATOR LATHROP: Are there no other lights on? [LB579]

SENATOR HEIDEMANN: There are no other lights on at this time. [LB579]

SENATOR LATHROP: And so you're inviting me to close. [LB579]

SENATOR HEIDEMANN: If you so choose, yes. [LB579]

SENATOR LATHROP: My committee amendment has just been completely substituted by the amendment of Senator Cornett, which we adopted, so kindly advance AM1323. Thank you. [LB579]

SENATOR HEIDEMANN: You have heard the closing on the amendment. The question is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB579]

CLERK: 43 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB579]

SENATOR HEIDEMANN: The amendment is adopted. We will now go back to discussion on the bill, LB579. Senator Cornett to close. [LB579]

SENATOR CORNETT: Thank you, Mr. President. Again, I urge the body to support this bill. It is a much-needed regulation of an industry in this state. Thank you very much. [LB579]

SENATOR HEIDEMANN: You have heard the closing on the advancement of the bill. The question is, shall the bill be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB579]

CLERK: 43 ayes, 0 nays, Mr. President, on the advancement of LB579. [LB579]

SENATOR HEIDEMANN: LB579 is advanced. Next bill, Mr. Clerk. [LB579]

CLERK: LB690, a bill by Senator Langemeier. (Read title.) The bill was introduced on January 6 of this year, referred to the Banking, Commerce and Insurance Committee, advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB690]

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SENATOR HEIDEMANN: Senator Langemeier, you are set to open on LB690. [LB690]

SENATOR LANGEMEIER: Mr. President, members of the body, the purpose of LB690, as the Clerk has stated in the one-liner, is to amend Section 87-214 and 87-219 of the trademark statutes to change the deadline provision relating to trade name publications. This change would extend the amount of time a trade name applicant has to publish and file proof of publication--your mike was on, I just heard you, that's okay--trade name application and extend it from 30 days to 45 days. What we see out across the state as we require these trade names to be filed, we see more and more weekly newspapers moving their deadlines up. It used to be you could take your...you file it on Tuesday, they would get it in the paper, it would be in the paper on Wednesday, the next day. Now we're seeing those deadlines Thursday, Friday, Thursday of the previous week to get in this week's paper. So if you miss one deadline, you're a long ways behind. So we would ask that you help us extend this from 30 to 45 days to allow people a little more time to get their trade names filed correctly and back to the Secretary of State. With that, I'd ask for your support of LB690. [LB690]

SENATOR HEIDEMANN: There are no amendments. I see no lights on. Senator Langemeier to close on LB690. Senator Langemeier waives closing on LB690. The question before the body is the advancement of LB690. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB690]

CLERK: 38 ayes, 0 nays on the advancement of LB690. [LB690]

SENATOR HEIDEMANN: The bill is advanced. Next bill, Mr. Clerk. [LB690]

CLERK: LB691 is a bill by Senator Langemeier. (Read title.) The bill was introduced on January 6 of this year; referred to Banking, Commerce and Insurance; the bill was advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB691]

SENATOR HEIDEMANN: Senator Langemeier to open on LB691. [LB691]

SENATOR LANGEMEIER: Thank you, Mr. President. LB691 creates an authority for the Nebraska Real Estate Commission to assess administrative fines against unlicensed persons conducting activities requiring a real estate license. This legislation provides for civil penalties, up to \$1,000 per day for such unlicensed activities or the amount of the commission earned as working as an unlicensed licensee, whichever is greater. The civil penalties could only be assessed after a notice given to that individual and administrative hearing process before the Nebraska Real Estate Commission with the Secretary of State as the presiding officer. This bill also clarifies the jurisdiction of the Nebraska Real Estate Commission over licensed persons in disciplinary matters and extends and clarifies that jurisdiction if they voluntarily surrender or their license

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lapse. With that, Mr. President, I would ask for the support of LB691. [LB691]

SENATOR HEIDEMANN: Is there any discussion on LB691? Seeing no other lights on, Senator Langemeier to close. Senator Langemeier waives closing. The question before the body, shall LB691 be advanced? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB691]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB691. [LB691]

SENATOR HEIDEMANN: The bill is advanced. Next bill, Mr. Clerk. [LB691]

CLERK: Mr. President, LB736 is a bill by Senator Pirsch. (Read title.) The bill was introduced on January 6 of this year; referred to Banking, Commerce and Insurance; advanced to General File. At this time I have no amendments to the bill. [LB736]

SENATOR HEIDEMANN: Senator Pirsch, to open on LB736. [LB736]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. The provision of Nebraska law grants a condominium homeowners' association a lien on a unit for any assessment levied against that unit or fines imposed against its unit owner from the time the assessment or fine becomes due, and a notice containing the dollar amount of such lien is recorded in the office where mortgages are recorded. The statute further establishes the priority of a condominium homeowners' association lien in relation to other types of liens, including a first mortgage or deed of trust, against the unit and liens for real estate taxes and other governmental assessments or charges against the unit. While Nebraska law sets forth the rules governing the establishment and priority of condominium homeowners' association liens, there are currently no statutory provisions that address the establishment and priority of the liens of other types of homeowners' associations, such as a townhome owners' association or a one- to four-family residence homeowners' association. LB736 would establish provisions relating to the establishment and priority of liens that are identical to the existing provisions of Nebraska law for all types of homeowners' associations other than condominium homeowners' associations. That's the sum and substance of it and I ask for your support. Thank you, Mr. President. [LB736]

SENATOR HEIDEMANN: Thank you, Senator Pirsch. Senator Ashford. [LB736]

SENATOR ASHFORD: Thanks, Mr. President. I...a plane ride back to Omaha a couple of months ago I sat next to a gentleman who is a federal agriculture official in Nebraska and he was complaining the entire trip back from Washington about the liens that were filed on homeowners' associations by homeowners' associations and he has just sent me an e-mail. (Laugh) So I apologize to Senator Pirsch for not talking to him about this but let me...could I ask Senator Pirsch a couple of questions? [LB736]

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SENATOR HEIDEMANN: Senator Pirsch, would you yield? [LB736]

SENATOR PIRSCH: I would. [LB736]

SENATOR ASHFORD: The concern that this gentleman has relates to the notice...this is a single-family residence homeowners' association situation context. The concern that he has is that the decisions made by the board of the associations that could result in a lien being filed for failure to pay are made not very...not at all transparently and there are no notices of board meetings that are sent to the homeowners. This happens to be in Elkhorn, I believe. This particular homeowners' association is in Elkhorn, the home is in Elkhorn. His...I think he indicated he paid about \$500 a year or so for an assessment and he's concerned that there's quite a bit going on and are his neighbors going on that the...within this association management that they don't know about. Does this...does this lien bill include single-family homeowners' association type places or...? [LB736]

SENATOR PIRSCH: I believe it would. [LB736]

SENATOR ASHFORD: Okay. [LB736]

SENATOR PIRSCH: It would include...but it's... [LB736]

SENATOR ASHFORD: I... [LB736]

SENATOR PIRSCH: I'm sorry. What it's attempting to...I think different courts are reaching different decisions and so there's kind of mayhem and discord within the area of the law. And so the majority...I think what this does is impose the structure that a majority of the courts are following and the structure that is specifically utilized in statute now with respect to a certain category. And so... [LB736]

SENATOR ASHFORD: And...okay. And I...and this may be a very well...this may very well be a change that needs to be made procedurally in the assessment of these liens. I don't have a problem with that. But what I would like to do, and I'm not going to waste the body's time this morning, but give this e-mail to Senator Pirsch, maybe have some conversations about the transparency of homeowners' association management. It appears to be problematic, at least for this gentleman in Elkhorn, and maybe it's something we can iron...talk about and maybe put some sort of amendment on, on Select File. But I just wanted to alert you to that. And it does not sound as if it's relevant directly to the bill but it's a tangential issue that this gentleman is raising. So thank you, Mr. President. [LB736]

SENATOR HEIDEMANN: Thank you, Senator Ashford and Senator Pirsch. Senator

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Fulton. [LB736]

SENATOR FULTON: Thank you, Mr. President. Would Senator Pirsch yield to a question? [LB736]

SENATOR PIRSCH: I would. [LB736]

SENATOR HEIDEMANN: Senator Pirsch, will you yield? [LB736]

SENATOR PIRSCH: I would. [LB736]

SENATOR FULTON: Okay, Senator, the...help me understand. The homeowners' association...so this bill, the object of this bill is to provide homeowners' associations with an authority that they did not previously have. Is that correct... [LB736]

SENATOR PIRSCH: No. [LB736]

SENATOR FULTON: ...or is this something that homeowners' associations have as an authority now? [LB736]

SENATOR PIRSCH: They do, and it depends which court...what this bill attempts to do...and, by the way, I appreciate the words that were spoken by Senator Ashford and I believe greatly in transparency as well and certainly, you know, if there's any concerns with the existing law we can certainly look at that as well. What this bill attempts to do is simply to bring on the same page and harmonize what different court...different courts are reaching different decisions right now and so it is using as a model that which exists in law already with respect to one homeowners' association setting, that being condominium homeowners' association and I believe what a majority of the courts are currently...the decisions they're reaching in terms of prioritization of liens. And so in saying people want certainty in the law, what they can expect, who has a subordinate type of lien, and so what this does is brings...it kind of unifies all homeowners' associations under the same rule so that there is certainty of knowledge of what is expected... [LB736]

SENATOR FULTON: Okay. [LB736]

SENATOR PIRSCH: ...and courts will reach uniform decisions. [LB736]

SENATOR FULTON: Do then presently homeowners' associations...or what I'm hearing then is some homeowners' associations have authority for these liens on homeowners' association members, certain members... [LB736]

SENATOR PIRSCH: Yeah. [LB736]

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SENATOR FULTON: ...that have assessments or fines levied against the real estate, so some do, some don't? Is that the case now? [LB736]

SENATOR PIRSCH: No, I think...I think that they do. Again, it matters...the courts are I think reaching certain decision...I mean I think the majority of courts are reaching clear decisions that they do. You know, I live in a SID, a sanitary improvement district, and, you know, so that the homeowners' association does have the power to go down and file a lien upon any property. So this power exists now. I guess what the concern is, is that, you know, as far as it being clear to all people so that we're, you know, everybody is on notice and fair that, in fact, these...I guess that the same rule is enshrined in statute so everybody can be aware of that. [LB736]

SENATOR FULTON: Okay. [LB736]

SENATOR PIRSCH: And as I said, this is the same paradigm that applies under current law for condominium homeowners' associations. [LB736]

SENATOR FULTON: Okay. That's...I'm...Senator, I'm not...I'm just...I'm trying to determine where the genesis of the bill is, so it sounds like there is some ambiguity with regard to practice of homeowners' associations and this authority across Nebraska. This is a bill really to clarify that which is in practice presently. Is that an accurate assessment? [LB736]

SENATOR PIRSCH: That's my understanding, correct, yes. [LB736]

SENATOR FULTON: Okay. [LB736]

SENATOR PIRSCH: There's no changing in what I believe to be the law, but I think that it's important that it is uniform, made uniform in statute, so that everyone can be... [LB736]

SENATOR HEIDEMANN: One minute. [LB736]

SENATOR PIRSCH: ...clearly put on notice that that is... [LB736]

SENATOR FULTON: Okay. [LB736]

SENATOR PIRSCH: ...what the law is in Nebraska. [LB736]

SENATOR FULTON: Okay. Thank you, Senator Pirsch. Thank you, Mr. President. [LB736]

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SENATOR HEIDEMANN: Thank you, Senator Fulton and Senator Pirsch. Senator Lautenbaugh is recognized. [LB736]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do rise in support of this bill. I understand the concerns voiced by Senator Ashford but, and I realize this will sound like here we go again, I serve...I'm a member of a homeowners' association board so I'm familiar with this problem and there does not seem to be uniformity in the way the liens are currently enforced now. I do know that I've heard for years the concerns about lack of notice. I also know that in my particular case the homeowners' association mails out a notice of dues every year, I think it's \$35, give or take, and I don't know that people aren't getting them. But I know the case is that we, in our case, wait till they're two, three, four years behind before we take any action such as filing a lien, which could ultimately then be foreclosed. But I do think this is a important clarification of existing law. I thank Senator Pirsch for bringing it. And if there are any sort of technical issues that can be worked out, I'm sure that can be sorted out. But I would urge the advancement of it at this time. [LB736]

SENATOR HEIDEMANN: Thank you, Senator Lautenbaugh. Senator Lathrop is recognized. [LB736]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I've had a chance to look at this bill and I have a couple of concerns. The first one is in paragraph (6) where it says the prevailing party must be awarded attorney's fees and costs, and I think it's important for people to recognize in this country we don't, except for certain circumstances, award attorney fees to the prevailing party at the expense of the losing party. So we're violating, by including this provision regarding attorney fees, we're running contrary to the traditions of our legal system, which is the losing party is going to pay under these circumstances. So I'd like to see that come out before this gets to Select File. That's my first concern. My second one and perhaps Senator Lautenbaugh can respond to this because there are two kinds of things that I think can come up in an assessment by a homeowners' association. The first would be the fee that you agree to pay when you come in. I live in a homeowners' association or in a subdivision with a homeowners' association. I pay like \$400 a year and they come and maintain the common areas, they plant some flowers and mow a few common areas, and I understand that and I'm okay with that, the lien applying to something that's in the covenants. But here's another circumstance that does cause me some concern and that is the homeowners' association is also responsible for enforcing the covenants, so typically in metropolitan areas you'll have these subdivisions and they may have a rule against parking an RV in the driveway, they may have a rule against satellite television disks, things like that that are intended to provide for the common appearance that everybody that moves into the neighborhood wants. So what happens in these cases then if a person puts up a satellite dish and he thinks it's a satellite dish that's okay to put up but the homeowners' association or the person that's in charge of it decides that

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it's not, goes over there, pays somebody to take the satellite dish down off the neighbor's house, and now we have an assessment by the homeowners' association for an amount that no one gets to decide is fair, reasonable, or even whether it ought to be imposed at all, it turns into a lien on the real estate. And perhaps Senator...Senator Lautenbaugh, do you mind responding to that or addressing my concern? [LB736]

SENATOR HEIDEMANN: Would Senator Lautenbaugh yield? [LB736]

SENATOR LAUTENBAUGH: Yes, I will. [LB736]

SENATOR LATHROP: The question is, would this bill permit the homeowners' association to take action, whether it's towing an RV out of somebody's driveway, whatever they think is appropriate and necessary to enforce the covenants, and then turning it into a bill, turning that into a lien on the real estate without ever giving the homeowner, the affected homeowner, an opportunity to dispute whether there's been a violation of the covenants? [LB736]

SENATOR LAUTENBAUGH: Thank you, Senator Ashford...I'm sorry, Senator Lathrop. I'd be happy to answer that. At first blush, I'd note you must live in a nicer neighborhood than I do, based upon the respective amount of our homeowner association dues, so just a thought. But in any event, in my experience, and I think this would have to be how it is done, nothing in the covenants would give you the right to enter on land and do something. That would still be a trespass. In my individual case, for my homeowners' association, generally there's a court action. If it involves painting a house, if someone paints a house fluorescent blue, someone installs an aboveground swimming pool in their background--none of these are hypotheticals, by the way--... [LB736]

SENATOR HEIDEMANN: One minute. [LB736]

SENATOR LAUTENBAUGH: ...etcetera, etcetera, you bring a court action to order the removal. There's nothing that would, in I've ever heard, no one has ever argued that the covenants give a self-help right for the homeowners' association to actually enter the property, tow away the RV, take down the satellite dish and then bill you for it. And even in the covenants, the legal fees for enforcement, we don't have a provision, I don't know if any do, that say the fees become part of the judgment for removing the offending item. It's just part of what the homeowners' dues are spent upon. [LB736]

SENATOR LATHROP: So you think this bill would apply only to the agreed upon annual assessment? [LB736]

SENATOR LAUTENBAUGH: That's generally how I read it. I have to admit I also had a concern about the word "fees" in there, too, to the extent it might refer to legal fees for the filing of the lien, and we may want to look at making that only applicable if a

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foreclosure action has to be filed or something to that effect. [LB736]

SENATOR LATHROP: Yeah. I just want to make sure that anything that you can get a lien for is something the person... [LB736]

SENATOR HEIDEMANN: Time. [LB736]

SENATOR LATHROP: ...agreed to. Thank you. [LB736]

SENATOR HEIDEMANN: Thank you, Senator Lathrop and Senator Lautenbaugh. Senator Wightman is recognized. [LB736]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I, too, had underlined the part with regard to reasonable attorney's fees, and certainly Senator Lathrop is correct in that we do not usually provide for attorney's fees to the prevailing party. We do assess the court costs. I guess I would have a question or two of Senator Pirsch with regard to that, if he would yield. [LB736]

SENATOR HEIDEMANN: Senator Pirsch, will you yield? [LB736]

SENATOR PIRSCH: I would. [LB736]

SENATOR WIGHTMAN: What discussion was there with regard to the attorney's fees? Was it felt that in all instances attorney's fees would be justified to the prevailing party? [LB736]

SENATOR PIRSCH: Yes. Let me address that, Senator, and I appreciate the question with respect to that provision that Senator Lathrop spoke of. The reason for the inclusion of that language was because that's what exists, you know, I know Senator Lathrop has his experience, but that...those...that paradigm, that structure actually does exist in Nebraska law with respect to the condominium homeowners' association with what I spoke. So we based this bill upon existing state law with respect to the existing condominium homeowners' association. [LB736]

SENATOR WIGHTMAN: Okay. I'd follow up. I assume these vary quite a bit as far as monthly or annual assessments in these homeowners' associations and some of them are quite small. Is that correct? [LB736]

SENATOR PIRSCH: I guess that's a relative kind of determination but, yeah, yeah, I would say a lot of these are quite small in nature. [LB736]

SENATOR WIGHTMAN: I heard Senator Lathrop refer to some that were like \$45 a month or maybe that was an annual amount and then there was one that was...he

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discussed, maybe \$400 a year. Is this typical? [LB736]

SENATOR PIRSCH: I would think to when you're talking about statewide, yes, that would be. [LB736]

SENATOR WIGHTMAN: So I assume that this might be justified because of the fact the amounts are frequently so small that you really have no remedy at all if you couldn't collect attorney's fees as well. Is that one of the thoughts? [LB736]

SENATOR PIRSCH: I think that was part of the reason that went into the decision by prior Legislatures to pass the condominium homeowners' association and so that's my assumption of why they did it and that's certainly something that I looked at when we drafted this bill. You know, we didn't want to reinvent the wheel but just simply use something that seemed to be a workable paradigm that's already existing in Nebraska law and just simply give structure to the rest of the homeowners' associations that weren't specifically spelled out. So that was the basis for that decision for that verbiage. [LB736]

SENATOR WIGHTMAN: I see there's a three-year statute of limitations, Senator Pirsch. Is that the same statute of limitations that's currently in the condominium law? [LB736]

SENATOR PIRSCH: That's my understanding. [LB736]

SENATOR WIGHTMAN: And in the past has it been three years? Have you used...the people who have enforced this, and it sounds like a number of cases have been tried in the courts with regard to foreclosing these liens, has it been a three-year statute of limitations or has that been irregular among the various courts as well? [LB736]

SENATOR PIRSCH: You know, that...to that particular question I'm not sure. I'd have to find out more, but I think, you know, I think, you know, just from my understanding, that's my expectation, the three-year. [LB736]

SENATOR WIGHTMAN: Well, thank you, Senator Pirsch. [LB736]

SENATOR PIRSCH: Yeah. [LB736]

SENATOR WIGHTMAN: I do think that perhaps in this case the allowance of attorney's fees might be justifiable from the standpoint that many of them are very small and if you were talking about... [LB736]

SENATOR ROBERT PRESIDING

SENATOR ROBERT: One minute. [LB736]

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SENATOR WIGHTMAN: ...two or three years at \$100 or \$200 a year, it could easily eat up all of the collections that you may make under the lien in order to pay the attorneys who are representing you. Thank you, Senator Pirsch. Thank you, Mr. President. [LB736]

SENATOR ROBERT: Thank you, Senator Wightman. Senator Ashford, you're recognized. [LB736]

SENATOR ASHFORD: Yeah, just a brief additional point. What we have in LB736 is new law. It's my understanding...may I ask Senator Pirsch a question again? And I apologize because this may be plowing ground that is outside the scope, but I just want to understand. [LB736]

SENATOR ROBERT: Senator Pirsch, will you yield to a question? [LB736]

SENATOR PIRSCH: I will. [LB736]

SENATOR ASHFORD: Okay. The...LB736 is adding language, new law in effect, it's a new statute really, concerning liens for homeowners' associations generally, correct? That's what this does. [LB736]

SENATOR PIRSCH: Yeah. With, well, with respect to those outside of the existing condominium homeowners' association. [LB736]

SENATOR ASHFORD: Okay, or the existing law. [LB736]

SENATOR PIRSCH: Yeah. And there's...and there's a specific, oh, exemption. I'm trying to...if you can give me a second I can find it. [LB736]

SENATOR ASHFORD: No, that's okay, but this is new, this is new language, this is new law. This is not amending an existing statute. [LB736]

SENATOR PIRSCH: Correct. That's correct. [LB736]

SENATOR ASHFORD: Okay. And I think this...the point I'm trying to make here is what we're...and I think Senator Lathrop mentioned and Senator Wightman, is we are creating a uniform, which is good, a uniform process to...for the...to enforce liens, and I think that's a...as Senator Pirsch has suggested, is a positive thing to do. The concern that is raised by this gentleman in Elkhorn and by Senator Lathrop is there is no existing law now. So what we're doing is we're adding a law concerning liens, but there is nothing in the law to protect, that I can see, to protect the homeowner from some of the issues that are being raised here, whether or not attorney fees can be collected,

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whether or not the homeowner had adequate notice of the process for determining the amount of the charge that each homeowner pays on a monthly basis, the election process for the homeowners' association. In effect, what we're doing is we're creating a...and, again, I have no objection to the procedure, but we're creating another sort of tax lien on this property and giving it the same force and effect and giving it certain priorities, but some of these homeowners' associations are lax in how they're managed. They can be somewhat of a group of friends that get together and decide how all these charges are going to occur, who gets the contracts, all these questions. And I don't think we necessarily have to get into all those questions with this bill, but I think there are some...I would have some concerns about creating, without creating new language or new law, creating...regarding the liens or the assessments without having some language about notice to the homeowner of how the assessment was arrived at or how the charge was arrived at. I think that's what I'm getting at here. Thanks, Mr. President. [LB736]

SENATOR ROBERT: Thank you, Senator Ashford. Senator Lautenbaugh, you're recognized. [LB736]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. And I did want to clarify some things on this from the prior questions and comments. Again, I remain in support of this bill conceptually and otherwise. I understand the need to possibly add a provision for recovery of attorney's fees here, but I think it's important to understand why and at what level. The act of recording a lien is not cost-prohibitive. Homeowners' fees can be all over the map. Like I said, in my case a whole year is \$35. Others have much higher fees, monthly even. But in the case of a homeowners' association like my own, to go hire an attorney to pursue a \$35 filing of a lien is cost-prohibitive, so we wait for several years. But more to the point, if you have to foreclose that, that's where the fees really start to accrue and the expenses, I should say, start to accrue for the homeowners' association beyond what we're talking about here for just filing of the lien. The filing of the lien could be a fill-in-a-blank form that is notarized and any homeowners' association or management company can do that. And if we don't want to have repayment of fees for that, that's probably why, is because that doesn't have to be a prohibitive expense. But the actual foreclosure action for if someone in my neighborhood goes three years unpaid, that's \$105 plus a few late charges, so \$120, it's important that they pay that but the cost of the foreclosure action, the filing fee alone is \$80 or \$90, so I think it is important that we look at that. And again, if somehow one of the comments was made, as long as people have agreed to these things, you don't always agree to a homeowners' association. You move to a neighborhood that may have a homeowners' association, more often than not, unless you're one of the original owners. And why that is still okay, in my mind, to enforce that is that homeowners' association covenants, dues, all that have to be of record. And your realtor is supposed to let you know, of all the obligations, all the things encumbering the property when you move in, including an ongoing obligation to pay homeowners'

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association dues. If your realtor fails to give you notice of that, you have a cause of action against a realtor. Trust me, this also is not a hypothetical in my circumstance. You can sue a title company, probably not a realtor, I misspoke, certainly a title company for nondisclosure of the fact there's a homeowners' association and dues. Similarly, if a homeowners' association goes off the rails and decides to try to charge you something that they're not entitled to by issue, by virtue of the covenants or otherwise, you'd probably have an action against them for slander of title under existing law. So I think people are adequately protected. I think people are getting notice or they have a remedy. But more often than not, in my experience, people have notice and they just say, I don't want to pay that. Well, I'm sorry, the homeowners' association exists for a purpose, to the extent they exist in various neighborhoods. People do rely upon them to enforce the covenants, keep the character of the neighborhood consistent with what you move to, and the other homeowners have a right to rely on that and that's a common obligation of all who own property in that neighborhood. So again, I believe this bill is meritorious. I believe to a certain extent it's codifying what already takes place in a lot of circumstances. Currently now you can file a lien for homeowners' association dues and foreclose it. I don't believe you have the right to recover attorney's fees for the foreclosure action but you probably should. And again, we're putting the burden on someone who would have received notice of the lien and would have received notice of the lawsuit, if it even comes to that, before it can proceed. So we're worried about, in my opinion,... [LB736]

SENATOR ROBERT: One minute. [LB736]

SENATOR LAUTENBAUGH: ...people who are choosing not to meet their obligations to their neighbors. And I think there has to be a mechanism for enforcement of those obligations just in concern and justice for the other neighbors who do live up to their obligations. So I do support this bill. [LB736]

SENATOR ROBERT: Thank you, Senator Lautenbaugh. Senator Lathrop, you're recognized. [LB736]

SENATOR LATHROP: Thank you. And, Senator Lautenbaugh, that was helpful and I agree with the concept as well, that if you move into a neighborhood, you know you're going to have an assessment. And more and more in Omaha we have these full-service neighborhoods where you agree to pay the association \$85 a month and they're going to pick up the trash and scoop your driveway and clean your sidewalks and all those...and mow your lawns. And so addressing this issue is important. But the bill says not just assessments but fines, and I'm not sure what a fine is by a homeowners' association, what the process is for determination of the fine, whether it's fair and reasonable before it becomes a lien on your property. That's where my concern is. The second one, besides the attorney fees, is that the bill also says that if you're supposed to make payments in installments, so if you agree to pay \$85 a month to have your

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trash picked up and the association is going to mow your lawn and scoop your walks, as soon as you don't pay the first installment this allows you to get a lien for all the installment, but it doesn't tell you how far into the future. Is it for the rest of the year or is it just for the next two or three installments? So I will say this, that I share Senator Lautenbaugh's sentiment that this is a good idea conceptually but that it should be limited to assessments that people have agreed to by moving into the neighborhood. As Senator Lautenbaugh said, you look at the covenants before you move into one of these neighborhoods, you know what they are. What I do have a problem with is the idea that a homeowners' association is going to be fining somebody or imposing a lien for a fine and the person never has a chance to have any kind of a hearing or a process to determine whether they were entitled to have that fine assessed in the first place and then become a lien. So Senator Pirsch has agreed to talk about this between now and Select File and I'll take him up on that. Thank you. [LB736]

SENATOR ROBERT: Thank you, Senator Lathrop. Senator Pirsch, you are the last light on. [LB736]

SENATOR PIRSCH: I am. Okay, I'll use this as my closing. Thank you, Mr. President. And I appreciate the comments spoken here today. This bill is not creating tax liens but, rather, is an attempt to make, as Senator...a prior senator had spoken of and I can't remember, I think that was Senator Ashford, he was correct, this is an attempt to make a uniform process as...in terms of addressing liens regardless of the type of homeowners' association. And it makes no sense why we have just a current statute that addresses condominium homeowners' associations, and we felt that it was important enough to go ahead and give structure so that people understood that process and, yet, leave the rest blank, such that courts are struggling to find a uniform way of dealing with this. And so this is...obviously, I appreciate the helpful statements and I took them as intended and I, you know, pledge to work in between now, General File, and the next stage of debate to address those concerns and tweak the bill in a manner that...and hopefully informed so that we're all on the same wavelength here. But that is not the intent, to create new fines or to somehow not give people due process. They are entitled to due process and they always have the redress with the courts, those homeowners who have first of all, as Senator Lautenbaugh pointed out, moved into the neighborhood with the covenants and had been made aware of them and it has to be on their declarations so they were on notice. But even still, having agreed to that, they always have the means of redress through the courts. And so nonetheless, I would be more than happy to work with everybody in terms of the language and tweaking it just such between now and the next stage of debate. And so based on that, I would just point out that this bill came out of committee without any opposition and no votes against the bill. And so with that, I would ask for your vote at this point in time with the pledge that we will work to address any language concerns between now and the next stage of debate. Thank you, Mr. President. [LB736]

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SENATOR ROBERT: Thank you, Senator Pirsch. Members, you have heard the closing to LB736. The question before the body is, shall LB736 advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB736]

CLERK: 31 ayes, 1 nay, Mr. President, on the advancement of LB736. [LB736]

SENATOR ROBERT: LB736 does advance. Next item, Mr. Clerk. [LB736]

CLERK: LB751 is a bill by Senator Pahls relating to secured transactions. (Read title.) The bill was introduced on January 6 of this year; referred to Banking, Commerce and Insurance; the bill was advanced to General File. I have no amendments pending, Mr. President. [LB751]

SENATOR ROBERT: Senator Pahls, you are recognized to open on LB751. [LB751]

SENATOR PAHLS: Thank you, Mr. President, members of the body. This bill would do one thing. It would remove recently enacted nonuniform provisions from a section of Article 9 of our Uniform Commercial Code. Article 9 governs secured transaction. The bill would amend UCC section 9-506, which governs the effects of the errors or omissions in a financing statement. A financing statement is what a lender files with the Secretary of State to establish priority of its secure interest and personal property that serves as collateral for an obligation. UCC section 9-506 was amended by the Nebraska Legislature in 2008 to provide that a financing statement with minor errors and omissions is not seriously misleading if a search of the debtor's correct last name in the records of the filing office would disclose a financing statement. The 2008 amendment to this section were nonuniform and were not to become applicable until September 2009. This section was further amended by the Legislature in 2009 to provide that the 2008 amendments would not become applicable until September 2010. Well, now here it is, we are in 2010. LB751 would repeal the 2008 nonuniform amendments before they can ever become effective. Commentators around the country have been expressing concern that a number of states, with Nebraska being among them, have been enacting a mixed bag of provisions regarding the searching of debtor's name. It has been urged that states put their efforts on hold and give the Uniform Law Commissioner some time to come up with uniform amendments regarding this matter for all states to consider. It is expected that the Uniform Law Commission will be considering these amendments regarding this and related matters for recommendation to all states yet this year. Now LB751 would return Nebraska's UCC section 9-506 to its original uniform text pending a completion by the Uniform Law Commissioners of their work. Again, I urge you to advance this bill. Thank you. [LB751]

SENATOR ROBERT: Thank you, Senator Pahls. Members, you have heard the opening to LB751. Those wishing to speak, Senator Nelson, you're recognized. [LB751]

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SENATOR NELSON: Thank you, Mr. President. I'd like to ask a question of Senator Pahls. [LB751]

SENATOR ROBERT: Senator Pahls, will you yield to a question? [LB751]

SENATOR PAHLS: Yes. [LB751]

SENATOR NELSON: I have a very simple question, Senator. What's wrong with leaving the law the way it is until the uniform commissioners get around, you know, to deciding what the uniform law will be and then present at that time and then we could either repeal our statute as it exists now or amend it down the road? [LB751]

SENATOR PAHLS: Well, we're carrying this bill for the sake of, to be honest with you, of several organizations. We have amended this twice, continuing to move it, and what we're trying to do is become part of the larger organization and take a look and they were requesting, the commissioners, that we do take a look at our bill, our current law, and put it on hold, because they're going to come up with something yet this year. And this would actually come in effect September 2, 2010. So hopefully that's one of the reasons why they want us to... [LB751]

SENATOR NELSON: Oh, all right. Then I'm understanding that the law that we passed in 2008, was that it, it doesn't become effective then till September of 2010? [LB751]

SENATOR PAHLS: Right. Last year we had an amendment to push it back to 2010 and we've been...we've been moving this along because even I think when we passed this we were not sure which direction we should really go. And the commissioners are asking all those states, I think there are three of them if I'm not mistaken, Nebraska being one of them, to take a look at this and get on board with them. So we're going to go back to the original. We're going to go back to the original. [LB751]

SENATOR NELSON: So if we repeal...if we repeal the action that we did in 2008, where are we then? [LB751]

SENATOR PAHLS: If we repeal that, we'd go back to where we started, where we've been for years. [LB751]

SENATOR NELSON: All right. [LB751]

SENATOR PAHLS: And there's been some concern because there's been some...they said it was somewhat misleading. The courts have ruled some of these were misleading. I'll give you an example. If they were searching, and I'll just use myself personally, if I had signed something Rich Pahls and somebody is looking under

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Richard Pahls, they had ruled that was misleading. So we're trying to clear that up. [LB751]

SENATOR NELSON: All right. Thank you. I thank you very much, Senator Pahls. Thank you, Mr. President. [LB751]

SENATOR ROBERT: Thank you, Senator Nelson and Senator Pahls. Senator Stuthman, you're recognized. [LB751]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to ask Senator Pahls a question. [LB751]

SENATOR ROBERT: Senator Pahls, will you yield to a question? [LB751]

SENATOR PAHLS: Yes. [LB751]

SENATOR STUTHMAN: Senator Pahls, what we passed in 2008, there seems like there was some problems with it so then it was amended to wait another year and then wait another year and wait another year, and what you're trying to do right now is to just stop the waiting until they get it right and go back to the original uniform text until they can come up with a uniform report, uniform law, and the commissioners are supposed to get that. And that may be years to come so what you're trying to and attempting to do is to make it that let's get rid of all that stuff, go back to the original, and allow them to come up with something so we don't have to continually, year after year, you know, move this thing ahead. Is that correct? [LB751]

SENATOR PAHLS: Right. Simply would be...want to become uniform with the rest of the states. [LB751]

SENATOR STUTHMAN: You wouldn't have any idea as far as how many years this would take? [LB751]

SENATOR PAHLS: Was my assuming they're working on it right now. [LB751]

SENATOR STUTHMAN: But wouldn't have they been working on it in 2008 already, anticipating that it would be enacted? [LB751]

SENATOR PAHLS: I've been told that they are hoping to have everything finalized in July of this year so we can enact that for next year. [LB751]

SENATOR STUTHMAN: Okay. Thank you, Senator Pahls. That is, you know, it is an attempt to get that done. But when I look back at the past history of it, you know, in my opinion, why couldn't it have been done, if we're talking about it right now and they're

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going to get it done by...in the summer or something like that, why couldn't it have been done in the summer of 2008, 2009, or right now? I mean that's the issue that I have. So with that, I do support this going back to the original uniform act of Nebraska and the fact that let's get it right and then, when they come with something uniform, then engage in presenting a bill so it can be enacted on. Thank you, Mr. President. [LB751]

SENATOR ROBERT: Thank you, Senator Stuthman. Senator Langemeier, you're recognized. [LB751]

SENATOR LANGEMEIER: Mr. President, members of the body, I rise in support of LB751. I offered a bill last year to extend the implementation date of this law that was passed in 2008, to extend it to 2010. And now we're asking, instead of extending it, and I asked this same question last year when I brought the bill, I asked, I said should we just repeal it and then as soon as we get a uniform standard out there that all states can use then we'll pass it. And the decision was made that let's just delay it a year, leave it out there in case we decide it is the right way to go. Now we're asking you to repeal it, and I'm sure Senator Pahls or I will be back with this same piece of legislation in a uniform standard format that's going to be uniform across the country and we'd ask for that adoption at that time. But for now, we're going to repeal this so we don't have to worry about it, and we'd ask for your support of LB751. [LB751]

SENATOR ROBERT: Thank you, Senator Langemeier. Seeing no other lights on, Senator Pahls, you're recognized to close on LB751. [LB751]

SENATOR PAHLS: Thank you. I appreciate the discussion. Again, we're just going back trying to make this uniform across the states. Hopefully, by July they'll have everything in place. And you'll be hearing me next year on this same topic. Thank you. [LB751]

SENATOR ROBERT: Members, you have heard the closing to LB751. The question before the body is, shall LB751 advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB751]

ASSISTANT CLERK: 33 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB751]

SENATOR ROBERT: LB751 does advance. Next item on the agenda. [LB751]

ASSISTANT CLERK: Next bill, Mr. President, is LB650, which is introduced by Senator Christensen. (Read title.) The bill was read the first time on January 21 of last year, referred to the Committee on Transportation and Telecommunications. That committee reported the bill to General File with committee amendments attached. (AM1582, Legislative Journal page 275.) [LB650]

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SENATOR ROBERT: Senator Christensen, you're recognized to open on LB650.
[LB650]

SENATOR CHRISTENSEN: Thank you, Mr. President and colleagues. For the record, I will speak to the green copy as introduced. However, I am in full support of the commitment amendment, AM1582, which will become the bill with one exception. I will address my concern with committee amendment with AM1593. I've handed out two maps I believe may be helpful for you for our discussion this morning. I believe they will help you understand the amendment to the committee amendment, AM1593. For those of you who are not familiar and have not seen a minitruck, I've handed out pictures for you. LB650, the green copy, would allow minitrucks to be operated on Nebraska roads except interstate highways and controlled-access highways and expressways. Currently, the federal law marks these minitrucks as off-road vehicles during the import process. Because minitrucks are not defined in statute and do not fit into other motor vehicle categories, there is confusion as to...as to how many trucks should be treated under the law. This has caused conflicts between owners, county attorneys, law enforcement, and the Department of Motor Vehicles. It has also made some Nebraska small businesses less competitive with businesses in surrounding states that have more freedom to operate minitrucks. It is the intent of LB650 to put minitrucks in the statute and to clear up the confusion so that they may be properly operated in Nebraska. For example, one constituent from Perkins County has been ticketed for no registration or license because law enforcement see it as a motor vehicle or truck. However, he could not register or license his minitruck because he was given an ATV title even though his vehicle under Nebraska law does not fit in the ATV category. He tried to make it a slow moving vehicle with a sign on the back and that didn't work. He had his out...pickup out...he outfitted the minitruck to use it as a sprayer so he could call it a floater. That didn't work. So he thought he would let the judge decide what to do. Last fall a judge who was waiting for the Legislature to clear up this area in our statutes finally decided to call it a motor vehicle that needs to be licensed and registered. Therefore, we need to act and make our statutes clear regarding minitrucks. We've had many other supporters contact our office from my district and around the state. The overriding theme is, if I could use my minitruck as my primary work vehicle for my small business, it would help my bottom line, because they are fuel-efficient and versatile. Many people also use minitrucks as agricultural vehicles. But all of them are hoping we allow them as much freedom as possible to drive these vehicles. LB650 defines minitruck and requires title, registration, proof of financial responsibility. In addition, it would allow a minitruck to operate...be operated by a holder of a farm permit. LB650 would also require a minitruck to be operated with headlights and taillights on. The bill prohibits the operation of minitrucks on interstate highways, controlled-access highways, and expressways. The use of the category of controlled-access highways was a misunderstanding during drafting and would be removed in the committee amendment. I believe this change could also get rid of the \$20,000 fiscal note. Minitrucks are a fuel-efficient, versatile vehicle. It only makes sense for Nebraska to ensure that our agricultural producers and

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small business entrepreneurs have the option to use minitrucks. Minitrucks can increase the utility and efficiency of certain businesses when competing with neighboring states who currently allow greater operating freedom. Again, I've spoken to the green copy of the bill for the record, but support the committee amendment with one exception provision, which I'll address in AM1593. I encourage everyone to advance LB650 to Select File, and thank you for your consideration. Thank you, Mr. President. [LB650]

SENATOR ROBERT: Thank you, Senator Christensen. Members, you have heard the opening to LB650. As the Clerk stated, there are committee amendments. Senator Fischer, as Chair of the Transportation and Telecommunications Committee, you are recognized to open on AM1582. [LB650]

SENATOR FISCHER: Thank you, Mr. President and members. The committee amendment, AM1582, strikes all sections and replaces the bill. The Transportation and Telecommunications Committee has studied the use of off-road vehicles the past three years, and we worked closely with the Department of Motor Vehicles and the Nebraska State Patrol on this amendment. The amendment authorizes the use of two distinct off-road vehicles on Nebraska highways. The first is minitrucks. These vehicles are approximately 10 feet long, 5 feet high, and 4 feet wide, and they weigh around 1,800 pounds. Minitrucks are imported from Japan and are manufactured by familiar companies such as Honda, Suzuki, Mitsubishi, and Subaru. They look like what their name conveys, a miniature truck, and are operated in the same manner as a typical motor vehicle. They come equipped with all the same features as a standard passenger vehicle, including headlights, taillights, turn signals, and seat belts. Minitrucks will be treated the same as a normal passenger motor vehicle with some limitations. They will be required to be titled, registered, plated, carry proof of insurance, and the operator will be required to have a valid driver's license. In addition, minitrucks will fall under the definition of motor vehicle in Chapter 60, Article 14, and thus be required to be sold by a licensed motor vehicle dealer. According to the amendment, minitrucks will be prohibited from operating on the interstate, expressways, or highways with the speed limit of 65 or greater. Minitrucks must also be operated with their headlights and taillights on. The other type of off-road vehicle authorized under AM1582 is the utility type vehicle or UTV. UTVs, also known as side-by-sides, are considered larger versions of the all-terrain vehicle. They are unique in that their size puts them into a category in between the traditional ATV and Jeeps. The basic premise involves the machinery characteristics of a large ATV, but with two side-by-side bucket seats with seat belts. The controls are similar to those of a golf cart with pedals and a steering wheel rather than the handlebars of a conventional ATV. Current law permits the operation of an ATV on a highway if it's being used for agricultural purposes or within a municipal limits if authorized by ordinance. The committee amendment adds a definition of UTV to the motor vehicle statutes and treats the UTV in the same capacity as an ATV. UTVs do not include golf carts or low-speed vehicles. UTVs are required to be titled but not registered. Although UTVs are not subject to the Operators License Act and Financial

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Responsibility Act, the operator is required to have a driver's license and liability insurance coverage. A UTV can be operated on a two-lane highway if it's being used for agricultural purposes or within municipal limits if it's authorized by ordinance. A UTV cannot be operated in excess of 30 miles per hour. The headlight and taillight must be on and the vehicle must have a safety flag. The UTV may only be operated during daylight hours. This is an issue that the committee hears frequently from your offices and from citizens across the state. The committee amendment takes into account the convenience of these vehicles balanced against the safety of converging them with the normal flow of highway traffic. Thank you, Mr. President. [LB650]

SENATOR ROBERT: Thank you, Senator Fischer. You've heard the opening to the Transportation and Telecommunications Committee amendment. Mr. Clerk, for another amendment. [LB650]

ASSISTANT CLERK: Mr. President, I do have an amendment to the committee amendment from Senator Christensen, AM1593. (Legislative Journal page 347.) [LB650]

SENATOR ROBERT: Senator Christensen, you're recognized to open on AM1593, the amendment to the committee amendments. [LB650]

SENATOR CHRISTENSEN: Thank you, Mr. President, fellow colleagues. What the amendment does basically is just strikes that language that talks about...yep, I didn't grab the right one here. It strikes, language says interstate expressways, controlled-access...okay, it strikes "any highway with the posted speed limit of 65 miles per hour or higher" and inserts the word, "freeway." What that will do now, that section will read "A minitruck shall not be operated on the National System of Interstate and Defense Highways, on expressways, or on a freeway" and got rid of the posted speed limit. If you will refer to one of the handouts where I have a large copy of it, you can look back here behind me by Senator Hadley, if you want to see it larger. If you look, there are several towns, McCook, Alliance, that have nothing but 65-mile-an-hour roads coming into them. So we're...in cleaning up the language we wanted to move that to just be the interstates and the freeways, and that's as simple as that amendment is, I guess. Thank you. [LB650]

SENATOR ROBERT: Thank you, Senator Christensen. Members, you have heard the opening of AM1593, the amendment to the committee amendments. Those wishing to speak: Senators White, Hadley, Langemeier, and Fischer. Senator White, you're recognized. [LB650]

SENATOR WHITE: Thank you, Mr. President. Would Senator Fischer yield for a question? [LB650]

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SENATOR ROBERT: Senator Fischer, will you yield to a question from Senator White? [LB650]

SENATOR FISCHER: Yes, I will. [LB650]

SENATOR WHITE: Senator Fischer, are you all right with the amendment and the language using freeways instead of your committee's amendment? [LB650]

SENATOR FISCHER: Yes, I fully support Senator Christensen's amendment. That's why I have my light on. If you look at the map that the Senator has provided to us, you will see that most of the highways that do have 65-mile-an-hour speed limits are in rural parts of Nebraska, in sparsely populated parts, and I think it only makes sense that his amendment is adopted. [LB650]

SENATOR WHITE: Thank you, Senator. Would Senator Christensen yield for a question? [LB650]

SENATOR ROBERT: Senator Christensen, will you yield to a question from Senator White? [LB650]

SENATOR CHRISTENSEN: Yes. [LB650]

SENATOR WHITE: Senator Christensen, is it your understanding then, as is Senator Fischer already stated, that insurance must be maintained on these vehicles in order for them to be operated on the highways? [LB650]

SENATOR CHRISTENSEN: Correct. They fall under the current statute of a normal vehicle now. [LB650]

SENATOR WHITE: Okay. And then, Senator, one final question. I note that the pictures are a Daihatsu, a Mitsubishi, and a Suzuki. Could you not find an American-made minitruck? [LB650]

SENATOR CHRISTENSEN: Not at the present time. [LB650]

SENATOR WHITE: All right. Thank you, Senator. [LB650]

SENATOR ROBERT: Thank you, Senator White. Senator Hadley, you're next and recognized. [LB650]

SENATOR HADLEY: Mr. President and members of the body, would Senator Christensen yield to a question? [LB650]

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SENATOR ROBERT: Senator Christensen, would you yield to a question? [LB650]

SENATOR CHRISTENSEN: Yes. [LB650]

SENATOR HADLEY: Senator Christensen, it is my understanding that these trucks will now have to meet federal regulations regarding emissions and such as that. Is that correct? [LB650]

SENATOR CHRISTENSEN: That is correct. They've been updated federally. [LB650]

SENATOR HADLEY: That was my opposition last year when this came before the committee, but this has been changed. I was concerned at that time we were going to get used trucks from Japan that would not meet our emissions standards but that has been taken care. I stand in support of both the underlying...the bill and the underlying amendments. I think it's important for outstate Nebraska that we look at the 65 mile an hour. There are towns that literally you can't reach unless you go on a 65-mile-an-hour highway. Thank you, Mr. President. [LB650]

SENATOR ROBERT: Thank you, Senator Hadley. Senator Fischer, you're recognized. [LB650]

SENATOR FISCHER: Thank you, Mr. President and members. As I spoke to a little bit when Senator White asked me a question on Senator Christensen's amendment to the amendment, I would encourage you to look at the maps that Senator Christensen passed out. And it's obvious that the red highways that are marked on these maps are highways where you have mileage of 65 miles an hour. In the case of my county, in Cherry County, you can't get to Valentine unless you travel on a highway that is 65 miles an hour, and we don't have too many highways in Cherry County either, if you look at that. That's one of the reasons, I think, it's important to pass this amendment. Because I envision in rural areas, people will use these vehicles to transport various items. They do save on gas. I envision in cities they will be used for lawn service. During our hearing process, we heard from a number of businesses such as lawn service that were anxious to use these vehicles in a city. Also, I would like to clarify. Senator Hadley asked Senator Christensen a question on the emissions standards. The EPA is currently working on making the requirements more stringent. Those rulings will probably be out next year in 2011, so they are not in force right now. But the EPA is aware that these vehicles are being used in a number of states and, hopefully, in Nebraska soon, when we pass this, and we'll be addressing those issues. With that, I would encourage you to pass the amendment to the amendment. Thank you, Mr. President. [LB650]

SENATOR ROBERT: Thank you, Senator Fischer. Senator Langemeier, you're recognized. [LB650]

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SENATOR LANGEMEIER: Mr. President and members of the body, first of all, I rise in support of LB650 and all the amendments to it. I do have some questions as we work through this, and I would ask if Senator Fischer would yield to a question. [LB650]

SENATOR ROBERT: Senator Fischer, will you yield to a question? [LB650]

SENATOR FISCHER: Yes. [LB650]

SENATOR LANGEMEIER: Senator Fischer, on page 47, Section (b)(ii), it says utility type vehicles does not include golf carts. With the new federal incentives on electric cars, there is a provision out there that Nebraska isn't taking advantage of, of a tax credit to allow a new breed of golf cart that's out there. It's got headlights, it's got taillights, it's got blinkers. Would that...and they're not calling it a golf cart. They're calling it an electronic utility vehicle or something like that. I should have gotten the exact name for it. Would that fall under this as a minitruck or would that be...how are we going to interpret that? Because I'm sure we're going to get phone calls, people wanting to take the \$8,000 tax credit on those vehicles. Would this golf cart...would that fall in that? [LB650]

SENATOR FISCHER: No, it would not. Golf carts are not covered under this bill that we're currently discussing. Two bills have been introduced this year. We have them in the Transportation and Telecommunications Committee, and we have hearing dates scheduled for those in the future. [LB650]

SENATOR LANGEMEIER: Okay. I just wanted to make that clear because I'm sure we'll get phone calls saying, well, it's not really a golf cart because I can't put my golf bags on it, and a lot of them will seat four people or two people on a bench. Thank you, Senator Fischer. Senator Christensen, would you yield to a question? [LB650]

SENATOR ROBERT: Senator Christensen, will you yield to a question? [LB650]

SENATOR CHRISTENSEN: Yes. [LB650]

SENATOR LANGEMEIER: Senator Christensen, as again I stated earlier I support this idea, and matter of fact one of the farms that I manage has a feedlot with it and they're using these minitrucks around the feedlot and they've become very efficient. They're getting 45-50 miles a gallon driving around our feedyards and I support it. The question I have is in here it talks about these trucks have to have four tires and then again on page 47 it says four low-pressure tires. Would just nobby tires that I put on my ATV four-wheeler, is that considered a low-pressure tire or do they make radial tires or what kind of tires are available on these? [LB650]

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SENATOR CHRISTENSEN: I guess I don't know if I can tell you for sure what all tires are available on them. Your ATV one definitely would be a low-pressure tire, but I guess I can't answer that question. [LB650]

SENATOR LANGEMEIER: And then the follow-up question I have to that is, is there a definition...and I apologize I didn't read through this as thoroughly as I should have, but we've been zinging right along here so I thought we ought to talk about some of this stuff. Is there a definition, and maybe I should ask Senator Fischer but I'll start here, is there a definition of what a low-pressure tire is? Is there a cutoff at 10 pounds or 12 pounds or do you know? [LB650]

SENATOR CHRISTENSEN: I do not know on the tire one. [LB650]

SENATOR LANGEMEIER: Okay. That's all I have. Just some concerns I had. Number one is, were we going to get phone calls about these souped-up golf carts that are electric and will they qualify? And I think we've made it clear that they do not qualify under this and there's other pending legislation that might address those at a later time, so slow down those questions. And then make sure they're of a quality of a tire we want running up and down the road versus the single-ply four-wheeler tires that I currently have on my Arctic Cat four-wheeler. So just something to think about. Thank you, Mr. President. [LB650]

SENATOR ROBERT: Thank you, Senator Langemeier. Speaker Flood for an announcement. [LB650]

SPEAKER FLOOD: Thank you, Mr. President and good morning, members. A couple of scheduling notes. It's my intention to adjourn today at or before 11:45 this morning. We will quit just a little bit early before noon again around 11:45. Tomorrow our start time will be 10:00 a.m., 10:00 a.m. tomorrow morning. LB635 from Senator Mello will return to the top of the agenda due to a scheduled absence that he had today. And then on Thursday we will be taking up some Select File. So if you have a bill that we skipped over or didn't get to on Select File, assuming it's ready, we'll be calling your offices to give you kind of a heads-up but on Thursday we will take up some Select File. Again, the start time for tomorrow morning will be 10:00 a.m. Thank you, Mr. President.

SENATOR ROBERT: Thank you, Speaker Flood. Those wishing to speak, returning to discussion on LB650, Senator Schilz and Carlson. Senator Schilz, you're recognized. [LB650]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. I stand in support of this bill. It's been quite a few years that the people have talked to me about the utility of these vehicles on farms, on ranches in rural Nebraska. And as Senator Langemeier brought up, it's important to make sure that if we do pass this bill and turn it

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into law, that we make sure that these vehicles are set up and the bill is set up to handle vehicles so they can go down the road so that we've got the safety required to do what we need to do to comply with what we want to see on the roads in Nebraska. But it's a good thing for western Nebraska, it's a good thing for rural Nebraska and, in my opinion, we need to move this forward. Thank you very much. [LB650]

SENATOR ROBERT: Thank you, Senator Schilz. Senator Carlson, you're recognized. [LB650]

SENATOR CARLSON: Mr. President and members of the Legislature. I am in support of this bill and the amendments but I would like to address a question to Senator Fischer, if she would yield. [LB650]

SENATOR ROBERT: Senator Fischer, will you yield to a question? [LB650]

SENATOR FISCHER: Yes, I will. [LB650]

SENATOR CARLSON: Just in the last couple of weeks, and I'm following up on something that Senator Langemeier talked about. I guess I've come to realize there are golf carts and there are golf cars. And if I look at the definition of the utility type vehicle, I think that golf cars satisfies that definition but you mentioned there's another hearing and another bill to address that. [LB650]

SENATOR FISCHER: Senator Carlson, golf carts are specifically excluded in the amendment, so they are not covered under this bill. Two bills have been introduced by other senators, as I told Senator Langemeier, to address golf carts. I will tell you the committee has worked three years on minitrucks and the UTVs. As a state we're being faced with a number of vehicles that are being marketed now that people want to use on highways. I have a small community in my legislative district that I heard some people wanted to use golf carts and they were using golf carts in to go to the grocery store and things like that. They were crossing the state highway to do so sometimes. My advice to the members in...my constituents in that committee and to the governing board in that committee is that they not approve the use of those golf carts within their community, especially because they are crossing a state highway because there are huge liability concerns there. And if a community is going to approve them, I think the community opens itself up for some problems also. It looks like the Transportation Committee is going to be studying golf carts and neighborhood electric vehicles and any number of other vehicles that are being marketed for people to use but we'll be doing that in the future. They're not covered in this bill. [LB650]

SENATOR CARLSON: Okay, thank you. Now, Senator Fischer, in the bill itself, because I haven't been able to scroll through the entire thing, but does the bill allow a utility type vehicle or a minitruck to cross a state highway? [LB650]

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SENATOR FISCHER: The minitrucks can travel on a state highway. And with Senator Christensen's amendment to the amendment that we're discussing now, they can travel on any state highway except the interstate and freeways. [LB650]

SENATOR CARLSON: But the...thank you. [LB650]

SENATOR FISCHER: Which means, yes, they can cross a state highway. [LB650]

SENATOR CARLSON: They can cross a state highway. What about the utility vehicle? [LB650]

SENATOR FISCHER: Yes, they can. Just like an ATV that...I believe it was two years ago, three years ago that we passed the law dealing with ATVs. [LB650]

SENATOR CARLSON: Okay. And final question: What's the idea of the low-pressure tire? [LB650]

SENATOR FISCHER: You know, I don't know what the definition is with the low-pressure tire. But I will tell you other states have used that definition and our State Patrol was good with that definition, but I will try and get an answer to you on that. [LB650]

SENATOR CARLSON: Okay. Thank you, Senator Fischer. Thank you, Mr. President. [LB650]

SENATOR ROBERT: Thank you, Senator Carlson. Senator Wallman, you're recognized. [LB650]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Would Senator Christensen yield to some questions after bit? [LB650]

SENATOR ROBERT: Senator Christensen, will you yield to a question? [LB650]

SENATOR CHRISTENSEN: Yes. [LB650]

SENATOR WALLMAN: Why is the tire, you know, like, four or six tires in there? There's a manufacturer in this town used to make minitrucks called Cushman, and they had three wheels, and I have one of them. It's an antique now but it's called three wheels, so do I have to license that or is that free from this law? [LB650]

SENATOR CHRISTENSEN: Well, it can't be licensed according to this, so it would not be. And I don't know if it...see, there's several qualifications on page 46 under

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minitrucks that everything would have to hit, powered by an internal combustion engine, is 67 inches or less in width, dry weight 4,200 pounds, travels on four wheels, top speed of 55. And I don't know what the Cushmans' done, but I don't think they hit all of them categories. [LB650]

SENATOR WALLMAN: No, I think it goes about 35 to 40. So, yeah, I think I can support this legislation. We have all kinds of minitrucks around my place and I live on an expressway. Do they go down there? Sure. Will they continue, I don't know. But I think they're safe. They go about 50-60 miles an hour. And in regards to golf carts, if you go to Arizona, Kawasaki, I know, makes a golf cart you can put a license plate on. It's got turn signals, flashing lights, and all this stuff. So maybe Senator Fischer will be going there. Thank you, Mr. President and thank you, Senator Christensen. [LB650]

SENATOR ROBERT: Thank you, Senator Wallman. Seeing no other lights on, Senator Christensen, you're recognized to close on AM1593. [LB650]

SENATOR CHRISTENSEN: Thank you, Mr. President. Simply what we're doing here is prohibiting the minitrucks from being on four-lane, expressways, and interstates and we're allowing them on highways of...two-lane highways, 65 mile an hour and under. Basically, it's a simple review of what this amendment will do. Thank you. [LB650]

SENATOR ROBERT: Thank you, Senator Christensen. Members, you've heard the closing to AM1593, the amendment to the committee amendments. The question before the body is, shall the amendment be adopted? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB650]

ASSISTANT CLERK: 37 ayes, 0 nays on the adoption of the Christensen amendment to the committee amendments. [LB650]

SENATOR ROBERT: AM1593 is adopted. Members wishing to speak returning to discussion on the Transportation Committee amendment. Seeing no lights on, Senator Fischer, you're recognized to close. Senator Fischer waives her opportunity. The question before the body is, shall AM1582 be adopted to LB650? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB650]

ASSISTANT CLERK: 37 ayes, 0 nays on the adoption of committee amendments. [LB650]

SENATOR ROBERT: AM1582 is adopted. Returning to the bill LB650, seeing no lights on, Senator Christensen, you're recognized to close. Senator Christensen waives his opportunity. The question before the body is, shall LB650 advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk,

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please record. [LB650]

ASSISTANT CLERK: 37 ayes, 0 nays on the advancement of the bill, Mr. President. [LB650]

SENATOR ROBERT: LB650 does advance. Next item on the agenda. [LB650]

ASSISTANT CLERK: Next bill, Mr. President, is LB698, which was introduced by Senator Louden. (Read title.) The bill was read for the first time on January 6 of this year, referred to the Committee on Revenue. That committee reports the bill to General File. There are no committee amendments. [LB698]

SENATOR ROBERT: Senator Louden, you're recognized to open on LB698. [LB698]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. LB698 is a very simple bill. It's a clean-up bill that the Department of Managed Care, I guess, asked me to bring forwards for them. They had some language in the statutes that was a program I think that was put in place in about 2002 and it turned out that that program didn't work. Had to do with managed care for the Medicaid and Medicare and it was going to work with the federal program. And that had to be put in statute then so they would be allowed to do that. That process hasn't materialized. They found out they couldn't do that so they've asked that the language be stricken from the statutes. And that's all that the bill is all about is mostly to clean up a part of the statute to get it in better shape. With that, I would ask that you advance it to Select File. Thank you, Mr. President. [LB698]

SENATOR STUTHMAN PRESIDING

SENATOR STUTHMAN: You have heard the opening on LB698 from Senator Louden. Is there anyone wishing to speak? Seeing none, Senator Louden, you are welcome to close. Senator Louden waives closing. The issue before the body is, shall...no, all of those in favor vote aye; and all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB698]

ASSISTANT CLERK: 37 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB698]

SENATOR STUTHMAN: LB698 does advance. Mr. Clerk, next bill. [LB698]

ASSISTANT CLERK: Mr. President, LB226, was introduced by Senator Robert. (Read title.) The bill was read for the first time on January 13 of last year. It was referred to the Judiciary Committee. That committee reports the bill to General File with committee amendments attached. (AM1590, Legislative Journal page 309.) [LB226]

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SENATOR STUTHMAN: Thank you. Senator Rogert, you're recognized to open on LB226. [LB226]

SENATOR ROBERT: Thank you, Mr. President. Good morning, members. We are moving quite quickly this morning. LB226 in its original form reduced the age of majority from the age of 19 to the age of 18 to be in accordance with the majority of states in the nation. LB226 has a lot of history. I will give you a recap. LB391 was introduced in 2003 on behalf of the growing concern for a teen population on the streets who cannot contract for housing. For example, some kids were noted to be showering at the school in the morning, some of them had children, and some were working after school. Of course, teachers and counselors noticed this and became concerned. Since 1985, 18-year-olds can contract for necessities of life, but that doesn't mean landlords will take the risk. Landlords, for the most part, do not rent to them based on the perception that they are kids and not responsible, which creates the perception that they would not be forthright and responsible in payments in addition to the fact that they are not legally accountable. LB391 at the time would have made them liable but would also have afforded them the opportunity to rent reasonable housing or residence. The opposition mainly had to do with the idea that children could fall through the cracks in the transition from the existing program to adulthood. The fact that there was a savings in four programs summing up to around \$3.2 million, which is more now, caused the body to believe that if such programs and services were eliminated, weren't they obviously needed. There was also an expenditure increase for the former ward program from around \$50,000 from the General Fund and by fiscal year 2005, \$200,000 from the General Fund. This is small compared to the savings, but nevertheless a concern for those who found the transition cumbersome. There's also a concern that this legislation would relinquish parents from child support too soon. However, courts are inclined to look at the benefit of the child and not just the age of majority. It is typically handled on a case-by-case basis because every family situation is different. LR403 in 2004 was an interim study on the topic of reducing the age of majority to 18 to assist in the preparation to accommodate concerns for future legislation. In 2005, LB505 was introduced to address the unavailability of housing for young adults, once again landlords not willing to rent out even though they could legally because they would not be legally accountable in the event of incurred debt. A provision in this bill would have exempted existing support orders regarding divorce and child custody as well as a provision for young adults to continue to receive support through high school. It is noted that junior high kids receive credit card applications to contract for the use of a credit card almost daily but young adults cannot get housing. It was also noted that they could enlist in the military, vote in elections, be executed for a capital crime, without, and...but they can't rent an apartment, open a checking account, or receive medical care without parental consent or for a mother to receive medical care without an adult signature. Historically, the age of majority was tied to the drinking age and when it was no longer tied to that age at 19, it was a result of a compromise between the ages of 18 and 21

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and not the result of a policy decision. The former ward program was still allowed also with the fiscal note of around \$10 million in savings. The opposition pertained to the elimination of services or access to services for a vulnerable person and the fiscal impact affected around 740 children who were state wards at the time. We currently estimate that number to be slightly over 1,000. These kids are typically a year or two behind their peers in the education process. And education is crucial in creating effective and taxpaying citizens which helps to recover the costs for contributing to their growth. In addition, other states were reducing the age but they still allow services for children who need them. Some states allow it up to 21. In 2007, LB104 reinforced that the majority of states have reduced the age of majority to the age of 18, with the understanding that the decision to place it at the age of 19 was simply a compromise between 18 and 21. Once again, 18-year-olds can vote in elections, enlist in the military, be executed for a capital crime at age 18. To change would have allowed for uniformity and clarity in our laws and match responsibility with the equivalent and appropriate practice of independence. It also allowed a reduction in state General Fund expenditures of around \$90,000 for 2007-2008 and \$800,000 for 2008-09. The change would have allowed 18-year-olds to contract for services, open checking accounts, rent apartments, and receive healthcare. Parental income is normally considered a Medicaid eligibility. More 18-year-olds would have been eligible for Medicaid without regard to parental income at a time...at that time the estimate was around 1,600 18-year-olds, who were currently eligible not receiving Medicaid, would be eligible at that point. There would have been a decrease in state expenditures and an increase in federal expenditures. When services or funding were to stop, there were other eligibility programs to apply for services like former ward program federal grant that offers education and training vouchers to pay for academic assistance for some use up to the age of 23, and awareness for these programs was communicated before they leave the state ward system. Also, new 18-year-olds, if they did not enter the state prior to the age of 18, would no longer have been under juvenile court jurisdiction or departments. The current state wards that were state wards prior to the operative date of the bill, would have been until they were 19. This brings us to the opposition in 2007 and here is the short of that. With the committee amendment that we bring forth in 2010, we have struck the majority of the bill to satisfy opposition from Boys Town, juvenile courts, CASA, Behavioral Health Services, Nebraska Association of Behavioral Health Care Organization, Children and Family Coalition of Nebraska, Nebraska Association of Homes and Services for Children, Voices for Children in Nebraska, Nebraska Catholic Conference, and the Nebraska Hospital Association. And I want to thank them all graciously for working together to come up with this compromise. We are not allowing children to fall through the cracks rather, and with our forthcoming amendment to the committee amendment, LB226 would allow young adults at 18 years of age, who are not state wards, to enter a binding contract for lease of residence or to receive medical care and other utilities. This applies to many out-of-state university students who need to get insurance through the university and for those young adults who are in need of acquiring residence. With the uniformity across the nation in regard to being 18 as

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opposed to 19, it creates a cumbersome process and confusion when attempting to settle or meet and acquire basic and fundamental needs to provide a reasonable residence and medical care in Nebraska. It is my hope that the members of the body will understand the history and significant accommodations we have made in order to see this right come to light in Nebraska. Please consider carefully and vote in favor of LB226 in light of the accommodations made in the amendments following. Thank you. [LB226]

SENATOR STUTHMAN: Thank you, Senator Rogert. You have heard the opening on LB226. Mr. Clerk, for an amendment, committee amendment. Senator Ashford, as Chair of the Judiciary Committee, for a committee amendment. Senator Ashford, you're recognized. [LB226]

SENATOR ASHFORD: Thank you, members. Committee amendment, AM1590, would replace the language in LB226 and under this amendment an 18-year-old minor may consent...the first issue is that of medical care, may consent to his or her own medical treatment if the parent or guardian delegates the power to consent to the minor with a properly executed power of attorney and that language as in the amendment, how that is done. The amendment would also allow minors who have reached the age of 18 to enter into binding contracts or leases and provides that they are legally responsible for the contracts. So that's the extent of the amendment. [LB226]

SENATOR STUTHMAN: Thank you, Senator Ashford. Those wishing to speak: Senator Harms and Senator Pirsch. Senator Harms, you're recognized. [LB226]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Rogert, would you yield, please? [LB226]

SENATOR STUTHMAN: Senator Rogert, would you yield to a question from Senator Harms? [LB226]

SENATOR ROGERT: Yes, I will. [LB226]

SENATOR HARMS: Senator, I'd like to just take a moment, if I can, to visit with you a little bit about LB226. First of all, Senator, are we talking...we're talking about making emancipation here, is that correct? [LB226]

SENATOR ROGERT: In what terms? [LB226]

SENATOR HARMS: Well, we're emancipating these kids, is that correct? An 18-year-old? [LB226]

SENATOR ROGERT: Yeah, we're making them adults for contractual purposes only

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with the committee amendment. [LB226]

SENATOR HARMS: Well, let me walk you through some questions then this morning. [LB226]

SENATOR ROBERT: Yes. [LB226]

SENATOR HARMS: A minor shall be considered emancipated with this bill, which we just talked about. So does he have the right to enter into an enforceable contract, including apartment leases? [LB226]

SENATOR ROBERT: Yes. [LB226]

SENATOR HARMS: They have the right to sue or be sued in this, in his or her name? [LB226]

SENATOR ROBERT: Yes. [LB226]

SENATOR HARMS: They have the right to retain his or her own earnings? [LB226]

SENATOR ROBERT: Will you repeat that question again? Sorry. [LB226]

SENATOR HARMS: The right to retain his or her own earnings, the money that they earn working, they have the right to retain that? [LB226]

SENATOR ROBERT: Yeah, but...that depends. Not necessarily, but probably. [LB226]

SENATOR HARMS: The right to establish a separate domicile? [LB226]

SENATOR ROBERT: Yes. [LB226]

SENATOR HARMS: The right to act autonomously with the rights and responsibilities as an adult in a business relationship, including but not limited just to property and transactions, excuse me, and obtaining accounts for utilities except for those for an estate, is that correct? [LB226]

SENATOR ROBERT: Senator Harms, I will...yes, but that is only with the written permission that is granted to from their guardian. [LB226]

SENATOR HARMS: They have the right to earn a living subject only to the health and safety regulations designed to protect those under the age of 18 regardless of their legal status, is that correct? [LB226]

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SENATOR ROBERT: Yes. [LB226]

SENATOR HARMS: Well, I'm not going to go on with these questions. My point, Senator, is the fact that if you look at the research that's available, it's very clear that your brain development is not completed until you're 25 years old. And my problem with this piece of legislation is that I don't know if young 17- or 18-year-old students have the ability and can actually process what's taking place. I've great concerns about this. We see all kinds of issues today in regard to drugs and alcohol and poor decisions because young people cannot process this. Their brains do not allow them to process it. They're not old enough and mature enough to be able to address the issue. And that's my concern about this legislation. I'm really not sure in my own mind whether a 17- or 18-year-old can take this kind of full responsibility. Thank you, Mr. President. [LB226]

SENATOR STUTHMAN: Thank you, Senator Harms and Senator Robert. Mr. Clerk, for an amendment. [LB226]

ASSISTANT CLERK: Mr. President, Senator Robert would offer AM1633 to the committee amendments. (Legislative Journal page 362.) [LB226]

SENATOR STUTHMAN: Senator Robert, you are welcome to open on the amendment. [LB226]

SENATOR ROBERT: Thank you, Mr. President, and Senator Harms, I'll comment on some of your stuff after I explain this amendment. We, and...this objection came up yesterday or the day before and I'm fully willing to go ahead with this. The Department of Health and Human Services was concerned, the expressed grant of these authorities comes from the parent or guardian. And with wards of the state or children that are in the juvenile system, their parent or guardian is the state of Nebraska in most cases. And we're doing...we're putting this wording in there to avoid further problems that can come about with those kids. So we're not putting the state on the hook for payment for those types of services. That's the gist of it. If you have any questions about it, I can try and answer them but that is what this amendment does. Senator Harms, on your questions and points that you made, 17-year-olds were not allowed in this. This only means they're 18. Every single state in the Union besides us allows 18-year-olds to contract for necessary services and get medical care. Even if it's...some of it is with the permission of their parent or guardian but some of it is just by default the minute they turn 18. I think the issue is the fact we have a lot of kids that are not...we'll say 18-year-olds, not kids, a lot of 18-year-olds are not living with their parents, they're not from this state, they've moved here. They're having troubles getting services. They can't get a cell phone, they can't rent an apartment, they can't get medical care, they can't get medical insurance. And those things concern me and it's not that their parents wouldn't give it to them, most of these cases there are no parents to give it to them. They've moved here, they're on their own. They've entered into the service. Maybe they're at Offutt Air Force Base. It's a

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large number of kids. And I believe and Senator Lathrop and I discussed this that...and several of us, that the authority granted to them by their parent or guardian does not relinquish the parent or guardian from the responsibility of payment for those services if the child defaults. And I think it's important that for young people to be able to do these types of things, otherwise I'm afraid they're not getting them done. And we're not dealing with the issues concerning Medicaid and childcare or child support payments. That's another whole story and 300 more pages in the bill which we struck out. So I hope that answers some of your concerns and I'll answer any more you have. And thank you, Mr. President. [LB226]

SENATOR STUTHMAN: Thank you, Senator Rogert. You've heard the opening on AM1633. Those wishing to speak: Senator Gay, Dubas, Rogert, Price, and others. Senator Gay, you are recognized. [LB226]

SENATOR GAY: Thank you, Mr. President. I'm listening in to the debate, if Senator Rogert would yield to a question or two. [LB226]

SENATOR STUTHMAN: Senator Rogert, would you yield to a question or two from Senator Gay? [LB226]

SENATOR ROBERT: I certainly will. [LB226]

SENATOR GAY: Senator Rogert, I wanted to ask you on this last amendment that you just introduced then it says, and who is not a ward of the state, on there. So if you're a ward of the state currently, you're receiving services, you can't get this option. You're still covered to 19 then? [LB226]

SENATOR ROBERT: Well, I think...yeah, you'd still be...and we're not taking any of those services away either. The question has become some kids that are under the state's juvenile jurisdiction still have some parental rights granted to them by their parents. So what the thing is, the state has the children, the parent gives them this right to go contract their services, the children leave the group home or wherever they're at, and go out on their own, creates a conflict between who's in charge of the kids. So we're just going to take those folks out of the mix. That was the department's concern. [LB226]

SENATOR GAY: Okay. The reason I asked this I'm just trying to listen in and gather...it sounds like you could...you're not...are you lowering this for everybody to 18, from 19 to 18 to enter into any contracts? [LB226]

SENATOR ROBERT: Yes. [LB226]

SENATOR GAY: For everybody? [LB226]

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SENATOR ROBERT: Except for these children who are under the state jurisdiction. [LB226]

SENATOR GAY: Okay. Where's the power of attorney from the parent come in then? [LB226]

SENATOR ROBERT: They have to give it to them. They have to...in the bill it says, parent or guardian of a minor who is at least 18 years of age by a properly executed power of attorney may delegate to the minor this power. So you write it down there and you send them on their way and say, you have the authority when you go to school to take care of...to get your own medical services and health insurance because we can't get it for you. [LB226]

SENATOR GAY: Okay. So they...but you have...in order to get that, you have to have the power of attorney? [LB226]

SENATOR ROBERT: Right. [LB226]

SENATOR GAY: Do other states in the country have that or do they...? [LB226]

SENATOR ROBERT: Other states have age of majority right down to age 18. [LB226]

SENATOR GAY: Yeah, it's just at 18 so you don't have the... [LB226]

SENATOR ROBERT: There are a couple of states, I believe, that allow the permission stance and that's where we're going right here. But most of them lowered it many, many years ago. [LB226]

SENATOR GAY: Yeah, so the senior in high school turns 18, and say, hey, you're out on your own now and... [LB226]

SENATOR ROBERT: Could be. [LB226]

SENATOR GAY: ...have at it and you can go get a phone and do all the things. I think that's what Senator Harms was getting to. And then I read the power of attorney portion. So then if everyone else around the country says at 18, you're out, Nebraska will say, well, 18 you're out if you have a power of attorney by your guardian. Unless you are a ward of the state, you're still...you can't enter into contracts for the things you had mentioned: phones, apartments, and all those things. [LB226]

SENATOR ROBERT: Correct. [LB226]

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SENATOR GAY: So really, this is quite a big subject we're discussing. [LB226]

SENATOR ROBERT: Yeah, I mean, if you look at the original bill it's like 200 pages. It's a big deal. But that's why we're striking all that and going down to the small step. [LB226]

SENATOR GAY: Yeah. And I think it's worth the discussion and the merits of the discussion. I think this is a bill, Senator Erdman was always kind of on this bill before and I had heard...the reason I asked, I had heard from our local juvenile judges about, you know, the services, the kids getting the services. They're in that transitional age. But I think they would then be covered with the services still... [LB226]

SENATOR ROBERT: Certainly. [LB226]

SENATOR GAY: ...because if you are a ward of the state, not in all cases are you, though, because some of the kids...let's say, you're a junior, you get in trouble, you're 17. All of a sudden you've been on probation or you're doing something through 18. You know, their goal was, well, you know, they're not fully formed as an adult. We'd like to finish out this program so they don't end up in worse shape down the road... [LB226]

SENATOR ROBERT: Correct. [LB226]

SENATOR GAY: ...whatever the case may be. But that's a philosophical question that we're going to answer possibly with this bill, so. But I guess I'm just trying to get to the point of the bill. It's a big bill. It does a lot of things, a big change in our state law and that's what I was getting at. But the way I understand it, the power of attorney portion is kind of a catch. You can't do this unless you grant that to your 18-year-old. So if my... [LB226]

SENATOR STUTHMAN: One minute. [LB226]

SENATOR GAY: ...kid turns 18 and I say, you know what, you're on your own, get out there and have at it. I could have a lawyer draft a power of attorney... [LB226]

SENATOR ROBERT: Yes. [LB226]

SENATOR GAY: ...and he has every right and privilege as anyone else then. [LB226]

SENATOR ROBERT: He'd be out there and be able to enter into binding contracts for... [LB226]

SENATOR GAY: Right. [LB226]

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SENATOR ROBERT: ...residence, utilities, and grant medical care. [LB226]

SENATOR GAY: Right. Thank you for clarifying that, Senator Robert. Thank you, Mr. President. [LB226]

SENATOR STUTHMAN: Thank you, Senator Gay and Senator Robert. Senator Dubas, you're recognized. [LB226]

SENATOR DUBAS: Thank you, Mr. Speaker, members of the body. Would Senator Robert entertain some questions, please? [LB226]

SENATOR STUTHMAN: Senator Robert, would you be willing to answer questions from Senator Dubas? [LB226]

SENATOR ROBERT: Of course. [LB226]

SENATOR DUBAS: Thank you, Senator Robert. And I think you've already hit on some of these things, but I guess I want to hear it again and maybe again and again because I'm still trying to get it clarified in my mind. I notice that HHS did come in, in support of this bill. Could you give me their rationale as to why they support this bill? [LB226]

SENATOR ROBERT: Good question. You know that was a year ago. I think their support was in lieu of their opposition in the past. The entire bill provided a lot of changes that the department didn't want to change. There are many, many things that we do differently than every other state. This is one thing that at least the department and several people feel that we do differently for a reason, because we put those kids in our services for one year longer and that helps. With the amendment that we brought in and struck the original bill and came in and said, this is all we're going to do. The department said, we'll support that. They did come to me yesterday and ask for this last portion of this amendment and that was the only opposition they had. [LB226]

SENATOR DUBAS: Thank you. And again, I think I understand where they're coming from. I know when we're talking about wards of the state and children who are in foster care, etcetera, we have a completely different set of standards that those children have to comply with. I would...although I would tend to agree with Senator Harms and some of the concerns that Senator Gay raised as far as the magnitude of this bill and what we're trying to do, would definitely agree at 18 years old, you know, there are kids who can go out and really take care of themselves and be responsible. There are kids who are still on the learning curve and need to have that parental support to help them through those tough spots. So I do continue to have some concerns about the direction that this bill is going and just, again, the magnitude of what we're trying to address here. I think your amendment has gone a long way and the power of attorney definitely helps also, but I'll just continue to listen and see what others have to say. Thank you. [LB226]

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SENATOR STUTHMAN: Thank you, Senator Dubas and Senator Rogert. Senator Price, you are recognized. [LB226]

SENATOR PRICE: Thank you, Mr. President and members of the body. Would Senator Rogert yield to a question? [LB226]

SENATOR STUTHMAN: Senator Rogert, would you yield to a question from Senator Price? [LB226]

SENATOR ROGERT: Yes, sir. [LB226]

SENATOR PRICE: Thank you, Senator Rogert. Let me make sure I understand this correctly. You want to allow 18-year-olds to enter into contracts? [LB226]

SENATOR ROGERT: Yes. [LB226]

SENATOR PRICE: Thank you, Senator Rogert. All I can say is, and I believe Senator Rogert said it, you can join the military at 18. If anybody here can stand up and tell me that you can't join the military at 18 and make that declaration, I'd like to know that. Someone could come down here and let me know. You can go off to a foreign country, fight and die for your country at 18. I guess, you...and we let people get driver's permits if they live in the country, they can drive a motor vehicle to school younger than 16, I think. Okay. And then...and for what Senator Harms had brought forward in a great statement in that the development of the human brain has been stated not to be complete until 25ish. Then why do we have 21? Maybe the age of minority should be moved up to 25. Of course not, that's pretty bad. All right. Again, if you can go and fight for your country and die for your country, why can't you sign a contract? You know, this whole social thing we have going on anymore about not wanting to take personal responsibility for our actions, it's sets up a dichotomy, if you would, in our society. Be responsible, grow up, take care of things. Okay, I will, but don't sign a contract. You know, folks, we're setting ourselves up for failure. People wonder why maybe we have a welfare state. Well, we don't let them grow up. They're going to bump and make bruises. They're going to have problems. Hopefully, we're going to be there. Hopefully, we've done enough parental guidance along the way that when they're 18 or 19 or 20 years old, or 20 years old, 364 days, they're going to have to take responsibility. There's no magic thing. We all have people or know people who have someone maybe 38 years old, three children living at home with them, because they just can't make good decisions. So I stand in support of this bill and I would yield any time I have remaining to Senator Lathrop. Thank you, Mr. President. [LB226]

SENATOR STUTHMAN: Thank you, Senator Price. Senator Lathrop, you have 2 minutes and 8 seconds. [LB226]

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SENATOR LATHROP: Believe it or not, I think he confused me with Senator Lautenbaugh. (Laughter) [LB226]

SENATOR STUTHMAN: I'm sorry. Senator Lautenbaugh, you have 1 minute and 54 seconds. [LB226]

SENATOR LAUTENBAUGH: One of us should be flattered, Senator Lathrop. I'm just not sure which one, but thank you, Senators Lathrop and Price. On a serious note, and this is a serious topic, I appreciate Senator Harms's concerns and I'm going to address my comments to the bill as amended, or as not amended, the original bill. I support the bill as amended because it will move. The underlying bill that would lower the age of majority at 18 across the board would save us \$1.1 million according to the fiscal note. As we look ahead to the next biennium, if we have 600 to 1,000 more good ideas like that, we may balance our budget because we need to find \$600 million to a billion just around the corner. And we may say, this may not be right... [LB226]

SENATOR STUTHMAN: One minute. [LB226]

SENATOR LAUTENBAUGH: ...for every 18-year-old. Thank you, Mr. President. Well, these are the hard choices that many of us keep alluding to that are staring us straight in the face. And it's about drawing lines. Some states say 18, some states say 19. That much is certain, but we need to find \$600 million to a billion dollars. And we're not all going to like the choices that we have to make. And in a perfect world, we wouldn't have to make them. But we are where we are and the original bill would save us \$1.1 million. So please be mindful of that in case we hear this again next year as the original bill comes back. Just lowering it across the board because like I said, if we find 600 more ideas like that to 1,000 more ideas like that, we may balance our budget. But we don't have a lot of choices coming, or we have a lot of choices, a lot of very hard choices coming, I should say. Thank you, Mr. President. [LB226]

SENATOR STUTHMAN: Thank you, Senator Lautenbaugh. Senator Harms, you're recognized. [LB226]

SENATOR HARMS: Thank you, Mr. President and colleagues. First of all, Senator Price, I would just say that if it was my choice we would not send 18-year-olds to war and have them killed. I could be a real advocate against that, but I understand that and I respect that. In regard to this particular issue, I still have a concern in regard to where we're walking. I think it's, to a certain degree, it's a great tragedy in America that we have 18-year-olds and parents who no longer want to deal with their teenagers and they shove them out of the door, get a power of attorney, say, you're on your own. I think that's a tragedy. And I think it says a great deal about our society in this great nation of where we're walking and where we're headed and what happens in sometimes families

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in this nation. But it's reality. We know that it's occurring. We know that it's happening. And if this is...if through the power of attorney, unless I'm wrong and don't understand this, we truly are emancipating this teenager. He has a full responsibility then as an adult. And so I...what I guess what would be helpful, Senator Rogert, that we would define emancipation. I mean, what is the definition of emancipation in this law, in this bill, and maybe it would be a little easier for me to understand. But I go back to the same thing. I think about my own teenage years. I wasn't a very wise kid growing up--ignorant to the world. Maybe it was because I grew up in rural Nebraska, I don't know. But I can tell you, I don't think I was capable and I don't even know if I had the potential to be emancipated at that time, to understand what my responsibilities are. It took me a while to just grow up. Heck, when I went to college I wasn't for sure until I was a senior that I was really going to teach. And I see a lot of teenagers the same way as I grew up. And what happens to them? We already know nationally that these kids who get credit cards, they run those credit card bills up. Are they responsible? I don't think so. And I go back to the same thing. I don't know if we can process it. I don't know if teenagers can process. We've seen it in driving. We've seen it in the use of alcohol and all that data makes it very clear. And I guess that's what I'm questioning. It's not that I'm against our pages up here who might be 18-years-old or older. That's not my point. My point here is, are you mature enough to take the responsibilities? Will you make the payments? Will you truly be an adult? I don't know. I don't have the answers to that, and that's what my concern is. And we are emancipating this teenager and I'd like to see what the definition of that is, Senator Rogert, so I have a better understanding of how you're thinking. As I walked you down through those questions, quite frankly, that's emancipation. So thank you, Mr. President and colleagues. [LB226]

SENATOR STUTHMAN: Thank you, Senator Harms. Senator Pirsch, you are recognized. [LB226]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I appreciate the dialogue that's gone on thus far. I just have a...I guess, a few questions from what I can tell, you know, in lowering the age of...well, I wonder if Senator Rogert may yield for a question or two. [LB226]

SENATOR STUTHMAN: Senator Rogert, would you yield to a question or two from Senator Pirsch? [LB226]

SENATOR ROGERT: Yes, I will. [LB226]

SENATOR PIRSCH: Senator, is it correct my understanding that the...that it is a limited, it's not a wholesale change from...in terms of the age of majority from 19 to 18 through your bill? [LB226]

SENATOR ROGERT: You're correct. [LB226]

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SENATOR PIRSCH: And could you just specifically, or kind of list then the limited area in which...is it just the ability to contract? [LB226]

SENATOR ROBERT: If you read the amendment, Senator Pirsch. [LB226]

SENATOR PIRSCH: Yeah. [LB226]

SENATOR ROBERT: It says, to consent to healthcare and medical treatment, and Section 2 it says, entering "into a binding contract or lease of whatever kind or nature and shall be legally responsible therefor." [LB226]

SENATOR PIRSCH: Okay. And that's the totality of the difference, I mean, the change that is to say? [LB226]

SENATOR ROBERT: Yeah. It's a one-page bill, basically. [LB226]

SENATOR PIRSCH: Okay. So it doesn't have implications for such things as...well, it does affect, does it not, is this going to affect after amendment the age of participation in juvenile court? [LB226]

SENATOR ROBERT: No. [LB226]

SENATOR PIRSCH: No. Okay. So that was originally in there but amended out, is that correct? [LB226]

SENATOR ROBERT: Yeah, the original bill is about 240 pages. This strikes the bill and makes it one page and three lines. [LB226]

SENATOR PIRSCH: Okay. I just wanted to clarify that. I do appreciate your explanation and, you know, that certainly does narrow it down in scope to an easily understandable limited number of changes, so thank you. I'd yield the balance of my time to Senator Robert if he has anything to say. [LB226]

SENATOR STUTHMAN: Thank you, Senator Pirsch. Senator Robert, you have 2 minutes and 37 seconds. [LB226]

SENATOR ROBERT: Thank you, Senator Pirsch. I won't take up all, but...unless the questions keep rolling here, but I appreciate Senator Harms's concerns, I do. And I respond just as you did to your own questions. Some of these issues are a tragedy but they are a reality. The reality of it is, is a lot of these folks are...they're kind of out on their own, not able to take care of themselves in a manner in which they should be able to because their parents either aren't around or aren't willing or aren't able to help them.

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And I think we're not really fully emancipating them but we're empowering them to do the things that they need to do. If you're not able to do stuff because your hands are tied, and you want to, then I think you're in worse trouble oftentimes if you're out there with your own ability to do that. If you are able to take charge of the situation, sign the contracts you need to do, get the healthcare you need to do, get the utilities, then I believe you should be able to. Thank you, Mr. President. [LB226]

SENATOR STUTHMAN: Thank you, Senator Rogert. Speaker Flood for an announcement, you're recognized. [LB226]

SPEAKER FLOOD: Thank you, Mr. President. Good morning one more time again, members. At 11:45 this morning we're going to adjourn for the day. We'll be starting up tomorrow at 10:00 as I previously announced. You know, every session is different and every session has a different approach. This session, for the first time in my five years of service in the Legislature and I think for the first time in many years, we find ourselves in a position on General File where we're beginning to debate bills that committees have sent out yet this year already. You're going to see an agenda later today that has six additions on it, four of which come from the Banking Committee. And those bills are going to be placed on the agenda tomorrow because we don't have enough bills to schedule to even give you a chance to look at, because we have so few bills rights now. And so what I would suggest, if you have the opportunity tonight, is to look at the agenda, print those bills off, and read them. I don't want anybody to be caught off guard. That's why we're starting at 10:00 tomorrow, a compressed time given the number of bills that we have available to schedule. But it is very important, especially with these bills that just came on General File that you'll see in your agenda, that we understand them, that we read them, and that we debate them. And so I guess I'd make a special plea to everybody in here, myself included, to come in tomorrow ready to go through some complex legislation and contribute, because we need to, as a Legislature, make that investment in each one of these bills, especially the ones that show up on your agenda today, for the first time, might I add, and will be debated tomorrow. Now there's an ebb and flow as the Legislature works through bills and this is certainly one of the lower points in terms of what we have available to schedule. You know, in 30 days you'll be asking me, when is my bill coming up? And I'll have 102 priorities and we'll be in a different place. But at this point in the session, we really need to dive in, invest a lot of time with some complex bills making their way to the agenda tomorrow. Thank you very much for everybody's work today, and I'd say, let's go ahead and adjourn for the day at this time. [LB226]

SENATOR STUTHMAN: Thank you, Speaker Flood. Mr. Clerk, for an announcement. [LB226]

CLERK: Mr. President, your Committee on Enrollment and Review reports they have examined and engrossed LB183, LB254, LB261, LB325, and LB522, those all reported

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correctly engrossed. Your Committee on Government, chaired by Senator Avery, reports LB721 to General File; LB722 to General File with amendments; LB791 to General File with amendments. Series of hearing notices, Mr. President: Appropriations Committee, Education, Agriculture, Health and Human Services, the Executive Board, Banking, Commerce and Insurance, all signed by their respective Chairs. Name adds: Senator McCoy to LB258; Senator Janssen, LB996; Senators Avery and Carlson, LB1014; Senator Council to LB872. A reminder that the Executive Board will meet upon adjournment. (Legislative Journal pages 362-366.) [LB183 LB254 LB261 LB325 LB522 LB721 LB722 LB791 LB258 LB996 LB1014 LB872]

And a priority motion. Speaker Flood would move to adjourn the body until Wednesday morning, January 27, at 10:00 a.m.

SENATOR STUTHMAN: Thank you, Mr. Clerk. You have heard the motion that we adjourn until 10:00 tomorrow morning. All those in favor of this motion say aye. All those opposed say nay. We are adjourned. Have a nice day.