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Floor Debate
March 27, 2012

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SPEAKER FLOOD PRESIDING

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

SENATOR KRIST: (Prayer offered.)

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

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

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

CLERK: I have no corrections, Mr. President.

SPEAKER FLOOD: (Gavel) Thank you. Are there any messages, reports, or announcements?

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CLERK: There are, Mr. President. Your Committee on Enrollment and Review reports they've examined and reviewed LB1145, LB806, LB806A, LB715, LB905, LB905A, LB1057, LB1057A, LB721, LB766, LB779, LB719, LB729, LB1035, LB896, LB898, LB772, LB823, LB761, LB743, LB742, LB1049, LB398, LB1101, LB1042, LB788, LB1062, LB1030, LB795, LB880, LB999, LB1116, LB1141, LB819, LB869, LB1122, LB1077, LB1083, LB734, LB737, LB768, LB805, LB881, LB941, LB1148, LB740, LB851, LB1106, LB1026, LB1140, LB936, LB897, LB822, LB1038, LB1005, LB997, LB899, LB722, LB865, LB1051, LB1121, LB1126, LB738, LB1087, LB1054, all to Select File, some having Enrollment and Review amendments attached. Communication from the Governor on a gubernatorial appointment, that will be referred to Reference; and a hearing notice from Health and Human Services. And that's all that I have, Mr. President. (Legislative Journal pages 1085-1109.) [LB1145 LB806 LB806A LB715 LB905 LB905A LB1057 LB1057A LB721 LB766 LB779 LB719 LB729 LB1035 LB896 LB898 LB772 LB823 LB761 LB743 LB742 LB1049 LB398 LB1101 LB1042 LB788 LB1062 LB1030 LB795 LB880 LB999 LB1116 LB1141 LB819 LB869 LB1122 LB1077 LB1083 LB734 LB737 LB768 LB805 LB881 LB941 LB1148 LB740 LB851 LB1106 LB1026 LB1140 LB936 LB897 LB822 LB1038 LB1005 LB997 LB899 LB722 LB865 LB1051 LB1121 LB1126 LB738 LB1087 LB1054]

SPEAKER FLOOD: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following legislative resolutions by number: LR463, LR466, LR467, LR468, LR469, LR470, LR471, LR472, LR474, LR475, LR477, LR484, LR485, LR497, and LR499. One note regarding today's agenda: I am removing LB727 from today's agenda. It is in the division at the top of page 2 on your agenda. Again, we're removing LB727 from today's agenda. Mr. Clerk, we now proceed to the first item on the agenda, Health and Human Services Committee reports. [LR463 LR466 LR467 LR468 LR469 LR470 LR471 LR472 LR474 LR475 LR477 LR484 LR485 LR497 LR499]

CLERK: Mr. President, the Health and Human Services Committee offers a report with respect to two appointments to the Commission for the Deaf and Hard of Hearing. (Legislative Journal page 1042.)

SPEAKER FLOOD: Senator Campbell, as Chair of the Health and Human Services Committee, you're recognized to open on the Health Committee confirmation report.

SENATOR CAMPBELL: Thank you, Mr. President and members of the body. The Health and Human Services Committee held confirmation hearings on the reappointments of Steven Manning and Diane Muelleman to the Commission for the Deaf and Hard of Hearing on March 15. Mr. Manning communicates using sign language and brings that perspective to the commission. He has valuable insights regarding the use of today's technology to further assist the deaf and hard of hearing to readily communicate in business and public meetings. Mr. Manning is the current

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chairman of the Nebraska Association of the Deaf's advisory committee. Ms. Muelleman is an auditory-oral deaf educator and has bilateral sensorineural hearing loss corrected with hearing aids. Beyond her service on the Commission for the Deaf and Hard of Hearing, Ms. Muelleman is vice president of the Nebraska Chapter of the Hearing Loss Association and she serves on the Outcomes of Children with Hearing Loss advisory board for research study. Both Mr. Manning and Ms. Muelleman are noteworthy nominees and we would recommend your approval of their nomination. Thank you, Mr. President.

SPEAKER FLOOD: Thank you, Senator Campbell. Members, you've heard the opening. There are no members wishing to speak. Senator Campbell, you're recognized to close. Senator Campbell waives her opportunity. Members, the question before the body is, shall the Health and Human Services Committee confirmation report be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record.

CLERK: (Record vote, Legislative Journal page 1110.) 35 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SPEAKER FLOOD: The confirmation report is adopted. (Doctor of the day introduced.) We now proceed to the next confirmation report. Mr. Clerk.

CLERK: Senator Campbell reports on two appointments to the Board of Emergency Medical Services, Mr. President. (Legislative Journal page 1042.)

SPEAKER FLOOD: Senator Campbell, you're recognized to open on your confirmation report.

SENATOR CAMPBELL: Thank you, Mr. President and members of the body. The Health and Human Services Committee recently held confirmation hearings on the reappointments of Ms. Linda Jensen and Mr. Scott Wiebe to the Board of Emergency Medical Services. Ms. Jensen is a registered nurse for over 30 years. She has worked with EMS continuing education and outreach at Immanuel Medical Center in Omaha, and has served as the physician surrogate/designee for the rescue squad serving Bennington, Fort Calhoun, Irvington, and Ponca Hills. Ms. Jensen has been the recipient of the Kenneth Kimball Award for her work with emergency medical services for eastern Nebraska. Mr. Wiebe is a fire captain and EMS supervisor with the Lincoln Fire and Rescue squad. As a licensed and nationally registered paramedic since 1990, Mr. Wiebe would return as the paramedic member of the Board of Emergency Medical Services. Of special note is the fact that Mr. Wiebe was the recipient of the Lincoln Fire Department's medal of valor in 1998. The Health and Human Services Committee respectfully submits these appointments and would urge your approval of them. Thank you, Mr. President.

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SPEAKER FLOOD: Thank you, Senator Campbell. Members, you've heard the opening. There are no senators wishing to speak. Senator Campbell, you're recognized to close. Senator Campbell waives her opportunity. Members, the question before the body is, shall the Health and Human Services confirmation report be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record.

CLERK: (Record vote, Legislative Journal page 1111.) 33 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

SPEAKER FLOOD: The confirmation report is adopted. We now proceed to the next item on the agenda, Select File appropriation bills. Mr. Clerk.

CLERK: Mr. President, Senator Larson, LB209A. I have no amendments to the bill. [LB209A]

SPEAKER FLOOD: Senator Larson, you're recognized for a motion. [LB209A]

SENATOR LARSON: Mr. President, I move that LB209A be advanced to E&R for engrossing. [LB209A]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB209A is advanced to E&R for engrossing. Mr. Clerk. [LB209A]

CLERK: LB949A, Senator Larson, I have Enrollment and Review amendments. (ER226, Legislative Journal page 1055.) [LB949A]

SPEAKER FLOOD: Senator Larson, you're recognized for a motion. [LB949A]

SENATOR LARSON: Mr. President, I move the E&R amendments to LB949A be adopted. [LB949A]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB949A]

CLERK: Senator Harms would move to amend with AM2608. (Legislative Journal page 1081.) [LB949A]

SPEAKER FLOOD: Senator Harms, you're recognized to open on AM2608. [LB949A]

SENATOR HARMS: Thank you, Mr. President and colleagues. This is just a technical amendment that the...our Fiscal staff has asked that we make, and I'd simply ask you to

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approve this change. Thank you, Mr. President. [LB949A]

SPEAKER FLOOD: Thank you, Senator Harms. Members, you've heard the opening. There are no members wishing to speak. Senator Harms, you're recognized to close. Senator Harms waives closing. Members, the question before the body is, shall AM2608 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB949A]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Harms's amendment. [LB949A]

SPEAKER FLOOD: AM2608 is adopted. Mr. Clerk. [LB949A]

CLERK: I have nothing further on the bill, Mr. President. [LB949A]

SPEAKER FLOOD: Senator Larson, you're recognized for a motion. [LB949A]

SENATOR LARSON: Mr. Speaker, I move that LB949A be advanced to E&R for engrossing. [LB949A]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB949A advances to E&R for engrossing. Members, if you could please find your seats in preparation for Final Reading. All unauthorized personnel please leave the floor. We are on Final Reading. Mr. Clerk, LB131. [LB949A LB131]

CLERK: (Read LB131 on Final Reading.) [LB131]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB131 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB131]

CLERK: (Record vote read, Legislative Journal page 1112.) 43 ayes, 1 nay, 3 present and not voting, 2 excused and not voting, Mr. President. [LB131]

SPEAKER FLOOD: LB131 passes with the emergency clause attached. Mr. Clerk, we now proceed to LB968. The first vote is to suspend the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB131 LB968]

CLERK: 44 ayes, 0 nays to dispense with the at-large reading, Mr. President. [LB968]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB968]

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CLERK: (Read title of LB968.) [LB968]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB968 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB968]

CLERK: (Record vote read, Legislative Journal page 1113.) 45 ayes, 2 nays, 2 excused and not voting, Mr. President. [LB968]

SPEAKER FLOOD: LB968 passes with the emergency clause attached. Mr. Clerk, we now proceed to LB969, where the first vote is whether to suspend the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB968 LB969]

CLERK: 43 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB969]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB969]

CLERK: (Read title of LB969.) [LB969]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB969 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB969]

CLERK: (Record vote read, Legislative Journal page 1114.) 44 ayes, 3 nays, 2 excused and not voting, Mr. President. [LB969]

SPEAKER FLOOD: LB969 passes with the emergency clause attached. Mr. Clerk, the next bill is LB1072. The first vote is to suspend the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB969 LB1072]

CLERK: 42 ayes, 0 nays, Mr. President, on the motion to dispense with the at-large reading. [LB1072]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB1072]

CLERK: (Read title of LB1072.) [LB1072]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1072 pass with the emergency clause attached? All those

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in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1072]

CLERK: (Record vote read, Legislative Journal page 1115.) 42 ayes, 4 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB1072]

SPEAKER FLOOD: LB1072 passes with the emergency clause attached. (Visitors introduced.) Continuing with Final Reading, Mr. Clerk, we now proceed to Final Reading. A reminder that in this section only, from LB42 to LB861, any bill with a motion to return to Select File for a specific amendment will be passed over today. Mr. Clerk, LB42. [LB1072 LB42]

CLERK: (Read LB42 on Final Reading.) [LB42]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB42 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB42]

CLERK: (Record vote read, Legislative Journal pages 1115-1116.) 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB42]

SPEAKER FLOOD: LB42 passes. Mr. Clerk, we now proceed to LB1018, where the first vote is to suspend the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB42 LB1018]

CLERK: 42 ayes, 0 nays, Mr. President on the dispensing with Final Reading. [LB1018]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB1018]

CLERK: (Read title of LB1018.) [LB1018]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB1018 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB1018]

CLERK: (Record vote read, Legislative Journal pages 1116-1117.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB1018]

SPEAKER FLOOD: LB1018 passes. Mr. Clerk, we now proceed to LB735. [LB1018 LB735]

CLERK: (Read LB735 on Final Reading.) [LB735]

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SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB735 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB735]

CLERK: (Record vote read, Legislative Journal pages 1117-1118.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB735]

SPEAKER FLOOD: LB735 passes. Mr. Clerk, LB861. [LB735 LB861]

CLERK: (Read LB861 on Final Reading.) [LB861]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB861 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB861]

CLERK: (Record vote read, Legislative Journal page 1118.) 44 ayes, 0 nays, 3 present and not voting, 2 excused and not voting. [LB861]

SPEAKER FLOOD: LB861 passes. Members, we're going to proceed to LR40CA momentarily. Stand by. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following bills: LB131, LB968, LB969, LB1072, LB42, LB1018, LB735, and LB861. Mr. Clerk, we now proceed to LR40CA. [LB861 LB131 LB968 LB969 LB1072 LB42 LB1018 LB735 LR40CA]

CLERK: Mr. President, Senator Council would move to return LR40CA to Select File. Senator, the first motion I have from you is to strike the enacting clause. Senator Council wishes to withdraw that particular motion, Mr. President. Senator Council would move to return LR40CA to Select File for a specific amendment, AM2631. (Legislative Journal page 1119.) [LR40CA]

SENATOR COASH PRESIDING

SENATOR COASH: Senator Council, you are recognized to open on your motion to return to Select File for a specific amendment. [LR40CA]

SENATOR COUNCIL: Thank you very much, Mr. President, and good morning, colleagues. As you all know, LR40CA is intended to amend Nebraska's Constitution to provide for a right that the Constitution of the State of Nebraska already provides for and protects. AM2631 is offered to show the fact that LR40CA is absolutely unnecessary and does nothing but burden the Nebraska Constitution with matters that are not of any pressing concern or of...in danger of being attacked in any way. LR40CA amends...AM2631 amends LR40CA first by striking the phrase "including by the use of traditional methods." During the debate on this matter on General and Select File, there

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were various attempts made to obtain a clear definition of what was meant by "the use of traditional methods." In fact, the question that needs to be posed is, why is it necessary to even include that phrase? And I submit to you that it's only included because that's the way the proposed amendment was submitted to states by the organization that sponsors such constitutional amendments. That language was included in the draft legislation that was submitted and it does nothing to enhance the right that I submit to you that Nebraskans currently enjoy. There was a lot of debate about a threat being posed to Nebraskans' right to fish and hunt and trap, yet there was absolutely no compelling evidence or testimony presented that said that any of these activities were under threat or in need of any further constitutional protection than that which is already provided for in the constitution. So without any clear definition of what is "including by the use of traditional methods," by including that language I believe it further unnecessarily burdens our constitution. The other part of AM2631 just simply goes to strike the language that refers to...that the preferred method of controlling wildlife is public hunting, fishing, and harvesting. Here again there was no definition, there was no clear understanding of what was meant by that term by public harvesting wildlife, hunting or fishing. Here again this is language that's just carried over from the draft legislation that was prepared and distributed by a national organization whose agenda is being advanced by the introduction of this constitutional amendment. What is of concern is...and what was discussed on the floor during debate of LR40CA was what role would Game and Parks continue to play in the management and control of hunting, fishing, and harvesting of wildlife. There was agreement that these activities should be subject only to laws, rules, and regulations regarding participation and that promote wildlife conservation and management and that preserve the future of those activities. So this amendment merely, again, strikes "including by use of the traditional methods," since no one has been able to clearly articulate what is intended by that language, and it also strikes the sentence that says that public hunting, fishing, and harvesting is the preferred method of controlling wildlife. By having that language in there, first of all, it compounds a problem with trying to provide in the constitution something that is currently not at risk or jeopardy, currently something that is alluded to in the constitution, and by inserting a preferred method it raises constitutional challenges if LR40CA should pass. If Game and Parks adopts a rule or regulation that arguably does not provide for public hunting, fishing, or harvesting wildlife, whatever that term means, this amendment, I think, clarifies what I firmly believe to be an unnecessary constitutional amendment, but if the constitution is going to be amended to preserve a right that currently exists that it should be stated in as clear a manner as possible. And therefore, I believe it's necessary to strike that phrase, "including by the use of traditional methods." I presume that hunting, fishing, and harvesting wildlife has some common understanding so it's unnecessary to include that phrase. And again, this whole issue of public hunting, fishing, and harvesting wildlife being a preferred method of managing wildlife, without any clear definition of those terms or what that sentence is intended to apply to, that this amendment just says that there's a right to hunt, fish, and harvest wildlife subject only to laws, rules, and regulations regarding participation, and that

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promote wildlife preservation and management, and that preserve the future of hunting, fishing, and harvesting. If it is the intent of this body to burden our constitution with this unnecessary amendment, then I believe that the amendment should be as clear and as concise as possible, and AM2631 accomplishes that result. Thank you, Mr. President. [LR40CA]

SENATOR COASH: Thank you, Senator Council. Members, you have heard the opening to the motion to return to Select File for a specific amendment. Before we proceed to discussion, Mr. Clerk for an announcement. [LR40CA]

CLERK: Thank you, Mr. President. The Rules Committee, chaired by Senator Lautenbaugh, will be meeting in Room 2022 this morning at 11:00; Rules Committee in Room 2022 for their public hearing at 11:00. Thank you.

SENATOR COASH: Thank you, Mr. Clerk. Those wishing to speak on the motion, Senator Pirsch, you're recognized. [LR40CA]

SENATOR PIRSCH: Thank you, Mr. President. Members of the body, I do appreciate the concerns that have been expressed over the course of this debate for the last couple of sessions. I do reach a different conclusion than Senator Council. I think that we have addressed these issues extensively in this body, and the body, I believe, has reached a comfort level with those terms. So I would oppose the motion to return to Select File at this time. Thank you. [LR40CA]

SENATOR COASH: Thank you, Senator Pirsch. Senator Council, you are recognized. [LR40CA]

SENATOR COUNCIL: Thank you very much, Mr. President. Would Senator Pirsch yield to some questions? [LR40CA]

SENATOR COASH: Senator Pirsch, will you yield? [LR40CA]

SENATOR PIRSCH: I would. [LR40CA]

SENATOR COUNCIL: Senator Pirsch, was it...in your drafting of the resolution, did you specifically include the phrase, "including by the use of traditional methods," or was that a part of the sample legislation that this bill is patterned after? [LR40CA]

SENATOR PIRSCH: The...well, the history of this LR has been just kind of a work in progress, addressing concerns and whatnot, so that specific passage with respect to the verbiage that you're talking about, by "traditional methods," was one that I believe was added as the work was in progress on the floor of this Legislature, after the committee amendment. And I think that we did speak about the underlying rationale of

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including those words, and the words I'm referencing, "including by the use of traditional methods," and I think that the concern was it would protect against bans of particular methods that are in use here today. I think the rationale was that HSUS, other kind of fringe groups believe that all these methods are cruel and unsporting and would ban them if they could. And so I think that was the discussion that was held then. [LR40CA]

SENATOR COUNCIL: Well, is it your opinion, Senator Pirsch, that if there is a constitutional right to hunt, fish, and harvest that there could be any imposition on the methodology used to accomplish that? [LR40CA]

SENATOR PIRSCH: Do I believe that there could be some imposition... [LR40CA]

SENATOR COUNCIL: Yes. [LR40CA]

SENATOR PIRSCH: ...if there's a right to hunt, fish? Boy, I think that this helps clarify because it's not an absolute right that we're effectuating through the use of this LR40CA. It's subject to certain things. The word "subject" is in there. And so I think then it is necessary and beneficial to include specifically defining things such as touching on what types of the traditional methods will be okay in the future. [LR40CA]

SENATOR COUNCIL: And again, Senator Pirsch, with all due respect, who defines what a traditional method is? [LR40CA]

SENATOR PIRSCH: Well, I think that's why we in the Legislature, I think, can certainly help color that definition out for any reviewing court that later is reviewing a challenge on this language. So I think through our floor debate that we've, in the past couple of sessions, have touched upon that extensively and that with respect to traditional methods, I believe, that we've indicated that it's really methodologies that are in place here today; that we're seeking to preserve that which exists today and it's designed to protect against clearly nontraditional methods, for example, contraception schemes or other technologies that would throw a wrench in the North American wildlife conservation model. [LR40CA]

SENATOR COUNCIL: Nontraditional methods? [LR40CA]

SENATOR PIRSCH: Right. By implication there's traditional and then... [LR40CA]

SENATOR COASH: One minute. [LR40CA]

SENATOR PIRSCH: ...nontraditional, so we've...that's...this would seek to ensure that traditional methods would continue to be acceptable type of methods. [LR40CA]

SENATOR COUNCIL: Well, isn't it true, Senator Pirsch, by including this phrase,

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"including by the use of traditional methods," it does not exclude nontraditional methods? [LR40CA]

SENATOR PIRSCH: Well, and let me pull the new language here. Yeah, "including by the use of traditional methods," so we...the thought here is that we don't want to give up any traditional method that's currently taking place. I guess the fear is one of these fringe groups could easily take away something that we practice currently in the state in terms of hunting, fishing, and harvesting wildlife, and so that, you're right, is...the idea is to protect that activity. [LR40CA]

SENATOR COUNCIL: Okay. But my question, Senator Pirsch, that language does not exclude... [LR40CA]

SENATOR COASH: Time, Senators. Thank you, Senator Council and Senator Pirsch. Senator Council, you are next and recognized. There are no other lights on. Would you like to use this time or...oh, there are other lights on, Senator Council. You are recognized. [LR40CA]

SENATOR COUNCIL: Thank you. If Senator Pirsch would continue to yield because... [LR40CA]

SENATOR COASH: Senator Pirsch, will you continue to yield? [LR40CA]

SENATOR COUNCIL: ...because this exchange, colleagues, highlights the reason why that phrase, "including by the use of traditional methods," is absolutely unnecessary and would create more challenge than it would be designed to eliminate. Because my question, if Senator Pirsch would yield, is that by including that phrase you do not exclude any other method. Is that correct? [LR40CA]

SENATOR COASH: Senator Pirsch, will you yield? [LR40CA]

SENATOR PIRSCH: Well, the purpose of that phrase is, you're right, is to make sure...that particular phrase operates to make sure that which we have today is...which we term "traditional method," does not go away in the future. [LR40CA]

SENATOR COUNCIL: So it does not exclude nontraditional methods? [LR40CA]

SENATOR PIRSCH: That particular phrase does not, in and of itself, operate to exclude all other nontraditional, you're right. [LR40CA]

SENATOR COUNCIL: Okay, but... [LR40CA]

SENATOR PIRSCH: It does preserve what is traditional, yeah. [LR40CA]

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SENATOR COUNCIL: Okay. Now was I correct in my hearing you state that one of your concerns was that these "fringe groups" would be looking at nontraditional methods and attempting to take some action to prevent that? [LR40CA]

SENATOR PIRSCH: Well, to the extent that that is or doesn't happen, that would not be controlled by this clause. It perhaps... [LR40CA]

SENATOR COUNCIL: Okay. And so... [LR40CA]

SENATOR PIRSCH: ...affected by other language later in the...or earlier in the LR, but not...you're right. When you focus on that clause, that does include the word "including by the use of traditional methods." [LR40CA]

SENATOR COUNCIL: So thereby not eliminating any other method. And again, colleagues, that makes my point. There's absolutely no reason to include that phrase, "including by the use of traditional methods," other than that that was a phrase that was included in the sample legislation that was distributed. By eliminating that phrase, which is what AM2631 seeks to accomplish, it makes the language broader in the sense that any method of hunting, fishing, or trapping, and I'm going to use trapping because that's what I understand harvesting wildlife to mean, that by eliminating that phrase it broadens the scope of this constitutional provision and allows use of any method for hunting, fishing, and trapping. Again, if Senator Pirsch would yield, I am particularly troubled by the sentence: Public hunting, fishing, and trapping or harvesting wildlife shall be the preferred method of controlling. Again, to refresh my recollection and the recollection of my colleagues, what is the purpose of that language? [LR40CA]

SENATOR PIRSCH: Well, again, I think in the...this, as in the clause that was in question above, "including by the use of traditional methods," they are intended to be a shield, so to speak, and not a sword with respect to those clauses alone. There are other provisions of LR40CA that do act as a sword, and I refer to the "subject only to laws, rules, and regulations" that effectuate, and then there are certain outcomes. So that's the kind of sword as I described it. But with respect to the two... [LR40CA]

SENATOR COASH: One minute. [LR40CA]

SENATOR PIRSCH: ...provisions that you've pointed out, they, in my mind, kind of act more like a shield, so to speak. So similar to above, it's saying that it has to be a preferred means of managing and controlling wildlife and that public hunting, and by that we are referring to...there could be different types of hunting. What happened in California is when they banned the hunting of this specific type of...I think it was a bear, the bears...well, I take that back. It was mountain lions in California and they became so populated that they began to eat a jogger. And so rather than allow for public hunting,

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they paid governmental employees to hunt the mountain lions, which derived no revenue for the state. So public hunting refers to the fact that you're not talking about private governmental hunters who are paid to reduce... [LR40CA]

SENATOR COASH: Time, Senators. Thank you, Senator Council and Senator Pirsch. (Visitors introduced.) Those still wishing to speak, Senator Schumacher, you are recognized. [LR40CA]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Senator Council's comments about what do we add to this particular piece of legislation when we say using the traditional ones, as opposed to whatever nontraditional ones, and then not being able to draw a distinction between traditional and nontraditional is a bit bothersome and I suppose it will be perplexing for the courts if this passes. Would Senator Pirsch yield to a question? [LR40CA]

SENATOR COASH: Senator Pirsch, will you yield? [LR40CA]

SENATOR PIRSCH: Yes. [LR40CA]

SENATOR SCHUMACHER: Senator Pirsch, out by Genoa, Nebraska, there's a big cliff and tradition has it that the Native Americans would run the elk and the buffalo over the cliff and they'd end up on the bottom of the cliff and then they'd have a big feast and eat all these animals that went over the cliff, and that was a way they traditionally hunted the elk and the buffalo roaming in the area. Is it your intent that that form of Native American practice be preserved by this amendment? [LR40CA]

SENATOR PIRSCH: (Laugh) Well, I do appreciate it and perhaps by giving a...and I guess reemphasizing that which I had thought that we had talked about in prior debates over LR40CA about what is meant by the term "traditional method," perhaps that can help clarify. Simply put, I mean "traditional method," the language, to mean that all the methods that were available to hunters when the Legislature referred the amendment to the ballot and the people adopted it as part of the constitution is what's meant by that term, and so that which exists, assuming this were to pass and go to the voters, that which exists today. And so I guess the answer would hinge upon is it an acceptable practice now to hunters? [LR40CA]

SENATOR SCHUMACHER: So your definition of "traditional" is not what existed in the past or what's always been done or may have been done by a culture in the past, but what exists today, the current method of practice. [LR40CA]

SENATOR PIRSCH: Quite right, yes, and... [LR40CA]

SENATOR SCHUMACHER: Then why don't we say "current method of practice"?

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[LR40CA]

SENATOR PIRSCH: Well, I...(laugh) I do appreciate that and, you know, I think that I have a comfort level with using the term "traditional" practices just because of the floor debate that we've had and we've gone over that term extensively. But it simply means all the methods that were available to hunters when the Legislature referred the amendment to the ballot and the people adopted it. [LR40CA]

SENATOR SCHUMACHER: But that's not what the language says. [LR40CA]

SENATOR PIRSCH: Well, I guess that's the legislative intent, as established, I would hope, by the floor debate here in the body. [LR40CA]

SENATOR SCHUMACHER: So what we're protecting here is that which exists today, the current method. [LR40CA]

SENATOR PIRSCH: Yes. Yes. And so to the extent that a hunter could today go out and drive bison over the cliff as an acceptable hunting practice, I mean there's a million and one hypotheticals, but as courts review this in the future, it will harken back to an analysis of that which existed today or at the point in time in which the Legislature refers the amendment to the ballot. [LR40CA]

SENATOR SCHUMACHER: Would you object to an amendment that substituted "current" for "traditional"? [LR40CA]

SENATOR PIRSCH: Well, I guess, you know, the one unknown factor would be...you know, I'd certainly consider, if you and I can discuss that for a little while. There's some... [LR40CA]

SENATOR COASH: One minute. [LR40CA]

SENATOR PIRSCH: ...concerns that I would have with respect to the possible lag between, I guess, knowing when this would go to the voters... [LR40CA]

SENATOR SCHUMACHER: Just before I run out of time here,... [LR40CA]

SENATOR PIRSCH: Sure. [LR40CA]

SENATOR SCHUMACHER: ...you know, I raise the issue of the tradition. There's nothing more traditional in Nebraska than the Native Americans. [LR40CA]

SENATOR PIRSCH: Yes. [LR40CA]

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SENATOR SCHUMACHER: And they had very specific hunting rituals and I think we need to understand and extend this debate out as to how this affects Native Americans and their traditional way of doing hunting parties. [LR40CA]

SENATOR PIRSCH: Yes. And I appreciate that. I just would want to make sure that the court doesn't interpret the word "current" to mean current to their times, say a reviewing court in 100 years from now, so... [LR40CA]

SENATOR SCHUMACHER: But isn't that just what you said? [LR40CA]

SENATOR PIRSCH: No, no, I'm saying...we're pegging it to the time that it goes to the ballot, which is...would presumably be around now. But if... [LR40CA]

SENATOR COASH: Time, Senators. [LR40CA]

SENATOR SCHUMACHER: Thank you. [LR40CA]

SENATOR COASH: Thank you, Senator Schumacher and Senator Pirsch. Senator Council. Senator Council, there are no other lights on and so this will be your closing. Oh wait, Senator Council, Senator Council,... [LR40CA]

SENATOR COUNCIL: Thank you. Thank you. [LR40CA]

SENATOR COASH: Excuse me, Senator Council, there is another light on and you've used your two times to speak, and some... [LR40CA]

SENATOR COUNCIL: And this is my third time, Mr. President? [LR40CA]

SENATOR COASH: Senator Council, I'm going to recognize the next speaker and then give you an opportunity to close. Senator Wallman, you're recognized. [LR40CA]

SENATOR WALLMAN: Good morning, Mr. President, members of the body. I would yield my time to Senator Council. [LR40CA]

SENATOR COASH: Senator Council, you are yielded 4 minutes 45 seconds. [LR40CA]

SENATOR COUNCIL: Thank you very much, Senator Wallman. And thank you, Senator Schumacher, for highlighting the issue here. Again, I don't think it's a secret that I oppose this constitutional amendment. But if the amendment is going to pass, it should be as clear and concise as possible to avoid having the courts have to decide what it means, to have the courts have to decide what the legislative intent was by reviewing the debate that occurred. By simply removing that phrase, "including by the use of traditional methods," it does nothing to alter the fact that LR40CA creates a

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constitutionally protected right to hunt, fish, and harvest wildlife, and, quite frankly, by eliminating that phrase, by any means available. Again, rather than focusing in on what the intent of the amendment happens to be, I think far too many are focusing in on the fact that I'm opposed to the amendment, the constitutional amendment. But if you look at the amendment, it's designed to clarify this language and make it clear. Again, this whole issue of public hunting, according to Senator Pirsch's response to my question on that, public is everything but government. Well, that's news to me and that's a definition that could be applied, I suspect. But if that's the case, then again I submit to you there's absolutely no need for that language to be burdening our constitution. What needs to occur, if this amendment is to advance and go to the voters, is that it simply say that there's a right...a constitutional right to hunt, fish, and harvest wildlife subject only to laws, rules, and regulations regarding participation and that promote wildlife conservation and management. Whether you have that phrase, that sentence, in there about public hunting, fishing, and harvesting being the preferred method or not, the fact that this right is a qualified right, that's a right subject to laws, rules, and regulations, the issue of whether or not the state Game and Parks Commission imposes some limitation on the method of controlling wildlife is always going to be an issue. I mean we just did...we just passed a bill that dealt with black-tailed prairie dogs and it provided for poisoning. Well, I don't know that that's public hunting, but, arguably, someone could challenge the constitutionality of that measure if this measure passes, because that bill doesn't say you can shoot them or you should shoot them, because again, this language talks about the preferred method and then places into controversy whether or not a methodology selected by our Game and Parks Commission is constitutionally allowable. Again, the amendment, AM2631, doesn't alter what I understand to be the intent of LR40CA, although I disagree with the necessity of. [LR40CA]

SENATOR COASH: One minute. [LR40CA]

SENATOR COUNCIL: It just makes it very clear that all LR40CA does is create a constitutionally protected right to hunt, fish, and harvest wildlife and that right is a qualified constitutional right because it's subject to rules and regulations. It's also subject to any rights of private property rights. It is also subject to all of the requirements of the constitution with regard to water rights and usage. So we have, by this amendment, provided a qualified constitutional right. It's not absolute. Senator Pirsch just admitted as such. If it's not an absolute right, then just state it that it's a qualified right, a right to hunt, fish, and harvest wildlife subject only to laws, rules, and regulations regarding participation and that promote wildlife conversation. [LR40CA]

SENATOR COASH: Time, Senator. Thank you, Senator Council. Senator Council, there are no other lights on. You're recognized to close on your motion to return to Select File. [LR40CA]

SENATOR COUNCIL: Thank you. Again, I move to return LR40CA to Select File for

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purposes of amending it by AM2631, and what it does in its essence, AM2631 removes unnecessary and confusing language from this constitutional amendment. "Including by the use of traditional methods" is not only unnecessary, it's absolutely confusing, as was highlighted by the exchange between Senator Schumacher and Senator Pirsch, what is and what is not a traditional method, whether it's current or historical. And I beg to differ with Senator Pirsch, because during General File and Select File debate on this constitutional amendment there was a lot of discussion about the rich tradition, the decades of hunting, fishing, and harvesting wildlife. And I would submit to you that under that scenario, if this language was challenged in court, "traditional," Senator Schumacher, would go back to the beginning of time, in my opinion. I submit to you that by eliminating that phrase you eliminate that issue being raised as a constitutional challenge because it's not focusing on any particular methodology. Again, the language would then just focus on that right to hunt, fish, and harvest wildlife. The same goes for the elimination of the language about public hunting, fishing, and harvesting wildlife being a preferred method of wildlife control and management. Again, I argue that if this amendment, as is currently drafted, were in effect now, the black-tailed prairie dog bill that we passed is unconstitutional, arguably, because public hunting and harvesting is not the preferred method. I guess you could argue that poisoning is a means of harvesting, but why create a constitutional challenge when you don't need to? So for those reasons, I would urge the body to seriously consider returning LR40CA to Select File for purposes of amending it with AM2631. Thank you. [LR40CA]

SENATOR COASH: Thank you, Senator Council. Members, you've heard the closing to the motion to return to Select File for a specific amendment. The question before the body, shall LR40CA be returned to Select File for a specific amendment? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Mr. Clerk, please record. [LR40CA]

CLERK: 5 ayes, 27 nays on the motion to return, Mr. President. [LR40CA]

SENATOR COASH: The motion to return to Select File is not adopted. [LR40CA]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Mr. Clerk. [LR40CA]

CLERK: (Read LR40CA on Final Reading.) [LR40CA]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LR40CA pass, providing for the submission of such proposition at the next general election? This requires 30 votes. All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LR40CA]

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CLERK: (Record vote read, Legislative Journal page 1120.) 41 ayes, 3 nays, 4 present and not voting, 1 excused and not voting. [LR40CA]

SPEAKER FLOOD: Resolution passes. Mr. Clerk, we now proceed to LB310. [LR40CA LB310]

CLERK: Mr. President, Senator McGill would move to return LB310 to Select File for a specific amendment, AM2259. (Legislative Journal page 878.) [LB310]

SPEAKER FLOOD: Senator McGill, you're recognized to open on your motion to return LB310 to Select File for a specific amendment. [LB310]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I make this motion to add some additional language on protection order procedure that both Senator Pirsch and I have worked on and introduced bills on this particular session. It's very appropriate since LB310 is also about protection order procedures. I'm going to go ahead and explain the changes that I'm proposing we make. First, my proposed amendment includes language from Senator Pirsch's LB1056 that was drafted to address an issue brought to light by the November appellate decision in State v. Graff. In this case, Mr. Graff's conviction for violation of a harassment protection order was overturned. During a hearing on the protection order, both Graff and the petitioner stipulated to the entry of a mutual harassment protection order. The final order was mailed to Graff, his attorney, and to the petitioner, but Graff himself was not personally served. Two months after the entry of the final order, Graff swung a baseball bat at the victim's car. Then using the baseball bat, he pushed the victim's head through the open car window. Even though Graff had stipulated to the entry of the order against him, the conviction was overturned because Graff had not been physically served, as required by law. My amendment, using Senator Pirsch's language, addresses the Graff issue by stating that if a respondent is present at a hearing convened pursuant to a protection order, that respondent shall be deemed to have notice of the order and, accordingly, could be charged with violation of that protection order. The amendment also contains another provision regarding the hearing requirements after an ex parte protection order has been issued. This provision was also presented...was presented in my bill, LB920. We currently have a process requiring the courts to schedule a hearing every time someone applies for a protection order. This process meets federal requirements, but has proven to become overwhelming for judges. This amendment removes the mandatory hearing requirement that we approved in 2008 and replaces it with other options that will continue to meet federal requirements in the majority of these cases. The bill allows the respondent or petitioner to request a hearing, or the court to order a hearing on its own, after the issuance of an ex parte protection order. The amendment also contains a provision that harmonizes our language with federal language in terms of enjoining a respondent in a protection order proceeding from possessing or

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purchasing a firearm. This really just mirrors the federal law on this and should increase the likelihood that these individuals are not allowed to purchase or possess firearms. And with that, I ask for your support to return the bill to Select File for this amendment. Thank you, Mr. President. [LB310 LB1056 LB920]

SPEAKER FLOOD: Thank you, Senator McGill. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR40CA. Turning to discussion on Senator McGill's motion, Senator Lautenbaugh, you are recognized. [LB310 LR40CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I do rise in support of this motion and this proposed amendment. As I recall earlier versions of the bill, there was a provision that just if it could be argued that the recipient of the protection order, or the individual against whom the protection order is sought, simply had notice of the incident or the issuance of the order, that was good enough. And I don't think the committee was happy with that. But this, I think, is a wise compromise, if you will, that says if the person was actually in court, then they are presumed to have notice of what took place and what order issued. And I think this makes sense and I would urge you to support this. [LB310]

SENATOR COASH PRESIDING

SENATOR COASH: Thank you, Senator Lautenbaugh. Seeing no other members wishing to speak, Senator McGill, you are recognized to close on your motion to return to Select File. [LB310]

SENATOR MCGILL: I simply ask you to vote green so we can return it back and add this amendment. Thank you, Mr. President. [LB310]

SENATOR COASH: Thank you, Senator McGill. Members, you've heard the closing of the motion to return to Select File. The question before the body is, shall LB310 be returned to Select File for a specific amendment? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB310]

CLERK: 47 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB310]

SENATOR COASH: The motion is adopted. Senator McGill, you're recognized to open on AM2259. [LB310]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I want to thank you all for agreeing to bring this bill back from Select File. And I'd like to thank Senator Pirsch for his work on protection orders and bringing the language that he brought forth, which was a better fit than the language I had originally brought to fix the situation with

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the Graff case. There really is a loophole there that we're going to be able to fill today by amending this bill and getting it passed. So with that, I again urge you to vote green. [LB310]

SENATOR COASH: Thank you, Senator McGill. Seeing no lights on, Senator McGill, you're recognized to close. Senator McGill waives closing. The question before the body is, shall AM2259 be adopted to LB310? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB310]

CLERK: 46 ayes, 0 nays, Mr. President, on adoption of the Select File amendment. [LB310]

SENATOR COASH: AM2259 is adopted. Senator Larson for a motion. [LB310]

SENATOR LARSON: Mr. President, I would move that we advance LB310 to E&R for engrossing. [LB310]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB310 does advance. Next bill, Mr. Clerk. [LB310]

CLERK: LB391, Mr. President. Senator Schilz would move to return for AM2402. (Legislative Journal page 899.) [LB391]

SENATOR COASH: Thank you, Mr. Clerk. Senator Schilz, you're recognized to open on your motion to return to Select File for a specific amendment. [LB391]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. Good morning. Welcome back. As you all know, LB391 was the bill that was placed on Final Reading that would create the Invasive Species Council and prohibit some of the activities of transferring invasive species to Nebraska waters. And after LB391 was placed on Final Reading, the Governor's Office brought to light some concerns relating to his ability to appropriately appoint members and membership structure to the Nebraska Invasive Species Council, created in the bill. We decided to take this opportunity to make those clarifications in the bill and it will help both the administration and the council better carry out the bill's provisions. The amendment does not make any substantive changes to the Final Reading copy of LB391. It simply clarifies that the Governor is to appoint voting members to the council; the council is to receive administrative assistance from the Game and Parks Commission; and the council is authorized to seek advisory support from any local, state, or federal government entity, and other administrative-type clarifications. We are also requesting the addition of the emergency clause as it's been stressed to me that the council needs to immediately begin work due to the impending boating season and to be able to enforce the laws that go on the book this summer. And with that, I would ask you to support the motion to return to Select

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File. Thank you very much. [LB391]

SENATOR COASH: Thank you, Senator Schilz. Members, you've heard the opening to the motion to return to Select File for a specific amendment. Are there members wishing to speak? Seeing none, Senator Schilz, you're recognized to close on your motion. Senator Schilz waives closing. The question before the body is, shall LB391 be returned to Select File for a specific amendment? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB391]

CLERK: 40 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB391]

SENATOR COASH: The motion is adopted. Senator Schilz, you are recognized to open on AM2402. [LB391]

SENATOR SCHILZ: Thank you, Mr. President. Once again, just like I said, it really is technical in nature, just a few changes to help the administration to be able to have the flexibility they need and give some flexibility to that board. So with that, I would very much like your support on AM2402. [LB391]

SENATOR COASH: Thank you, Senator Schilz. Members, you've heard the opening to AM2402. Are there members wishing to speak? Seeing none, Senator Schilz, you're recognized to close. Senator Schilz waives closing. The question before the body is, shall AM2402 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB391]

CLERK: 45 ayes, 0 nays, Mr. President, on adoption of the Select File amendment. [LB391]

SENATOR COASH: AM2402 is adopted. Senator Larson for a motion. [LB391]

SENATOR LARSON: Mr. President, I move that LB391 be advanced to E&R for engrossing. [LB391]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. All those opposed vote nay. LB391 does advance. Mr. Clerk, next bill. [LB391]

CLERK: Mr. President, LB902. I have several motions. Senator Langemeier would move to return the bill for a specific amendment, AM2469. [LB902]

SENATOR COASH: Senator Langemeier, you're recognized to open on your motion to return to Select File for a specific amendment. [LB902]

SENATOR LANGEMEIER: Thank you, Mr. President. On the passage of LB902 on the

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floor on Select File, it came to our attention shortly after we voted on that that we had the wrong amendment that we voted on. And what this amendment does is strike that. But Senator Harr has worked on an amendment that's going to follow, that's AM2563. And I will let him correct the bill at that time. So at this time, I'd withdraw my motion. Thank you. [LB902]

SENATOR COASH: Motion is withdrawn. [LB902]

CLERK: Mr. President, the next motion I have, Senator Schumacher, AM...Senator Schumacher would move to return the bill for a specific amendment, AM2472. (Legislative Journal page 960.) [LB902]

SENATOR COASH: Senator Schumacher, you're recognized to open on your motion to return to Select File. [LB902]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. This amendment that I'm asking this particular bill to be returned for consideration of is the amendment that we discussed on Select File with one small change. On Select File the amendment...I withdrew my amendment on Select File after the community colleges signaled that they might have concern. Upon subsequent review of the amendment and the mathematics in it, the community colleges indicate they do not have concern with it. This is a situation in this particular bill where cities, sometimes in the past, have used the vehicle of what I'll call just a dummy corporation staffed by city officials in order to take on a major project and let bonds for the project, of which the taxpayers are liable for, without running it past a vote of the people, something they would have to do if they did not use the mechanism of a dummy corporation. What this bill says is if they want the exemptions that are provided for in LB902, then on any big project they have got to run it by a vote of the people. And a big project is defined as something that is greater than .4 of 1 percent of their total valuation or \$50,000. The \$50,000 part is something that the League of Municipalities suggested would be functional for little projects and for things in, maybe, small towns that didn't have enough valuation. That \$50,000 exception is the only change from what we discussed on Select File. Basically, this says if you're going to do a real big project you need to run it by a vote of the people. You can't just use a dummy corporation in order to make it possible. And if you don't run it by a vote of the people, you don't get the exemptions provided for in LB902 on sales and property taxes. Thank you, Mr. President. [LB902]

SENATOR COASH: Thank you, Senator Schumacher. Members, you heard the opening to the motion to return to Select File. Those wishing to speak: Senator Smith, you are recognized. [LB902]

SENATOR SMITH: Thank you, Mr. President. Colleagues, voters expect their local elected officials to run their cities in a fashion they are elected to do. And they will turn

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away candidates for office that have demonstrated poor management and leadership, I believe. I'm concerned with our efforts here to move so many of the decisions to the ballot box and to bypass the will of the people executed through their elected officials. While I believe in the value of local elections for significant financial and policy issues, this threshold does not rise, in my opinion, to the significance that I believe should be reserved for local elections. This amendment has, I believe, the potential to impact a local government's ability to deliver basic government services. Cities of Nebraska have been prudent in their use the MFC process. In the last 25 years, for example, the city of Papillion has used the MFC process for its public library, for its police station and its fire station, all of which are key facilities in providing basic government services for the city and all of which are key facilities playing a role as part of the state's economic engine. Local elected officials have been prudent and accountable to the electorate for use of MFC as historically interpreted, I believe. And I stand in opposition of AM2472, but I do support the underlying bill, LB902. Thank you. [LB902]

SENATOR COASH: Thank you, Senator Smith. Senator Langemeier, you're recognized. [LB902]

SENATOR LANGEMEIER: Mr. President, members of the body, Senator Schumacher referenced that we talked about this a bunch on Select File. But I have to get back in tune to what we talked about. In reading the amendment, would Senator Schumacher yield? [LB902]

SENATOR COASH: Senator Schumacher, will you yield? [LB902]

SENATOR SCHUMACHER: Yes, I will. [LB902]

SENATOR LANGEMEIER: Senator Schumacher, I'm looking for clarification here. I'm still trying to digest this amendment again from Select File. It's my understanding that the process that's set up currently, with your amendment people would be able to create these relationships and continue this process without a vote of the people, except if they don't get a vote of the people they would not get the exemption from the sales tax. So they'd still have to pay sales tax, but they could still create these kind of gimmick financing opportunities. [LB902]

SENATOR SCHUMACHER: Yes, but this would provide somewhat of a deterrent to that practice. [LB902]

SENATOR LANGEMEIER: So if they went to a vote, they would get the tax exemption. If they don't go a vote, they would still be allowed to create these relationships and proceed the way they have in the past? [LB902]

SENATOR SCHUMACHER: Yes. [LB902]

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SENATOR LANGEMEIER: Okay, thank you very much. That was what I wanted to clarify. So it doesn't impede them from creating these situations; it's just whether or not they want to be tax exempt or not. So okay, I got it. Thank you. [LB902]

SENATOR COASH: Thank you, Senator Langemeier. Senator Burke Harr, you're recognized. [LB902]

SENATOR HARR: Thank you, Mr. President. Would Senator Schumacher yield to a question? [LB902]

SENATOR COASH: Senator Schumacher, will you yield? [LB902]

SENATOR SCHUMACHER: Yes, I will. [LB902]

SENATOR HARR: I just want to clarify the record because I'm not sure now. Would that entity be exempt or, excuse me, not exempt from sales and property taxes or just sales tax? [LB902]

SENATOR SCHUMACHER: Just the exemptions that are provided in LB902. [LB902]

SENATOR HARR: Okay. So that's sales and property taxes. [LB902]

SENATOR SCHUMACHER: Right. Just...it would be...they would not get the exemptions provided in LB902...that are granted under LB902. [LB902]

SENATOR HARR: Okay. So let me ask you this. Hypothetically, let's say you build an arena using this type of financing. That arena would have to pay sales tax on the material used to develop that arena, correct, if it exceeded the amount? Sorry. [LB902]

SENATOR SCHUMACHER: If it exceeded the amount. [LB902]

SENATOR HARR: They'd have to pay sales tax on the material, and then going forward would pay property taxes. [LB902]

SENATOR SCHUMACHER: Just as they would if there were not the exemption that we're creating in LB902. [LB902]

SENATOR HARR: Okay. So when that nonprofit turns the property over to the political subdivision, as is required per the bylaws of that nonprofit, would it then become tax exempt? [LB902]

SENATOR SCHUMACHER: It would then be property of the city or municipality or

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whatever built it and would be tax exempt. [LB902]

SENATOR HARR: Okay. And during this whole time would that property be exempt from any federal taxes they might incur? [LB902]

SENATOR SCHUMACHER: I don't think we can do anything to exempt people from federal taxes if they don't otherwise (inaudible). [LB902]

SENATOR HARR: Well, if they currently are exempt, would it...the 63...these type of bonds were created to avoid federal taxes. You'd agree with me on that? [LB902]

SENATOR SCHUMACHER: Right. [LB902]

SENATOR HARR: Okay. So if you're not paying federal taxes if it's under the threshold, if it's above the threshold would you be paying federal taxes? [LB902]

SENATOR SCHUMACHER: This doesn't impact federal taxes. [LB902]

SENATOR HARR: Okay. Thank you, I appreciate that. I like the public policy behind this amendment. I think there is a level we reach where we probably do need input directly from the taxpayers. My question is, what is that level? I don't know the answer to that. We have an amendment that was put on, on Select File, that hadn't had a public hearing, in which we've set it at .4 of 1 percent. Adequate for Omaha, that's \$120-some million dollars? Possibly. Adequate for a smaller growing suburb? Maybe not. I like the idea. I'm just not quite sure I'm there yet. And I would like to have a public hearing on this issue. Maybe bring it back next year. I'd be more than willing to work with Senator Schumacher in the interim to try to figure out how to do this best. But I'm just not there yet. So while, obviously, I support LB902 as my priority and my bill, I have a little bit of trouble at this time with AM2472. Thank you. [LB902]

SENATOR COASH: Thank you, Senator Burke Harr. (Visitors introduced.) Speaker Flood for an announcement. [LB902]

SPEAKER FLOOD: Thank you very much, Mr. President, members. I thought I'd give you a little snapshot of what our week is going to look like. Obviously, we've got a lot of Select File before us, you see that in the three-page agenda. Through 5:00 today, we're going to work on this Select File as we make our way towards 5:00. I want you to pay special attention to the agenda at 5:00. Any bills on the agenda that are on Select File that don't have an amendment, other than an E&R amendment, will be advanced by individual voice votes. So you want to pay special attention to your agenda and make sure you're here at 4:45 or so, so that you can watch those bills cross to the next stage. At 5:00 we're going to take up LB239, which is Senator Janssen's voter ID. I anticipate going to 10:00 tonight. So it's going to be later than we have had before. And I

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anticipate that coming back up again tomorrow, provided that the filibuster persists. And then we'll be voting potentially tomorrow on a cloture vote there. I'm anticipating tomorrow, between 8:00 and 9:00, for adjournment tomorrow night, with a 9:00 a.m. start tomorrow, a 9:00 a.m. start on Thursday. And I'm not thinking we're going to go late Thursday, probably to 6:00 or so with no dinner. And then we'll be in at 8:00 a.m. on Friday. So I want to be honest that 8:00 a.m. has worked very well, especially on the last day of the week. We can make as much out of our half day on Friday as possible with an 8:00 a.m. start. And we're going to start at 9:00 the other days. So if you can work with me, kind of in this routine for a while, I think I'm going to start using 8:00 a.m. starts just on the last day of the week to get the most out of the last day of the week. And we'll stay at 9:00 so you don't have to worry about the 8:00 anymore, unless it's the last day of the week. So that's an idea of where we're going. I thought I'd share that. Thank you, Mr. President.

SENATOR COASH: Thank you, Speaker Flood. Returning to discussion on the motion, Senator Adams, you are recognized. [LB902]

SENATOR ADAMS: Thank you, Mr. President. Senator Schumacher, would you yield to a question, please? [LB902]

SENATOR COASH: Senator Schumacher, will you yield? [LB902]

SENATOR ADAMS: Senator Schumacher, having sat with you on the Revenue Committee, I think I understand where you're headed with this, and in conception I think it's the right direction to go. My very definitive question to you is, how did you arrive at the .4 of 1 percent of valuation? I like the concept of using aggregate valuation. But how did you arrive at that number? And how do you see this fitting? [LB902]

SENATOR SCHUMACHER: The .4 of 1 percent of total valuation was basically drawn from two extremes on the spectrum. One, I think in our discussions in the Revenue Committee, the idea that you could do a \$300 million project in Omaha, without taking it to a vote of the people, by using this middleman corporation was too much. On the other hand, there was a project in Norfolk where they took over an old building and remodeled it and made it into a nice city building and that that probably was the kind of thing that it was okay not to take to a vote of the people. In perspective to the valuation in Norfolk, it was a small enough deal. That building in Norfolk was .2 of 1 percent of Norfolk's valuation. So, basically, what this does is it doubled that amount to say, look at, the Norfolk-type project, even twice the Norfolk-type project compared to valuation is okay, but a \$300 million project in Omaha is not. They can go to about \$110 million, give or take, in Omaha before it goes over the sensibilities of this being a mechanism to avoid taking it to a vote of the people. So that's how the range was developed. Fundamentally, they're supposed to take it to a vote of the people. And using these mechanisms should be deterred and this is a reasonable range to do it. [LB902]

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SENATOR ADAMS: Thank you, Senator. Thank you, Mr. President. [LB902]

SENATOR COASH: Thank you, Senator Adams and Senator Schumacher. Senator Carlson, you're recognized. [LB902]

SENATOR CARLSON: Mr. President and members of the Legislature, I also would like to ask Senator Schumacher a question, if he would yield. [LB902]

SENATOR COASH: Senator Schumacher, will you yield? [LB902]

SENATOR SCHUMACHER: Yes. [LB902]

SENATOR CARLSON: Just to clarify, on your exchange with Senator Adams, because before you responded to him, I'm sitting there thinking, well, if we take the city of Omaha, what is .4 of 1 percent? I think you said \$110 million? [LB902]

SENATOR SCHUMACHER: That's the range, yes, approximately. [LB902]

SENATOR CARLSON: Okay, and that helps clarify, because certainly in the state we got a tremendous wide range of possibilities at .4 of 1 percent. And are you comfortable that at \$50,000 on the lower end, that that would be appropriate for almost any community in Nebraska of a smaller nature? [LB902]

SENATOR SCHUMACHER: That number came as a result of a discussion with the League of Municipalities. [LB902]

SENATOR CARLSON: Okay, all right. Thank you, Senator Schumacher. I'd like to question Senator Smith, if he would yield. [LB902]

SENATOR COASH: Senator Smith, will you yield? [LB902]

SENATOR SMITH: Yes, I will. [LB902]

SENATOR CARLSON: Senator Smith, I appreciated your testimony. And now after having several people speak, would you kind of respond to what you're listening to and maybe restate a little bit what you had to say on your first testimony, because you also bring out some interesting points. [LB902]

SENATOR SMITH: I'm not going to change my opinion on opposing AM2472. I do believe in this concept. I think it's a great concept that Senator Schumacher has brought forward. I'm concerned with those thresholds, that those thresholds are pushing down to special elections and to the polling place and getting in the way of the city being able to

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conduct business as the citizens elect their leaders to do. So I'm concerned more with the threshold; it's not about the concept that I'm hearing. [LB902]

SENATOR CARLSON: Okay. Senator Smith, having heard Senator Schumacher indicate that in Omaha that's a \$110 million level, that would seem to me to be a significant amount that anything above that should have an election by the people. But how do you respond to that particular figure? [LB902]

SENATOR SMITH: Senator Carlson, I'm not going to weigh in on the city of Omaha. I understand what the issues are there. I'm thinking in terms of the communities that I represent and maybe some of the midsize cities and the impact this has on some of their construction projects and what they're doing. [LB902]

SENATOR CARLSON: Okay, thank you, Senator Smith. Thank you, Mr. President. [LB902]

SENATOR COASH: Thank you, Senator Carlson and Senator Smith. (Visitors introduced.) Returning to discussion, those wishing to speak: Senators Burke Harr, Louden, and Pahls. Senator Burke Harr, you are recognized. [LB902]

SENATOR HARR: Thank you, Mr. President. When I first introduced LB902, one of the complaints I heard was, well, this system is being abused. I haven't really heard any testimony to that, that it is being abused. There was a number thrown out there for a \$300 million project in Omaha. The fact of the matter is that wasn't financed, \$300 million, through this type of bonding. What I do know is that this type of bonding is very, very common in Nebraska. As a matter of fact, I think you all might recall, I hope you do, every single senator, minus two, this type of financing is used in your district that I was able to find on my own research. I'm sure there's more that I don't know of. Before we make a decision that affects a political subdivision in almost every one of our districts, I think it's important we have a public hearing. This is going to affect the university, it could have an effect on community colleges, it will affect counties, cities, school boards, school districts. And I think those individuals have a right to be heard at a hearing where they can ask questions and voice their concerns about this. Again, ask yourself this: .4 of 1 percent in my district, how does that affect my school? How much is that? Do you know? Should you know? It seems like it would be a good question to know before you affect some of your political subdivisions out there. I know it's fun to rail against the counties, and others do that, but what is .4 of 1 percent in your county? Do they use this type of bonding? We don't have the answers. I don't have the answers and I've done more research on this than anyone else in this body, probably more than everyone else in this body combined, and I don't have the answers. So while it may be good public policy, we need to be careful where we tread and have answers, because at the end of the day people are going to say, hey, I really wanted that new football field, but now we can't do it. Or if we do do it, we go back to the old, I think, the bad public policy of having

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the state tax our schools to pay for a project for our schools. That makes absolutely no sense. So again, I'm willing to work with Senator Schumacher during the interim. But I think it might be...either the amendment was brought too late or it's too early, because I do think it deserves a public hearing. Thank you. [LB902]

SENATOR COASH: Thank you, Senator Harr. Senator Louden, you're recognized. [LB902]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I rise in support of Senator Schumacher's amendment. Somewhere along the line you have to have a line drawn on what can be done and what can't be done. And you want to remember, LB902 was brought forward there to tax-exempt some of these private...some of these non...or corporations that were being formed by these cities in order to get around paying a sales and property tax. And what triggered some of this was the fact that I think it's Ameritrade, or whatever it was in Omaha, was built without any vote of the people. So about all this, with this amendment on there, does it put a threshold on how much they can do on their own without going to a vote of the people. As far as where you build a football field for a school or something, I don't think it has anything to do with it. That all goes through your school funding and that's budgeted separately. And heaven forbid if schools could go out here and be creative and form some kind of nonprofit association or corporation to get around funding for some type of facility and not bring it up to the vote of the people, because that's all comes off the property tax for the most part. So I think Senator Schumacher come up with a good idea of .4 of this 1 percent. There's a number that works. If the people want to build something that costs more than that, they just take it to a vote, simple as that. You got a threshold there, you know what kind of numbers you're going to be working with, you know where you're at. So I think it isn't anything that should be a problem with anybody that...any town or city or anybody that wants to build something. The numbers are there. All they got to do is figure it out. If they want to spend more money than that, then they take it to a vote. Thank you, Mr. President. [LB902]

SENATOR COASH: Thank you, Senator Louden. Mr. Clerk, items? [LB902]

CLERK: Thank you, Mr. President. A new A bill. (Read LB1145A by title for the first time.) Bills read on Final Reading this morning were presented to the Governor at 10:53 (re LB131, LB968, LB969, LB1072, LB42, LB1018, LB735, and LB861). The constitutional amendment read on Final Reading (re LR40CA) was submitted to the Secretary of State at 11:30. Senator Mello, an amendment to LB727; Senator Larson, LB1057; Senator Christensen, LB514. Notice of hearing, Revenue Committee, for Tuesday, April 3. I have a Rules Committee report from Senator Lautenbaugh regarding proposed rules change. New resolutions: LR527 by Senator Flood will be laid over; LR528 and LR529 interim study resolutions; LR530 and LR531 by Senator Hadley will both be laid over. And a series of study resolutions: LR532, Senator Schumacher;

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LR533, Senator McGill; LR534, LR535, LR536, LR537, all Senator McGill; LR538, Senator Dubas; Senator Schilz, LR539, LR540, LR541; Senator Mello, LR542, LR543, LR544, LR545; Senator Nordquist, LR546, LR547; Senator Cook, LR548; Senator Conrad, LR549, LR550, and LR551. Mr. President, a name add: Senator Janssen, add his name to LB947. (Legislative Journal pages 1121-1140.) [LB1145A LB131 LB968 LB969 LB1072 LB42 LB1018 LB735 LB861 LR40CA LB727 LB1057 LB514 LR527 LR528 LR529 LR530 LR531 LR532 LR533 LR534 LR535 LR536 LR537 LR538 LR539 LR540 LR541 LR542 LR543 LR544 LR545 LR546 LR547 LR548 LR549 LR550 LR551 LB947]

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

SENATOR COASH: Members, you've heard the motion to recess until 1:30. All those in favor say aye. Those opposed say nay. We are in recess.

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. Roll call. Mr. Clerk, please record.

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

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

CLERK: I do. I have a series of resolutions: Senator McGill, LR552; Senator Nordquist, LR553; both study resolutions. Senator Adams offers LR554; that will be laid over. And LR555 and LR556 are study resolutions by Senators Gloor and Carlson. That's all that I have, Mr. President. (Legislative Journal pages 1140-1143.) [LR552 LR553 LR554 LR555 LR556]

SENATOR COASH: Thank you, Mr. Clerk. (Visitors introduced.) Mr. Clerk, we will return to the item left on the agenda, LB902. [LB902]

CLERK: Mr. President, when the Legislature left the issue, Senator Schumacher had pending a motion to return LB902 to Select File for specific amendment, AM2472. (Legislative Journal page 960.) [LB902]

SENATOR COASH: Thank you, Mr. Clerk. We will return to discussion on the motion to return to Select File. Those still wishing to speak, Senator Burke Harr, you are recognized. [LB902]

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SENATOR HARR: Thank you, Mr. President. Good afternoon, ladies and gentlemen. I hope you had a good and productive lunch. I hope you called your ESUs, your political subdivisions, your ESUs, your school districts, your cities, your municipalities, your villages to ask, hey, how much is this .4 of 1 percent? Is this going to affect us? You've heard one senator talk about \$300 million in Omaha. Well, again, it wasn't \$300 million. You heard that same senator say, well, they ought to vote on it; school districts don't do it this way. Well, ladies and gentlemen, school districts do do it this way all the time. It is a common practice. Again, I've said it before, I'll say it again, two people in this room that I know of don't have to worry; everyone else has to worry, and that's of the people who have done it, and this type of bonding has been done in the last three years. I'm not even talking in total. I didn't look back further than that. This could affect all of you going forward. So ask yourself this: What is .4 of 1 percent of my school district? Now if you know the answer to that, you're a lot smarter person than I am, but chances are you don't. What is .4 of 1 percent of my ESU? Does my ESU use this? How is the university going to use this? Do you know, does this apply to them? If you can answer those questions and go back to your constituents and say, well, I know you've used this in the past and it's been very effective--heck, I didn't even know about it but no one had a problem--then you're okay. But if you can't, if you want to have this type of bonding where you will have an increased tax burden to your taxpayers because, your constituents, the cost to bond will go up, the amount of the tax that you have to pay. It will cost that much more. And where does that money come from? It comes from their pockets. Where does it go? It comes to Lincoln. It comes to the State Capitol. Ask yourself if that's good public policy to have political subdivisions taxed by the state. Don't think so. Again, we didn't have a public hearing on this. This isn't going to hurt Omaha, ladies and gentlemen, so just take Omaha out of the picture, but it's going to hurt the small towns, the school districts, the ESUs that have effectively used this policy for the last 20, 30 years. I'm not crying wolf. This is a legitimate concern that needs to have a public hearing so that those who are affected can come and talk to us. Now we are lucky that this got laid over at lunch. I hope and pray that you used the opportunity to contact some of your constituents, some of the political subdivisions and say, how does this hurt, does this hurt, do we need to be concerned? If you don't ask those questions, you're not going to get the answers and you're going to be left not knowing what we're doing here. Again, not a bad public policy idea; it's just the implementation. Do we need to have separate rules for cities of a metropolitan level, cities of a...a village, a municipality, the different levels that we have? I don't know the answer. That's why I have trouble voting for this. So again, not a bad idea. It's just the carry through I have some issues with. Thank you very much. [LB902]

SENATOR COASH: Thank you, Senator Harr. Senator Schumacher, you are recognized. [LB902]

SENATOR SCHUMACHER: Mr. President, I think we've got somewhat of a consensus

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at .6 instead of .4 of a percent, so I move to withdraw this. There's another one with...that will substitute .6 so we can get moving here. Thank you. [LB902]

SENATOR COASH: Motion is withdrawn. Mr. Clerk. [LB902]

CLERK: Mr. President, the next motion I have, Senator Harr, Senator, I have AM2473, but I have a note you wish to withdraw that. [LB902]

SENATOR HARR: That is correct. Yes, please. [LB902]

SENATOR COASH: It is withdrawn. [LB902]

SENATOR HARR: Thank you. [LB902]

CLERK: Mr. President, Senator Harr, Burke Harr, would move to return LB902 to Select File for consideration of AM2563. (Legislative Journal page 1022.) [LB902]

SENATOR COASH: Senator Harr, you're recognized to open on your motion to return to Select File for specific amendment. [LB902]

SENATOR HARR: Thank you very much, Mr. President. Ladies and gentlemen, this amendment is very simple. It's two parts. Currently the bill has the emergency clause, which means it takes effect as soon as the Governor signs it. This would move from an E clause to April 1, the end of a quarter or beginning of a new quarter. From a tax policy point of view, it's just cleaner and easier. I ran this by...I ran this by and have the agreement with Senator Cornett and Speaker Flood, which gets me to the second part of this amendment, which merely removes the intent language that we passed by mistake earlier and I want to apologize for that. I, in the heat of the moment, did not take the time to communicate properly what I thought was the right amendment. I did enter the amendment I thought was approved. It was not. I was wrong. I didn't take the time to communicate with my colleagues. For that I am heartily sorry. There was no intent on my behalf to try to pull a quick one on anybody, especially when there are so many keen eyes in this building. As I've said, when I came here I had my integrity; when I leave I hope to too. No bill is so important to me that I am going to give that up. So what this does is merely erase the intent language. I still believe this bill, LB902, is a clarification of what is already the law so that we can better give guidance to the Department of Revenue. Again, I want to thank Speaker Flood, Senator Cornett, Tax Commissioner Ewald for all their hard work on this bill. I know I haven't always been the easiest to work with, so I appreciate their continued support on this. And I'd ask to return LB902 so that we could put AM2563 on there. Thank you. [LB902]

SENATOR COASH: Thank you, Senator Harr. Members, you heard the opening of the motion to return to Select File. Those wishing to speak, Senator Cornett, you're

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recognized. [LB902]

SENATOR CORNETT: Thank you, Mr. President, members of the body. I urge the body to support Senator Harr in his motion to return to Select File. I don't think there was anyone more surprised than Senator Harr when he realized the wrong amendment had been filed. It was a mistake and this is a correction of an error that anyone could make in here. The amendment clarifies what the original intent of the amendment that we were going to vote on was, and then puts the time period for it starting at the beginning of the tax quarter. I'd urge the body to support the motion to return and the amendment. Thank you. [LB902]

SENATOR COASH: Thank you, Senator Cornett. Seeing no other members wishing to speak, Senator Harr, you're recognized to close on your motion to return to Select File. Senator Harr waives closing. The question before the body is, shall LB902E be returned to Select File for a specific amendment. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB902]

CLERK: 37 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB902]

SENATOR COASH: The motion is adopted. Returning to...or, Senator Harr, you're recognized to open on AM2563. [LB902]

SENATOR HARR: Thank you, Mr. President. As I stated earlier, this amendment is very simple. It is to change the effective date to April 1 so that we can begin at the beginning of a new tax quarter, and it is also to remove the intent language with the knowledge that this...well, remove the intent language. Thank you very much. [LB902]

SENATOR COASH: Thank you, Senator Harr. Members, you've heard the opening to AM2563. Are there members wishing to speak? Seeing none, Senator Harr, you're recognized to close on your amendment. Senator Harr waives closing. The question before the body is, shall AM2563 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB902]

CLERK: 42 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment. [LB902]

SENATOR COASH: The amendment is adopted. Senator Larson for a motion. [LB902]

SENATOR LARSON: Mr. President, I move that LB902 be advanced to E&R for engrossing. [LB902]

SENATOR COASH: You've heard the motion. All those in favor say aye. All those opposed say nay. The bill is readvanced. [LB902]

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CLERK: Mr. President, Senator Schumacher would move to return the bill for specific amendment, AM2638. (Legislative Journal page 1144.) [LB902]

SENATOR COASH: Senator Schumacher, you are recognized to open on your motion to return to Select File. [LB902]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. This is the same amendment we were discussing earlier. After discussions this morning, I'm trying to resolve the matter of whether or not .4 of a percent was too low a threshold. This amendment is the same amendment, saying that if you use one of these corporations and you want the deductions that are contained within...or the exemptions contained within LB902, you will need to have a...go to a vote of the people unless it's less than \$50,000 or .6 of 1 percent. So it gives a little bit more leeway and room for such communities as Senator Smith was concerned about and still provides a disincentive for using this as a mechanism to avoid the vote of the people in the event of large projects. Things like ESUs, large school districts have plenty of valuation; .6 of 1 percent is a very large amount of money. And I would urge moving back this to Select File for purposes of this amendment. Thank you. [LB902]

SENATOR COASH: Thank you, Senator Schumacher. Members, you've heard the opening to the motion to return to Select File. Those wishing to speak: Senators Langemeier, Smith, and Campbell. Senator Langemeier, you're recognized. [LB902]

SENATOR LANGEMEIER: Mr. President, thank you, and members of the body. Would Senator Schumacher yield to a question? [LB902]

SENATOR COASH: Senator Schumacher, will you yield? [LB902]

SENATOR SCHUMACHER: Yes. [LB902]

SENATOR LANGEMEIER: Senator Schumacher, this is just a clarifying question. It talks in here about the total acquisition costs as well as the estimated construction costs not to exceed. Does that include the cost of the bond counsel and the total interest paid on a bond for the life of that project? Would that all be considered in the total cost? [LB902]

SENATOR SCHUMACHER: The principal amount of the bond or the principal amount of the project, not the interest on the lease payments down the road. [LB902]

SENATOR LANGEMEIER: So you're not...you would not consider the interest on the bond itself, those payments, as part of this total cost. [LB902]

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SENATOR SCHUMACHER: It's the project, yes. [LB902]

SENATOR LANGEMEIER: Okay. [LB902]

SENATOR SCHUMACHER: The principal of the project. [LB902]

SENATOR LANGEMEIER: Just wanted to clarify that. So it's the principal costs. Thank you. [LB902]

SENATOR COASH: Thank you, Senators. Senator Smith, you're recognized. [LB902]

SENATOR SMITH: Thank you, Mr. President. I just wanted to stand up in support of AM2638 and, of course, the underlying bill. I appreciate Senator Schumacher and his efforts to work with me on what my concerns were earlier. I believe that this amendment does provide cities a bit more latitude in operating and it sets a more reasonable threshold for taking the expenditure to a local vote of the people. So I support this amendment. Thank you. [LB902]

SENATOR COASH: Thank you, Senator Smith. Senator Campbell, you are recognized. [LB902]

SENATOR CAMPBELL: Thank you, Mr. President, and good afternoon, colleagues. Earlier I asked Senator Schumacher if two public groups went together through an interlocal agreement or through a joint public agency, whether that would be a combined valuation, and I believe his answer was yes and I'll give him time to think about that and see. Colleagues, I have to say I would put in a word of caution here on this amendment for the same reason that Senator Harr spoke, and that is there's a number of ways that projects can be financed. And as we have seen, at least in Lincoln and Lancaster County, there's a great amount of cooperation that goes on between those two entities in interlocal agreements, as well as the joint public agency concept and laws which we are using in the arena. And those agreements can be between the university and the city and the county, school district. I mean there's a variety of ways that these two mechanisms have been used. And my word of caution is that I understand Senator Schumacher's intent here and I think that he's on the right track, but the question may be how we would further want to look at the different combinations that fund very large public projects. And with that, I'll yield the rest of my time to Senator Schumacher if he wishes to clarify this point. Thank you, Mr. President. [LB902]

SENATOR COASH: Thank you, Senator Campbell. Senator Schumacher, 3 minutes 20 seconds. [LB902]

SENATOR SCHUMACHER: A couple points that Senator Campbell raised, this does not apply to the university. The university is not a subdivision of the state of Nebraska.

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This only applies, by its very language, to subdivisions of the state of Nebraska. Secondly, it's well-noted interlocal government law that the...if you have two bodies, one of which or both of which are entitled to do something, that they can form a collective body that has their joint and collective powers. So the base for property tax or for the valuation would be the base of the entire body that is affected. If that was a city inside of a county and it was city-county, then it would be the county. If it was two cities, it would be the population of the two cities. But it's the entire base of people that are...of property that's affected. Thank you. [LB902]

SENATOR COASH: Thank you, Senator Campbell and Senator Schumacher. Seeing no other members wishing to speak, Senator Schumacher, you are recognized to close on your motion to return to Select File. [LB902]

SENATOR SCHUMACHER: Very briefly, this is a situation where our law says you cannot obligate the taxpayers on a bond, a city cannot or a governmental subdivision cannot, without a vote of the people. That's fair enough. The people are going to end up paying taxes in order to pay off that bond. This state generally does not like debt and, generally, if the taxpayers in the general population, and it's a general obligation situation, they should have a choice in it. There's been a mechanism developed over the years that you can create a middleman corporation, have that undertake the debt, and get around the vote of the people, and that seems to circumvent our particular law. This would allow it to continue to do as they have, but they simply wouldn't get the bonus of the exemptions of LB902 if they went around the vote of the people unless it was below .6 of a percent of their valuation or below \$50,000, whichever is greater. I think this is a good way to let the people have their input on matters that are going to obligate them. As our budgets get tighter and tighter and we look to shift obligations to the local government, there's only so much money that the people have in order to be...that can be taxed and, as such, they should have some say in whether or not they and their children and grandchildren are going to be obligated. Thank you. [LB902]

SENATOR COASH: Thank you, Senator Schumacher. Members, you've heard the closing to the motion to return to Select File for a specific amendment. The question before the body is, shall LB902 be returned to Select File for a specific amendment? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB902]

CLERK: 27 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB902]

SENATOR COASH: LB902 is returned. Returning to discussion, Senator Schumacher, you are recognized to open on AM2638. [LB902]

SENATOR SCHUMACHER: Thank you, Mr. Chairman. Members of the body, I think we've had a thorough discussion on this matter. The issue is before the body. Not much more that can be said except that this is a simple way for, on bigger projects that are

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going to obligate the people for years and years, for them to have their input and for to close what...or at least disincentivize use of a loophole in our law which basically says if they do it directly they got to do it this way. And there's no reason why a subdivision should be able to do indirectly what our law prohibits them from doing directly, let alone encourage them to. Thank you. [LB902]

SENATOR COASH: Thank you, Senator Schumacher. Members, you heard the opening to AM2638. Are there members wishing to speak? Seeing none, Senator Schumacher, you are recognized to close on your amendment. Senator Schumacher waives closing. The question before the body is, shall AM2638 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB902]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment. [LB902]

SENATOR COASH: AM2638 is adopted. Senator Larson for a motion. [LB902]

SENATOR LARSON: Mr. President, I move that LB902 be advanced to E&R for engrossing. [LB902]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB902 does advance. Mr. Clerk, items for the record. [LB902]

CLERK: Thank you, Mr. President. Study resolutions: Senator Carlson, LR557, LR558, LR559; Senator Harms, LR560, LR561; Senator Pahls, LR562; all will be referred to the Executive Board. That's all that I had, Mr. President. (Legislative Journal pages 1145-1147.) [LR557 LR558 LR559 LR560 LR561 LR562]

SENATOR COASH: Thank you, Mr. Clerk. We will now move to the next item on our agenda. Mr. Clerk.

CLERK: Senator Larson, I have Enrollment and Review amendments first of all, Senator. (ER206, Legislative Journal page 887.) [LB782]

SENATOR COASH: Senator Larson for a motion. [LB782]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB782 be adopted. [LB782]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB782]

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CLERK: Senator McCoy would move to amend the bill with AM2392. (Legislative Journal page 981.) [LB782]

SENATOR COASH: Senator McCoy, you're recognized to open on AM2392. [LB782]

SENATOR McCOY: Thank you, Mr. President and members. AM2392 is just merely a technical amendment to the underlying bill on reporting electronically to the Legislature from boards and commissions and state agencies. It was found, between General and Select, that perhaps there were a few other reports that would be best handled in the old paper form, perhaps done electronically in the future, including some appropriations reports from the Department of Health and Human Services regarding the areas of child welfare that we've touched on in other pieces of legislation this session. And so I would ask the body's advancement of AM2392 to LB782. Thank you, Mr. President. [LB782]

SENATOR COASH: Thank you, Senator McCoy. Members, you've heard the opening to AM2392. Are there members wishing to speak? Seeing no members wishing to speak, Senator McCoy, you're recognized to close on AM2392. Senator McCoy waives closing. The question before the body is, shall AM2392 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Mr. Clerk, please record. [LB782]

CLERK: 39 ayes, 0 nays, Mr. President, on the adoption of Senator McCoy's amendment. [LB782]

SENATOR COASH: AM2392 is adopted. [LB782]

CLERK: I have nothing further on the bill, Mr. President. [LB782]

SENATOR COASH: Senator Larson for a motion. [LB782]

SENATOR LARSON: Mr. President, I move that LB782 be advanced to E&R for engrossing. [LB782]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB782 is advanced. (Visitors introduced.) Mr. Clerk, LB810. [LB782 LB810]

CLERK: LB810, Senator Larson, I have no amendments to the bill. [LB810]

SENATOR COASH: Senator Larson for a motion. [LB810]

SENATOR LARSON: Mr. President, I move that LB810 be advanced to E&R for engrossing. [LB810]

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SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB810 is advanced. [LB810]

CLERK: LB1039, Mr. President. Senator Larson, I have no amendments to the bill. [LB1039]

SENATOR COASH: Senator Larson for a motion. [LB1039]

SENATOR LARSON: Mr. President, I move that LB1039 be advanced to E&R for engrossing. [LB1039]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB1039 is advanced. Mr. Clerk. [LB1039]

CLERK: LB995, Senator, I have Enrollment and Review amendments. (ER204, Legislative Journal page 888.) [LB995]

SENATOR COASH: Senator Larson for a motion. [LB995]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB995 be adopted. [LB995]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB995]

CLERK: I have nothing further on the bill, Senator. [LB995]

SENATOR COASH: Senator Larson for a motion. [LB995]

SENATOR LARSON: Mr. President, I move that LB995 be advanced to E&R for engrossing. [LB995]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. [LB995]

CLERK: Mr. President, with respect to LB863, Senator Larson, I have Enrollment and Review amendments. (ER203, Legislative Journal page 812.) [LB863]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB863 be adopted. [LB863]

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SENATOR LANGEMEIER: You've heard the motion. All those in favor say aye. All those opposed say nay. They are adopted. Mr. Clerk. [LB863]

CLERK: I have nothing further on the bill, Mr. President. [LB863]

SENATOR LANGEMEIER: Senator Larson for a motion. [LB863]

SENATOR LARSON: Mr. President, I move that LB863 be advanced to E&R for engrossing. [LB863]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. It does advance. Mr. Clerk. [LB863]

CLERK: LB1130, Mr. President. I have no amendments to the bill, Senator. [LB1130]

SENATOR LANGEMEIER: Senator Larson for a motion. [LB1130]

SENATOR LARSON: Mr. President, I move that LB1130 be advanced to E&R for engrossing. [LB1130]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB1130 does advance. Mr. Clerk. [LB1130]

CLERK: LB965, Senator, I have no amendments to the bill. [LB965]

SENATOR LANGEMEIER: Senator Larson for a motion. [LB965]

SENATOR LARSON: Mr. President, I move that LB965 be advanced to E&R for engrossing. [LB965]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB965 does advance. Mr. Clerk. [LB965]

CLERK: Mr. President, LR373CA. I have no amendments to the resolution. [LR373CA]

SENATOR LANGEMEIER: Senator Larson for a motion. [LR373CA]

SENATOR LARSON: Mr. President, I move that LR373CA be advanced to E&R for engrossing. [LR373CA]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LR373CA does advance. Mr. Clerk. [LR373CA]

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CLERK: Mr. President, LB830, no E&Rs. Senator Hadley would move to amend with AM2209. (Legislative Journal page 694.) [LB830]

SENATOR LANGEMEIER: Senator Hadley, you are recognized to open on AM2209. [LB830]

SENATOR HADLEY: Mr. President, members of the body, as originally introduced, Section 3 of LB830 adopts the policy that sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of the...and the storage, use, or other consumption in this state of biochips used for the purposes of conducting genotyping or the analysis of gene expression, protein expression, genomic sequencing, or protein profiling of plants produced for commercial purposes, animals produced for commercial purposes, companion animals, or nonhuman laboratory research model organisms. The Revenue Committee amendment changed the definition of research model organisms to read research model protein or lipid organisms. This amendment was made to allow for the possible future expansion of the scope of research. However, after some people on the floor asked the question, additional consideration was given and in order to clarify that the method of research could apply to all plants, animals, or nonhuman laboratory research model organisms, not just those being produced for commercial purposes. Language of this amendment, prepared by Bill Drafting, is to achieve that purpose. The remainder of Section 3 of the bill remains as originally sent to the body to Select File, and I ask for your vote yes on AM2209 to LB830 and a yes vote to advance LB830. [LB830]

SENATOR LANGEMEIER: Thank you, Senator Hadley. You have heard the opening on AM2209 offered to LB830. The floor is now open for discussion. Seeing no lights on, Senator Hadley, you're recognized to close. Senator Hadley waives closing. The question before the body is, shall AM2209 be adopted to LB830? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB830]

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of Senator Hadley's amendment. [LB830]

SENATOR LANGEMEIER: AM2209 is adopted. [LB830]

CLERK: I have nothing further on the bill, Mr. President. [LB830]

SENATOR LANGEMEIER: Thank you. Senator Larson, you're recognized for a motion. [LB830]

SENATOR LARSON: Mr. President, I move that LB830 be advanced to E&R for

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engrossing. [LB830]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB830 does advance. Mr. Clerk. [LB830]

CLERK: Mr. President, with respect to LB882, I have no E&Rs. I do have other amendments, however. First amendment, Senator McCoy, Senator, I have a note you wish to withdraw AM2355. [LB882]

SENATOR McCOY: Yes. [LB882]

SENATOR LANGEMEIER: Senator McCoy, it is withdrawn. Mr. Clerk. [LB882]

CLERK: Mr. President, Senator McCoy, AM2361, again I have a similar note to withdraw, Senator. [LB882]

SENATOR LANGEMEIER: It is withdrawn. Mr. Clerk. [LB882]

CLERK: Senator Schilz, AM2356, I have a note you wish to withdraw that, Senator. [LB882]

SENATOR LANGEMEIER: Senator Schilz, do you wish to withdraw? It is withdrawn. Thank you. Mr. Clerk. [LB882]

CLERK: Senator Cornett, AM2162. (Legislative Journal page 844.) [LB882]

SENATOR LANGEMEIER: Senator Cornett, you are recognized to open on your amendment. [LB882]

SENATOR CORNETT: Thank you very much, Mr. President and members of the body. AM2162 is a simple amendment that is a small step forward in the ongoing process of finding ways to help people afford their prescription medication. The amendment simply says if, and only if, an insurance plan has an out-of-pocket expense limit, then prescription drugs have to be considered expenses when they count towards the limit. Or if a plan with an expense limit doesn't want to include prescription drugs in its limit, then the plan must have a separate expense limit for the prescription drugs. To be very clear, this amendment does not require a plan to have an expense limit at all. It gives that power to the insurance companies. Nor does it tell the plan what the dollar amount to set the limits at are. It simply says count prescription drugs as an expense that count towards your expense limits if you have such a limit. We have heard and we know from persons and personal and family experience that prescription drugs have become increasingly expensive over the past few years, sometimes breathtakingly so. People with cancer, hemophilia, multiple sclerosis, myositis, neuropathy, and primary immune

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deficiencies, among others, frequently need infusible biologics or plasma-derived therapies in order to treat their diseases. These treatments are not a luxury. Instead, they keep people alive and functioning as much as we could possibly ask for. Instead of being in a hospital or bedridden, people with access to these medicines are able to live normal lives or to be able to live at home, able to go to work, play with their children, live normal lives. These people don't ask to come down with these diseases, as no one does. Instead, they grew up, went to school, got a job, paid taxes and bought health insurance, and one day they found out everything would change. They have been dealt a bad hand with a disease, but instead of being able to rely on health insurance that they had paid premiums for every day or every month, every year, they found out the drugs they needed required prior authorization, were in a specialty tier, or would require outrageous copays or coinsurance. But what is insurance for, colleagues? Isn't it the point of insurance to protect us against the slim but very real possibility of coming down with a serious and expensive medical condition later in life? My amendment doesn't make prescription drugs any cheaper. It doesn't magically grant anybody access to healthcare or health insurance. What my amendment does is allow consumers to be able to look at a health plan and know that prescription drugs will be covered in an out-of-pocket expense limit; and for those with expensive prescriptions, that they will know how much they will have to pay out of their own pocket before insurance will fully kick in to cover their prescriptions. People with prescription drugs will have some stability with this amendment. They will be able to plan their finances and figure out a way to pay for their prescriptions, even while buying...still being able to buy their kids clothes and paying their mortgage. Stability is the issue here. In recent years, I became aware of new methods of cost containment employed by insurance companies. Tiering of drugs have been carved out, requiring coinsurance rather than copays. With no warning, sometimes a drug can go from being covered under a plan to not being covered at all with no warning. Sometimes drugs move between tiers. Sometimes copays go up. For some people with disease, as I mentioned earlier, prescription costs are well into thousands of dollars a month. Moving tiers and changing copay amounts can sometimes mean a person goes from being able to afford their medications they need to not being able to afford it at all, and that can happen literally overnight. This amendment gives the insured stability. When they sign on to a plan, the insurance company offers whatever out-of-pocket expenses, whether it's \$1,000, \$2,000, \$5,000, but when they sign on to that plan, that is what their out-of-pocket expenses will be, and it's only for that plan period. The insurance companies have the control here to set the dollar amount. All we're saying with this amendment is they can't change the rules in the middle of the game or in the middle of that plan year. I'm going to give a little explanation of how we got here. I've had a bill in front of Banking and Insurance for three years that deals with this issue and I knew that the first bill that I introduced was way overreaching for the state of Nebraska. We've sat down over the last two years, with the help of Senator Pahls, and worked on finding a way not to hurt the insurance companies because we understand their position. The thing that...and we came up with the amendment that leaves the power in the hands of the insurance companies. They

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say how much the out-of-pocket expenses will be. They say in the plan whether the out-of-pocket expenses will be included with their medications at the beginning of the plan or whether the medications will be set aside on that. But this gives the patient the stability of knowing exactly how much their out-of-pocket expenses a year will be. The thing that probably bothered me the most and why you're seeing this amendment today on Senator Nordquist's bill, and I want to thank Senator Nordquist for all of his tolerance in allowing me to file this and discuss this issue on the floor, is because after his bill passed General File there was comments made in the paper by someone from the insurance industry saying, where is our bill addressing tiering? It's been sitting in Banking and Insurance and we've been stonewalled for three years on it. Where is your bill on out-of-pocket expenses? We've offered one. Well, here it is, ladies and gentlemen. It's not the original bill, it's not all-encompassing, it doesn't restrict tiers, it doesn't mandate what the insurance companies have to pay and what they don't. It simply mandates the insurance companies set a dollar amount when you sign your insurance contract at the beginning of a plan year and that they play by their own rules. I'm going to listen to the debate on this amendment. And I'm sure the insurance industry in the lobby is going nuts right now because, frankly, I've been stonewalled on this amendment and this is an amendment that addressed all of their concerns. They have the power; they set the dollar amount. They can set that dollar amount at whatever they want. I'll listen to the debate, but I want to assure everyone in here that I will do nothing to harm Senator Nordquist's bill. But this is something that needs to be addressed, particularly after the comments in the paper. The bill was in Banking and Insurance, and we've gotten no cooperation over the last few months, even with the amendment that, frankly, is very, very limited in scope and just says, you pick the dollar amount and we'll abide by it. With that, I'd urge the body to listen to the debate carefully on this and I thank Senator Nordquist for his tolerance and Senator Pahls for all of his help. Thank you. [LB882]

SENATOR LANGEMEIER: Thank you, Senator Cornett. You have heard the opening on AM2162 offered to LB882. The floor is now open for discussion. Those wishing to speak, we have Senator Pahls and Senator Gloor. Senator Pahls, you're recognized. [LB882]

SENATOR PAHLS: Thank you, Mr. President, members of the body. Would Senator Cornett entertain a question or two? [LB882]

SENATOR LANGEMEIER: Senator Cornett, would you yield? [LB882]

SENATOR CORNETT: I would be happy to. [LB882]

SENATOR PAHLS: I understand this is a path you've been traveling for some time and I've also read in the paper some of the things that you talked about, and that sort of mystified me a little bit because that makes us on our committee...it looks like we're a

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noncaring person or persons, and that did irritate me, to be honest with you. Because my...I understand where the insurance companies are coming from because they are in business to survive, and especially with some of the things in the future, it may be more difficult. I need more clarification right now. You're telling me that your amendment causes no additional cost to the insurance company. [LB882]

SENATOR CORNETT: Well, we have asked for feedback from the insurance companies repeatedly on this amendment. After all of the hearings and discussions that we have had over the last three years, we tried to address all of their concerns in this amendment by giving them the control to set the dollar amount. But as of to date, we have had no feedback, or at least I have not had any feedback, even though I've presented it to the insurance companies. [LB882]

SENATOR PAHLS: Okay. So you're telling me that, just for rounding off figures, if the insurance companies said \$1,000, I mean I'm just using this as a baseline, this is what's going to cost \$1,000, you want to know that up-front, because I heard you say the plan changes within the year. [LB882]

SENATOR CORNETT: Let me be very clear, most insurance companies don't do that, okay, and that's why I was so mystified as to why I was not getting any response on this. But insurance companies...what the amendment does is when you sign, you know, when you sign your form for insurance at the beginning of the year and you read it, it says what your out-of-pocket expenses will be. What we are saying is that is what your out-of-pocket expenses will be; that you cannot pay more than whatever they set that out-of-pocket expense at. So if it's \$5,000 or \$1,000, that is what your out-of-pocket expense will be for that year. [LB882]

SENATOR PAHLS: Okay. But most insurance companies do that. [LB882]

SENATOR CORNETT: Yes, they do. [LB882]

SENATOR PAHLS: There are...you're telling me there are some that do not or they change within the year. That's what I'm trying to... [LB882]

SENATOR CORNETT: They change within the year by going either from a...what's called copay, which everyone is probably familiar with--everybody...well, not everybody but you go into a pharmacy and you know you have a copay of like \$10 for your prescription--to something that's called coinsurance,.... [LB882]

SENATOR PAHLS: Right. [LB882]

SENATOR CORNETT: ..which is a percentage of the cost. And where that becomes so important is if you're on a chemo med or a medication for hemophilia, a coinsurance can

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be 10, 20, 30, 40 percent and then you're getting into the thousands and thousands of dollars a month. [LB882]

SENATOR PAHLS: Okay. What I also like for those...I'm not on this but if anybody is on Medicare in this body, I would like to have you sort of stand up and explain that every year there's a time you can take a look at your insurance, you can see which drugs or what are some of the attributes of that policy. So you could change from year to year if you are under that plan. I would just be curious, I'm not under one of those plans, but if somebody is under one of those plans it would be nice to hear. That may make this a little clearer. But I'm taking you for your word, Senator, that this will not increase the costs from the insurance company if they plan for that year, Senator Cornett. Their costs will not go up. [LB882]

SENATOR CORNETT: It should not go up because they set the dollar amount. [LB882]

SENATOR PAHLS: Okay. [LB882]

SENATOR LANGEMEIER: One minute. [LB882]

SENATOR CORNETT: But again, we waited for reports back from the actuary from a couple of the insurance companies and we've asked repeatedly for that since November and, basically, have received no feedback on this amendment, but I haven't received any negative feedback either. It's just there. [LB882]

SENATOR PAHLS: Okay. Okay. Thank you. [LB882]

SENATOR LANGEMEIER: Thank you, Senator Pahls. Senator Gloor, you're recognized. [LB882]

SENATOR GLOOR: Thank you, Mr. President. Good afternoon, members. I wonder if Senator Cornett would yield for a few questions. [LB882]

SENATOR LANGEMEIER: Senator Cornett, would you yield? [LB882]

SENATOR CORNETT: Yes, Senator Gloor, I'd be happy to. [LB882]

SENATOR GLOOR: Thank you, Senator Cornett, and I am also playing this definition game and trying to make sure I understand the intent of your amendment. The term "out-of-pocket expense," and you've already began to talk about some of the other definitions of copays and coinsurance and... [LB882]

SENATOR CORNETT: Tiering and...yes. [LB882]

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SENATOR GLOOR: ...deductible, when you use the term "out-of-pocket expense," is that any one of copay, coinsurance, deductible, any one of those definitions, or is it specific to just a drug plan as part of a health insurance plan? [LB882]

SENATOR CORNETT: With the amendment, they could have out-of-pocket expenses in total with prescription drugs included as part of the out-of-pocket expense, because the insurance company draws up the plan that the person signs for, or they can say out-of-pocket expenses for prescription drugs set aside from your out-of-pocket expenses for medical treatment. They could have it either way. They set that. But once they set that dollar amount, that's what it is for the plan year. [LB882]

SENATOR GLOOR: But we're not inadvertently forcing health insurance plans to increase deductibles to, let's say, you know, catastrophic levels for what otherwise would be a normal deductible of, say, \$1,500 or \$2,000 a year. We're not inadvertently causing that to happen as a result of using the term "out-of-pocket expense" here, are we? [LB882]

SENATOR CORNETT: I don't believe so because the...we, like I said before, we did not receive feedback from the insurance companies but we did not receive negative feedback either. This amendment tried to encompass what their fears were, and their fears were that we were taking the control from them in the other bill. This one leaves the power in their hands to set what the out-of-pocket expenses are. And then you go back to the free market. A person is going to shop for insurance generally and find the best plan for them. [LB882]

SENATOR GLOOR: What if an insurer has no drug plan? Are they obligated under this amendment to provide a drug plan as part of their overall... [LB882]

SENATOR CORNETT: No, it would be whatever your plan is. If your plan covers out-of-pocket expenses and excludes drugs, then you would not have to. That's what the part of it is where the plan must have a separate expense limit for prescription drugs or no drugs at all. [LB882]

SENATOR GLOOR: Does this effectively eliminate tiering, which I know is a concern of yours and all of ours in some way? [LB882]

SENATOR CORNETT: You know, realistically, tiering is a concern of mine, but there's no way we're going to eliminate tiering. Tiering is...the only state that has eliminated tiering is New York and, frankly, it would be too expensive. I think that what we need to do is look at how we control or help patients get access to care, control their...have some control over their ability to get their medication without harming the insurance companies. That was my sole goal over the last couple of years, was to work with the insurance companies to find a way to provide access to these medications without

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adversely harming the insurance industry. [LB882]

SENATOR GLOOR: I think, Senator Cornett, and I'd appreciate your response to this, I think when you say that it shouldn't result in an increase, part of the reason, maybe the largest portion of the reason you say that is most individuals come...draw quite a bit against out-of-pocket when they have a drug benefit. Clearly, the type of medications that you're concerned about here with dollar amounts most drug plans allow for, they may only be able to fill that script once or twice, given the high cost of drug, but they'd at least be able... [LB882]

SENATOR LANGEMEIER: One minute. [LB882]

SENATOR GLOOR: ...to apply that portion towards... [LB882]

SENATOR CORNETT: Their out-of-pocket expense. [LB882]

SENATOR GLOOR: ...their out-of-pocket expense. [LB882]

SENATOR CORNETT: Yes. [LB882]

SENATOR GLOOR: Okay. Thank you, Senator Cornett. Thank you, Mr. President. [LB882]

SENATOR LANGEMEIER: Senator Carlson, you're recognized. [LB882]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I'd like to direct a question to Senator Nordquist, if he would yield. [LB882]

SENATOR LANGEMEIER: Senator Nordquist, would you yield? [LB882]

SENATOR NORDQUIST: Yes, Mr. President. [LB882]

SENATOR CARLSON: Senator Nordquist, on the General File on LB882, that bill, without talking about AM2162, that does mandate that orally administered anticancer treatment will be covered. Is that correct? [LB882]

SENATOR NORDQUIST: It doesn't mandate that it will be covered. It says that if the policy offers chemo treatments in IV form then it has to cover the oral at an equally...at an equally...in a parity, at equal cost share essentially. [LB882]

SENATOR CARLSON: Okay. That brings up another question then. In a given policy, how could that policy exempt itself so it doesn't pay for this? And I'm not saying it should. I just...I'm asking the question. [LB882]

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SENATOR NORDQUIST: Are we talking the amendment or the underlying bill? [LB882]

SENATOR CARLSON: No. No, the bill itself. [LB882]

SENATOR NORDQUIST: Yeah. How would a policy avoid...it wouldn't...it would...the only way it would avoid the impact of the bill is if it didn't have...well, if it didn't have coverage for IV chemo or if it already provided oral chemo at close to an equivalent rate. Like right now, for instance, our state employees' health plan and the university health plan, the copays on even high-cost oral chemo drugs are quite reasonable. They're, I think we saw, \$50 or something like that. So there would be very little cost impact for plans like that. [LB882]

SENATOR CARLSON: Okay. So that in general though, if a plan covers any kind of cancer treatment, it's going to cover orally administered anticancer drugs. [LB882]

SENATOR NORDQUIST: That's right. [LB882]

SENATOR CARLSON: Okay. Thank you. [LB882]

SENATOR NORDQUIST: Yep. [LB882]

SENATOR CARLSON: I'd like to address a question to Senator Cornett, if she would yield. [LB882]

SENATOR LANGEMEIER: Senator Cornett, would you yield? [LB882]

SENATOR CORNETT: Yes. [LB882]

SENATOR CARLSON: Senator Cornett, I'm having a little trouble understanding the idea of costs in AM2162--and you know I've spent a lot of years in the insurance business--because I'm a little bit concerned that you haven't gotten a response that you have requested, as far as the insurance industry is concerned, on costs. But this is a very expensive procedure. Is that correct? This orally administered anticancer treatment is a very expensive treatment. [LB882]

SENATOR CORNETT: Yes. My amendment doesn't specifically address orally prescribed cancer medication, it has to do with out-of-pocket expenses, but yes. [LB882]

SENATOR CARLSON: Okay, but I think it does and this is where I'm having trouble understanding. Because an out-of-pocket expense, like you mentioned earlier, it might be a copay, it might be a deductible, and then after the deductible it might be

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coinsurance up to a certain point. So if the out-of-pocket is \$5,000 on this medical policy, then with the bill and with your amendment, unless a company specifically exempts it, any orally administered anticancer treatment will be covered and will be a part of the out-of-pocket expense that a person spends. [LB882]

SENATOR CORNETT: It wouldn't be specifically exempting the out-of-pocket...or the cancer drug. It would be specifically exempting prescription medications or prescription drugs outside of the plan. But, yes, if the cancer...if they have a plan... [LB882]

SENATOR LANGEMEIER: One minute. [LB882]

SENATOR CORNETT: ...as you were talking about that doesn't specifically exempt it, then that would be the maximum. If it was \$5,000 of out-of-pocket expenses, that would be what the person paid because that's what they had contracted to pay for. They thought their out-of-pocket expenses would be \$5,000 when they signed up for insurance and this is saying that's what their out-of-pocket will be. [LB882]

SENATOR CARLSON: But if the cost of the orally administered cancer treatment was \$10,000 and their out-of-pocket was \$5,000, that out-of-pocket that they spent counts toward the \$10,000. [LB882]

SENATOR CORNETT: Correct. [LB882]

SENATOR CARLSON: So that's mandating that coverage, I think. And we're running out of time. [LB882]

SENATOR CORNETT: I was going to say, it's already...I mean they already have insurance that is supposed to be providing for these medications. All we're saying is if they have contracted for a certain dollar amount for out-of-pocket, that that's what it will be. [LB882]

SENATOR LANGEMEIER: Time. [LB882]

SENATOR CARLSON: Oh, thank you. [LB882]

SENATOR LANGEMEIER: Thank you, Senator Carlson and Senator Cornett. Senator Pahls, you're recognized. [LB882]

SENATOR PAHLS: Sorry about that. Thank you, Mr. President, members of the body. We're still exploring different ways of taking a look at this bill. I think we still need to get across...and, Senator, would you yield to me, Senator Cornett? [LB882]

SENATOR LANGEMEIER: Senator Cornett, would you yield? [LB882]

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SENATOR CORNETT: I would be happy to, Senator Pahls. [LB882]

SENATOR PAHLS: Senator, and again I know you've been working on this for a long time and for various reasons and this will probably consume your life even in the future. I think there still is a concern about the amendment, if it's written in the correct form, and the idea of a cost actually to the insurance company, and you're telling me no. [LB882]

SENATOR CORNETT: No, I'm saying that I gave them this amendment months ago and I'm saying the insurance industry didn't even respond. Last I heard, oh, we're going to run it by our actuaries; we're going to do this; we're going to do that. And it was stonewalling and stalling until it was too late to get it out of committee. I'm saying that we have tried to remove any unintended consequences from the insurance industry by trying to address all of their issues, because I went to every meeting and listened very intently for the last three years on what their concerns were. And I, frankly, know that insurance companies are needed. They are not the bad guy, generally. They do what they can to cover their patients and I know that they are in a very uncertain time right now and they are a business and they're out to make money. But at the same time saying in the newspaper that we have not brought a bill addressing this issue...these issues I have to say really, really needed me. [LB882]

SENATOR PAHLS: Right. And I feel that right now and I understand, because having read that I was also surprised by that. Because then again, as I said earlier, then it makes us, as a committee, like, you know, we're keeping the balls up in the air and intentionally not trying... [LB882]

SENATOR CORNETT: Oh, I was going to say and, please, I don't want anyone in here to think the Banking and Insurance Committee hasn't been more than helpful and more than receptive to all of the bills that I've brought and the ideas I've brought. And Senator Pahls has been wonderful to work with on this issue. [LB882]

SENATOR PAHLS: Yeah. Yeah. And again, I'm not looking for that; because any time a mandate comes in front of our committee, it is a tough issue to deal with because if you look at the total picture, and I'm hoping right now that you haven't gotten caught up, not you as a person, but your idea has not gotten caught up in that morass when we're dealing with mandates. And like I say, I don't know what you're going to do today, but I would...even though neither one of us will be here in the future, I know a number of these people will serve on the Banking Committee and...Banking, Commerce and Insurance Committee, and hopefully they are picking up what you're saying and what you're trying to get across to us, even if we do not do something this year, that this probably will not go away. The concept that you're going after will not go away because there will be other people who will be bringing forth this idea and everyone needs to get ready to be able to criticize or to defend it or to really get down to the brass tacks on

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this. Because, like I say, we both know anytime you have a mandate it causes people... [LB882]

SENATOR LANGEMEIER: One minute. [LB882]

SENATOR PAHLS: ...to really take a second look. Senator, I think you have a question or an answer. [LB882]

SENATOR CORNETT: Everyone may think this is a new concept in here, but there is legislation dealing with this issue or these types of issues in almost every state right now where they haven't already done something in this regard, because so many people are being forced out of getting their medication because they can't afford their out-of-pocket expenses, even though they've been paying their insurance premiums religiously and think they're covered. They get ill or a family member gets ill, they think they know what their out-of-pocket expenses are, they think they have a contract. All we're saying is if they have that contract, it has to be stated what the out-of-pocket expenses are. [LB882]

SENATOR PAHLS: And you're telling me, though, the majority of the insurance companies in the state of Nebraska honor that. [LB882]

SENATOR CORNETT: Are good actors. They have been. They really work on taking care of their patients or their customers very well. [LB882]

SENATOR PAHLS: Okay. [LB882]

SENATOR LANGEMEIER: Time. [LB882]

SENATOR CORNETT: Overall, I have no complaints with the insurance industry in this state,... [LB882]

SENATOR PAHLS: Okay. [LB882]

SENATOR CORNETT: ...just possibly... [LB882]

SENATOR LANGEMEIER: Time. [LB882]

SENATOR CORNETT: ...the way this amendment has been handled. [LB882]

SENATOR PAHLS: Okay. Thank you. [LB882]

SENATOR LANGEMEIER: Thank you. Thank you, Senator Pahls. Seeing no other lights on, Senator Cornett, you are recognized to close on AM2162. [LB882]

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SENATOR CORNETT: Thank you, Mr. President, members of the body. In case you can't tell, this is an issue that is not like my Revenue issues, which are business. This is a personal issue. I am fortunate enough to have good health insurance and I have insurance that covers my medical condition, and I have ran into problems in the past, as a lot of patients do. But every day I am contacted by people that think they know what their insurance plan is. They think they know what's covered. And it's very similar to Senator Nordquist's bill. They think they have coverage for chemo treatment. And all of a sudden they find out that the recommended form of treatment for their disease is not covered, and they have to go through treatments, if there are any available, that are archaic, that have quality-of-life issues, and that because of the surrounding costs are probably just as expensive. You talk about the cost of oral chemo; you don't talk about the cost of the overhead for a chemo infusion center or the doctor that has to be there or the nurse or the equipment that they have to use to administer the chemo or the port that has to be surgically put in and the medication to fight infection from that port and the antinausea medication. You have to look at the total cost. A lot of the medications that I'm talking about here that this bill would address have the same quality-of-life issues. People need their medication. Without their medication they don't work. They fall back on Medicare and Medicaid. They're hospitalized. And I'll tell you personal experience. When I don't get my medication, one month or one week in intensive care is more than the entire year of my medicine. Does that make any economic sense? There are people out there that have planned for, they have bought and they've paid for insurance. They think they're covered for medicine and then they find out, because it's a certain type of medication, even though it's the one that's recommended for their disease or their specific illness, they are not covered. With that, I'll withdraw the amendment. And I thank Senator Nordquist. [LB882]

SENATOR LANGEMEIER: Thank you, Senator Cornett. AM2162 is withdrawn. Mr. Clerk. [LB882]

CLERK: Mr. President, the next amendment I have, Senator McCoy, AM2357, but I have a note, Senator, you wish to withdraw that. [LB882]

SENATOR LANGEMEIER: It is withdrawn. Mr. Clerk. [LB882]

CLERK: Mr. President, the next amendment I have, Senator McCoy, likewise, AM2354, wish to withdraw. [LB882]

SENATOR LANGEMEIER: Senator McCoy, you wish to withdraw? It is withdrawn. Mr. Clerk. [LB882]

CLERK: Senator Schilz, AM2353, again a note to withdraw, Mr. President. [LB882]

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SENATOR LANGEMEIER: It is withdrawn. [LB882]

CLERK: Mr. President, Senator Nordquist would move to amend with AM2435.
(Legislative Journal page 1149.) [LB882]

SENATOR LANGEMEIER: Senator Nordquist, you are recognized to open on AM2435.
[LB882]

SENATOR NORDQUIST: Thank you, Mr. President and members. I first want to thank Senator Cornett for her discussion and passion she brings to the issue we were just discussing on AM2162 and certainly is an issue that the Legislature needs to continue to monitor and look at and work on going forward. The amendment before you, AM2435, amends the underlying bill, LB882. And just as a reminder, this bill basically says that a policy, an insurance policy, must cover oral chemotherapy on a basis no less favorable than IV chemotherapy. Basically, it's saying if you have health...basically ensure that when you have health insurance that provides chemotherapy coverage, whether it comes in a pill form or in the bag form, in an IV bag, you'll be able to get that coverage at the same cost share to you. The underlying amendments I worked with Senator McCoy and other interested parties on to address a few concerns that they brought forward. We talked through several others. Specifically, the amendment does a couple of things. First, it pushes back the implementation date from July to October 1, 2012, to give carriers a little bit more time to make needed adjustments. It will put a sunset in the bill of December 31, 2015. We picked this, this sunset has been chosen because at the end of 2015, should the Affordable Care Act withstand in the Supreme Court, HHS will reevaluate the process by which they allow states to determine the essential health benefits at the end of that time. So the timing makes sense to put a sunset at that time. Certainly, as a proponent of this bill, I think when we put this coverage forward in the future we will likely remove that sunset, but for this time, to look at it in the context of everything, I think that's appropriate. And then a few, kind of, clarifying language changes that aren't substantive to the underlying bill but just make a few language changes. We did discuss some other issues and I just wanted to speak about one in particular, concerns issues raised by the Pharmacist Association. I've worked with them since the bill was on General File. And currently oral cancer medications are generally covered under an insurance plan as a prescription drug benefit, while IV chemo is administered through a physician's clinic or hospital and are generally covered under a medical benefit. As you can see in the underlying bill, insurance companies are not allowed to reclassify or move coverage of oral cancer medications from a prescription drug benefit to a medical benefit or such. It specifically prohibits reclassifying. So this will allow and address...I think addresses the concerns of the pharmacists, but I wanted to just put this and discuss this one point real briefly. It will allow community pharmacies around our state to continue to dispense these medications to their patients and addresses their concerns. So again, I want to thank those that worked with me on this, specifically Senator McCoy and other stakeholders.

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Thank you, Mr. President. [LB882]

SENATOR COASH PRESIDING

SENATOR COASH: Thank you, Senator Nordquist. Members, you've heard the opening to AM2435. Are there members wishing to speak? Seeing none, Senator Nordquist, you're recognized to close on AM2435. Senator Nordquist waives closing. The question before the body is, shall AM2435 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB882]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Nordquist's amendment. [LB882]

SENATOR COASH: AM2435 is adopted. [LB882]

CLERK: I have nothing further on the bill, Mr. President. [LB882]

SENATOR COASH: Senator Larson for a motion. [LB882]

SENATOR LARSON: Mr. President, I move that LB882 be advanced to E&R for engrossing. [LB882]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB882 does advance. Mr. Clerk, items? [LB882]

CLERK: Thank you, Mr. President. Enrollment and Review reports LB209A and LB949A as correctly engrossed. A Reference report referring a gubernatorial appointee to standing committee for confirmation hearing. Series of resolutions: LR563, LR564, Senator Christensen; LR565 is Cornett, LR566, LR567, LR568; Senator Fulton, LR569, LR570; Senator Ashford, LR571; Senator Fischer, LR572; Hadley, LR573; Senator Carlson, LR574 and LR575; most calling for interim studies that will be referred to the Reference Committee. That's all that I had, Mr. President. Thank you. (Legislative Journal pages 1149-1156.) [LB209A LB949A LR563 LR564 LR565 LR566 LR567 LR568 LR569 LR570 LR571 LR572 LR573 LR574 LR575]

SENATOR COASH: Thank you, Mr. Clerk. Next item.

CLERK: Mr. President, Senator Larson, LB993, I have Enrollment and Review amendments. (ER190, Legislative Journal page 688.) [LB993]

SENATOR COASH: Senator Larson for a motion. [LB993]

SENATOR LARSON: Mr. President, I move the amendments to LB993 be adopted.

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[LB993]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The amendments are adopted. [LB993]

CLERK: I have nothing further on the bill, Mr. President. [LB993]

SENATOR LARSON: Mr. President, I move that LB993 be advanced to E&R for engrossing. [LB993]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB993 does advance. Next item, Mr. Clerk. [LB993]

CLERK: LB993A, Mr. President. I have no amendments to the bill. [LB993A]

SENATOR COASH: Senator Larson for a motion. [LB993A]

SENATOR LARSON: Mr. President, I move that LB993A be advanced to E&R for engrossing. [LB993A]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB993A does advance. Next item, Mr. Clerk. [LB993A]

CLERK: Mr. President, LB916, I do have Enrollment and Review amendments, Senator. (ER199, Legislative Journal page 769.) [LB916]

SENATOR COASH: Senator Larson for a motion. [LB916]

SENATOR LARSON: Mr. President, I move that the amendments to LB916 be adopted. [LB916]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The amendments are adopted. [LB916]

CLERK: Senator Nordquist would move to amend with AM2308. (Legislative Journal page 825.) [LB916]

SENATOR COASH: Senator Nordquist, you are recognized to open on AM2308. Senator Nordquist, you're recognized to open on AM2308. [LB916]

SENATOR NORDQUIST: Thank you, Mr. President and members. Basically, these are just clarifying, technical amendments that don't change the substance of the bill but just clarify wording that goes beyond what's allowed under the E&R amendments. That's all.

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Thank you. [LB916]

SENATOR COASH: Thank you, Senator Nordquist. Members, you've heard the opening to AM2308. Are there members wishing to speak? Seeing none, Senator Nordquist, you're recognized to close. Senator Nordquist waives closing. The question before the body is, shall AM2308 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Mr. Clerk, please record. [LB916]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Nordquist's amendment. [LB916]

SENATOR COASH: AM2308 is adopted. [LB916]

CLERK: I have nothing further on the bill, Mr. President. [LB916]

SENATOR COASH: Senator Larson for a motion. [LB916]

SENATOR LARSON: Mr. President, I move that LB916 be advanced to E&R for engrossing. [LB916]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB916 does advance. Next item, Mr. Clerk. [LB916]

CLERK: Senator Larson, LB751, I do have E&R amendments, Senator. (ER195, Legislative Journal page 808.) [LB751]

SENATOR COASH: Senator Larson for a motion. [LB751]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB751 be adopted. [LB751]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The amendments are adopted. [LB751]

CLERK: Senator Fischer would move to amend with AM2351. (Legislative Journal page 844.) [LB751]

SENATOR COASH: Senator Fischer, you're recognized to open on AM2351. [LB751]

SENATOR FISCHER: Thank you, Mr. President and members of the body. This amendment came from Bill Drafters and it is for clarification. It is more substantive than an E&R amendment and they wanted it to be a separate amendment, so I offer it on that...for that reason. Thank you. [LB751]

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SENATOR COASH: Thank you, Senator Fischer. Members, you've heard the opening to AM2351. Are there members wishing to speak? Seeing none, Senator Fischer, you're recognized to close. Senator Fischer waives closing. The question before the body is, shall AM2351 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB751]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Fischer's amendment. [LB751]

SENATOR COASH: AM2351 is adopted. [LB751]

CLERK: I have nothing further on the bill, Mr. President. [LB751]

SENATOR COASH: Senator Larson for a motion. [LB751]

SENATOR LARSON: Mr. President, I move that LB751 be advanced to E&R for engrossing. [LB751]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB751 does advance. Next item, Mr. Clerk. [LB751]

CLERK: LB751A. Senator, I have no amendments to the bill. [LB751A]

SENATOR COASH: Senator Larson for a motion. [LB751A]

SENATOR LARSON: Mr. President, I move that LB751A be advanced to E&R for engrossing. [LB751A]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB751A does advance. Next item, Mr. Clerk. [LB751A]

CLERK: Mr. President, LB950, I do have Enrollment and Review amendments first of all, Senator. (ER197, Legislative Journal page 808.) [LB950]

SENATOR COASH: Senator Larson for a motion. [LB950]

SENATOR LARSON: Mr. President, I move that the amendments to LB950 be adopted. [LB950]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The amendments are adopted. [LB950]

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CLERK: Senator Heidemann would move to amend with AM2267. (Legislative Journal page 770.) [LB950]

SENATOR COASH: Senator Heidemann, you're recognized to open on AM2267. [LB950]

SENATOR HEIDEMANN: Thank you, Mr. President. Fellow members of the body, there was discussion on General File on LB950, and it might have been on LB950A actually, about intercepting this money that was supposed to go back to the Cash Reserve. I believe it was in 2008 when there was money needed that the state agreed to allow it to be brought out of the Cash Reserve for a period of time and then eventually it was going to put it back in the Cash Reserve. And I believe this body and the Legislature as a whole understood that at that time. I understand the need for money going into the Water Resources Cash Fund and I could support that. I just have problems with bringing it or intercepting it before it goes back in the Cash Reserve Fund. What this amendment will do--and I've talked to Senator Langemeier, I've talked to Senator Christensen, I believe they support it--it will just say from the General Fund to the Water Resources Cash Fund instead of intercepting it when it goes...when it was supposed to go back in the Cash Reserve. Once again, I mean I will state that when that was done in 2008, it was sold with the idea that money would go back into the Cash Reserve. With this amendment, that money will go back in the Cash Reserve like it was promised and intended to do, but on the other side, seeing the need for putting money in the Water Resources Cash Fund, it will get the same amount of money out of the General Fund and put it into the Water Resources Cash Fund. I believe it protects the integrity of the Legislature and the intent back in 2008, what we intended to do. If you have any questions, I will try to answer them. [LB950 LB950A]

SENATOR COASH: Thank you, Senator Heidemann. Mr. Clerk, you have an amendment to the amendment. [LB950]

CLERK: Senator Christensen would move to amend Senator Heidemann's amendment with AM2407. (Legislative Journal page 1157.) [LB950]

SENATOR COASH: Senator Christensen, you're recognized to open on your amendment. [LB950]

SENATOR CHRISTENSEN: Thank you, Mr. President. Fellow colleagues, AM2407 just gets back to the original intent of my bill to appropriate \$2.4 million of money in 2012 into the Cash (sic) Water Resources Fund. This \$2.4 million is the money that the Republican NRD will be paying back this year to the state that was loaned to them in 2008 that will be paid yet back this...to the state this year. LB1094 in 2008 was the bill that set up \$8.5 million of state funds to get Nebraska back in compliance with the 1943 compact with Kansas and Colorado. After LB701 was passed in 2007 giving tools to the

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NRDs, it was challenged in court, causing an inability for local NRDs to be able to raise funds and pay for water and start projects for compliance. That was the reason for the money in 2008. Many people on this floor believe that the Republicans will never pay back this money to the state. I'm here to proudly say the Republican NRDs have paid back over \$1 million already. They have \$2.4 million more to pay back this year and I'm asking that that \$2.4 million be appropriated to the Water Cash (sic) Resources Fund to take care of additional needs on the Republican, on the Platte cooperative agreement. So that's what this money will be used for. I'm just asking you now that you adopt my amendment to stay with the original intent to not throw our budget out of whack here and be able to go forth. Thank you. [LB950]

SENATOR COASH: Thank you, Senator Christensen. Members, you've heard the opening to AM2267 and the amendment to AM2267. Those wishing to speak, Senator Langemeier. [LB950]

SENATOR LANGEMEIER: Mr. President, members of the body, I rise in support of AM2407 and AM2267. Throughout this discussion on General File, when we moved this bill, there was a concern that we were doing a direct pullout of the Cash Reserve and that we should take it out of General Funds. And so I appreciate Senator Heidemann's amendment that does that. I also can understand that, as you look at your budget, that we're in a tough pull for General Fund money. I think we all agree that funding for some of these water projects is pretty important and I think Senator Christensen, by offering AM2407, which cuts that \$7.4 million down to \$2.4 million, is trying to be a good steward of our budget situation and would ask for your support of AM2407 as well. Thank you, Mr. President. [LB950]

SENATOR COASH: Thank you, Senator Langemeier. Senator Carlson, you are recognized. [LB950]

SENATOR CARLSON: Mr. President and members of the Legislature, I appreciate Senator Heidemann's AM2267, as well as Senator Christensen's AM2407. And Senator Christensen had mentioned that in the Republican and the Platte Basin that these dollars would be available for projects there, and it's not simply restricted to those two basins. It could be used for any basin in the state. And I think that we need to remind ourselves rather frequently that not only is agriculture our number one industry, but water is the lifeblood and we need to manage it carefully and do those things that put it in a better position for all the people of the state for generations to come. So I would ask for your support as well. Thank you. [LB950]

SENATOR COASH: Thank you, Senator Carlson. Seeing no other members wishing to speak, Senator Christensen, you're recognized to close on AM2407. [LB950]

SENATOR CHRISTENSEN: Again, I just ask for advancement of AM2407. This money

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can be used for the whole state, not just the two districts I mentioned, though they are two of the key areas right now that need it. So I ask you to add AM2407 onto AM2267 to get this in the right process, get it down to the budget where we can afford it, and move it on. Thank you. [LB950]

SENATOR COASH: Thank you, Senator Christensen. Members, you've heard the closing to AM2407. The question is, shall AM2407 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB950]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Christensen's amendment. [LB950]

SENATOR COASH: AM2407 is adopted. Return to discussion on AM2267. Seeing no members wishing to speak, Senator Heidemann is recognized to close. Senator Heidemann waives closing. The question before the body is, shall AM2267 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB950]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Heidemann's amendment. [LB950]

SENATOR COASH: AM2267 is adopted. [LB950]

CLERK: I have nothing further on the bill, Mr. President. [LB950]

SENATOR COASH: Senator Lathrop, you're recognized. [LB950]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I apologize. I was talking to somebody out back. This came up and then started moving. And if I can, I'd like to ask Senator Christensen some questions. And I hope you'll indulge me while I ask them as they are quite fundamental. [LB950]

SENATOR COASH: Senator Christensen, will you yield? [LB950]

SENATOR CHRISTENSEN: Yes. [LB950]

SENATOR LATHROP: Senator Christensen, can you tell me what the origin or what the background is on LB950? [LB950]

SENATOR CHRISTENSEN: Well, LB950 really is a bill I brought in the past, I've tried a couple of times to move the money that was given to the Republicans to help them get in compliance. Am I not going the right direction? [LB950]

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SENATOR LATHROP: No, I'm...you... [LB950]

SENATOR CHRISTENSEN: Okay. [LB950]

SENATOR LATHROP: ...there is no wrong direction... [LB950]

SENATOR CHRISTENSEN: Okay. [LB950]

SENATOR LATHROP: ...because you're talking to somebody that doesn't know anything about it. [LB950]

SENATOR CHRISTENSEN: Okay. If you go back to 2007, we passed LB701 giving them the rights to have occupation tax. It was challenged in court. [LB950]

SENATOR LATHROP: Okay. [LB950]

SENATOR CHRISTENSEN: Then the NRDs had no way to provide money to get into compliance with Kansas, so we appropriated \$7.2 million. [LB950]

SENATOR LATHROP: Okay, we being the Legislature. [LB950]

SENATOR CHRISTENSEN: Legislature. [LB950]

SENATOR LATHROP: Appropriate \$7.2 million in General Funds. [LB950]

SENATOR CHRISTENSEN: Correct. [LB950]

SENATOR LATHROP: To whom? [LB950]

SENATOR CHRISTENSEN: The Republican NRDs to buy surface water to get us in compliance with Kansas. [LB950]

SENATOR LATHROP: Okay. Did we give them that money, or did we loan them that money? [LB950]

SENATOR CHRISTENSEN: We loaned them the money. [LB950]

SENATOR LATHROP: Okay. So we loaned \$7.2 million to the Republican River Valley NRDs so they could buy surface water after we lost the occupation tax matter in the Supreme Court. [LB950]

SENATOR CHRISTENSEN: Correct. [LB950]

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SENATOR LATHROP: Okay. What happened next? [LB950]

SENATOR CHRISTENSEN: Well, I brought a bill a couple of different times asking that...because the water being the issue of the decade, the importance of water, we're now looking at the Platte being one of the main water problems that we have, not the Republicans clear, but we have the issue of the cooperative agreement that our additional funds needed to be used there, so I was just trying to get these funds moved there. Originally I asked to move it back. As the loans were paid back, they put them back into the Cash (sic) Water Resources Fund. Senator Heidemann wanted it to be done as an appropriation, so that's why it has changed now to an appropriations bill. [LB950]

SENATOR LATHROP: So what we're doing, I appreciate the importance of water, I really do. I appreciate that we set up...that essentially the Republican NRDs asked the Legislature and the state of Nebraska for a loan of \$7.2 million and we made it with the understanding they would pay the General Fund back. Is that right? [LB950]

SENATOR CHRISTENSEN: That's correct. [LB950]

SENATOR LATHROP: And what this bill does is that it essentially says, yeah, we're not really paying it back to the General Fund, what we're going to do is put it into a water fund. [LB950]

SENATOR CHRISTENSEN: Well, only \$2.4 million of it is being requested. They paid back a million already. They've got another \$4.-some million to pay back next year. I'm just asking for \$2.4 million of it, that they'll pay back between now and the end of December, after this bill passes, be appropriated to the Water Resources Fund. [LB950]

SENATOR LATHROP: Is this money actually coming back to...with these amendments, is this money actually coming back to the General Fund? [LB950]

SENATOR CHRISTENSEN: It goes back to the Cash Reserve. And so now we're just appropriating out of our budget. [LB950]

SENATOR LATHROP: Okay. So essentially what we're doing with LB950 is taking money that was...the NRD repaying the General Fund...okay, Senator Langemeier, if you will yield to a question. [LB950]

SENATOR COASH: Senator Langemeier, will you yield? [LB950]

SENATOR LANGEMEIER: I would. [LB950]

SENATOR LATHROP: I think from my questions to this point in time you can appreciate

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my confusion and if you can add any light to this matter, I'd like to know what is happening with the money we loaned the Republican NRD. [LB950]

SENATOR LANGEMEIER: Okay, when LB950 was originally introduced, it was designed to intercept... [LB950]

SENATOR COASH: One minute. [LB950]

SENATOR LANGEMEIER: ...those payments as they came back. And they are due back to the Water Cash...excuse me, back to the Cash Reserve. With the amendment we just adopted, that's all out the window now. It turns this bill into a straight General Fund appropriation of \$2.4 million to the Water Cash Fund. The money that's owed from the NRDs that's going to come in over the next three years, they've made one payment, but they're going to make three more years' worth of payments, that's going to go into the Cash Reserve just like it's scheduled to. That has been decoupled from LB950 with the Heidemann amendment. [LB950]

SENATOR LATHROP: Okay. So before, LB950 would have taken every dime of the money that was supposed to go back to the General Fund, we would have put into the Cash (sic) Water Resources Fund. [LB950]

SENATOR LANGEMEIER: Right. It just would have converted over there. And that's been decoupled and now it's just a straight General Fund appropriation of \$2.4 million. [LB950]

SENATOR LATHROP: Okay. What's...so of the \$7.2 million, we'll get all of that back, but now we're taking \$2.4 million and putting it into the Cash (sic) Water Resources Fund. [LB950]

SENATOR COASH: Time, Senator. You are on your own time. [LB950]

SENATOR LATHROP: Okay. I'll ask Senator Langemeier to yield to additional questions. [LB950]

SENATOR COASH: Senator Langemeier, will you continue to yield? [LB950]

SENATOR LANGEMEIER: Yes. As amended, LB950 now, if it advances and passes, totally removes us from anything about the loan. That's all irrelevant. It now becomes a bill that asks for an appropriation of \$2.4 million to the Water Cash Fund. [LB950]

SENATOR LATHROP: Okay. Have we done anything to compromise the agreement that we be repaid the \$7.2 million? [LB950]

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SENATOR LANGEMEIER: No, that is going to come in just on their payment schedule. They have the taxing authority that we've given them through the occupation tax. They've made the first payment. They're going to have to continue to make that. [LB950]

SENATOR LATHROP: Okay. Talk to me about the Water Cash (sic) Resources Fund. Currently, before we put \$2.4 million...if we put \$2.4 million in there with LB950, where does that fund get money from? [LB950]

SENATOR LANGEMEIER: Currently, this year it gets \$3 million from General Fund and \$3.3 million from the Environmental Trust. [LB950]

SENATOR LATHROP: So, you said \$3.3 million from General Fund? [LB950]

SENATOR LANGEMEIER: Three, I think it's \$3 million from General Fund and... [LB950]

SENATOR LATHROP: Three, so now they're going to get \$5.2 million... [LB950]

SENATOR LANGEMEIER: Correct. [LB950]

SENATOR LATHROP: \$5.4 million, pardon me, \$5.4 million from the General Fund and \$3 million from the Environmental Trust? [LB950]

SENATOR LANGEMEIER: \$3.3 million from the... [LB950]

SENATOR LATHROP: Okay, \$3.3 million. [LB950]

SENATOR LANGEMEIER: ...Environmental Trust for the next three years. [LB950]

SENATOR LATHROP: From the Environmental Trust, \$3.3 million. Okay. If we don't do this, all they'll have is the Environmental Trust money for the next three years. [LB950]

SENATOR LANGEMEIER: If we don't...if LB950 does not advance and it dies off, you will still have \$3 million of General Fund and \$3.3 million of Environmental Trust money. [LB950]

SENATOR LATHROP: In what bill did we appropriate the \$3 million to...from General Funds into the Cash... [LB950]

SENATOR LANGEMEIER: LB229, two years ago...or a year ago, excuse me. [LB229 LB950]

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SENATOR LATHROP: That was some commitment to make \$3 million a year available to the fund. [LB950]

SENATOR LANGEMEIER: That was our match to get the \$3.3 million from the Environmental Trust. [LB950]

SENATOR LATHROP: Okay. To what purpose is money in that fund spent? [LB950]

SENATOR LANGEMEIER: It's spent across the state. It goes into matching funds with NRDs. They have to have a 40 percent match. They use it for a variety of things, whether it is compliance or it's fully appropriated, overappropriated, to water management across the state. [LB950]

SENATOR LATHROP: Have you done some assessment of the need for that money? [LB950]

SENATOR LANGEMEIER: We have through LR314 and the need is in the hundreds upon hundreds of millions of dollars. [LB950 LR314]

SENATOR LATHROP: And what state purpose is served with the expenditure of this money? [LB950]

SENATOR LANGEMEIER: There's a variety of state purposes, whether it's to...if you're talking about the Central NRD district, it's using it to comply with the Platte River Recovery Project, or it's the Republican River Basin complying with the Kansas...Nebraska-Kansas-Colorado...or Wyoming Compact, whether it's dealing with water quality issues for the city of Omaha's well field in Saunders County, or the Lincoln well field along the Platte. There is a whole variety of NRD uses for the money to...what I would say would be state benefit. [LB950]

SENATOR LATHROP: Who oversees this...are these grants? We have the money sitting there in this fund. Do we make grants to these various NRDs? [LB950]

SENATOR LANGEMEIER: DNR makes grants based on a 40 percent match. [LB950]

SENATOR LATHROP: So we have to have some buy-in from the local NRDs before we're spending any money out of this account? [LB950]

SENATOR LANGEMEIER: Forty percent match. [LB950]

SENATOR LATHROP: Does this solve the problem in the Republican River Valley? Are we ever going to have to deal with that again? By the time...we lost the occupation tax,... [LB950]

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SENATOR COASH: One minute. [LB950]

SENATOR LATHROP: ...but we do have... [LB950]

SENATOR LANGEMEIER: No, we lost the half-cent sales tax. We got the occupation tax. [LB950]

SENATOR LATHROP: Okay, pardon me, it's the other way around,... [LB950]

SENATOR LANGEMEIER: Right. [LB950]

SENATOR LATHROP: ...without a vote of the people,... [LB950]

SENATOR LANGEMEIER: Correct. [LB950]

SENATOR LATHROP: ...the occupation tax? [LB950]

SENATOR LANGEMEIER: NRD, and votes that on. [LB950]

SENATOR LATHROP: Okay. Okay. Just thought I'd throw that in since it seems timely. [LB950]

SENATOR LANGEMEIER: Yeah, it was timely. [LB950]

SENATOR LATHROP: In any case, the question that I had is, are we at risk with the Republican River Compact or have we dodged that bullet? [LB950]

SENATOR LANGEMEIER: You know, right now we have made great strides and we have been in compliance for the last few years. With the work, with the IMPs adopted by the Lower, the Middle, and the Upper, we feel very confident that as they continue to manage through their integrated management plan, and some of this money is going to be part of that, and through an integrated management plan they will look at the ability to retime water throughout their surface irrigation, continuing to buy surface water rights if it's a really dry time; or the major thing now is retiring of acres to make sure we stay in compliance, and we should. [LB950]

SENATOR COASH: Time, you are on...Senator Lathrop, you continue to be recognized. [LB950]

SENATOR LATHROP: Thank you for indulging me by answering these questions because I do remember the debate and it was a significant issue in '07, maybe the first year I was down here, the Republican River Valley, the problems we were having. And

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what I remember of that was that we were going to take care of the issue down in the basin, for the most part. We made some investment back in '07, did we not, as a state? [LB950]

SENATOR LANGEMEIER: We have been making investment over the years, and for a number of things. In '07 we were at the height of a drought, a three-year drought, and so we made...we took some drastic actions within the basin to shut off surface irrigation, buy those water rights, let that water flow to Kansas. And now we're at a point where we're not making those drastic decisions. We're making management decisions with IMPs that have been adopted by all three NRDs. But those management decisions, whether it's retirement or permanently retiring acres, will continue to go on; they can't retire those acres overnight. And so they still are in the process of buying and retiring the irrigated portion of those acres, and that will continue over time. So will there be money spent? There is a lot more money spent on a local level than what the state is putting in, but that will continue as they manage the water within that basin. [LB950]

SENATOR LATHROP: Does LB950 take care of the state's role in managing...the continued management of the Republican River Valley and our compliance with the Republican River Compact? [LB950]

SENATOR LANGEMEIER: I think it aids in that, as well as other issues. Now, are you going to continue to have funding for...in the Water Cash Fund into the future, yes. As a matter of fact, we're doing an interim study we started last year, which is LR314, which will continue this year. You're going to see a proposal come to the start of the next session that I won't be here, but you're going to see a proposal, whether that's a quarter-cent sales tax, whether that's something involving a checkoff, if it's something involving a fee on irrigated acres, if it's a fee that might go towards irrigation wells. There's been a lot of ideas that have been thrown out and we're going to continue that legislative study. We determined the needs this last summer. We're going to look this next year to come up with funding sources. And so you're going to see something next year that would permanently put money into the Water Cash Fund. So this isn't something that's going to go away for you. [LR314 LB950]

SENATOR LATHROP: So it sounds like we now have two bills that we will move, if LB950 moves, we will have two bills for a total of over \$5 million that go to the Water Cash (sic) Resources Fund. [LB950]

SENATOR LANGEMEIER: You've already moved the first one. It was in the budget. There's \$3 million that's in the budget... [LB950]

SENATOR LATHROP: Okay. [LB950]

SENATOR LANGEMEIER: ...already for the cash...this is a separate bill that would

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request an additional \$2.4 million. [LB950]

SENATOR LATHROP: Is there a reason we didn't do this all in one place? Why are we taking \$5 million, over \$5 million and doing it in two different bills? [LB950]

SENATOR LANGEMEIER: The reality is, the way LB950 started, it started as a separate bill to take money out of the Cash Reserve. And there was concern out there on procedure and that you shouldn't do a bill just to take it out of the Cash Reserve; you should put it in the General Fund. And so it fits in with all the other A bills that we have yet to follow that are looking for General Fund dollars. [LB950]

SENATOR LATHROP: Okay. I...so your prediction for next year... [LB950]

SENATOR COASH: One minute. [LB950]

SENATOR LATHROP: ...is that the NRDs will not be back asking for more money, but they will bring to us a solution that will provide for some permanent source of funding for this cash fund so that we can take care of the management from some resource other than the General Fund. Is that what I hear you say? [LB950]

SENATOR LANGEMEIER: That is the goal of the LR314 study is to come up with a long-term funding source. [LR314 LB950]

SENATOR LATHROP: Okay. I think that's all the questions I have. Thank you. Thank you, Mr. President. [LB950]

SENATOR COASH: Thank you, Senator Lathrop, Senator Langemeier. Senator Carlson, you are recognized. [LB950]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I am going to make a few remarks here and I'm really directing them in the direction of Senator Lathrop. And your questions of Senator Langemeier are very interesting and appropriate. But let's go back a little bit. Thirty years ago, obviously, nobody in the state of Nebraska knew what kind of problems we were going to face as far as water was concerned. There were all kinds of bankers throughout the state encouraging farmers, why don't you put down a well, make your land more productive and earn more money. And that happened; that happened all across the state. Then beyond that we get into difficulty with Kansas on the compact between Nebraska and Kansas. And starting in 2007, and, Senator Lathrop, you referred to this, but this was our first year in the Legislature and we had some money at that time. I introduced a bill to work on removing the vegetation from the streambeds of the Republican and the Platte Rivers. And this Legislature voted to give that a try, without any assurance it was going to work, without any guarantee that we'd have good results. But we spent that money, \$4 million over

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the next two years, and made some real progress in the Republican River streambed and portions of the Platte as well. The results were so good that the Environmental Trust and the Natural Resources Conservation Service, NRCS, saw what was happening and decided to fund it beyond the first two years. And by 2009 we didn't have money in the General Fund that we could continue what we were doing. So it's gone on. And we made a loan to farmers in the Republican Basin of \$9 million in 2008 to pay them for acres that they had set aside to not irrigate and not water. And they, in turn, they were to receive so much per acre for doing this. The Legislature made a good decision. We took from the Cash Reserve; those farmers were paid. The intent was the NRDs would repay that back to the Cash Fund through property tax. Lawsuit followed; the property tax was declared unconstitutional for a state purpose. So we went to an occupation tax. We had quite a debate on an occupation tax. And so that people don't think that anyone in the Republican Basin isn't doing their part with the occupation tax, irrigated land is paying in about \$10 an acre a year and that's \$12 million a year that's coming forth from the Republican Basin to deal with water issues. And the issues are huge. One of the things that I hope that some of this money is spent on is to build some structures, reinforce some structures where we can hold excess water, allow it to recharge groundwater, hold it in a position so when we're short we can release it and keep the water in the stream, fulfill our compliance issues with Kansas. But there's a lot of things that need to be done. And there's progress being made, but it's painful and it's not as fast as some people would like to see it happen, but it is happening. And so I think that...there were some doubters that thought when this \$9 million loan... [LB950]

SENATOR COASH: One minute. [LB950]

SENATOR CARLSON: ...went out to the Republic Basin NRDs, we'll never see it again. Well, property tax was declared unconstitutional; we had to put the occupation tax in place. We did, and they're paying it back. And so with the extreme issues that face us in this state, as far as water management is concerned, we want to do things so that we will have water for today, tomorrow, generation after generation after generation in the future, and all this...these dollars in this fund help go toward that goal so we won't run out of water. And we do that, we're going to have agriculture in a position of the ability to accumulate great wealth in future years. That's good for the entire state. So I thank you for your questions, Senator Lathrop, but we're working, we're working hard and we're going to continue to work hard. Thank you. [LB950]

SENATOR COASH: Thank you, Senator Carlson. Senator Dubas, you are recognized. [LB950]

SENATOR DUBAS: Thank you, Mr. President. This is really a very important discussion because water is so critical to our state, to our economy, to how we move forward. And this isn't...this is an issue that spans from east to west, north to south, and every point in between; it's rural, it's urban, it's ag, it's industry, it's manufacturing, it's everything.

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There isn't a thing that goes on in this state that our water resources don't impact to varying degrees, and it is so critical. We've had many studies done over the course of time looking at how do we deal with our water resources, how do we manage them, how do we capitalize on this most incredible resource that we have in this state. The most recent ones: LB962; the interim study that Senator Langemeier just referenced that the Natural Resources Committee is still in the process of working on, LR314, again looking at how do we...how do we manage this resource. LB962 put great plans in place. LR314 have put some...it's a very extensive study. If you look on the Legislature's Web site you can access that report, that we brought all of the stakeholders together. We broke them up into different components and had them really take an in-depth, comprehensive look at what our water policy has looked like over the years. And again, we've had some great ideas, these are the things we need to do. But the one thing that we haven't done in order to move those plans from plan to action is we haven't funded it. There's not been the political will in any of the legislative bodies to date to put financial resources into the plan to allow them to move into action. And we just don't have that luxury anymore to just throw these really great ideas out there and then not follow through on them, because they are so critical to the future of our state. And that will be how LR314 moves forward then is, okay, how do we fund these ideas? How do we fund this plan so that we aren't looking at the Environmental Trust Fund or looking at the General Fund as our only access to financial resources. It's just going to be so, so important as we move forward. One of the points, probably, that was most significant to me, when we had our briefing last fall on LR314, is how much money the state has actually ponied up in helping with a variety of water projects. We ponied up very little, if any. The money has come from federal government. It's come from local entities. It's come from private resources. But as far as putting actual state dollars into our water management and our water plans, we just haven't. But yet, who does the water belong to? It belongs to all of us. It belongs to the state of Nebraska. And like I said, urban, rural, ag, industry, no matter what, we all benefit. That's...we don't have oil, we don't have a lot of other things, but we do have water. And so this study, I've been very excited about having this very comprehensive look at where we've been and hopefully where we're going. But it will take political will from here on out to make that decision as to how are we going to fund this and looking at what will be that cost benefit. And by putting money into these water issues, really what will the payback be? And I think the payback will be beyond what we can really imagine right now, because, again, those water resources are so, so important to our state's economy. [LR314 LB950]

SENATOR COASH: One minute. [LB950]

SENATOR DUBAS: We know...we've been talking about these datacenters that want to come into our state, and water is something that they need a lot of. So, you know, this discussion again has been very important and it's not going to go away, and we'll be back next year and ensuing years until we figure out a way to make sure that not only do we come up with a plan, but we come up with a plan of action so that we can move

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our water policies and the needs of our state in regards to water forward. Thank you. [LB950]

SENATOR COASH: Thank you, Senator Dubas. Seeing no other members wishing to speak, Senator Larson for a motion. [LB950]

SENATOR LARSON: Mr. President, I move that LB950 be advanced to E&R for engrossing. [LB950]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB950 does advance. Next item, Mr. Clerk. [LB950]

CLERK: Mr. President, LB950A, no E&R. Senator Christensen would move to amend, AM2630. (Legislative Journal page 1157.) [LB950A]

SENATOR COASH: Senator Christensen, you are recognized to open on AM2630. [LB950A]

SENATOR CHRISTENSEN: Thank you, Mr. President and colleagues. All AM2630 does is bring the original A bill down to what will be reflected in the new LB950. What it is just matches the money down to the \$2.4 million instead of the \$7.2 million. Thank you. [LB950A LB950]

SENATOR COASH: Thank you, Senator Christensen. Members, you've heard the opening to AM2630. Senator Lathrop, you are recognized. [LB950A]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I didn't know there was going to be another amendment, so I thought I was done talking on LB950. And I think I understand it, but let me ask Senator Carlson a question. [LB950A LB950]

SENATOR COASH: Senator Carlson, will you yield? [LB950A]

SENATOR CARLSON: Yes, I will. [LB950A]

SENATOR LATHROP: Senator Carlson, I appreciate the explanation, and believe me, I don't think you could have been here during the 2007 Session and not appreciated the importance of water to agriculture. And as you know, I serve on the Ag Committee with you and I get it. I want to ask this question though. Back in 2007, this Legislature authorized the NRDs as part of the water solution to vote as an NRD to impose an occupation tax on irrigated acres. Is that right? [LB950A]

SENATOR CARLSON: Yes. [LB950A]

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SENATOR LATHROP: Did we require a vote of the people before the occupation tax could be imposed? [LB950A]

SENATOR CARLSON: No, we didn't. It was part of LB701. [LB950A]

SENATOR LATHROP: We didn't. Do you recall whether we had any concern about abuse of the occupation tax without a vote of the people? [LB950A]

SENATOR CARLSON: I think that that was probably part of the discussion in 2007. Remember that the NRD boards are elected officials. They're elected people and so they're elected to that spot and if they don't serve it well, they probably aren't going to be reelected. [LB950A]

SENATOR LATHROP: So when we allowed the occupation tax for irrigated acres to help deal with the water issue, we were comfortable as a body with the idea that the people who would...the board who would impose the tax was accountable to the taxpayers or the people that live in that NRD. [LB950A]

SENATOR CARLSON: I can only speak for the makeup of the NRD boards and those are individuals that are directly elected by the people in that district. So I would assume that we decided that was sufficient accountability. [LB950A]

SENATOR LATHROP: Okay. Thank you, Senator Carlson, I appreciate your answers to the questions. And I'm standing here scratching my head now. I appreciate that we're talking about water and an occupation tax imposed by the NRDs on folks who raise corn, primarily, and irrigate. But I want to remind you, before we get back to the occupation tax my friend, Senator Fischer, brought, that when we dealt with this issue and NRDs we were perfectly comfortable with the NRDs making the decision and being accountable to the people who have put them...or who have elected them. And I want you to remember that when we get back to occupation taxes because we need to be philosophically, reasonably pure around here, I think. Sometimes we have people that stand up and say, local control, local control. And then we have people, some of the same people, that stand up and say, it's too much of a patchwork, we need to have uniformity. Today we have an example, perhaps in the very same week, within a couple of days of one another, here is an occupation tax that was imposed, \$10 an acre. Is that what it is, \$10 an acre? They certainly didn't like it, but you know what, we left it to the NRDs. We believed when we set this process in place that the NRDs were accountable to the people that voted for them and now we're going to address soon the issue of occupation taxes done primarily by the cities. And I don't know why we would have a different standard. Thank you. [LB950A]

SENATOR COASH: Thank you, Senator Lathrop. Senator Langemeier, you are recognized. [LB950A]

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SENATOR LANGEMEIER: Mr. President, members of the body, and, Senator Lathrop, I thank you for your comments. I do want to take us back to 2007 at the moment in time when LB701 was out there. You were at a very grave-looking situation within the Republican River Basin. It looked to be out of compliance. Without the use of the occupation tax and the raising of money, we would have been out of compliance. And that would have cost the state millions upon millions of dollars. And so the passing of that occupation tax wasn't for a need...or, excuse me, it was something that had to be done and something to generate dollars or we would have had to put \$12 million a year into it. The occupation tax and some other things are out there, kind of what I would call "wants." We want a new police station; Schuyler wants a new police station using the occupation tax. Do they need one? I doubt it, but they would like to have one. And so at the time, it was a situation where if we didn't do something very, very drastic in the passing of LB701...that's why Senator Christensen had a bill that was prioritized. It had a tax increase, which is the occupation tax, and we supported it because it was very important that we come into compliance or we would have fallen short to the request that Kansas had asked for, shutting off thousands upon thousands of agricultural acres off of irrigation, which is our number one driver in Nebraska is agriculture. And without agriculture, our budget would be in grave danger. Fortunately for agriculture, it kept us to the situation we are today. So there was a little difference there. We knew it had to be placed in; they had to raise the money; they had to buy surface water to make sure that they had those funds to stay in compliance. So we appreciate the support we had then, and we appreciate your support on LB950A. As the Governor has said, but I would continue to stress, it is the issue of the decade that we're going to have to deal with for years to come. So thank you, Mr. President. [LB950A]

SENATOR COASH: Thank you, Senator Langemeier. Seeing no other members wishing to speak, Senator Christensen, you are recognized to close. Senator Christensen waives closing. The question before the body is, shall AM2630 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB950A]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Christensen's amendment. [LB950A]

SENATOR COASH: AM2630 is adopted. [LB950A]

CLERK: I have nothing further on the bill. [LB950A]

SENATOR COASH: Senator Larson for a motion. [LB950A]

SENATOR LARSON: Mr. President, I move that LB950A be advanced to E&R for engrossing. [LB950A]

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SENATOR COASH: Members, you have heard the motion. All those in favor say aye. Those opposed say nay. LB950A does advance. As was stated earlier, we will pass over LB727 and move on to the next item. Mr. Clerk, LB983. [LB950A LB983]

CLERK: LB983, Senator, I have no amendments to the bill. [LB983]

SENATOR COASH: Senator Larson for a motion. [LB983]

SENATOR LARSON: Mr. President, I move that LB983 be advanced to E&R for engrossing. [LB983]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB983 does advance. Mr. Clerk, next bill. [LB983]

CLERK: LB842, Senator. I do have Enrollment and Review amendments. (ER202, Legislative Journal page 811.) [LB842]

SENATOR COASH: Senator Larson for a motion. [LB842]

SENATOR LARSON: Mr. President, I move that the amendments to LB842 be adopted. [LB842]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The amendments are adopted. [LB842]

CLERK: I have nothing further on LB842, Senator. [LB842]

SENATOR COASH: Senator Larson for a motion. [LB842]

SENATOR LARSON: Mr. President, I move that LB842 be advanced to E&R for engrossing. [LB842]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB842 does advance. Next item, Mr. Clerk. [LB842]

CLERK: LB907, Senator, I do...I have no amendments to the bill. [LB907]

SENATOR COASH: Senator Larson for a motion. [LB907]

SENATOR LARSON: Mr. President, I move that LB907 be advanced to E&R for engrossing. [LB907]

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SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB907 does advance. Next bill, Mr. Clerk. [LB907]

CLERK: LB834, Senator, there are E&R amendments. (ER198, Legislative Journal page 808.) [LB834]

SENATOR COASH: Senator Larson for a motion. [LB834]

SENATOR LARSON: Mr. President, I move that E&R amendments to LB834 be adopted. [LB834]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The amendments are adopted. [LB834]

CLERK: I have nothing further on the bill, Senator. [LB834]

SENATOR COASH: Senator Larson for a motion. [LB834]

SENATOR LARSON: Mr. President, I move that LB834 be advanced to E&R for engrossing. [LB834]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB834 does advance. Next bill, Mr. Clerk. [LB834]

CLERK: LB933, Senator, there are Enrollment and Review amendments. (ER201, Legislative Journal page 808.) [LB933]

SENATOR COASH: Senator Larson for a motion. [LB933]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB933 be adopted. [LB933]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The amendments are adopted. [LB933]

CLERK: I have nothing further on LB933. [LB933]

SENATOR COASH: Senator Larson for a motion. [LB933]

SENATOR LARSON: Mr. President, I move that LB933 be advanced to E&R for engrossing. [LB933]

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SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB933 does advance. Next bill, Mr. Clerk. [LB933]

CLERK: LB963, Senator, I have no amendments to the bill. [LB963]

SENATOR COASH: Senator Larson for a motion. [LB963]

SENATOR LARSON: Mr. President, I move that LB963 be advanced to E&R for engrossing. [LB963]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB963 does advanced. Next bill, Mr. Clerk. [LB963]

CLERK: Mr. President, LB870, E&R amendments first of all, Senator. (ER212, Legislative Journal page 905.) [LB870]

SENATOR COASH: Senator Larson for a motion. [LB870]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB870 be adopted. [LB870]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The amendments are adopted. [LB870]

CLERK: Senator Adams would move to amend, AM2512. (Legislative Journal page 982.) [LB870]

SENATOR COASH: Senator Adams, you're recognized to open on AM2512. [LB870]

SENATOR ADAMS: Thank you, Mr. President. Members, LB870, if you recall, is our school accountability measure. And what I bring forward to you are some more language and technical changes that have come from the State Board of Education and the department. The most significant of which is that we would move the beginning of the accountability system, the expanded accountability system out one year and that would allow the department to include science data that's just beginning for the first time to come in this year in our state assessment and would give the State Board some more flexibility. On the career academy changes, again, the department has gone through, we've taken the language out asking...providing for holistic education, and instead it would be with career-based education curriculum. It eliminates the requirement that it serve 7 and 12, and instead give some flexibility again to school districts to decide exactly what grade levels they're going to provide that in. Eliminates the requirement that career academies offer curriculum focused on math and science. Again, we build in flexibility so that they can offer what they believe is necessary for careers. Takes out the

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word "youth" and puts in "students," and basically says that the State Board has the ability to promulgate rules and regs. That's the amendment, Mr. President. Thank you. [LB870]

SENATOR COASH: Thank you, Senator Adams. Members, you've heard the opening to AM2512. Are there members wishing to speak? Seeing none, Senator Adams, you're recognized to close on the amendment. Senator Adams waives closing. The question before the body is, shall AM2512 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB870]

CLERK: 31 ayes, 0 nays, Mr. President, on adoption of Senator Adams' amendment. [LB870]

SENATOR COASH: AM2512 is adopted. [LB870]

CLERK: I have nothing further on the bill. [LB870]

SENATOR COASH: Senator Larson for a motion. [LB870]

SENATOR LARSON: Mr. President, I move that LB870 be advanced to E&R for engrossing. [LB870]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB870 does advance. Next bill, Mr. Clerk. [LB870]

CLERK: Mr. President, LB824. Senator, I have E&R amendments first of all. (ER214, Legislative Journal page 955.) [LB824]

SENATOR COASH: Senator Larson for a motion. [LB824]

SENATOR LARSON: Mr. President, I move that we adopt the E&R amendments to LB824. [LB824]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The amendments are adopted. [LB824]

CLERK: Senator Harms would move to amend the bill. (AM2515, Legislative Journal page 1158.) [LB824]

SENATOR HARMS: Thank you, Mr. President and colleagues. This is a simple amendment. What it does, it just...on page 2, line 18, after "beer" insert "except for flavored malt beverages"; in line 21, after the semicolon, insert "two dollars per gallon on flavored malt beverage." Let me talk to you a little bit about why I'm introducing this. I

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have great concerns about what is happening to our teenagers in this great state. Underage drinking is completely out of control. And I want to make it more difficult for teenagers to have access to alcohol. And the one thing that I've learned, by adding "two dollars per gallon on flavored malt beverage," if it's too high then, quite frankly, it's difficult for teenagers to actually purchase a beer or purchase the alcohol or whatever it might be that they're taking on. Let me give you just a little background on this. What I found is that there is a tragic health and a social and economic problem can result from the use of alcohol by youth. Underage drinking shows to be a casual factor in a host of serious problems, including alcohol poisoning, high-risk sexual behavior, traumatic injury, drowning, burns, violent property crimes, suicide, fetal alcohol syndrome, and the demand...and the problems go on and on and on here. And my major concern is the fact that it costs the great citizens of this state in 2007 \$553 million in treatment of youth for drinking, or for youth with alcohol. That translates into \$2,494 per year for each youth in this great state. To me that is staggering. And anything we can do to slow that process down, anything we can do to make it more difficult for teenagers the better off this great state will be. Young people who begin drinking before the age of 19 are four times more likely to develop alcohol dependency; two and a half times more likely to become abusers of alcohol than those who began drinking at the age of 21 years of age. There's a relationship between alcohol and the adolescent brain development. There's been a lot of research that's been done on this particular issue and now it's quite clear that the brain undergoes a tremendous amount of development in the teen years; including what I call just kind of a major remodeling of the frontal lobes. The frontal lobes play a very vital role in what happens to a teenager for planning for the future, making good decisions, controlling urges. Because the frontal lobes are not fully developed during the adolescent years, it's easier for alcohol to disrupt the decision-making process for a teen. Experience influences the development of the frontal lobes, which means that the decision that kids make have big impacts on their brain development. And alcohol has the ability to alter the path of a brain. And I think anything we can do to discourage people, to discourage youth of dealing with this type of beverage, I think the better off we are. And that's the reason why I'm introducing, Mr. President. Thank you. [LB824]

SENATOR COASH: Thank you, Senator Harms. Members, you've heard the opening to AM2515. Members wishing to speak, Senator Karpisek, you're recognized. [LB824]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I strongly oppose Senator Harms's amendment on this. And I can't say that I disagree with him on teenage drinking, all those things that he talked about, but I don't know what that has to really do with this bill. Teenagers drinking, I don't think that flavored malt beverages are the culprit. Many young people drink beer, drink hard alcohol, drink all sorts of things. I don't think that picking out flavored malt beverages is...we're going to curtail underage drinking. As I said on General File, I'd be glad to work with Senator Harms to do something about underage drinking. I sympathize with him and I agree with him on that

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point. But I don't know that this bill does anything one way or another on that, including raising \$2 a gallon on flavored malt beverages. I have gotten many e-mails, mainly from out of state, as I'm sure you have too, of people asking us to kill this bill. I've asked most of them what the...what their state does. Well, of course, most of them didn't respond, but one from Illinois did say, in Illinois "alcopops," which are nothing...is not a term other than the antis using, are classified as a malt beverage and are under the beer tax. Underage drinking prevention advocates have tried unsuccessfully to have "alcopops" reclassified as distilled spirits so they would be taxed at a higher rate, most likely resulting in a decrease in use among teens. New research from the Illinois Youth Survey reports that young people are drinking hard liquor more than "alcopops," so energy has been shifted into raising that tax. I told her I appreciated the information and I agree that youngsters are targeting more flavored vodkas, that sort of thing. This is just one small part of the whole drinking scenario. I don't think that it is targeted toward teens. Again, there has been federal investigations saying that they are not. The Supreme Court told us that the Liquor Control Commission were the ones that overstepped their bounds, and if we want to leave the law the way it is that we should start taxing flavored malt beverages as a distilled spirit. This goes much farther than just doing that. What about all the places that are beer-only licenses? They'll have to get rid of all these flavored malt beverages. So what's the other side to that? They could get an all-inclusive license. Then they won't only have beers, they'll have all the hard stuff, they'll have everything else. I don't think that's where we want them to go. And I think that's exactly where they would go. I would if I was a business owner that had a beer-only. Legislature says, well, flavored malt beverages, Mike's Hard Lemonade isn't a beer anymore, it's a hard liquor. Well, then give me my hard liquor license and I'll sell everything. I don't think that this is the path that we want to take on that. Again, I agree with Senator Harms; I understand what he is saying about underage drinking. This also would affect small breweries that add flavorings to their beer. [LB824]

SENATOR COASH: One minute. [LB824]

SENATOR KARPISEK: Many of our small breweries add lemon or orange or different kinds of flavorings to their beer that do contain a small amount of alcohol, of distilled alcohol. We've talked about and I know Senator Nelson said on General File that he thought that these were higher alcohol content. That is absolutely not true. Most of them are the same as a beer that we think of as Budweiser or Michelob; they are the same. There are a few that are higher, but there are also beers that are much higher. I think when we're talking about underage drinking, I think they're looking for the biggest bang for their buck, and so they do go after hard liquor, those sort of things, that they can take one small shot and not get caught with it and feel a buzz. I think that's where we need to look, not at flavored malt beverages. So I would appreciate a no vote... [LB824]

SENATOR COASH: Time, Senator. [LB824]

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SENATOR KARPISEK: ...on this amendment. Thank you, Mr. President. [LB824]

SENATOR COASH: Thank you, Senator Karpisek. Those wishing to speak: Senators Harms, Christensen, and Louden. Senator Harms, you are recognized. [LB824]

SENATOR HARMS: My concern is, and I keep coming back to this, somewhere along the line this body has to take a stand. And I think when you look at "alcopops," you look at what we're talking about here with a flavored beverage, a malt beverage, it's attractive, it's easy, it's easy to drink, it's easy to go down. And when young kids as young as 8, 9, 10 years old begin to start this process, colleagues, there's no hope for them. There is no hope in their brain development...because your brain does not develop fully until you're 25 years of age. And we already know from the research that this alcohol, if it is the same amount of alcohol that is in beer, that's a problem. It does have an impact; it does alter the brain of a teenager. And I'm here to tell you, I think it's time that we address the issue; I think it's time that you take a stand; I think it's time to say, no, enough is enough. And from some of the other research that I've looked at, it's pretty clear that the higher and the more expensive it is, the less teenagers will go after it. And so I would urge you, I guess Senator Karpisek and I just have to agree to disagree on this particular subject. I love him; I care about what he does, I just disagree with this. And I would urge you to support AM2515 because I think it will make a big difference in what takes place here. Thank you, Mr. President. [LB824]

SENATOR COASH: Thank you, Senator Harms. Senator Christensen, you are recognized. [LB824]

SENATOR CHRISTENSEN: Thank you, Mr. President. Colleagues, you know, some of you keep referring to underage drinking. We all agree that's bad. You know, anytime you have a flavored beverage that is going to get you to start is a bad thing. I don't care if you're age 21 or 51, you know, you got to think about what you're doing. And anytime, a flavored beverage is going to be a quicker access to wanting to drink more and more. You start on beer, you have to learn to acquire the taste, versus you get something sweet like Hard Lemonade and it's just a natural taste to something else you have. That's why it is a gateway, because it is already a taste that's acquired, people like, and it's an easy way to move into. That's why it is a gateway. Even if you are of age, it's a gateway. I think you get...misunderstand the issue here. If you go to current law right now, it clearly says anything that has distilled spirits over a half of a percent is classified as a distilled spirit. That's why I'm so disappointed in the Liquor Commission. They have flat broke the law, they've not followed the law and they're trying to cover themselves, get this going. And that's what's bad, because then you have people saying you're trying to increase the tax. No, you're just trying to get the Liquor Commission to follow the law. The law is very clear. There's no way to interpret malt flavored beverages as beer. You can't do it in current language. But they have been. That's why they were proved wrong in court. Yet they have not changed what they're doing. That's what's frustrating to me.

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Yet, nobody over there has lost their job. And I don't know how you read the statute any other way. That's a flat, blatant disregard for the law. And I'd love to have them explain how they can do it. I understand the bill trying to get it so it's legal to be called a beer. That's what we're here for. That's policy discussion and that's what we're hearing today and that's why we're on Select File discussing this. Is that the direction we want to go? And that's why I started out my first illustration, it is a gateway, even if you're 21 or 51, it's still a gateway because it's sweet, easy tasting to a taste that you already have. So there is a difference. And my biggest hang-up is Liquor Commission hasn't followed the law. And I understand and appreciate Senator Karpisek on General File amended some language that I thought was a conflict. I thank him for that. If this passes, I feel much better about it that way. But at the same time I'm challenging you right here, what is the policy you want? You know, would you think of it differently if it was your kid that started because of these? We have them; can't change that fact. But a lot of kids are price conscious. That's the only hope you can have. Senator Harms is right on that. A lot of kids are very price conscious. They have to be. So that's the questions you got on this. [LB824]

SENATOR COASH: One minute. [LB824]

SENATOR CHRISTENSEN: That's your votes on this. Thank you, Mr. President. [LB824]

SENATOR COASH: Thank you, Senator Christensen. Senator Louden, you are recognized. [LB824]

SENATOR LOUDEN: Thank you, Mr. President and members. Well, I think Senator Christensen kind of pointed that out. This is a policy decision that we should be making here. And I agree with Senator Harms's amendment that somewhere along the line there should be a different tax bracket for what we're trying to do here. At the present time, I think it's, what, 31 cents a gallon, or something like that, is on beer, and the Supreme Court came out and ruled that that flavored malt beverages should be taxed as spirits, which is some three dollars and some cents a gallon, \$3.67 or whatever it is a gallon. In other words, the Supreme Court just gave us about \$3 million. Now we've been fussing for days here over the Governor's tax cut and \$7 million or \$8 million. The Supreme Court just gave you \$3 million if you don't pass LB824. It's right there for the taking. So why are we talking about passing this legislation? If we don't do anything, why, we've picked up \$3 million; goes into the Cash Fund, General Fund. If we pass the bill with Senator Harms's amendment on there, why, it probably puts it in somewhere around \$2 million that we would pick up in revenue. So this is what we're talking about. Are we going to tax it, or are we going to let it go as a beer and be taxed at the lower rate? Usually the reason for beer being taxed at a lower rate, because you can make a lot more of it. These breweries, you know, haul beer out by the semi loads, but yet spirits and liquor usually hauled out in the barrels or else in the bottle. So there's part of

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a reason why there's a different tax rate for some of these alcoholic beverages that we have. I tried to put an amendment on there to give the Liquor Control Commission some authority on how they could sell it and have some control over selling it, mostly because, as Senator Harms says, we have concern over the people that are purchasing and that and the alcoholism that goes with it. That didn't get anyplace, so it looks like to me that if we have any idea at all, or any think about this, or any common sense, we would not do anything and we would be about \$3 million richer. Thank you, Mr. President. [LB824]

SENATOR COASH: Thank you, Senator Louden. Senator Harms, you're recognized. [LB824]

SENATOR HARMS: Thank you, Mr. President and colleagues. Cute packaging, fun flavors make "alcopops" attractive to minors. They are fruity, fizzy, sugar sweet, but sugar content is not your biggest worry about these beverages. They also contain alcohol. "Alcopops" are fruit-flavored malt-based drinks that come in bright-colored packaging attractive to minors. Popular "alcopop" brands include Ice and Lemonade, Breezer, Sky Blue. They're strong, sweet-flavored, they conceal the alcohol taste making "alcopops" more palatable to new drinkers. Half of the teens between 17 and 18 years of age say they have tried "alcopops," according to the American Medical Association. In addition, more than a quarter of 12th graders surveyed in 2009 admitted to having tried "alcopops" in the last 30 days. Colleagues, this is a problem. Colleagues, this does lead to issues. If you just look at, carefully, the data and the statistics that are available in this great state, Nebraska ranks near the top in underage drinking and the problems that we have. And from underage drinking is the beginning to other drugs. And I'll continue to say this, that it is important for us to take a stand, it is important for us to realize that we can make a difference for a lot of these teens. And if it is \$2 a gallon, I'm telling you, there will be less who will purchase that. I urge you to support AM2515. Thank you, Mr. President. [LB824]

SENATOR COASH: Thank you, Senator Harms. Senator Lautenbaugh, you're recognized. [LB824]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Members of the body, I do rise in opposition to this amendment and I don't think it's fair to say and I don't think anyone is saying that anyone here wants to encourage teen drinking. That's not what I've heard said and I don't believe that's the case. I do kind of bristle when I hear people saying that the Liquor Control Commission behaved illegally in doing this and said nobody has been fired and why; why hasn't any action been taken. We have to understand that these agencies, whether we're talking Liquor Control or lots of others, are asked to interpret existing rules with changing circumstances. And when this regime was set up statutorily, these particular items that are causing concerns, that was not part of the deal. So they had to make a call: Do we treat it like most other states and the federal

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government treat it, or do we try to say, no, it shouldn't be that, we should tax them as we do hard liquor? And they made the call that put us in line with the vast majority of other states and the federal government, as I understand it. And I don't think they had any impure motive. They were just doing their jobs. And we've been down this road before here, regardless of what the topic is we're talking about. Sometimes it's HHS in years gone by. One time it was the Department of Revenue in an issue over a...something to help fund the sewer separation in Omaha. And I think sometimes we're too quick to say things about people that work in our various agencies. I don't want to impugn their motives and I won't stand here and say they engaged in illegality. They offered an interpretation; it was a reasonable interpretation. And the Supreme Court merely said, look, we don't see where you can do that under existing law; the Legislature needs to change the law to clarify the law. And that's what we're doing here. I applaud Senator Karpisek for bringing this. I've supported it consistently and continue to, and for that reason I cannot support this amendment. And I would just caution us all to...when we're talking about people who work for the state and other branches of government and whatnot, you know, our words have consequences sometimes. And I don't want to...well, I don't like the thought of these people hearing what we're saying about them when we're going off on a tangent every now and then or venting a little bit because I don't think it's fair in most cases. And we all have people who irritate us from time to time. It's at least possible, I know this is crazy talk, but I may have irritated people from time to time myself and I think we just have to move on. And if you disagree with the policy, that's fine. But I don't think we should impugn the motives of others outside the body or other branches of government or other people that work in these agencies. And again, I cannot support this amendment and I do support the underlying bill. [LB824]

SENATOR COASH: Thank you, Senator Lautenbaugh. Those still wishing to speak: Senators Krist, Price, Wightman, and Howard. Senator Krist, you are recognized. [LB824]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, Nebraska and colleagues. I rise in opposition to AM2515. Most everything that I would have liked to have addressed, probably less articulately than Senator Lautenbaugh did, he covered very well. But I'd like to just add very quickly, this is not an underage drinking law. Think about the number of proportionate people who actually are adults who are 21 years old who you would be raising the taxes on. Go back and talk to your constituents about that. Go back and tell them why they have to pay more in taxes as an adult so that we could potentially keep some kids away from buying the product. Secondly, if you want to put bourbon or Patron into a sweet juice, you could have the same thing. So if you want to do it, you can do it. I don't know why you would ever want to do it, but you could probably do it and then you'd have a sweet drink. And lastly I would say that, it's already been demonstrated and has been said over and over again, better than 80 percent of the underage drinkers that we have in the state of Nebraska receive or are able to

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obtain alcoholic beverages, not by buying them or not by being seduced into buying them but from relatives and friends that they know. So let's focus on what this really is. It is maintaining the federal example across the board where 49 states are...sorry, 48 plus Nebraska when we pass this, 49 states are. Thank you, colleagues. [LB824]

SENATOR COASH: Thank you, Senator Krist. (Visitors introduced.) Returning to discussion, Senator Price, you are recognized. [LB824]

SENATOR PRICE: Thank you, Mr. President, members of the body. Good afternoon. I sit here and I've listened to debate on numerous things today. We talk about policy and where we want to go or don't want to go. And now we have an amendment that says because it is sweeter we want to tax it more. That...I know that isn't the entirety of the argument. But we have said because it is sweeter we want to tax it more. Well, I have heard it said that obesity is a problem. So now we're going to say if it is sweeter and we have obesity and it's a problem, tax it more. That is not good policy, in my opinion. It is a beer. They've added something to it. They're selling it legally. Others have said already, we don't encourage minors to drink. And I said back in General File, I don't know of many 8th graders who are successfully purchasing this product. But if we're not careful, we're going to start setting the bar at such a point as if something that could possibly be a gateway. Waking up in the morning is a gateway to going to sleep at night. So, there are millions of people who drink alcohol who aren't alcoholics, who drink it responsibly and carry on with their lives. There are many who have tragedies in their lives because of it. I dare say most of us know someone in our family who has experienced tragedy due to alcohol and it is not something to be taken lightly, but nor should it be blown out of proportion. And I'm very concerned, and I will not be able to support AM2515--because it's sweeter we should tax it more. Thank you, Mr. President. [LB824]

SENATOR COASH: Thank you, Senator Price. Senator Wightman, you're recognized. [LB824]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I do rise in support of AM2515 and I think I understand all of the arguments on both sides. I admit that if you look at the alcohol content, that it does come a lot closer to beer. As a matter of fact, I think it is, perhaps, a little less than some beers. I have many...several youth groups within my district who have asked that I oppose LB824. I think there's no question, and certainly there's no question in the minds of the youth that I visited with, that it does promote younger people drinking; that there are people that don't like the taste of beer, a substantial number of them, and I think they are more likely to drink it as a result of it being sweetened and tasting like a soda pop. So with that, I do intend to support AM2515. I checked with Senator Karpisek as to what this AM2515 would provide, \$2, I believe, tax, which is somewhere in between what beer is taxed at and what spirits are taxed at. I think he said, without looking, that he thought about \$3.71 was the tax on the spirits, so it would be about halfway in between. So with that, I would

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yield any additional time to Senator Harms if he would want to address the issue further. Thank you. And he waives, I guess, so. [LB824]

SENATOR COASH: Thank you, Senator Wightman. Those still wishing to speak: Senators Howard, Nelson, and others. Senator Howard, you're recognized. [LB824]

SENATOR HOWARD: Thank you, Mr. President. I've diligently listened to this argument and I can't help but sharing some information that really comes from my past work with children and families. But before I do that, I'm going to express my concern in terms of youth and their experience with drinking. And as we're getting closer to prom season, the weather gets better, kids in high school are thinking about this in big ways. And I can't help but think of the youth who we've lost in auto-related/drinking accidents. And these so-called "alcopops" are the very drinks that appeal to this age group. The name alone makes it appealing to this demographic. We are the adults, we set the policy. We're the ones that are going to decide how available this liquor is to this age group. Now I'm going to go back to what I mentioned to you earlier that, in addition to the youth drinking, a major issue concerns the abuse of alcohol and the resulting fetal alcohol spectrum disorder that many of the children that I've worked with are going to be living with their entire lives. This is a preventable birth defect. You don't have to inflict this on the fetus if you choose not to drink. Many of the children that I've worked with haven't developed beyond the very basic thought processes. I remember one family saying to me, I've told the child to turn the water off in the bathroom...told the child to turn the water off in the bathroom. They can't get it and this is a ten-year-old. It's not a matter of remembering; it's a matter of that part of the brain that really processes common sense just really isn't there. And they reach a certain developmental stage and they just don't get it. So I ask you to keep these things in mind when you consider this as possibly a means to make this type of liquor less attractive to both the demographic of youth and to the women who may drink cheap alcohol, due to their dependency, because it is available and they can afford it. And they're not thinking about whether they're pregnant; they're not thinking about what's going to result in terms of damage to the child. They're thinking this is cheap, I'm going to drink it. So I hope you consider this amendment. I appreciate Senator Harms bringing this amendment to us. It's a lot riding on how you decide to vote on this. Thank you. [LB824]

SENATOR COASH: Thank you, Senator Howard. (Visitor introduced.) Returning to discussion; those wishing to speak: Senators Nelson, Schilz, Cornett and others. Senator Nelson, you're recognized. [LB824]

SENATOR NELSON: Thank you, Mr. President and colleagues. At this time I rise in support of AM2515 offered by Senator Harms. I have not supported LB824 and I do not intend to support that. But I do feel that, depending on how we vote on that, that Senator Harms's amendment makes it a better bill. We have the providence, as a Legislature, to set the tax rates on various kinds of beverages. And if you look at what

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we have before us here, we're taxing...we have elected to tax beer at 31 cents per gallon; wine at 95 cents per gallon, except for wine that is produced in farm wineries; and \$3.75 for spirits. I think it's a great idea to set a tax of \$2. I don't know how Senator Harms arrived at that, but it is pretty well the median here, as was said before. And if it is attractive and we can discourage younger people from buying that because it's going to cost them more, then I'm all for that. We talk about cigarettes and taxing of cigarettes, and regardless of the rate that is set or what we might set by statute in increasing that, part of the argument is that we can get it priced at a place where juveniles will find it less attractive. Why can't we apply the same rationale here to this? Even though it may be a beer or, as the Supreme Court says, more likely a spirit, unless we change this statute through LB824, we can still do what we want. And Senator Louden said if we don't do anything on LB824 we're automatically going to come into \$3 million. And I think that's great, from a budgetary standpoint, to tax it at that rate. So I just stand in support of this. I think \$2 is reasonable under the circumstances. That could be adjusted, I suppose. I don't have any idea how much money we'll bring in. That's not the important thing. If it will discourage purchase of this by juveniles or by adults that, in some manner, is going to get to the juveniles or young people, then I think we ought to adopt this. And I stand in support of it. Thank you, Mr. President. [LB824]

SENATOR COASH: Thank you, Senator Nelson. Senator Schilz, you're recognized. [LB824]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. Good afternoon. I stand in opposition to AM2515. And as I sat down and I was just making a couple of notes talking about this and that and everything else. I mean, and I've done a little research on this and even some of the stuff that was handed out, when you look at it, from what I've seen, and somebody can bring me the information if I'm mistaken, but underage drinkers seem to prefer liquor to beer and everything else. And even if they do, for a lot of years, no matter what they prefer, it is illegal for them to consume it. So as we look at this issue, we've already made a point that it is illegal. And it will remain illegal for these people to go and drink any sort of alcoholic beverage. Let's talk about beer; let's talk about malt beverages, flavored malt beverages; let's talk about wine. Well, wine is a higher percentage of alcohol content than either of the other two, and yet we still put beer and wine together. I don't think we should change that. I don't think we should change the taxes on the flavored malt beverages. Quite honestly, when you look at this and when you see it go into effect, if it would go into effect, it's essentially a tax increase for anyone that would buy these products. And the people that are buying these products, by and large, are legal, over the age of 21 folks that just want to go and enjoy a beverage. And from my other research that I've done that I've looked at, in the states where they have increased the taxes on these products, the money that everybody says is there never materializes. So it begs the question. You can't say that you're going to put...that there is a windfall out there waiting; you can't say that we haven't done our part in making sure that underage drinking remains illegal. And we just

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need to be...we just need to have common sense about this and understand that, yeah, kids are going to engage in risky behavior because, you know what, that's how you grow up in life. Is it right? No. Will people be hurt by it? Yes. But we can't be a baby-sitter for everyone, and there are other ways to make sure that these kinds of things don't affect our children as much as they are right now. Thank you very much and I would...I would hope that everyone would vote against AM2515. Thank you. [LB824]

SENATOR COASH: Thank you, Senator Schilz. Senator Cornett, you're recognized. [LB824]

SENATOR CORNETT: Thank you, Mr. President and members of the body. I rise in opposition to this bill for a few reasons. One, it is generally the Revenue Committee that sets a new tax policy or a bill would be introduced to the Revenue Committee. With this amendment we are creating a separate class of taxation. We are saying it is not wine; we are saying it is not liquor, which we already have tax policy set for. We are creating here, and I want everyone to be clear with that, a new type of tax. That is something that is generally not done on the floor. But I have no opposition with that or discussing it. What the other things that I have opposition to, and we've had many a discussion in the Revenue Committee about this: Is it the position of the Revenue Committee or the body to set behavior through tax policy? This is an increase in a tax. It is no different at the base than the bill Senator Gloor introduced for increase in cigarette tax to control behavior through taxation. We have a bill in front of our committee, that for a number of reasons we didn't let out, to try and control obesity through taxation. The question you have to ask yourself philosophically is, do we control behavior through taxation? Do we increase taxes to try and affect an outcome in behavior? When Senator Howard said that these drinks were cheaper, that is not true. A four-pack of a wine cooler, these type of beverages, is significantly more expensive than a beer or even than hard alcohol in a lot of cases. I happen to agree with Senator Schilz on some of his comments where a lot of our younger people, unfortunately, if you look at the statistics, are turning to hard alcohol, such as vodka. I have supported the underlying bill, and I will support the underlying bill with the amendment. But I want everyone to stop and think about two things: One, this is an increase in a tax, which that is up to you whether to decide; but, two, is it the right policy decision to try and control behavior through taxation? And that's what this comes down to. We're trying to say don't do this because we're going to make you spend more money on it. With that I'll yield the rest of my time to Senator Karpisek. [LB824]

SENATOR COASH: Senator Karpisek, 2 minutes. [LB824]

SENATOR KARPISEK: Thank you, Mr. President, and thank you, Senator Cornett. I was going to say many of the things that she said, obviously, not as well as she did. This bill did go through General Affairs Committee; did not go through Revenue to talk about taxes. The bill did not talk specifically about taxes. We're not trying to raise taxes

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here. We're trying to make things the way it was before. I don't know whoever wants to raise taxes, I sure haven't heard that before on this floor. I hate to say it, but we've had a lot of people talk about these like they know what they are and they don't. They are illegal for people under 21 years old. They still are, no matter what. People, they are moving toward flavored vodka. Flavored vodka is a spirit, is taxed as a spirit, and will... [LB824]

SENATOR COASH: One minute. [LB824]

SENATOR KARPISEK: ...always be taxed as a spirit. However, if we want to go down this path then maybe we should make the flavored vodkas even higher yet, which I'm sure some people would think is a great idea. This is not the whole reason behind this. This gets so much deeper on who can carry what. What kind of license do you have? Do you have an A, a beer only, so like a Pizza Hut wouldn't be able to serve these? If we go up \$2, can they or can't they, or are they going...if they can't, then are they going to get a full Class C license and have mixed drinks, hard alcohol and everything? Is that really what you want? Is that the way we're trying to go? I don't think it is. I think that we're beating on underage drinking with this bill, well-intentioned; this isn't the bill to do it. How on earth did people ever become alcoholics before these things were really on the market? [LB824]

SENATOR COASH: Time, Senator. [LB824]

SENATOR KARPISEK: Thank you, Mr. President. [LB824]

SENATOR COASH: Thank you, Senator Karpisek. Senator Bloomfield, you're recognized. [LB824]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good afternoon, colleagues. I, like every other member in the body, am opposed to underage drinking. But I would remind you, underage drinking didn't start with the sweetened beers. Clear back when I was in high school I remember some kids maybe getting a little beer that they shouldn't have had. They weren't looking around for something flavored to get hooked on or to get drunk on. The cheapest thing they could find is what they bought. And be it strictly brewed beer or be it beer with the flavors, they're still going to buy the cheap one if they don't have the money to buy the other one. I am opposed to AM2515. I supported LB824 out of committee, and I still do. And I would grant the rest of my time to Senator Karpisek if he would like to have it. [LB824]

SENATOR COASH: Senator Karpisek, 4 minutes. [LB824]

SENATOR KARPISEK: Thank you, Mr. President. And thank you, Senator Bloomfield. Getting back to where I was, how did people get to be alcoholics before these were on

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the market? There were quite a few of them back in the day. I remember growing up, seeing them all sitting around the streets. This is not the entire culprit. We can try to blame it on flavored malt beverages. Senator Howard brought up even the name just implies that, an "alcopop." "Alcopops" have been...that name has been brought up by the antis. The industry doesn't call them "alcopops"; they call them FMBs, flavored malt beverages. So, of course, if you want people to think negatively of them, you're going to bring something like that up. Again, I do agree with Senator Harms, there are problems with underage drinking. Flavored malt beverages are not the devil in disguise. They are not the crack cocaine of alcohol. They are not all these things. They are a beer that some flavoring is added to; that the flavoring has some distilled spirit in it. Just like vanilla that you buy off the shelf or any other flavoring that you buy off the shelf, there's alcohol in those. Now the law says that if it's a de minimis amount of alcohol you don't charge it as such, like vanilla or those flavorings. But I do know that in some places people buy those to drink to get drunk. They use them for the wrong reason. But that doesn't mean that we should tax them higher. Would that help people not do that? I don't think so, but it would hurt people who bake and use those sort of things. Most of these FMBs are actually brewed with less alcohol, so when you add the flavoring it comes up to about the same level right now as a beer that we think of as a regular beer, like a Budweiser or Michelob. You talk about all the light beers, they're less than that. This isn't something the kids drink just to get drunk or, oh, I'm not going to drink anything else. If they really want to get drunk they're going to find something. Senator Cornett hit it right on the head, these things are not cheap. They're well over \$1 a bottle when you go to buy them at the liquor store. You can buy a case or a 30-pack of beer, some of the cheaper beers, for probably \$15. So if that's what we're talking about... [LB824]

SENATOR COASH: One minute. [LB824]

SENATOR KARPISEK: ...then you would think that that's what they would be buying. When we talk about young people being price sensitive, I also have to kind of smile, because who buys all the \$100 pair of jeans? I bet it's not any of us in here, maybe Senator Mello. (Laughter) But other than that, I don't think that any of us have those. It's the kids that can afford those sort of things. I don't think that kids are price sensitive like we think they are. I would hope that you do not approve AM2515. Thank you, Mr. President. [LB824]

SENATOR COASH: Thank you, Senator Karpisek. Senator Gloor, you're recognized. [LB824]

SENATOR GLOOR: Thank you, Mr. President. I rise in objection to teen drinking. I rise in objection to AM2515 and I reconcile those as I did when I talked in the past, General File, because of Bud Light, Vanilla Porter, Raspberry Wheat, Lucky Bucket which is flavored in oak casks, a very successful local brewery, because although we talk about

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flavored malt beverages as if we were taking Kool-Aid and dumping alcohol in Kool-Aid, there are a number of flavored malt beverages that are flavored and flavored for adults, not for children. And we've been told a majority of these beverages are drunk by adults legally. I, over the four days that I was gone, took time to ask some constituents about this bill and most thought that I was kidding, but were quick to say, when I pointed out, no, this is a serious bill trying to address a serious problem, did the appropriate thing that you should be asking yourself and that is, and what kind of reduction are we going to see in teen drinking: 50 percent, 45, 40, 35, 30? Has anybody heard a number? And the answer to that is, no, we've not heard what kind of percentage in teen drinking we're going to see. And the reason is because, I strongly believe, teens will find something else to drink. My institution ran a substance abuse program, an inpatient substance program and an outpatient program and treated teens along with adults in a separate component of that program. A director of that program and I had a close relationship and would talk about substance abuse, both drugs as well as alcohol. And I would...I know, in conversations with him, he would say this is a moving target when you try and price teens out of it. This is an issue of peer influence. This is an issue of parental influence. This is an issue of education. And he and I joked once, as we talked about teen drinking, about the effort made by one community as a result of law enforcement going around and asking suppliers of products like Squirt to move them behind the counter so there would be an intimidation factor when youth had to get Squirt from over the counter, since Squirt was mixed with hard liquor to make a sweet drink. That didn't work either. There are ways to sweeten up alcohol. If AM2515 passes, along with LB824, expect constituents to come to you, when they find out that their favorite beverage--and again we're not talking about the traditional or the stereotypical alcohol pops, we're talking about the variety of flavored beers that are out there, malt beverages that are out there that they themselves as adults are now being priced out of the market--to ask you, what were you thinking, and what reduction in youth drinking are we talking about as a result of my not being able to get this beverage that I want to consume legally? And that's the challenge we have with this problem. And by the way, the Supreme Court didn't say what we had to do. What the Supreme Court said to us was that the Liquor Control Commission and the director overstepped what it could do when it made that determination, which is the reason we are considering this as a legislative bill. We have no guidance about how to call this beverage or whether to tax this beverage. We did have guidance from the Supreme Court saying it has to come to us. Just like some of the plumbing and electrical issues have to come to us, we have responsibilities, other... [LB824]

SENATOR COASH: One minute. [LB824]

SENATOR GLOOR: ...departments can't make those on our behalf. Thank you, Mr. President. Teen drinking, adolescent drinking is a problem. But this is an overreach and an overreaction to a serious problem, and not the best way, not the best way to address it. I will not support AM2515 because I don't think it makes any difference, period. Thank

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you. [LB824]

SENATOR COASH: Thank you, Senator Gloor. Those still wishing to speak: Senators Ashford, Louden, Dubas, and Cornett. Senator Ashford, you're recognized. [LB824]

SENATOR ASHFORD: I don't want to...thank you, Mr. President. I know we'd like to get to the other Select File amendments, so I'm going to give my time to the next in line, Senator Louden, when I get done here real briefly. But I was glad to hear Senator Cornett's comments because it's...I think it's very relevant, except for one thing, and that is the tax policy doesn't necessarily...shouldn't be used to...as a policy initiative, to affect behavior. And, of course, I respect Senator Cornett very much in her role as Chair, but I think, quite frankly, tax policy is...that's what it's all about in many respects, certainly on the federal level, is that we have such a complex and complicated tax system because we're trying to control behaviors of all kinds of different people by using the tax code. And that's why I support Senator Pahls in his efforts to try to get (laugh) the tax...good, ole Senator Pahls here, try and get that tax...sales tax reformed. I, very briefly, Senator Harms is not overreacting with this amendment, in my view. I think he has for six years fought this fight and effectively. I do agree with Senator Cornett, however. This really is a measure that needs to be resolved in a more holistic way in the Revenue Committee. And I'm not going to vote for the amendment. But I do think that it is an issue that is important. And I think Senator Gloor was right on his cigarette tax in funding the healthcare initiative. So I think tax policy can be an effective tool to deal with these various behaviors. And possibly next year we will look into it more in-depth. But with that, I would give the rest of my time to Senator Louden if he's...I think he's next in line, so... [LB824]

SENATOR COASH: Senator Louden, 3 minutes. [LB824]

SENATOR LOUDEN: Yes, thank you, Mr. President and members. As we talk about whether it's a tax policy or are we trying to tax...use taxes to do something for social...to change social habits or something like that, and I don't exactly agree with that. When you remember, up until 1984, every state had their own rule about when you could buy beer or some alcohol. I think when I was a youngster you could go down to Kansas and buy beer when you were 18. You could go to Colorado and buy beer when you were 18. All those that lived close usually did something like that. Then the time changed finally in Nebraska you could buy beer at 18. And then in 1984, I think it was, the federal government set it up so that everybody had to be 21 years old in order to do that. Usually what taxes, to my notion or my observation has been, is taxes are put on an article that people use. And there's a demand for that article, so that you can put a tax on there and receive some revenue. There's no point in putting a tax on something somebody doesn't use because you won't receive any revenue. And that's the same way with you, whether it's alcohol or telephones or gasoline or anything else. It's always considered to be some type of a use tax. On your product here we're talking about a

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new product. So consequently you probably have a new tax. This hasn't been around all the time and so there's no reason why we couldn't come up with a new tax on a new product that's out there. There will come a time when there will be other new products. We see that all the time. And there's always how many people years ago had your occupation tax on telephone. I remember when we got telephones. Hell, we didn't have any occupation tax on them. We paid our telephone bill and that was the size of it. Then pretty soon we had a tax. Then we had another tax there for... [LB824]

SENATOR COASH: One minute. [LB824]

SENATOR LOUDEN: ...911, so it's the usage that goes along there. So I'd like to see a place in there where...I'd support Senator Harms's bill or amendment on there. I think it's a new type of product and there's no reason why we shouldn't have a new tax or go ahead with it. As I said before, the Supreme Court gave you \$3 million; now how are you going to handle it? Are you going to throw it away? Are you going to do something else with it? Are you going to try and recover part of it? But it's out there. The Supreme Court ruled that it had to be taxed at a different rate, couldn't be taxed as beer. And they said there's no way the stretch of imagination that it could be taxed as a malt liquor. So we know we've got something on our favor there if you want to have a new tax. And when you're looking for revenue and that sort of thing, I have no problem with doing something like this. So... [LB824]

SENATOR COASH: Time, Senator. [LB824]

SENATOR LOUDEN: ...thank you, Mr. President. And I'll waive the rest of my time. [LB824]

SENATOR COASH: Thank you, Senator Louden. Senator Dubas, you're recognized. [LB824]

SENATOR DUBAS: Question. [LB824]

SENATOR COASH: There has been a call for the question. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB824]

CLERK: 28 ayes, 0 nays, Mr. President, to cease debate. [LB824]

SENATOR COASH: Debate does cease. Senator Harms, you're recognized to close on AM2515. [LB824]

SENATOR HARMS: Thank you, Mr. President and colleagues. I would appreciate your vote for AM2515. I think it will actually make a difference with teenagers. In closing, I'd

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like to just give you some more information, a study that was done. It said, among people under 18, 30 percent say "alcopops" are their favorite alcohol drink. The popularity of these drinks among minors may be related to advertisement and the setting of the stages of this. And I can tell you now that it's just going to continue to get worse unless we actually take a stand on underage drinking and alcohol. I would urge you to really support this. I think it will make a big difference in whether or not teenagers will pursue this as a source of their drink. So thank you, Mr. President. [LB824]

SENATOR COASH: Thank you, Senator Harms. Members, you've heard the closing to AM2515. The question before the body is, shall AM2515 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB824]

CLERK: 7 ayes, 25 nays, Mr. President, on the amendment. [LB824]

SENATOR COASH: AM2515 is not adopted. [LB824]

CLERK: I have nothing further on the bill, Mr. President. [LB824]

SENATOR COASH: Senator Larson for a motion. [LB824]

SENATOR LARSON: Mr. President, I move that LB824 be advanced to E&R for engrossing. [LB824]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB824 does advance. Next bill, Mr. Clerk. [LB824]

CLERK: LB1097, Enrollment and Review amendments pending, Senator. (ER217, Legislative Journal page 997.) [LB1097]

SENATOR COASH: Senator Larson for a motion. [LB1097]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB1097 be adopted. [LB1097]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The amendments are adopted. [LB1097]

CLERK: I have nothing further on that bill. [LB1097]

SENATOR COASH: Senator Larson for a motion. [LB1097]

SENATOR LARSON: Mr. President, I move that LB1097 be advanced to E&R for

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engrossing. [LB1097]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB1097 does advance. Next bill, Mr. Clerk. [LB1097]

CLERK: LB867, Senator, I have Enrollment and Review amendments. (ER218, Legislative Journal page 997.) [LB867]

SENATOR COASH: Senator Larson for a motion. [LB867]

SENATOR LARSON: Mr. President, I move the E&R amendments to LB867 be adopted. [LB867]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The amendments are adopted. [LB867]

CLERK: I have nothing further on LB867. [LB867]

SENATOR COASH: Senator Larson for a motion. [LB867]

SENATOR LARSON: Mr. President, I move LB867 be advanced to E&R for engrossing. [LB867]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB867 is advanced. Next bill, Mr. Clerk. [LB867]

CLERK: LB858, Senator, there are E&R amendments. (ER219, Legislative Journal page 1015.) [LB858]

SENATOR COASH: Senator Larson for a motion. [LB858]

SENATOR LARSON: Mr. President, I move the E&R amendments to LB858 be adopted. [LB858]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The amendments are adopted. [LB858]

CLERK: Senator Fulton would move to amend with AM2633. (Legislative Journal pages 1159-1160.) [LB858]

SENATOR COASH: Senator Fulton, you're recognized to open on AM2633. [LB858]

SENATOR FULTON: Thank you, Mr. President, members of the body. This

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amendment, AM2633, was introduced as a bill, LB1006. That was a bill that I introduced, really, for the blind and visually impaired. I worked with a number of members of that community to enact LB1006. Now LB1006 was voted out unanimously by the Government, Military and Veterans Affairs Committee. And the only opposition was Department of Administrative Services. Basically, what this does is there is in our existing statute, and it's patterned after federal law, this idea that when all things are equal for when it comes to state properties, vendors who are blind or visually impaired ought to be given preferential consideration, all other things being equal that is. And that has occurred for some years. It was in the last bid process for...to be a vendor here on state property, the State Office Building I think actually is where it was, where one of the bids that was submitted ended up causing the blind and visually impaired's bid to be disqualified or to not...not disqualified but to lose. And it was done, I think, outside the intent of our original bill. And so I brought LB1006 to deal with this. I have since then spoken with Department of Administrative Services. They have provided language which is better to their liking. Their opposition had to do with the fact that our bill was not clear enough in its language. But basically, this, I believe, restores the intent of the original statute. And so with Senator Avery's kindness, his indulgence, I'm offering this amendment on LB858. I'll answer any questions if you have any. I just ask for your green vote on AM2633 to LB858. Thank you, Mr. President. [LB858 LB1006]

SENATOR COASH: Thank you, Senator Fulton. Members, you've heard the opening to AM2633. Senator Avery, you're recognized. [LB858]

SENATOR AVERY: Thank you, Mr. President. Good afternoon, colleagues. As Senator Fulton indicated, the Government, Military and Veterans Affairs Committee did take up this amendment in the form of a stand-alone bill. As I recall, the bill was well received by the committee. We did not have significant opposition to it. There was some reservations...there were some reservations expressed by the Department of Administrative Services. But Senator Fulton has worked with them and they no longer have those reservations. This is an important bill for the blind and visually impaired community. They have long had a priority status in the awarding of contracts in state owned buildings for vending machines. And they just recently lost those contracts to Pepsi-Cola, I believe, and it has created a hardship for people in that community. The purpose behind the bill, originally when it was first passed, was to provide blind and visually impaired people with opportunities for productive employment, enlarging the economic opportunities for this community of people, and stimulating them to greater efforts to make themselves self-supporting. And it worked. But recently that changed when the Department of Administrative Services began to take into account the cost of renting the space for these vending machines. This amendment is more in line with the spirit of the original law. I am pleased to tell you that there was no opposition in committee to the original bill. We voted it out of committee 8 to 0. It did not have a priority designation. I think it is certainly appropriate that it be attached to LB858. I support it; I hope you will too. Thank you, Mr. President. [LB858]

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SENATOR COASH: Thank you, Senator Avery. Seeing no other members wishing to speak, Senator Fulton, you're recognized to close on AM2633. Senator Fulton waives closing. The question before the body is, shall AM2633 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB858]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Fulton's amendment. [LB858]

SENATOR COASH: AM2633 is adopted. [LB858]

CLERK: I have nothing further on the bill, Mr. President. [LB858]

SENATOR COASH: Senator Larson for a motion. [LB858]

SENATOR LARSON: Mr. President, I move that LB858 be advanced to E&R for engrossing. [LB858]

SENATOR COASH: Members, you have heard the motion to advance LB858 to E&R for engrossing. All those in favor say aye. Those opposed say nay. LB858 does advance. Next bill, Mr. Clerk. [LB858]

CLERK: LB711, I have no amendments to the bill, Senator. [LB711]

SENATOR COASH: Senator Larson for a motion. [LB711]

SENATOR LARSON: Mr. President, I move that LB711 be advanced to E&R for engrossing. [LB711]

SENATOR COASH: Members, you have heard the motion. All those in favor say aye. Those opposed say nay. LB711 does advance. Next bill, Mr. Clerk. [LB711]

CLERK: Mr. President, the next bill, LB996, no E&Rs. When the Legislature left the issue on March 8, there was pending an amendment from Senator Wightman and Senator Adams to the Wightman amendment. I have notes, Mr. President, that both those amendments are to go away. Senator Adams, is that...am I correct in assuming you want to withdraw AM2374? [LB996]

SENATOR ADAMS: That's correct. [LB996]

SENATOR COASH: So withdrawn. [LB996]

CLERK: Senator Wightman, you would like to withdraw AM2333, is that right, Senator?

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[LB996]

SENATOR WIGHTMAN: That's correct. [LB996]

SENATOR COASH: So withdrawn. [LB996]

CLERK: Mr. President, then the next amendment I have, Senator Wightman, AM2622, Senator. (Legislative Journal pages 1160-1162.) [LB996]

SENATOR COASH: Senator Wightman, you're recognized to open on AM2622. [LB996]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. First, I wish to thank Senator Adams for withdrawing his amendment so that AM2622 can be substituted and considered. AM2622 incorporates the changes proposed in Senator Adams' amendment. Before we debate AM2622, it is appropriate to review how LB996 has evolved. As advanced from the Education Committee, LB996 repealed an exception that allowed children who have reached the age of 16 to drop out of school if the child has the written consent of their guardian or parent. After debating the issues for some period of time on General File, Senator Council advanced the concept that instead of an outright repeal we should add more teeth to Nebraska's current law that allows a 16-year-old to drop out of school with their parents' consent. Senator Council provided to Senator Seiler, who was...this is his priority bill, and myself a copy of the current law in the state of Indiana. AM2333, which we discussed previously on Select File, was based upon the Indiana law. AM2622 is also based on Indiana law, but is further refined to reflect specific language and standards found in Nebraska law and addresses issues raised during the previous debate. In overview, the Indiana law requires that if a child drops out of a public school at 16 years of age, an exit interview must be conducted with the parent or guardian, a child, and the school principal all present. Under the Indiana law, all listed persons must agree to the child's withdrawal from school. After reflecting on the debate, the following changes are made. AM2622 improves the process by requiring a written request to convene the exit interview by a person who has legal or actual charge or control of the child, instead of a parent or guardian, as found in the Indiana law. A person who has legal or actual charge or control of the child is used in Nebraska law, and school administrators are familiar with what it means and it addresses the issues concerning divorce decrees or grandparents who have legal custody of a child. AM2622 clarifies that it is the person in charge of the child who has the obligation to start the process through an application and to provide evidence that the withdrawal will meet the requirements of law. The decision to withdraw a child from school is a decision that is made by the person in charge who is informed of the implications of their actions. Such a decision should not be made by the child. Parental responsibility and authority is affirmed and the parent is more accountable. AM2622 recognizes that in Nebraska the superintendent, not a principal, is the top person in authority of the school district. And AM2622 makes the appropriate

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changes. AM2622 provides that if the child was enrolled in a private, denominational or parochial school, the option is provided for the principal or his or her designee to attend the exit interview. A private or parochial school can provide valuable information about the decision to drop out of the school. Under current Nebraska law, it is the public school district that has the duty to enforce the compulsory attendance laws. And AM2622 reflects the Nebraska law. Section 79-208 requires that each public school must appoint an attendance officer, and Section 79-209 provides the authority to enforce the compulsory attendance law. All children that attend public or accredited schools should go through the same process to drop out and be advised of vocational programs that the public system makes available, and be advised of the probable reduction in their ability to earn a living by dropping out of high school. While Indiana law applies to only children in the public schools, AM2622 recognizes Nebraska's current statutory scheme that allows for schools which elect, pursuant to Section 79-1601, not to meet accreditation or approval requirements to also be exempt from this requirement. The issues concerning the regulation of exempt or home schools is a larger policy decision that is beyond the scope of LB996 that would require separate legislation debate and discussion. So few children drop out of such schools that this issue should be addressed as a separate and distinct issue. Data from the Department of Education indicates that in three of the last seven years less than ten children dropped out of exempt schools at the age of 16, and in the past seven years the highest number of children that dropped out in a year was 12. Under Indiana law, the withdrawal shall be only granted if it is due to financial hardship and the child must be employed to support his or her family or a dependent, or because of illness or an order of the court. AM2622 further defines illness by adding that "makes attendance impossible or impracticable." This is a standard that is consistent with what Nebraska school administrators have used in the past in evaluating illness that allows a child to miss school. In addition, if the child is too ill to attend school, it makes sense that the child may not be physically able to attend the exit interview. The new language reflects that the child's attendance may not be possible at the exit interview. AM2622 removes the provision that an order of the court is grounds for allowing a child to drop out of school, found in the Indiana law. So that's no longer in AM2622. We have learned that in Nebraska no court has ordered that a child withdraw from high school. Our correction system does the opposite. It attempts to provide a high school education or access to a GED to incarcerated youths. Language is not needed in Nebraska. Under Indiana law, the withdrawal shall only be effective upon the agreement of the child's parent or legal guardian, the child, and the principal or the principal's designee if the child attends public school. After listening to the debate concerns...after listening to debate, concerns were raised about if a school official could ethically agree to a child dropping out of school. Under AM2622 the superintendent or the superintendent's designee would no longer agree to the withdrawal, but would instead be required to sign the application to withdraw if, in his or her opinion, the evidence presented meets the legal requirement set forth by the Legislature. This should alleviate any potential legal and ethical requirements raised by the previous amendment. AM2622 adopts the clarifying

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language proposed by Senator Adams that the superintendent shall identify all known educational opportunities, including vocational courses of study that are available to the child in the school district. Any concern about mandating new programs are eliminated from AM2622. And finally, AM2622 adds two new sections with specific language about the ability of a child to later re-enroll in school and avoiding any withdrawal form. And a section is added to require the reporting of specific information to the Department of Education about children who drop out of school. The last change addresses the valid concern that as policymakers we should have good information about children who drop out of school and why. With that, that completes the explanation of the amendment. And I urge the adoption of AM2622 and the advancement of LB996. If there are questions, I will do my best to answer them. Thank you, Mr. President. [LB996]

SENATOR COASH: Thank you, Senator Wightman. Members, you've heard the opening to AM2622. Are there members wishing to speak? Senator Bloomfield, you're recognized. [LB996]

SENATOR BLOOMFIELD: Thank you, Mr. President. I believe AM2622 goes a long ways to make what was LB996 palatable, but it doesn't get it there for me. In my mind, that final decision needs to be left up to the family. I think we are taking power away from the family here and giving it to the state by letting that school make the final decision or the...whoever carried the interview. So I will be in opposition to AM2622. Thank you. [LB996]

SENATOR COASH: Thank you, Senator Bloomfield. Senator Karpisek, you are recognized. [LB996]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I have said before that I can't support this bill. The amendment does not get me any closer. I think I brought up before the parochial schools then have kids that fall to the public schools, as Senator Wightman did talk about the public schools actually are the ones that have to follow the law. I just don't think that that is fair. The private schools, the kids will go there and then, when they hit 16, if they want to drop out they'll have to go to the public school, and all this rigmarole takes up again. So I do appreciate having to meet with the school and the parents and all that. I think that does help. But where we get into the private schools not having to be a part of it, I cannot support. Thank you, Mr. President. [LB996]

SENATOR COASH: Thank you, Senator Karpisek. Senator Krist, you're recognized. [LB996]

SENATOR KRIST: Thank you, Mr. President. Senator Wightman, could you yield to a question? [LB996]

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SENATOR COASH: Senator Wightman, will you yield? [LB996]

SENATOR WIGHTMAN: Certainly. [LB996]

SENATOR KRIST: Just to clarify, I'm reading lines 7 through 12, actually 13 on the first page. This would mean that, to give it some...a face to this issue, this would mean that a young man at Creighton Prep, if he and his family decided that they no longer wanted to go to school, he no longer wanted to go to school, would then have to go to a public school and make that known and then the public school would come back and allow him or support him in his effort? Is that what I...is that how I read this? [LB996]

SENATOR WIGHTMAN: Well, I think that's the law now, Senator Krist, except that we, of course, are eliminating one exception under...basically, the only exception under the law in that it's still the public school that would be required to take the information, even if they wanted to drop out, because even now they're required to have the notarized statement. And they'd still have to go back to the public school, under current law, for that. [LB996]

SENATOR KRIST: And that would be through OPS presently if it...Creighton, if it were Creighton Prep? [LB996]

SENATOR WIGHTMAN: Right, that's my understanding. [LB996]

SENATOR KRIST: Okay. And what is the exception that we're calling on here? [LB996]

SENATOR WIGHTMAN: Well, the exception is that the student can drop out at...and it's supposed to require a written, notarized consent of the parent. Now we've had a lot of discussion previously on whether that was being done. And I think that it was felt that probably it wasn't being done on 10 percent of the cases and probably much lower than 10 percent. [LB996]

SENATOR KRIST: Okay, thank you, Senator. [LB996]

SENATOR COASH: Thank you, Senator Krist and Senator Wightman. Senator Council, you're recognized. [LB996]

SENATOR COUNCIL: Yes, thank you, Mr. President. Good afternoon, colleagues. I rise in support of AM2622 and I thank Senators Wightman and Seiler for working to make LB996 a better bill by providing a mechanism by which there is assurance that parents and guardians are involved in the withdrawal process and that parents and guardians receive the type of information to ensure that they are making informed decisions when they allow their child to withdraw, particularly in view of the requirement that the public school advise the parent or guardian of alternative educational opportunities that may

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be available and also advise the parent or guardian of the impact on that youngster's future of not achieving a high school diploma. With regard to the specifics of AM2622, again I support the amendment in that it does address, actually, Senator Bloomfield, a concern that you raised. In the original amendment of the bill there was a requirement that the principal had to sign off approving the withdrawal of the youngster. AM2622 removes that requirement. And all that is required is that the exit interview be conducted, that the principal attend or his or her designee, that the superintendent attend or his or her designee, and that the superintendent sign a document just confirming that the parent or guardian has provided...has been provided with all of that information, that information being that there are alternative educational opportunities available and that the parent or guardian and the child has been advised of the potential consequences of withdrawing. AM2622 no longer requires the approval of the school to withdraw, because that is inconsistent and does...I mean, I can't think of any administrator who should or would do that. But it does require a signature acknowledging that the exit interview has been conducted, that that information has been conveyed, and that the parent or guardian nevertheless elects to withdraw. With regard to the private, parochial school issue, I think that AM2622 addresses that issue as best as can possibly be addressed, because the data needs to be collected with regard to youngsters withdrawing, whether they're withdrawing from private, parochial schools or for that matter those who are being homeschooled. And AM2622 addresses all of those stakeholder concerns and places...and doesn't, in my opinion, limit or restrict parental rights or parental choice. Parents still have the ability, under LB996 with the amendment, to withdraw their children from school at age 16 provided they meet those conditions. And with that, I would urge the body's approval of AM2622 and advancement of LB996 as amended. [LB996]

SENATOR COASH: Thank you, Senator Council. Members, as the agenda states, we are now going to move to items on Select File with no amendments other than E&R. Mr. Clerk, next bill. [LB996]

CLERK: Mr. President, first bill, LB962. I have no amendments to the bill. [LB962]

SENATOR COASH: Senator Larson for a motion. [LB962]

SENATOR LARSON: Mr. President, I move that LB962 be advanced to E&R for engrossing. [LB962]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB962 does advance. Next bill, Mr. Clerk. [LB962]

CLERK: LB1079, there are Enrollment and Review amendments. (ER207, Legislative Journal page 890.) [LB1079]

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SENATOR COASH: Senator Larson for a motion. [LB1079]

SENATOR LARSON: Mr. President, I move the E&R amendments to LB1079 be adopted. [LB1079]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The amendments are adopted. [LB1079]

CLERK: I have nothing further on the bill. [LB1079]

SENATOR COASH: Senator Larson for a motion. [LB1079]

SENATOR LARSON: Mr. President, I move that LB1079 be advanced to E&R for engrossing. [LB1079]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB1079 does advance. Next bill, Mr. Clerk. [LB1079]

CLERK: LB1079A, Senator, I have no amendments to the bill. [LB1079A]

SENATOR COASH: Senator Larson for a motion. [LB1079A]

SENATOR LARSON: Mr. President, I move that LB1079A be advanced to E&R for engrossing. [LB1079A]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB1079A does advance. [LB1079A]

CLERK: LB799, Senator, there are E&R amendments. (ER215, Legislative Journal page 960.) [LB799]

SENATOR COASH: Senator Larson for a motion. [LB799]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB799 be adopted. [LB799]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The amendments are adopted. [LB799]

CLERK: I have nothing further on the bill. [LB799]

SENATOR COASH: Senator Larson for a motion. [LB799]

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SENATOR LARSON: Mr. President, I move that LB799 be advanced to E&R for engrossing. [LB799]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Opposed say nay. LB799 does advance. [LB799]

CLERK: LB845, Senator, I have no amendments to the bill. [LB845]

SENATOR COASH: Senator Larson for a motion. [LB845]

SENATOR LARSON: Mr. President, I move that LB845 be advanced to E&R for engrossing. [LB845]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB845 does advance. Mr. Clerk, items? [LB845]

CLERK: Mr. President, a new A bill. (Read LB1054A by title for the first time.) I have amendments to be printed: Senator Cornett to LB1080; and Senator McGill, LB1001; Nordquist, LB1020; Adams, LB1104; Christensen, LB1125; Adams, LB745; Burke Harr, LB817; Cornett, LB750. (Also an amendment to LB1090A by Senator Wallman.) In addition, study resolutions: LR576, Senator Wightman; LR577, Nordquist; LR578, Bloomfield; LB579, Pirsch; LR580, Haar; LR581, Lautenbaugh; LR582, McGill; LR583, Avery; LR584, Avery; LR585, Avery; LR586, Karpisek; LR587, Coash; Burke Harr, LR588, LR589; Senator Adams, LR590, LR591; Senator McCoy, LR592; all study resolutions, all will be referred to the board. That's all that I have, Mr. President. (Legislative Journal pages 1163-1177.) [LB1054A LB1080 LB1001 LB1020 LB1104 LB1125 LB745 LB817 LB750 LB1090A LR576 LR577 LR578 LR579 LR580 LR581 LR582 LR583 LR584 LR585 LR586 LR587 LR588 LR589 LR590 LR591 LR592]

SENATOR COASH: Thank you, Mr. Clerk. Next item on the agenda.

CLERK: Mr. President, LB239. It's a bill by Senator Janssen. (Read title.) The bill was introduced on January 11 of last year, at that time referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. There are Government, Military and Veterans Affairs Committee amendments that have been offered. Those amendments are pending, Mr. President. (AM727, Legislative Journal page 865, First Session, 2011.) [LB239]

SENATOR COASH: Thank you, Mr. Clerk. Senator Janssen, would you give us a brief recap of LB239. [LB239]

SENATOR JANSSEN: Thank you, Mr. President and members. First off, I'd like to thank Senator Schilz for going ahead and prioritizing this bill for me. It's been some time since

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I've introduced this bill. I don't know if there's any latitude to expand on my opening here today. I rise to introduce LB239, which has been referred to as the Nebraska Voter ID Act. 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 elections. LB239 would do so by deterring and detecting voter fraud and ensuring confidence in our voting process. I've always felt it unusual when I go to my polling place that I don't have to show my identification, and many others have talked to me about this same issue. In order to protect the sacred one vote, one person tradition in our country, I think it's 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 the report 2005 it was titled "Building Confidence in U.S. Elections." Some opponents of voter ID continue to claim that it's unconstitutional and that's simply just not the case. The United States Supreme Court recently upheld Indiana's voter "photer," excuse me, photo ID that it was constitutional. It was in Crawford v. Marion County Election Board, Supreme Court case. 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 multiple states. Nebraskans are honest and forthcoming people. When we cast our ballots at the polling place, many times we recognize each other as friends and neighbors. But we are also not naive enough to think voter fraud doesn't happen. Elections are very important and ensure voter support and of our electoral accountability. We've had races in our state that have been determined by one vote. My district has had two of those, and they were determined by a casting of lots. I would hate to think one illegal vote turned the tide in those votes. According to the National Conference of State Legislatures, 16 states request or require photo ID or additional ID. We are not currently one of those. I think most Nebraskans would agree with me that it's surprising that this is not already the fact that we do not have voter ID...photo ID. LB239 would not require voters casting ballots by mail or voters who vote early to provide government-issued ID unless it is their first time voting, similar to other voter ID bills in other states. If a voter does not present any form of identification at the polls, LB239 still protects the right to vote, allowing the voter to vote provisional ballot. The election commissioner would then verify the identity as our provisional ballot process currently requires. We in the Government Committee spent a good deal of time debating how to address a very small portion of Nebraska registered voters, of approximately 2 percent, and I think you'll see that that is addressed in the committee amendment. We decided to do what we would call the Nebraska way of sorts by finding a solution that made it as easy as possible to put ID in the hands of people that do not have a Nebraska driver's license or other ID. The LB239 committee amendment would permit the use of your voter acknowledgement of registration for identification purposes. An acknowledgement of registration is the postcard or letter that voters receive from election commissioners or county clerks that

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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 addresses, when we change party affiliation, etcetera. In order to further ensure that those without photo ID are accommodated, LB239, as amended, requires the election commissioner or county clerk to mail that 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 the polling place. The Secretary of State has this 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 registration ID cards. I think the Government Committee came up with an extremely cost-effective way to provide ID to voters if they do not already possess a Nebraska ID. Again, there are only approximately 2 percent of registered voters in Nebraska who don't have a driver's license or state ID card. The cost to provide these voters with voter registration card for ID at the polls is \$15,000 for each election statewide. That's \$161.29 divided among the counties. 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 this bill and the committee amendment address reasonable concerns, questions about asking for voter ID at the polling place. I do think we need to act this session to particularly emphasize Justice Stevens' point of our legitimate state interest in safeguarding voter confidence. We must be sensitive to the importance of ensuring that the people's right to vote will not be canceled by one fraudulent vote. A few persons have made the claim that this bill will run afoul of Article I, Section 22 of the state constitution which reads, "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." I would point out the qualified voter is the essential to this clause of our election system. And I did do some research on that and that where there were questions earlier. Elections basically...the term "qualified voter" I've confirmed with the Secretary of State Elections Division that that term has the same meaning as registered voter. Registered voter is defined in the election act as an elector who has a valid voter registration record on file with the election commissioner or county clerk in the county of his or her residence. We must pay close attention to Nebraskans' opinions on this matter. In July, a July 2010 Cal Tech/MIT study examining support for election reform in the United States reported that 79 percent of Nebraskans supported requiring ID at the voting booth. The others: Internet voting was a mere 24 percent; vote by mail, 14 percent; automatic registration, 36 percent; election day registration, 37 percent; election day holiday, in essence a day off to go vote, only 50 percent. Responses were similar nationally with 75 percent of Americans supporting requiring an ID when you vote. I think it's important that we protect the integrity and reliability of our electoral process. The Commission of Federal Election Reform has recommended asking for photo ID at the polling place. The U.S. Supreme Court has ruled that we have legitimate

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state interest in preventing voter fraud, modernizing elections, 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 the Supreme Court upheld. The first time I voted in a presidential election I voted absentee. That took place from a combat zone in the Persian Gulf. I took great pride in casting that ballot, and I would hate to think that it was cancelled out by somebody voting illegally. Again, I've seen the amendments and I know we're settled in tonight late and probably into the morning on a filibuster. The amendments, some of them I think have merit. However, I did give my word to the committee that AM727 is what we're going to go with. If I get this through a cloture vote, which I hope we do, and get this passed on to Select File, I would work with some of those meaningful amendments perhaps to make this bill better. Again, I did not introduce this bill to create a wedge issue. I understand and accept that many of you have different viewpoints on this ideologically. I look forward to constructive debate on this bill. In fact, the first time I opened on this bill I had comments from people saying, jeez, I thought that would be a lot more yelling and screaming on the floor. And I said, well, it's generally...it has happened here, but I don't think generally that's the way things happen at... [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR JANSSEN: ...the Nebraska Legislature. Thank you, Mr. President. And I look forward to continuing this debate in a constructive manner. It is our electoral process. I know we've all been engaged in it. And just experiencing the people that have supported me in this, they came to my office and asked how to support it, I said, just be nice, tell them you support it, don't call names, and I think they have done that. They've held up in a respectable manner and I thank each and every one of them for their continued support. In the end I will most likely be asking you for a cloture vote on AM727 and to vote for LB239. I look forward to your support. Thank you, Mr. President. [LB239]

SENATOR COASH: Thank you, Senator Janssen, for that brief opening. Senator Avery, would you please give us a recap of the committee amendment. [LB239]

SENATOR AVERY: Thank you, Mr. President. I'd be happy to do that. The committee amendment, AM727, adds to the government-issued photographic identification the acknowledgement of registration that will be mailed by the election commissioner or county clerk to anybody in the county that does not have a government-issued photo ID card. The 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 a photograph of the individual. The amendment also allows for a person who shows up at the polls and does not have identification, they will be allowed to vote provisionally. Also voters who vote an early ballot are not required to show identification. Similarly, in an election held by mail, voters will not be

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allowed...required, that is, to show identification. This amendment and the bill were advanced from committee on a vote of 5 to 3. Thank you, Mr. President. [LB239]

SENATOR COASH: Thank you, Senator Avery. As the Clerk has stated, there is an amendment to the committee amendments. Senator Council, would you please give us a brief recap of AM1667. (Legislative Journal page 106.) [LB239]

SENATOR COUNCIL: Thank you, Mr. President. Good evening, colleagues. I must begin my recap of AM1667 by adding my voice to the chorus of voices opposing the Douglas County Election Commissioner's unilateral decision to eliminate one half of the polling places in Douglas County. I am taking this opportunity because of the relationship between some of the statements made by the Douglas County Election Commissioner and the subject of AM1667, and the fact that my legislative duties prevented me from attending the opposition rally that was held last week. I want to acknowledge those who are sitting in the balcony who participated in that opposition rally last week and who are also here in opposition to LB239. Had I been able to attend the rally last week, I would have first challenged Mr. Phipps's repeated statements that the reduction of the number of polling places came as the result of redistricting. That statement is false. While redistricting provided the opportunity to redraw precinct lines, it did not require the reduction in the number of polling places. Rather, a bill championed by Mr. Phipps, introduced by Senator Nelson is what enabled Mr. Phipps to reduce the number of polling places. LB449 passed last year, which was presented to this body principally as a bill providing for some technical changes to our election laws, allowed the population of each precinct to be increased from 1,000 to 1,750. If Mr. Phipps had been allowed to proceed as he had desired, and prior to the committee amendment, that would have increased the size of precincts from 1,000 to 3,000 and would have resulted in far more closings. In addition to falsely attributing the cause of the reduction in polling places to redistricting, it is my understanding that Mr. Phipps based his closing decisions on voter turnout during the 2010 off-year election rather than the 2008 presidential election. Even Mr. Phipps has to concede that voter turnout is much lower in off-year elections than in presidential elections. Yet to base the number of polling places being closed during a presidential election year on voter turnout during a nonpresidential election year is nothing short of deceitful. It is also nothing short of deceitful to implement such a dramatic change without advance notice and even an opportunity for the public to be heard. Mr. Phipps says that it's too late to provide this opportunity to the public and change the plan. However, it is clear that changes can and should be made since it was announced this morning that Mr. Phipps will have to issue polling place instructions to at least 2,000 voters who received notification of the wrong polling place. Finally, Mr. Phipps asserts that the closing of polling places is supported by the number of voters who voted early and by mail in 2008. With respect to early voting, it is to be noted that Mr. Phipps declined a request that was made to him last year to open a satellite early voting location in downtown Omaha to increase access to voters residing east of 72nd Street who wanted to vote early and in person. He declined

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that request. The only place to vote early in Douglas County is on 114th Street, which is neither easily accessible by car or bus. With respect to voting by mail, which is the subject of AM1667, Mr. Phipps states that the poll closure is warranted because of the number of voters who cast their vote by mail in 2008. Yet he sees no need to provide informational material to voters regarding voting by mail. And I should note that Senator Janssen just stated that only 14 percent of Nebraskans approve of voting by mail. Yet that is the basis for these poll closings in Douglas County. And it is voting by mail that is the subject of AM1667. If all-mail-ballot elections are to be allowed and is the wave of the future for some precincts, why should some voters in Nebraska be allowed to cast their vote by mail without the necessity of providing government-issued photo ID while others are denied that right? Without passage of AM1667 to AM727, that's exactly the inequity that will be created. Under current law, only those counties with less than 10,000 inhabitants have the ability to designate certain precincts within those counties as precincts that will have their elections conducted solely by mail ballot. In fact, as recently as last...this month, earlier this month, voters in 19 precincts in five Nebraska counties will no longer have to go to the polls on election day and instead will vote by mail. In those counties, just those precincts where the application was made, they can have all-mail-ballot elections. Under AM727 to LB239, those voters won't be required to show government-issued photo identification. Yet voters in larger counties in precincts where, according to Mr. Phipps, there is so much voter by mail, they won't have the opportunity to avoid showing government-issued photo identification and vote entirely by mail ballot because the current state of the law does not allow that to occur in a county of less than 10,000 inhabitants. AM1667 removes this inequity by striking the reference to less than 10,000 inhabitants and opening up to all-mail-ballot election any precincts in counties in the state of Nebraska where the election commissioner submits the appropriate application to the Secretary of State to allow all-mail-ballot elections. Now think about it. Under AM727, if you vote by mail, you're not required to show a government-issued photo identification. Yet the asserted purpose of LB239 is to prevent voter fraud and voter impersonation. What greater opportunity is there for voter fraud and voter impersonation than a mail ballot? Under the current procedure, all you have to do is be a registered voter or assert that you are a person whose name appears on the voter registration polls, send in a request for a mail ballot, it will be returned to you, you complete it and mail it back in. How do you prevent or eliminate supposed voter fraud under those circumstances? But if this is the wave of the future, all-mail voting, then every voter in the state of Nebraska should have that opportunity. So AM1667 is again required to ensure equity in voter opportunity by allowing counties of any size to designate all-mail voting in certain precincts. And I would urge the body's favorable consideration of AM1667. [LB239 LB449]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thank you, Senator Council. Members, you have heard the opening to the committee amendment to LB239. We now move to floor debate.

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Senators in the queue: Mello, Price, Schilz, Smith, Bloomfield, Burke Harr. Senator Mello, you are recognized. [LB239]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. Good evening, colleagues. No doubt and from Senator Janssen's opening we continue a conversation ultimately about a problem that doesn't exist in Nebraska. And if it's the will of the body to go eight hours discussing a problem that does not exist in Nebraska, it will be the will of this body then. There are some amendments...I disagree with the assertion that there are some amendments that don't have an impact on this bill or amendments have been put in good faith. I stand in support of AM1667 because, as Senator Council just discussed, without the adoption of this amendment we create a separate but unequal democracy in Nebraska. We create a democracy based on what county you live in is dependent upon whether or not you have to show photo identification to vote. Now I'm going to read for you on the transcripts of the committee on LB239 where it was said that, "I'm not here to assert that there is any rampant voter fraud in Nebraska. In fact, I don't believe there's much, if any, voter fraud. Well, I do think there is some, as indicated by recent elections, but I don't think it's a rampant problem. Nebraskans are honest and forthcoming people." Colleagues, that came from the introducer of this bill. Introducing the bill, it was stated that there is not a problem in Nebraska. And ultimately I may ask Senator Janssen what elections is he alluding to where there was...that there was documented voter fraud. Because as far as I know from Douglas County, hearing the Douglas County Election Commissioner recently, there has been no voter fraud in Douglas County recently, even with issues that were raised in a recent mayoral recall election. That's neither here nor there. A couple of other issues that have been raised that does need to be discussed extensively: Senator Janssen raised that this issue is constitutional. The state of Indiana used this as his model legislation to move forward. It was found constitutional by the U.S. Supreme Court. Yet nowhere in the conversation when we first started the debate on LB239 or any of the committee amendments or AM1667 has Senator Janssen, or any of the supporters of this piece of legislation, described the \$7 million to \$10 million the state of Indiana has had to spend to educate and outreach to voters in Indiana. That has not been discussed once and that, colleagues; that, colleagues, was the reason it was found to be constitutional because they had to provide millions and millions of dollars to educate the voters and the citizens of Indiana of how they go about this new process, yet simply acknowledging in AM727 that this solves the problem by having an election commissioner issued voter registration card does nothing of the sort. So I expect Senator Janssen to provide a little bit more feedback to this body and the public at large of the actual costs of this legislation. Because in a state like Indiana it may be \$7 million to \$10 million, but in the state of Nebraska there's no reason it won't cost us \$2 million to educate and outreach to every Nebraska voter the impacts of LB239. When we discuss the original aspects of AM1667, there are a couple of points that need to be brought up. One, in regards to the issue of student voting, one, you passed out a letter from the Association of Students from the University of Nebraska where it was noted

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that the Supreme Court in Symm v. United States have found that students have the right to register at their campus address for purposes of voting. The reason why: because most students keep their actual photo ID address at their parents' address. Thus, they don't change their photo ID address every time they move on campus to the tune of having to spend \$20 to \$25 when they move across the hall or down the street to a different residence hall. The Supreme Court found to uphold that--that they were able to register on campus, still using their parents' address for their government-issued driver's license. [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR MELLO: Another issue that was raised earlier, which I find it ironic because it hits at the, quote unquote, common-sense aspect of this issue, that as Nebraskans we need to show photo ID when we cash a check. We have to show photo ID when we get aboard a plane. We have to show photo ID when we buy a prescription drug. Colleagues, the reason we do that is because there's been proven public policy disagreements or issues that have been raised in regards to criminal acts that have come from that. It's not a constitutional right to cash a check. It's not a constitutional right to board an airplane. It's not a constitutional right to get a prescription drug, colleagues. It is a constitutional right under the Nebraska Constitution to vote and to have your vote be unfringed upon. That's the debate we will continue to have, not only AM1667 but a litany of other amendments that improve this piece of legislation, that I'll urge the body to adopt all 15 of them. Thank you, Mr. President. [LB239]

SENATOR GLOOR: Thank you, Senator Mello. The Chair recognizes Senator Price. [LB239]

SENATOR PRICE: Thank you, Mr. President, members of the body. I rise in support of LB239 and the Government Committee AM727 amendment. We've already heard the Supreme Court has already found this to be legal and constitutional, the concept: show an ID to show that it's a one person, one vote situation. It's constitutional. Now the question and the debate will be over the methodology and the manner in which we go about doing this. The Supreme Court, in the 6 to 3 ruling for the Indiana case, ruled that basically it was worth the extra effort and cost, that the sanctity of the vote was important and that the burden on the state was okay. Now I'm paraphrasing. I'm sure that later on we'll have the legal experts get up and parse the words. But in the end, 6 to 3 they found the Indiana case to be constitutional. We heard earlier about showing ID for buying or getting your prescription drugs. Let's talk about a constitutional right you have. You have the constitutional right to own and bear arms, and you will show an ID to buy a weapon. So again, I rise in support of this. If I had my druthers and we could do it just like we're going to do on the child welfare system where we're going to redo the system and get a better technology in place, I would have better technology to where we could have a piece of ID that would have two pieces of biometric data on it and we'd

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have the ability to have all your ballots known to a system and you could vote and register in the checkout line. As long as we could have one person and one vote on the proper ballot, that would be fine. We're not going to get there. I am mindful that after the liberation of Iraq of the pictures of people who were very joyous in their opportunity to vote, running around with indelible ink on their thumbs to say they voted. It seemed to work. Again, this is constitutional and we are going to haggle and hash out the process by which we are going to go about this. And with that, Mr. President, I'll yield the balance of my time to Senator Lautenbaugh. [LB239]

SENATOR GLOOR: Two minutes thirteen seconds, Senator Lautenbaugh. [LB239]

SENATOR LAUTENBAUGH: Thank you, Mr. President, and thank you, Senator Price. I do rise in support of this bill and the committee amendment thereto and in opposition to this amendment. And if I have to spend a lot of the time correcting things that are said that might be slightly off topic to this, I will do that. But as all of you know, I used to be an election commissioner. So here's some things you should know. The reason Mr. Phipps chose to use the immediately preceding Governor's election is because it says in law that you use the last statewide election. He could have chosen a different one if he wanted to break the law. The reason Mr. Phipps did the consolidation was because that was part of the bill, and I think he suggested it, specifically from the urban area, and in the final vote we voted 47-0-2, with the only 2 being absent were myself and Senator Carlson. And I would have voted for it had I been here on Final Reading. It was discussed in committee. It was supported by the election commissioner from Sarpy County and the election commissioner from Douglas County. So I don't think we can profess any surprise that after these individuals came here and advocated for this... [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR LAUTENBAUGH: Thank you, Mr. President...that the consolidation is under way. It should also be noted that once the precincts are drawn...and they are drawn after redistricting. They have to be drawn after we drew the legislative lines, so it's true you do have to redraw the precincts after we redraw the legislative districts. After that happened, we ended up with the precincts we have; he's announced them; he cannot change them by law between the primary and the general unless the precinct is destroyed in some way, the structure where the polling would take place is destroyed. He does not have that discretion. So I'll be standing here supporting this bill and defending Mr. Phipps apparently all evening long. But what is being said about him and why he did what he did is not correct. Saying other things he should have done that are contrary to the law is not correct. [LB239]

SENATOR GLOOR: Time, Senator. [LB239]

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

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Senator Schilz, you are recognized. [LB239]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. I've seen quite a few e-mails come in from my district, almost all are in support of LB239. From other areas I've seen some come in that are in opposition. As I read the opposition e-mails, it strikes me that mostly what I see on the opposition seems to be about the green copy of the bill. The green copy is not what we're debating at this point. We're debating the amendment that changes that greatly. It substantially changes with the committee amendment. And the committee amendment is there to take care of a lot of the issues that a lot of the opponents were talking about. Is it a poll tax? Well, no, because we've decided that if you...to make a voter ID card available to those that don't have a picture ID to make sure that that works. Is that perfect? I don't know. But it does, but it does look to solve those issues that people have come to us and said there's a problem here. I would hope that everyone that has looked at the green copy has also taken the opportunity to look at the amendment that is there and what that amendment actually does to the bill going forward because I think it's essential that if we're going to have a debate on a bill such as this that we need to know exactly what we're talking about. And I think that a lot of the opposition and a lot of the issues that were a problem in the green copy have been taken care of by the amendment. One of the issues that we heard last week or the last time this bill was up was about the cost and how this would cost counties money going forward at every election. That's why I was extremely surprised, and maybe I didn't hear it quite right and if I didn't somebody can correct me, but I was extremely surprised when I was listening to a local radio station where the Douglas County election official on there told us, told the radio interview that for every major election Douglas County sends out new voter registration cards to all the people within the district. I wanted to hit rewind because the whole thing that I've heard the whole time that we've been here is that this is going to cost Douglas County and all the other counties in the state a lot of money. Well, if we're mailing those out every two years or every four years or whatever it is...oh, and remember they couldn't tell us how much either. But if that's the case and they're mailing them out, either they're not telling us the truth about how much it costs, because they should know because they're mailing them out every time, or I heard it wrong. But I believe that this is the way it probably is. And like we said with redistricting, people may not know where their polling place is. People may go to the wrong polling place. And quite honestly, if you go to the wrong polling place and you cast your ballot, the effect of that is the disenfranchisement of every other person that voted there as a qualified voter. That is a definition of disenfranchisement. When you dilute the vote of a qualified voter, whether it's intentional or not, that's disenfranchisement. [LB239]

SENATOR GLOOR: One minute. [LB239]

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SENATOR SCHILZ: This bill looks to take upon an issue that may or may not be a problem that we're having right now. And as so many people have told me when I've sat there and asked them, and they said, well, how do we know there's no voter fraud going on now? I said, well, I can't tell you because we don't actually check. We aren't putting that forward. So if somebody goes to vote and they use somebody else's name or they maybe...maybe it's the same name, just in a different precinct, all of a sudden they could be disenfranchising everyone else that voted there in their proper voting place. We need to think about that. Thank you very much. [LB239]

SENATOR GLOOR: Thank you, Senator Schilz. Senator Smith, you are recognized. [LB239]

SENATOR SMITH: Thank you, Mr. President, and good afternoon, colleagues. I rise in support of LB239 and the committee amendment. And I guess before I begin I'd like to thank Senator Janssen for bringing this bill, and thank him for his service in the military, and particularly for sharing his experience with voting in a combat zone. I thought that was very meaningful this evening to hear that. I'm speaking on this issue because I've been contacted by a number of constituents in my district, a sizable number, and they've taken their time to contact me on this issue and to express their concerns about LB239. These constituents, roughly 60 percent of those that have contacted me, have asked me to support LB239. These folks that have contacted me are reasonable, fair-minded citizens that have shared their concerns with what they perceive to be a risk with their right to have fair elections. These citizens are concerned with protecting every vote and making certain that every vote cast is a valid vote. It is untrue and unfair to suggest that supporters of this bill are somehow and someday attempting to disenfranchise voters. To the contrary, they are simply asking that we work to make voting easy while also working to make cheating difficult. I believe this bill, with the committee's amendment, is fair and reasonable. In previous debate and discussion on this bill, I shared an experience that a constituent shared with me and I think it's worth sharing again. And the constituent writes: 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 in my precinct. To my surprise, there were many people ahead of me. Of the people who were in line, I had never met or seen most of them. As I moved forward and toward the front of the line, I could hear the election officials ask each person's name, as required by law. Here's the approximate conversation with the man directly in front of me. Election official asked, your name and address. The man, John Doe, I live at 123 Elm Street, not the actual name or address that was given, of course. The election official then said, I don't have a John Doe at that address. The man said, oh, maybe it's under another name. The election official replied, I have six adults registered at that address, four with the last name of Doe. Are you David Doe? The man, oh, yeah, I'm David Doe; I go by John. The election official said, I have a David Junior and a David Senior registered at that address. The man looked perplexed and asked to see the

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registered voters' list. After scanning the entries for a few moments, he said, I guess I'm the Junior. The election official then replied, okay, you need to sign the voting registry here and here's your ballot. This constituent's concern, colleagues, is what if. What if this was fraud and what if the real voter was known to be an infrequent voter somehow so that this fraud would have gone unnoticed? Before I end, I'd like to also share a contact from a brave constituent that served our country like Senator Janssen had, this constituent on many fronts, on many battle fronts, and this is what he writes to me: In your deliberations, Senators, concerning LB239, please take time to consider what most, if not all, veterans would wish that you would do. [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR SMITH: Thank you, Mr. President. Thank you...that you strengthen the safeguards for the fundamental right of each citizen to vote within our democratic republic. As a combat veteran disabled from combat service, I ask that each of you do all you can within your duty to protect the voting process from ineligible people voting or ineligible people voting more than once. Veterans give much to ensure that the right to vote remains a fundamental part of the democratic process. Please now do your part to ensure that we strengthen the integrity of the voting process. God bless you and keep you safe and well. Thank you, colleagues. Thank you, Mr. President. [LB239]

SENATOR GLOOR: Thank you, Senator Smith. Senators in the queue: Bloomfield, Burke Harr, Janssen, Avery, Conrad, Dubas, and others. Senator Bloomfield, you are recognized. [LB239]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good evening, colleagues. I rise in support of AM727 and the underlying LB239. I believe I relayed to the body last week my experience at the grocery store when I went to pick up a six-pack of Budweiser. I had to give them an ID that they could scan. I'm 66 years old. I don't believe I looked like I was an underage drinker. But I had to give ID to buy a six-pack of Budweiser. I don't believe it's asking too much to show an ID when you go to vote. I'm going to go back a little bit to where Senator Christensen was. I served in Vietnam to protect this right. My son recently returned from Afghanistan to protect this right. And I don't think it's going too far to ask whoever is going to the voting place to show a piece of paper or a piece of plastic that identifies them as someone who has the right to vote. The opponents tell us there is no fraud. Well, how do we know? If no one took attendance at school, everyone would have perfect attendance. I just believe we need to move forward with this. And with that, I would yield the remainder of my time to Senator Christensen if he'd like to have it. [LB239]

SENATOR GLOOR: Senator Christensen, 3 minutes 33 seconds. Senator Christensen, 3 minutes 33 seconds. You were yielded 3 minutes, Senator Christensen. [LB239]

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SENATOR CHRISTENSEN: Thank you. You know, it's interesting how...I guess I can't figure out why this bill is an issue. It's a constitutional right that needs to be protected. It's an issue that needs to make sure it's done fairly, cleanly, and I don't know how we can go against it. It is something, regardless which party you're in, you should want a clean, fair election. And so I really haven't understood this whole debate. What is the real issue that we're concerned about here? If you're going to err on a certain side, you're going to err on the side of safety. Make sure everyone that's voting is legitimate. It's a constitutional right that everybody should exercise, but very few do. Yet the majority want to criticize those that serve--and that's part of the job, you get criticized. But I love when somebody criticizes me. I ask them: Did you vote? There's a lot of honest people out there. They'll say no. So I said, so why do you complain? Same thing here. Why would we complain to show an ID? I don't know if there's a lot of voter fraud. I wouldn't expect it either. But why wouldn't you want to be safe? Why wouldn't you want to just be safe, make sure we've got good, clean elections, and go forward? It...I don't know how it could be a political deal. I don't understand this whole thing. As people say I don't understand good reasoning for needing the bill, I can't find a good reason for not wanting the bill. [LB239]

SENATOR GLOOR: One minute, Senator. [LB239]

SENATOR CHRISTENSEN: Thank you. It's to me we've just got to make sure the system is safe. You want Americans voting for Americans. That's all it comes down to. Those that have a constitutional right to vote, we want to make sure they have the opportunity, but we want to make sure it's done fairly. And I do not understand what it is. You know, unfortunately, because people hate America is the reason that we have to use IDs to check in or a credit card to check in at airports. I remember when it was a simple process. I remember you didn't have to get there very early. But because of attacks, we have to. We've got to protect the right to vote. Thank you. [LB239]

SENATOR GLOOR: Thank you, Senator Christensen and Senator Bloomfield. Senator Burke Harr, you are recognized. [LB239]

SENATOR HARR: Thank you, Mr. President. Well, Senator Christensen said something very right. He says this is a constitutional right that needs to be protected. That's exactly what we're debating here today. And the constitutional right is that right to vote. How do we want to protect somebody who has the constitutional right, who has done absolutely nothing wrong other than not have a valid ID, to vote? How can we not give that person their constitutional right? I find that abhorrent. Now a little side note: I got to vote overseas one time myself. I was living in London at the time and I got to vote for Senator Council for mayor of Omaha, so that was very exciting for me. The right to vote is very, very important. People say there may or may not be a problem; we don't know; we've got to find out. Well, guess what? Get off your duff. You want to find out if there's a problem, I'll tell you how you find out. Go down, look at the voter registration. Look to

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see if the IDs...if the signatures match. When you sign up, you have to sign your signature. When you go to vote, you sign your signature. Spend some time. Now some people might say, well, I can't tell if that signature is the same or not. It's a judgment call. Maybe it was fraud here; maybe it wasn't fraud here. Well, guess what? When you have to present that picture ID, you have to sit there and decide is that John Doe or is that not John Doe. I talked about this last time. Who is the bouncer in the bar? Who decides whether there's a fake ID or a real ID? Who decides if it is a real ID, if the person on that ID is the person present? Who makes that judgment call? I haven't heard one thing to answer that. I haven't heard one question...or one response that answers that question. There's been some time to think about it. I haven't heard a response. Some people talk about this dilutes the ability of those qualified to vote, to vote...of their vote, if voter fraud does occur. And that's absolutely right--if voter fraud does occur. I haven't heard of any voter fraud. But you know what else it does? It dilutes the power of someone who is eligible to vote, to vote. I have a next-door neighbor that I am very proud to say I live next door to. This guy has a Silver Star, two Bronze Stars, fought in World War II, has a Purple Heart. He served on the staff of General MacArthur, I believe it was MacArthur. Yes, it was. And when he said, "I shall return," and stormed the beachhead in the Philippines, it was my neighbor who helped clear that sand and that beach. He is now 92 years old. He has served his country valiantly. And you're telling me he can't vote if he doesn't have a valid ID? He's 92 years old. How many 92-year-olds do you know should be driving? And yet here we go. We're going to take away his right to vote. However, if he lives in a nursing home, well, then you're okay. Huge loopholes. This thing seems like a great idea, but there are loopholes where the exceptions have swallowed the whole rule. This addresses 1 way of possible fraud, but there are 20 that it doesn't even begin to address. Because why? Because if we addressed every form or possibility of voter fraud,... [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR HARR: Thank you...it would be almost impossible to vote. Now people affected are, right now, we all agree, mainly people who move a lot and the elderly, so your elderly, your students, and your indigent. Which reminds me, I like to listen to Glenn Beck a lot and other talk shows, and they talk about the Nazis a lot. They're fun to talk about apparently. And so there's a poem by, and I'm going to slaughter the name, Niemoller. He said, talking about the Nazis, "First they came for the Socialists. I did not speak because I was not a Socialist. Then they came for the Trade Unionists. I did not speak out because I was not a Trade Unionist. Then they came for the Jews, and I did not speak out because I was not a Jew. Then they came for me and there was no one left to speak for me." Right now, we're denying one person the ability to vote that is constitutionally able to vote. [LB239]

SENATOR GLOOR: Time, Senator. [LB239]

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SENATOR HARR: Thank you. [LB239]

SENATOR GLOOR: Thank you, Senator Harr. Senator Janssen, you are recognized. [LB239]

SENATOR JANSSEN: Thank you, Mr. President and members. I think I followed Senator Harr last time on the opening round of this, and he didn't scare me nearly as much this time because you didn't tell me you had another twin and there were triplets of you, so thank you for that. I would just touch on some points, and I appreciate the discussion thus far and discussing Senator Council's amendment. I have no great...I'm not supporting it on this bill. I believe Senator Harms had a bill to this effect, and I don't oppose it in its entirety. It's just something that I would choose not to attach to LB239 as I move forward with it. The cost to implement this is \$15,000 per election. I think I've broken that down into about \$160-some a county. And as Senator Schilz pointed out, it turns out the county that probably would bear the most expense from that already does it, so you could probably pull that out and limit that quite a bit. I didn't do the math off the top of my head, but I would imagine it would reduce it quite significantly. It was mentioned that, when I opened on this bill on a nice day in the Government, Military and Veterans Affairs Committee, of which I am a member and have been my entire term down here, that I didn't think voter fraud was rampant. But that doesn't mean that if it's not rampant we shouldn't at least try to stop any that might happen. I'm not willing to concede that it does not happen, as some of you are, and that's...we have a difference of opinion. I do know that in a recent poll, the most recent poll we have, nearly 80 percent of registered voters that voted every one of us into this body support showing an ID when they go and vote. Eighty percent of the people that voted you and me into this body--79 actually--nearly 80 percent said it's okay. They think you should show an ID when you go and vote. The mail-in and early ballots, quite simply none of the other states did it. I didn't put it in my bill for that reason. That doesn't mean we shouldn't do it. The other states didn't do it. I didn't do it in this bill. I'm looking for...and if there was a reasonable amendment on that, I'd be happy to look at it after we get past this initial phase on General File and into Select File. I've talked to many of you that had meaningful amendments, and I'm not saying that a lot of the amendments out there aren't meaningful and have a place. It would just be my preference they're not in LB239 because we've already amended AM727. That's not saying that there can't be something on Select File. I think I've had meaningful discussions with Senator Schumacher and even some with Senator Mello that I don't think are horrible ideas. It's just at this time not the best course of action to move forward for me on LB239. I, too, have received several e-mail contacts, and the e-mail contacts, they're hard to follow sometimes. A lot of times we know they come as mass e-mails: Dear Senator X, this is what we're looking for. And it's...you know, they forget to put their name on it. I will say that I don't know how many I got, like Senator Smith had a percentage this or that. I received probably thousands, obviously, as the introducer of this bill. Prior to introducing this bill though, what I just heard was the people on the street and that's what I went off

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of, people I talked to within my district or outside my district or friends, family, a lot of us derive our bills from that, and our constituents that said, why don't we show our voter ID? I was surprised when I brought this bill forward it had a little fanfare. Well, I shouldn't say fanfare; it just didn't raise many people's ire, I guess, at the time. It was last year. We had other issues. It sat held over for a year and it drew quite a bit of ire. And then more people kept coming to me in person saying, yeah, why don't...I thought we already had to do this. It falls under what I've said many times on this floor: gee, I thought we already had to do that type of bill. But we didn't, so I put a bill in, not for political reasons, I can guarantee you that. [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR JANSSEN: Thank you, Mr. President. It was put in for the reasons I stated in my opening. I agree with Senator Christensen, we should be proactive and not reactive when it comes to voter fraud. Senator Ashford ran a bill--it's been three years since the first three years I've been down here, maybe it was just the last two--dealing with truancy. And I won't ask him and I don't even know if he's still here, but I think he's probably in the lounge right now, but I just throw this out there. How would we know that there's a truancy problem if we didn't take attendance to begin with? Because that's what we are not doing at the polls right now. Thank you, Mr. President, and thank you, colleagues, for the civil and fair debate. [LB239]

SENATOR GLOOR: Thank you, Senator Janssen. The Chair recognizes Senator Avery. [LB239]

SENATOR AVERY: Thank you, Mr. President. As Chair of the Government, Military and Veterans Affairs Committee, I have an obligation to the committee, the majority who voted for this bill, and an obligation to the introducer, Senator Janssen, to fairly present the committee amendment. I have done that. In fact, I did it maybe so well we started getting calls in my office: Where does Senator Avery stand on LB239? And I did speak on this when we discussed this previously, but I did not speak often, but I want to tell you where I stand on this bill. I think the amendment, the committee amendment, AM727--I can't read that from here anymore--does improve the bill. But does it improve it enough? I think not and I did not vote for the amendment in committee. The reason why I think that this amendment is not sufficient and the bill itself is flawed is that the whole concept is built on a false premise, and that premise is that Nebraskans need to require every voter to show identification before they can vote, because they can't be trusted. They can't be trusted to do what is right and they can't be trusted to behave within the laws governing our elections. Really now? Come on. Do you really believe that? Do you really believe that Nebraskans will cheat and claim to be someone they're not and vote fraudulently without this bill? I don't believe that. Nebraskans are not that kind of people. The premise should be and probably is offensive to the citizens of this state. We are...by this bill and the comments in support of it, we're saying to the voters

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of this state: We don't trust you; you are not trustworthy; you lie; you cheat; you're not honest. I believe in the basic fundamental honesty of our citizens. I believe that our citizens are hardworking people who play by the rules. They don't cheat in elections. They don't hold our election system in contempt. They don't disrespect our election rules, and we don't need a law that requires them to prove who they...that they are who they claim they are every time they show up to vote. If they're properly registered, they need nothing more in order to vote than to sign their name at the polling place. Voting is a fundamental right. It is not, as some would say, a right that has to be verified. You don't need to require...to pass a proof test every time you try to exercise this right. And we've heard from previous speakers that, well, you have to show your ID card for other things. Those other things are privileges. This is a fundamental right, the right to vote, and you should not have to pass a proof test every time you want to vote. So this bill is actually, in my opinion, not only fundamentally flawed; it is unnecessary. It targets one type of voter fraud--voter impersonation. Let me walk you through the process of voter impersonation. First, you have to know a voter on the current registration rolls. Second, you must know that voter is not going to vote. Third, you must gamble that the poll worker doesn't know that voter and can say, I know James Jones and you're not him. [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR AVERY: That's a big risk. How absurdly farfetched is that? The question that really lies behind this bill is what? What is the purpose? Could it be voter suppression? Because that's probably what would happen, because this will put a disproportionate burden on certain groups of voters, elderly, students, poor, rural, and minority voters--those who are likely to have the most difficulty meeting a photo ID requirement. The Voter Rights Act of 1965 eliminated most of the barriers to voting that did disenfranchise thousands of voters in this country. So why would we want to unnecessarily burden some voters on the distant possibility that someone might vote who is not eligible? This bill is a step back in time and we don't need it. It's a step back to a period when barriers to voting were created for reasons that involve deliberately suppressing... [LB239]

SENATOR GLOOR: Time, Senator. [LB239]

SENATOR AVERY: ...certain voters, and I'm afraid this does that too. Thank you, Mr. President. [LB239]

SENATOR GLOOR: Thank you, Senator Avery. There is a certain level of decorum held in this Chamber, and I would ask those in the balcony to maintain that during this debate, otherwise we will have to clear the balcony. Thank you. Senator Conrad, you are recognized. [LB239]

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SENATOR CONRAD: Thank you, Mr. President. I rise in opposition to LB239, and it's because I have a variety of concerns regarding the legislation. And, yes, Senator Schilz, I've read the green copy and I've read the committee amendment. And, believe me, the committee amendment does very little to dissuade me from these very valid concerns. And I think if you look at the committee statement as well, and you see who the proponents and the opponents of this legislation were--Common Cause Nebraska; Nebraskans for Civic Reform; ADAPT Nebraska, which is a group that helps to represent those with disabilities; ACLU Nebraska; BOLD Nebraska; and the Nebraska Association of County Officials--and if you would check with them, I don't think any of those folks have changed their position on the bill because of the committee amendment. And if that is an incorrect statement, I look forward to having that clarified. So to say that the committee amendment is some sort of grand compromise that took into account the various concerns that were raised in regard to the underlying legislation is just not accurate. And LB239, as amended or on its face, erects unnecessary barriers to our citizens' rights to exercise their fundamental right. And it poses many practical problems regarding implementation and significant costs to local governments. And whenever we talk about costs to local governments, colleagues, we have to be very clear. With the elimination of aid to cities and counties, where do counties have to go to make up the difference? Well, they go to the property tax. What's the number one hated tax by Nebraskans? The property tax. So to go out and to throw caution to the wind and say that despite the fact that we do have a proud history of clean elections in Nebraska and we have no significant evidence related to voter fraud, let's go ahead and institute a dramatic departure from our current laws and let's institute a solution in search of a problem that costs thousands and thousands of dollars. I heard Senator Janssen or somebody say it costs \$15,000 to implement. That's certainly not the figures that I've seen from the Nebraska Association of County Officials. Those numbers were much, much higher and will have real impact. Another thing that I think it's important to talk about is that, well, we have to be vigilant in case there is a problem. Well, folks, we have laws on the books to deal with that. Let's be very, very clear, if somebody does intentionally commit voter fraud, they're committing a crime--a crime of election falsification. That places them at risk for a maximum penalty of five years in prison and a \$10,000 fine. If that's not a clear deterrent, what is? It's been said by some on this floor that LB239 in its current form, as amended or otherwise, is constitutional; don't worry about it. Well, friends, I think that we have to be very careful when those kinds of absolute statements are made, in particular when we're looking at cases which may or may not be distinguishable from the present policy before us. And that's actually what I spent a great deal of my time in between General, in between the first time this was heard on General File and where it is today and reading some of those various cases that have been thrown out there. People have cherry-picked certain aspects from certain court decisions that they think support their cause, and that's fair game in political debate. But to provide any sort of absolute certainty that this indeed is constitutional based on cherry-picked phrases from court cases that may or may not have relevance or that may or may not be distinguishable is a very slippery slope

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indeed to start down. I think it's fair to say... [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR CONRAD: Thank you, Mr. President...that at this stage in the game, if this legislation were to be adopted, it will subject Nebraska to costly litigation to answer the questions about whether or not it is indeed constitutional under the federal Constitution. And more importantly, I think the stronger case is under the state constitution. Article I, Section 22, could not be less ambiguous or more clear: "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." This is an impediment. This is a hindrance. We should be opposed to LB239. Thank you, Mr. President. [LB239]

SENATOR GLOOR: Thank you, Senator Conrad. Senator Dubas, you are recognized. [LB239]

SENATOR DUBAS: Thank you, Mr. President. Good evening, colleagues. From as long as I can remember, my dad, a veteran of the Korean War, and my mother, instilled in me the deep sense of obligation and duty that we should use when it comes to voting. I have yet to this date missed an opportunity to vote because of what my parents instilled in me. And I do wholeheartedly agree with the statements that have been made on the floor tonight about the very real need to protect the integrity of our ballot and of our voting process, but I just don't happen to agree that LB239 is the route we need to go to do that. I think first and foremost we need to make sure that our counties and our precincts have the ability to keep their records up to date and current so that they have accurate information at the polling places, so that they have the most up-to-date addresses and they're able to purge the system of people who have moved out of the precinct or moved out of the state or who have died or any number of issues that have changed the look of their precinct and the voters that are registered in this precinct, so. And I think we need to make sure that all of the poll workers are very adequately trained and have the wherewithal and the understanding of what it means to be...I was a poll worker at one time. I took that duty, again, very seriously too. You know, we need to help them understand that if someone comes in, not quite sure who they are, and are looking at the book to pick the name they want to identify themselves with, that should immediately raise a red flag and cause them to question that person's voting ability. So I think, you know, making sure that our poll workers are very adequately trained and making sure that our counties have the resources that they need to make sure that their system and their records are up to date are probably two things that we could do to really...that would take us a long way down the road to protecting the integrity of the ballot and of the voting process. In my district, and this is in relation to the amendment that Senator Council has introduced, I have quite a few precincts now in my district who are moving to all mail-in ballots. Because of the population, because of the costs of keeping those precincts open, they are now going to all mail-in ballots. And in my mind,

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if we're looking at voter fraud, I think there's a lot more opportunity for monkey business with mail-in ballots than there is with people showing up at the polls. But through this bill we are now creating a tiered system of voting, so if I make the decision to go to my polling place and vote, I have to show my ID, and if I don't then I get a provisional ballot. But if I decide that I want to stay home and vote and request a mail-in ballot, I fill out the paper, I send it in, they send me my ballot, and I send it back. You know, who's to say that those ballots can't be intercepted? I know those are...you know, to take things out of mailboxes is illegal. Who's to say that a ballot isn't requested for a grandma who isn't capable of voting or isn't registered or isn't with us anymore, but the records haven't been kept up to date? There are a lot of opportunities, is I guess what I'm trying to say, in fraud with mail-in ballots, but yet we aren't addressing that through this. I think it was mentioned that only 14 percent of people even approve of mail-in ballots, but yet that's the direction we are absolutely going, especially out in our more rural areas. So through this legislation we're creating exceptions... [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR DUBAS: Excuse me, Mr. President? [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR DUBAS: Thank you. We are creating exceptions. So with exceptions always comes opportunities for abuse. Again, I do believe we need to do whatever we can to protect the integrity of the voting process, and we would go a long ways in making sure that the records are up to date and our people who work at polls are trained. I just don't believe...our constitution is very...our state constitution is very strong, stating that there should be no impediments or hindrances. And with the exceptions that are created through this legislation, I think the arguments are pretty legitimate that we are creating impediments to certain people who make the decision to go to the polling place rather than use some of the other opportunities that they have before us. So this isn't a question about whether we think the integrity of the process should be upheld. It's what's the best way that we can go about upholding the integrity of the process. I think there are a lot of opportunities... [LB239]

SENATOR GLOOR: Time, Senator. [LB239]

SENATOR DUBAS: ...for us to have that discussion. Thank you. [LB239]

SENATOR GLOOR: Thank you, Senator Dubas. Senators in the queue: Council, Lautenbaugh, Mello, Ken Haar, Schumacher, Nordquist, Lathrop, Conrad, and Schilz. Senator Council, you are recognized. [LB239]

SENATOR COUNCIL: Thank you, Mr. President. I do wish to get to the substance of my

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amendment, but there have been so many statements made that I feel compelled to respond to that I'm going to use this time to address them. Senator Smith recited an incident that occurred at a polling place in Papillion or La Vista. He cited that same incident the first time this bill was discussed on General File. And I just submit to you, colleagues, that what Senator Smith shared with us is not justification for voter identification; it's justification for poll worker training. Because there is no way that any poll worker should have accepted that ballot unconditionally under those circumstances. And in fact, I submit to you that even with the enactment of LB239 you're going to have those same types of situations, because again, we're expecting poll workers to discern whether the picture on the ID matches the person standing in front of them, and if they don't believe that it does, then that person will vote provisionally. Or if a person shows up at the poll without voter identification, same situation that Senator Smith was sharing with us, that person would vote a provisional ballot, which is what should have occurred in the situation that Senator Smith recited. That was a classic example of poll...of poor poll worker training. Senator Janssen says that he's been approached by individuals that have said to him, and I quote, gee, I thought we already had to do this, close quote, which meant show photo ID. If someone had come up to me and said that, I would have said, when was the last time you voted? Because I have voted my entire adult life, since I reached the age that the constitution of these United States allows me to vote, and I have never had to present photo identification. So I would have never walked up to Senator Janssen and said, gee, I thought we already had to do this. And if someone did that, that's somebody who is not voting. Because I was shocked. I read an article last week that said everybody in Nebraska City did that. That's the first I've heard of it. Senator Lautenbaugh, my friend, Senator Lautenbaugh, thank you for attempting to correct me, because I will state again that in my opening I said I understood that Mr. Phipps had said he based his decision on what polls to close on the 2010 nonpresidential election. And if you all will recall, Senator Lautenbaugh was quick to defend him and said, well, colleagues, all he was doing was complying with the statute. First and foremost, I pulled up an article from the World-Herald. Assuming they quoted Mr. Phipps correctly, he says that because those areas had lower voter turnout in 2008, which is the benchmark he used in deciding which polling places to close. So, number one, Senator Lautenbaugh, if your statement is true, by Mr. Phipps using the 2008 voter turnout, which was a presidential election, if the statement you made in trying to rebut my statement is true, Mr. Phipps violated the law. But Mr. Phipps didn't violate the law. [LB239]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: One minute. [LB239]

SENATOR COUNCIL: Senator Lautenbaugh was too quick to defend him, because the law says the election commissioner or county clerk shall create precincts based on the number of votes cast at the immediately preceding presidential election. Not the

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immediately preceding gubernatorial election, as Senator Lautenbaugh would have had you to believe. Senator Dubas got to the point of AM1667. If you believe that all of the potential for voting fraud, then you ought to be concerned about six precincts in Cedar County, six precincts in Stanton County, three precincts in Hamilton County, three precincts in Merrick County, and one precinct in Cherry County, because none of those people have to submit voter ID, photo ID, in order to vote. All they have to do is request a ballot. It will be mailed to them and they don't have to approve anything other than they were a registered voter, which is what the Constitution of the State of Nebraska says we cannot... [LB239]

SENATOR CARLSON: Time. Thank you, Senator Council. Senator Lautenbaugh, you are recognized. [LB239]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I wonder if Senator Avery would yield to a question. [LB239]

SENATOR CARLSON: Senator Avery, would you yield? I don't see Senator Avery right now. [LB239]

SENATOR LAUTENBAUGH: Well, and that's unfortunate, because I had a couple very simple questions. We heard that there's no reason for this because everyone is honest. So I'm wondering to myself if I went out to the parking lot right now would his car be locked? If not, then not. I'm wondering to myself if I swung by his house tonight at 11:00 and tried the doors would they be locked? If everyone is honest, surely there's no reason to lock your car, lock your house, or take any precautions. On the other hand, perhaps if there are some people out there that aren't honest, then maybe precautions are justified. And that is precisely what we're talking about here. So ask yourself again, do you lock your house at night? Do you lock your car at night? If you do, chances are you shouldn't stand up here and criticize this bill by saying everyone in Nebraska is fundamentally honest and will always do the right thing, because I think we all know, and the court dockets show it, that that just isn't true. That does not justify opposing this bill. And to respond to Senator Council, I was very clear. Senator Council criticized Election Commissioner Phipps for relying upon the 2010 numbers in drawing his precincts. That is what the law provides. The fact that he looked at where the turnout was lower, perhaps in 2008, is entirely appropriate. What we seem to be grappling with here on that sort of tangential issue is that we passed a law last year that allowed Mr. Phipps to do exactly what he did. He came in and told the Government Committee why he wanted to do it, and 47 of us voted for that law. And the provision in there is plain as day. It's mentioned in the summary from the committee. And now we're questioning and now we're impugning and now we're saying it should have had a public hearing, which...I mean, and that's another topic, by the way. To say that Mr. Phipps is wrong, that he didn't have to draw the precincts because of redistricting is just a fundamental misunderstanding of what his duties are. Every time we draw the legislative districts,

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redraw the legislative districts...and you may recall, some of you, we did that just last year. Every time we redraw the legislative precincts...or legislative districts, excuse me, the precincts must be withdrawn to fit within those new...or redrawn to fit within those new boundaries. You cannot have a precinct that staggers over...straddles over a legislative district boundary. So when Mr. Phipps says, yes, I redrew the precincts in the wake of redistricting, he is correct and he had to do that, because we didn't follow precinct lines, slavishly, when we drew our maps, and he could not make the precincts without changes fit within the new maps. That is just how it works. I did the same thing in 2001 and consolidated some precincts at that time when the threshold for registered voters was 1,000. Last year, we raised that threshold to 1,750, and Mr. Phipps redrew the precincts, as is proper every ten years, and fit them within the new legislative districts. And that's just simply how it works, folks. And again, to say he should change it, he has published the proclamation... [LB239]

SENATOR CARLSON: One minute. [LB239]

SENATOR LAUTENBAUGH: Thank you, Mr. President...he has published the proclamation of polling places. His hands are fairly well tied in this election cycle. And more to the point, I'm struggling to understand how this bill is actually a burden when it seems to me what we're talking about is mailing out a voter card to people who show up as registered to vote but they aren't in the ID or driver's license database. I mean these cards aren't mysterious. My wife and I got our voter cards the other day. She looked at it and said, oh, I guess we vote at this church rather than that other church, and the mystery was solved. On election day I will know where to go. That's how it works, folks. You're being fed some red herrings here and you're being misdirected. You're being talked about disparate treatment...told about disparate treatment. That's not what this is about. This is a minimal precaution. The concerns aren't shared with the mail-in ballots because we're actually mailing them to an address and we can find out who lived there and who got the ballot, perhaps, if an investigation is warranted. [LB239]

SENATOR CARLSON: Time. [LB239]

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

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Senators wishing to speak include Senators Mello, Ken Haar, Schumacher, Nordquist, Lathrop, and others. Senator Mello, you're recognized. [LB239]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. And with all due respect to my colleague, Senator Lautenbaugh, there's just some untold aspects of the five minutes he just spoke in regards to the issues involving Douglas County in regards to the changing of the precincts. And, yes, while I want to speak mostly focusing on AM1667, there's a Lincoln Journal Star editorial today that specifically says

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and states that Lancaster County did not do the same thing that Douglas County did; that when they went through the redistricting of their precincts they changed less than a handful of precincts, even with the adoption of LB449 that we passed last year. So somewhere along the lines Lancaster County decided it wasn't necessary to cut the number of precincts they had in half. But yet, somehow in Douglas County, primarily in a legislative district that I represent in south Omaha, they decided to eliminate more than half of the voting precincts in my district, with no public hearing, no public input, and using the guise that this saves money and ultimately it's not that big of a deal for people because they can vote by mail or go to the election commissioner's office at 114th and Davenport. Colleagues, there are problems with that issue that ultimately we as a Legislature may have to look to solve, because that is disenfranchising thousands of voters in Douglas County that now have to find a new polling location. And it's what Senator Lautenbaugh just alluded to, that it's not a big deal to get your voter registration card sent to you in the mail. Right now, there's very few statutes that require...and Senator Schilz mentioned this as well, that election commissioners don't have to send out your voter registration card, with the exception of when you change a polling location or you move. It's not in AM727, it's not in LB239. It doesn't require them to proactively reach out to voters and express to them here is your voter registration card, you can utilize this at the polling locations. But back to a couple other points that have been thrown out on the floor in regards to the debate, in regards to this issue not being a big deal, not having a big impact on our elections. Colleagues, no one on this floor has stood up and discussed AM1667 in the sense that if we don't adopt this amendment, we create a separate but unequal type of democracy in our state. There was a Supreme Court case, Brown v. Board of Education, that said separate but equal is not the rule of the law. It is not the law of the land of the United States. You cannot have separate but equal, and that set essentially the pathway for us down the civil rights movement. But yet we're willing to have a conversation and a debate saying it's okay to have a separate but unequal type of democracy in Nebraska. If you live in counties with less than 10,000 people, you don't have to show your ID, but if you live in north or south Omaha in a county of 500,000, yes, you need to show ID. Senator Janssen, Senator Schilz, Senator Lautenbaugh, Senator Bloomfield, every person who is in support of this bill has yet to be able to stand up and express why that is okay, why we are going to move forward passing a bill creating a separate but unequal type of democracy in Nebraska. I can respect Senator Janssen saying I don't want this amendment to be part of my bill, but the reality is, his bill creates two separate forms of democracy in our state. Depending upon where you live depends upon on how you vote and whether or not you have to show ID in comparison to someone else who lives in greater Nebraska in a smaller county. We can talk about the fact that Senator Conrad mentioned there are already criminal penalties. Senator Lautenbaugh knows this, sitting on the Judiciary Committee. There is a criminal penalty right now for voter impersonation of five years in prison and a \$10,000 fine. If this issue was such a pressing issue and we needed to stop it, why hasn't there been a bill in front of the Judiciary Committee stiffening penalties? [LB239 LB449]

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SENATOR CARLSON: One minute. [LB239]

SENATOR MELLO: Five years in prison and \$10,000, colleagues, sounds like an awful big penalty to me, if this is really even occurring. But let's go back to AM1667. Everyone can stand up and say, yes, we want integrity in our election system. Absolutely, no one opposes that, the same reason we love baseball and the same reason we love American pie...or apple pie. But the reality is this: Until someone who supports this bill can explain how we can have two separate types of democracy based on where you live and the county you live in, we can't move forward on this piece of legislation. We can't do it. We're setting ourselves up for what we know will be a legal challenge, and ultimately we're setting ourselves up to create two separate classes of citizens in the state of Nebraska. Thank you, Mr. President. [LB239]

SENATOR CARLSON: Thank you, Senator Mello. Senator Haar, you're recognized. [LB239]

SENATOR HAAR: Mr. President and members of the body, back in the late '80s, I worked to put together a Nebraska voter file for a statewide election, and at that time people had paper records in some counties and there were 20 different kinds of PCs with a voter file on it. But on November 29, 2005, John Gale, Nebraska Secretary of State, put out a press release announcing that all 93 of Nebraska's counties were computerized. And then he goes on to explain why this makes fraud difficult, and again this is from a 2005 press release. First of all, Senator Avery related how difficult it would be and what a risk it would be to try and impersonate a voter by showing up, because they could have voted by absentee before you got there. They could have voted earlier in the day, they could vote later in the day, they could have a provisional ballot. And the penalties are very, very difficult, or very high. So here's what Secretary Gale said: The system allows for uniform maintenance of voting files (sic) to eliminate those who are ineligible to vote. And he listed the following benefits: To prevent fraud, the system will verify identification information with the state Department of Motor Vehicles and the federal Social Security Administration. That's how they get rid of dead people who are deceased and take them off the polls (sic). If a voter moves to another county, the registration record with all voter history is transferred to the new county. This eliminates problems with duplicate records, duplicate voting. Another one: "The system will match against vital statistics records and criminal justice records to remove voting records of people who have died or been convicted of felonies." And then, "The system has numerous capabilities that will allow county officials to better manage elections. These include automatically placing voters in the correct precincts, tracking early/absentee voting, managing provisional voting and verifying petition signatures." So with a computer system, if I want to show up fraudulently, purposefully, and impersonate someone else, again I'll go back to all the risks I take versus the five years I get in prison for voter fraud. First of all, if I show up at the poll then I've got to know or assume

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that the person I'm impersonating hasn't done an absentee ballot, or we call it vote by mail these days. Then I've got to be sure that they haven't voted before I get to the polls and they've got to make sure that that voter I'm impersonating hasn't...won't vote later because then there's going to be a duplicate. And I've also got to be sure then that when that voter I'm impersonating showed up, that they didn't have to file a provisional ballot. The risks are just enormous of fraudulent voting in Nebraska, and the Governor even, in his press release, said he doesn't see voter fraud as a major problem in Nebraska. Secretary of State Gale has said there isn't a voting fraud problem. And, in fact, when President Bush had a study done, they found that nationwide there was very little voter impersonation. Now voter registration fraud, which isn't even covered by this, is a whole nother issue. This bill has nothing to do.. [LB239]

SENATOR CARLSON: One minute. [LB239]

SENATOR HAAR: Thank you...with voter registration fraud, which I think would actually be easier in the first place. So at first this is a bill, LB239, that makes a lot of sense. Why shouldn't I have to show a voter bill (sic)? But when you look at all the situations and the detail of this, which we're expected to do and not simply to react to polls, it becomes evident that it's very difficult in Nebraska to do voter fraud, and especially I don't see any conceivable way that there could be a conspiracy to change an election through voter fraud. That just boggles my mind. So what I'd like to do in my upcoming testimony is to ask for scenarios that LB239 would fit...or, I'm sorry, would solve in terms of voter impersonation. The one we saw from Senator Smith was training of poll workers. That has nothing... [LB239]

SENATOR CARLSON: Time. [LB239]

SENATOR HAAR: Thank you. [LB239]

SENATOR CARLSON: Thank you, Senator Haar. Senator Schumacher, you are recognized. [LB239]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. In running through a scenario on what might take place at a polling place should LB239 pass, it might go something like this: Grandma shows up at the poll; it's the right polling place. Grandma is properly registered, but Grandma doesn't drive anymore and her driver's license is expired. And they say, Grandma, that's no good. And Grandma says, well, you know, I'm one of these people who wants to get a degree in my old age, here's my student ID from the local community college. Grandma, that doesn't have an address on it; that's no good. Grandma, did you get a card from the election commissioner telling you that you should bring it instead of all this so you could vote? And Grandma says: You know, I don't see too well and I get confused every once in a while and I get all the cards in the mail and the advertisements mixed up; I don't remember seeing that. Okay,

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Grandma, we've got a saving clause here. You can vote provisionally because that's where people who don't fit the test end up. And I wouldn't have been very concerned about that except that last fall I began to get calls from folks in Stanton County, saying, you know, they're going to make us vote by mail and close our polling places, and they tell us that our ballots won't be secret anymore. They'll send us a ballot. It will have an envelope inside with our name on it and identification, and some ballots, and we have to vote, shove it back in an envelope with our name on it, no secrecy envelope, and send it back in. We don't like that. We don't want anybody peeking, knowing how we vote. Well, I find out the provisional ballots are the same thing. There's no secrecy envelope. So here sits Grandma. Grandma is properly registered at the right place and she is being denied the right to vote in that ballot box like she always has, stick it into that metal container, march it over ceremonially to the ballot box, and dump it in. They're saying, no, can't do it. You've got to put...mark your ballot and put it in an envelope with your name on it, and we'll look at it. Our constitution specifically says: All votes shall be by ballot or other means authorized by the Legislature whereby the vote and the secrecy of the elector's vote will be preserved. Now I have an amendment on file--maybe we'll get to it, maybe not, depending on the nature of the filibuster--that fixes this problem for all, not only mail-in ballots but provisional ballots, requiring a secrecy envelope to be used. And we had a hearing on this particular wrinkle, and three election commissioners said, oh gosh, too much work, too much money. Well, that's something for, I think, the Legislature to decide. That same amendment that is on file tweaks the language in this particular bill with regard to what qualifies as a state-issued ID and student ID and provides for, if nobody has anything else, a picture and fingerprint also to qualify them. I think it's reasonable. I hope we will get to that amendment because I can support voter ID provided we make it as reasonable as reasonably possible, and we take care of this problem, which could really be damning for this legislation. Because if it forces somebody who's legitimately at the polls to sacrifice their secret ballot, then I think we've got a real problem with the election and our election laws. So as we wade through this, I'm looking at it through the context of those ballots, that provisional ballot that's required not being a secret ballot and Grandma not having any choice but to give up her right to vote. [LB239]

SENATOR CARLSON: One minute. [LB239]

SENATOR SCHUMACHER: Thank you. [LB239]

SENATOR CARLSON: Thank you, Senator Schumacher. Senator Nordquist, you're recognized. [LB239]

SENATOR NORDQUIST: Thank you, Mr. President and members. I rise in support of the amendment we're talking about and in opposition to the underlying bill and committee amendment for the main reason, I mean multiple reasons, but a main reason of this being that we're not...we're not ultimately, with the changes we're making with the

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committee amendment, we're not making any progress on addressing voter fraud if there is even voter fraud happening in our state. The underlying bill said that identification cards need to be provided at no cost. That was changed to...or would be changed under the committee amendment to strike that provision and require the individuals that don't have identification present their voter identification card. And like Senator Lautenbaugh, I received mine in the mail this weekend. I was out of town for a few days and found them wedged between a large stack of mail. Luckily they weren't included in one of my magazines, shoved in there, otherwise they probably would have been tossed out right along with the subscription renewal cards, because they're almost identical to that. But looking at it, it's...quite frankly, it's something that I could reproduce at home with a scanner and with some card stock, probably in 20 minutes. And I could take that in to my polling place and probably be no questions asked at that point. I could take the list that most candidates get of all registered voters and run those names and addresses exactly as they appear in the county voter files and run 100 of these cards and walk right in, no questions asked, and vote fraudulently. How is that solving the problem, if there is a problem that exists? It doesn't. All we're doing is a little feel-good measure here that's going to create headaches and not solve any problems. And, I mean...and I don't know how, even if it was my original card, how someone like Senator Janssen, I assume he could pass for a 30-year-old, could walk into, with my card, into the polling place, and he could use my card. There's nothing here in this bill that's addressing the proposed...or the proposed problem that the proponents are saying exists. And I think we need to be cognizant of that and, you know, realize that what we're doing here is just spinning our wheels. And then also I think it's important to talk about the case law. I know Senator Conrad addressed that. But I think, you know, the case law is pretty clear from research I've seen on it and summaries that the provisions that need to be made for one of these laws to be held constitutional is the photo IDs must be sufficient for voting...or sorry, photo IDs sufficient for voting must be available free of charge for all those who don't have them. States can't limit free IDs to those who swear they're indigent, which this bill, I guess, would do. Photo IDs must be readily available to all voters without undue burden. And third, states must undertake substantial voter outreach and public education efforts to ensure that voters are apprised of the law's requirements and procedures for obtaining the IDs they will need to vote. I don't...certainly don't see a sufficient amount of voter education taking place here under this bill. And as Senator Mello said, in other states that amount has been several million dollars and certainly could be multiple million dollars here in Nebraska to have a sufficient amount of voter education. So no longer are we talking thousands of dollars... [LB239]

SENATOR CARLSON: One minute. [LB239]

SENATOR NORDQUIST: ...but we're probably talking in the millions of dollars. And again, we're not requiring everyone to have photo identification. We're requiring them to have, you know, a piece of white card stock with black print on it that could come out of

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anyone's inkjet printer at home. That's troubling, and it's troubling that we're going to try to sell this to the public as solving some fictitious voter fraud problem when it ultimately won't. And I just want to clarify, I believe in Douglas County the only reason we're sending out cards to everybody this time is because of the new...because of redistricting and new precinct lines. There's no requirement in statute that we send those out, and I don't think we do. I didn't receive one during the 2010 election, I'm absolutely positive of that. The only reasons to send them out, or requirements in statute to send them out, are new precinct lines--redistricting, new polling locations, change of polling locations... [LB239]

SENATOR CARLSON: Time. [LB239]

SENATOR NORDQUIST: ...or if you as an individual move. Thank you. [LB239]

SENATOR CARLSON: Thank you, Senator Nordquist. Senator Lathrop, you're recognized. [LB239]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good evening. I am standing in opposition to LB239, and I was listening to the debate to this point in time, and I don't know how many hours we have into it, maybe three or perhaps going on four, and listening for a justification. Because as I sized this one up, as I sized this one up there are two interests at play. One is the concern over protecting the integrity of an election in the sense that we don't want people, who shouldn't be voting, voting and using...voting in somebody else's name. And there's stories. I heard Senator Smith's story which was a secondhand account from somebody in his district. We'll hear stories of some event. I had somebody e-mail me something that happened in a different state. We get kind of isolated stories. There's no study, there's no data that suggests that this is a problem, just a story here and there. And on the other hand, we do know that if we pass this, there are people who will not, who legitimately may, who are qualified to vote who won't. They're going to show up without the ID. They won't have the ID for a variety of reasons. And we know that they generally are the elderly. We know that they will generally be the poor. And I sat here thinking of what point am I going to make when I stand up and I thought, imagine a close election--and I had one. I won by 14 votes as many of you may know. I know what close elections are like and what they're about. But imagine an election that swung on three votes, and just assume 11,000 people voted and it came down to three votes. Do you think...do you think it's more likely that three people fraudulently voted in a legislative race under the current law or do you think that it's more likely if we pass this that three people who meant to vote couldn't because of the law? And it's another way of saying...no one has established a problem but we certainly see the consequence of passing this. There are people who are entitled to vote under the current law that won't be able to. They won't be able to clear this hurdle. And I just don't see a problem that we're fixing and I see that the fix is worse than the problem. And there's another thing and perhaps a more important point I'd like to make

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while I speak on this issue, and that is, you know, over in the Business and Labor Committee we do claims bills, and we went through one of those last week. One of the things that we do...one of the things we do over in the claims bill is pay attorney fees for constitutional challenges. I think we've done it every year, attorney fees for constitutional challenges. This LB239, in my judgment, clearly violates our constitution. Our state constitution says, "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. We are putting a hindrance or an impediment in someone's right. We make them do something before they can vote. We are violating... [LB239]

SENATOR CARLSON: One minute. [LB239]

SENATOR LATHROP: ...our own constitution if this were to pass, and it isn't going to sit there unattacked. Somebody is going to challenge this, and I can tell you that we're spending about \$275,000 every time we defend one of these and lose. That's \$275,000 we're going to give to some attorneys to challenge, and successfully I might add, to challenge the constitutionality of LB239. That's \$275,000 you're not going to spend on something else, because this is not constitutional. We are placing an impediment or a hindrance in someone's right to vote, and we haven't even made a case for why we should, and we clearly are prepared to except the people who will be disenfranchised. I think it's a bad bill. [LB239]

SENATOR CARLSON: Time. [LB239]

SENATOR LATHROP: Thank you. [LB239]

SENATOR CARLSON: Thank you, Senator Lathrop. Senators still wishing to speak include Senators Conrad, Schilz, Cook, Howard, Wallman, and others. Senator Conrad, you're recognized. [LB239]

SENATOR CONRAD: Thank you, Mr. President. Good evening, colleagues. I just wanted to continue on some comments I didn't have time to make at my first turn at the mike this evening. And based upon some of the, I guess, narrative or reasons or justifications provided by proponents as to why we should support this voter ID bill, LB239, again it's up to every individual senator to decide how they are going to cast their vote. But let me suggest something to you. I've heard it mentioned more than a few times when this bill first came up and then again today that, well, I've gone through my e-mails and tallied them up, and there's more people for it or against it; there's more of my constituents that have weighed in with me than that are against it; or I've read an opinion poll that says this. Well, when it comes to fundamental rights...and I think that we can all agree that voting is a fundamental constitutional right. That is unquestioned by anybody on either side of this debate. But when it comes to fundamental rights, public opinion polls should matter less and we should err on the side of protecting

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individual rights. It's not a difficult concept. We hear frequently from members in this body about antigovernment, anti big brother, government is out of control, big government is out of control. So why do we continue to see proposals like this which insert more government, more barriers into existing systems that, again, have no problems that need to be addressed in this regard, and if there are problems that are present, have serious and significant criminal penalties attached thereto? Just a quick tangent there in terms of our criminal penalties. I've heard time and time and time again from many folks on this floor that that's the best deterrent that we have available is stiff criminal penalties. Well, we have stiff criminal penalties in place to address these kinds of problems, and it seems to be doing the job, I guess. There isn't...it served as a deterrent. So why do we need more government, more big brother, more intrusive actions on individual rights and liberty, which is what the fundamental right to vote is? And when it comes to fundamental rights, public opinion polls should matter less, because we have to do our job in protecting individual rights. And when we fail, thankfully--thankfully--the judicial branch provides an appropriate safeguard and check and balance on that governmental overreach, which is what LB239 represents. I've heard it said by some that we don't take attendance at the polls, or you can just come in and vote. Well, we do actually. When you go to vote and you let the folks know who you are, you sign the book. There's a variety of safeguards in place currently when you register and when you vote. And that's why Secretary of State Gale and other election officials have conceded that this isn't a problem; that we actually have a very proud history of clean elections in Nebraska. And so knowing the plethora of pressing public policy concerns that face our great state, I'm wondering why we're choosing to spend so much time, energy, and resources now and down the road with costly litigation in solving problems that don't exist. I wish this amount of attention, time, and concern were devoted to, say, for example, eliminating the developmental disability waiting list, or providing all the resources we need to take care of youth out at Kearney that Senator Ashford and others have worked on so diligently. We have pressing state obligations... [LB239]

SENATOR COASH PRESIDING

SENATOR COASH: One minute. [LB239]

SENATOR CONRAD: ...that haven't received this amount of time, attention, or concern. And that is where our focus should be on, in these next ten days. It shouldn't be out erecting barriers to vote that disproportionately impact the elderly, the disabled, students, and the poor. We should be finding ways that encourage all citizens to participate in our democracy. Thank you, Mr. President. [LB239]

SENATOR COASH: Thank you, Senator Conrad. Senator Schilz, you're recognized. [LB239]

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SENATOR SCHILZ: Thank you, Mr. President. I was listening earlier to some of the folks that are the opponents. And if you believe Senator Mello, right now we have a dual system in place that may not be correct, may not be legal, may not be constitutional because we've got a dual system of how to vote. Is that an issue in our voter laws? It sure could be. Senator Schumacher talks about the secret ballot on a provisional. Is that an issue? I think there's a question there that it sure as heck could be. Senator Nordquist, voter ID cards, we can just go print them out however we want. Folks, think about it a little bit. There are holes big enough to drive trucks through if somebody wanted to. So for someone to stand up, like Senator Janssen, and say, hey, I want to take a first step, I want to take a small step, I want to put something in place so that we can start to go down the path of reforming some of the things that may have just happened over time, because we haven't seen a problem in the past. Folks, people that want to break the law, people that want to do scams, people that want to do these things look for those types of opportunities. And where they find them, they exploit them, and that's what we're talking about. It may not be an issue to all of us because of...look, ever since I've been 18 years old, every opportunity that I have had to vote, I voted. When I moved to Lincoln to go to college, for the first three years I voted for my hometown because that's where my address was. Only when I moved down here and changed my address and got my voter registration here in Lincoln, because I was here full-time, did I vote in Lincoln. For folks like...guys, there's no question that the majority of the people of the state of Nebraska are good people that aren't going to do anything wrong; that are going to take their voting rights seriously and they're not going to try to do anything untowards. But we need to make sure that we understand that, given opportunities, people will take advantage of them and will abuse them. We talk about high penalties. Folks, there's high penalties out there for everything. Does it stop it? Not necessarily. So what you want to do is you want to make sure that wherever you can, you create a situation to where you give the people the opportunity to do the right thing, and that's what we need to do. So I think we need to look at this and we need to...maybe what we need to do, maybe we need to have a study of all of our election laws and how they sit there and how they all fit together and where are the opportunities. Have we talked? And Senator Lathrop, I think, is the one that said it and may be exactly right: Have we paid attention to what's going on? Do we know if there's any fraud going on? I'm not sure. I know this, I talked to someone, and I know the hyperbole and everything like that that goes on. [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR SCHILZ: Thank you. One of my...was not a constituent but somebody that I know around here, lives in an apartment, knows all their neighbors. Has gone to them on election day and said, hey, are you going to vote today? No, I don't have time to vote today. Well, guess what guys? All of a sudden now they know their name, they know where they live, they know their polling place, and that could be an opportunity. I'm not saying it's happening, but there could be an opportunity there. Thank you very much.

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[LB239]

SENATOR COASH: Thank you, Senator Schilz. Senator Cook, you are recognized.

[LB239]

SENATOR COOK: Thank you, Mr. President, and good evening, colleagues. I rise in strong opposition to LB239, as well as the Government's amendment to pacify some of the people who still want to advance it. We've said many times in this body or it's been said of us as elected officials in the citizen Legislature of the Unicameral that we bring with us our experiences. And trust me, especially sitting initially on the Natural Resources Committee, there are many experiences that I have not had personally that people testify to, and my colleagues educated me on, that turn out to be things that happen every day in their environments. I'm harkening back, of course, to trapping in the ditch that came through in 2009. Actually it's called harvesting now, based on what we talked about this morning with that LR that many of you advanced. We talked about this year with Senator Schilz a bovine embryonic implant procedure and ensuring that people are duly qualified and not just letting any old Ph.D. like Senator Hadley do it, but having someone with a specific knowledge in that area do the bovine embryonic implant. So I'm going to offer you, since according to the way you're voting and the way you're responding on this issue, you are extremely ignorant of the history of the United States when it comes to voting and keeping people from polling places. So let me educate you a little bit. There's this place called the Deep South, and there's this country called the United States, and the economic engine that made the United States what it is today, still the most powerful economic force in postmodern history, were slaves. They were African slaves imported by Europeans, and they worked for free and they were owned. Once those slaves were freed after a big war, that was called the Civil War, once those slaves were reluctantly set free by their owners, at that point they actually had the right to vote. Can you imagine that? One person, one vote; you had to be male, but still you actually could vote. Then there are a bunch of Jim Crow laws that were advanced. The Mississippi Legislature was particularly active in this area. And they advanced laws to ensure that a certain group, in this case African, former African slaves, were not able to register their vote. I apologize if this is not brand-new information, but based on the way you're talking about this bill, it must be brand-new information for most of the people in this room. I, as I said earlier, bring a particular experience to this body, certainly not one from talking with my neighbor about what they might have overheard in the voter's line or what they did when they were in college driving all the way back to Ogallala to vote. I don't have that experience. I have two parents that were raised in the Deep South. Those stories are true. They're not just movie-of-the-week accounts. Those things happened, whether through the law or through practice and intimidation. So the idea that you would sit here and try to convince anybody, let alone me, oh, we don't mean to disenfranchise anybody; we don't mean to keep people of color or poor people or disabled people or old people--I happen to be very closely related to somebody who is old, disabled, and African-American, and

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a veteran, by the way, and he is going to vote. Good luck stopping him. [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR COOK: It's ridiculous, like so many things I've heard in this body. Again I don't want to insult you if you did pass history, U.S. history in school. I'm not going to certainly indict since most of the people here did attend public school, I'm not going to put that on the teacher. But you're forgetting it. You're forgetting your history, your American history. This is Jim Crow light. Don't try to say that it's anything else, at least not to me directly, especially not tonight. And I'm just not going anywhere. I know many of you probably wish as a woman, perhaps as a woman of color, that we would just not stand up and say anything. I'm not going anywhere. Too many people have fought and bled and died for me to have a voice, for me to vote, for me to grab everybody. What about those 2 percent of registered voters, Senator Janssen, that don't have a photo ID? I'm here to represent them too. They are a registered voter. They have a constitutional right to vote. [LB239]

SENATOR COASH: Time, Senator. [LB239]

SENATOR COOK: Thank you. [LB239]

SENATOR COASH: Thank you, Senator Cook. Senator Howard, you are recognized. [LB239]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I think it was also known as the "War of Northern Aggression," the "War between the North and the South"? [LB239]

SENATOR COOK: (Inaudible). [LB239]

SENATOR HOWARD: (Laugh) Various names. Senator Dubas brought back some memories for me when she was discussing her working at the polling place. I, too, worked for many years as a clerk or a judge at various polling places near my home. Now there were times when a voter had inadvertently come to the wrong polling place because he or she had gotten confused about which church or school his or her designated polling place was located at. And sometimes they would say, well, those names all sound alike; I wasn't sure which polling site to go to. Only on one occasion did I question a voter, and that was when the voter had sold their home and moved out of the neighborhood and had not reregistered. I happened to know this because I drove past their house every day. I saw when they sold the house. I saw when the new people moved in. I saw when the new people remodeled the house. So I was pretty certain they weren't living there anymore. When I talked to the former neighbor about this, she said, yes, I just didn't have the time to reregister. So I helped her to fill out a provisional ballot

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and she was fine with that and she understood why she needed to take care of that business and actually register at her own address. The point being, for all the years that I worked at the polling place, that's the only occasion that I can think of when there was any question about someone voting. As it was pointed out earlier, when people would come in, if we didn't know them, and even if we did know them, they would have to sign in the book. You turn the book around so they can fill out their signature. Sometimes it would be a parent and an adult child that would come in, and sometimes the father/son, for example. One would be senior, one would be junior, and they knew who they were by their ages and their birth dates in the book. But there really wasn't any other occasion, and I worked there many, many years at different polling sites. So I'm afraid I'm not going to be able to support this bill because I really don't see a problem here that needs to be addressed. Thank you, Mr. President and members. [LB239]

SENATOR COASH: Thank you, Senator Howard. Those wishing to speak: Senators Wallman, Council, Mello, Dubas, and others. Senators Wallman, you're recognized. [LB239]

SENATOR WALLMAN: Thank you, Mr. President. Good evening, Nebraskans. How are we? Talk about voter rights, voter ID, folks, I was at the county courthouse and a man come in there with his big cart, probably all of his worldly possessions in that cart, and he wanted an ID card. How could he get an ID card, provisional or whatever? I didn't know the man. I felt sorry for him. I went up to the desk with him. We tried to work something out, and eventually we did get something provisional worked out, but it took three hours. Do we want to put our senior citizens through a mess like this? I've got three aunts that are in their nineties. One of them is 100. Sharp as a tack, but don't have a driver's license. So it is not just so easy to get that ID card unless you have somebody with you to vouch for you. I've never seen the man again. But going down memory lane in the '50s, going down to Mississippi, Alabama, segregated buses. I had to sit in the front, the other people had to sit in the back. So I do know what people went through to get the right to vote. And paper ballots, I'm sorry, Senator Council, I just hate them, and I think if we cannot as a society...and most nursing homes, assisted living, have buses, vans, they'll gladly take you out some place to vote and they're gladly to get the dickens out of there. So when we do less and less voting places, is there voter fraud? I haven't heard of any. Could there be? I'm more concerned after the election, how do you keep track of the ballots electronically and all this stuff. There can be messing up there too. Senator Karpisek had a bill that addressed this, and everybody said, well, we're not concerned about voter fraud in here. I heard that very plainly by somebody. But then we should do the whole overhaul of the electoral system. And Senator Schumacher has some good ideas and Senator Lathrop and others, but this here thing, I don't think it gets near where I want to be. So if Senator Council would like the rest of my time. [LB239]

SENATOR COASH: Senator Council, 2 minutes 30 seconds, and you are next in the

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queue. [LB239]

SENATOR COUNCIL: Thank you very much, Mr. President. Thank you, Senator Wallman. As my colleague, Senator Lautenbaugh, is present and if he would yield. [LB239]

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

SENATOR LAUTENBAUGH: Absolutely. [LB239]

SENATOR COUNCIL: Senator Lautenbaugh and I have been engaged in a little tete-a-tete over the Douglas County Election Commissioner's authority. And in the first instance, am I correct, Senator Lautenbaugh, that LB (sic) 32-903 of the current Nebraska Revised Statutes states that the election commissioner or county clerk shall create precincts based on the number of votes cast at the immediately proceeding presidential election? [LB239]

SENATOR LAUTENBAUGH: Well, as we discovered, it actually states both. First, it says "the last statewide general," and then curiously, a couple sentences later, it says "the immediately preceding presidential." I can't explain why, and that wasn't part of last year's bill, I can't explain why there's a discrepancy. It seems to be contradictory to me, to say the least. [LB239]

SENATOR COUNCIL: Okay. So I was not inaccurate when I stated that the law says that the precinct shall be created based on the number of votes cast at the immediately preceding presidential election. [LB239]

SENATOR LAUTENBAUGH: You and I were reading different language, and you were reading language that is plainly in the law. So if I said you were wrong, you were not wrong. We were both just reading different and oddly contradictory provisions of the very same section. [LB239]

SENATOR COUNCIL: Okay. And the next question I have, Senator Lautenbaugh, and that is the issue of redrawing precinct lines after redistricting. Do you agree that there's no question that if legislative district lines change as a result of redistricting, that the Douglas County Election Commissioner, in particular, if those legislative district lines change, would have to draw new precinct lines? [LB239]

SENATOR LAUTENBAUGH: Yes. That statute says after the...the precincts must be drawn to fit within the legislative boundaries. So yes, if those are adjusted, we'd have to adjust the precincts as well. [LB239]

SENATOR COUNCIL: Okay. Now but the law...am I correct that the law does not

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require that in doing so... [LB239]

SENATOR COASH: Time, Senator. You are on your own time. [LB239]

SENATOR COUNCIL: Okay, thank you...that the law does not require that in doing so that polling places be eliminated. [LB239]

SENATOR LAUTENBAUGH: No. It does not say that you must create fewer precincts. It just says that you redraw them to fit within the new legislative lines. [LB239]

SENATOR COUNCIL: Okay. So the election commissioner and the law that says no more than 1,750 does not mandate that he change the precincts at all, does it? [LB239]

SENATOR LAUTENBAUGH: No. I would say it was created for his authority to do that, but it doesn't say he has to do that. [LB239]

SENATOR COUNCIL: Okay. And one final question. Once the Douglas County Election Commissioner established new precincts, is there anything in the law that prevents the Douglas County Election Commissioner from placing more than one polling place within each precinct? [LB239]

SENATOR LAUTENBAUGH: Well, and we were discussing that off the mike and I'll be honest. The short answer is in several polling places in Omaha there's more than one...I'm sorry, in several precincts in Omaha there's more than one polling place, but those other polling places are for other precincts that don't have a physical facility that would accommodate a polling place. So it's my understanding that one...every precinct has one and only one polling place for that specific precinct. It might be located in a neighboring precinct, but it is for that one precinct. And I think you were asking me if it was possible for a precinct to have more than one polling place for itself, presumably in different locations. I don't think that's possible. I'm still looking through the statutes to see where it says that. I think it would be chaos to subdivide the precincts into separate polling places. But I think...the short answer is, I believe there's a prohibition but I have yet to find it. [LB239]

SENATOR COUNCIL: Okay. Would you dispute that Section 32-903(2) currently reads, "The election commissioner or county clerk may alter and divide the existing precincts, except that when any city of the first class by ordinance divides any ward of such city into two or more voting districts or polling places, the election commissioner or county clerk shall establish precincts or polling places in conformity with such ordinance"? [LB239]

SENATOR LAUTENBAUGH: No, it does say that. [LB239]

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SENATOR COUNCIL: Okay. And then that sentence could be read, could be interpreted to say that the Douglas County Election Commissioner, once he established a precinct, could divide that precinct into as many polling places as he or she decided. [LB239]

SENATOR LAUTENBAUGH: I don't think that's the correct result, so there must be a provision elsewhere. But I've never seen that done before or authorized by the Secretary of State. [LB239]

SENATOR COUNCIL: But can you definitively say that cannot happen? [LB239]

SENATOR LAUTENBAUGH: No, and I don't want anyone to get the wrong impression. [LB239]

SENATOR COUNCIL: Okay. [LB239]

SENATOR LAUTENBAUGH: The way we're both so up on this is that I had to read this off the mike. I don't walk around knowing the questions I was able to answer, to be honest. [LB239]

SENATOR COUNCIL: Okay. And that's all I want the record to be clear, because I made those representations in my statement the last time I was on the mike and my statements were grounded in the current reading of the statute. And so in terms of standing by my statements as to what Douglas County Election Commissioner Phipps could do and should do, I stand firm on. Now getting to AM1667, again, colleagues, if, if the argument is that LB239 is required in order to prevent voter fraud, then we cannot advance AM727 without advancing AM1667. [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR COUNCIL: Because if we do, we create two separate and distinct classes of voters in the state of Nebraska. Those who live in counties of less than 100,000 (sic) where, by virtue of not advancing AM1667, we have concluded that those individuals are incapable of ever committing voter fraud because they can have all mail-in balloting and, under AM727, they never have to submit photo identification. But if you live in a county of more than 100,000 (sic) and you choose to go and personally cast your vote, which has significant historical and cultural significance, particularly African-Americans who were denied the opportunity to go and vote personally at the polls. [LB239]

SENATOR COASH: Time, Senator. [LB239]

SENATOR COUNCIL: Thank you. [LB239]

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

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. And thank you, Senator Council, for a lead-in in essentially some of the floor comments I've heard earlier tonight. In all due respect to my good friend Senator Schilz, taking a small step forward on trying to deal with voter fraud ultimately leaves a crater behind us the size of Montana, because every single aspect of this bill has loopholes, which is the reason why there are over ten amendments to try to rectify the numerous loopholes that come with adopting AM727. So, yes, there is a problem, as Senator Council just said. If we don't adopt AM1667, we create a separate but unequal type of democracy in Nebraska where we have two separate types of citizens, based on how they vote. Now if we choose not to adopt AM1667, ultimately then we have to go back under the committee amendment and eliminate the existing statute that allows counties under the size of 10,000 to eliminate their all-mail-ballot elections. You cannot have two separate forms of elections based on size of county and then determine whether or not if you have an all-mail election you don't have to show a voter ID or a photo ID or your voter registration card. That is unconstitutional. We know that is unconstitutional and we know ultimately there will be a lawsuit that deems that. So, colleagues, when Senator Council...and I have a few amendments that follow. Ultimately, you've seen one of the amendments, that I hope we get to after we adopt AM1667, which shows the various forms of photo ID that's not covered under the committee amendment. Photo IDs such as our own legislative ID issued by our own branch of government, the Nebraska Legislature, that doesn't count. A tribal ID issued by various federally recognized tribes in the state of Nebraska, those don't count, let alone college IDs that also don't count. Colleagues, we're just starting on a debate in regards to a bad bill that got slightly better. With all due respect to my friend and colleague Senator Avery in the Government, Military and Veterans Affairs Committee, Senator Nordquist just showed you earlier a very easy to duplicate, black-and-white voter registration card. If we want to talk about voter impersonation and voter fraud, why aren't we talking about the voter registration card that I can go photocopy over here in part of the Chamber on some card stock and have that passed off as a voter registration card? Because it's an inconvenient truth, colleagues, that's why, just as AM1667 is an inconvenient truth. You can't move forward on trying to solve a problem that doesn't exist and not open up more problems, which is what we know exists when you don't adopt AM1667, because you have people who live in counties of less than 10,000 who get to vote by mail and don't have to show a photo ID or a voter registration card. That, colleagues, is not taking a small step forward to ensure integrity in our elections. That creates more loopholes. And Senator Schilz is right. There probably is loopholes in our existing law, which is why the Secretary of State stated in LB239's testimony that if we wanted to do anything, anything to improve our elections in Nebraska, want to reform it at all, we need to focus on the voter registration system. That is what he said has the propensity for any potential voter fraud is the voter registration system, not the actual act of voting. But yet,

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colleagues, it's another inconvenient truth of this argument. One issue that's been raised, and I raised it on General File, is this entire issue... [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR MELLO: ...of cost, that somewhere along the lines the proponents of this legislation said it should only cost \$15,000 to implement LB239 where, in fact, information that's provided us by NACO, the Nebraska Association of County Officials, has stated that based on a 2008 election, at 55 cents per voter per card, it would cost \$446,000. Colleagues, I don't know where this magical \$15,000 number that's been floated out by Senator Janssen and other supporters of the bill have come from to implement the committee amendment, AM727, because the Nebraska Association of County Officials said, on the contrary, using the 2008 election statistics, it would cost over \$446,000 to implement this--yet another unfunded mandate that we're willing to throw out there on the backs of property taxpayers. Once again... [LB239]

SENATOR COASH: Time, Senator. [LB239]

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

SENATOR COASH: Thank you, Senator Mello. Senator Dubas, you are recognized. [LB239]

SENATOR DUBAS: Thank you, Mr. President. I stand again supporting the statements I made the first time I spoke. I do believe we need to take steps to ensure the integrity of our voting system. I just don't believe this is the first step we need to take, and I strongly believe that if we provide good, adequate training to our poll workers, make sure our registration system is up to speed, and making sure that our counties have the capacity to keep their databases as current as possible, I think that's the place that we start. That's the first step that we take. This step feels like we're jumping from point A to point Z. I think we need to start at point A and go to point B, and work our way through the alphabet to get to where we may ultimately need to get. So, again, I think a good first step would be looking at how we train our poll workers, making sure that our voter databases in each county are up to speed, and appropriate training that way. With that, I'd yield the balance of my time to Senator Mello. [LB239]

SENATOR COASH: Senator Mello, you are yielded 4 minutes. [LB239]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature, and thank you, Senator Dubas, for your comments. A few other points, once again, to kind of refute what seems to be the ability of some just to throw out bits and pieces of information and facts to fit arguments. Once again, Senator Nordquist mentioned it, Senator Council mentioned it, other senators have mentioned it. The reason this bill has

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been found constitutional in other states is because there was a significant investment, financial investment by the state, in regards to voter education and voter outreach. Reading AM727, the committee amendment, ultimately LB239, that exists in neither, which the state of Georgia federal court struck down the Georgia's voter ID law when the state provided no funding for voter education. With all due respect to my colleagues, Senator Janssen and Schilz, there has been no refuting that issue. The bill does not provide funding for voter education or voter outreach. Yet every state where this has been found constitutional, they had to provide a significant amount of financial resources for voter education and voter outreach. Until we get an answer, until we see an amendment that shows the state is willing to put General Fund dollars to provide that education and outreach, this is not a serious bill then. We are simply not trying to be serious of making this constitutional. We may want to protect the integrity of our elections, which all 49 of us want to do, but until you're willing to put the General Fund resources of the state behind this, we know it's not constitutional. It doesn't take a constitutional scholar to be able to state that because every state that it is found unconstitutional shows it being part of the reason it was found that way--there was no money put towards the education or outreach. The second component Senator Lathrop mentioned and Senator Janssen mentioned in the opening or reopening of this was Article I, Section 22. The issue of why is it...why are we ultimately trying to, I would say, attack a fundamental freedom we have as Nebraskans? Why is it that we're trying to infringe upon our fundamental right to vote? Article I, Section 22 states that...Senator Janssen stated and provided a little bit more research for us in regards to the issue of what a qualified voter is. It's a registered voter. So any argument that was made before that this is not infringing upon a registered voter's right to vote, it states it fairly clearly in the constitution, "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 means if you're a registered voter, there should be no hindrance. Having to provide a... [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR MELLO: ...photo ID that, once again, is a government...is a limited government-issue photo ID. It doesn't count if you're a state agency employee. It doesn't count if you're a member of a federally recognized Native American tribe, you're a college student with a state-recognized, university ID. That's a hindrance to vote. Even looking at the committee amendment, AM727, with a voter registration card that, as Senator Nordquist said, may get mailed to you because you ultimately...your precinct was changed or you moved, there's no guarantee they have to mail that to you again. There's no state statute that requires that. It's purely left up to the election commissioner to determine whether or not they want to mail that to you. Colleagues, that is an infringement, an impediment for your right to vote. There has been very little rebuttal to these issues. And I'm looking forward to this continued debate of refuting the arguments and some of the solutions we're providing... [LB239]

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SENATOR COASH: Time, Senator. [LB239]

SENATOR MELLO: ...to make this bill a better piece of legislation. Thank you, Mr. President. [LB239]

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

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I wonder if Senator Mello would yield to some questions. [LB239]

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

SENATOR MELLO: Yes. [LB239]

SENATOR LAUTENBAUGH: So, Senator Mello, as I understand it with the committee amendment, the way this would work is a person with a photo ID would be asked for the photo ID at the polling place. Is that correct? [LB239]

SENATOR MELLO: Yes. [LB239]

SENATOR LAUTENBAUGH: And before the election, the Secretary of State will have compared the photo ID and license file to the voter file so cards can be sent out to the people that don't seem to have photo IDs but are registered voters. Is that correct? [LB239]

SENATOR MELLO: Correct. [LB239]

SENATOR LAUTENBAUGH: And then those cards are mailed to the people's houses. [LB239]

SENATOR MELLO: Correct. [LB239]

SENATOR LAUTENBAUGH: And then they can bring that card in lieu of a photo ID to the polling place. [LB239]

SENATOR MELLO: That is...absolutely. [LB239]

SENATOR LAUTENBAUGH: And if they don't even do that, then they can vote provisional or conditional. Is that your understanding? [LB239]

SENATOR MELLO: That is my understanding. [LB239]

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SENATOR LAUTENBAUGH: Okay. Where does the imposition come in on the voter then, just so I'm clear? [LB239]

SENATOR MELLO: I would say the imposition comes, first off, of them having to show any kind of identification in the sense that they already have to provide identification when they register to vote. [LB239]

SENATOR LAUTENBAUGH: But didn't the Supreme Court just decide that the imposition of showing a driver's license was not an imposition that rose to any sort of level of constitutional concern? [LB239]

SENATOR MELLO: Actually I believe, Senator Lautenbaugh, in the state of Wisconsin and Texas actually, they just ruled that it is actually an impediment and it was found unconstitutional. That's why those two states ultimately have halted the implementation of their voter ID laws. [LB239]

SENATOR LAUTENBAUGH: Right. But we're not talking about Supreme Court decisions, are we, you and I right now, about Wisconsin and Texas? [LB239]

SENATOR MELLO: No, no. Yes. No. [LB239]

SENATOR LAUTENBAUGH: So we're just talking about a couple district judges' opinions. [LB239]

SENATOR MELLO: Ultimately those...I would say those couple district judge opinions ultimately have halted the implementation of those laws, as we speak now. So whether or not it's a Supreme Court violation or Supreme Court ruling or judgment, we'll wait and see. I imagine both will be taken to the Supreme Court. [LB239]

SENATOR LAUTENBAUGH: Thank you, Senator Mello. I wonder if Senator Avery would yield to questions. [LB239]

SENATOR COASH: Senator Avery, are you available to answer questions? Senator Avery, will you yield? [LB239]

SENATOR AVERY: Yes, I will. [LB239]

SENATOR LAUTENBAUGH: Thank you, Senator Avery. I asked the question before and I think you were on a little break so I apologize for catching you out of the room. Again, it's a very simple question. Is your car locked out in the parking lot? [LB239]

SENATOR AVERY: Yes, it is. [LB239]

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SENATOR LAUTENBAUGH: Is your house usually locked at night? [LB239]

SENATOR AVERY: Yes, it is. [LB239]

SENATOR LAUTENBAUGH: So at some point your trust in the fundamental honesty of all Nebraskans breaks down, does it not? [LB239]

SENATOR AVERY: The kind of people we're talking about who vote aren't usually the people who break into your house. [LB239]

SENATOR LAUTENBAUGH: (Laughter) I'm not sure how you know that but I'll just take it at face value. Folks, we're getting a little far afield on some of these issues. I recognize that and sometimes I'm responsible for it. I would like to point out that we've heard fairly passionately and, in the case of Senator Cook, fairly offensively what...the regime that I just discussed with Senator Mello compared to laws in the Old South. And the people who support this have been compared to the people who don't want someone like Senator Cook to speak. And it's patently offensive. I can't put it any other way. It is patently offensive, and I would hope that at some point this discussion would be patently offensive to the people who did live through those injustices. Because as I just said to some reporter outside who asked me what I thought of this, anyone who would be dissuaded or disenfranchised by this...by the committee amendment would be dissuaded by a rainy day from voting because this is minimal. This is minimal. And we're told there's so many loopholes, we shouldn't even bother. Well, the loopholes are there to address other concerns. [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR LAUTENBAUGH: So which is it? Do we have to have loopholes or should we never have loopholes? And right now we're talking about an amendment that deals with a problem in underlying law that really has nothing to do with the voter ID bill, as near as I can discern it. If you're against mail-in elections because you think that gives an unfair advantage in some way to smaller counties, well, fine. Bring a bill and take them away. I don't like all-mail elections at all, to be honest, never have. But that's not what we're talking about here. We're talking about a minimal voter ID requirement and an almost nonexistent imposition that is being compared to some of the worst moments in our history, and, again, in a very patently offensive way. Thank you, Mr. President. [LB239]

SENATOR COASH: Thank you, Senator Lautenbaugh. Senator Hadley, you are recognized. Oh, excuse me. Items, Mr. Clerk. [LB239]

CLERK: Just very quickly, Mr. President. Thank you. New A bill. (Read LB1087A by title

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for the first time.) LR593, LR594, LR595, LR596, LR597, LR598 are all study resolutions, all will be referred to the board. And I have an amendment to LB1082 by Senator Lambert to be printed. Thank you, Mr. President. (Legislative Journal pages 1177-1180.) [LB1087A LR593 LR594 LR595 LR596 LR597 LR598 LB1082]

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

SENATOR HADLEY: Mr. President, members of the body, it's getting late in the evening, I think we're all getting tired. I want to read you some quotes. The electoral system cannot inspire public confidence if no safeguards exist to deter or detect fraud or to confirm the identity of voters. That was the conclusion of the bipartisan Commission on Federal Election Reform headed by former President Jimmy Carter and former Secretary of State James Baker. A further quote: With a strong desire to contribute to building confidence in our electoral process, this commission came together to analyze the state of the electoral system, to assess the Help America Vote Act's implementation, and to offer recommendations for further improvement. Public confidence in the electoral system is critical for our nation's democracy. Little can undermine democracy more than a widespread belief among the people that elections are neither fair nor legitimate. We believe that further important improvements are necessary to remove any doubts about the electoral process and to help Americans look upon the process of casting their ballot as an inspiring experience, not an ordeal. We address this report to the American people and to the President, Congress, U.S. Election Assistance Commission, states, state senators, election administrators, and the media. Our recommendations aim to increase...both to increase voter participation and to ensure the integrity of the electoral system. To achieve these goals we need (1) an accurate list of registered voters; (2) adequate voter identification, and they go on in the report to talk about what adequate voter identification is; voter technology that precisely records and tabulates votes and is subject to a verification and capable, fair, and nonpartisan election administration. And, again, before you get into the idea that this was a one-sided report, some of the members of the commission, as I said, were Jimmy Carter, former President Jimmy Carter; Secretary of State James Baker; Robert Pastor, director of the Center for Democracy and Management at American University; Betty Castor, a democratic candidate for U.S. Senate; Tom Daschle; and it goes on. And I guess the only point, I think this bill is a step in this direction of what they were talking about with this particular report. Thank you, Mr. President. [LB239]

SENATOR COASH: Thank you, Senator Hadley. Those still wishing to speak: Senators Brasch, Conrad, Janssen, and others. Senator Brasch, you are recognized. [LB239]

SENATOR BRASCH: Thank you, Mr. President, and good evening, colleagues. Based on overwhelming constituent support, I also support LB727...or LB239 and AM727. I held a series of meetings. I know you've heard about my meetings many times, but I did

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take the question to the streets, to main streets in West Point, Bancroft, Decatur, Tekamah, Oakland, Lyons, Blair, and Herman, and I've had many phone conversations with constituents who were unable to attend the town hall meeting. At this time, there seems to be about 15 percent of the constituents in District 16 who did raise a few concerns. They wanted to make sure that we were not picking on any certain individual, any group. They wanted to make sure it wasn't...not a partisan question. There were questions raised and respectfully I do listen to their voices as well. However, the others, you know, have also made their voices very clear. In Bancroft, a community of about 500 people, I asked, do you know everyone in town? And the answer was, no, not anymore. Everybody has gone off to work. So-and-so moved in, so-and-so moved out. It's hard to keep up with everyone and you just don't talk to neighbors the way we used to. Senator Lautenbaugh mentioned, again, to Senator Avery about reasonably locking your doors and your cars. In our rural communities, we've experienced many consequences of unlocked homes and cars. Things have changed now and times have changed. There are copper thieves ransacking our barns and our buildings, not just once but repeatedly. We would love to believe that there are no thieves, there are no criminals, or dishonest people anywhere in Nebraska. Our homeland is at risk from those who wish us harm, those who do not want to see our republic live long and prosper. Our vote is so vital to the continued American dream and a strong country. Today you do need ID to buy Sudafed, to cash a check, to use a credit card. I have heard that you need ID to show it for Medicare benefits. I've also been told that to receive food from certain food banks they also ask for an ID, a photo ID. I asked the question in Decatur, a community of 660-something. They again said, we don't know everyone who lives there. They thought it was better to stay on the safe side and ask everyone for ID. Veterans, they have stepped forward and they said they believe voters should have an ID. It was not asking too much of a burden considering of the great sacrifice they made for our country; that it is because of the brave that we are free. A photo ID is not a burden. I've asked high school classes, seniors, does anyone in this classroom not have an ID? The classroom had an ID as a whole. I've talked with seniors. They have also mentioned they have IDs. At one point I did have concerns that there would be a fiscal note, a huge fiscal note. However, seeing the number of people with IDs far outweigh...I'm still looking for people without the ID at this point, and I think that we should accommodate those who do need an ID. I respectfully stand here and I do support this. I do want to make sure that we do help those who are in need of a photo ID. Other countries, they require passports to travel across the country. We're not asking for that. All we're asking is that people prove who they are when they exercise the great privilege of voting. Thank you, colleagues. [LB239]

SENATOR COASH: Thank you, Senator Brasch. Senator Conrad, you're recognized and this is your third time. [LB239]

SENATOR CONRAD: Thank you, Mr. President. I was hoping Senator Janssen could yield to a question, please. [LB239]

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

SENATOR CONRAD: I see he's making his way to the mike. [LB239]

SENATOR JANSSEN: Yes. [LB239]

SENATOR CONRAD: Thank you, Senator Janssen. I don't know if you know this, but I was actually raised in rural Seward County, Nebraska, even though I represent a very urban district in north Lincoln. And when I went in to vote in my home, home precinct, when I first was able to vote, we went to the Bee Volunteer Fire Department to cast our ballots. And let me tell you, everybody knew everybody in that precinct. When you walked in, they said: Hi, Danielle, your dad has already been here; your brother and your mom haven't. And what I'm wondering, if this legislation moves forward and were to be adopted, what happens if I show up at that kind of a precinct place and I don't have my ID with me and a poll worker who's known me from birth lets me vote. What happens to that poll worker? [LB239]

SENATOR JANSSEN: Under the amended version of this bill or even the actual version of this bill, you would have to show the forms of ID that were put forth, otherwise you would have to fill out a provisional ballot. [LB239]

SENATOR CONRAD: What if they went...they say we know you, it's not a problem, we're going to go ahead and let you cast a regular ballot? What would happen to that poll worker? [LB239]

SENATOR JANSSEN: If this passes, they have to ask for that. I'd have to get back to you on what the exact repercussions would be on that particular poll worker. [LB239]

SENATOR CONRAD: Okay. Thank you, Senator Janssen. And I'll let you know that the election statutes say very clearly what would happen, that an election officer that would in any way violate this would be subject to criminal penalties. And I think that's the nuisance factor that Senator Carlson talked about the first time this bill came forward, and besides the issues with costs that I think pose real problems for a slippery slope in terms of potential implementation. So I did want to make sure to bring that forward. Colleagues, each of us come to this body with different backgrounds, different perspective, different training, different biases, different experiences. And I believe that's a strength of the Nebraska Unicameral Legislature, that with the diversity of opinions and experiences, we can learn from each other and we can hopefully find an appropriate middle, a good balance in terms of our public policy when we take into account those different perspectives and take them to heart. And one of the skills and piece of my background that I bring into the Legislature is that I went to law school. I'm an attorney. That's my educational training. There's a few of us here in the body that

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are, and there's some that aren't. But it's fair to say that that's a special skill set, and we have a different way of looking at things. And you can ask any two attorneys and probably get two different opinions on something. We've heard attorney legislators get up tonight and say, you know, with certainty that they have a feeling about the constitutionality of this. Of course that's their province, but let's be careful about what we do mean and what we do say. The provision that would most likely be at...in question in the Nebraska Constitution has about 12 citations beneath it, from what I can tell looking at it, dating back to the 1890s in some cases. So this provision of our constitution has been challenged in a very, very limited basis. So to stand here today and say that I believe this is constitutional or unconstitutional, no attorney worth their salt can say that. It's fair to say it's an open question that will subject the state to costly litigation. And I also don't think it's fair when we utilize our special knowledge to try and trip up other senators who are trying to make a good-faith effort to engage in the public debate. [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR CONRAD: Thank you, Mr. President. And my final notation would be, I found nothing offensive by what my good friend Senator Cook brought forward because she does have a unique perspective and she was doing nothing more than reciting U.S. history. And let me ask you this: If it made you uncomfortable or you find it offensive, ask yourself why. Thank you, Mr. President. [LB239]

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

SENATOR JANSSEN: Thank you, Mr. President and members. And, again, I'd like to thank my colleagues for the civil debate and the great debate we've had tonight on our voting laws in Nebraska. I think it's something that's of interest to all of us, me included, and possibly the people that are watching us out there in Nebraska if there are any out there still watching us in Nebraska. I was a little taken aback. I would imagine that the State Patrol and law enforcement throughout the state is probably trying to call the Secretary of State right now so they can wipe off any registered voters from their list of suspects, according to Senator Avery, because if you're a registered voter, there's no chance that you would probably want to commit a crime. I say that a little bit facetiously, and I don't think he truly thinks that. He can bring that up later. But when he did make his comments earlier that, you know, Nebraskans are honest people, by and large they are. And Senator Lautenbaugh brought up some good points that, you know, we do have laws in Nebraska. And I just went through our, just today, laws that we had discussed that had penalties to them dealing with child abuse. And certainly we have child abuse that Nebraskans commit here. I mean, there's several...so the reasoning there doesn't really hold up. But that's an extreme example. So I'll just go back to there is penalties for voter fraud. I believe it's a Class IV misdemeanor. Those penalties are

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there. It's subject to jail time, subject to fines. I wonder what our former colleagues were thinking and why they put those in place if that same logic holds true that Nebraskans would never break the law, at least when it comes to registered voter Nebraskans, they would never break the law. Several good points have been brought up tonight. I appreciate both sides of the debate. Again, I'm not sitting here vehemently opposing how AM1667 would apply. I'm saying I don't want it on and I don't think it needs to be on...added to LB727...excuse me, AM727. I think that bill needs to go forth as amended and we need to vote on that. I do respectfully disagree with Senator Mello that we have to have that moved on it to move on LB239 as a whole. Right now we have mail-in voters in Nebraska. It can be argued those are a separate class. No lawsuit, that I'm aware of, I could be corrected, in Nebraska has been brought forth in that. The other states that have enacted this and had it held up in the Supreme Court do have mail-in votes, early voting. To my knowledge, and again, anytime you say that on the mike you can be corrected, but to my knowledge the one that was held up in the U.S. Supreme Court does have this separate class that Senator Mello speaks of. And that has been upheld, so I don't think Nebraska would be any different. Again, not saying that AM1667 couldn't be looked at in its own legislative bill somewhere else. There's been a lot of discussion brought up here tonight on various forms of ID, on and off the mike, that I would be amenable to after this passes on General File. I need to get to 33 votes presumably tomorrow, unless 25 would work tonight. I'd be happy to do that too. I'm not sitting here saying that my way is the only way. If that was the case, we would have probably started with the first bill, LB239, but I had to work to get it out of committee. I had to overcome objections that were brought forward by the opponents of this bill. Unfortunately, that didn't move them off opposing the bill, just like I don't think if many of these amendments were adopted it would get the introducers of those amendments to support the underlying bill. But that doesn't mean they're all bad ideas and they don't have a place out there. This is one idea to help stop and find out where voter fraud is happening, to be... [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR JANSSEN: Thank you, Mr. President...to be very proactive. It's an inexpensive way to do it. Senator Wallman, he noted that...noted many things, and what it said to him, I think, and I'm paraphrasing, is this didn't go far enough. And he mentioned other things that could be done. I welcome that. This is the first step, the first step in getting something done. It was brought up that we might falsify our voter registration cards, but I can rely on Senator Avery to debunk that because we know people that have registered to vote wouldn't commit any fraud--his words, not mine. I say that a little bit facetiously, as Senator Avery and I are friends. He did invite me over to his house once. I cannot...I didn't go so I can't attest to whether or not it was locked or not. Perhaps it was when he saw me walking up the sidewalk. But, again, I appreciate the civil demeanor tonight as we move forward with this. I appreciate those sticking around tonight. [LB239]

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SENATOR COASH: Time, Senator. [LB239]

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

SENATOR COASH: Thank you, Senator Janssen. Those still wishing to speak: Senators Ken Haar, Lathrop, Nordquist, and others. Senator Ken Haar, you are recognized. [LB239]

SENATOR HAAR: Mr. President, members of the body, when Senator Schumacher and I sit close together, we come up with solutions. The solution would be actually with all the electronic abilities we have nowadays is when somebody registers to vote, you take their picture; it goes with their name in the voter file, just like in my contact list in my smartphone. And then every election worker has a computer, they bring up the name, and there's the picture; none of this having to have all kinds of ID to show at the time--there's your picture. One of the scenarios that came up was that somebody goes to the wrong precinct and votes. And so we need to know their identity. Well, if that person presented a passport, a U.S. passport doesn't have an address on it. It's got my picture. It's got no address. And passports only have to be renewed once every ten years. So I think it is important to talk about the big loopholes. Passports are certainly a big loophole--no address on it. Yet we require a driver's license with the current address, not just whether it's expired or not but whether it has the current address. And you have 30 days to get your driver's license renewed when you move, but there's no such time limit when it comes to voting. The provisional ballots are another whole issue. And we're talking about cost here. We know that a lot of people would show up at the polls and not know about these new rules. Most people, especially older people, are used to just going to the poll and voting. So then you have a provisional ballot. And if you look...we've looked at the process that you have to go through with Lancaster County, for example, with provisional ballots, and it's extensive. Somewhere I heard the amount of money, at least \$30 for provisional ballots. So I can guarantee you that there's going to be a lot more provisional ballots at these elections and that that's going to cost the counties money. And then what about all the training you have to do for people. Again, people like myself, who voted in every election since they were old enough to vote, there...you know, most of us are going to come to the poll not knowing a lot about exactly what I have to bring. And so one of the requirements that other states faced was that you have to do public education every election. Every election the state has to do public education. That's where the millions of dollars of cost come in. You must educate people. I think the real problem here is not people impersonating voters intentionally. I think the real problem in our country is that we have such a low voting rate. Compare this to other countries. For example, in the United States our...across the nation, we have one of the lowest voting rates in the world at about 50 percent. Other nations have much higher turnout for voting: Canada at 74 percent, many European countries in the 80 to 90 percent. I think the real problem is how do we

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get more people to the polls instead of trying to solve an imaginary problem of voter impersonation in this state. And one of the statements that was made as well: We need to do this so we can know if there's fraud in the system. This isn't going to prove if there's fraud in the system. I can guarantee you that less people are going to vote, so then it's going to be a guesswork. Was it fraud... [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR HAAR: ...or was it people being kept away because they didn't have...they didn't feel comfortable going to their voting place anymore? So this isn't going to prove anything about fraud. I think the only thing it's going to prove, if this goes through, is that we've set up barriers to voting that many people are not used to and will stay away from the polls and will get even less people at the polls. Thank you. [LB239]

SENATOR COASH: Thank you, Senator Haar. Those still wishing to speak: Senators Lathrop, Nordquist, Krist, and others. Senator Lathrop, you're recognized. [LB239]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good evening once again. I'm going to yield my time to Senator Council, but I wanted to just make an observation and that is I've heard three or four times today about whether my car is locked in the parking lot. I don't think that the common thief should be compared to the person who takes the time to go vote. They're not the same group. My guess is somebody who would break into my car if I left it unlocked is not a likely voter. And so the comparison between a voter and somebody who might ransack my house while I'm down here tonight (laugh) on the mike talking about this bill probably is a poor comparison and really is not persuasive. The question is whether or not we can trust voters. And what we haven't heard tonight is that we shouldn't. We've heard that we should not trust thieves because they might break into our cars and they might break into our homes, but that's no reason to suspect somebody is going to try to defraud the system and vote when they shouldn't or use a name that isn't theirs. And with that observation, I'll yield the balance of my time to Senator Council. [LB239]

SENATOR COASH: Thank you, Senator Lathrop. Senator Council, 3 minutes 35 seconds. [LB239]

SENATOR COUNCIL: Thank you very much, Mr. President. Thank you, Senator Lathrop, because I do appreciate the opportunity to respond to Senator Janssen's comments regarding the relevancy of AM1667. Senator Janssen and others have stood at the mike and unequivocally stated that LB239 with AM727 is constitutional. Well, there are differing determinations of constitutionality. There's a determination as to whether a piece of legislation is constitutional on its face, and then there's a determination as to whether or not the legislation is constitutional as applied. I submit to you that without AM1667, LB239, as amended by AM727, could be and probably would

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be found to be unconstitutional as applied. And that's because it sets up two different classes of voters in the state of Nebraska. And in setting up those two different classes of voters, while some find it patently offensive, the fact of the matter is that rural communities where the counties have populations of less than 100,000 (sic) people, you find generally homogeneous communities. Those communities with more than 100,000 (sic), where we don't have all-mail-ballot voting options, are more diverse. And in those situations, the impact of LB239 without AM1667 is that there would be a disproportionate impact on voters in those counties that could not engage in all-mail-ballot elections because they would have a hindrance on the exercise of their constitutional right to vote if they wanted to show up in person. And, in fact, that would have to be one of the options since they couldn't have an all-mail-ballot election. That should concern Senator Janssen. Senator Lautenbaugh found certain of my colleague,... [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR COUNCIL: ...Senator Cook's comments to be patently offensive. Well, the problem is that there are those of us who found LB239, in its original form, patently offensive. And if you look at the states where exactly identical legislation was introduced, and this piece of legislation, LB239, has been compared by independent observers and found to be identical in form to legislation that was distributed by ALEC. And in those states that, because of our horrid history in terms of race relations and voting, where they're subject to Section 5 of the Voting Rights Act in South Carolina and in Virginia, these laws have been found to be discriminatory. And as a result, the Department of Justice has stricken down... [LB239]

SENATOR COASH: Time, Senator. [LB239]

SENATOR COUNCIL: Thank you. [LB239]

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

SENATOR NORDQUIST: Thank you, Mr. President and members. I was going to yield some time to Senator Mello when he gets back here, but I think looking at the underlying bill here, if we look at it from the beginning, the purpose of the bill was to address voter fraud. I think through the testimony at the hearing, through other accounts, same interview that Senator Schilz mentioned on the radio of a Douglas County Election Commissioner, he said in that same interview that there are...he has no, in his time there, has no indication that there's been any fraud. Secretary of State basically said the same thing, basically said the same thing in the hearings on this bill. And then we put forward an amendment to the underlying bill that...an amendment to the underlying bill that if there was that problem, it doesn't solve it. And we've talked

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about this voter ID card and Senator Janssen made light of it. But the fact of the matter is you don't have to be a registered voter and could be a crook if there are two different people here to reproduce these cards. And if you look at mine, which I received over the weekend, again I was out of town so when they delivered my stack of mail on Monday over a couple of days, the ink is kind of already brushed off a little bit in some spots and it certainly isn't a high-quality produced document. It's something that can be easily fabricated. So if there is a problem, number one, which we have no evidence that there is, the solution that we're putting forward here isn't solving the problem. And the third issue is that the solution we're putting forward that doesn't solve the initial problem we were trying to address may be unconstitutional. And we're going to spend hundreds of thousands of dollars addressing that. So what are we doing here, folks? If Senator Mello is available, I'd yield him the rest of my time. [LB239]

SENATOR COASH: Senator Mello, 2 minutes 50 seconds. [LB239]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. And just to provide, I guess, a perspective, I know Senator Lautenbaugh asked a very series of yes-and-no questions in regards to what he viewed as a minor impediment or a minor...or slightly limiting our fundamental freedom and our constitutional right to vote. Colleagues, he may be right. It may, in his view, be a slight or a minor impediment or a slight infringement on our constitutional rights. But I distinctly remember Senator Lautenbaugh, amongst other colleagues and friends of mine in this body, who have adamantly opposed infringement upon any constitutional rights whatsoever. So I find it odd that there would try to be an argument to say, well, this is a slight infringement, this is not that bad or not that big of a deal, when it cuts to the core of our fundamental freedoms. This is a constitutional right laid out in the Nebraska Constitution. Yet when we talk about other issues, whether it's abortion, whether it's healthcare, anytime someone wants to talk about limiting our constitutional freedoms, then it's a different story. But on this issue, it's a slight infringement. Colleagues, we try to be consistent as best we can. And I expect senators and colleagues in this body who defend the constitution, defend our constitutional freedoms and rights on a variety of levels, to stand for those constitutional freedoms and rights, whether it's the constitutional right to hunt and fish or whether it's the constitutional right to vote. Earlier today we took a vote, overwhelmingly supported we wanted to put that... [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR MELLO: ...constitutional right in front of voters to hunt and fish. The majority of the senators who voted for that have not stood up once on this debate to describe their desire to ensure we protect the constitutional right to ensure our vote is not infringed upon. Colleagues, all I'm asking for, one, is for full and fair debate and for consistency. We want consistency when we talk about protecting a fundamental freedom, protecting our constitutional rights. If it's good enough for hunting and fishing,

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colleagues, it should be good enough to protect our constitutional right to vote. Thank you, Mr. President. [LB239]

SENATOR COASH: Thank you, Senator Mello. Senator Krist, you are recognized. [LB239]

SENATOR KRIST: Thank you, Mr. President, and good evening, Nebraska and colleagues. There's been a question asked about trusting voters, the good nature and the good people of Nebraska, and as if we are challenging that they are not good people. You know, I trust the people of Nebraska. I trust them that they, for the most part, do the right thing. They have a work ethic that attracts economic development in this state. They do the right thing. And I'm sure that those that are dedicated voters would not even think of doing something dishonest with the system. However, I have some concerns. I've talked about this in the lobby with folks, my constituents who have asked me my viewpoint on this issue. This is not hearsay. This is not secondhand. This is real information. So whether it applies to this particular situation, you can judge for yourself. In 2008, there was an incredible amount of increase in registered voters in District 10, which is part of the 2nd District. There was an increase in a lot of registered voters all over the state of Nebraska, all over the United States. It was a huge thing. It was a historic vote. Interestingly enough--and the general population of Nebraska may not understand--but when we run for public office, we have an opportunity to go to the election commissioner and find out who those voters' addresses are so we might mail out information and give them our information and try to convince them to vote for us. So the way that you normally do that is go there and ask for all the "four for fours." That's the voters that have voted in the last four elections. So I did that and I did the "two for twos" and I did the...I did the last one because I thought it was important that those new voters, predominantly just registered for that last presidential campaign, that I could appeal to them to look at me as a qualified candidate and vote for me. I did not take Republicans or Democrats or Independents. I took them all. And I looked at the "one for ones" and the younger...the recently, first-time registered, as an opportunity. What I found out was of the 400-and-some-odd postcards I sent out to that specific target audience, over 200 of them were returned to my post office box--address unknown, not able to forward. Now it's been suggested to me that those 200 people out of 400 or the 800 total that I sent would not be unrealistic to have moved on from their parents' homes to go to school, to go in the military, that there's a very independent mobile base that moves quite a bit. But it gives me cause for pause. So I wonder how many of those were legitimate voters registered to vote and voted absentee or by mail. The kinds of things that I hear today and the questioning about what potentially might be legitimate causes for voters to create voter fraud does not in any way come close to my concern that it might be a political party or a particular voting...a cycle of voting where something is very... [LB239]

SENATOR COASH: One minute. [LB239]

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SENATOR KRIST: ...important to maybe the city of Omaha, to maybe the national elections that those might be influences that would cause people to find the edge. Senator Lathrop said earlier he won by a narrow margin. I did too. When I look at those 200 voters that somehow disappeared from District 10--and I will agree a portion of those might have been legitimate "move ons"--I won by 55 votes. So it causes me pause to say, were all of those legitimate votes at the time and what happened to those votes. So I think when I look at LB239, I look at AM727, and I look at AM1667, and I look at every one of the amendments that are upcoming, either for legitimate purposes or just for filibuster purposes, I see that we may have some cause to look at not voter... [LB239]

SENATOR COASH: Time, Senator. [LB239]

SENATOR KRIST: ...fraud but the inconsistencies of the way our registration process... [LB239]

SENATOR COASH: Time, Senator. [LB239]

SENATOR KRIST: ...or identification process... [LB239]

SENATOR COASH: Time, Senator. [LB239]

SENATOR KRIST: Thank you. [LB239]

SENATOR COASH: Thank you, Senator Krist. Senator Nelson, you are recognized. [LB239]

SENATOR NELSON: Thank you, Mr. President, and good evening, colleagues. This is sort of a segue to what Senator Krist had to say, and I subscribe to that because I'm going to give us a little more information along those lines. Let me say, first of all, that I stand in strong support of LB239 and AM727. I think that everyone in this room, everyone in this room should want to make the voting process as efficient and legitimate as possible. You may not agree with how the bill is framed, but that's okay. But I only ask that supporters and opponents, addressing us this evening and tomorrow morning, focus on the primary focus of this bill which is to improve the electoral process. Thirty-two states have enacted voter identification laws and thirty of those states will require voters to show an ID to vote in the upcoming election in November. Efforts to reform, repair, and strengthen the election procedures across the country began at least a decade ago. And many of these efforts came as a result of the controversial presidential election of 2000. And there was a prior election that I remember a little bit about in 1960 where it was documented that there was voter fraud in Cook County, Illinois, and so far as I know they are still plagued with voter fraud and a lot of fraud in

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Cook County, Illinois. So on October 29, 2002, Congress passed the Help America Vote Act, which was a bipartisan effort to modernize voting procedures and to ensure poll workers were properly trained. The act corrected some problems in the electoral system, but members of each party concede that it did not go far enough. On September 19, 2005, the Commission on Federal Election Reform released its report on federal election reform with 87 recommendations. The commission concluded that a voter ID system is needed, and I repeat, a voter ID system is needed to increase this number of registered voters and to modernize voter registration records across the country. The commission added that states should provide free IDs for those who don't possess a driver's license and who cannot afford one. So we may argue about whether it should be free and the cost or whether there should be a light charge. But, nevertheless, the commission recommended that we do operate with a voter ID. And that's what this bill is about. In February of this year, the Pew Center on the States released a report that revealed the following: At least 51 million eligible citizens remain unregistered, more than 24 percent of the eligible participants. More than 1.8 million deceased individuals are still listed as voters. Approximately 2.75 million people have registrations in more than one state. About 12 million records have incorrect addresses, meaning either the voters moved or errors in the information made it unlikely that any mailings could reach them. Senator Krist made some observations about this when he was running for the Legislature with regard to the cards were returned. [LB239]

SENATOR COASH: One minute. [LB239]

SENATOR NELSON: The same thing happened to me. LB239 is another attempt to fix an electoral system that is widely recognized as flawed. You may argue voter information and fraud is not a problem in Nebraska. It may be not an issue today, but it may be in the future on the basis of our experience and we see where society is going in this day and age. So I heartily support LB239 as a first and small step in making sure that we don't have to deal or lose elections as a result of voter fraud and fraudulent efforts in the future, especially when there are elections that concern your own livelihood and how things might come out if the wrong person, in your estimation, gets elected. Thank you, Mr. Speaker. [LB239]

SENATOR COASH: Thank you, Senator Nelson. Senator Janssen, you are recognized, and this is your third time. [LB239]

SENATOR JANSSEN: Thank you, Mr. President, colleagues. And, again, as I got cut off last time, I'd like to thank all of you for staying this evening. And I know several of you are in and around the Capitol and I appreciate that. I know we're going to be here late. And I just wanted to go over a couple of points I haven't touched on for a while. I believe this is my third time, as the President said. The cost is \$15,000 per election as LB239 is amended with the committee amendment. Again, I stated that...in the hearing that, no, I don't think voter fraud is rampant, but any should be addressed. If we have any chance

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to address it, we should look proactively to get that done. I think we all share that...we all share that goal. We might have different ways of achieving that goal. And I'm open to listening to ways to achieve that goal. I have never sat up here and said I think this is the perfect model legislation that we need. I'm looking for reasonable amendments. I've talked to Senator Mello off to the side. There are amendments. There are things that were left out of the bill. There are amendments, I talked to Senator Sullivan, if I can get this thing passed through General File, that we're talking about going back and adding on. So this is not the end-all to be-all. Certainly need to get it through General File. I'm hopeful we can do that. I'm hopeful that it doesn't actually take a cloture vote. I know we're moving toward that and that's fine if we need to do that. But, again, I've looked at all the amendments. Some work; parts of some do or don't. But right now in this state in this posture where we're at, which is a filibuster, it's tough for me to jump on board without at least hearing some positives that this is something that we think will make the bill better and we support it, because we have a lot of good ideas out there. I've not stood up, at least to my knowledge yet, and railed against Senator Council's AM1667 because I don't think it's a horrible idea at all. Again, I believe Senator Harms had this bill in committee. I haven't checked where it's at in committee right now. I haven't thrown my support for or against it in committee that I'm aware of. I'll check when I'm off the mike. But it's worth having the debate over. And we're having a good one. I know we've kind of gotten off course sometimes with that debate. Again, I just stand here to ask for your support. Let's work together on this. I would like to see AM727 passed, amended into LB239. And, again, I'll say it over and over, I appreciate the tone of the debate tonight and I appreciate people sticking around. Thank you, Mr. President. [LB239]

SENATOR COASH: Thank you, Senator Janssen. Senator Ken Haar, you're recognized, and this is your third time. [LB239]

SENATOR HAAR: Mr. President, members of the body, There's a business principle that says this: You can't manage what you don't measure. Let's look at that, this business principle. In business, you don't just go stabbing in the dark and try and solve to something you don't even know exists. So if we really think there's a voter fraud problem in this state, then let's give some money to the Secretary of State to study voter fraud in Nebraska. Now they might just conclude, as President Bush's Justice Department did, when they finally really took this seriously saying we got to study voter fraud, concluded voter impersonation fraud is very rare in the U.S. But if we're going to take some measurements, if we're going to take some actions, then I think we need to measure the amount of voter fraud in Nebraska. And nothing about this bill measures voter fraud. It just tries to prevent something we don't know even if it does exist or, if it does exist, how it's happening. There's not a fix, for example, for the tiered system so that rural voters in these smaller counties would not get the same kind of scrutiny as we do in Lincoln or Omaha. It says nothing about vote by mail. I think that might be the greatest potential is if my father has Alzheimer's, and this is theoretical because my father died a decade ago, if my father had Alzheimer's and so his ballot just keeps

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coming. You know what? It would get to the right address. I could fill it out and vote for him. I think vote by mail is the greatest potential of fraud here and it isn't covered at all. And then voter registration, most of the fraud in this country has not happened around voter impersonation but about voter registration up-front. And much of the voter registration fraud, like in Chicago that we all hear about, was complicit with the whole election apparatus, and that you can't prevent. So the amount of \$15,000 at \$30 a provisional ballot, that means that there's only going to be 500 more provisional ballots in the next election. And you look at all the confusion this is going to cause, there's going to be many more than 500 provisional ballots across the state at \$30 apiece. So I'm going to say let's apply...let's run government like business. You can't manage what you don't measure. Let's measure voter fraud, see where the problem is, and then manage it accordingly. Thank you very much. [LB239]

SENATOR COASH: Thank you, Senator Haar. Those still wishing to speak: Senators Campbell, Burke Harr, Cook, and others. Senator Campbell, you're recognized. [LB239]

SENATOR CAMPBELL: Thank you, Mr. President and colleagues. I want to say to start out with that I tend to agree with Senator Haar that one of the greatest problems we have in this country is that we don't have enough people going to the polls. And I believe that where there is the potential problem is perhaps not as the people step in to vote at a polling place, but a lot may be inadvertent in the mail-in ballot. And I want to give you an example of that. And Senator Schilz and I were just talking about this. A gentleman said to me last night, well, you know, my dad always kind of voted and then voted with my mom. And I said, really! Didn't your mother have Alzheimer's for a great number of years? And he said, well, yes, but he kind of knew how she would have wanted to vote. And I think there's a number of people across the state that don't think about that. They kind of vote for Grandma or they kind of help, and not in the ways that are allowed but perhaps in a way that we might look at as voter fraud. We've all had a lot of mail on this issue. And I have to say that people who took the time to e-mail us or to call or to talk to us, both groups are fervent in their beliefs, and both sides represent committed Americans. And I want to emphasize that point because I really appreciated Senator Janssen's opening comment that all of us would come to this perhaps from a different principle. I think for the people who have said that they are opposed to this come from a principle or a value of saying I don't want anyone deterred. I want the vote to really mean something and I want any American to be able to come to the ballot. Those who favor it say, I want every true citizen and American to be able to vote, and I think that's a photo ID. I have to say I come down on the side of people who feel from a principle standpoint that I want everyone to be able to vote and not feel deterred. And for that reason I have opposed LB...the underlying bill. And I would urge you both to keep in mind Senator Janssen's comment that both sides of this issue come from it from very fervent principles and are true Americans. Thank you, Mr. President. [LB239]

SENATOR COASH: Thank you, Senator Campbell. Senator Burke Harr, you are

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recognized. [LB239]

SENATOR HARR: Thank you, Mr. President, members of the body, fellow Nebraskans. I, too, want to reiterate what Senator Campbell said. There's been a lot of good discussion not just inside the Chamber but outside the Chamber, talking about what are our values as a state, who and what do we want to be, which is always exciting for me. The last 20 years, policy has been let's make sure those who are eligible to vote can vote. Let's make it as easy for them as possible. We have made voting by mail easier. We have made absentee voting easier. And we've made early voting easier because the public policy has been, those who are eligible to vote should and we shouldn't limit it to that one day, and that's been good public policy. And over that time in the state of Nebraska, I remind you, we are not Cook County. There may have been fraud in the '60s in Cook County, but we are not that place. I have yet to hear not just of a successful prosecution but of any prosecution for voter fraud. Now voting is the most fundamental right we as Americans have. It helps us to define who we want this government to be, who do we want in power and who do we not want in power. And if we're going to tell someone, you have the constitutional right, you have done nothing to take your voting right away except not have an ID, we better be very careful when we do that. I'm kind of like a mother grizzly. I'm very protective of my constitutional rights. I protect the constitution. I think it's very important. Now whether this law is constitutional or not, that's not really the issue. The issue is, are we allowing those who, by the constitution, are eligible to vote otherwise, are we preventing them because of an arbitrary law, a law that doesn't get at the most pervasive type of voter fraud there is out there? We know there are other types of voter fraud. How do we know? We actually prosecuted those. So let's look at laws, let's look at ways to further stop those types where there is fraud. Let's not punish those who have done nothing illegal. We keep talking about, well, we've got to make sure they're properly...they're voting where they're supposed to be and that the DMV has the proper ID form. Ladies and gentlemen, the second they hit return on that DMV list, that list is dated and out of date. People constantly move. We live in a transient society. That's the kind of society we have chosen to live in and it's good. But as a result, we can never say on this day where every single person lives. This is not like the times in Nazareth where you got to go (inaudible) back, went to one place to vote and everything stopped and you went back to your home country, wherever that may be, Bethlehem, I don't care. We don't do it that way anymore. You vote from your home and you vote in your precinct. And that list is constantly changing, and there are going to be mistakes, but there isn't fraud. If you're going to make accusations of fraud, you better come loaded and ready to bear and tell me where that fraud is, because I want to stop it. I am not advocating voter fraud. [LB239]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: One minute. [LB239]

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SENATOR HARR: Thank you, Mr. President. But I have yet to hear one person talk about an actual case. We have someone that said that we don't have it, but they want to remain diligent for the cases that could surface. Couldn't agree with the Governor more. We do need to remain vigilant for cases that may arise, but that doesn't mean we pass bad laws. It means we pay attention. We look at the signatures. So, again, it seems like a good idea on its face, but patently I cannot agree with this amendment or the bill. Thank you very much. [LB239]

SENATOR GLOOR: Thank you, Senator Harr. Senators remaining in the queue: Cook, Carlson, Wallman, and Sullivan. Senator Cook, you're recognized. [LB239]

SENATOR COOK: Thank you, Mr. President, and good evening again, colleagues. I rise still in vehement opposition to LB239 and yield the balance of my time to Senator Council should she accept it. [LB239]

SENATOR GLOOR: Senator Council, 4 minutes 45 seconds. [LB239]

SENATOR COUNCIL: Thank you very much, Senator Cook. And I guess it's fortuitous that you should yield me your time because one of the issues that I wanted to address was the issue you raised the last time you were on the mike. And we want to ignore it and pretend that it's not an issue, but it is indeed an issue. When we start talking about the constitutionality, or lack thereof, of LB239, we not only have to look at court decisions, but we have to look at other decisions that have been rendered on language similar to what's found in the green version of LB239 and the attempt at AM727. And when we go back to the suggestions about patently offensive comments, one need only look at the original version of LB239. And, you know, to Senator Janssen's credit, he has stated publicly that he's supportive of AM727, although I don't believe it goes anywhere close to making LB239 a palatable bill. But you have to look at LB239, you have to look at the context within which LB239 was introduced, and you have to look at what has occurred in other states. There's been a lot of mention about what the court ruled in the Indiana case. In the Indiana case, the Indiana law that was enacted provided that the state of Indiana would pay the cost to obtain state-issued ID for those who were unable to afford it. The original version of LB239 didn't provide that and nor does AM727. In Indiana, that law specifically provided for a substantial state expenditure for education and outreach. Neither LB239 or AM727 provide for that level of expenditure. And, in fact, I again must bring in the issue in Douglas County with the reduction of the polling places. There the election commissioner says he's not planning to send out any educational information on voting by mail. When you look at the other states, and as I was on the mike last time, admittedly the two states that I'm referring to are states that are subject to Section 5 of the Voting Rights Act of 1965, and Nebraska is not. But both of those states, by virtue of being subject to Section 5, have to have any changes in their voting and electoral laws approved by the Department of Justice. South

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Carolina enacted a bill that is identical, that was identical to the green version of LB239--identical, word-for-word! And the Department of Justice struck down that South Carolina bill, and one of the reasons noted, the DOJ, the Department of Justice, rejected South Carolina's voter ID law,... [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR COUNCIL: ...noting that the state's registered population of minority voters was 20 percent more likely than whites to not have the required identification. We have similar data here in the state of Nebraska. Supporters of the law in South Carolina allege that an ID requirement is necessary to combat voter fraud, despite almost no evidence. The DOJ acknowledged this reality when it blocked South Carolina's law, writing that the state, quote, did not include any evidence or instance of either in-person voter impersonation or any other type of fraud that is not already addressed by the state's existing voter identification requirements and that arguably could be deterred by this new law. Senator Nelson and Senator Hadley both referred to the Help America Vote Act. Those gentlemen should go back and look at the history of the law that is being amended by LB239. [LB239]

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

CLERK: Thank you, Mr. President. Very quickly, four new study resolutions or, excuse me, three: LR599 by Senator Lathrop will be laid over; LR600, LR601 by Senator Lathrop; LR602, Senator Schilz, study resolutions. Thank you, Mr. President. (Legislative Journal pages 1180-1182.) [LR599 LR600 LR601 LR602]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Carlson, you are recognized. [LB239]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. This is my only time to speak on LB239. Thinking about a lot of things and listening to some people testify, I think that almost all of us really want the integrity of the voting process in Nebraska to be maintained and even enhanced. I think that we consider common sense in Nebraska to be the general rule. And we generally take one another at their word. I think most of us generally believe that there is very little fraud in the voting process in Nebraska. And most of us would agree that there could be some voting fraud though. Now we can't prove that there is no fraud in the voting process. I intend to support AM727 and LB239 on General File. But I really become irritated when to solve a small problem we paint everything with a broad, broad brush. Senator Schumacher gave a good illustration of a very possible scenario at a polling place. Now let me use Holdrege as a real example to Senator Schumacher's possible scene. My father, Vinny Carlson, died in 2010, but we'll assume he's still here. So he shows up at the

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fairgrounds to vote in the next election. And the poll workers there, Jim and Dee and Virginia and Sally and Berdeen and Harry and Ned, all greet my dad by name. And he greets each one and has a brief visit with each, just like he's done every election since 1984. Now with LB239, Sally says, Vinny, we need to see your photo ID because of our new law. Vinny reaches into his pocket but there's no billfold. So Sally says, do you have your voter card? He says, no. Well, we have a problem. We have your address. We have your signature. We know you very well, but sorry, the only way that you can vote is by a provisional ballot. That's a 15-minute embarrassing scene, bringing humiliation to my father. Why? There has to be a better, more congenial, more Nebraska-friendly way to see to it that our voting process maintains its integrity and those who show up to vote are the people they pretend or say they are. And if we try hard enough, we can figure this out by Select File. If that doesn't happen, my vote goes to red. Thank you, Mr. President. [LB239]

SENATOR GLOOR: Thank you, Senator Carlson. The Chair recognizes Senator Wallman. [LB239]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I appreciate what Senator Carlson said, Senator Schumacher. Again, another e-mail from a constituent says, what are you guys spending money for? Are we going to pick up the tab for this; or it's another mandate for the counties to pick up and local entities, cities? It's usually more than we say. We put out a figure here, but it still costs money. And if we are really enamored with this bill, then let's have an A bill. That's what we should be doing. But I don't think we have a problem with this and unless we do have a problem, then let's come forth and deal with it. Thank you, Mr. President. I'd yield the rest of my time to Senator Council. [LB239]

SENATOR GLOOR: Senator Council, 4 minutes and 5 seconds. [LB239]

SENATOR COUNCIL: Thank you, Mr. President, and thank you, Senator Wallman. When I was last on the mike, I was about to focus on comments made by my colleague Senator Nelson and Senator Hadley about the Help America Vote Act and what the recommendations in that federal act were for addressing any concerns with the flaws in our electoral process. And what I was directing my colleagues to, was to look at the history of the section of statute that is proposed to be amended by LB239. The recommendations that are found in HAVA, the Help America Vote Act, were enacted by this Legislature in 2003, further amended in 2005. And there was action taken in 2011; it didn't have to do with the voter registration, but addressing the areas of concern that that bipartisan commission identified and the recommendations that were made by that body are reflected in the current version of the law. And it sets out what identification is appropriate and should be accepted for a voter registration. That commission talked about the problem in our system is not voter impersonation or voter fraud at the polls; the problem lies in our voter registration systems and how they are outdated. In fact, the

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South Carolina law that I was referring to, one of the statements that was made during the debate on that bill was that they reviewed voter registration records in the state, and the claim was that, based upon their review of Department of Motor Vehicle records, that 950 dead people had voted in South Carolina over the past six years. That was the assertion in support of the enactment of that South Carolina voter ID bill. And the bill was repeated on the floor in South Carolina, and it was repeated by Fox News and other outlets as proof of voter fraud. Well, on further review of that voter ID law, the election commissioner examined all of the voter registration data. And of the names the department was permitted to examine, all of the people who were asserted to have been dead and have had someone vote in their place were, in fact, alive and eligible to vote and had voted. So when we look at the reason, the purported reason, for LB239,... [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR COUNCIL: ...it falls under its own weight, because the amendments that have been offered--and this is what is particularly disturbing to me--the amendments that have been offered are amendments that reveal the loopholes and flaws in LB239 as amended by AM727. But no one wants to focus on the fact that those are legitimate issues being addressed by these amendments, because those flaws exist, those loopholes exist. Everyone wants to summarily dismiss the fact that these voter registration certificates could be easily replicated--easily replicated--and that when we talk about photo identification, I mean, we've been talking about underage drinking under several pieces of legislation this session, and we all have the articles that talk about how you can get on the Internet and obtain a false identification. [LB239]

SENATOR GLOOR: Time, Senator. [LB239]

SENATOR COUNCIL: Thank you. [LB239]

SENATOR GLOOR: Thank you, Senator Council. Senator Flood. [LB239]

SPEAKER FLOOD: Thank you, Mr. President. Good evening, members. Wanted to let you know that I'm going to go ahead and put the agenda out a little bit early for tomorrow so that members can get a chance to see that; general public will also get a chance to see that. Should be available on our Internet in about ten minutes. So the plan tonight is we're going to go to 10:00. We're going to come back in tomorrow morning. I envision us continuing with LB239. We're going to finish up some Select, some General File in the afternoon and into the evening, anticipating a 9:00 p.m. adjournment tomorrow night--that's obviously dependent on how well we do and the bills that we move--and then a 9:00 start time on Thursday. So that's where we're at. The agenda should be available shortly. Thank you.

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SENATOR GLOOR: Thank you, Senator Flood. Senator Sullivan, you are recognized.
[LB239]

SENATOR SULLIVAN: Thank you, Mr. President. I'm not sure that I can add...well, I know I can't add substantively to some of the facts that have been presented, nor opinions, for that matter. But perhaps I'll shed a little light on how I've arrived at my decision on this piece of legislation. But first of all, I think it's just great that we're having this discourse and appreciate the fact that we do have the opportunity to do this in our republic. I think it's given us pause to think about the voting process. It's certainly allowed our constituents to weigh in and for them to think about it as well. A few weeks ago I used LB239 as the focus of my biweekly newsletter that I send out to all the newspapers in my district. And I started out by saying, certainly, voting is a right, a privilege. And, you know, at the end of the day I think it certainly is both. And it's something also, thirdly, that, unfortunately, we take for granted, so it's good that we're having this discussion tonight. I don't know if you've noticed, but in the committee statement I was one of the senators who did not vote to advance this bill out of committee. I had a lot of questions then, and I have a lot of questions still. But in that quest to answer some of those questions and to get some more insight, I went back to the district and talked to a lot of constituents. And that was helpful as well, to talk to poll workers, many of whom had worked at the polls for 20-plus years and were very adamant telling me that they felt this was needed...as Senator Brasch said, that these poll workers felt the concern that even in rural communities they don't know everyone. I also have a lot of regular, reasonable citizens in my district, and by and large they are telling me they like what LB239 presents. It also, I thought, was interesting, there were a certain element of people who said: Oh, I thought we already had to present identification. It gives you an indication that perhaps...made me wonder when was the last time those people went to the polls. (Laughter) But at the end of all of this--and I've said this in other instances and with other pieces of legislation as well--perception is nine-tenths of reality. If they perceive that there is fraud, maybe they stick with that. If there is a perception that there's something not quite right if that poll worker does not know that individual, then they're going to stick with that perception. But by and large, as I listened to these comments, there was a great deal of respect for the fact and value placed on the responsibility to vote. And that's where they came about with the perception that, okay, if we have to present this piece of identification, that just makes this act even more pure and even more right and even more valuable. But I will also tell you that in this quest, I don't think that this piece of legislation is perfect, by any stretch of the imagination. I questioned it in committee. And I've talked to Senator Janssen about the need for education. Now, we've talked about that a lot so far and made it seem like it would be a real onerous and financially large task to do. I'm not sure about that. You know, we...there's a lot of information printed in my weekly newspapers prior to every election. It seems reasonable that we could start to educate citizenry if we went this route and reminded them that they need to bring a form of identification with them. I will also tell you, though, that I could anticipate that this might rankle some citizens. Will

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it make them actually turn away from the polls? [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR SULLIVAN: I think that is a problem. So I take Senator Janssen at his word, that this is a start; it is incumbent on all of us to try to make this piece of legislation better, if it is to go forward. And for that reason, I will continue to support this, because I fully believe that there need to be improvements made on it on Select File. Thank you very much. [LB239]

SENATOR GLOOR: Thank you, Senator Sullivan. Are there other senators wishing to be heard? Seeing none, Senator Council, you're recognized to close on your amendment to the committee amendment. [LB239]

SENATOR COUNCIL: Thank you, Mr. President. I want to begin by saying that AM1667 is a substantive amendment that addresses, some have referred to it as a loophole, I refer to it as a flaw in AM727. And that flaw is that under AM727 mail-ballot voting does not subject the voter to the requirement to produce photo identification. And under current Nebraska law, only those counties having populations of less than 100,000 (sic) have the ability to exempt precincts from having polling places and allow all-mail-ballot voting in selective precincts. I read to you that just recently Secretary of State Gale approved applications for 19 precincts in 6 counties in Nebraska not to have to have polling places and, instead, to be able to conduct all-mail-ballot voting in those counties. That cannot occur in counties greater than 100,000 (sic). So what results from the passage of AM727 without AM1667 is we create, by passage of AM727, two classes of voters for purposes of identification requirements. And those two classes being, where we have determined by the language of AM727, that if you're voting by mail there's obviously no concern about voter fraud or voter impersonation, because there's no photo identification requirement; but if you live in a county where your voting options are mail ballot and voting in person at a polling place, if you elect to vote in person at a polling place, you have to present photo identification because you aren't provided with the option to have your precinct be an all-mail-ballot precinct. That sets up inequities in terms of the application of LB239, even if AM727 advances. Senator Janssen says he doesn't see the necessity of addressing this now. Well, when we determine questions of constitutionality of legislation, we all know that the courts look at the legislative history. And if the legislative history reveals the fact that there were issues, there were concerns regarding the issue being challenged--and in this case the issue being challenged would be, why am I prevented from not having to be subjected to this photo ID requirement by not having my precinct be all-mail ballot--then this discussion will certainly be a part of that legislative history, that it was pointed out that this is an easy amendment. If you look at the amendment, it's very easy. It strikes the phrase: less than, I think it's 10,000. It strikes that phrase, plain and simple. So with the operation of AM727,... [LB239]

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SENATOR GLOOR: One minute. [LB239]

SENATOR COUNCIL: ...that would be it. I urge your advancement. Mr. President, I'd like a roll call vote. I'd like a call of the house. [LB239]

SENATOR GLOOR: There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB239]

CLERK: 25 ayes, 0 nays to place the house under call. [LB239]

SENATOR GLOOR: Thank you. The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Avery, Hadley, Christensen, and Larson, please return to the Chamber and record your presence. All members are present. Those in favor vote aye; those opposed, nay. Roll call vote, Mr. Clerk, please. [LB239]

CLERK: (Roll call vote taken, Legislative Journal page 1183.) 8 ayes, 27 nays, Mr. President, on the amendment. [LB239]

SENATOR GLOOR: The amendment fails. Mr. Clerk. Raise the call. [LB239]

CLERK: Senator Mello would move to amend the committee amendments, AM1627. (Legislative Journal page 106.) [LB239]

SENATOR GLOOR: Senator Mello, you're recognized to open on your amendment to the committee amendments. [LB239]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. AM1627 would require that state colleges, university, and community colleges who produce student IDs have to match those student IDs to the same federal requirements that are laid out in the committee amendment, AM727, as well as all state agency and political subdivisions have to ensure their photo IDs or identification cards need to also match the federal requirements laid out in AM727. Colleagues, those federal requirements laid out simply say that for a government-issued identification card, it needs to have the name of the individual, a photo, and an expiration date for the card to be valid, to be able to show someone at a polling location that the person who's providing the card is who they say they are. I provided the body a handout when we first started General File debate on LB239 which provides three forms of photo ID that currently do not fall under the committee amendment, AM727. That handout, here, has our state legislative ID, which falls under the amendment, AM1627. It says that a state agency or political subdivision's ID that meets the same criteria laid out in the committee amendment

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would also qualify. You can also see, obviously, a tribal ID there from the Ponca Tribe of Nebraska. That's a separate amendment that, hopefully, we'll get to as well that shows a separate federally recognized Native American tribe's ID that meets the same criteria that's in AM727 should also qualify as a government photo ID that should be allowed at the polling location. The third ID here shows a University of Nebraska student ID, which, if they meet the same requirements laid out in the committee amendment, AM727, that too should meet the same requirements or fall under the same requirements issued as a state-recognized, government-issued photo ID for someone to use at the ballot. Colleagues, the reason I put forward AM1627 is purely...is a very simple point. There are many legitimate forms of photo ID that the committee amendment and the underlying bill failed to take in consideration when it was kicked out of committee. My amendment, AM1627, points out, I would say, three legitimate photo IDs that, if they meet the same criteria as the photo ID that's put forth in the committee amendment, they should count as well; that if you're a state worker for the Department of Labor, the Nebraska Legislature, Department of Health and Human Services, and your photo ID issued by the state of Nebraska meets the same criteria put forward in the committee amendment, there's no reason that that ID shouldn't count for legitimate ID if you choose to go vote at the polling location in person. The same goes for a college ID, for a state college ID, or a community college ID. The difference--and I know Senator Avery has an amendment as well that focuses exclusively on college and postsecondary education IDs--they were lumped in to this amendment because they're state agencies, and we wanted to try to provide, I would say, a uniformity in regard to showing that all state agencies, if their IDs match the same requirements laid forth in this bill, that they should also count as legitimate photo ID to go vote on Election Day. Now, colleagues, there's been a lot of bustle around the floor amongst colleagues talking with myself, Senator Council, and others, and I appreciate the conversation and dialogue. But I started this debate, as did Senator Council, stating a very strong disagreement with the purpose of this bill based on constitutional rights and the fundamental freedoms we have as Nebraskans that are put forth in our state constitution. The amendments that we just...we just voted against AM1667, which now, with the failure to adopt that amendment, I expect the supporters of this bill to put forward an amendment that strikes the existing state statute that says counties under 10,000 can do all mail-in ballot elections. Because if they don't do that, we are simply creating two separate classes of citizens in Nebraska based on what county you live in and based on the population of that county. That's not debatable; that's what we just did. And the question is whether or not there will be an amendment to try to rectify that. This amendment simply states that there are so many loopholes in the committee amendment in regard to what classifies as a photo ID, government-issued photo ID, that we're trying to improve the bill with this amendment. It's a bad bill. I've said it was bad public policy from the git-go. But the reality is, there is a large, gaping loophole that...someone has to explain why would we leave out state agency IDs, why would we leave out students IDs, unless we're doing it on purpose, unless we're purposely trying to make it difficult for people to vote by having to show a small, select amount of government-issued photo ID. So the supporters of the

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underlying legislation and committee amendment...I'm interested to hear the debate. I'm interested to hear rebuttals of why we shouldn't do AM1627, because I feel that to argue against this amendment would simply argue that we're trying to limit people's access to vote, we're trying to impede upon their constitutional right to vote, because we want to limit the kind of IDs that we're actually talking about. We didn't want to allow uniformity in regard to mail-in ballots across the state with the amendment we just voted down. So this is one of many other amendments that are out there, that, in theory, if this issue at hand is not about limiting a Nebraskan's constitutional right to vote, then this amendment should sail through, we should move on to the next one. This should be rarely debated, should be voted on, sail through, all green lights. That's the way it should be, because this actually tries to improve a bad bill. But it also shows that this bad bill has significant loopholes that need to be fixed. And the question is how do you fix so many loopholes yet still try to get to the core of why, in theory, the supporters of this legislation said we needed it, because we needed to protect the integrity of our elections, the integrity of our elections are at stake if we don't adopt this legislation. Well, my point is this amendment, in theory, should improve that, because it allows numerous kinds of photo IDs to do it. Now, granted, the university system, the state college system, the community college system I imagine will not support this amendment, because a similar issue was brought forward in the state of Wisconsin, where this similar amendment was brought forward in the state of Wisconsin. And ultimately none of their higher education system, or in this case none of our actual state agencies, have this same information on their current IDs. Which means the higher education institutions would then, both public and private, in theory, would have to ensure all of their photo IDs would have to have a name, photo, and an expiration date, or at least an amendment that lays out...I'm sorry, the private colleges fall under Senator Avery's amendment. This just takes state colleges, universities, and community colleges. They would have to reconfigure all of their identification system to ensure that their IDs match what is in AM727 if we adopt AM1627. The state of Wisconsin, obviously, had a problem with this. It cost millions of dollars for them to reconfigure their identification system, because none of their IDs now fit what was in their voter ID law. But the underlying issue that was brought forward in the state of Wisconsin, which we're bringing forward in AM1627, is that if it's good enough for these other forms of photo ID, why wouldn't we allow these other forms of government ID? That's the underlying issue, colleagues. Ultimately it costs money, yes. This, no doubt, will cost money to do this. But the question is, if you fundamentally believe we're not impeding upon a Nebraskan's constitutional right to vote, we then should adopt this amendment regardless of cost, because a photo ID at a university, a state college, a community college, a state agency, a city, or a county, or an NRD, or a public power district... [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR MELLO: ...should count the same way these other photo IDs that we lay out in AM727 should count. There should be no difference. It should have the same

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information: name, photo, expiration date. Anything less than that, colleagues, would show that we really are not trying to ensure that we want to make sure this is not an impediment, because we would make it easier, then, for people to do that, regardless of cost. Other states have had this same debate, and that's where they went. I urge you to adopt AM1627 and create uniformity across all state identification cards from the university, state colleges, community colleges, state agencies, and political subdivisions to meet the same requirements that supporters have laid forward in AM727 and LB239. Thank you, Mr. President. [LB239]

SENATOR GLOOR: Thank you, Senator Mello. Members, you've heard the opening on AM1627 to the committee amendment. There are senators in the speaking queue. Senator Council, you are recognized. [LB239]

SENATOR COUNCIL: Thank you very much, Mr. President. And I want to thank Senator Mello for introducing AM1627. Again, this is an effort to try to make a bad bill better. If the issue is preventing voter impersonation at the polls, then broadening the government-issued identification that is acceptable, as long as it meets the requirements that are set forth, actually, in federal law and replicated in AM727, should be our objective. One of the concerns that was expressed after LB239 was advanced to General File was expressed by students at the university and on our state colleges, many of whom do not have a Nebraska driver's license, nor have they gone to the time or expense of obtaining a Nebraska identification card, yet they do have student identification. And all AM1627 would provide, that as long as that student identification issued by a state college or university contains the person's name as it appears on their voter registration form and in the voter registration document that we all sign currently when we go to vote and contains their picture and has an expiration date that hasn't expired, it meets the requirement for photo identification. If there is objection to the types of identification that is provided for in AM1627, I really need to hear the basis for that objection, in particular the issue of AM727 not recognizing that there are certain identification issued not by the United States government but by tribal governments that would not be accepted as valid photo ID under AM727 without AM1627. So if we're really, genuinely concerned about simply ensuring that the people who appear at the poll, purporting to be a registered voter, are in fact the people who they purport to be by virtue of someone looking at their identification and making that determination from that photo, then these forms of identification that are set forth in AM1627 should be acceptable forms of identification. I echo my colleague's comments about the defeat of AM1667, and I just ask you to think about what in actuality that vote meant. And what that vote meant was that if you're fortunate enough to live in a county with less than 10,000 people, you don't ever have to worry about presenting photo identification to vote, because you never have to appear at a poll, because currently those precincts in those counties that are approved for all-mail-ballot voting under AM727 don't have to present photo identification. And it just, I mean, just think about it. If you're talking about voter fraud and voter impersonation,... [LB239]

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SENATOR GLOOR: One minute. [LB239]

SENATOR COUNCIL: ...what is the greatest likelihood of voter impersonation or voter fraud? I mean, really, I mean, do we actually believe that there are people who would risk going to a poll and being questioned whether they are who they say they are, when they could sit at home, get a ballot in the mail and mail it in, and never have to be confronted with that? Please think about it. Please support AM1627. [LB239]

SENATOR GLOOR: Thank you, Senator Council. Members in the speaking queue: Ken Haar, Burke Harr, Price, and Mello. Senator Ken Haar, you're recognized. [LB239]

SENATOR HAAR: Thank you very much, Mr. Speaker. You can't manage what you don't measure. It's an old management adage that is accurate today. Unless you measure something, you don't know if it's getting better or worse. You can't manage for improvement if you don't measure to see what is getting better and what isn't. And I want to pick up on this idea. I handed out a sheet, and I want to go through this briefly. I was hoping Senator Hadley would be here, because he's our...sort of our business expert. Anyway, the goal: all of us want integrity in our voting system, every single one of us. But the business truism, you can't manage what you don't measure, we have already talked about. For example, Senator Carlson brought up the possibility of insulting his father. Just going ahead with something we don't understand has real dangers to it. Somebody said it's a little inconvenient. It's more than that. It's one of our basic rights to vote. There is a possibility of disenfranchisement. So if we all have the goal and we want our voting system to be of the highest integrity, then I suggest we use the triangle at the bottom. It's the way we do other business in the Legislature. You measure so that you can understand; you understand so you can control; and you control so you can improve. And so I am submitting an amendment, and it's--I don't know if we'll get to it or not--but it would designate \$500,000 to study voter fraud, not just voter impersonation, which this bill addresses, but also voter registration fraud in Nebraska. Now, we have the resources of the University of Nebraska, an excellent institution for research. And I believe that if we go on this path, which has a lot of dangers involved with it, disenfranchising people, inconveniencing people when they vote, keeping people from the polls, but the good possibility of improving our voting system, let's study it. Let's study it first. Let's measure so that we can understand, understand so we can control, control so that we can improve. For example, the thing I brought up earlier that Senator Schumacher and I talked about, maybe the solution to really improving our voter system is that at the time of registration we take an electronic photograph that gets stored with the person's name, automatically comes up at the voting booth when people vote. Maybe that's a solution. I don't know. But without studying this, we don't know whether...where the problems are. Are they in the vote-by-mail system? And I think there are some real loopholes there. Is it in the tiered system, where rural, small counties that are doing vote by mail get treated differently

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than urban counties? We don't know where the big loopholes are. So if we really want to improve our voting system, we need to study it first of all and then come together with some solutions. And I think, with solutions, we always try to go to the biggest fix, the biggest improvement to begin with. And perhaps that's in vote by mail; then we need to fix that. Maybe it's consistency across the state in how provisional ballots are treated. In some counties, if you have a provisional ballot, like in Lancaster, you don't have to go to the election office to prove it's you. In my understanding--I might be wrong about this, but someone told me--in Douglas County you have to go down to the election office if you have a provisional ballot. Now, even if they don't, that might be a solution... [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR HAAR: ...because provisional ballots are another big hole in this whole system. So I would ask you to take seriously this business truism. Apply business to government in this case in the best way: measure so we can understand; understand so we can control; control so we can improve. So let's put aside the money, put our money where our mouth is, study voter fraud in this state; study the voter system so that we really understand how we can improve it. Thank you. [LB239]

SENATOR GLOOR: Thank you, Senator Haar. Senator Burke Harr, you are recognized. [LB239]

SENATOR HARR: Thank you, Mr. President and members of the Legislature and those watching at home. I think Senator Haar hit the nail on the head right there. We don't know what the problem is. It's what I've been trying to argue all along. Where is the fraud? Where is the problem? This addresses one issue of fraud, this bill as currently amended, but it doesn't address all areas of fraud. There are many other ways to commit voter fraud that this has absolutely no effect on. And so let's find out. Maybe this bill is the right way to go at it and this is where the biggest problem is. But we don't know where the problem is. Is Senator Mello here? If he's here, I'd like to ask him to yield to a question. [LB239]

SENATOR GLOOR: Senator Mello, would you yield to a question from Senator Harr? [LB239]

SENATOR MELLO: Yes. [LB239]

SENATOR HARR: Thank you, Senator Mello. I find your amendment intriguing, although I do have a question. Why limit it to...if universities and colleges are certified by the state, why do you limit it to just public universities and colleges? Why not include private? [LB239]

SENATOR MELLO: Senator Harr, my amendment, AM1627, focuses more on other

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government-issued IDs. That's the reason why. And the university system, state college system, and community colleges, to some extent, are all...state agencies and political subdivisions are all some kind of government-formed or government-issued identification entities, so to speak, where their form of ID falls in line, so to speak, with other recognized forms of government ID under the AM727, the committee amendment. [LB239]

SENATOR HARR: And that's fair. And I understand why you do it. I just worry that we might be discouraging some kids who are, again, otherwise eligible to vote, we're preventing them from voting. And I guess my next question is, why not include high school IDs for those kids who are 18 years of age or older and who attend high school? [LB239]

SENATOR MELLO: Senator Harr, that's a...to be perfectly candid, that's another potential loophole that we didn't think about on this bill, that there are, no doubt, high school seniors who turn 18, are eligible to vote. Their high school identification should count, be the equivalent of a government-issued ID from their K-12 school district. That should count as well. And that could easily be, I guess, an amendment to the bill to help, once again, try to make a bad bill slightly better. [LB239]

SENATOR HARR: Well, I appreciate your candor. Thank you, Senator Mello. Ladies and gentlemen, it seems as though the more we scratch at this bill, the more exceptions we find. We don't know what we don't know. I understand the reasoning behind this bill. It seems, again, logical on its face. But I'm going to go back to my earlier statement. We have a duty to protect the constitution--and I'm not saying this is unconstitutional--but we have a very important and fundamental duty to protect constitutional right to vote. That is the very essence of who we are. Because if we deny people to vote, we are controlling the outcome, and we are controlling government. There is no one...there should be no reason why someone, who has done nothing illegal, nothing wrong, should be prevented or denied their constitutional right to vote. By limiting who we allow to vote, we are limiting our democracy. We in the past have experienced where we have prevented certain individuals... [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR HARR: Thank you. We have limited who can vote. And I think Senator Cook talked about it earlier, and some found that offensive. But the fact of the matter is, women have not always been able to vote and minorities have not always been able to vote, specifically African Americans. And I'm not sure we want to go back down that road. Again, the public policy has to encourage those who are eligible to vote, to vote. This is a 180-degree turn in which we're saying, you're eligible to vote, but we're not going to let you because of an arbitrary photo ID that you do not have. So I think this is a better step; I still have a problem with the underlying philosophy of this bill. Thank you,

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Mr. President. [LB239]

SENATOR GLOOR: Thank you, Senator Harr. Members in the speaking queue: Price, Mello, Council, Wallman, Lathrop, and Ken Harr. Senator Price, you're recognized. [LB239]

SENATOR PRICE: Thank you, Mr. President, members of the body. In listening to the discussion the past few hours, I have noted that the tenor is great. And I've noted now that we're in a conversation about IDs, and now IDs are in vogue. Matter of fact, they're so much in vogue that we're going to get a lot more of them. So that's good; we're moving forward to IDs and securing the sanctity of one person, one vote. But in the conversation...and earlier I got on the mike and had spoken about I would hope that there would be a time and a place where that individual's ID would be known and that identification would be known and we could go beyond the limitations of either paper or plastic so that we would be sure that one person, one vote was there. I believe everybody in the body would agree that one person, one vote is what we're striving for and that if all members of our society who are eligible would participate, that would be great for the debate. But in that and talking about things as we move forward and about the technology, I wonder where the conversation would go in future years when the technology that we use right now for airport security, for our forces out in the box and their security, and in other applications, where we use facial recognition software. Matter of fact, I pulled up on our laptops...I went ahead and Googled it up. And there is currently, right now, an application that you will be able to use with your camera. And it's a weatherproof package, model C500, has everything you need for it to--excuse me, this is another item--but a facial recognition that goes with your camera that can work with Facebook. So you just hold your camera up and identify a person from Facebook picture; you'd know who they are. We already use this technology, similar technology, in license plate recognition. That was a system I was talking about, which at a very high speed...it works at speeds of up to 200 kilometers an hour. Can you imagine that day when we're going to have that database and people can walk into the poll and walk through their queue...hopefully, there are enough people in the polling place that there will be a queue of people to vote. Or they would find a way where they can get their ballot by, again, just appearing before any one of the number of thousands of cameras that are out there in our society and say, yep, that's Scott Price and that's his address and he gets this ballot. That technology is available today. I don't know what the privacy concerns are going to be in people. I'm sure there will be great concerns over that. But that gets to the sanctity of what we're talking about here and about the basis of what we're talking about: one person and one vote. And I believe that it's good that we've moved to the conversation of IDs, because we're beginning to understand that this is very important. There are a tremendous number of IDs available to us and in multiple ways. I believe most of us could pull out our wallet or our container with all our ID and pull out multiple forms of ID. I don't believe the concept of ID is wrong. And I believe that the Supreme Court has come out and said it isn't wrong. What they have said is we

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have to work on the education portion of it. We have to work on providing the ID. So the argument about having an ID isn't any challenge, if the argument is to ensure that people are notified that the information is given and that the actual card is provided. So if you parse the argument apart, we can go ahead and we can discuss, again, as I said the first time I spoke, the methodology by which we go about it. But the idea of having an ID is not foreign; it is replete through our statutes. [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR PRICE: And I know many of the members have talked about that today. Again, the ID is not really a problem. It's how are we going to go about effecting that and putting it in place. Thank you, Mr. President. [LB239]

SENATOR GLOOR: Thank you, Senator Price. Senator Mello, you are recognized. [LB239]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I was just having a conversation about what this amendment does. And the concern that was raised is, well, every polling location in the state would have to have a book, possibly, of every potential government-issued ID by a state agency, a city, a county, a college, a university in the entire state for this amendment to work. And my response was, well, no. One, if it's a government-issued ID and it follows the same criteria that's laid out in the committee amendment, of showing their name, photo, and expiration date, once again, the underlying intent is we're willing to show people, not simply a photo ID, with the committee amendment, we're willing to show people a black-and-white card, photocopied card, that says they're a registered voter. Colleagues, that's part of the committee amendment. If we're willing to show someone a black-and-white photocopied piece of paper saying that that should count, why couldn't our state legislative IDs, saying that we are state senators, when we go to our polling location, why shouldn't that count as photo ID? That's my response. This is ultimately not about showing ID, then. Because if we're willing to show a piece of paper that we can easily mimic, easily photocopy, make it a Word document on our laptop computers here in the Rotunda and in the Chamber, for us to make a fake state legislative ID, to use that to go vote...Senator Avery walked us through earlier today the process it takes for someone to try to impersonate someone else and vote in their stead. Imagine trying to do that with...trying to, once again, make a fake state legislative photo ID. The steps that people would ultimately...the argument against this is people would take the most outlandish steps to vote on behalf of someone else. But yet everyone keeps mentioning, well, the bill, at the end of the day, AM727, makes it easy; all you have to do is show your voter registration card. That's not a photo ID, but it's issued by a government. Then what's wrong with AM1627? Nothing, because it shows the hypocrisy in AM727. There are other legitimate forms of photo ID that we have to incorporate. Because if we don't, then, really, AM727 is purely a smokescreen, because we're willing to show people a

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piece of black-and-white piece of paper and call that photo ID. And this is still based on the premise, colleagues, that there is a problem that needs to be solved, that we have rampant voter fraud in Nebraska, or it's going to become rampant. Somewhere down the line, people are going to find a way to search up on our voter files and determine who hasn't voted, and we're going to send people in at different places in their name, sign their signature, match that signature, for them to try to change an election outcome. Colleagues, AM1627 is simply a very common-sense amendment, as I was explaining earlier, to make a bad bill slightly better. Because right now we're willing to go forward and try to make a compromise or talk about a committee amendment that allows us to use a business-card-size piece of paper and say that counts as your photo ID to go vote, but we're not willing, apparently, to show your Nebraska Legislature ID, a University of Nebraska student ID, a city of Lincoln employee ID, or a variety of other political subdivision IDs for people to go vote. If we're not willing to do that, we, at the end of the day, have to question why we're doing this... [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR MELLO: ...because ultimately we are trying to make it harder then for people to vote. We should be trying to make it easier for people to vote and providing a variety of forms of government ID that we know a variety of Nebraskans utilize across the state. It should be a no-brainer. This is common sense. Granted, I don't support the bill, and I don't support the concept; I think it's an infringement upon our constitutional rights. But at least if you're going to make an argument, make an argument. Try to prove us wrong then; tell us that we shouldn't be doing this, that we should be instead using a white business card, instead, to show our photo ID to go vote. You can't, because it's not a good argument. And that's the reason we have the amendments on this bill, colleagues. This is a bad bill. We're trying to prove that there is a lot of ramifications with a bad piece of legislation. This amendment, I still think, at the end of the day--while I would vote for it, I'd still vote against the bill--makes this bill slightly better. [LB239]

SENATOR GLOOR: Time, Senator. [LB239]

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

SENATOR GLOOR: Thank you, Senator Mello. Senator Council, you are recognized. [LB239]

SENATOR COUNCIL: Thank you, Mr. President. And my apologies, colleagues. I was engaged in conversation beyond the glass. I again rise in support of AM1627. Again, I think this requires you to fundamentally look at what the objective of LB239 is. And if we're talking about implementing measures that reduce the possibility of voter impersonation...because even the Secretary of State, during the hearing testimony, stated that the only type of voter fraud that could be prevented by photo identification

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requirements are voter impersonation, not voter fraud. And, in fact, under AM727, without some of the amendments that have been proposed, the possibilities for voter fraud continue to exist and probably are expanded. The types of voter identification that is provided for in AM1627 should address concerns that people have with regard to individuals presenting themselves at the poll and being who they say they are as a registered voter. And I think that's one of the things we continue to overlook, is that all of these photo identification requirements basically come into play after a person has been registered to vote. Again, if you look at the Helping America Vote Act, the requirements for presentation of voter photo identification are for people who have registered to vote for the first time after 2003 and are voting for the first time after 2003. I think if you look at the voter registration records in the state of Nebraska, that the overwhelming majority of registered voters in Nebraska are longtime voters. Certainly there was a surge of voter registration surrounding the 2008 election. But the overwhelming majority of registered voters in this state are long-term registered voters. And under AM727, without any amendments, those individuals will be permitted to vote without showing any photo ID. So I continue to ask the question: What is being accomplished by LB239 other than voter suppression? I mean, when there's no rational basis for pursuing a certain course, one must resort to irrational bases being the motivation for a particular piece of legislation. There's been absolutely no evidence of voter impersonation, absolutely no evidence of voter fraud. AM727 provides equal if not greater opportunities for voter fraud. So the question of requiring photo identification for people who appear at the polls to vote...and, again, if you look at the people who appear at the polls to vote, those are generally...are older voters, are voters... [LB239]

SENATOR GLOOR: One minute. [LB239]

SENATOR COUNCIL: ...who aren't sophisticated in the ways of early balloting. And again, and I don't mean to be overly critical of Douglas County Election Commissioner Phipps, but I do disagree with his decision. I think there are steps that he could have taken, and can still take, to mitigate the effects of his decision. But even one of the steps that he has indicated his refusal to take, and that is to send out information...educational information to every registered voter in Douglas County on early voting, voting by mail, so that they can meaningfully take advantage of that opportunity, something that...in Indiana at least, there was voter education and outreach. Here we don't have that. So if we're not... [LB239]

SENATOR GLOOR: Time, Senator. [LB239]

SENATOR COUNCIL: Thank you. [LB239]

SENATOR GLOOR: Thank you, Senator Council. Senator Wallman, you are recognized. [LB239]

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SENATOR WALLMAN: Thank you, Mr. President. I do appreciate Senator Council's statements and also Senator Harr (phonetic). Voter education, that's a God-given right for Americans. And do we use it? No. So do we want to make it harder so less and less people vote? First, educate the voters, get them to the polls--the nursing homes, assisted-living places, most of them have vans or buses--and get out the vote. I've always worked, get out the vote, whether it be rural America or in the cities. And I just don't see how mail-in ballots are secure. I just got one the other day for a school bond election. And my wife and I both said: Wow, where's the security in this thing? You know, you've got to hope the courthouse, the county election commissioner, does a good job with these counts. But this was Lancaster County, right here. I had tremendous trouble with that paper vote-in ballot. And then they say it saves money. And I asked one of the school board members why they went this way. And they said: Higher voter turnout. Maybe that's true. I have no idea. But we should be working on getting out the voters, educate the voters and especially our youth, work with the youth and government and talk to them about government, which I do. And politicians have a very bad name for themselves right now. You know, us, body right here has about a B. And some days I'd give us a D. But we're always graded by somebody. Whether you're in politics or whether you're a schoolkid or a schoolteacher, you're graded. So voting is a God-given right by Americans. And foreign nations, like Australia, you have to pay if you don't vote. And that way, maybe that would help our revenue, but I'm not willing to go there. But that's how much they think of the voting rights. And they have aborigines there as well. And I know farmers there. And they incorporate them by the government. If you have aborigines land on your ranch or farm, you have to hire them, so many, and it's quite a program, quite comprehensive. So they deal with their native people a little different than we did, much better I think. They incorporated them into society. So I'm kind of getting off the subject, a little bit, of voting here, but they vote. Those people vote. They take...boy, they...about 98 percent, I think it is. And so they get out to the polls. Is it because of the money? I don't think so. They just want to vote. And also they have trouble getting prime ministers and all this stuff because of the political climate today. And so we should definitely be careful of our voting system. And I appreciate Charlie Janssen...Senator Janssen bringing this forth. I just don't quite agree with it. I don't know how to make it any better. But I hate them paper ballots, and I can't emphasize that enough, because I don't think...then we'd better really look at what happens after we vote. Then we'd better have a mandatory system: a certain percent of these ballots get counted by independent people come in the courthouse. That would make me feel a lot better if we had a system like that in place, like 10 percent or something. And then that would be a much better program, I think, if you tied this all together. It would be quite comprehensive. But then who's going to pay for it? I hate these mandates we push down on the counties and the townships and the schools. And... [LB239]

SENATOR GLOOR: One minute. [LB239]

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SENATOR WALLMAN: ...a good constituent of mine says: Norm, for every bill that's passed, I want two erased. And we definitely haven't done that since I've been here. Thank you, Mr. President. [LB239]

SENATOR GLOOR: Thank you, Senator Wallman. Senators in the speaking queue: Lathrop, Ken Haar, Janssen, and Mello. Senator Lathrop, you are recognized. [LB239]

SENATOR LATHROP: Thank you, Mr. President and colleagues. We are approaching the seventh hour on this, if we're not there. And I have been listening. I've been on the floor for almost all of it. And I have an observation to make. The question is whether we have a problem. And our colleagues include an election commissioner and a...a former election commissioner and a former deputy election commissioner in Douglas County. And we've not heard one story, one account, of someone impersonating someone in Douglas County or anywhere in Nebraska. We did hear Senator Smith's constituent's account of something that maybe could have been, potentially, something. But if this were a real problem, we would have heard accounts of real problems. We would hear of prosecutions and would be told that the prosecutions aren't enough to curb this widespread abuse. No prosecutions. No firsthand accounts. Instead, we've heard talk about what happened in Cook County. We've heard about the importance of protecting it for the future, for something that could happen or might happen. And I will tell you, in a constitutional issue, you'd better have a good reason if you're going to throw something up in front of the voters on their way to the polling place. We haven't had not just "no compelling argument," not just "a compelling state interest in the subject matter." We are somewhere around "not a scintilla of evidence." I've heard, in six years, speeches on this floor protecting...talking about our rights. We talk about our liberties and our rights all over the place. We talk about the importance of our Second Amendment rights, and there is almost no one here that would throw something up that would impair somebody's right to carry a gun almost anywhere. We talk about our rights to free speech. And we talk about the heightened importance of political speech, recognizing the importance and the fact that it is protected by the constitution, and the importance of respecting those rights that are protected by the constitution. And tonight we weighed in on the most fundamental thing in our democracy, which is the right to vote, the right to vote. If we were treating this issue like the Second Amendment or political free speech and spending money on political ads, we would be...we'd probably flip the people who are for and against. I'm sure of it. Colleagues, this is a constitutionally protected right, your right to vote. We have demonstrated no reason to change that, no reason to throw an impediment or a hindrance in front of it. And even if we could, even if somebody did, instead of talking about Cook County, Illinois, in the '60s, somebody set us an example of what happened in Nebraska, we still couldn't change it, because our constitution...you have to clear two hurdles with this bill: one is the United States Constitution and the other is the state constitution. And you may not know this, but capital...the electric chair went out on the state constitution. [LB239]

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SENATOR GLOOR: One minute. [LB239]

SENATOR LATHROP: And our state constitution says you can't put an impediment or a hindrance to a voter. And we are doing that. And when we...and now I hear that we're talking about a compromise: Can we work something out? Maybe on Select. Maybe Schumacher has an idea. Get on board. Let me tell you something, you can't come up with a compromise that works in this case. You can't do it. Everything you can do as a compromise is going to be an impediment or a hindrance. And for what purpose? Because somebody in Cook County committed some voter fraud in the '60s? Somebody might do something in the future? Folks, if we are going to work and get in the way of the exercise of the most fundamental constitutional right, we'd better have a better reason to do it than what happened in Cook County in the '60s or what might happen, might happen in the future. [LB239]

SENATOR GLOOR: Time, Senator. [LB239]

SENATOR LATHROP: Thank you. [LB239]

SENATOR GLOOR: Thank you, Senator Lathrop. Senator Ken Haar, you're recognized. [LB239]

SENATOR HAAR: Thank you, Mr. President, members of the body. This morning members of the Education Committee met with the Coordinating Commission for Postsecondary Education, and we got a report. And the report starts with the goals that have been set up by the Legislature, one of them being to improve the dropout rate in schools. And this morning we talked about looking at the evidence of whether there was improvement or not in that goal. And what I'm suggesting is a compromise. And I've submitted a serious amendment that would, basically, take this bill and turn it into a study, giving the Secretary of State the--our Secretary of State--the...\$500,000 to study the voting integrity in the voting system in Nebraska. And again I go back to this business model, which everybody in business would agree to, I believe, that you can't manage what you don't measure. You just don't go out and spend a bunch of money or do a bunch of things without first knowing exactly what the problem is. The pyramid at the bottom comes out of one of the business magazines: Measure so that you can understand, so that you can control, so that you can improve. But in this body, generally, we're not in the business of spending money or making rules, making mandates, making rules when we don't understand what the problem is. So if the goal of all of us--I think something we all share, truthfully--is we want integrity in our voting system, but we can't agree on what the problem is. And so putting fixes in place that could actually trample on the right to vote, which is our most basic freedom, is very risky. And I think it's inappropriate. It could inconvenience, it could disenfranchise, it could, as Senator Carlson said, actually...well, actually take, you know, somebody who's been voting for a long time and make them feel very badly, and maybe they wouldn't

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come and vote again. So there are real dangers when we start to fiddle with our right to vote. There may be benefits, but how do we know what the benefits could be or what the fix is or what the improvements we can make without studying the problem, without agreeing on what the problem is? That's what data collection is about; that's what study is about. And I think we're committed, in this body, to study issues so that we know how to spend money and how to make laws appropriately. So I'm going to ask that you sincerely consider my amendment, that we study this, give appropriate funding so we can really look at the problem, decide if there is a problem and, if there is, how to control and improve that problem without stepping on some basic, fundamental rights--our right to vote. Thank you very much. [LB239]

SENATOR GLOOR: Thank you, Senator Haar. Chair recognizes Senator Janssen. [LB239]

SENATOR JANSSEN: Thank you, Mr. President and members. I'd have to respectfully disagree with Senator Lathrop that there is no compromise on this. Thirty-two states did find a way to compromise on this, and it wasn't always a partisan issue. Going off the...my notes here, but I believe it's Rhode Island, which is a Democratic-held chamber on both sides and, I believe, with an independent governor, passed this legislation. So this does not have to be a noncompromise-type bill, when we had 32 other states that have successfully done it. And I think Nebraska is certainly one of the top, at least in my opinion, of coming together on compromises, as we've seen in multiple bills, multiple measures, both big and small. And I don't know where this falls on the realm of that category. With respect to Senator Ken Haar's comments and kind of his handout there, I'm open to whatever studies there is. I've got to see them. I'd like the idea of looking into it. I'm not jumping on board with that to amend to this bill, by any means. Could have ran that outside of it. But I'm not going to sit here and say that's a horrible idea, worst idea I've ever heard, because I don't think it is. I think there is a problem out there. I think this is a much less expensive way to maybe see if there is. And I think we've...I guess, looking at your handout, you say you're measuring...you must measure...there is a business truism here. You can't manage what you can't measure, I believe is what that says. And I've said something the same: It won't grow if you don't measure it, in business. And you need to measure things to find out where you're going, where you've been. And in this case, I would say your handout makes a case for showing a photo ID when you show up, because we don't know; we're not measuring it right now. That's why you don't hear of rampant fraud and voter impersonation. You don't hear of it because we don't check for it. I made the comparison multiple hours ago talking about Senator Ashford's bill on truancy: If we didn't measure student attendance, there would be no problem with truancy. Now, we all know that's not true; we do measure it. But if we didn't take attendance, you could use those same arguments to say that nobody ever misses; why do we need to put this impediment in front of their educational process; we have to educate them; why put this burden in front of them? We don't do that because we're reasonable. I think this is reasonable. I think there's a compromise

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to be reached. I'm hopeful. Maybe we won't need one at this point. But maybe we will. And we may find that out tomorrow morning. I would...speaking to Senator Wallman--he gave us a grade for the day--I'd say we're probably in the A. This has been a great debate. I don't know if it's ending after I'm done speaking here or not, but I think it's been a great debate of back and forth. Again, I said this over and over, I think it's been very civil; I think ideas have been respected; and I don't totally disagree with the current amendment up. I don't support it on this bill. As I stated earlier, unless there was a compromise reached, I was going to stay true to the committee amendment. And if I could get the committee to agree to a compromise while we're debating, then that would change course on that. This was not agreed to by the committee, so I'm not supporting that and would ask that you not support this current amendment until we can get together and talk about maybe some other courses. But, again, I'd like to express my gratitude to all the members of the body for sticking around at this late hour and either helping out or adding to the debate tonight. Thank you very much, Mr. President. [LB239]

SENATOR GLOOR: Thank you, Senator Janssen. Mr. Clerk. [LB239]

CLERK: I have items, Mr. President: Senator Schumacher, LB239; Senator Flood, LB1113 and LB1115; Senator Conrad, LB239; Senator Burke Harr, LB239; Senator Lathrop, LB239; Senator Haar, LB239; Senator Mello, LB239. (Legislative Journal pages 1184-1185.) [LB239 LB1113 LB1115]

I do have a priority motion, Mr. President. Senator Flood would move to adjourn the body until Wednesday morning, March 28, at 9:00 a.m.

SENATOR GLOOR: Members, you have heard the motion to adjourn until 9:00 a.m. tomorrow morning. Those in favor say aye. Those opposed say nay. We stand adjourned.