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Floor Debate
February 27, 2012

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SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-fourth day of the One Hundred Second Legislature, Second Session. Our chaplain for today is Pastor Jim Miller of the Christ United Methodist Church in Lincoln, Nebraska, who's a guest of Senator Seiler. Please rise.

PASTOR MILLER: (Prayer offered.)

SENATOR GLOOR: Thank you, Pastor Miller. I call to order the thirty-fourth day of the One Hundred Second Legislature, Second Session. Senators, record your presence. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

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

CLERK: Mr. President, two new resolutions: Senator Hadley offers LR423 and LR424; both those will be laid over at this time. That's all that I have, Mr. President. (Legislative Journal pages 653-654.) [LR423 LR424]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Flood for a Speaker's announcement. (Gavel)

SPEAKER FLOOD: Good morning, members. As we start the week, I want to make an announcement that affects scheduling for the rest of the week to give you an idea of where I'd like to go. Obviously, as you know, we're undertaking full-day debate. We still have several committees that are working on "execing" on different bills. The Appropriations Committee is working on the budget. So it's my intent today to go till about noon, come back at 1:30, and then wrap up business for the day by 4:00 to give the Appropriations Committee especially some time to work on matters related to their budget. Here's what I plan to do the rest of the week. Today, obviously you see the

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agenda in front of you. We're going to stay on that. Tomorrow, you see at the bottom of the agenda it says child welfare division, tomorrow I've got one bill on Final Reading and we're going to take that bill up and then we're going to go to the child welfare division all day Tuesday, all day Wednesday. And I'll talk to you tomorrow morning about possible adjournment but, remember, we can work beyond 5:00. I'm not going to go late into the night but we could spend some time before 4:00 p.m. Tuesday and Thursday on the child welfare division. And then on Friday I've got about an hour and a half...we've got about an hour and a half to two hours of Final Reading. We're going to take Final Reading up Friday morning...oh, I'm sorry, Thursday morning starting at 9:00, and then we'll go back to some General File. So just to review, today you see what's in front of you. I expect a 4:00 p.m. adjournment. Tomorrow at 9:00 just a little Final Reading, one bill, and then we'll go to the child welfare division all day Tuesday, all day Wednesday. And then on Thursday we'll do Final Reading up to two hours and then we'll backfill it with some General File with a noon adjournment or so on Thursday. So we won't be working in the afternoon on Thursday. That's where we're going in terms of the scheduling. I just thought it would help at the beginning of the week to kind of lay it out for you. We're going to spend a lot of time on child welfare this week and I hope we make some progress. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Flood. Mr. Clerk, we proceed to the first agenda item, confirmation reports.

CLERK: Mr. President, the Transportation and Telecommunications Committee reports on several appointments to the Board of Public Roads Classifications and Standards. (Legislative Journal page 611.)

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Hadley, as Vice Chair of the Transportation and Telecommunications Committee, you're recognized to open on your confirmation report.

SENATOR HADLEY: Mr. President, members of the body, good morning. The Transportation and Telecommunications Committee held confirmation hearings on Tuesday, February 14, for six reappointments to the Board of Roads Classifications and Standards. The Board of Public Roads Classifications and Standards oversees annual construction planning and fiscal reporting for state and local highways, roads and streets, as well as the application of minimum design construction and maintenance standards for functional classifications categories of public roadways. The standards ensure that each road can safely handle the traffic pattern and volume it is expected to carry, as part of a policy enacted in 1969 to provide for the efficient management, operation, and control of an integrated system of state and local highways, roads, and streets. The 11 members are appointed by the Governor to four-year terms, subject to confirmation by the Legislature. The board is made up of three members from counties, three members from municipalities, two from the Department of Roads, and three lay

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members. Programs administered by the board are one- and six-year plans for highway, road and street improvements; standardized system of annual budget and fiscal reporting for highway, road and street programs; state aid bridge funds prioritization. The first appointee is David Wacker, who was present for the hearing. Mr. Wacker is a reappointment to represent municipalities between 2,500 and 50,000. Mr. Wacker is employed by...as the director of public works, city engineer of Hastings. His appointment runs from December 8, 2011, to November 30, 2015. The second appointee is Roger Figard, who was present for the hearing. Mr. Figard is a reappointment to represent municipalities over 50,000. Mr. Figard is currently employed by the engineering services of the city of Lincoln. He lives here in Lincoln. His appointment runs for December 8, 2011, to November 30, 2015. The third appointee is Edward Wootton, a reappointment as a lay member for District 1. Mr. Wootton was present for the hearing. He is currently retired, however, he has previously been employed with Sarpy County and has served as a member of the Nebraska Association of County Engineers. He lives in Bellevue. His appointment runs from December 8, 2011, to November 30, 2015. The fourth appointee is Darold Tagge, a reappointment as lay member for the 3rd District. Mr. Tagge was present for the hearing. He is currently retired, however, he is the previous owner and operator of Tagge engineering. He has also done some engineering for NDOR and has served on several boards. He lives in Holdrege. His appointment runs from December 8, 2011, to November 30, 2015. The final appointee is Tim Weander, a reappointment as a representative from the Department of Roads. Mr. Weander was not present for the hearing. Aside from his appointment with the NDOR, Mr. Weander lives in...resides in Omaha and has served on the Nebraska LTAP Advisory Board. His appointment runs from December 8, 2011, to November 30, 2015. The last appointee is LeRoy Gerrard, a reappointment to represent counties. He was not present for the hearing. Mr. Gerrard is currently a county commissioner in Polk County. He lives in Stromsburg. His appointment runs from December 8, 2011-November 30, 2015. The Transportation and Telecommunications Committee recommends these confirmations, with 7 members in favor and 1 absent. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Hadley. Is there any discussion on the report? Seeing none, Senator Hadley, you're recognized to close. Senator Hadley waives. Members, the question is the adoption of the confirmation report offered by the Transportation and Telecommunications Committee. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 654-655.) 40 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

SENATOR GLOOR: The report is adopted. (Doctor of the day introduced.) We move to General File. Mr. Clerk.

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CLERK: Mr. President, first bill, LB985A, a bill by Senator Krist. (Read title.) Mr. President, I do have an amendment to the bill by Senator Krist, AM2189. (Legislative Journal pages 655-657.) [LB985A]

SENATOR GLOOR: Senator Krist, you're recognized to open on LB985A. [LB985A]

SENATOR KRIST: Thank you, Mr. President. Good morning, Nebraska and colleagues. This A bill is to accompany the reinstatement of the juvenile justice pilot program in Douglas County, and also to move forward, as we said, into a rural setting into the North Platte area. I promised you when we spoke of LB985 that we were going to have to join up the A bill with it, and it's not without great effort, and I thank those folks who helped me out with this, that we've been able to work out a transfer of the funds from the department into this bill. So if you'll notice, the A bill basically says that the transfer of funds is inclusive, so it's a complete offset for the \$7 million. You'll note, though, that the only thing that is outside of that scope is the \$226,750, which is actually for the independent audit of this process to make sure that we are doing this the way it needs to be done and that it is done efficiently and economically. The AM....if I could just continue with the amendment, Mr. President? [LB985A LB985]

SENATOR GLOOR: You may continue with the amendment to LB985A. Thank you, Senator Krist. [LB985A]

SENATOR KRIST: Thank you, sir. AM2189 was the result of a little miscalculation by the department in terms of the additional funds required for the personnel to monitor and to execute this. It's an additional \$59,824 that is added to the bottom line of \$7 million, bringing it up to \$7,151,179; again, a technical amendment that adds the funds into LB985A. With this, I would ask for your support for both AM2189 and the underlying LB985A. This is the best thing to do for our kids. Thank you, Mr. President. [LB985A]

SENATOR GLOOR: Thank you, Senator Krist. Members, you've heard the opening on LB985A and the amendment. We now move to discussion. There are senators wishing to be recognized. Senator Ashford, you are recognized. [LB985A]

SENATOR ASHFORD: Thank you. Very briefly, Mr. President, I'm going to give most of my time to Senator Harms. With this...with the underlying LB985 and the A bill, we will be expanding the probation pilot project, which is really the linchpin of the juvenile justice reform effort that this Legislature has been working on for quite some time. And the counties that would be affected, in addition to Douglas County, would be Hooker, Thomas, Arthur, McPherson, Logan, Keith, Perkins, Lincoln, Dawson, Chase, Hayes, Frontier, Gosper, Dundy, Hitchcock, Red Willow, and Furnas. And with that, I'm going to give the remainder of my time to Senator Harms, if he so desires. [LB985A LB985]

SENATOR GLOOR: Senator Harms, 4 minutes 13 seconds. [LB985A]

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SENATOR HARMS: Thank you, Mr. President. Thank you, Senator Ashford. I support AM2189 and LB985A, but my real reason to stand before you is to let you know that when this bill...A bill comes across on Select File, I have every intent to amend this bill. We have such a severe problem in the 12th Judicial District, we have no way to handle the teenagers we have now and this program would fit beautifully. I've gotten calls from judges and people who have a high interest in this particular issue. So I've talked with Senator Krist, Senator Ashford, and the Fiscal staff, and so I, if we can work it out to where it does not harm this bill and we can add that 12th Judicial District, I'm going to make every attempt to do that. I just wanted to let you know that that would be something that we will be looking at and hopefully we'll be able to make this happen because it is badly needed where I live. And I'll give you, when we get to this point, I'll give you all the data and the information that justifies a position that I'm taking and why I would like to amend the A bill. So thank you, Mr. President. Thank you, Senator Ashford and Senator Krist. Thank you very much for allowing me to have this...allowing you to...thank you for considering this is what I'm trying to say. Thank you, Mr. President. [LB985A]

SENATOR GLOOR: Senator Harms, you are next in the queue. [LB985A]

SENATOR HARMS: Thank you, Mr. President. I would yield my time to Senator Krist, if he would like it. [LB985A]

SENATOR GLOOR: Senator Krist, 4 minutes and 55 seconds. Senator Krist waives. There are no senators remaining in the queue. Senator Krist, you're recognized to close on your amendment. [LB985A]

SENATOR KRIST: Thank you, Mr. President. Colleagues, this is genuinely one of our greatest efforts in the first effort in child reform. This guarantees that those folks in the juvenile justice system are going to be treated with the least duplicity at the front end, with a great efficiency throughout, and economically as well as we can do it here in the state. Contractually, it makes sense. It is sound and we can watch the dollars and make sure that we're accountable for the money. I would ask you for a green on AM2189 and also on LB985A. Thank you, Mr. President. [LB985A]

SENATOR GLOOR: Thank you, Senator Krist. Members, you've heard the closing on the amendment to LB985A. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB985A]

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of Senator Krist's amendment. [LB985A]

SENATOR GLOOR: The amendment is adopted. [LB985A]

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CLERK: I have nothing further on the bill, Mr. President. [LB985A]

SENATOR GLOOR: There are no senators wishing to be recognized. Senator Krist, you're recognized to close on the advancement of LB985A. [LB985A]

SENATOR KRIST: Just very quickly, I believe very strongly that this is the right thing to do, this is the right way to transfer the money across. And I would thank Senator Ashford and his committee for showing this the priority and getting it out on the floor soon so that we can discuss it and move it on. And for that, I will ask for a green on LB985A. Thank you, Mr. President. [LB985A]

SENATOR GLOOR: Thank you, Senator Krist. The question before the body is the advancement of LB985A to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB985A]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB985A. [LB985A]

SENATOR GLOOR: The bill advances. Continuing with General File. [LB985A]

CLERK: Mr. President, LB993 is a bill by Senator Ashford and others. (Read title.) Bill was introduced on January 12 of this year, referred to the Judiciary Committee. The bill was placed on General File. Mr. President, I do have amendments to the bill. [LB993]

SENATOR GLOOR: Thank you. Senator Ashford, you're recognized to open on LB993. [LB993]

SENATOR ASHFORD: Thank you, Mr. President. LB993, really I want to...have to start by thanking my good friend, Senator Howard, for coming up with this idea and educating me on the critical need for an expansion of the child advocacy centers throughout the state. And there's, in my view, after hearing the evidence and getting into this issue in some depth, it is clear to me that these child advocacy centers are beyond critical to child welfare reform. The children that we're dealing with here...and I'm handing out a case coordination summary sheet diagram that explains a little bit about these cases that come to these seven child advocacy centers across the state. There are, as I mentioned, there are seven of them. There's one in Lincoln, one in Omaha, Norfolk, Kearney, Scottsbluff, North Platte, and Grand Island, and they serve a critical function in reviewing, at this point, the very highest risk cases in the child welfare system, abuse and neglect system. And might also add there are children involved here, juveniles, who are what are called crossover juveniles. These are juveniles that have been in the juvenile system for status offenses or delinquency filings. So this number of 15,855, the number of cases that have been opened are a...really is...when we're trying to arrive at a number, a finite number, even though it's clearly dynamic, but

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a range of the number of juveniles in our state who are in need of significant help, the 16,000 number is probably the best number that we could come up with in dealing with that. What the bill does is expand the role of the LB1184 teams. The LB1184 teams are located in these seven child advocacy centers. They are primarily funded by private donations. This is an incredible example of public-private partnership. I know in our county, in Douglas County, there are donors that give millions of dollars a year to what we utilize in Douglas County, Project Harmony is the base for the child advocacy center there. LB1184...may I have a gavel, please, Mr. President? [LB993]

SENATOR GLOOR: (Gavel)

SENATOR ASHFORD: LB1184 was initially passed, I believe, in 1991. It was the brainchild of Senator Jessie Rasmussen, who believed that the child welfare system could be best served by creating one-stop shops around the state where children could find refuge, help, where their issues could be diagnosed, and LB1184 has been the...the mission created by LB1184 is the...still the vision today. The state we serve, the state has served 8,224 children throughout the state are served by these child advocacy centers and they provide any number of services, but the key to the child advocacy centers and why it's so critical to the child welfare initiatives is that it is the most...it's the earliest intervention that we have in the system. The calls that come into the over 28,664, exactly, calls that come into the CPS hotline come from all over the state, from schools, from neighbors, from relatives, from whomever, and they trigger then these LB1184 investigations. Without these child advocacy centers, these children and they are today placed in other facilities, including jails at times, because there is no...or detention centers because there is no place to put them. With the expansion provided in LB993, we will be able to serve every one of these children in a child advocacy center. These are high-risk or moderate- to high-risk cases, and the members of the teams include law enforcement, HHS personnel, prosecutors, medical personnel, staff from the child advocacy centers, probation, mental health, schools, and representatives from other agencies that are determined to be relative to the child's case. They meet on a daily, weekly basis and review cases as they come in so that no child within their jurisdiction now goes without this review. And it is incredibly critical, in my view, as we move forward with child welfare reform. And I know that starts tomorrow and obviously we will have a very robust debate about the issue. This piece of it, along with I think the probation pilot bill that Senator Krist has brought to us dealing with the delinquency side are critical, critical elements because the amount of money, and we'll talk about the A bill here, the amount of money which is in the neighborhood of \$850,000 is made...is such a drop in the bucket compared to what the potential cost would be, in my view, if these child advocacy centers did not exist. So again, I strongly urge this body to move this bill forward. We can then begin to discuss the child advocacy centers and, in my view, their major role. As we have discussed with Senator Krist's bill the role of probation in the juvenile system and the child welfare system, especially as it relates to crossover kids, that we can start to put this sort of this puzzle together into a completed

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puzzle where we can identify the children we're dealing with. In this case I think the number of 16,000 is a pretty good place to start of children that need the services of the state and also the providers in the communities that will provide services for these children. With that, Mr. President, I would...I guess we can move to the amendment. Thank you. [LB993]

SENATOR GLOOR: Thank you, Senator Ashford. Members, you've heard the opening on LB993. There are amendments. Mr. Clerk. [LB993]

CLERK: Mr. President, Senator Council would move to amend with AM2110. (Legislative Journal page 609.) [LB993]

SENATOR GLOOR: Senator Council, you're recognized to open on your amendment. [LB993]

SENATOR COUNCIL: Yes, thank you, Mr. President. I want to begin by stating my very strong support for LB993 and what it seeks to accomplish in terms of providing the necessary services for our youngsters who find themselves victim of abuse and neglect. And just based upon encounters and contacts that have come into the office, this amendment is just merely intended to clarify what types of evaluations will occur when the case staffing begins. I think that all of my colleagues on the Judiciary Committee will agree that many of the children who find themselves victims of abuse and neglect also find themselves suffering from various psychological disorders. And if you look at page 2, where it talks about what is going to occur in these case staffings, it makes mention of the forensic investigations and then simply a medical evaluation. But if you continue in that same subsection, you see that the intent of this case staffing is to address the physical, emotional, and psychological needs of these youngsters. So I believe it would be necessary to specifically state that one of the actions that needs to be taken during these case staffings is that there be medical and psychological evaluations. So AM2110 is just a simple technical amendment that inserts the word "psychological" after the phrase "medical" so it's clear that what's being undertaken with respect to these staffing sessions with these victims of abuse and neglect is that there's also a focus and an emphasis on their psychological needs and that those needs are the subject of an evaluation. And with that, I would just urge passage of AM2110. [LB993]

SENATOR GLOOR: Thank you, Senator Council. (Visitors introduced.) Members, you've heard the opening on LB993 and AM2110. There are senators wishing to be recognized. Senator Hadley, you are recognized. [LB993]

SENATOR HADLEY: Mr. President, members of the body, I want to thank Senator Ashford for introducing LB993, those members of the Judiciary Committee for voting to send the bill to the full Legislature for debate, and Senator Howard for making this bill a priority. In 1992, this Legislature decided to place an emphasis on the investigation of

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child abuse and the necessity of all elements of the investigative team--law enforcement, child protective services, and prosecution--to cooperate in their efforts and share information to improve decision making and case outcomes. In both 2004 and 2007, revisions were made to the statutory scheme to strengthen the language to create a community response to this critical problem in our state. These changes require that child abuse victims have access to a child advocacy center for the forensic interview, medical exam, and related support services. Each county was to put in place protocols for outlining mandatory reporting of child abuse, defining the roles and responsibilities of law enforcement, child protective services, and other response agencies. And three, ensuring that coordination of these teams is occurring at all levels of the community response, voluntary or court-involved. These changes were to reinforce the multisystem response through the child abuse investigation and treatment teams and to ensure that communication, coordination, and collaboration were occurring across all disciplines. In December of 2010, I met with representatives and staff of the Nebraska Commission on Law Enforcement and Criminal Justice in regards to matters that occurred within my district. Just a short summary of that matter: It was a young boy who was abused in Buffalo County and then was moved to Kearney County and ended up dying at the hands of the people he was involved with. He was basically beaten to death. And there was concerns about the communication between the two counties, Health and Human Services, and law enforcement. I was advised that because of the manner in which the state database was constructed, at times it was not possible to determine if a child had been reported as being suspected of being abused if the child was not in the system. That appeared to be in many instances of where officers responding to a reported incidence of disturbance did not have sufficient information as to determine that a potential case of child abuse might be involved or if persons that had been previously investigated even lived at that address. Investigating officers should have access to the names of persons reporting the incident so that further information can be...could be developed that might fully disclosure the nature of the circumstances. Changes in address of persons currently within the criminal justice system, especially related to child abuse, should be made automatically so that when a person has had problems in Douglas County and subsequently is reported as having problems in Buffalo County that law enforcement officials could more easily connect and identify the person or persons involved. Reports of DHHS relating to child abuse should be made available to law enforcement officials as well as all subsequent reports relating to the investigation. I am very happy with on page 4, lines 1, 2, 3 in the bill. It says, "Outlining how reports will be shared between law enforcement and the Department of Health and Human Services under Section 28-713." I think this bill goes a long way to trying to work on that issue. LB993 was drawn to address a number of these concerns and is necessary if Nebraska is to curb child abuse. With that, I would yield any remaining time to Senator Howard. [LB993]

SENATOR GLOOR: Senator Howard, 1 minute 9 seconds. [LB993]

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SENATOR HOWARD: Thank you, Senator Hadley. And thank you, Senator Ashford, for bringing this bill forward. This is such an important issue that I've made it my priority bill. And just to give you a brief explanation to build on what both Senator Hadley and Senator Ashford have told you, the child advocacy centers are the hub of multidisciplinary assessment of child abuse and neglect and forensic investigations. They bring together Health and Human Services, law enforcement, county attorneys, and medical professionals to coordinate how these systems will respond when a child is abused. In Douglas County, they are even housed together in the same building, and this is over at Project Harmony. The child advocacy centers play a critical role in creating buy-in among law enforcement and county attorneys, and this is so important that there's coordination. You hear about these separate silos in child welfare and other programs within the Health and Human Services system, but this brings people together and this is where everyone sits down and discusses a case and decides the best course of action. [LB993]

SENATOR GLOOR: Time, Senator. [LB993]

SENATOR HOWARD: Thank you. [LB993]

SENATOR GLOOR: Thank you, Senator Howard. Senator Campbell, you are recognized. [LB993]

SENATOR CAMPBELL: Thank you, Mr. President, and good morning colleagues. I stand in strong support of LB993 and I want to thank Senator Ashford, Senator Howard, and the Judiciary Committee because this is just an excellent bill to have as a preview for what we will be discussing in the next couple of days, because it deals with the gateway to the child welfare system and that, is in the first case, the reporting of it. In the state of Nebraska, you can report to law enforcement or to the statewide hot line, and I'm going to give that number and I'm probably going to give it a number of times because I want the public to understand that in the state of Nebraska it is every citizen's responsibility to report suspected child abuse and neglect, every citizen's. That number is 1-800-652-1999, and it's listed, obviously, on the department page for people to reference and I would guess it's in a lot of our local phone books. There are two very important parts of this bill that I want to emphasize and that is that we will be able...one, we will be able to reach and cover more reports by these very important centers across the state, and the second one is that the bill calls for a review and taking a look at voluntary cases. Now in the system we have two different types of cases. We have court-involved, in which the court has determined that the child needs protection and in many cases we'll make that child a ward of the state. But in some cases when we go out and investigate we find a family and that family is saying, we know that we need help, we feel that we can change the way we are parenting our child and we recognize that we have a problem, and in some cases those are made into what is called voluntary cases. They volunteered to accept services and to change the situation, so

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they do not become court-involved. At this point, those cases, a voluntary case, does not have a case plan, does not have a way to follow it, and this bill does put that into play. And what's very interesting is we felt that it was as important that the Health Committee also...the Health and Human Services Committee also put voluntary cases in our child welfare bills, so you're going to really see that concept repeated when we begin talking about the child welfare bills. This is an extremely important bill to set us off onto a much needed path to reform the system we have, and I truly thank Senator Ashford, Senator Howard, and Judiciary for bringing it forward. Thank you, Mr. President. [LB993]

SENATOR GLOOR: Thank you, Senator Campbell. Other senators wishing to be recognized: Lathrop, Burke Harr, Dubas, Howard, Harms, and Fulton. Senator Lathrop, you're recognized. [LB993]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. I'm standing in support of LB993 and I thought I would offer you a couple of thoughts, first is with respect to LB993. And maybe I'll start with my second thought. Tomorrow we're going to begin talking about all the child welfare issues--actually, we started that today because this bill directly relates to that--and it sounds like we'll spend a couple of days on it, as we should. I'd be surprised if we spend only two days talking about this, which I think is the central problem facing the state right now, which is the mess that has been created with the failed attempt to privatize child welfare. And to participate in the next couple of days, I want to encourage everyone in this body to read the report that the Health Committee has done, and I've read and we've all gotten volumes of reports since you've been here, I have never read anything that I think...put out by this Legislature that is more thorough, more complete. It will tell you everything you need to know about the problems that we're going to address over the next two days. If you have not had an opportunity to read that book, I would encourage you to look at it tonight because you will be informed and you will be in a position to participate in the debate on the bills that are coming up. And I think it's important for you to fully understand the breadth of the problem, and it is significant. It is very significant, and I'm hopeful that the bills that we'll take up over the next few days will be a step in the right direction. I think even Senator Campbell would tell you this won't fix it with one legislative session, but the bills that we're going to look at, including LB993, are a step in the right direction. That said, LB993 is an improvement upon what is working. As you read the work of the Health Committee, you will see that the turnover rate of people that work in the child welfare system is contributing in a very, very significant way to the problems that we're experiencing. There are a lot of facets to this issue; a lot of it is turnover. That leads to a lack of coordination. It leads to people who don't know what a file is about. It leads to people going into court and saying, I just got this file, judge, I don't know what's in it, can we continue this, and a child sits and nothing happens and the time that somebody spends in foster care goes on and on and on. LB993 is an example of what we are doing well and an improvement upon what we're doing well. When somebody comes

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into the system, instead of waiting for a bunch of lawyers to sit down in the sixth floor of the courthouse when a case is called up for hearing in front of the juvenile court, they sit down at the beginning and they coordinate, with all the people that need to be there, what must be done for a good outcome. And that coordination is unique, I believe, to the child welfare system right now. It is what we're doing well and LB993 improves on that. I hope you'll support LB993 and I, likewise, hope that you'll take the time tonight, if you haven't yet, to read the Health Committee's report. They have an executive summary, if you can't get through the whole thing, which is useful, and the full explanation is even better. But again I want to emphasize the importance of ingesting or digesting that material so that you're in a good position to participate in the debate... [LB993]

SENATOR GLOOR: One minute. [LB993]

SENATOR LATHROP: ...that will follow over the next few days. Thank you. [LB993]

SENATOR GLOOR: Thank you, Senator Lathrop. Senator Burke Harr, you're recognized. [LB993]

SENATOR HARR: Thank you, Mr. President. And good morning, fellow members. I, too, rise in support of LB993. This bill was brought by Senator Ashford. I'd like to thank Senator Ashford for bringing it, and Senator Howard for prioritizing this bill so we can talk about it. We talk about citizen legislators a lot down here and we talk about what we do in our private lives. Well, I had the privilege to work with Project Harmony in my private career. What these child advocacy centers do is nothing short of remarkable. We are the standard for the rest of the country, which seems unique and bizarre given what we do with the rest of our child welfare. But what these centers do, and you've all heard it, is it's a one-stop shop. If there's a kid who is referred, there is medical exams, psychological exam, forensics exams, police officers, and follow-up care all in one place. It's absolutely amazing. It's one of those it seems like common sense once it's done, but when you're doing it, it was radical. And I want to thank Senator Rasmussen for all she did when she originally passed LB1184. Now the original bill is called LB1184 and now there are these LB1184 meetings and what those meetings are is there is a facilitator who brings everyone together, who reads the case ahead of time, makes sure everyone else has read the cases ahead of time, takes feedback and says, hey, what do you need for this meeting, how can we do this meeting better, and then asks people to bring material that they need so that when the parties get together it is a productive meeting and not, I just got this 24 hours ago, can we get a six-month, six-week, whatever, continuance. This is the very front line of preventative in how to care for kids who society hasn't necessarily taken care of, who haven't been born into a fortunate home with loving parents, or who have had something unfortunate happen to them. Now the amazing thing about these community advocacy centers is, even though they are the best and they follow best practices, they also look to see, instead of congratulating themselves on the back, they say, hey, how can we do this better, what

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can we do to make ourselves more effective, and that is...those kids who need help in a voluntary, who aren't under the state ward yet but that do need a little help and a little push along the way. And that's what this bill does. It's a very good bill and it goes a long ways towards setting policy that says we care as a state about our children and we want to prevent kids from being further harmed. We don't want to wait until they reach a certain level before we help them. We want to jump in early and we want to help that kid as soon as possible, as soon as we know there is a problem. And so again, I want to thank Senator Ashford and Senator Howard for their hard work on this bill. Thank you. [LB993]

SENATOR GLOOR: Thank you, Senator Harr. Senator Dubas, you are recognized. [LB993]

SENATOR DUBAS: Thank you, Mr. President. Good morning, colleagues. I can't say anything more than what has already been said on the floor this morning. I totally support this bill and appreciate what Senator Ashford has done. I think Senator Howard's comments especially were good about the approach that has been out there in the way we deal with child welfare issues and in such a siloed manner. The work that the child advocacy centers has done is just...it's just incredible and they are...I think they're that one constant in the children's lives that kind of pull everybody together in what needs to be done. So what this bill does, I think Senator Lathrop said, you know, it just makes something that's already working really well work even better, so I do rise in strong support. But I would have a question for Senator Ashford, if he'd yield. [LB993]

SENATOR GLOOR: Senator Ashford, would you yield? [LB993]

SENATOR ASHFORD: Yes. [LB993]

SENATOR DUBAS: Again, Senator Ashford, thank you so much for your work on this. But I did see that the Nebraska Families Collaborative testified in opposition to this bill, which I have a hard time understanding. I haven't been able to read through the transcript yet. But if you could help shine some light on that, that would be helpful. [LB993]

SENATOR ASHFORD: Sure. And we've had discussions with NFC and they came in and expressed some concern about oversight, who is responsible for what. I think though my sense in talking to them is that they...it's not so much opposition to the bill as...and I don't want to miscast what they say, but they want to make sure that, you know, that there is not some super body over them making these ultimate decisions. And of course, that isn't what this is all about. In fact, I went back and got the transcript and looked at some of the testimony and it is clear that NFC and HHS, for that matter, and KVC as well, when they were there, were at these meetings, are at these meetings of the review team, the LB1184 teams. I think NFC is an integral part of the process, as

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is HHS and their concerns about the public...the child advocacy centers being somehow superior in rank, so to say, to NFC, that isn't...that's not what happens. So I think we've addressed their concerns. [LB993]

SENATOR DUBAS: Thank you so much, Senator Ashford. And I think again, in light of what Senator Campbell has said and the incredible work that their committee has done, indicates that, you know, we do have some issues out there with who's in charge of who or, you know, what is the chain of command and what is the appropriate amount of oversight. And the fact that the Legislature hasn't been as involved as we probably should have been from the very beginning I think is another good reason why we need to support bills like LB993 and the ensuing bills that the Health Committee will be bringing to us, because I think we haven't had that firm foundation to build these programs upon. And when you're dealing with programs like we're looking at here and, you know, every time a new administration comes in, and this is not an indictment on any one particular administration, but there's always that state of not quite sure, you know, where do we go from here. And when you don't have that solid foundation that will be consistent, no matter who's running the show, that you can build upon, I think we will continue to see the issues that we're dealing with in such magnitude this session with the child welfare and the reform and the direction that we've done and why it's not working. And so I so much appreciate the work that the Health Committee has done and I know will continue to do to try to build that firm foundation so that maybe we can get a good direction for child welfare services going into the future and we won't be continually coming back and trying to fix... [LB993]

SENATOR GLOOR: One minute. [LB993]

SENATOR DUBAS: ...what isn't working. So I do stand in strong support of LB993. Thank you. [LB993]

SENATOR GLOOR: Thank you, Senator Dubas. Senators in the queue: Howard, Harms, Fulton, Carlson, and Nelson. Senator Howard, you are recognized. [LB993]

SENATOR HOWARD: Thank you, Mr. President, members of the body. And Senator Dubas makes such a good point when she says the Legislature was not involved from the beginning as we should have been. Many of these issues could have been addressed when we were in session in 2009, prior to the signing of the contract for privatization which occurred in November of 2009. And I have had conversations with our Speaker, with other senators expressing my concerns and dismay that that was not done. In looking at this bill, which as you've heard from numerous senators on the floor this morning, is so critical to our addressing the issues involved in child welfare reform. And again, I'm going to go back and explain again what the child advocacy centers really do, because this is so important. Child advocacy centers play a critical role in creating buy-in among law enforcement and county attorneys. This is especially

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important because so often, as I expressed earlier, we have silos established within this system and people don't always talk to one another. When people are together in a room, when people follow a practice as was put in place with the LB1184 review teams, things get done. Now the cases that we're talking about here, and I'm going to go down the list and I think when you hear these you're all going to say that's pretty serious and I don't know why anyone wouldn't understand the problem with these. Number one, cases involving serious physical injury: It is likely that there will be a criminal court filing in these cases also. The criminal court filing does not replace the need for juvenile court involvement. Serious physical injury includes an injury in which the severity is determined by the intensity of the treatment. Next, cases involving a parent/caregiver using methamphetamine: Methamphetamine is a drug that alters brain chemistry for significant periods of time after use, therefore, parents who use this drug cannot be relied upon to be sufficiently competent to understand the expectations and the responsibilities of entering into an agreement to work with the Department of Health and Human Services on a noncourt-involved basis. That's pretty self-explanatory. Someone is under the influence; they're not really able to comprehend entering into contract, and especially not a contract that involves in many cases an infant. Cases involving sexual abuse where the perpetrator is the caretaker of the child victim, obviously. Cases involving domestic violence: Because of the wide range of behaviors and circumstances that may constitute domestic violence, an exception to the requirement of requesting a filing in juvenile court may be appropriate. Again, this is where the LB1184 teams come into place. A case-specific exception to the required request for filing may be provided by the protection and safety administrator. And again, documentation of the decision will be recorded in N-FOCUS. I worked as a case manager for many, many years and I started out doing initial assessments. There is no harder job. When I think back on that I think back of going to a house and having the sketchiest of information regarding the situation. [LB993]

SENATOR GLOOR: One minute. [LB993]

SENATOR HOWARD: Thank you. You don't know what's on the other side of that door. And I can tell you that there are very few people who are interested in having a social worker come in and discuss an act of violence, a sexual abuse allegation, or bruises to their child. I admire the people who do the work over at Project Harmony and the child assessment centers so much. This is hard but these people are well-trained and most all of these people are very experienced and they know how to handle these cases. I'm glad I could bring this bill to you and prioritize this bill. I thank Senator Ashford for his hard work on this bill. We met on Saturdays. We met with the representatives for the child advocacy centers to put together the best bill possible to bring to you today and I believe this bill is going to... [LB993]

SENATOR GLOOR: Time, Senator. [LB993]

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SENATOR HOWARD: ...address this. Thank you. [LB993]

SENATOR GLOOR: Thank you, Senator Howard. Chair recognizes Senator Harms. [LB993]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of AM2110 to LB993. In western Nebraska, CAPstone is the child advocacy center for 11 counties where I live. Last year CAPstone interviewed 393 children; 67 percent of those children were sexually abused. I find that shocking, 67 percent of the 373 children in western Nebraska that were interviewed in CAPstone were sexually abused. I find that almost to me just shocking and it turns my stomach. Child abuse is a complex problem and it's a lifelong issue for children, and the sooner you can intervene with a child who's been sexually or physically abused the better chance we have of helping that child work through the issues and the problems that child is going to have. And in many cases we can't fix it. In many cases these children will carry this for the rest of their lives. And I'm truly offended by that and that's why it's so important when you just look at our communities in western Nebraska and see that many children that have been interviewed and those that have been sexually abused. It's important for us to fund this appropriately and to make sure that we give our community leaders the necessary assistance they need to resolve these issues. Child abuse and dealing with the children is really a team approach. It involves a lot of different people. It involves law enforcement. It involves child protective services. It involves medical. It involves mental health professionals. It involves people like us on this floor to make the right decisions, to give them the tools to help resolve these issue for families and for children. So I'd hope you would support LB993. I hope that if you have some time talk to your own child advocacy centers wherever they might be located in your region. Find out how many they serve, how many have been sexually abused children, how many have been physically abused or just plain neglected. It's important for us to understand that. It puts a lot more meaning into the decision you're about to make. I wonder if Senator Ashford would yield just for a question. [LB993]

SENATOR GLOOR: Senator Ashford, would you yield? [LB993]

SENATOR ASHFORD: Yes. [LB993]

SENATOR HARMS: Thank you, Senator Ashford. First, thank you. You know, in the six years we've worked together, you have brought constant legislation in that deals with teenagers and children. I thank you and Senator Howard for making this a priority because I think it's important. One thing that caught my attention, Senator Ashford, in looking at the committee statement, that the Scot Adams was in from Department of Health and Human Services and was in opposition of that. That kind of surprised me. Can you kind of share with me what that opposition was about, if you can recall? [LB993]

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SENATOR ASHFORD: I think what his...and I'd have to go revisit the transcript, but I think it was...I think he said he used some modifier like mild or soft or something to his opposition. I'm not quite sure why HHS would be opposed because...and he didn't really give any particular reason. Maybe it was this...I really don't know. But I can say that they are intricately involved in the review process and the coordination that's done by the child...as you mentioned, the child advocacy centers provide coordination and bring everybody together, all the documentation that's needed that HHS maybe does not have access to. [LB993]

SENATOR GLOOR: One minute, senators. [LB993]

SENATOR ASHFORD: So I...it was not...Scot was not, and I think I'm not...I don't think I'm miscasting this, Scot was in no way strenuously opposed. I think he...maybe it was the department's policy to oppose any of this stuff. I really don't know. [LB993]

SENATOR HARMS: Well, thank you. I guess I'm really basically disappointed that Health and Human Services would come out and show any opposition to this bill. I mean it's really critically important to children. And we're just getting ready to talk about the issues we have in Health and Human Services and the bills that are coming forward. This is the beginning of this. What's wrong with this, colleagues? I can't...I find it almost impossible to try to understand. These are children in my own community, in my region, of 393 and 67 percent have been abused and you've got Health and Human Services that are saying we oppose any kind of structure here? I object to this and I hope that's not going to be their attitude as we go through Senator Campbell's legislation and we take these issues on, because it's time to make a decision. It's time for us to straighten this issue up. [LB993]

SENATOR GLOOR: Time, Senator. [LB993]

SENATOR HARMS: Thank you, Mr. President. [LB993]

SENATOR GLOOR: Thank you, Senator Harms. Senator Fulton, you are recognized. [LB993]

SENATOR FULTON: Thank you, Mr. President. Members of the body, good morning. I'm familiar with the child advocacy center here in Lincoln because my first year at the Legislature I had the opportunity to tour and talk with its director, and it's remarkable the work they do. It is equally remarkable, in an opposite way, how sick our society is. When kids are treated...I won't even get into it. There's a sickness in society and what we're doing here is dealing with a symptom but we're not dealing with a cure. Those will be other issues of policy with which we deal. The reason that I stand here today is because I see three opponents to the bill; I don't understand the opposition. I think I

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understand the bill. I understand that we would be providing a greater power through the force of statute and perhaps that's a concern. In order to deal with this issue, we provide government more power to deal with an issue. That power can be abused and misused, and perhaps that is a reason for opposing the bill, but I don't know that. And the transcripts aren't posted and so...Senator Ashford has been picked on quite enough already. I wonder if there are any other senators on Judiciary who can say why, what was the opposition? This is not that...I like this bill, I like what the CACs do, but clearly there was opposition. There were three opponents and what I'm hearing is, well, they were opposed but they weren't strenuously opposed. So if...okay, would Senator Ashford yield? [LB993]

SENATOR GLOOR: Senator Ashford, would you yield? [LB993]

SENATOR ASHFORD: The best I can come up, Tony, to be as candid as I can, I think that if you were to pinpoint, and again I'm...to pinpoint their opposition, it seems to me that it had to do with their concern about keeping children in the system longer. We heard that. But it seems to us, it seemed to us on the committee that it did just the opposite. But there's some concern raised, we don't want to...we want to make sure that this doesn't elongate the process in the system. I think there was that concern raised, Tony, if...Senator Fulton, and that was one of them. [LB993]

SENATOR FULTON: And that is specific to DHHS... [LB993]

SENATOR ASHFORD: I think so. [LB993]

SENATOR FULTON: ...in your recollection? [LB993]

SENATOR ASHFORD: Yeah. [LB993]

SENATOR FULTON: Okay. What about this Family Advocacy Movement? Is that...I was... [LB993]

SENATOR ASHFORD: That's NFC, I believe, isn't it? Is that NFC? I think that's NFC and... [LB993]

SENATOR FULTON: Well, there's NFC,... [LB993]

SENATOR ASHFORD: Okay. [LB993]

SENATOR FULTON: ...who testified in opposition, which I don't understand, and then there's this other group, the Family Advocacy Movement, which I think, Senator, is... [LB993]

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SENATOR ASHFORD: I'm going to ask Stacey real quickly, but I don't recall their testimony. [LB993]

SENATOR FULTON: Okay. Well, thank you, Senator Ashford. The reason I do this is because we just...we're flowing here. We're flowing with bills and I've seen this happen in the time that I've been here and I feel an obligation to stand up and say something. Any time you see opposition, there is some rationale to that opposition. Whether you agree with it, whether you disagree with it, at least recognize there is some rationale. What personally what I try to do is to wrap my brain around the opposition so that if indeed I'm in favor of a bill, if I feel that if I can articulate the opposing view adequately then I'm rebuttressing my own affirmation for the bill. Well, I can't do this on this one. In fact, I am struggling to find a reason why one is against it, yet there were three groups who were against it, and someone needs to say something because we have had bills in the past where we have had unintended consequences:... [LB993]

SENATOR GLOOR: One minute. [LB993]

SENATOR FULTON: ...the safe haven bill, you know, from my vantage the truancy bill, maybe from your vantage a different bill. We have done things with good intention that have blown up in our face and I don't want that to happen on this bill. So if someone can tell me or explain to me what the rationale was, I probably won't agree with the rationale but we owe it to ourselves to at least hear both sides or all sides of an argument before we put something into law. Thank you, Mr. President. [LB993]

SENATOR GLOOR: Thank you, Senator Fulton. Senator Carlson, you're recognized. [LB993]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I'm standing not to argue for or against LB993 because I think it's a good bill and I applaud Senator Ashford for bringing it. Senator Council's amendment, AM2110, we can't tell from the fiscal note but it's got a cost associated with it. Has to be a cost. It's an additional evaluation, an additional service. Now if I'm reading the fiscal note properly, we've got \$380,000 as part of an annual requirement. We've got \$490,000 for the child advocacy centers. That's \$870,000 of additional expenditures each and every year. That doesn't make it a bad thing; may make it the exact correct thing that we're supposed to be doing. Also on AM2110, I listen to Senator Harms, I always listen to Senator Harms. He's on Appropriations and he's for the bill and he's for the amendment. Senator Council has another amendment, AM2113. I think it will have a fiscal note. It adds a consideration. Members, we are with very good intentions spending a lot of money and we're not even close to the end. In our budget we've got to talk about...consider state aid, and if you think about it our overall budget, even though inflation is at a very low rate, just to fund what we currently do in our present budget takes an increase. We need to increase revenues across the board simply to handle the

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effect of inflation alone on our various departments, because if we don't do that and we have level spending then we hear all kinds of arguments on the floor that we're having cuts. No increase gets interpreted as a cut, and I understand that because a department, if they have no increase, they've got to make adjustments. One of the adjustments is probably letting personnel go. So if we have no new services but fund the existing services, we have an increase in revenue need. And I'm not aiming at this bill but I'm saying that in general when we have a new bill, if we had, with a new appropriation, a suggestion of a reduction in spending someplace else to fund this new appropriation we'd be doing everybody in this body a favor. Now I wanted to bring Senator Heidemann to the microphone. He's not on the floor. Senator Hansen is not by his microphone. And I'm making eye contact with Senator Wightman. I'd like to address Senator Wightman, if I could. [LB993]

SENATOR GLOOR: Senator Wightman, would you yield? [LB993]

SENATOR WIGHTMAN: Yes, I will. [LB993]

SENATOR CARLSON: How much time do we have, Mr. President? [LB993]

SENATOR GLOOR: One minute thirty seconds. [LB993]

SENATOR CARLSON: Okay. Senator Wightman, you've been listening to what I have said. We're spending money. Where are we going to get with this? Where are we going to get not only with this bill, with several other bills? What's your views on how we're spending money? [LB993]

SENATOR WIGHTMAN: Well, obviously, we're trying to stay within the budget and projected revenues. But I would agree with you, Senator Carlson, when we have an amendment and particularly here where we add the word "psychological" examination to the medical, that probably that requires a different fiscal note. And I cannot see where it has been updated for that. [LB993]

SENATOR CARLSON: Okay. Thank you, Senator Wightman. And, members, again, I think this is a good bill. How do we fund it? How do we fund other things that are necessary to do? Thank you, Mr. President. [LB993]

SENATOR GLOOR: Thank you, Senator Carlson. Senators in the queue: Nelson, Burke Harr, Howard, Council, and Lathrop. Senator Nelson, you're recognized. [LB993]

SENATOR NELSON: Thank you, Mr. President, members of the body. I also stand not necessarily in support of the bill or objecting to the bill, but I do have some of the same reservations that have been expressed here by Senator Carlson and perhaps Senator Wightman, and I'm going to have to ask Senator Ashford to rise once more to answer a

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question or two. [LB993]

SENATOR GLOOR: Senator Ashford, would you yield? [LB993]

SENATOR ASHFORD: Yes. [LB993]

SENATOR NELSON: Thank you, Senator Ashford. I've been reading the statement, the committee statement, and I realize you have to go by what's in the bill, but I would like to call your attention to...this would be on page 3 of the bill. You get down to line 20, several sections have been stricken before that. Do you have it in front of you? [LB993]

SENATOR ASHFORD: I'm going to get a copy of it. [LB993]

SENATOR NELSON: It says that...and it talks about the county attorneys getting a contiguous group and then in their efforts they shall include procedures for, if you go down to the new language there on line 20, a "mandatory reporting of child abuse and neglect as outlined in Section 28-711 to include training to professionals on identification and reporting of abuse." You know, I looked at the statute there, 28-711, and it goes into a great detail of what constituents abuse and how to report it. So what are we talking about here? What professionals are going to need training and at what cost, if you can give us some idea about that? [LB993]

SENATOR ASHFORD: First of all, training is going on now, Senator Nelson, so I think it's a...thank you for the question though. I think it's really more of a restatement of what is already going on with utilizing private funding primarily. The additional money is divided between services and review and coordination of...to add additional people to help review the cases and then the service part, which is also already going on, would continue to go on but there would be additional cases. Honestly, we're just putting into statute what is already going on and what is being paid for by private dollars through the donor process, and so it already is. [LB993]

SENATOR NELSON: So is this what is meant then by enhancement, that we're putting in things and putting it on the state rather than volunteers? Is that what we're talking about? [LB993]

SENATOR ASHFORD: No. What we're doing is this is really more giving them authority to do what they're already doing with state dollars. But they're already doing these functions and we are utilizing state dollars to increase the number of children from 7,800 to...or whatever it is, to 15,000 children, 15,800. Those dollars would go to those additional 8,000 children or so children. But the services, you're right, the services that they're doing now are not different than the services they have been doing in the past. [LB993]

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SENATOR NELSON: And as I read it, the mandatory reporting already exists, right? It's just (inaudible) [LB993]

SENATOR ASHFORD: Correct. It's just more people... [LB993]

SENATOR NELSON: All right. [LB993]

SENATOR ASHFORD: ...and it's putting it into statute so that it's sort of, they're catching...the statute is catching up with the services that are already being provided, well, by Project Harmony or whomever, CAPstone, those. [LB993]

SENATOR NELSON: All right. Again, looking at the statement of intent, if you have that before you, it refers to serious physical abuse or neglect on a couple of times and serious or ongoing domestic violence. Well, what's serious and what's not serious under the terms of the statute? [LB993]

SENATOR ASHFORD: Serious is a term that is, as has been said, this is a very dynamic process... [LB993]

SENATOR GLOOR: One minute. [LB993]

SENATOR ASHFORD: ...and each case is different. So serious...and the cases that are being reviewed now and are being dealt with now, Senator Nelson, for the most part are very high-risk cases, the 7,000 cases that are, or so. The additional 8,000 are also very...are also serious cases but maybe not the most highest...not the highest risk cases, but they are significant cases. Each case has to be evaluated and that's the beauty of the larger team. [LB993]

SENATOR NELSON: All right. Thank you, Senator Ashford. A question for Senator Council if she will yield, please. [LB993]

SENATOR GLOOR: Senator Council, would you yield? [LB993]

SENATOR COUNCIL: Yes. [LB993]

SENATOR NELSON: Senator Council, with regard to your amendment, AM2110, you're inserting there, after the word "medical," and "and psychological" evaluations. The statement of intent here talks about initial response to reports of abuse. [LB993]

SENATOR GLOOR: Time, Senator. [LB993]

SENATOR NELSON: One minute? [LB993]

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SENATOR GLOOR: Time, Senator. [LB993]

SENATOR NELSON: Oh, thank you. [LB993]

SENATOR GLOOR: Thank you, Senator Nelson. Senator Burke Harr, you are recognized. Senator Harr waives. Senator Howard, you are recognized. [LB993]

SENATOR HOWARD: Thank you, Mr. President and members of the body. And I'm going to attempt to address some of the issues that Senator Fulton brought up. I don't see him over there but I hope this will be helpful to him. In dealing with child welfare and especially child protective services, as Senator Ashford so eloquently said, these issues are very complex. Cases are decided on an individual basis, as it should be. This is a beauty, this is a beauty of the LB1184 teams--people working together. Now there are schools of thought that think that some of these issues that have in the past been considered critical issues, very serious issues, can be addressed on a voluntary basis. And there was some testimony in the committee and I wasn't present because, unfortunately, I had to deliver two bills in my own Health Committee and I wasn't there in Judiciary for the testimony, but Nebraska Families Collaborative, I understand, did point out that we harm children when we remove them from their homes and families even when the removal is necessary for their safety and protection. Yes, there is always harm when a child is taken from its biological family and the reason the child is taken from that family is because it's too dangerous to leave them there. The safety risk is so severe, so severe that they can't remain with those biological parents. I don't know how else to say it to you. Put it in a context. This is additional information from the collaborative. Many of these families will actually do better if we don't intervene at all. And if I could ask Senator Harms a question, if he would yield. [LB993]

SENATOR GLOOR: Senator Harms, would you yield? [LB993]

SENATOR HARMS: Yes, I will. [LB993]

SENATOR HOWARD: Thank you, Senator Harms. I appreciated your testimony earlier. And you referred to the very high number, I think you said 67 percent of these children you saw were sexually abused? [LB993]

SENATOR HARMS: Out of the 373, 67 percent were sexually abused, that's correct. [LB993]

SENATOR HOWARD: Do you think those cases, and I'm just throwing this out here to you because you are aware of that and you're sensitive, as anyone should be, as anyone should be. Do you think leaving those children with the abuser would be the way to address the problem? [LB993]

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SENATOR HARMS: I think if we wait on those children, if that's your question, I don't think there's any way we're going to be able to help a majority of them. The sooner you get into intervention with those children, the sooner you start to deal with the problem. And as soon as you get them away from the bad environment is our only hope. The longer you go, there is so much damage that many times these children can never have another relationship with anyone. [LB993]

SENATOR HOWARD: You are absolutely right and you go to the core of this entire issue. When a child is left in a home, let's just use a drug-using mom. Now this mom may love this child, this infant, this baby, but how safe is this baby with someone that's actively using drugs? And if this case is referred over to so called voluntary services, voluntary services, I only know of one program in the Omaha area that allows a drug-using mother and a child or possibly two children to go into that program, and it only has ten beds, ten beds available. Well, they're full, so they're not even really available right now. But has happened in the past, and this is the reason the Child Advocacy Centers... [LB993]

SENATOR GLOOR: One minute. [LB993]

SENATOR HOWARD: Thank you, I'll try to be concise,...are so up in arms is these cases are referred, some of them, let's use a drug-using mom, to voluntary services, which means simply a case manager would go out, talk to the mom. You're not using drugs now are you? You're not using drugs, we talked about this. You're not using drugs? Well, no, I'm not using drugs anymore. What is the mom going to say? I'm not using. Approximately six weeks later that case comes back in through the 800 number, problems, as you can guess, are much more severe. Thank you. [LB993]

SENATOR GLOOR: Thank you, Senator Howard. Senator Council, you are recognized. [LB993]

SENATOR COUNCIL: Thank you, Mr. President. I rise to respond to questions regarding the fiscal impact of AM2110 as well as the next amendment that is in the queue. In response to Senator Carlson again, the addition of the word "psychological" was to make it clear that a psychological evaluation is included in the medical evaluations that are conducted at the CACs. So if you read the remainder of the provision that the evaluations that are conducted are to determine what responses to meet the physical, emotional, and psychological needs of the children. And with regard to the information that Senator Harms has shared, if 67 percent of those children are victims of sexual abuse, there are going to be psychological issues involved with those children. And those psychological evaluations are occurring now. In fact, Judiciary Committee staff just advised me to confirm my understanding that psychological evaluations are currently being conducted at the Child Advocacy Centers. So there should...would be no additional costs associated with the addition of the word

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"psychological," that it is clarifying. On the next amendment, since Senator Carlson raised it, the reference to "structured decision-making assessments" is a reference to the tool that is currently being used by what is now the only private contractor in the child welfare system, and that is NFC. They don't use what is referred to commonly as safety plans anymore, at least that's what they advised my staff at a meeting that was conducted a week and a half ago when we were questioning why a child was placed, a victim of child abuse and neglect was placed in a home where, while the individual in the home had not been convicted of any child sexual abuse, there was evidence in a police report that he admitted to either having engaged in child sexual abuse in the past or been inclined to engage in child sexual abuse. So we questioned the development of safety plans and were advised at the time that NFC is moving to what is referred to as structured decision-making assessments which are designed to provide the assessment of placement safety and suitability. So to make it clear that, whether you call it a safety plan or not, that as a part of the assessment that occurs at the Child Advocacy Center, that structured decision-making assessments be included. So there is no additional cost associated with that amendment as well. But to avoid any argument that either of these technical, clarifying amendments would result in any additional fiscal impact and in an effort not to in any way undermine the hard work of Senators Ashford, Howard, Campbell, everybody on Judiciary, and the Health and Human Services Committee, Mr. President, I will withdraw AM2110. Again, it was merely a clarifying amendment, has no fiscal impact. These psychological evaluations will continue to take place at the CAC. But to avoid any basis for opposing LB993 because of a suspected fiscal implication of AM2110, I respectfully withdraw it. [LB993]

SENATOR GLOOR: Thank you, Senator Council. So ordered. Mr. Clerk. [LB993]

CLERK: Mr. President, Senator Council would offer AM2113. [LB993]

SENATOR GLOOR: Senator Council, you're recognized to open on AM2113. [LB993]

SENATOR COUNCIL: For the reasons just stated, I withdraw. [LB993]

SENATOR GLOOR: So ordered. [LB993]

CLERK: I have nothing further pending, Mr. President. [LB993]

SENATOR GLOOR: We continue with discussion on LB993. Senator Lathrop, you are recognized. [LB993]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Now we're going to talk about money. We've come off of a couple years of recession, tight budgets, and we've been conditioned to believe that we can solve every problem with a cut or without spending money. That's not going to happen here. This is the first in a series of bills that

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is going to cleanup a mess. It is a mess. And if you want to talk about money, and we can, you need to understand where we've been and where we're at today and where we're going to start this conversation at. A hundred and five million dollars was spent on child welfare in '08-09, by '10-11 it was up to \$139 million, \$105 million in '08-09, \$139 million in '10. We've spent \$30.5 million in amendments to the various contracts to provide child welfare services, \$30 million. We are not going to have this conversation here and do it without spending money. This is not a special interest group, it is the kids. It is a duty this state has to the welfare of the children. And we have made a complete mess of it. You will hear tomorrow, and I'm going to start the conversation today, the privatization effort has been a miserable, unmitigated failure. It was a failure at the planning process, in the execution, and the results have been awful. It has not delivered what we thought or what was expected and we have spent tens of millions of dollars on it. We are going to start cleaning this mess up and we're going to start with LB993. And we will not do it without spending money. I'm all in favor of keeping the budget flat, watching the budget and make sure our increases are modest, that's fair. Agencies should be held to a modest increase every year and we should deliver for hardworking Nebraska taxpayers. But we have a responsibility to do this well and it has been done very poorly. And the cleanup starts on LB993 and it will not be done for free. We cannot do this without spending money, it will require the expenditure of money. If you have a problem with what's in the bill, that's fair. But if your opposition or your concern starts with this is going to cost money, then I will just tell you, go back to this book, read this thing because the problems that have been created with a failed effort at privatization will not be fixed without spending money. This is not a special interest group, these are the kids we are charged with taking care of. It is our duty, this is one of the responsibilities and it is an unmitigated mess. LB993 addresses part of the child welfare system and it improves one of the things that we do well. [LB993]

SENATOR GLOOR: One minute. [LB993]

SENATOR LATHROP: And I tell you that this is a private-public partnership. We have people that spend money on this, their own money on this process. We collaborate with private dollars to make this system work. It needs to be improved upon, LB993 does that and, yes, it costs money. And we're not getting through this week without spending some to fix the mess. Thank you. [LB993]

SENATOR GLOOR: Thank you, Senator Lathrop. Chair recognizes Senator Carlson. [LB993]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. This is an interesting discussion this morning. And I'm listening to Senators Howard and Harms and Fulton and Campbell and Lathrop all supporting this bill. And I'm not opposed to this bill. And I think it's a reasonable question to ask how we fund it. Is it possible to fund LB993 in HHS by a switch in spending? I'd like to address Senator

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Lathrop if he would yield. [LB993]

SENATOR GLOOR: Senator Lathrop, would you yield? [LB993]

SENATOR LATHROP: Yes, I will. [LB993]

SENATOR CARLSON: Senator Lathrop, you've referred to what's gone on as a mess, and I'm not arguing with that. I'm going to ask about four questions and then let you respond. Why is it a mess? Have we not spent enough? Have we misspent? Have we mismanaged? There's four questions. Would you respond to those? [LB993]

SENATOR LATHROP: Yes. As I read the report from the Health Committee I would say we're in a mess because the administration went into privatization without a plan. They had no plan. Somebody turned the switch on and said we're now going to privatize the responsibilities formerly assumed by the Department of Health and Human Services. We let contracts for amounts that weren't sufficient to provide the services and there was no oversight. As a consequence, we had within a few months of these contractors taking control of the responsibilities formerly handled by the state, we had several of them back out, one of them go into bankruptcy, and the remaining two come back for more money. And we have made amendments to these privatization contracts that have cost us an additional \$30.5 million. As I read the report from the Health Committee, it began with the lack of planning. And interestingly enough, Senator Carlson, at the very beginning of this report they make the observation that had the administration simply looked at other states that had gone through the privatization process, they would have been told where the bumps in the road are. And we didn't and we hit every, single one of those bumps. It's a list of failures that we could have learned from other states that went through this process, and we ignored them, went straight into it. And it has been an unmitigated failure, an unmitigated failure. Started with the planning, it was in the execution. And I don't know what the expectation was and I don't think they ever developed what the expectation of privatization would be. But if it was to save money, it didn't. It cost us \$30.5 million more than it would have cost us just to keep doing what we were doing before. And the outcomes got worse, the outcomes got worse because we had all the case...the caseworker turnover has been awful. And every time somebody...the studies show that if you have one caseworker, you have a really good chance of it working out for you in the system. And some percent of the kids actually had one caseworker. And more than half had multiple caseworkers. Some of them had eight caseworkers in a year period. Nobody knows what's going on with the kid, and they sit in foster care and they...and the expenses go up. [LB993]

SENATOR GLOOR: One minute. [LB993]

SENATOR LATHROP: And it has been, it has been a...I just can't express...and I worked on the BSDC issue, there we saw abuse which was awful. This is no different,

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it's a complete failure. And we're not going to fix it, we can't fix it and expect at the same time that it won't cost us more money, we just can't, it's not going to happen. And I don't take pleasure in that. I am disappointed, disappointed that we undertook this, and I shouldn't say we, because this Legislature had nothing to do with it, which is a whole nother issue, but the administration undertook this with no input, with no planning or very little planning, and really no stated objective, other than simply to join the other states that have gone through the privatization effort and what have we got for it? [LB993]

SENATOR GLOOR: Time, Senators. Thank you, Senator Carlson and Senator Lathrop. Senators remaining in the queue: Krist, Howard, and Carlson. Senator Krist, you're recognized. [LB993]

SENATOR KRIST: Colleagues, good morning Nebraska again. Senator Lathrop, bravo. I know that you have taken an interest in this because of your own committee's response to folks who were not paid correctly as subcontractors in one of those contract cases. You've heard me say it before. I was hoping to wait until tomorrow so that we could set the stage. But I'm glad that we're setting the stage today. The CEO of Health and Human Services when they undertook...the Department of Health and Human Services undertook privatization as a tool to reform a broken system established poor, very poor contracts with no performance objectives, with no financial oversight, with no management oversight. They threw millions of dollars at contractors all over the state and said, handle it, take care of our problems, take care of our children. There were no performance objectives. As Senator Carlson's questions, you bet, it's a mess. It's a mess because we allowed the contractors around the state to do what they wanted to do to try to solve the problem because they had no management oversight from the department. And then the contractors came back to us, one at a time, and said, you know what, we can't do this for the amount of money that you're giving us. Let me give you an analogy. You have a beautiful house in the country, you live there all year round. You pay the gardener, you pay the cook, you pay, if you're in this tax bracket, you pay all these people to do what you need to do, and then you decide, you know what, I'm going to go to the Bahamas for a couple of months. And you bring somebody in to act in your place and you say, you need to take care of my property, you need to take care of those people that are taking care of my property. And you don't give him one more dime to take care of your estate. What do you think he's going to do? He's not doing this for nothing. I've said this on the mike before, this is the scenario. He's going to have to get paid, he or she will have to get paid for the services that they are providing you. So where do you think the money is going to come from? You left him with \$1,000 a month, he's going to take his cut off the top. And then he's going to subcontract for the cheapest guy out there potentially or pay less to the people who are already there. It was impossible from the very beginning. It was ill-conceived from the very beginning. It is a fiasco. We have people that were being paid correctly, \$20 to \$30 a day for foster care kids. And when the trickle down effect reached those people after

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this privatization effort they were getting half if not a third of what they were being paid before by the state to take care of those kids. So who was hurt? The contractor? Although some of them say they took money out of their own pocket, and it is documented that that is correct, we rode on the back of those 501s and they lost money. The process was ill-conceived, not thought out well, not contracted well, no management oversight, no financial oversight. The restoration of where we need to go is going to cost money. But let me try to summarize for you how I think about this having dealt with it for the last year. We have an opportunity to continue to throw money at a contractor and have it done or we can take control of it and find out where that money is going and fund it correctly. Folks, we have a 347 program. If you don't know what that is, ask Liz Hruska, ask the folks in Appropriations. [LB993]

SENATOR GLOOR: One minute. [LB993]

SENATOR KRIST: That 347 program is the size of a budget of a South American country and they can move money around within the subprograms any way they want to, robbing Peter to pay Paul in one term. It needs to stop. We need to have programs that have...we need to have money in programs that go to specific purposes and accountability for those programs, like the juvenile justice system that we've been talking about for a couple of days. LB993 is one such program that makes things better and we need to vote green on LB993. And I'll save the rest of my tirade for tomorrow. [LB993]

SENATOR GLOOR: Thank you, Senator Krist. Senator Howard, you're recognized. [LB993]

SENATOR HOWARD: Thank you, Mr. President. I'm going to make this brief because I'd like to see us go to a vote on this before we adjourn for lunch. Thank you, Senator Lathrop and Senator Krist, for hitting the nail on the head. When this all began it was done with the guarantee that this would cost the same amount of money as the internal system, the same amount of money as was spent on the internal system. The ink was barely dry on the contract, and that contract was signed in November 2009, you all know we weren't in session in November 2009, but the ink was barely, barely dry when the private agencies came back and said, you know what, we really can't do it for this amount of money; we need to have case management, we need to have that over with us. Now when I heard about that what came to mind was the fox guarding the chicken coop, and if you all know what's left after the fox has finished, it's not much. This has cost us 29 percent more and the meter is running. I learned this morning that the requests from the private agencies, well, the private agency, the agency we have left for child welfare shortfall, well, backup, for this year, for this year, Medicaid dollars are going to be shifted over, over to fund the system. Six million dollars, \$6 million is going to be paid to KVC after they leave us, when they're gone. They quit or were fired, whichever version you want to take, the end of this month. But we're going to give them

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\$6 million in addition. Forty percent higher case manager turnover, and believe me it was high enough when I worked the system, 40 percent higher. Kids see a different person every few months when they do see someone. Decrease in adoptions, I have followed that number because when I worked for the department we saw an increase, every year there was an increase. Every November there were celebrations for adoption day. We were all so happy that those children had permanency and had a family that pledged themselves to be there for the future. And as Senator Krist so aptly pointed out, this has resulted in lower foster home payments. I had a foster mother that called me before school started last fall and said, my child, my foster child needs some new clothes for school. And the agency, I'm not going to say which one, the agency, the private agency said, go to the Goodwill. And she was almost in tears and she said, no one goes to the Goodwill to shop for their child's back to school underwear. She said, I'm not going to do that. I don't know how foster parents do it for \$11 a day. But fortunately, we have a bill in here that Senator Dubas has prioritized to address this. You've heard testimony or maybe we have it in committee, maybe you haven't yet, but it costs more to kill a pet than \$11 a day. I urge you to vote green on this bill. I'd like to see this, as I said, advanced before we go to lunch, so I'm going to end now. And thank you for your support. Thank you for being there with me on child welfare issues the seven, now eight years that I've been down here. I sure couldn't have done what I've gotten done here without all of you. So thank you. [LB993]

SENATOR GLOOR: Thank you, Senator Howard. Senator Carlson, you're recognized. [LB993]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. Again, this is a good discussion this morning. And I listened to Senator Lathrop, whom I respect very much, put a lot of the blame on the administration. And privatization has not worked thus far. It didn't work before the way we were doing things. Senator Krist talks about very poor oversight and we're way short on accountability. I agree with him. Senator Campbell and the HHS Committee I know are working and trying very hard to fix a problem. I still like LB993, so I'm not bringing up these things because I'm against LB993. But the problem is, if we have problems, which we do, throwing more money at a problem doesn't solve the problem. And this is a deep issue. There are a lot of issues. And I've been told that we need to solve things one problem at a time, and I don't argue that. Now I'm going to be watching the vote on LB993 very carefully. I want to see how Harms and Fulton and Campbell and Hansen and Heidemann and Nelson vote. That will help me determine what to do. Thank you, Mr. President. [LB993]

SENATOR GLOOR: Thank you, Senator Carlson. There are no senators remaining in the queue. Senator Ashford, you're recognized to close on the advancement of LB993. [LB993]

SENATOR ASHFORD: I sure hope Senator Nelson votes for this bill. (Laugh) That's all I

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can say. (Laughter) Thank you. This is a great challenge if I have to lean over and discuss this further with Senator Nelson. But the greatest endorsement I could get for LB993 is Senator Campbell's comments because I think she hit it exactly on, spot on. What we're trying...what we're doing, and Senator Langemeier has made a good point, what exactly will we be accomplishing here? And what we will be doing, we will be adding to the services that are provided at the Child Advocacy Centers, 1,000 potentially, and this is an estimate, but 1,000...based on last year's numbers, 1,694 voluntary cases. These are cases that are not now in the system. Once these cases get in the system they are much more expensive than if they're not in the system. To bring these cases into the child advocacy system, these are serious cases, they can...services can be provided holistically and in a coordinated fashion, and that's a savings. It will also add an additional number of cases, 7,000 or 8,000 additional cases that will...that are high-risk cases that have not now been in this child advocacy service process. The challenge that has been...Senator Carlson has given to us is an important challenge, it's an important challenge. But what is also important is that we take these various measures in the context of the entire effort. This is \$871,000, which is de minimus compared to the number of dollars that has already been spent, have already been spent in the child welfare fix. All of us will have to make a decision on spending at some point in this session. I would urge this body, Senator Nelson particularly, I'd urge this body to move LB993 and the A bill along so that it can be part of the package, because it is a critical element of the package. It will save money in the long run. And I think, as Senator Lathrop so correctly stated, this...these are private, for the most part private dollars, donor dollars from the communities across the state, millions and millions and millions of donor dollars from communities across the state that are not going into building buildings but are going in to helping children. And these children, as Senator Harms has absolutely, correctly stated, are in dire need of help,... [LB993]

SENATOR GLOOR: (Gavel) [LB993]

SENATOR ASHFORD: ...dire need of help. And the help is being given, not by government here, folks, it's being given by communities in a collaborative way, working together with necessary officials and authorities to help children and provide them with the safety they need to develop in our state. I would urge the adoption of and advancement of LB993. Thank you. [LB993]

SENATOR GLOOR: Thank you, Senator Ashford. The question before the body is the advancement of LB993 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB993]

CLERK: 41 ayes, 0 nays, Mr. President, on the advancement of LB993. [LB993]

SENATOR GLOOR: LB993 is advanced. Mr. Clerk, items for the record. [LB993]

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CLERK: Mr. President, new resolutions. Senator Harr offers LR425; Senator Larson, LR426; both those will be laid over. I have amendments to be printed: Senator Harms to LB949; and Senator Cornett to LB1071. Enrollment and Review reports LB42, LB446, LB526, LB733, LB739, LB760, LB780, LB790, LB801, LB841, LB860, LB862, LB862A, LB985, and LB1043, all of those reported correctly engrossed. (Legislative Journal pages 657-660.) [LR425 LR426 LB949 LB1071 LB42 LB446 LB526 LB733 LB739 LB760 LB780 LB790 LB801 LB841 LB860 LB862 LB862A LB985 LB1043]

Priority motion, Mr. President. Senator Hadley would move to recess the body until 1:30 p.m.

SENATOR GLOOR: Members, you have heard the motion to recess until 1:30 this afternoon. Those in favor say aye. Those opposed say nay. We stand recessed.

RECESS

SENATOR COASH PRESIDING

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

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

SENATOR COASH: Thank you, Mr. Clerk. Any items for the record?

CLERK: I have one item, thank you. Hearing notice from the Revenue Committee signed by Senator Cornett. That's all that I have, Mr. President.

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

CLERK: Mr. President, LB239. It's a bill introduced by Senator Janssen. (Read title.) The bill was introduced in January of 2011, referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. There are Government Committee amendments, Mr. President. [LB239]

SENATOR COASH: Thank you, Mr. Clerk. Senator Janssen, you're recognized to open on LB239. [LB239]

SENATOR JANSSEN: Thank you, Mr. President and members. I rise to introduce LB239 which has been referred to as the Nebraska Voter ID Act. I would like to thank Senator Schilz for sponsoring this bill and prioritizing it so we get to have this important

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debate today and on through the week. This bill would require voters to show government-issued photo identification at their polling place before casting their ballots. I introduced this legislation in order to further protect the integrity and reliability of our elections. LB239 would do so by deterring and detecting voter fraud and ensuring confidence in our voting process. I've always felt it unusual that when I go to my polling place, I'm not asked to prove who I am. Many others have contacted me on this issue and shared the same thought with me. In order to protect the sacred one person, one vote tradition in our country, I think it is important that we do all we can to ensure the integrity of our voting process. Voter photo ID was a key recommendation of the Commission on Federal Election Reform cochaired by former President, Jimmy Carter, and former U.S. Secretary of State, James Baker, in their 2005 report titled Building Confidence in U.S. Elections. Some opponents of voter ID continue to claim that it is unconstitutional. That is simply not the case. The United States Supreme Court recently upheld Indiana's voter photo ID law in Crawford v. Marion County Election Board. Justice John Paul Stevens wrote for the court that the photo ID requirement was constitutional because Indiana had a legitimate state interest in preventing voter fraud, modernizing elections, and safeguarding voter confidence. Examples in the trial court record of voter fraud and voter fraud investigations listed several states. Nebraskans are honest and forthcoming people. When we cast our ballot at the polling place, many times we recognize each other as friends or neighbors. But we are also not naive enough to think that voter fraud doesn't happen. Elections are very important to ensure voter support in the electoral accountability. We have races in our state that are determined by one vote. My district has had races that ended in a tie and had to be determined by the casting of lots. I'm sure many of your districts may have examples as well. According to National Conference of State Legislatures, 15 states request that voters...they require voters to provide photo ID. And an additional 16 require ID but not necessarily requiring one with a photograph. Nebraska is not presently one of those. I think most Nebraskans would agree with me that it is surprising that this is not already the case and they would not object to proving their identities before undertaking this very important civic duty. LB239 would not require voters casting ballots by mail or voters who vote an early ballot to provide government-issued photo ID unless it's their first time voting, similar to other voter ID laws across the country. If a voter does not present any form of identification at the polls, LB239 still protects the right to vote by allowing the voter to vote a provisional ballot. The election commissioner would then verify his or her identity as our current provisional ballot process requires. We in the government spend a good deal of time debating how to address the very small portion of registered voters. Approximately 2 percent that do not currently possess Nebraska photo ID, the green copy of LB239 mirrored Indiana's constitutional provisions for addressing this issue. We decided to go with a Nebraska way of sorts by finding the solution that made it as easy as possible to put the ID in the hands of those who do not currently possess Nebraska photo ID for use at the polling place. LB239, with the committee amendment, would permit the use of a voter acknowledgement of registration for identification purposes. An acknowledgement of registration is the

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postcard or letter that voters receive from the election commissioner or county clerk that indicates a person's name, address, party affiliation, polling place, etcetera. We all receive them per current statute when we register to vote, when we change address, when we change party affiliations, and so on. In order to further ensure that those without photo ID are accommodated, LB239, as amended, requires the election commissioner or county clerk to mail an acknowledgement of registration to every registered voter who does not have a motor vehicle operator's license or state identification card for the purpose of presenting ID at their polling place. The secretary has the capability...excuse me, the Secretary of State has the capability to identify these registered voters and will notify the election commissioner or clerk of all voters in their county who do not possess either an operator's license or state ID card. Those voters will receive their acknowledgement of registration prior to all statewide primary and general elections. Some interest groups have objected to the cost to provide these free voter ID cards. I think we in the Government Committee came up with an extremely cost-effective way to provide IDs to voters that do not already possess a Nebraska ID. Again, there are only approximately 2 percent of registered voters in Nebraska who don't have the Nebraska driver's license or state ID card. The cost to provide the voters their voter registration card ID should be approximately \$15,000 for each election. That comes to \$161.29 per county per statewide election and that seems extremely small price to pay to secure the integrity of our elections. Voters have the right to vote provisionally now and they will continue to have the right afterward. This minimal potential cost is also well worth the price to protect the integrity of our elections. I hope the accommodations in the bill and the committee amendment address reasonable concerns or question about asking for voter ID at the polling place. I do think we need to act this session to particularly emphasize Justice Stevens' point in our legitimate state interest in safeguarding voter confidence. I've heard frequently from people in Omaha who have lost confidence in their elections. A voter registration fraud, felony conviction, and the unseemly appearance of payments for the votes of the vulnerable people in two of the more recent elections in Omaha, have discouraged voters. We must be sensitive to the importance of ensuring that people's right to vote will not cancelled out by fraudulent votes. A few persons have made the claim that this bill will run afoul of Article I, Section 22 of our State Constitution which reads: All elections shall be free, and there shall be no hindrance or impediment on the right of a qualified voter to exercise the elective franchise. I would point out that qualified voter is an essential clause to our fair and free election system. We must pay close attention to Nebraska's opinions on this issue. A July 2010 Caltech/MIT study examining support for election reform in the United States reported that 79 percent of Nebraskans supported requiring an ID to vote. Other measures didn't even come close to that. The other was Internet voting, 24 percent; vote by mail, 14 percent; automatic registration, 36; election day registration, 37; election day holiday, a day off, only got 50 percent to vote; election day on the weekend, 38 percent. The responses were similar nationally. I do think it is important that we protect the integrity and reliability of the electoral process. The Commission on Federal Reform has recommended asking for a photo ID at the polling place. The U.S.

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Supreme Court has ruled that we have a legitimate state interest in preventing voter fraud, modernizing elections, and safeguarding voter confidence, and that photo ID is a constitutional method of doing so. We have accommodations in LB239, as amended, that will be much more convenient than even the law that the Supreme Court upheld. The first time I voted in the presidential election I voted absentee from a combat zone in the Persian Gulf. That took some level of effort but it was well worth it. I'd hate to think that vote was neutralized by voter fraud. I've seen amendments and realize we'll be settled in on this for a while. I do respect the committee compromise AM727 to LB239. I did not introduce this bill to create a wedge issue. I understand and accept that some of my colleagues ideologically disagree with me on this issue. I look forward to a civil and constructive debate on this bill. In the end, I will most likely be asking for a cloture vote and then a vote for AM727 and LB239. I look forward to your support. I look forward to your fair debate. Thank you, Mr. President. [LB239]

SENATOR COASH: Thank you, Senator Janssen. (Visitors introduced.) Mr. Clerk, you have a committee amendment. [LB239]

ASSISTANT CLERK: Mr. President, there are amendments from the Government, Military and Veterans Affairs Committee. (AM727, Legislative Journal page 865, First Session, 2011.) [LB239]

SENATOR COASH: Senator Avery, as Chair of the Government, Military and Veterans Affairs, you are recognized to open on AM727. [LB239]

SENATOR AVERY: Thank you, Mr. President. Good afternoon, colleagues. I bring to you AM727. This committee amendment strikes the original sections of the bill and replaces them with the following provisions: A voter will not be handed a ballot at any election until the voter has presented a government-issued photographic identification or an acknowledgement of registration. Prior to every statewide primary and general election, the election commissioner or county clerk will mail an acknowledgement of registration to every registered voter who does not have a motor vehicle operator's license or state identification card for the purpose of presenting identification at the voters polling place. Government-issued photographic identification is defined as a motor vehicle operator's license or state identification card or a document issued by the United States, which includes the name and photograph of the individual. A person who does not present identification at the polling place will be allowed to vote provisionally. Voters who vote an early ballot will not be required to show identification. Similarly, in an election held by mail, voters will not be required to show identification. The committee advanced LB239 with AM727 on a vote of 5-3. Thank you, Mr. President. [LB239]

SENATOR COASH: Thank you, Senator Avery. There are amendments to the committee amendment. Senator Council, you're recognized to open on AM1667. (Legislative Journal page 106.) [LB239]

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SENATOR COUNCIL: Good afternoon, colleagues. I'm trying to get my amendments in order here because the amendments were originally filed in relation to the underlying bill and there is not a perfect match in terms of the numbers that I have on these amendments and other numbers. I trust that AM1667, without looking closely, is the amendment that I introduced that deals with removing the exemption from voter ID for voting by mail. Let me double-check, Mr. President. I stand corrected, but it still deals with voting by mail. And the reason that I introduced AM1667, I listened to Senator Janssen during his opening and I listened to Senator Janssen when it was reported on the news, his opening before the Government and Military Affairs Committee, and the expressed intent for LB239 is to provide protection for the integrity of our election processes. And I don't think there's anyone in this body who does not want to ensure that we have the utmost degree of integrity in our voting processes. But if you look at the bill, as amended by the committee amendment, number one, it really does nothing to ensure the integrity if we're really concerned about voter fraud and voter ID only goes to voter impersonation. And if you look at the amendments and what the amendments do, it actually creates far more opportunities for voter fraud and voter impersonation than exists under current law, and that exists with any examples of those types of actions occurring in the state of Nebraska. Perhaps I'm different from Senator Janssen in one respect. Once I reached voting age and went through the procedures to register to vote and at every election received my voter registration card in the mail reminding me of where my precinct is, I have never given thought to the question of why I don't have to present identification when I go to cast my ballot. The voter registration records show me as being a registered voter, the card comes to my voter registration address. I carry that card with me when I go to vote, but I have never once questioned whether or not voter ID was not being required. And AM1667, it was introduced to point out some hypocrisy. Under current statute only certain counties in the state of Nebraska are permitted to have all mail ballot elections. And what that means is that there are only counties of certain sizes that apparently the voters in those counties would never dream of committing voter fraud because if there's a mail ballot, all mail ballot election in those counties, voter ID is not required. However, under current statute, the larger counties in the state of Nebraska do not have the authority to have an all mail ballot election. So if we believe that all mail ballot elections have some particular degree of built-in protection against voter fraud or voter impersonation, then that privilege should be extended to every resident of the state of Nebraska, every county and county election commissioner should be allowed to authorize all mail ballot elections. And when they do so, voter identification should not be required of anyone. Again, if you look through the bill, even with the amendments, and no disrespect to the committee because the committee tried to make a bad bill better, but what the committee amendment does is even further highlight the problems with LB239, and the problems with trying to address a problem that does not exist in this state. I have been unable to unearth one single incident of reported voter impersonation in the state of Nebraska. I am unaware of any cases of voter fraud in the state of Nebraska. I know that Senator Janssen made reference to an

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issue that arose during the mayoral recall election in Omaha, but again, even with that particular controversy, it wasn't a question of whether or not those individuals had a lawful right to vote. They were registered voters and their identity was not at issue. Again, AM1667 is intended to point out the discrepancies in this bill; the hypocrisy in the bill by virtue of the fact that there are at least three, if not four, classes of voters that are created under LB239, as amended by AM727. There's a class of voters that early vote. There's a class of voters that vote by mail, and the only class of voters for which photo identification is absolutely required is someone who appears at the polling place to vote, which I submit to you is the place where you'd least likely have someone want to impersonate a voter. I don't know about all of you but I have voted at the same precinct for almost my entire adult life. And it's the same polling place workers at that polling place every single election that I go to vote. I'm greeted at the door with, Hi, Ms. Council, how are you today? So the necessity of providing a photo ID to me is just unnecessary and burdensome, because if you look at your polling place, you look at your polling workers, they're people from those respective communities, by and large, and they know who the people are, and we don't need to burden people with the necessity to obtain a photo ID. There are other amendments that are on this bill and I know that many think that it's solely for the purpose of mounting a filibuster. But I can speak to the fact that the amendments that I have introduced have been introduced to show the flaws in this bill, to show the fallacy associated with the need to provide some degree of protection against voter fraud or voter impersonation in the state of Nebraska because it does not exist. This is yet another example of when other states do it and it meets our philosophical or our ideological purposes, we rush to do it. If other states do it and it doesn't fit our particular philosophical or ideological perspective, we ignore what other states do. Well, I suggest to you this is a time when we should ignore what other states have done because there's not a problem in Nebraska and if voter impersonation... [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR COUNCIL: ...and voter fraud is an issue, then you would need to approve AM1667 because it adds the same type of protection to a vote-by-mail election in counties, the larger counties in this state, as it does currently for the smaller counties. Thank you. [LB239]

SENATOR COASH: Thank you, Senator Council. Members, you've heard the opening to LB239, the committee amendment, and the amendment to the committee amendment. Those wishing to speak: Senator Schilz, Lautenbaugh, Mello, Sullivan, and others. Senator Schilz, you're recognized. [LB239]

SENATOR SCHILZ: Thank you, Mr. President and members of the body, good afternoon. This afternoon I'd like to give you a little bit of the reasons why I prioritized this bill, why I think that the conversation and the debate are important, and with that, I'll

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take on. I do believe the debate on this issue is important. I think that as you look at things, what we see sometimes...and what we need from our Legislature is leadership, proactive leadership and not necessarily reaction that we usually have to put up with. I think that it is very important to maintain the integrity of our elections. It's of the utmost importance to make sure that those folks who are qualified voters don't have their vote diluted and, thus, are disenfranchised by any attempt at voter impersonation. As I talked to folks from my district and, obviously, my district is more of a rural district, not a lot of large cities, but almost every person...to a person told me, I take my ID every time I go to the polls because I just expect that I have to give it. And I have to be honest with you, I've done the same thing for years. And when I pull it out and they tell me, you don't need it, I'm just like, well, that seems a little bit funny because I can't think of anything that's more important to get right than to make sure that everybody who votes in an election is qualified to vote. If your vote is diluted like that, then everyone that is qualified is disenfranchised. And isn't that what we're looking for here, folks, to make sure that the integrity of the elective process is maintained? IDs are required for all sorts of activities. Even to get a library card you have to have an ID. What this bill intends to do and tries to do is to make sure that where in those incidences, and there are not very many, you have someone that is not able to afford an ID that there is a process that they can go forward and vote with that remains constitutional in that it doesn't encumber their ability to vote. And that's what this bill does. We talk and we hear about this process so many times. And I've got to be honest with you, as I've looked at it, and as I've seen here, I want to make sure that we have a civil debate on this, because I really don't...I really hope that the emotion doesn't get started into this because it's really not the place for it. It seems to me that we need this debate to make sure that what we're doing is right, that we're proactively taking care of the voters of the state of Nebraska. And with that, if Senator Janssen would like any of my time I'd be more than happy to give it to him. Thank you. [LB239]

SENATOR COASH: Senator Janssen, you have 1 minute 45 seconds. [LB239]

SENATOR JANSSEN: Thank you, Senator Schilz. Again, I appreciate you prioritizing this bill. I would like to just take a couple of seconds here to...I did distribute a handout. I know it's a rather lengthy handout but I should point out that in my now fourth year here, that's the first handout I've ever sent out so I went a little extra with paper on this one. So apologize for killing the trees, but this is a handout of people that signed the petition. It would be the thicker handout that you got first when I was doing my opening. These are just rank-and-file Nebraska citizens that went to a Web site, they signed it, said they want to stop voter fraud. It was a little bit more explanation of what LB239 was as amended. I appreciate those people going there to the Web site and signing it. [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR JANSSEN: If you take a look in your district, I didn't break it down by

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districts, but it does have the city on there. They're listed, so take a look at your friends and neighbors that have signed it. I would note that several organizations did try to send in fictitious names, so it was actually attempted vote fraud on my Web site for this. We did it...a good job of eliminating most of those, I hope, and paring the list down. And we've had about 200 additional names added to that list since I generated this which was last week when I thought debate would start. Thank you, Mr. President. [LB239]

SENATOR COASH: Thank you, Senator Janssen. Senator Lautenbaugh, you're recognized. [LB239]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do come to this topic with some certain amount of experience in the past. I haven't rolled it out yet this session, but I did used to be an election commissioner back in the day, and I used to train the poll workers by the thousands in Douglas County, literally, for every election. And I have to be honest, I encountered lots of voters who were shocked that there was no ID requirement. I encountered thousands of poll workers who expected there would be some sort of an ID requirement. And people are generally surprised, genuinely surprised, when you tell them no, there is no ID requirement. And we talk about how important voting is and that's surely true, but I've spoken on other bills about this, too, where I feel like in some ways we cheapen it a bit when we consistently err on the side of promoting no responsibility whatsoever, absolutely none. We've moved farther down the road to mail-in...elections by mail in a real way. I think something about like 30 percent of the people now vote by mail and we used to call it absentee and you used to have to say you're out of town. Well, we don't do that anymore. All you have to do is request a ballot and it will come to your door. I used to deal with lots of complaints whenever we moved a polling place. And we had to move polling places, buildings were torn down, we lost our lease. Public schools are required to be polling places but no one else is. And when I was election commissioner, I think we had 378 precincts in Douglas County, which is a lot of polling places to staff. And we'd move it and I would get complaints from people saying, well, now I'm going to have to go a couple of miles farther to vote. And I finally explained to one gentleman, I said, you know, how often do you think you're going to go there? Because by my count it's going to be twice this year, maybe a couple of times next year, and that's really it. And by the way, we'll mail you a ballot if you want one, really. So I struggle with this because it is important, but I think just a modicum of responsibility is in order for voters. I think you do have to meet registration deadlines. I think you should show up at the polls. I personally can't stand voting by mail, I never do. I would even leave the election office on election day and go out to my polling place and vote because I think it's important that we have a day where we come together and we make a decision and the votes are counted and that's that. But time is marching on, and I think in a lot of ways in the wrong direction. So now we have what I would call a minimal imposition, if that. Minimal, minimal, minimal imposition. And I see it as a measure that will help avoid fraud. Anything that will help avoid games on election day would be helpful, especially when you look at the cost of

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this, which is, again, minimal, and possibly overstated at that. I've heard objections that we would have to train all of our poll workers to do something different. Well, folks, I used to run those poll worker training sessions and I would have no trouble standing up there and saying, you're supposed to ask for ID, or their state voter card if we mailed one out to them because they don't have an ID, or let them vote provisional. Bam. That's it. That's not mystifying, that's not going to confuse the poll worker more than some other things we do. And I don't see how there's a legitimate training cost associated with uttering that sentence and putting it in the manual. That's it. [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I am interested in the debate going forward on this and I am supporting the bill as amended by the committee amendment. I think the fears on this have been wildly overstated. I think...well, at least one recent article in the press was frankly despicable. And I think this is important and I hope you'll look favorably upon it when the time comes to vote. Thank you, Mr. President. [LB239]

SENATOR COASH: Thank you, Senator Lautenbaugh. Those still wishing to speak: Senators Mello, Sullivan, Bloomfield, Loudon, and others. Senator Mello, you're recognized. [LB239]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I rise in support of AM1667 in part due to what I thought was Senator Council's very telling hypocrisy that exists by the adoption of AM727 to the underlying bill, LB239. Disregard that, yes, I do not support LB239. I find it's a pathway ultimately that limits Nebraskans right to vote. As Senator Janssen mentioned in his opening, we do have a provision in Nebraska in our state Constitution that protects an individual's right to vote. We have a state Constitution that protects the fundamental freedom to vote. We go further than the U. S. Constitution. What essentially we see with AM727 and LB239, I feel attacks that fundamental freedom. But the underlying amendment, you'll see on the computer here, there's a handful of amendments. One, I feel the amendments I put forward are all amendments that need to be adopted to LB239. It makes the bill better even though I don't support the bill. Why? Because it points out glaring loopholes, glaring flaws in the existing legislation even with the adoption of the committee amendment. But let's stick first with AM1667. Briefly, if we do not adopt any amendment, and we simply vote on the committee amendment and the underlying bill, we create a separate but unequal democracy in Nebraska. Separate, but unequal. If you live in a county under existing state statutes that allow for all mail ballots, you do not have to show ID to vote. If you live in those other counties and choose to vote on election day, you do have to show ID. We are creating two separate kinds of democracy in Nebraska, colleagues, without adopting AM1667. That is problematic without all the other amendments we're going to discuss on this bill in a sense of creating two separate kinds of political systems based

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on where you live. If that shouldn't cause pause regardless of the claims of whether or not voter fraud even exists in Nebraska, we cannot allow a separate but unequal election system in this state. There's a litany of amendments and there was a handout or two I passed out to kind of show and preface a little bit of some of the issues that I and others probably will raise on this legislation. As I agree with Senator Janssen and Senator Schilz, by all means, we can have a civil debate. Good people can disagree on public policy. This is one of those examples where I think there will be people who generally disagree. I think that disagreement rests in regards to whether or not we can agree that voter fraud has never been an issue in the state. That LB239, in my view, is a solution in search of a problem. And ultimately the committee amendment that we're asked to vote on creates more loopholes than it actually solves. All due respect to the Government Committee and the committee amendment, they tried to find a way to build a compromise. Unfortunately, that compromise causes more problems and concerns than what the underlying legislation even seek to achieve. One of the handouts I provided you are three separate identifications. That does not qualify under the committee amendment, AM727, or the underlying bill. One of those identifications is my state senator ID issued by the state of Nebraska through the Legislative Council. That colleagues, if I was to go vote in my precinct in south Omaha and showed that identification, that would not count under the committee amendment or the underlying bill. The other ID, the second one, is an identification from the Ponca tribe of Nebraska, a federally recognized Indian tribe... [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR MELLO: ..that has very specific information about that individual, their Social Security, their date of birth, a photo identification, an actual seal from the Ponca tribe of Nebraska. That, colleagues, would not fall under LB239. The last ID, which I know there's another couple amendments on as well, is a college ID, a University of Nebraska student. Photo ID gives their name, date issued, a specific University of Nebraska ID. That, colleagues, would not fall under LB239. Senator Janssen in his opening did mention that yes, the Supreme Court did rule on the Indiana law. But I'll read from a report from the Brennan Center on the cost of voter ID says, that although a divided U. S. Supreme Court upheld Indiana's voter ID law against a broader facial attack to its constitutionality, the court made clear that the law... [LB239]

SENATOR COASH: Time, Senator. [LB239]

SENATOR MELLO: Thank you, Mr. President. [LB239]

SENATOR COASH: Thank you, Senator Mello. Senator Sullivan, you're recognized. [LB239]

SENATOR SULLIVAN: Thank you, Mr. President and good afternoon, colleagues. I, like

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you, have received many, many e-mails on this subject and in reading through some of them I hear comments that voting is a right, voting is a privilege. However you might feel about that, I think it certainly is important that we have this thorough discussion today because if we make any changes in the procedures on how we vote in this state, I think we should make them very carefully and very thoughtfully. So when I went home this weekend, I was interested in hearing some reactions from constituents. And interestingly enough, two of the people that were very concerned and very supportive of LB239 were poll workers. In Cedar Rapids, everybody knows me, and I guess it's fair to say that in many precincts and throughout my district when an individual walks in the poll workers know them on a first name basis. I walk in without my driver's license, I leave my keys in my car. My car is not locked. That's the beauty of living in rural Nebraska. But also those poll workers told me, and I know this to be true, that the face of rural Nebraska is changing. We don't necessarily know everyone in town and those poll workers are concerned that they don't know everybody. But the other thing that I've uncovered in talking with some of them, when I go to vote in Cedar Rapids there's a booklet there where I sign my name right next to an original signature where I had to identify who I was. Apparently, that is not the case in all precincts, so I think that is something to be concerned about as well. But I've also heard from county clerks who are concerned about this amendment and they're worried about the logistics of how to handle it, the potential additional costs because we've taken away a lot of their additional aid. And one of the significant things that was brought up by a county clerk is that she maintained that these voter registration cards are simply thrown away and they are not brought with the individual when they come to vote. So I'm standing here today and probably will continue to ask some questions because I'm still just trying to figure all of this out. So to that end, I wonder, first of all, if Senator Avery would yield for some questions about the amendment. [LB239]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Senator Avery, would you yield? [LB239]

SENATOR AVERY: I will. [LB239]

SENATOR SULLIVAN: Thank you, Senator. First of all, regarding the voter registration acknowledgement. Under the proposed amendment this would be sent out by the county clerk to everyone, is that correct? [LB239]

SENATOR AVERY: No, it would be sent out by the county clerk or the election commissioner to those people that the Secretary of State has identified as not having a photo ID card from DMV. [LB239]

SENATOR SULLIVAN: So what are the logistics of finding out who they are to send those cards to? [LB239]

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SENATOR AVERY: Well, the Secretary of State will have to get a list of these from the Department of Motor Vehicles. [LB239]

SENATOR SULLIVAN: And then in turn, forward that to the county clerk or...I say county clerk because in my counties, the county clerk is the election commissioner. So the Secretary of State would send them a list? [LB239]

SENATOR AVERY: The Secretary of State has a list of all registered voters, and so what would happen is, the Department of Motor Vehicles would have to inform the Secretary of State after getting the list, I presume, that these people do not have a Department of Motor Vehicles photo ID, then they would be...those names would be forwarded to each county to the clerk or to the election commissioner, and they then would have to issue a letter authenticating that they are, in fact, registered to vote. [LB239]

SENATOR SULLIVAN: Do we have any indication thus far of obviously that's some additional steps... [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR SULLIVAN: ...and costs. Do we have any indication of how much that would cost? All the parties involved, Secretary of State as well as the county clerks? [LB239]

SENATOR AVERY: I do not have that list. I have heard, though, that a list has been prepared and that it is not cost free. [LB239]

SENATOR SULLIVAN: Any indication to, of how this will result in the increase in provisional ballots and what additional costs in time that would be involved? [LB239]

SENATOR AVERY: It will probably increase provisional balloting. There is some concern that when you go to provisional balloting of this kind, and you then have to come in on the next Monday to verify your actual identity, that that might be after the votes have already been counted and your votes wouldn't be counted at all. I think there would be some... [LB239]

SENATOR GLOOR: Time, Senators. [LB239]

SENATOR AVERY: ...costs involved. I don't know how much. [LB239]

SENATOR SULLIVAN: Thank you. [LB239]

SENATOR GLOOR: Time, Senators. Thank you, Senator Sullivan. Thank you, Senator

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Avery. Senator Bloomfield, you're recognized. [LB239]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good afternoon, colleagues. I stand in support of LB239 as amended. You know, we're being told that there is no problem in Nebraska with it, therefore, we shouldn't do anything. Well, up in my part of Nebraska we don't have a lot of water pollution problems, but I'm told I can't drain the oil out of my tractor and just let it run into the ground. You know, there's not a problem there. We have proactive laws to stop it from becoming a problem. And I think that LB239 goes a long way towards doing that here with voter problems. And I'm going to support that effort, and if Senator Janssen would like any time, he can have the remainder of mine. [LB239]

SENATOR GLOOR: Senator Janssen, 4 minutes 7 seconds. [LB239]

SENATOR JANSSEN: Thank you, Senator Bloomfield. Also thank you, Senator Sullivan, for the questions to Senator Avery in the openness on this bill. I would like to correct something that Senator Avery said. There is, as amended, there is no duty to return to the polling place after voting provisionally. And the cost...that was in the original green copy he may have been referring to. And the cost estimated by the Secretary of State to generate these photo cards, or these identification cards, as I noted in my opening, would be approximately 50 cents per card. We're guessing there's about 30,000 people. That's not...we're not guessing, that's what the Secretary of State has indicated to me. That's a pretty fluid number, but they can track it as Senator Avery expressed. It comes out to a cost of \$15,000 per election, split amongst 93 counties. And in my opening I believe I did the math on that, but it was about...if you split it equally among the counties, right around \$160-some per county per statewide election. Thank you for the time and thank you, Mr. President. [LB239]

SENATOR GLOOR: Thank you, Senator Bloomfield, Senator Janssen. Senator Louden, you're recognized. [LB239]

SENATOR LOUDEN: Thank you, Mr. President and members of the Chamber. As I look this bill over, then as I look at the white copy that becomes the bill, I guess I'm kind of wondering what we have to...what we're trying to do here. In the green copy, why, some of the language struck out mentions on what you had to do to show that you were a registered voter that where you lived, and you had to show some of your documentation, and also your name and address, and some type of government document. Then in the white copy which became the bill, the committee amendment, if that's adopted, some of that language was taken out and there's other language brought into it. I guess the problem I have, and I think it's been mentioned already, was the idea of having the Secretary of State notify all the county clerks or the election commissioners on who doesn't have a motor vehicle operator's license or a state identification card. Evidently then, by putting that in statutes then the only thing that's

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going to be acceptable at the voting booth, or where we vote at the polling places, is actually a motor vehicle operator's license or state identification card. Now off and on through the thing they always talk about some other government document, but I'm wondering in some of this when they said a motor vehicle operator's license or a state identification card, a passport is supposed to be a valid identification. Senator Mello, I think, put it around in which I knew tribal registrations aren't going to be accepted, and so here we have issues that people that come to vote and then all of a sudden some of their identification isn't viable because we have something in statutes on what is supposed to be used. I was wondering if Senator Avery would yield to a question, if he would please. [LB239]

SENATOR GLOOR: Senator Avery, would you yield? [LB239]

SENATOR LOUDEN: What I'm wondering on some... [LB239]

SENATOR AVERY: I will, Mr. President. [LB239]

SENATOR LOUDEN: When you had this committee amendment that you brought forwards there, what was the reason to put in this part on page 6 there from line 16 to 26, it talked about the Secretary of State would have to notify all of the councilmembers or the election commissioners and city or county clerks who had a driver's license or didn't have a state identification card. What's the reason to put that in that bill? [LB239]

SENATOR AVERY: There would be no other way that the election commissioners in the counties or the county clerks could know to whom to send those notices. [LB239]

SENATOR LOUDEN: Well, what if those people had other means of identification and, were they...do they then have to turn around and notify the county clerk then that they have other means of identification and they don't necessarily have to have that, or is that a requirement now that you have to have a driver's license or state identification card in order to register to vote? [LB239]

SENATOR AVERY: There are a number of amendments that will expand the type of photo ID that could be used. Senator Mello just addressed that in his comments. But under the committee amendment to the green copy, there are certain limitations on which kinds of IDs can be used. [LB239]

SENATOR LOUDEN: Well, it mentions government... [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR LOUDEN: ...government, I think, issued IDs or something like that. Then when, in this part there that you added which is mostly the whole guts of the committee

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amendment, I'm wondering why you didn't put in tribal registrations, why you didn't put in passports, and some of the other issues that you would have in there? [LB239]

SENATOR AVERY: Well, there was some desire to do that, but the...we couldn't get a majority support for expanding beyond what we had. [LB239]

SENATOR LOUDEN: In other words, this is what you settled on to get the thing out of committee, is that what you're telling me? [LB239]

SENATOR AVERY: That is essentially the case. [LB239]

SENATOR LOUDEN: Okay. Thank you, Senator Avery. And all I can say is, if we're coming up with something like this and we can't agree on it, I don't know what we're going to do when that bill comes up that we're going to try and raise our wages or else that bill that comes up that we're going to extend... [LB239]

SENATOR GLOOR: Time, Senator. [LB239]

SENATOR LOUDEN: ...our time out here. Thank you, Mr. President. [LB239]

SENATOR GLOOR: Thank you, Senator Louden. Mr. Clerk, items for the record. [LB239]

CLERK: Thank you, Mr. President. Your Committee on Enrollment and Review reports they've examined and engrossed LB759, LB786, LB811, LB878, LB1031 and find them correctly engrossed. Senator Karpisek offers LR427, LR428, as new resolutions, and Senator Cornett an amendment to be printed to LB209. That's all that I have. Thank you, Mr. President. (Legislative Journal pages 661-662.) [LB759 LB786 LB811 LB878 LB1031 LR427 LR428 LB209]

SENATOR GLOOR: Thank you, Mr. Clerk. Senators wishing to speak: Burke Harr, Larson, Janssen, Fulton, Karpisek, Council, and others. Senator Burke Harr, you're recognized. [LB239]

SENATOR HARR: Thank you, Mr. President. LB239 on its face seems so obvious that it doesn't even merit an argument. We want accountability in our elections. We want to know that our vote counts. We want to know that our vote isn't being diluted by fraud. And that's good public policy. The question is, what are the consequences? When you look at what this bill does, it's meant to avoid people voting who aren't who they say they are. And that's great. I have somewhat of an evil mind and I have thought of a lot of other ways to commit voter fraud that this bill does not address. So I will go through the list, initially, and then I'll go through some other ideas. If a voter changes their residence without updating their driver's license and reregistering a fraudulent address, this bill

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doesn't address that. A voter requests a ballot of an invalid family member and votes in their stead for mail...through the mail. Doesn't cover that. A voter assumes the identify of another person. Now there are two different ways you can do this. The dead voter...this bill's going to do that. I go and vote for my twin brother, it's not going to do anything about that, ladies and gentlemen. A matter of fact, leads to another question is, who gets to be the bouncer at the bar and determine if that state ID is valid or invalid, or if the person on that license is who they say they are? And if there's a disagreement, how do you handle that? I haven't heard any testimony to that degree. I hope that will be addressed. You get the voter who claims an address on a district other than their home voting for voting purposes. Again, not addressed. A voter who fills out more than one ballot or double voting, again not addressed. An unregistered citizen attempting to vote, this does address that. I'm not quite sure...I have yet to see a prosecution for that in this state or around the country, but this does address that issue. A noncitizen Nebraska citizen attempting to vote in Nebraska election. This does that, although we already have statute on that. And a citizen who attempts to vote in place of another citizen. Again, by the ID this takes care of that and that's good. It does take care of those. Although, it was brought up earlier, in Omaha we had a couple issues last year on it. And one of it, and I'm going to bring it up, it was homeless voters, homeless individuals who went and voted early. Well, you can still do that under this bill. The only case where there has been...and it wasn't prosecuted, mind you, but if there was even an accusation of fraud, this bill wouldn't cover that. That's how I read it. I'll admit it's a little confusing to me because it...with the amendments, but as near as I can tell, it wouldn't cover that situation. Senator Lautenbaugh talked about he loves to be patriotic and vote on voting day, election day, and I agree with him, and I do the same when possible. But again, the unintended consequence of this is, people are probably going to vote earlier to avoid the hindrance of having to pull out an ID if that's an issue to them. [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR HARR: This bill addresses...is aimed at people who...well, the unintended consequences, I don't think, I'm sure Senator Janssen didn't mean this, but the people who will be most disenfranchised are the people who move the most often and don't have the money to necessarily get new IDs, to keep up to date, to tell everyone where they are, and that's our indigent. And they have a right to vote, ladies and gentlemen. I will address that more in a minute when I get another chance to speak, but what I'll say is, there are a lot of amendments on this bill. I think each one of these amendments addresses an issue to make this bill better and I hope that you all vote for the underlying amendments. Thank you very much. [LB239]

SENATOR GLOOR: Thank you, Senator Harr. Senator Larson, you're recognized. [LB239]

SENATOR LARSON: Thank you, Mr. President, members of the body. I'd like to thank

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Senator Janssen. I, too, visited a number of people throughout the district, not this past weekend as many of you may know. I was busy, but throughout my time and I hear, as Senator Sullivan pointed out, a lot of people see that this is common sense. That this is something that, well, why don't you have to show your ID to vote? You have to...every time I go to buy alcohol at a store, or anybody else, I always get IDed. I don't know why, but I do. Every time, you know, I go to buy a hunting license or a fishing license, I show my ID. Every time I go to write a check whether it's for personal or campaign for that matter, I get IDed. Well, why shouldn't I have to show an ID to vote? I mean, it is essentially one of the things that sets us apart as a democracy, our ability to vote, and ensure that we are casting our ballot for the person we want to represent us, or in terms of maybe giving us a raise or extending our term limits, an issue in which we feel personally and heavily for. Senator Harr listed a number of things that this bill doesn't address enough, but I think he pointed out when he said, it doesn't mean this is bad public policy. I think we do a lot of things in this Legislature that doesn't go...don't go far enough a lot of times. But we reach a compromise within the body and we move forward with what we can see is the beginning of good public policy and this is that beginning. It's the beginning of public policy that we as the state of Nebraska can move forward on. Basics are there. Senator Sullivan also talked about the Secretary of State. And I called a few of my county clerks and the bill does say that they have to...the Secretary of State will provide a list, but in the photo registration files, the local county clerks or probably election...I don't know if the election commissioners in Douglas, Sarpy, and Lancaster have it, but I know the county clerks in my counties, my rural counties, have access to everybody's driver's license number in that county. So, essentially, under Senator Janssen's bill, if they already have access to everybody's driver's license number, that means they already have...know who has driver's licenses, therefore, they know who doesn't, therefore, they know who they have to send these voter ID cards to. So we talk about additional steps that the counties will have to go through. I think the additional step is just the Secretary of State making sure that they know who does have a driver's license and who doesn't. But the county clerk through the automated system that they have now, I think it's called EAS, I'd have to double-check with the Secretary of State, they keep all that updated at the Secretary of State's Office and it's all Web-based in the cloud. And I know we, as senators, are learning much about the cloud and Web base on our own e-mail, but it's all right there, laid out for our county clerks. There isn't an extra step for our county clerks. There isn't an extra step for our rural county clerks. I just wanted to say that. And then, my last question is, and I ask it rhetorically, as I look at the Nebraska Constitution, Section 1...or Article I, Section 22, all elections shall be free, and there shall be no hindrance or impediment to the right of a qualified voter to exercise the elective franchise. That's the key. Qualified. To ensure that someone is qualified to vote, how do we do that? How do we ensure? How does a poll worker ensure that someone is qualified? [LB239]

SENATOR LARSON: That's an ID. Pure and simple. There's...and if somebody else has another way, I mean, fingerprints or any other way, if you want to go that far, we have to

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ensure by the state's Constitution that qualified voters are voting. And right now, under our current systems, there are nonqualified voters voting. So we say that this is unconstitutional or goes against the Constitution, I disagree. I'd say this is moving forward. This is stepping in line with our Constitution, statutorily. [LB239]

SENATOR COASH PRESIDING

SENATOR COASH: Time, Senator. [LB239]

SENATOR LARSON: Thank you. [LB239]

SENATOR COASH: Thank you, Senator Larson. Senator Janssen, you are recognized. [LB239]

SENATOR JANSSEN: Thank you, Mr. President and members. And I appreciate the tone of this discussion and it's one that needs to be had, and then again, I appreciate it. In listening to Senator Burke Harr, he brought up many points. The one that was most alarming to me that I didn't know is, there's actually two of them? (Laughter) That was a little alarming. I put this bill forward to, you know, hopefully, stop voter fraud at the polls. I know it's not a catchall. It's a start. And it's a start, I think, we need to take. The U.S. Supreme Court in Crawford v. Marion, said the state had a legitimate interest in preventing voter fraud, modernizing elections, and safeguarding voter confidence. This is a key recommendation of the Commission of Federal Election Reform cochaired by former-President Carter. The National Conference of State Legislators has 15 states that have already done this for photo ID, 16 other states require some form of ID. I think Nebraska should do . We've talked about the cost. The cost is very minimal. We're talking \$15,000 per election, somewhere's around \$160 per county if you break it down. I think that's very reasonable to expect for the integrity of the election. And the one that hits home the most with me is 79 percent of our constituents in a recent poll said, requiring an ID was the most important thing to them. Nearly 80 percent of people that were polled in the state of Nebraska, that's something when I go back and I talk to my colleagues, I'd like to say, yes, I'm with you on that. What even caught my attention more is only 50 percent of people said they would take a day...wanted to have a paid day off to go vote. Maybe they didn't mention paid. Perhaps, they didn't, I would presume, but that's the way I took it. And to have 79 percent of people agree on one thing, I think that's something that caught my notice. Again, this wasn't brought for any purposes of creating a wedge issue. It may have done that. That was not what it was brought for. When I decided to put this bill forward, I was at home reading the newspaper and I noticed in the off-year elections that our neighbor across the river, Iowa, the Secretary of State ran on and won, I believe, on the issue of voter ID. I thought that was a good idea. I called my staff. I said, hey, let's look into this and we got the ball rolling on it. And I'd say that ball didn't roll very fast because I introduced this last year. I didn't prioritize it last year. I worked with the committee to get it out. I

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appreciate the committee's help in their efforts in getting it out and this year it came up as a bigger issue and I brought it forward, and I thank Senator Ken Schilz for prioritizing it. I will...I think a lot of the amendments on here, I've looked through them. For whatever reason they were brought, I think the debate needs to happen. I don't support them. I'm going to stay true to the committee amendment. I owe it to the committee to do that. That doesn't mean I'm saying empirically that those are all bad amendments and not worth discussion. Senator Council's amendment, I believe, is a bill that we have similar that Senator Harms has up in the Government Committee right now to expand mail-in voting. It's not identical but it brings up the topic and I'm glad to have that debate on the floor this year as well. So thank you, Mr. President. [LB239]

SENATOR COASH: Thank you, Senator Janssen. Those wishing to speak: Senators Fulton, Karpisek, Council, and others. Senator Fulton, you are recognized. [LB239]

SENATOR FULTON: Thank you. I'm sorry, Mr. President, it's an electric day. I won't take too long if Senator Janssen would like the remainder of my time, I will yield it, if not he can waive it. But at least I wanted to go on the record and express my support for the committee amendment, for AM727, which will eventually become the bill, the underlying bill, LB239. And I thought I would do that by relaying to you a story. And we've received a number of e-mails on this and this may be...this is an opportunity, I think, to get this in too. We receive these e-mails and we all recognize that sometimes the e-mails are generated by varying groups out there. And that's probably what's happened on this, at least a few of the groups I'm familiar with. But I've still taken time to go through and read the e-mails, at least as best as I can to keep up. And that's important to do, even if on this issue a lot of the e-mails, maybe two-thirds, maybe three-quarters of the e-mails I'm receiving, express a position that is the opposite of the position that I plan to take. But I think it's still important that we read the e-mails even if they may have been generated at the prompting of another, because we should remember, these people are all Nebraskans who have a perspective. So that's important, and I more than anything communicate that to all the folks who have e-mailed me and e-mailed us. For my vantage, anyway, I do read the e-mails. And even if I disagree, they are informative to me and sometimes they change my mind. So this was an opportunity to say that anyway because we'll probably get e-mails like this on other issues going forward. But I want to share with you one particular e-mail that I received from a constituent who sometime ago was one of the doors that I knocked on, or one of the doorbells, more accurately, that I rang when I was campaigning. This is...every once in a while I'll receive an e-mail from this lady, but I would not call her one who forms an ideological opinion and then goes off of that opinion. She's more pragmatic, probably moderate, maybe center right, although there have been issues where I'd consider her probably on the left of things. And I searched this handout of Senator Janssen's to see if she was on the handout. She's not. And I think what she expresses to me is representative of what the average Nebraskan probably has going through his or her mind when hearing this bill. She said that there are a number of people in her household who are still registered

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in the household but who are off at college or have left home and they remain registered and sometimes will come back to vote yet. They're...her kids are at their age. And she said to me that it wouldn't be very hard for me to walk into the polling place and vote for one of my kids, whose not at home right now. Of course, she would never...she would never do that, but she said, why wouldn't someone be able to do that? What would disallow someone from doing that? It seems to me this would be a pretty easy way of getting in and voting more than once. And I responded to her that, well, you shouldn't do that, but I understand what you're saying, and qualify that by saying, of course, you wouldn't do that. But by using one's mind it's possible to see and conceive how one could participate in fraudulent activity such that he or she votes fraudulently. That's good enough for me. I could envision that how someone could show up and vote in the stead of...instead of another person. She gave an example just after reading...I assume she read an article in the newspaper and said... [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR FULTON: ...why wouldn't we do this? This just makes sense. So I share that with you. There...that may not be a good enough example to persuade people. It may well be that folks have already dug in their heels, probably so on this issue but at least this to me, it seems like a commonsense response to this bill and amendment is to vote yes, and that's what I plan to do. I'll just stop with that. Thank you, Mr. President. [LB239]

SENATOR COASH: Thank you, Senator Fulton. Senator Karpisek, you're recognized. [LB239]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I stand today to say that I'm probably the reason this bill is out on the floor. I voted it out. I believe that when you go to vote, I want to have only legal citizens of the state of Nebraska voting. That's why I voted it out, I voted it out on good faith, and I'm sure that Senator Janssen brought it on good faith. I've heard some things on the floor today, though, that I wonder about. I've heard people say that anything that will help voter fraud, they would be for. I've had bills...I've brought bills that I think would help voter fraud, but the same people kill them, having to do with the recounts. They get killed flat, dead. They did get out here, one, and it was dead right away. Filibuster threat, all those things. So some of that doesn't seem genuine to me. I've also seen all of the e-mails that Senator Fulton talked about and I also intercepted an e-mail that went out asking people to e-mail. I don't like where it came from. I don't like it at all. I don't like where most of these e-mails are coming from because they come from someone who is just worried about their job usually in a political party. And I don't think that's right and I'm very upset about that. I see many of them come from the Stop Vote Fraud team. I don't know who that team is but I think they're doing a heck of a job because I haven't heard much about vote fraud. (Laughter) So I don't know who they are. If they'd like to come

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out and say who they are, I'd be glad to meet them, but I'm sure they won't because they've already gotten caught once sending things out that I feel is very disingenuous. I did not think that this was a partisan issue when it came out and I still don't and maybe I'm just naive. My bottom line is, I think that people who vote should be legal citizens of the state. I did vote for the amendment out of committee but in hindsight, I think the committee amendment really waters this down. You don't need to have an ID or photo ID. So now what? Now, I can take anybody's voter ID card and work on that, use that. Hindsight, I don't think that was such a good idea to put that on but as Senator Avery said, it's probably the only way to get it out of committee. Back to the e-mails. I've been getting e-mails for days saying to stop the filibuster. I wouldn't even say that there's one started yet. I agree with Senator Fulton. I'm glad people do e-mail, I'm glad that they get involved, but I bet you that most of them that have sent e-mails couldn't tell you much about this. It has been someone else that told them that they should and they believe everything that that side tells them, and I'm not pointing the finger either way, but both ways. I will listen to this argument. I think that it was brought for a good reason. [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR KARPISEK: That we need to protect our ability to vote and only the right people vote. We have not seen a big rash of problems in voting and I've been told that numerous times on my voter recount...or my recount bills. So either we have a problem or we don't, and either we care or we don't, but let's get down to really what we're after and get everybody else out of it that shouldn't be in it. Thank you, Mr. President. [LB239]

SENATOR COASH: Thank you, Senator Karpisek. Senator Council, you are recognized. [LB239]

SENATOR COUNCIL: Thank you, Mr. President. I rise to address a couple of points raised by my colleagues who are supportive of LB239 and AM727. Let me begin by addressing Senator Larson's statement about qualified voters. That's exactly what the Nebraska Constitution says. You're absolutely correct. But in the LB239, we create separate and unequal classes of qualified voters. If you say that in order to be a qualified voter you must present photo identification every single time you vote, regardless of the method of voting, that's what determines your qualification if you have photo ID, then you need to be opposed to LB239 and the committee amendment. Because under AM727, and even the underlying bill, LB239, if you live in a county of less than 10,000 people and to save money and not have to open precincts, the county clerk or commissioner in those counties can request that the Secretary of State allow the election to be held entirely by mail, you don't have to present photo identification. So using Senator Larson's argument, under those circumstances, we are allowing a whole county full of nonqualified voters to vote because they don't have to present photo identification. The other issue is the fact that without the change reflected in AM1667,

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we create different classes of voters between counties in this state. If you're in a county of less than 10,000, you can vote entirely by mail and don't have to show identification. But if you're in a county of more than 10,000, and your county clerk or county election commissioner wants to save money by not opening precincts, they're unable to do that and everybody will have to show up and show a photo ID to vote or early voting, which is another time you don't have to show voter identification. So Senator Larson, I don't know when you're qualified and when you're not. And nor does LB239 make you any more qualified because you have a photo ID. All it does is cause you more convenience...inconvenience than if you live in a county where they have all mail ballot elections or you vote early. My colleague, Senator Lautenbaugh, spoke about his time as Douglas County Election Commissioner. And at the time he indicated that there were 376-plus polling places. I would refer you, colleagues, to yesterday's Omaha World-Herald, where it was announced by our current Douglas County Election Commissioner of his intent to reduce the number of polling places in Douglas County from 352, that's the current number, Senator Lautenbaugh, wherever you are, to reduce the current number of polling places from 352 down to 186, almost cutting in half the number of polling places. And the response was, well, in certain parts of the city of Omaha which lies within Douglas County, that would impose an additional burden on individuals getting to their new polling places. And the county commissioner...the election commissioner said, well, I can't... [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR COUNCIL: ...make distinctions between parts of town. But the point that he made that needs to be addressed and reflected upon is that if you reduce the number of polling places, cut them in half, you increase the distance that people have to travel to vote, one inconvenience, and they specifically stated, you will have to wait in line more often to cast your vote. Now, I don't know how many of you go through TSA when you fly and the line you have to wait in to have your photo identification checked, now let's just compound that by the fact that two to three times more people in Douglas County are going to be asked to vote at a different precinct. If this bill is passed, they'd have to stand in line to present ID and Senator Burke Harr referred to it, I don't know what the training will be to show... [LB239]

SENATOR COASH: Time, Senator. [LB239]

SENATOR COUNCIL: Thank you. [LB239]

SENATOR COASH: Thank you, Senator Council. Those wishing to speak: Senator Smith, Mello, Ken Haar, and others. Senator Smith, you're recognized. [LB239]

SENATOR SMITH: Thank you, Mr. President, and good afternoon, colleagues. I wanted to stand and speak on this amendment, AM1667, as well as the underlying bill, LB239,

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because like most of you, if not all of my colleagues, you've received a lot of e-mail correspondence and phone calls on this issue. And I am particularly interested in what my constituents are saying and over the last week or so that we've received a few e-mails from my district, I will tell you three times the number of opposition are in support of some type of voter identification. So of the total number that I've received, e-mail contacts, phone contacts from my constituents, probably three-quarters of them are in support of some form of voter identification and maybe a quarter of them are opposed to the underlying concept. With that said, I'm very intrigued with AM1667 because, now this is from what I've heard, and maybe next time Senator Council is at the microphone I would like to hear from her as well, but I've heard that the mail ballot is more prone to fraud than the type of voter...potential voter fraud that we're talking about with the underlying bill of LB239. And I would be particularly curious from Senator Council if she would be in favor of some type of a ballot authentication or voter authentication to verify that the ballots are getting to the homes and that they are being returned by the same voter. But maybe that's a different discussion from Senator Council. I do appreciate Senator Janssen's tone in the way he introduced this bill and I also think a great deal of my colleagues in the way that they are addressing this, it's a very civil debate. And speaking on civil and truthful debate on this subject, there has been some attempts to suggest that people that are concerned about voter fraud and wanting some type of a voter ID are some type of an extremist, and again, looking at the contacts and the communications I've received from my constituents, that certainly is not the case. These voters are concerned about making certain that every vote does count. They're wanting to have some type of reasonable, and I say reasonable, protection for every vote, to make it easy to vote but hard to cheat, and I think that's a fair approach that many out there are wanting to have with this. There's one particular e-mail I'd like to read from a constituent and they wanted to share with me their experience in 2008, and I'm going to read from this. I'm going to remove their name and some references to keep their identity safe but: During the 2008 election, I arrived at my Papillion polling place ten minutes before it opened. I usually am one of the first ten voters at my precinct. To my surprise, there were many people ahead of me. Of the people who were in line, I had never met nor seen most of them. As I moved toward the front of the line, I could hear the election officials ask each person's name, as required by law. Here is the approximate conversation of the man in front of me. The election official said, your name and address? The man said--and he's using a fictitious name here--he said, Joey Smith, I live at 123 Elm Street--a fictitious address that we're just concealing here. The election official said, I don't have a Joey Smith at that address. [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR SMITH: The man said, oh, well, maybe it's under another name. The election official said, I have six adults registered at that address, four with the last name of Smith; are you Michael Smith? The man said, oh, yeah, I'm Michael Smith, I go by

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Joey. The election official said, well, I have a Michael Jr. and a Michael Sr. registered at that address. The man looked perplexed and asked to see the registered voters list. After scanning the entries for a few minutes he says, I guess I'm the Jr. The election official replied, okay, you need to sign here and here is your ballot. Now whether there was any fraud in that particular exchange or not, there certainly is a concern by many voters and we need to make certain that we... [LB239]

SENATOR COASH: Time, Senator. [LB239]

SENATOR SMITH: Thank you. [LB239]

SENATOR COASH: Thank you, Senator Smith. Senator Mello, you're recognized. [LB239]

SENATOR MELLO: Thank you, Mr. President. Members of the Legislature, I want to continue some of the points that have been made or will be made on not only AM1667 and the underlying piece of legislation but also to, I would say, provide some counterbalance to some of the arguments or points that have been made in support of the legislation. I've said this before and I'll continue to say it, people are entitled to their own opinions on legislation but they're not entitled to their own facts. And the first fact is that NACO, the Nebraska Association of County Officials, provided my office, and more than likely can send it to the rest of the body, costs that are associated with LB239 with the adoption of the committee amendment, AM727. And based on 2008 numbers of people who voted, at 15 cents per voter, which NACO, that represents all counties, estimated to implement this bill at the local level would cost between 15 cents and 55 cents per voter, they put forward with the numbers based on the 2008 election at 15 cents per voter it would cost \$121,000 roughly statewide. At 55 cents per voter it would cost \$446,000. Based on 2010 numbers it was...at 15 cents it would be \$74,000, and at 55 cents \$273,000. Colleagues, those are numbers that have been provided directly from the Nebraska Association of County Officials. They are ultimately the county officials who implement local election law. They are the ones that I trust in regards to the implementation of the costs of LB239, not simply ideas and feedback that we conger up amongst ourselves of what we think it may cost, since the Legislative Fiscal Office did not provide a specific cost from the Secretary of State. Second component, Senator Fulton mentioned a specific constituent concern or raised the issue about student voters. I did pass out a letter from the Association of Students of the University of Nebraska. The local University of Nebraska-Lincoln student government provided a letter stating that obviously students, college students, who are the most mobile population in the state would be dramatically affected by LB239. Actually, it goes a little bit further where the student regent states: Further, it should be noted that the United States Supreme Court Symm v. the United States has found that students have a right to register at their campus address for the purposes of voting--exactly the point which Senator Fulton was...I don't know if he was trying to make or trying to refute. But the

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reality is students can have on their driver's license their parent's home address and be at that home address on their student ID or their driver's license for four years while they're in school, yet it says in the U.S. or the United States Supreme Court ruled that they can register to vote on campus--problem number one that I think we shouldn't overlook in regards to some of the facts and fictions that have come forth. I ended my first testimony laying out once again the proponents of this legislation have said it's constitutional. The Supreme Court has ruled on this, Marion v. State of Indiana (sic) or Marion v. the State of Indiana (sic), in the sense that this is available to do; that because it was ruled constitutional in the state of Indiana it's constitutional no matter where you go in...or where you go across the United States, including Nebraska. Let me finish what I started to read when I ended my first time speaking. It says, although a divided U.S. Supreme Court upheld Indiana's photo ID law against a broad or facial attack to its constitutionality, the court made clear that the law could still be challenged by particular groups and individuals burdened by the law. The court expressly singled out as groups who might bring... [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR MELLO: ...a successful challenge elderly persons born out of the state, persons who because of economic or other personal limitations may find it difficult to secure a copy of their birth certificate or other documents needed for photo ID, homeless people, and people with a religious objection to being photographed. Colleagues, the underlying amendment to the bill, AM727 to LB239, I think Senator Karpisek said it more eloquently, even though he voted the bill out of committee with this amendment, is that it does nothing to the underlying intent of what the legislation seeks to do, which requires a photo ID to be able to vote. Now the Supreme Court ruled that, yes, while a facial attack on its constitutionality showed that states could act on this, it also said there were numerous groups who could file a petition on its constitutionality and probably found unconstitutional. Because you're a senior citizen who was not born in Nebraska and you do not have a photo ID... [LB239]

SENATOR COASH: Time, Senator. [LB239]

SENATOR MELLO: ...or a driver's license...what's that, Mr. President? [LB239]

SENATOR COASH: Time, Senator. Thank you, Senator Mello. Those wishing to speak: Senators Ken Haar, Schilz, Sullivan, Brasch, and others. Senator Haar, you're recognized. [LB239]

SENATOR HAAR: Mr. President, members of the body, I rise in opposition to LB239. I'm not sure how I'll vote on the various amendments but it seems to me that this kind of program will have a disproportionate impact on seniors who might mistake those cards for something else and not even keep them, youth who are moving around, low-income

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people who have more trouble getting driver's licenses, this sort of thing, and citizens with disabilities, people who have trouble with getting out. I also am distressed to hear that a community like mine would require certain identification whereas smaller communities wouldn't. That certainly isn't fair. The constituents in my district are no less honest than those in smaller communities. I see that as a fatal flaw as well. Overall, I just see this as a problem...or a solution looking for a problem. We have not heard specific examples of where there has been voter fraud in Nebraska. Now a case that was stated just a couple minutes ago about somebody who couldn't figure out exactly who he was on the voter file, if that was fraud I hope it would have been reported and that person would have been prosecuted if indeed there was voter fraud involved. I do have a question or two for Senator Avery, if he's available. [LB239]

SENATOR COASH: Senator Avery, would you yield? [LB239]

SENATOR AVERY: Yes, I will. [LB239]

SENATOR HAAR: Sorry to make you get up there. [LB239]

SENATOR AVERY: It's all right. [LB239]

SENATOR HAAR: Tell me a little bit more about provisional ballots. That was a...when voting was over in my district last time I was ahead by 50 votes, and then by the time the provisional ballots were counted I was down to 21. But how are provisional ballots, according to law, checked for accuracy? Do you know that? [LB239]

SENATOR AVERY: I'm looking here at the statute for voting qualifications, personal application. I can refer you to Section 32-311. That will be helpful. I cannot give you, however, letter and verse for all the procedures that are used. But there is in place a fairly complex and reliable procedure for checking on the valid registration for those who do vote provisionally. [LB239]

SENATOR HAAR: Okay. Well, and I wasn't meaning to quiz you there. I was just...and my... [LB239]

SENATOR AVERY: Well, I just happened to have this open for casual reading. [LB239]

SENATOR HAAR: Okay. My LA will do some more research for me on that. But in this bill and any of the amendments, does provisional ballots require the same kind of ID? [LB239]

SENATOR AVERY: Actually, it does not. If you are...if you look at AM16...let me see, AM727, you'll see that if a person does not have with them an identification, they are allowed to vote provisionally. Then the current law that governs how these ballots are

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handled and processed would take over. [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR HAAR: Okay. Thank you. I'll... [LB239]

SENATOR AVERY: This amendment does not add anything new to that. [LB239]

SENATOR HAAR: Gotcha. Thank you very much for that information. But one of the things that's distressing me about this bill, it treats different people in different communities differently and very differently on people voting in different ways. For example, I have a lot of people who vote...and in Lancaster County you can check a box that says I want to permanently get the absentee ballot. So these are mailed out. I'm wondering what the checks and balances are then under this kind of regimen of making sure that those who register permanently to get an absentee ballot are checked out. Then I'm really concerned as well about cost. In Lancaster County just the cost of doing this on a regular basis for the county and also for the individual voter... [LB239]

SENATOR COASH: Time, Senator. [LB239]

SENATOR HAAR: Thank you. [LB239]

SENATOR COASH: Thank you, Senator Haar. Those wishing to speak: Senator Schilz, Sullivan, Brasch, Carlson, and others. Senator Schilz, you're recognized. [LB239]

SENATOR SCHILZ: Thank you, Mr. President. Members of the body, sitting here listening to the debate, obviously the questions that are brought up have been good questions. As I sat and listened to Senator Haar speak, I was thinking about provisional ballots. And as I look at it, you know, the provisional ballot is a vehicle that we have to make sure that voters are not disenfranchised as we go through the process. What it does is it gives people a chance to cast their vote even though there will be more scrutiny placed upon it, but those voters are not turned away and that's the beauty about this. No voter, no voter will be turned away because of this law. They will all be able to vote. So I think that's important. When we talk about different classes of voters and things like that, as we heard before, we now hear from Senator Haar that you can apply to permanently have an absentee ballot. Well, doesn't that put those people that permanently get the absentee ballot in the same position as those folks that live in a county with 10,000 or less? So I think that that...and I'm not exactly sure what year, what session that law was passed to allow folks with 10,000 or less citizens in their county to be able to vote by mail, but I do know that the Secretary of State has the ability to look at that and has to okay a mail-in ballot. And from what I understand, and we could check the facts to make sure, but what I understand is that more often than not the Secretary of State has turned down those mail-in ballots because of the fact

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that, in my opinion, wants to make sure that it's as good of an election as can happen. So I think as we look at that we don't want to get confused into what different classifications of voters there are. I would say that, like I do with a lot of things, more tools in the toolbox makes it better for everyone. And I think that everybody can sit here and see how you could argue this on both sides if you wanted to, and I'm guessing, as Senator Karpisek said before, people have argued it on both sides. So I do want to say that I am, obviously, in support of LB239. I am not in support of AM1667, but I would support AM727. And with that, I'd like to give the rest of my time to Senator Lautenbaugh. [LB239]

SENATOR COASH: Senator Lautenbaugh, 2 minutes 20 seconds. [LB239]

SENATOR LAUTENBAUGH: Thank you, Mr. President, and thank you, Senator Schilz. Just a couple of items I would like to address: Yeah, Douglas County is currently consolidating some of its precincts based upon a law that we passed just last year. All of us, well, except for two or three of us, were here and we passed it, and that was meant to take into account the fact that more and more people are voting by mail. About a third of them now vote by mail. And a lot of these precincts are frequently ghost towns during most of the day and yet we're all paying for it. So if that is problematic, now that it's actually happening, well, you'd have to go back and revisit the law we passed last year which specifically provided for this to happen. I would like to talk a little bit about the cost again. I spoke to my local election commissioner because I heard, as amended, his estimate of cost was \$30,000. That's not what was described to me as a firm number. Not going to use the phrase that was used but let me say, well, it's a guess. It's a guess. And something you need to keep in mind, and I assume other political subdivisions, other counties do this, the election costs are passed on to the other political subdivisions by the amount of ballot inches they consume. [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR LAUTENBAUGH: Thank you, Mr. President. MUD, OPPD, the NRD, OPS, city of Omaha all get billed for the amount of the ballot they consume and all the election costs on a pro rata basis. So this would not be a cost that would weigh predominantly on the counties if their election results or election costs are passed through as Douglas County does. Further, the Indiana case that was referenced upholding their statute, the court did not say that if individual groups or individuals came in it would likely be found to be unconstitutional. They said at least someone who was prevented from voting should possibly be able to still bring a claim. They in no way said that the Indiana law was going to be found unconstitutional. And before we go down the road again of what I like to call constitutional open mike night, I want to be clear that that is not what that decision said. Someone can still challenge the law... [LB239]

SENATOR COASH: Time, Senator. [LB239]

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SENATOR LAUTENBAUGH: Thank you. [LB239]

SENATOR COASH: Thank you, Senator Lautenbaugh. Senator Sullivan, you are recognized. [LB239]

SENATOR SULLIVAN: Thank you, Mr. President. I'm continuing to listen and continuing to process some of this information because my constituents at this point in time are pretty much split on this issue. So I'm just trying to get at the details and consequences of this legislation if we decide to go forward on it. And in my earlier remarks, I was talking about the logistics of the Secretary of State sending that list of people who should receive voter registration acknowledgement cards. Maybe they don't need to send it to the counties. Maybe the Secretary of State should just send it out and that would be one less thing that the counties have to do. So I may actually want to consider an amendment to AM727 to that effect. But again, processing what this notification would look like when either the Secretary of State or the county clerk would send this voter registration card to individuals who don't have a driver's license or a state-issued ID, I am envisioning a letter that would go along with it to explain this. Now to that end, I've got a question for Senator Janssen, if he would yield. [LB239]

SENATOR COASH: Senator Janssen, will you yield? [LB239]

SENATOR JANSSEN: Certainly. [LB239]

SENATOR SULLIVAN: Thank you, Senator. I'm quite sure that I probably asked you this during the Government Committee discussion, but my concern about the fact that when we make a change like this there's a certain amount of education that would need to take place to inform the electorate of what we're doing. So first of all, when we send out this notice of this voter registration card, do you think that there should be and could be a letter that explains this change that goes along with it? [LB239]

SENATOR JANSSEN: Thank you for the question, Senator Sullivan, and your openness. And I think there could be and perhaps there should be. On the back of the card, I have one here, it could easily be added at very minimal cost to the printing on the back of this actual card. Sorry, I used a visual ID there. Hope I don't get in trouble for that. [LB239]

SENATOR SULLIVAN: But do you know if some states have actually launched an educational campaign when they have instigated voter ID? I think has it been Florida or someplace that had an educational campaign? And do you know anything about that and was there a cost attached to it? [LB239]

SENATOR JANSSEN: Georgia, I believe, did do...they rolled out an educational

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program on that. Theirs is much more strict than what we're proposing here. They had basically, I think they even had...I think my staff called it a bookmobile, if you will, on how to vote under the new guidelines that they enacted. Ours wouldn't be as strict. I wouldn't see us needing to have that. I do think...I know I'm running for reelection, no big announcement there, but I would plan on putting on my materials, you know, if this were to pass, bring your ID when you vote and encourage people to do it that way. So there would be some education that would be done by the candidates just by happenstance. [LB239]

SENATOR SULLIVAN: Okay. I do have a question, too, about the state-issue ID. Do you know how many right now, how many citizens in this state have state-issue IDs? [LB239]

SENATOR JANSSEN: The Secretary of State estimated to me, and again as I kind of mentioned in my opening that it's a fluid number which they can track, is about 30,000 people right now that would not either have a driver's license or a state-issued ID. [LB239]

SENATOR SULLIVAN: And do they have to pay for those right now? [LB239]

SENATOR JANSSEN: The acknowledgement of registration card? Is that what you're asking? [LB239]

SENATOR SULLIVAN: No, the state-issue ID. [LB239]

SENATOR JANSSEN: State-issued ID, there is a cost for that. I don't have the exact cost for that. That was one of the reasons...another reason for bringing the voter acknowledgement card was to cover the, you know, kind of the poll tax argument. In this case, a person would not have to pay at all to receive the voter ID card registration. [LB239]

SENATOR SULLIVAN: So does that...with that amendment, does that get away from the fact that if they pay for the state-issue ID or a driver's license, for that matter, then that...and we're required to do that... [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR SULLIVAN: ...state-issued or that government-issued ID when we vote, that would get away from the concern of it being a poll tax? [LB239]

SENATOR JANSSEN: I believe so. And the U.S. Supreme Court backs up that line of thinking in Crawford v. Marion, which was even stricter on showing IDs than what we've put forth here in LB239 as amended. [LB239]

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SENATOR SULLIVAN: Okay. Thanks, Senator Janssen. I've got several other questions but I'll wait till my next time at the mike. Thank you. [LB239]

SENATOR COASH: Thank you, Senator Sullivan and Senator Janssen. Senator Brasch, you're recognized. [LB239]

SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues. It was over a year ago, February 24, 2011, when in Government, Military and Veterans Affairs Committee we heard LB239 presented by Senator Janssen. At that time I was a member of this committee. We heard testimony raising questions and expressing a range of concerns, and what caught my attention at that time was some concern was raised about the loss of people being able to vote and voter turnout perhaps may, you know, be lower at our polls. As a rural senator, their testimony was taken to heart. Not only was it taken to heart but at that time it was also taken to main street, and main street consensus was not to support the bill last year. However, this year again, following many e-mails, many calls, I took the question again to main street, as not only did I change committees but our district, through redistricting, had changed as well. And throughout main street, all the way from Bancroft to Blair to Fort Calhoun, 75 percent of our constituents have a shadow of a doubt on needing to know who comes in to the polls. They no longer feel that we can just sign a book and say it's okay. They would like to see LB239 passed. So I rise in favor of LB239 on behalf of the district, the 75 percent, the voices that are coming forward, and will continue to listen to all. And our vote is important, more important than ever. I give the remaining of my time to Senator Janssen. [LB239]

SENATOR COASH: Senator Janssen, you've been yielded 2 minutes 40 seconds. [LB239]

SENATOR JANSSEN: Thank you, Senator Brasch. I appreciate the comments. And it was a long time ago. I think I was just talking to Senator Sullivan, who's on the committee and was on the committee with us last year going over some points of the bill, and I wanted to take this opportunity to clarify what I was talking about in Georgia, what I called a bookmobile. What they did is they had a more stringent photo ID and they drove around. Their election commissioners basically drove around in mobile units and would photograph people that were registered and verify the registration and basically spit out a voter ID card at that time, which had a much heavier expense on it than the estimated 50 cents per voter acknowledgement card, which I did look back into and it's about 30,000 Nebraskans that would not have that, based on the most recent data. Thank you, Mr. President. [LB239]

SENATOR COASH: Thank you, Senator Janssen. Senator Carlson, you're recognized. [LB239]

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SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I'd like to address a question or two to Senator Janssen, if he would yield. [LB239]

SENATOR COASH: Senator Janssen, will you yield? [LB239]

SENATOR JANSSEN: Yeah. [LB239]

SENATOR CARLSON: Senator Janssen, what would you say is the most important responsibility of a poll worker? [LB239]

SENATOR JANSSEN: I think the integrity of the election. [LB239]

SENATOR CARLSON: What's the most important part of that? [LB239]

SENATOR JANSSEN: Making sure the person that shows up gets the, one, the correct ballot, and is the correct person that's voting on that ballot. [LB239]

SENATOR CARLSON: Okay. Thank you. And I agree with you. Now if LB239 becomes law, what happens to me, according to the law, when I go to vote in Holdrege? [LB239]

SENATOR JANSSEN: I would assume that you would have your driver's license or have a motor vehicle driver's license, so they would ask you to see that license and verify who you are and they would say that's Tom Carlson right here and that would be it. You would get your ballot and you would go about your voting. [LB239]

SENATOR CARLSON: Now let's go back to the answer to the first question. It was to make sure that the person that is there voting is in fact who they say they are or who they appear to be. And I agree with you, that's the most important. So why does LB239, for me in Holdrege, change that? [LB239]

SENATOR JANSSEN: I'm not following your question. [LB239]

SENATOR CARLSON: I haven't had to show my ID for 40 years and most of the people, most of the people in Holdrege that come to vote it would be the same circumstance, because the people there know them. So it is important that the person voting is the one they say they are. That isn't going to change, in Holdrege, Nebraska, for 95 percent of the people that vote, with LB239. But when I ask you what would happen to me, now I have to show my ID. Why? [LB239]

SENATOR JANSSEN: I stand on what I said. As Senator Sullivan said earlier, the face of rural America and Nebraska is changing dramatically and we may not always know when we go to the polls, we may not know who that person is. And you had mentioned

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95 percent. Well, what about the other 5 percent that may be showing up? They may know that so-and-so is not going to vote today. They happen to work with them. They know where they're registered to vote and they don't know that poll worker so they're going to show up and say, yeah, I'm Tom Carlson, not that they wouldn't recognize you, and they could vote in your stead. [LB239]

SENATOR CARLSON: I think that other 5 percent should have to show their ID. [LB239]

SENATOR JANSSEN: I think all 100 percent should show the ID. [LB239]

SENATOR CARLSON: That's kind of a...that's a nuisance. That's a nuisance part of this bill. And I understand what you're answering and you had to answer it that way and I may get back to you, Senator Janssen. [LB239]

SENATOR JANSSEN: Thank you. [LB239]

SENATOR CARLSON: I'd like to address Senator Avery, if he would yield. [LB239]

SENATOR COASH: Senator Avery, will you yield? [LB239]

SENATOR AVERY: Yes, I will. [LB239]

SENATOR CARLSON: Senator Avery, why can't we put common sense to a law which is meant to serve a good purpose? [LB239]

SENATOR AVERY: Common sense would say if you have a problem, fix it. We don't have a problem. There is no fraud. It's like fool's gold. It's shiny and it glitters but it's fool's gold. There is no fraud. The fraud is in the claim that we have fraud. There isn't a single prosecutable case in the state of Nebraska in recent memory of voter fraud. [LB239]

SENATOR CARLSON: Well, why hasn't there been? [LB239]

SENATOR AVERY: Because Nebraskans are good, honest, hardworking people who play by the rules. [LB239]

SENATOR CARLSON: Now I may be off in my percentage, but I said that 95 percent of the people that vote in Holdrege are known by the poll workers. What about the other 5 percent? What's unreasonable about having them show an ID? [LB239]

SENATOR AVERY: Well, because they already are registered to vote and they had to verify their residence, had to verify that they are who they are when they registered to

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vote. And this is... [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR AVERY: ...just another impediment in the way of voting. [LB239]

SENATOR CARLSON: Well, what kind of... [LB239]

SENATOR AVERY: It's another step. [LB239]

SENATOR CARLSON: What kind of leeway can be given to a poll worker on LB239? None? [LB239]

SENATOR AVERY: I don't think that there is any leeway that the poll worker would have outside what is contained in AM727. [LB239]

SENATOR CARLSON: You may be... [LB239]

SENATOR AVERY: They can use provisional ballot, we know that, they can and it doesn't apply...if somebody shows up at the polls, they don't have an ID with them that conforms to the definition in this law, and if they show up to vote they can be given a provisional ballot. Then we have in the amendment, if you go to page 10, you'll see what the rules are for how these provisional ballots are treated. [LB239]

SENATOR CARLSON: I understand that. That's part of the procedure. That's also going to be a very annoying part of the procedure for a lot of people who vote. I'm not against this,... [LB239]

SENATOR COASH: Time, senators. [LB239]

SENATOR CARLSON: ...but I don't see any common sense in it. [LB239]

SENATOR COASH: Time, Senators. [LB239]

SENATOR CARLSON: Thank you. [LB239]

SENATOR COASH: Senator Nordquist, you're recognized. [LB239]

SENATOR NORDQUIST: Thank you, Mr. President and members. I have a lot of concerns about this piece of legislation related to a number of issues. Obviously, the foremost is the protecting the fundamental right of an individual to vote, but more than that...in addition to that, I should say, is the cost of the implementation of this. And one of the key things that Senator Schilz mentioned was about the provisional ballots and I'd

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like to ask our resident expert, if Senator Lautenbaugh would mind yielding to a question or two. [LB239]

SENATOR COASH: Senator Lautenbaugh, will you yield? [LB239]

SENATOR LAUTENBAUGH: Yes, I will. [LB239]

SENATOR NORDQUIST: Now, Senator Lautenbaugh, correct me if I'm wrong. I think you said you used to be an engineer? Or no, no, an election commissioner, sorry, sorry, election commissioner. But so can you walk us through the process of verifying provisional ballots and what that takes compared to a normal ballot? [LB239]

SENATOR LAUTENBAUGH: I'm going from memory because we, as you know, tweak things from time to time and I haven't done it since 2002, I would guess. [LB239]

SENATOR NORDQUIST: Sure. [LB239]

SENATOR LAUTENBAUGH: At the time we would get the provisional ballots in on election night, we would segregate them from the rest of the ballots, do the canvass to make sure that those people who had filled out the front of the provisional ballot envelope, it was called conditional ballot back then,... [LB239]

SENATOR NORDQUIST: Okay. [LB239]

SENATOR LAUTENBAUGH: ...make sure they had not voted in their former polling place or anyone else. So we had to do the canvass and look at all the election books from election day and mark which voters had voted and then we would compare the conditionals or provisionals to that list to see if anyone had voted twice, if you will. [LB239]

SENATOR NORDQUIST: Okay. Did you do that with all your current staff, full-time staff, or did you have to hire additional folks to do that? [LB239]

SENATOR LAUTENBAUGH: If we... [LB239]

SENATOR NORDQUIST: And this was '02, I know, so it may have changed, but... [LB239]

SENATOR LAUTENBAUGH: Yeah. We had a canvass board that came in and did the canvass,... [LB239]

SENATOR NORDQUIST: Okay. [LB239]

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SENATOR LAUTENBAUGH: ...and they were not regular employees. They just were the...seemed like the same people we always had working on the canvass. But the checking of the provisional or conditional ballots against the canvass, I believe the regular election office employees did that. [LB239]

SENATOR NORDQUIST: Okay. Okay. Okay. So...but now we've...and maybe you don't know now, if you've spoken with Commissioner Phipps, and I haven't and I will try to follow up with someone there about their process. Now do you know if they have to? Because it seems maybe, maybe not, but have the number of provisional ballots increased? I mean is that, do you think, since that time? [LB239]

SENATOR LAUTENBAUGH: You know, not really. [LB239]

SENATOR NORDQUIST: Okay. [LB239]

SENATOR LAUTENBAUGH: Well, once again my information is dated,... [LB239]

SENATOR NORDQUIST: Okay. [LB239]

SENATOR LAUTENBAUGH: ...but they were always a very small percentage. [LB239]

SENATOR NORDQUIST: Okay. [LB239]

SENATOR LAUTENBAUGH: And yeah, even in this bill, remember, you're thinking of the people who don't have a license and don't have that card mailed out to them. [LB239]

SENATOR NORDQUIST: Sure. [LB239]

SENATOR LAUTENBAUGH: I don't know how many that would be in a county the size of Douglas even. [LB239]

SENATOR NORDQUIST: Okay. [LB239]

SENATOR LAUTENBAUGH: It just was never an overwhelming number compared to the mail ballots certainly. [LB239]

SENATOR NORDQUIST: Great. Well, thank you. You have a great memory for a man of your age. (Laugh) Sorry. But a few other concerns I have, you know, we've been talking about people getting their card mailed to them if they don't have a driver's license. One thing that I know from my personal experience, when we moved, it was probably a year, year and a half later, my wife failed to update her driver's license and we got a postcard in the mail from the DMV saying, hey, you need to update the

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address on your driver's license. I don't know what system they use to verify that, probably maybe against the Department of Revenue's records or something like that. But...so there are a significant number of Nebraskans that that probably happens to where there's a period of time, they move, they don't get their driver's license updated. I know they're supposed to but they don't, and those people would not get the voter registration card in the mail. I guess if they reregistered they would, but if...but they wouldn't necessarily get one in an election year,... [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR NORDQUIST: ...as this bill lays out. And then the final thing is just looking at my card, which I dug up at home. You know, I don't have a lot of confidence that this piece of black-and-white printed paper is going to prevent fraud in our state. I would think that anyone with any computer skills at all would be able to replicate this with as many names on them right out of the voter file as possible, if they wanted to commit fraud, probably within a half hour and go to the polling place. So I don't think that if those...if people are willing to go to the polling place, attest that they're somebody else, sign somebody else's name, I don't think it's beyond them to go and replicate a bunch of voter ID cards. And if they have access to the voter file, they can pull the names and addresses and replicate those cards literally in an hour's time. So those are my concerns about this piece of legislation. Thank you, Mr. President. [LB239]

SENATOR COASH: Thank you, Senator Nordquist. (Visitors introduced.) Senator Council, you're recognized. [LB239]

SENATOR COUNCIL: Thank you very much, Mr. President. A couple of points I want to raise and respond to: My colleague, Senator Smith, asked some questions during his time on the mike that were directed to me, and I'd like to respond. One of the questions he asked was whether or not vote by mail presented the greater likelihood of voter fraud, and the answer to that question is, absolutely, that would be the greatest opportunity for voter fraud to be committed because of the manner in which vote by mail elections are conducted. But getting to AM1667 and the reason I introduced that legislation, again, last time on the mike I advised you of the Douglas County Election Commissioner's intent to cut in half the number of polling places to reduce costs. I suspect that the reason for the current legislation that allows a county of less than 10,000 to have total mail ballot elections is to reduce costs, yet under AM727 and the underlying bill those counties with greater than 10,000 population do not have the luxury of having all mail ballot elections to reduce their costs. And in those instances, as a result of that, we end up with creating separate and unequal classes of voters. That is something that is absolutely contrary to our constitution and the Voting Rights Act in terms of equal opportunity to vote. Also, a number of my colleagues have talked about what their constituents have been saying to them, either when they are just meeting with them in their districts or via e-mail. Let me share with you, and I'm not going to kill a

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bunch of trees to pass them out, but this is as of Friday. I have 216 e-mails opposed to LB239, I have 31 in support of LB239, and 1 that is I think is an individual petition that support...that represents that he...purports to represent 50 other people. But when we're talking about percentages, I think that's well over 75 percent of the people who have contacted me in opposition of LB239. And I submit to you that that number, the number of people who have contacted me in opposition, my constituents, is confirmation of what the research shows in terms of who is adversely affected by such voter ID legislation, and those are low-income people, minorities, the elderly, and the disabled, many of whom I represent in District 11. So it comes as no surprise to me that the numbers of people who write to me in opposition of LB239 may be vastly different from the number of people that write to other of my colleagues in favor of LB239. But again, I submit to you that the data that I have received from my constituents confirms what the research shows, that it is voter suppression as it affects low-income people, minorities, the elderly, and the disabled. Is Senator Lautenbaugh still present? [LB239]

SENATOR COASH: Senator Lautenbaugh. [LB239]

SENATOR COUNCIL: Would Senator Lautenbaugh yield to a question? [LB239]

SENATOR COASH: Senator Lautenbaugh, will you yield? [LB239]

SENATOR LAUTENBAUGH: Yes, I will. [LB239]

SENATOR COUNCIL: Senator Lautenbaugh, I don't know whether you were present when Senator Smith was relating a situation that occurred in Papillion, but my question to you is what is the purpose of a provisional ballot... [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR COUNCIL: ...at this point in time under current statute? [LB239]

SENATOR LAUTENBAUGH: Again going from memory, the most common situation is where a person moves and has failed to reregister or for whatever reason, I know, rightly or wrongly, people have used it as a safety valve, meaning if someone insists, by God, I'm registered to vote, you have to let me vote, sometimes poll workers have let people vote on a provisional ballot. And then it's determined later that there's no valid registration or there is and it was just a mistake in the book, which isn't beyond the pale either. That would be the most common circumstance. [LB239]

SENATOR COUNCIL: Okay. Would it be appropriate in the situation that Senator Smith related where, as a result of that particular person's attempt to vote, raised questions as to whether or not he was a registered voter? Would that not be one of the instances under which a poll worker... [LB239]

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SENATOR COASH: Time, Senators. [LB239]

SENATOR COUNCIL: Thank you. [LB239]

SENATOR COASH: Thank you, Senators. Mr. Clerk, items? [LB239]

CLERK: I do, Mr. President, thank you. Your Committee on Government, Military and Veterans Affairs reports LB795, LB880, LB999, LB1006, LB1023, LB1116, LB1141 to General File, LB819 to General File with amendments, LB858, LB869. Executive Board, chaired by Senator Wightman, reports LB1007 and LB1133 indefinitely postponed. And Health and Human Services Committee reports LB1122 to General File; LB825, LB1077, LB1083 to General File with amendments. And, Mr. President, a communication received, along with the transmittal letter from the Clerk to the Chair of the Executive Board, those will be inserted in the Journal. That's all that I have. Thank you. (Legislative Journal pages 662-672.) [LB795 LB880 LB999 LB1006 LB1023 LB1116 LB1141 LB819 LB858 LB869 LB1007 LB1133 LB1122 LB825 LB1077 LB1083]

SENATOR COASH: Thank you, Mr. Clerk. Senator Hadley, you're recognized. [LB239]

SENATOR HADLEY: Question. [LB239]

SENATOR COASH: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Senator Hadley. [LB239]

SENATOR HADLEY: I'd like a call of the house. [LB239]

SENATOR HADLEY: There has been a request for a call of the house. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB239]

CLERK: 33 ayes, 0 nays, Mr. President, to place the house under call. [LB239]

SENATOR COASH: The house is under call. Senators, please record your presence. Those unexcused senators please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Loudon, Wightman, and McGill, please return to the Chamber and record your presence. Senator Loudon, please return to the Chamber and record your presence. Senator Hadley, Senator Loudon is on his way. Would you accept call-ins or would you like a roll call? [LB239]

SENATOR HADLEY: I'd like a roll call vote in reverse order. [LB239]

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SENATOR COASH: Mr. Clerk, the question is, shall debate cease? Please read the roll in reverse order. [LB239]

CLERK: (Roll call vote taken, Legislative Journal page 673.) 24 ayes, 22 nays to cease debate. [LB239]

SENATOR COASH: Debate does not cease. Raise the call. Senator Mello, you're recognized. [LB239]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. This underlying amendment has a legitimate concern. Regardless of whether or not you support the bill or oppose the bill, this underlying amendment, AM1667, tries to ensure we don't have two separate forms of democracy in Nebraska. And that is a concern that ultimately I'm...while I have respect for Senator Janssen and Senator Schilz, I have a fundamental disagreement that we just pass bad legislation because we want to pass bad legislation. If we know we have two separate forms of democracy in this state, we don't adopt AM1667, that's not something we just want to leave up to chance and allow a constitutional challenge to occur. And I think that's an underlying point that needs to be made, is that Senator Council brought this amendment to show we need to make a change regardless with this legislation. I also remind the body that while a colleague of ours, Senator Larson, mentioned a few points on the mike in regards to the state's constitution, I would also point again to this Brennan Center report that shows a little bit more in regards to when states have listed in the state constitution the right to vote, how that has significant power over U.S. Supreme Court law in regard to the U.S. Constitution. It states right here, in addition to the constitutional, federal constitutional challenges, photo ID laws may also be vulnerable to lawsuits based on state constitutional rights. A photo ID law passed in Missouri was struck down by the state supreme court which found that Missouri's constitution had stronger voter protections than the federal constitution. The Missouri Supreme Court based its decision in part on the costs that voters without ID would have to incur to obtain the documents required to vote and to navigate the state's bureaucracies. The high courts of other states have similarly held that their state constitutions protect voting rights more than the federal law. Colleagues, that should raise concerns of what we're even trying to do under LB239. Disregard the points that Senator Nordquist just made in respect to a white...a business card size of paper that's printed black on white paper that if we're really concerned about voter fraud, which none of the proponents today, including the proponent of the bill or the Secretary of State during the hearing on LB239, even acknowledged that voter fraud even exists in Nebraska. So we have a problem that, one, the proponent of the legislation, the Secretary of State in conjunction with that, has stated that this problem doesn't even exist in Nebraska, that Senator Nordquist so aptly pointed out that if you utilize the voter registration card that's mailed out by the county election commissioners that that ultimately is more susceptible to fraud than anything else. And that was the compromise, so to speak, struck to even allow this bill to come

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out of committee, which Senator Avery answered Senator Carlson's question, I think, which I'm glad he did because that was the point of my time speaking, is that there is no voter fraud in Nebraska. If there was voter fraud in Nebraska, there would be multiple lawsuits filed every election cycle by county election officials against those who commit this fraud. There would be law enforcement officers seeking out those who in theory have committed this fraud. Colleagues, this is not an issue in Nebraska. And frankly, federal tax force under the Bush administration, the Bush administration's Department of Justice, investigated this issue in a very partisan light and even they couldn't find voter fraud across the country. And in cases they did, the one case that was ever alluded to in Nebraska was a voter registration issue that ultimately... [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR MELLO: ...was never prosecuted, and that was done by a more partisan organization that had a partisan agenda to search this out. They couldn't even find it, which begs the question, colleagues, we could agree this is a solution in search of a problem, but Senator Council's amendment in front of us is actually trying to improve what I believe and what she believes is a bad piece of legislation, that you shouldn't have a separate democracy based on where you live in Nebraska in regards to what county you're registered to vote in, which if we don't adopt AM1667 will happen. We will have a separate but unequal election law in this state that if you live in a county that has an all-mail election system you don't have to show ID, but if you live in a county that doesn't have that system you have to go through the onerous requests of having to show ID when you go vote in person. [LB239]

SENATOR COASH: Time, Senator. [LB239]

SENATOR MELLO: Thank you, Mr. President. [LB239]

SENATOR COASH: Senator Avery, you are recognized. [LB239]

SENATOR AVERY: Thank you, Mr. President. I want to address two issues and I got some of that in when I was in an exchange with Senator Carlson. We're told that we must pass this bill to combat fraud or at least to insulate the state against possible fraud. So the argument is that we need new restrictions on ballot access. The real fraud, frankly, is in the claim that voter fraud is happening in this state. It is not. Secretary of State has said so. And if we had fraud, we would know it because the election commissioners would not permit it. As I said before, let's not let the glitter and the cheap, shiny nature of this issue distract us. When you look at the primary reason behind this bill, as stated publicly on the microphone, that is to combat fraud, when you look at that the entire case collapses under close inspection. Show me the fraud. Where is it? Now I know it's one of those things, say, well, why not have a voter ID requirement? And I will tell you that I believe that this is an unnecessary impediment to

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voting. It's a detriment. In fact, the State Department...not the state department, the Department of Justice has just recently declared that...or stopped the state of South Carolina from implementing their voter ID law and the reason they can do that is that the state of South Carolina has a history of discriminating against minorities and people of color, and because of that they are under close scrutiny and every change in their election law has to be approved by the Department of Justice. And the Department of Justice looked at a law that they have that is not that dissimilar from what we're talking about here today, and they say, you can't do it because it violates the Voter Rights Act. Texas is under the same kind of scrutiny right now and I predict that they're voting ID law will also be declared inappropriate and unenforceable by the Department of Justice. Now why are they singled out? Because they have a history of fraud. We don't have a history of fraud here in this state. As I said in my discussion with Senator Carlson, we are a state of hardworking people who play by the rules. We play by the rules because we respect the system. But when we start putting obstacles in the face of voters, making it more difficult for voters to vote, then we are saying to them we don't respect you, we don't respect your rights. Why would we have to go through these hoops and prove additional qualifications to vote when it is a right? We already have in place registration requirements. They require you to prove where you live. They require you to prove who you are. You get registered to vote; that should be enough. We should not be asking people to continue to produce additional proof of who they are. That simply discriminates against people who are elderly and people who are minorities and may not have an ID card, or people who are disabled and may not be able to drive. And I can tell you that the costs to the counties is not insubstantial. I did a little bit of work on this. [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR AVERY: I talked with the...beg your pardon, Mr. President? [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR AVERY: One minute. Thank you. I talked with NACO. And they said the costs would be in the mailing of the card, in processing the provisional ballots, in training poll workers, and verifying provisional ballots. They estimate 15 cents to 55 cents per registered voter in order to do this every election. And I did some looking into what this will cost in Lancaster County and it would cost Lancaster County a minimum of \$3,317, a maximum of \$12,383, and that doesn't even take into account training poll workers and those sorts of things. That's just the mail costs and handling. So I'm asking you to take a very good look at this. The committee amendment improves it but not enough. Thank you, Mr. President. [LB239]

SENATOR COASH: Time, Senator. Mr. Clerk. [LB239]

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CLERK: Mr. President, I have nothing to read in at this time. I do have a priority motion. Senator Wightman would move to adjourn the body until Tuesday morning, February 28, at 9:00 a.m.

SENATOR COASH: Members, you've heard the motion to adjourn. All those in favor say aye. Those opposed say nay. We are adjourned. We are adjourned. (Gavel)