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Floor Debate  
February 08, 2013

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SENATOR CARLSON PRESIDING

SENATOR CARLSON: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-second day of the One Hundred Third Legislature, First Session. Our chaplain for today is the Reverend Dr. E. Scott Jones of First Central Congregational Church in Omaha, Senator Cook's guest. Please rise.

REVEREND JONES: (Prayer offered.)

SENATOR CARLSON: Thank you, Reverend Jones. I call to order the twenty-second day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

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

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

CLERK: I have no corrections, Mr. President.

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

CLERK: I do, thank you. Transportation Committee, chaired by Senator Dubas, reports LB398 to General File. The Executive Board, chaired by Senator Wightman, reports LR1CA as indefinitely postponed, and LR31 reported back to the floor for further consideration; those reports signed by the respective Chairs. Hearing notices from the Agriculture Committee and from the Nebraska Retirement Systems Committee, those signed by their Chairs. I have a conflict of interest statement filed by Senator Sullivan; that will be on file in the Clerk's Office. Agency reports acknowledged and available on the legislative Web site for member review. And finally, Mr. President, the weekly lobby report, as required by statute. That's all that I have. (Legislative Journal pages 393-395.) [LB398 LR1CA LR31]

SENATOR CARLSON: Thank you, Mr. Clerk. We will now proceed to the first item on the agenda.

CLERK: Mr. President, the first item this morning is a confirmation report by the Health and Human Services Committee involving two appointments to the Board of Emergency Medical Services. (Legislative Journal page 384.)

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SENATOR CARLSON: Thank you, Mr. Clerk. Senator Campbell, as Chair of the Health and Human Services Committee, you're recognized to open on the confirmation report.

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. Good morning. Glad it's Friday. We're going to start out this morning with several gubernatorial appointments. The Health and Human Services Committee on Friday, February 1, held confirmation hearings on the Governor's appointments of Gary, also known as Randy, Boldt and Michael Miller to the Board of Emergency Medical Services. The gentlemen are both new appointments but bring noteworthy backgrounds in emergency aid to the board. Mr. Boldt is a board member of the Cornhusker Regional Chapter of the Red Cross and he holds a current license as an emergency responder. He's an instructor for the Red Cross, certified in AED, CPR, blood-borne pathogen prevention, oxygen administration, first aid, and wilderness first aid. Of special note, and, colleagues, this is a special note, Mr. Boldt served as the principal leader of the Red Cross first aid crew for the 2010 National Special Olympic Games and remains the coordinator for that organization. Mr. Miller is an assistant professor and associate EMS program director at Creighton University. He has an extensive educational background in emergency medical services, as well as an extensive employment history as a registered nurse in emergency services. He was the manager of the EMS system and trauma program, and the EMS coordinator, paramedic education program coordinator at Edward Hospital in Naperville, Illinois. And he was the EMS coordinator in the Department of Emergency Medicine at West Suburban Hospital in Oak Park, Illinois. Mr. Miller has received numerous awards, one of which was EMS educator recognition for outstanding achievement. Having reviewed the credentials of Mr. Boldt and Mr. Miller, the Health and Human Services Committee unanimously commends them to the Legislature for approval to serve on the state's Board of Emergency Medical Services. Thank you, Mr. President.

SENATOR CARLSON: Thank you, Senator Campbell. Members, you've heard the opening on the confirmation report. Are there senators wishing to speak? Seeing none, Senator Campbell, you're recognized to close. She waives closing. The question is, shall the confirmation report of Health and Human Services Committee be adopted? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 395-396.) 31 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

SENATOR CARLSON: Thank you. (Doctor of the day introduced.) Mr. Clerk, next item.

CLERK: Mr. President, the Health and Human Services Committee would report on the appointment of two members to the Foster Care Advisory Committee. (Legislative Journal page 384.)

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SENATOR CARLSON: Senator Campbell, you're recognized to open on that confirmation.

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. The Health and Human Services Committee held confirmation hearings on Friday, February 1, for the appointment of Sheree Keely and Craig Timm for the Foster Care Advisory Committee. The Foster Care Advisory Committee came into being last year as a result of the passage of LB998. These two new appointments in the committee are the first to come before the Health and Human Services Committee for confirmation. And for colleagues, this was the former Foster Care Review Board in which we made change to become the Foster Care Advisory Committee. Ms. Keely is serving as a member at large on the Foster Care Advisory Committee. She is educated in social work and has provided therapy for youth. She has certification in organizational coaching, and she has been part of the organization recognized by SAMHSA for implementation of evidence-based practices. Mr. Timm is serving as a representative of a local foster care advisory committee. He has trained as a CASA volunteer and has been involved in the local level on a foster care review board for approximately six years. Mr. Timm is also active in the promotion of voluntary orphan care ministries through local churches in Douglas County. The Health and Human Services Committee voted unanimously to forward the appointments of Ms. Keely and Mr. Timm to the Legislature for confirmation of their appointment to serve on the Foster Care Advisory Committee. And, colleagues, I have to tell you that we are extremely pleased with the appointments to the Foster Care Advisory Committee. These are just excellent citizens who have stepped forward, and also would like to appreciate the time and effort that the Governor and his staff undertook to make sure that the appointments were people who truly cared about the foster care system. Thank you, Mr. President.

SENATOR CARLSON: Thank you, Senator Campbell. Members, you've heard the opening on the appointment of two individuals to the Foster Care Advisory Committee. Are there senators wishing to speak? Seeing none, Senator Campbell, you're recognized to close. She waives closing. The question is, shall the confirmation report of Health and Human Services Committee be adopted? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 396-397.) 30 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR CARLSON: The confirmation report is adopted. Mr. Clerk, next item.

CLERK: Mr. President, General File. The first bill this morning, LB7, a bill by Senator Krist. (Read title.) Introduced on January 10, referred to Health and Human Services, advanced to General File. I have no amendments to the bill, Mr. President. [LB7]

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SENATOR CARLSON: Thank you, Mr. Clerk. Senator Krist, you're recognized to open on LB7. [LB7]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. And good morning, Nebraska. LB7 advanced from the Health and Human Services Committee unanimously on a 7 to 0 vote; no opposition testimony offered at the hearing. I want to thank Chairperson Campbell and my fellow members of the Health and Human Services Committee for advancing this bill. We live in an increasingly electronic world. The Internet and e-mail play a progressively important role in how business is conducted and even ours on the floor has been upgraded in the last few years. Sending and receiving documents and technical papers via electronic means are now commonplace. Rules and regulations regarding how businesses conduct their business while providing their clients with the highest and best products without jeopardizing public safety and welfare oftentimes do not keep up with technology. LB7 will provide the state of Nebraska Board of Engineers and Architects with the ability to regulate the rules and regulations and to adopt to the changing technology of today's business world. The bill modifies the requirements of a professional engineer and architect seal so the contents are consistent, regardless of whether the seal is submitted electronically or in writing. The remainder of the changes are editorial and reorganization of existing language for clarity. Currently, the state of Nebraska Board of Engineers and Architects' position is that any form of an electronic document is considered an electronic signature. This meant that when an engineer or architect stamped, signed, and dated a document, then scanned it for to transmit it, they would be in violation of the current act. Public agencies, including city, county, and state, are requiring electronic submittals of complete plan sets. Many of those public agencies are no longer accepting paper copies. As a result, engineers and architects find themselves caught between current rules and regulations, and current technology opportunities and the demands of their client, both public and private. The proposed changes to LB7 are purposely broad to accommodate future technological advances that we can't forecast today without a need to rewrite the statute. It puts it back in their hands to regulate. This will allow for future adjustments to be made by the state Board of Engineers and Architects through their own rules and regulations. In closing, I want to thank the Nebraska Chapter of the American Council of Engineering Companies, the Nebraska Board of Engineers and Architects, and all those who testified at the hearing. Again, I want to thank my colleagues on the Health and Human Services Committee for their support of LB7 and unanimously advancing it. And I ask for your vote to advance the bill. Thank you, Mr. President. [LB7]

SENATOR CARLSON: Thank you, Senator Krist. Members, you've heard the opening on LB7. (Visitors introduced.) The floor is open for debate. Senator Price, you're recognized. [LB7]

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SENATOR PRICE: Thank you, Mr. President. Good morning, members and Nebraska. I just rise in a rather ancillary manner here. We're hearing discussion today on this bill and I will support this bill. It's a great way forward taking care of an ever-increasing challenge to our state. And today in the committee hearings we're going to hear four or five bills which are going to address this same issue in an indirect manner. That is, as we move forward into electronic transfer of records, databases, we have a large body of records that are paper, we're having an increasing body of records which are electronic, and what we don't have is ready access to those documents as much as we could have. And I would hope that as we discuss these matters going forward we look at opportunity to bring forward this technology into our public works. I'll give an example. If we have a lot of contracts, if we have a lot of public records out there right now and if our citizens do not have access to them, I would like to propose that we look at opportunities where we say from this date forward, if you have...if you generate a document on an electronic system, that document--given that it is pursuant to all the Freedom of Information Act type things, some things we just can't do--but if you generate it in an electronic format, it should be available. And that maybe that document isn't in a searchable database right now, but at least the document is there and a person can do their own due diligence. But we're going to see this going further and further right now. We hear bills, if we wanted to go back and put every piece of paper that the government has ever generated in warehouses on K Street, we could be in debt in a hurry. But let's be prudent about it and let's examine and be accepting of if you're generating it already in electronic format. If you're e-mailing a document back and forth between the approving authorities, then that should be available. And I think that that would be a prudent way to go forward and not burden the state. And then as we can, we can bring more documents on. And then as we run into issues that are being addressed here about a regulation that talks about having a stamp, and I'm thankful that Senator Krist is carrying this bill because it gives us an opportunity to do this. Last year we heard a bill where we want to work on data systems for children in the system here and how we have to look at the opportunities we have to ensure that we have an integrated platforms, that we're not tying ourselves to unique data sets that will only increase our costs going forward. So I urge our colleagues to go ahead and support this bill, but also keep an open mind going forward that since I don't believe too many offices, and I won't say all because there are some, not too many offices are using an IBM Selectric to generate a document anymore. We're using word processors, we're e-mailing them, so they should be available for the general public, pursuant to the rules. And with that, I yield the time to the Chair. Thank you. [LB7]

SENATOR CARLSON: Thank you, Senator Price. I see no other senators wishing to speak. Senator Krist, you're recognized to close on LB7. [LB7]

SENATOR KRIST: Thank you. Closing will be very brief. We've all heard stories about laws that are still on the books, having to have someone walk before your carriage with a lantern into town at night to make sure that you're cleared, and this is one of those

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kind of laws, statutes that needs to be changed, needs to be updated to bring us into the next age of technology. I'd also note for our colleagues that are new, these podiums that are in front of us are a recent addition in the last couple of years. Before, and you can look at Senator Chambers' position there, before we had huge books and by the end of the session they became enormously time...or space consuming. So we're moving forward, slowly but surely. And I ask for your support on LB7. [LB7]

SENATOR CARLSON: Thank you, Senator Krist. Members, you've heard the closing on LB7. Question is, shall LB7 be advanced? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB7]

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB7. [LB7]

SENATOR CARLSON: LB7 does advance. Mr. Clerk, next item. [LB7]

CLERK: LB156 is a bill by Senator Watermeier. (Read title.) The bill was introduced on January 14, referred to the Health and Human Services Committee, advanced to General File. I have no amendments to the bill, Mr. President. [LB156]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Watermeier, you're recognized to open on LB156. [LB156]

SENATOR WATERMEIER: Thank you, Mr. President and the members of the Legislature. Good morning, Nebraska. Today I present to you LB156, which seeks to repeal a section of statute that requires any county utilizing a community service program for employable recipients of county general assistance to file an annual written report with the Department of Health and Human Services. This written report included the number of persons placed through the program, the number of hours of experience provided, the duration and location of each placement, and any specific skills learned in the placement. Nebraska law requires counties to establish general assistance programs and eligibility standards for poor persons who are not eligible for other government assistance and have no relative to support them. Furthermore, counties were allowed to establish programs designed to encourage employable recipients to enroll in vocational, rehabilitation or job training programs. In 1991, through the passage of LB227, counties were given the option of starting a community service program for employable recipients of county general assistance. The bill required counties with community services programs to file an annual report with the Department of Health and Human Services. Previously, HHS was also required to compile the reports from each county and summarize the findings in a written report to the Legislature. This requirement of HHS was eliminated in 2005 through the passage of LB301; however, the county report requirement remained. LB156 would remove the county reporting requirement. Scotts Bluff and Douglas Counties are the only two counties in Nebraska that continue to file this report. Since the reports are no longer being utilized by HHS,

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the department asked if I would introduce legislation to repeal the statute requiring the report to be submitted. The elimination of the reporting requirement would reduce staff time for the county officials that have submitted the report. LB156 was heard before our Health and Human Services Committee. No one testified in opposition to the bill and the committee advanced it, 7 to 0 vote. I urge you to vote in support of the advancement of LB156 to the second stage of debate. Thank you, Mr. President. [LB156]

SENATOR CARLSON: Thank you, Senator Watermeier. You've heard the opening on LB156. Are there senators wishing to speak? Seeing none, Senator Watermeier, you're recognized to close. [LB156]

SENATOR WATERMEIER: Thank you, Mr. President. Since these reports are no longer being utilized by the state, counties should not be required to submit them. LB156 simply strikes this requirement. And I urge your advancement. Thank you. [LB156]

SENATOR CARLSON: Thank you. You've heard the closing on LB156. The question is, shall LB156 be advanced? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB156]

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of LB156. [LB156]

SENATOR CARLSON: LB156 does advance. Mr. Clerk, the next item. [LB156]

CLERK: Mr. President, LB225 is a bill by Senator Smith. (Read title.) The bill was introduced on January 15 of this year, referred to Health and Human Services, advanced to General File. There are Health Committee amendments, Mr. President. (AM90, Legislative Journal page 363.) [LB225]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Smith, you're recognized to open on LB225. [LB225]

SENATOR SMITH: Thank you, Mr. President and good morning, colleagues. Thank you for your attention this morning. LB225 would require all newborns in the state of Nebraska to be screened for a critical congenital heart disease, or CCHD. Currently, in Nebraska we screen for hearing and for metabolic and inherited disorders. This bill would simply add CCHD to the panel of newborn screening in the state. CCHD is among one of the leading causes of morbidity and death in newborns. Roughly, 1 percent of newborns are born with a congenital heart defect; 25 percent of those will be critical defects that will require additional and significant treatment. For perspective, there are roughly 25,000 babies born in Nebraska each year and 1 percent of those, roughly 250-300 will have some type of CCHD. Babies that go home with undetected CCHD can go into cardiac shock. They will suffer damage to other organs, are at a greater risk for brain damage, and developmental disabilities. And, of course, in the

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worst case, these babies may die. While screening doesn't prevent CCHD, early detection is key so the infant can get the supportive of care that is necessary. The United States Secretary of Health has recommended adding CCHD screening to the recommended uniform screening panel. It has also been endorsed by the American Academy of Pediatrics, their American College of Cardiology, and the American Heart Association. It is our understanding that at least nine states have adopted or are in the process of adopting a screening requirement similar to this. May I have a gavel, please? This number is expected to grow significantly in the next year. The Nebraska Newborn Screening Advisory Committee has also released a recommendation for screening all newborns for CCHD. The bill itself is drafted fairly broadly as to not dictate standard of care. Specific details for screening will be established in the rules and regs based on recommendations from a panel of experts. However, the current standard for screening for CCHD is the use of a simple, noninvasive, inexpensive procedure called pulse oximetry. If you've...colleagues, if you've been in the hospital, you probably have had a pulse oximetry test. For adults it's a small probe or a clothespin-type device that goes over your finger. On newborns, typically, a small, sticky strip is placed on the fleshy part of the hand or foot. The test takes just a few moments to perform and can easily be done by a nursery staff. I introduced LB225, colleagues, after conducting an interim study on the issue. Participants of the study include a medical...medical professionals, hospitals, representatives of the insurance industry, advocacy groups such as the American Heart Association and the March of Dimes. Also participating was a mother who, all too well, knows this...may I have a gavel, please? Thank you. Also participating was a mother who, all too well, knows the financially and emotional costs associated with a child that goes home with an undetected CCHD and who has really been driving...she's really been the driving force behind this today, she and her son, Cole. She was Tiffany Mytty-Klein and her son, Cole, testified on LB225, January 29, and I'm grateful to the Health and Human Services Committee that voted this bill out unanimously. In addition to the support of the testimony...there were letters in support of this, colleagues, and I appreciate all the support that was shown. There are committee amendments that will follow that I fully support to affect the fiscal note, the original fiscal note on this bill. We're working to get that eliminated. We won't have a new note on this bill until amendment has been adopted, but it should be in the neighborhood of about \$16,000 biennially for the meeting of an advisory committee to develop and evaluate testing protocols and for educational materials. Colleagues, I appreciate your attention on this matter. It's a very significant matter for Nebraskans, for Nebraskan families, and I appreciate your attention very much. I look forward to hearing some more discussion on this from the amendment, and I'm willing to take any questions you may have of me. Thank you, colleagues. [LB225]

SENATOR CARLSON: Thank you, Senator Smith. As the Clerk mentioned, there are committee amendments. Senator Campbell, as Chair of the Health and Human Services Committee, you're recognized to open on AM90. [LB225]



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SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. The committee amendment does become the bill. The amendment reiterates the findings of the Legislature that critical congenital heart disease is among the most common birth defects, and it is the leading cause of death for infants born with a birth defect. A significant amount of newborns affected by the disease are not diagnosed in the newborn nursery. Screening for critical genital heart disease is an effective mechanism for diagnosing the disease. And I would like to add here that we very much appreciate the help and assistance in working with Senator Smith on the amendment to give this to the floor for you. The amendment outlines who is responsible for the screening, and I do think this is a very important component of the bill. In all birthing facilities, the attending physician of a newborn shall screen or cause the CCHD screening on newborns. On deliveries planned outside of a birthing facility, the prenatal care provider shall inform the parent of the requirements for CCHD screening and the parents shall be responsible for causing the screening to be performed. For deliveries outside of a birthing facility when the newborn is not admitted to a birthing facility, the person registering the birth shall be responsible for causing the screening to be performed. In that way, we feel that all births across the state will be covered. The amendment does remove the bill's requirement for reporting, and that was where the large fiscal note came in. Senator Gloor was very wise to advise the committee that all of the records of these tests would be in the permanent record of the testing of a child. And so that if any information needed to be extrapolated later, it would be in those files. We did retain the bill's requirement that a panel of experts with the department will develop approved methods of screening protocols, and the department will be responsible for developing educational materials explaining the importance and requirement of screening. Senator Smith has brought forward an important bill for newborns across the state of Nebraska and we unanimously approved it as a committee and the amendment. Thank you, Mr. President. [LB225]

SENATOR CARLSON: Thank you, Senator Campbell. Members, you've heard the opening on LB225, and AM90. The floor is now open for debate. Cookies are being handed out to celebrate Senator Smith's birthday tomorrow. So happy birthday a day early. Are there senators wishing to speak? Seeing none, Senator Campbell, you're recognized to close. She waives closing. The question is, shall AM90 be adopted to LB225? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB225]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB225]

SENATOR CARLSON: AM90 is adopted. The floor is now open for debate on the underlying bill, LB225. Seeing no lights, Senator Smith, you're recognized...excuse me, Senator Chambers, you are recognized. [LB225]

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SENATOR CHAMBERS: Mr. President, I almost got a...actually I did run up the stairs, but if I puff, then people who can't run up the stairs like I do will feel better if they think that it causes me to be winded. So I wanted them to, you know, feel that we are all kin to each other. But, members of the Legislature, all I want to say is that I support this bill, and I really like what it's doing because it underscores something that I have always supported wholeheartedly and that's research. If we were to say that the only thing worth knowing was known 20 years ago, look at all the advancements that we would know nothing about. My seatmate without realizing it, would not have been able to take a shot at me by disparaging Selectric II typewriters. (Laughter) So there are advancements on every front, but when those advancements come that improve the quality of life for those who have some years on them, and make possible the carrying on of life from the early stages of those who are very young, I think that it is a great tribute to what human beings can do. But we have to keep in mind when these advancements come, that it is not all of society in general doing this. These advancements come as a result of people who are willing to give the time and the effort to study, to read, and do all that is necessary according to the scientific method to move from ignorance of a subject to knowledge. And if we could encourage in the schools the idea that we're not going to talk about a talented tenth, if that is what it actually is considered to be now, or a talented one-third. Even if that's the way it is, we don't know who that one-third is. We don't know who that talented tenth is or are. So we should treat every child in every classroom as having the potential to be that special person who is going to get a glimmer of information and knowledge that nobody had obtained. And that child will have enough understanding to realize that this is something that ought to be followed and pursued. There's nothing wrong with using your brain, with developing your mind, with not wanting to speak in one syllable words. But if you can only speak with 42 characters, you have to use what you've got and do the best you can with it, but we don't want that to be the best that you've got. I didn't intend to say much but I'm going to put on my light so that I can get this finished. In South Africa when Apartheid was in its poisonous flower, a man who wrote for a magazine called Esquire had paid a visit to that benighted, hateful toward black people, country. And he was walking past an alleyway and he heard all of this flute-like music that sounded almost like birds making music. He had never heard it before, so he looked in the alley and he saw all these little black children. And he asked somebody, are those children making the sounds that I hear because if they're birds I don't want to frighten them? And the black African told him--South African--yes, those are the children. And the man said, well, how are they doing that? He said they take little bits of wood and other things that they can carve and make holes in and produce little flutes that you might call a penny whistle. And this man went away astonished and then he thought more deeply on it, and he felt a profound sense of sadness and tragedy. He said in his writing, it is wonderful that these children can make such music on penny whistles, but the tragedy is that all they have on which to make music are penny whistles. So, we, I think, should not deal with our children in terms of limitations that you can go so far and no further, but let them know there's no limit to what the human mind is capable of. The mind itself does

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not know what it is capable of. Our brain is what we use to study the brain but with all our studying, they're still secrets in that tool that we use for study which human beings have not unraveled yet. There are tremendous mysteries all around us and within us. There's a standard joke about people whose heads are thick. The bone is thick like this. (Knocks on desk) You hear that? (Knocks on desk) People make fun of me because I've got a thick, hard skull. And I tell them, nature is wise. Nature provides a strong fortress to protect a precious treasure. So if you've got one of those little paper-shell thin skulls, it's letting you know that what's inside is not worth much and nature's not going to waste bone around that. So in concluding, this is what I would like to say. There are going to be bills brought to us from time to time that deal with research of various types, and there will be people who, based on sincerely held religious views, will object to it. I understand that. They're entitled to their religious views, but I do not "respect" those views to the extent that I will allow if I can prevent it, anybody or group to stand in the way of scientific research whose aim and purpose are to make a better life for people on this planet. When the sewing machine came into being, it was condemned by preachers as a work of Satan. When the lightning rod--I believe it was Benjamin Franklin who came up with that--it was condemned and was condemned by religious people in the most contradictory fashion. God is all powerful. Yet here is what they said. It is sinful for human beings to frustrate the will of God if it's God's will to strike somebody with lightning. Now, if it's God's will, how can a human being stop it? That's why I say people can believe what they want to, but I don't believe it. Superstition and religion to me are both in the same basket. But whatever makes a person's boat float is what that person ought to hold to. And I would never want anybody to let me take from them that which they need to make it and maintain their sanity from the morning until the evening. But the research is what ought to go on. Ludditism should be a thing of the past. People who don't like to see changes can say the earth is flat all they please, but even if the Legislature, following what some idiotic state down south did, passes a resolution saying the earth is flat, it nevertheless is round. If one of those idiotic groups like ALEC gets some senators to pass a law someplace saying that the sun moves around the earth, that the earth does not move, that doesn't change what happens. So I applaud all of those who had a part to play in bringing this bill to us. The committee that had the foresight to help tweak it and make it better, and those medical people and the scientists who made possible our passing a bill that shows that we are being as forward moving, as forward looking, as we're able to do under the circumstances. That's all I have, Mr. President. [LB225]

SENATOR CARLSON: Thank you, Senator Chambers. Are there other senators wishing to speak? Seeing none, Senator Smith, you're recognized to close on LB225. [LB225]

SENATOR SMITH: Thank you, Mr. President. And, Senator Chambers, you recovered remarkably from running up those stairs. And I tell you what, I think if I ran up those stairs I probably would have to crawl in the last ten feet to speak on the microphone.

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And as far as the birthday wishes, thank you very much, colleagues. The cookies were not intended to influence your vote this morning. (Laughter) But I must say that timing was great. This bill has resulted from countless hours of work by supporters, and it's been a long journey, and it was my privilege to be able to bring this bill forward. I am convinced that this is good legislation, colleagues. Early detection saves lives, saves money, and all at a very insignificant cost and effort. So I appreciate your attention this morning. Thank you for your support. I ask that you vote green. Thank you. [LB225]

SENATOR CARLSON: Thank you, Senator Smith. You've heard the closing on LB225. The question is, shall the bill advance? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB225]

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of LB225. [LB225]

SENATOR CARLSON: LB225 does advance. Mr. Clerk, are there items for the record? [LB225]

CLERK: There are, Mr. President. Your Committee on Enrollment and Review reports LB250, LB67, LB164, LB210, LB40, LB137, LB207A, LB78, LB24, LB28, LB29, LB36, LB254, LB408, LB135, and LB252 to Select File, some having Enrollment and Review amendments. I also have a new resolution. Senator Price offers LR52. That will be laid over, Mr. President. Your Committee on Judiciary chaired by Senator Ashford reports LB52 to General File with amendments. And I have gubernatorial appointment letters that will be referred to Reference for referral to standing committee. That's all that I have, Mr. President. (Legislative Journal pages 397-404.) [LB250 LB67 LB164 LB210 LB40 LB137 LB207A LB78 LB24 LB28 LB29 LB36 LB254 LB408 LB135 LB252 LR52 LB52]

SENATOR CARLSON: Thank you, Mr. Clerk. The next item on the agenda.

CLERK: LB180 is a bill by Senator Adams relating to veterans. (Read title.) Introduced on January 14, referred to the Government, Military and Veterans Affairs Committee, advanced to General File. I have no amendments to the bill, Mr. President. [LB180]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Adams, you're recognized to open on LB180. [LB180]

SPEAKER ADAMS: Thank you, Mr. President and members. Currently under Nebraska statute, we waive tuition and fees at our public higher education institutions for the dependents of firemen and policemen who have either lost their lives or have a 100 percent disability as a result of a line of duty accident. That's under current law. Also under current law, in our public higher ed institutions we waive tuition for the dependents of veterans who are 100 percent disabled or have lost their lives in the line

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of duty. What we don't do is to waive the fees for the veterans, or the dependents of those veterans. We do for firemen and policemen. What LB180 does is to simply fill that gap. It would simply say, now we're going to treat the fees of a dependent of a deceased veteran, or 100 percent disabled veteran, the same way we do firemen and police officers. Note, that there is a fiscal note, down considerably from where it was at last year. That is, in part, because of a letter that I received from the state colleges saying that they would be proud to waive these fees, but there is a fiscal note. Thank you, Mr. President. [LB180]

SENATOR CARLSON: Thank you, Senator Adams. Members, you've heard the opening on LB180. The floor is now open for debate. Senator Chambers, you're recognized. [LB180]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I support what Senator Adams is doing. No question about it. But as I look at the agenda, the name of the senator above him is Smith. If you put them together, you come up with Adam-Smith. Some people will know that that name has some significance in a particular realm of research. And the young people, if you all can't find it, can Google it and tell you who Adam Smith was and what he was all about. And since I'm so sure this bill is going to move, we will advance it, I'm going to make one other comment. You know, Adam was the first man that we read about. And as I look at my seatmate and consider the wisdom that he evinces, it very well could have been him but I know it wasn't, because he doesn't show his age. (Laughter) But there was also an Adam, who in literature, was the first creature created by man. And the one who created that creature was Victor Frankenstein. And if you are acquainted with Frankenstein only through the movies, you're missing a tremendous story, a lot of philosophical conclusions, questions, and open-ended inquiry. But there's a statement in it that I think is very profound, and I won't go into all the background that leads up to it but I will tell you this. The creature that was a monster didn't start out as a monster. It's the way human beings, who were not created in the way he was, reacted to him. He did look hideous. But unlike the creature in the movie, he was very thoughtful, he was very sensitive, he was aware of the horror that people experience when they looked at him. He had this tight skin over his face, his eyes were yellow, his lips were black. He was over eight feet tall and he could run like the wind. He lived in the glaciers in a country whose name I will not give you, Google it. But here's what he said when he was talking to Dr. Frankenstein. You are my creator, but I'm your master. And when you read the book you'll understand why he said that. But those words have always had an impact on my mind. You are my creator, but I am your master. See my complexion? This was created by white people. We, as black people, didn't jump over fences and put our blood in white people. They, while we were under their subjugation, had our mothers, grandmothers, great-grandmothers, sisters, nieces, daughters, raped, like women are being raped in India now, especially those in the lowest caste on the caste ladder. So here's what I say and it's a challenge to my colleagues on the floor of the Legislature.

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Although you all had no direct role in this, when I say you, it's that academic type you. You are my creator, but I am your master. One other thing, George Washington gets credit he shouldn't get. They say first in war, first in peace, first in the hearts of his countrymen. So if you ask the little children who was the first man and they've been to school, they say George Washington. You got to tell them, no, Senator Adams was the first man. And with that, I'm going to have nothing further to say on the bill but I support it. [LB180]

SENATOR CARLSON: Thank you, Senator Chambers. Senator Avery, you're recognized. [LB180]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. I carried this bill last year and I never got it this far, so I congratulate Senator Adams for getting it at least on the floor for debate. There is a reason to adopt this bill that has not been mentioned yet, and that is, what it does to improve Nebraska's position in a very likely upcoming base realignment and closure process. We have about a \$3 billion military economy in this state that if we are not careful could be in jeopardy in a base realignment and closure process. And I believe that this bill, while it's not as significant perhaps as some other things we might do later or could do, it certainly contributes to the climate in this state toward veterans and toward military families. And when the Base Realignment and Closure Commission looks at which states they're going to target for closure and realignment, which states they're going to ask to give up something, and they're going to have to do that with the budget constraints coming up, then they look at things like this. What is the climate in the state toward veterans? How do they treat the military people in their state? And I think that this is a modest proposal. It's not an expensive one. The colleges have indicated they can handle this with existing resources. So I think that we ought to pass this with the eye toward continuing to do everything we can in this state to remain military friendly, so that when the BRAC process does get started, we're ready. Thank you, Mr. President. [LB180]

SENATOR CARLSON: Thank you, Senator Avery. (Visitors introduced.) Senators still wishing to speak include Crawford and Wallman. Senator Crawford, you're recognized. [LB180]

SENATOR CRAWFORD: Thank you, Mr. President. And I'd like to thank the committee and Senator Adams for bringing this bill to us, and Senator Avery for your comment on the impact on our state's veterans and military friendly standing as we may deal with military cuts in the future and how important it is for our state to maintain that reputation of being strong on those fronts. I just stand to support the bill. As an educator at the college level, I know that tuition is part of the cost of college and fees are also important and if we are to provide this access to public education for our dependents of these veterans, it's very important that we waive the fees as well as tuition. And so I just stand to support the bill and thank the committee and Senator Adams and Senator Avery for

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their work on the bill. Thank you. [LB180]

SENATOR CARLSON: Thank you, Senator Crawford. Senator Wallman, you're recognized. [LB180]

SENATOR WALLMAN: Good morning, Mr. President and members of the body. Amen, Senator Crawford, Senator Adams, Senator Avery. Whatever we can do to support our vets, it probably won't be enough for what we're asking them to do today. And never in the history of this state have we asked the veterans be deployed as often as they are. So any kind of help we can give them, please vote green. Thank you, Mr. President. [LB180]

SENATOR CARLSON: Thank you, Senator Wallman. There are no other senators wishing to speak. Senator Adams, you're recognized to close. He waives closing. The question is, shall LB180 be advanced? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB180]

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of LB180. [LB180]

SENATOR CARLSON: LB180 does advance. Mr. Clerk, next item. [LB180]

CLERK: Mr. President, LB311 by Senator Scheer. (Read title.) The bill was introduced on January 17, referred to the Government Committee, advanced to General File. I have no amendments to the bill, Mr. President. [LB311]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Scheer, you're recognized to open on LB311. [LB311]

SENATOR SCHEER: Thank you, Mr. President. Today, I bring forward LB311 which amends Section 1 of Section 11-105 of the Revised Statutes of Nebraska with regards to the official bonds. The filing time is amended to include following receipt of the election certificate. There was some confusion on the part of county officials at what point they had to accept those bonds, and so this clarifies that they have to receive their certificate of election from the Secretary of State before doing so. It also authorizes...it also clarifies that the person once they file that bond, they're not authorized to do anything until they actually take the oath of office. And lastly, it provides a clarification for those counties that have a blanket bond for all the different positions within the county structure and, therefore, there's no need for individual bonds to be placed. It is a cleanup, technical bill that was brought to me by the County Officials Association, and it's very straightforward and simplistic, and I would urge your support. Thank you, Mr. President. [LB311]

SENATOR CARLSON: Thank you, Senator Scheer. You've heard the opening on

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LB311. The floor is now open for debate. Seeing no senators wishing to speak, Senator Scheer is recognized to close. He waives closing and the question is, shall LB311 be advanced? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB311]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB311. [LB311]

SENATOR CARLSON: LB311 does advance. Mr. Clerk, next item. [LB311]

CLERK: Mr. President, Senator Adams offers LB211. (Read title.) The bill was introduced on January 15 of this year, referred to the Education Committee, advanced to General File. I do have committee amendments as well as another amendment, Mr. President. (AM67, Legislative Journal page 369.) [LB211]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Adams, you're recognized to open on LB211. [LB211]

SPEAKER ADAMS: Thank you, Mr. President. Members, this bill is what I hope to be the final bill necessary to bring to final conclusion the resolution of the community college funding issue that has been going on for a long time, and, for the most part, last session we ended it. In 1992 the Legislature, in statute, created the Community College Association. Membership was mandatory of all the community colleges. Duties for the association were outlined in statute. Primarily, amongst all of the things, it was to coordinate programming within the six community colleges. In 2011 we ended mandatory involvement in the association. It was part of what we needed to do to get all six community colleges at the table to get to the next step of resolving the funding dispute. So we said in 2011 it's voluntary, you don't have to belong to the association if you don't want. But what we did not do was to take out of statute the association itself; it's still there. What this bill does is, first of all, say that that association, under law, doesn't exist anymore, and it reaffirms again that the community colleges don't have to belong to any association that they don't want to. And what it also does is to say that, with the passage of this bill, going forward, the coordination of the programming between the community colleges will be done by the Postsecondary Commission. In addition, because we would be formally dissolving the association, what the bill also says is, is that if a community college...two of them, three of them, four of them, five of them, want to get together and meet, they don't have to comply with the Open Meetings Act, because they are no longer a public entity, they're no longer created by statute. In addition, part of the funding formula last year was the inclusion of a grant program; it's called Program 99. And within that grant program, before we ever start distributing, via a formula that we worked out, any new monies, \$500,000 is going to be set aside in a grant program that the six community colleges would apply for based on some criterion established in statute. That we did last year. What I didn't do was to designate some body to call that group together and have the meeting and say, here's the time, here's



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the place, let's get together. That's the other thing this statute does. It designates a representative from the Coordinating Commission to be the one to contact all six community colleges--or the representatives on the Program 99 group--call them all together and say, let's go through the grant applications. That is the essence of the bill, Mr. President. [LB211]

SENATOR CARLSON: Thank you, Senator Adams. The Clerk indicated there are committee amendments. Senator Sullivan, you're recognized, as Chair of the Education Committee, to open on AM67. [LB211]

SENATOR SULLIVAN: Thank you, Mr. President. And good morning, colleagues. Following up on Senator Adams' outline of the underlying bill, LB211, this amendment is simply a technical one that refines some of the details of the proposal. It makes clear in statute the flow of the funds, of those Program 99 funds. It identifies the Coordinating Commission to administer and distribute those funds. The amendment also adds language to enable the fund to receive nonfederal grants and gifts as well as any interest that accrues on the fund. And the amendment also adds the emergency clause and an effective date of July 1, 2013. I am in support of the approval of this amendment. Thank you. [LB211]

SENATOR CARLSON: Thank you, Senator Sullivan. Members, you've heard the opening on LB211 and the committee amendment, AM67. The floor is now open for debate. Seeing none, Senator Sullivan, you're recognized to close on AM67. She waives closing. The question is, shall AM67 be adopted? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB211]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB211]

SENATOR CARLSON: AM67 is adopted. [LB211]

CLERK: Mr. President, Senator Ken Haar would move to amend with AM124. (Legislative Journal page 387.) [LB211]

SENATOR CARLSON: Senator Haar, you're recognized to open on AM124. [LB211]

SENATOR HAAR: Mr. President and members of the body, my amendment is an amendment about transparency. And it puts the open meetings law back into the bill. That's all it does: it puts the open meetings law back into the bill. So we're going to spend some time talking about transparency. Transparency implies openness, communication, and accountability and operating in such a way that it's easy for others to see what actions are being performed. Now the open meetings law has some features to it which I want to review: The public body must give reasonable advance

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notice of time and place of each meeting; that notice must be transmitted to all members of the body and to the public; the notice must contain an agenda of the known items at the time. And if my chronology is right, actually the NCCA, the Nebraska Community College Association, was formed back in 1980; that's what the articles of incorporation say. And then in 1992 the Legislature added the requirement to belong and the Open Meetings Act to be required. It seems to me that we're going in the wrong direction here. If we added the open meetings law to the Nebraska Community College Association, I think taking it away is absolutely the wrong way to go. One of the features of this bill also allows the organizations, and at this point it's going to be five of them, in the NCCA, and I guess I...I believe I was told that the NCCA would continue to function. It's not going to just dissolve and then form a new one, but it's going to continue to function. And the dues will be paid by the individual members. And I passed out a sheet earlier talking about...that shows the membership dues. It's not a small amount of money, of public money, being used for what I believe is public purpose. The membership dues are \$306,875, which means that if there are five, and we anticipate five to be involved, each of those will be paying about \$62,000 membership dues into this association. The other thing you might notice, if you look at this sheet I handed out, is there is no other form of raising money for the NCCA; it's simply membership dues. The interest comes because the groups are required to pay their membership dues at the beginning of the year, and then interest accrues over the years. So the first thing that we have to look at here is that this is very much like a public institution. And if you look at the Attorney General's site, where it talks about open meetings laws, public bodies which are covered...and this includes, quote, instrumentalities exercising essentially public functions. The goals of the NCCA talk about to protect the interests of the community colleges at the state level by providing accurate, timely, and persuasive information and statements of position to members of the Legislature, the Governor's Office, state agencies, and commissions. This is a public purpose. In fact, that's called lobbying. So an important function of the NCCA, with each member paying \$60,000 a year, is to lobby the Legislature. The other functions that the NCCA provides--meetings, getting together, and so on--all look like a public function. And so, I guess, you know, referring again to the Omaha World-Herald article, just because it's not a required organization, what does NCCA have to hide from the public? And if it has nothing to hide, as their executive director said, then why should we get rid of the open meetings law for this organization? I believe it's headed in the wrong direction. And, in fact, when I asked the executive director, Dennis Baack, would they find it acceptable to leave the open meetings law in, he said, and this is quoting the Omaha World-Herald, "It would be no problem for the association to do that; the group's meetings are always open to the public," he said." But I believe, in the area of transparency, it's nice to hear him say this, and I believe that that's what's going on now. But one of the reasons it's going on now is because the NCCA has had to follow the open meetings law. There could come a time, and that's why we have laws like the open meetings law, where this group of five or four, whatever, community colleges would decide not to have open meetings law. And, in fact, then the document that I handed out showing their budget would not be

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public information. Now I could go to each of those community colleges and ask, what are their dues, and they would have to tell me that. But we would not be able to see the budget of the income and the expenditures of the NCCA if my amendment fails. So I know there's going to be some other people talking on the floor, and I would like to make each of these points again during this debate. That, first of all, it's acting like a public agency because there's nothing but Nebraska associations in the group, and their goals sure sound like lobbying. We know they're going to discuss policy, and we're going to be lobbied on that policy. So again as...when we get back to this, public bodies that are covered: instrumentalities exercising essentially public functions. That sure sounds like the NCCA. They have said themselves that they have no objections to abiding by the Open Meetings Act. I think it's a message, the wrong message to send, to say, well, let's take it out of there; they can still use their money for paying dues, \$60,000 a year for 2013, but we're going to just trust them and take out the Open Meetings Act. And as Ronald Reagan often said, in many instances: Trust but verify. The Open Meetings Act is basically that: we're trusting our public bodies to be open, but we're requiring it, we're verifying it with the Open Meetings Act. So with that, I will put on my light for another time. Thank you. [LB211]

SENATOR CARLSON: Thank you, Senator Haar. There are senators wishing to speak. (Visitors introduced.) Senators wishing to speak include Avery, Sullivan, Adams, Harms, Schumacher. Senator Adams, you're recognized. Excuse me. Senator Avery. Senator Avery. [LB211]

SENATOR AVERY: (Laughter) Thank you, Mr. President. Not the first time we've been mixed up. If you have looked at the committee statement, you'll see that I was present and not voting on this bill. And the reason that I did not vote on the bill to advance it was the deliberate striking of language requiring Open Meetings Act apply to the Nebraska Community College Association. Somewhere along the line when the NCCA was being formed, this body had the wisdom to put in there a requirement for open meetings. Our open meetings law states very clearly that it is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret. The most compelling reason why this amendment should be adopted is that we have to have transparency in everything we do if we're going to have trust and confidence by the public in what we do and how we do it. The NCCA exists only for a public purpose. It has no other reason to exist. They receive public dollars to fund their operations, without which they could not operate, they could not exist. Their function and purpose are to advance the interests of public institutions, not private: public institutions. So I would argue they need to be, should be, ought to be subject to the Open Meetings Act. Let me tell you why. Openness is fundamental to the ability of our citizens to hold public entities accountable. Without accountability, there is not going to be confidence among the public that we're doing the right thing. There has to be an opportunity on the part of the public to see what we're doing and how we're doing it. And if we don't have that, and people don't trust the way we're doing things and the product

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of what we're doing, then you lose that trust, and pretty soon the very underpinnings of democracy are weakened. So I will vote for this amendment and applaud Senator Haar for going to the trouble of developing this alternative to LB211. LB211 is a fine bill. But I could not vote for it without the provision for public meetings. And I would note that the association doesn't seem to care about this one way or the other. And I could not understand why the Education Committee thought it was so important to strip this out. Thank you, Mr. President. [LB211]

SENATOR CARLSON: Thank you, Senator Avery. Senator Sullivan, you're recognized. [LB211]

SENATOR SULLIVAN: Thank you, Mr. President. Be careful what we do. I wanted to give you a little background on this, because the Education Committee spent a fair amount of time discussing Senator Haar's amendment. And at the end of the day we took a vote and defeated it on a 6 to 2 vote. I'll give you a little bit of what we talked about but also some additional information that I've acquired in the process of thinking through this amendment and why I personally, also as a committee, didn't...collectively, the majority of them anyway, didn't support it. I call to your attention the exact part of the legislation that Senator Haar is proposing to eliminate: All activities conducted pursuant to this section by such association shall be conducted in accordance with the Open Meetings Act. If you interpret that completely, that means that any associations that the community colleges would join would be subject to the Open Meetings Act. They belong to a national association. Does that mean that national association, under our state law, would now have to be subject to the open meetings laws? I think that's a little bit far-reaching. So I caution you in that respect. I also would remind you of what Senator Adams said in his opening remarks. We are removing the public responsibility of this association. That goes away in this proposed legislation. It now becomes voluntary membership. There is no statutory requirement to belong. There is not even ultimately...ultimately going to be no statutory membership of the association. Therefore it is no longer a public body and therefore is not bound by the open meetings laws. Just wanted to give you that background and hope that you will consider not supporting this amendment. Thank you. [LB211]

SENATOR CARLSON: Thank you, Senator Sullivan. Senator Adams, you're recognized. [LB211]

SPEAKER ADAMS: Thank you, Mr. President. Senator Haar and Senator Avery have raised a legitimate policy question. And frankly, I could tell you all, vote for this amendment and let's move this bill because 95 percent of this bill is what's most significant. So then why, Adams, why are you putting up a fuss? Because I think this is a policy issue that has to be worked through this morning and I'm glad they brought it up. Admittedly, my morning would have been a bit easier without it, but this has long-term implications. Senator Sullivan has raised them. The first thing that you must

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consider: Who's the public body? The Southeast Community College board of governors? The Metro board of governors? The Western Community College board of governors? Or is it this association? I argue, it's the elected board of governors. They comply with open meetings with public records. Their budgets have a line item for this purpose. It's not a public body. Stop and think for a moment. This is one of my concerns and the reason that I'm pushing for this debate. If Southeast Community College and Western decide they want to get together and expend \$61,000 each that has been determined to expend at an open meeting with a budget session and voted on in public, if this association has to comply with open meetings then...what about the League of Municipalities? City councils, village boards in open meeting during their budget hearings have a line item for membership, association memberships. Senator Haar makes the valid point: lobbying. Indeed. Does the League of Municipalities lobby on behalf of cities? I think we know the answer. What about NACO? What about the State School Board Association? The issue here really, for this body on the vote on this amendment, is for us to decide how far are we going to reach. There isn't anybody in here opposed to transparency. How far are we going to reach? What is reasonable? What is reasonable? If they each contributed a dollar, does that bring up red lights? Green lights? It shouldn't be the amount. It's the principle. It's the policy issue here. What this bill does is to say that in statute there is no mandatory requirement for this association to exist anymore. It has no levying authority. It's not a public body after this statute passes, after this bill passes, if it does. [LB211]

SENATOR CARLSON: One minute. [LB211]

SPEAKER ADAMS: Consider the implications of the amendment. Thank you, Mr. President. [LB211]

SENATOR CARLSON: Thank you, Senator Adams. Senator Harms, you're recognized. [LB211]

SENATOR HARMS: Thank you, Mr. President. I rise in opposition to AM124. I'd like to talk a little bit about...first, about the association so that you have a better understanding. This association is not created for lobbying. This association is created for coordination. For example, if a company comes to Nebraska and they would like to have programs designed all across the state, guess who does that? It's the associations that brings all the colleges together. They start the coordination, they start the development, they start putting all of those things together. It's voluntary. They don't have to do this but it's what's best for Nebraska. And what has changed in this is exactly what Senator Sullivan has said and Senator Adams has said: it's voluntary. It has implications on every association that we have. The transparency in this comes very simply. When that board of governors budgets those dollars for those voluntary associations, that's when the transparency occurs. After that it makes no difference. We all belong to different organizations. I can tell you in the community colleges, they

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belong to North Central; they'll have to belong to the Community College Association nationally; they belong to Instructional Officers across the country. Now are they going to be subject to the open meeting law? No, they aren't. So be careful about what you do here, because it has long ramifications. And I think that Senator Adams and Senator Sullivan is right on target when they have this discussion. We're going to set a course that's not appropriate. If we have an interest in doing this, then let's pull up every association and make everyone accountable for it. I don't think that's where you want to be. I don't think that's where the people want to be. And as Mr. Baack has said, the executive director, their meetings are open. These are voluntary. I would urge you to not support this amendment. It has serious ramifications for a lot of different associations but particularly for the community colleges. These community colleges have come a long ways in regard to the issues they've had. We've been through all this stuff before about whether you belong to the association or whether you don't belong to the association; whether you pay dues or you don't pay dues. We've been through all of this, and they have finally reached the decision that it's going to be voluntary. If you don't want to belong, don't belong; don't budget your money for it. But don't penalize the rest of them. They are transparent. Those meetings are open. And the decisions they're making, there's nothing secret. It's not about lobbying you or me. It's way beyond that, colleagues, and I urge you to not support this AM124. It's dangerous. Thank you.  
[LB211]

SENATOR CARLSON: Thank you, Senator Harms. And Senator Schumacher, you're recognized. [LB211]

SENATOR SCHUMACHER: Thank you, Mr. Chairman and members of the body. I thank Senator Haar for bringing this amendment today because we need to make a decision, and if we were to proceed under the language without this amendment, it would not be clear to lawyers, to judges, to advisors to these boards whether or not they had to comply or did not have to comply. You see, this language that is in the original bill does not say that this body does not have to comply with the Open Meetings Act and may conduct its meetings in secret. It doesn't say that. It just simply strikes language that says it has to comply. Now, by implication, does that mean it doesn't have to comply; that the Open Meetings Act has vanished with respect to it? No, it doesn't. It just...that language is gone and leaving us in an area of uncertainty and you begin to look at the uncertainty that I think Senator Avery highlighted. In the open meetings law, it says a public body means the governing body of all political subdivisions of the state of Nebraska; governing bodies of agencies created by the constitution, statutes, or otherwise pursuant to law of the executive department of the state; all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the constitution, statute, or otherwise pursuant to law; all study and advisory groups of the executive department of the state of Nebraska whether having continuing existence or appointed as special committees with limited existence; advisory committees of the bodies referred to in (i), (ii), and (iii) above; and instrumentalities

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exercising essentially public functions. Well, gee whiz, is this one of them or not? I could see very powerful legal arguments being made on both sides of the question. Personally, I think, after reading that and if I were called upon as a judge--I'm not paid enough to be a judge--if I were called upon as a judge, I'd say, you know, the feel, the spirit of that language says public money, public decisions, things done by public agencies should be done in the public view. And I'd say, hey, regardless if the Legislature happened to strike this language, it didn't say that these bodies were exempt from it; and until the Legislature is clear that it wants these meetings to be permitted to be conducted in secrecy, away from the public eye and public scrutiny, then we're going to assume that the spirit of this law stands. Folks, we need to make a decision. We can vote up Senator Haar's motion, which essentially leaves it available to the public. Apparently the body doesn't, of these particular associations, doesn't mind that, at least if the paper is accurate in its description. Well, what's wrong with it? What's impeded by having it done in public? Why should we permit it to be done in secrecy when \$300,000 of taxpayer money may be financing it and maybe we'll have a rebound into how public bodies conduct themselves. This is the public's business in the public's house. But regardless, if we don't pass Senator Haar's amendment, then somebody should introduce an amendment saying it is clear this body is exempt and may act in secret. Thank you, Mr. Chairman and members of the body. [LB211]

SENATOR CARLSON: Thank you, Senator Schumacher. Senators still wishing to speak include Senator Ken Haar, Lautenbaugh, Scheer, Dubas, Avery, and others. Senator Haar, you're recognized. [LB211]

SENATOR HAAR: Mr. President and members of the body, I think it is time that we have a policy discussion. But I need to open the question...okay, the Education Committee has passed a law along to the general body that staff members of community colleges cannot serve on the board. The question that did come up in committee: Well, should we do this for all the other, like, you know, university and public schools and all that sort of thing? No, we said; we can deal with one thing at a time. So this whole argument that if we do this, if we err on the side of openness in this case, that that opens...yeah, it does open up a lot of issues, but to say that then we have to go and we have to apply this to every other association of cities and school boards and national and international, I'm sorry, that's a bogus argument. We're dealing with one issue, and on this issue we're moving backwards. We're moving from an area where there was openness. Yes, there was voluntary openness, but there was also under the law required openness. Now we're going backwards and removing it, and we're saying we're going to do this because, you know, it's going to open up, as I call it, Pandora's box of worms, to all organizations. No, it doesn't. It talks about this case. Are we going to move backwards and not require openness that was there before? Now if this amendment is not perfect, if...I will come again on Select File and we're going to talk about if this amendment isn't perfect then we will go forward on Select File and be very specific that this has to do with a Nebraska organization, this particular community

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college organization, Nebraska community college organizations belonging to an organization of Nebraska colleges using public money as the only source to support that organization. And although lobbying is not the only purpose of the NCCA, it's right here in the goals. Now tell me if this doesn't describe lobbying: To protect the interests of the community colleges at the state level by providing accurate, timely, and persuasive information and statements of position to members of the Legislature, the Governor's Office, state agencies and commissions. That's a pretty great definition of lobbying, in my books. So to say that this group won't be lobbying, using our public money, 60...\$300,000 a year, to discuss policy in private, yes, that will have to go back to the boards of each of the community colleges. But policy will be made. It will be discussed. It will be made at the NCCA, and those meetings will no longer require openness. We've been promised openness. I'm sorry, in a democracy that is not enough. So I'm glad we're having this policy discussion. And yes, it...by just having this bill this year has opened up...has opened up the issue, Senator Adams. If we didn't have this bill we would not be talking about this right now. [LB211]

SENATOR COASH PRESIDING

SENATOR COASH: One minute. [LB211]

SENATOR HAAR: And it needs to be worked through. It does not mean that by staying where we are and not moving backwards, that that changes the world for everybody else. It doesn't. That simply is not the case. Again, in the law it says that this shall apply to various bodies, and one of those bodies, one of the definitions in law, "instrumentalities exercising essentially public functions," sounds a lot like the NCCA and what it's been and what it will be. Thank you very much. [LB211]

SENATOR COASH: Thank you, Senator Haar. Senator Scheer, you're recognized. [LB211]

SENATOR SCHEER: Thank you, Mr. President. I rise in opposition to AM124, and I want to thank Senator Schumacher for bringing us the definition. And he also clarified part of that definition by stating "making decisions." Well, I would venture to say that none of us will say that an association makes a decision for any entity that belongs to it. And in this case we're talking about community colleges. That association makes no decisions for any community college. Any policy that they discuss, any expenditures that they talk about must and do go back to every community college, to their board of governors; and it is on an agenda and it is discussed, it is public, and it is transparent. The game has changed, Senator Haar. The state required every community college to belong to that association, thus was the tie-in to a state organization. This bill takes that requirement away. It is no longer required by state law to belong to that organization or any organization. And this does have implications on other entities. I don't think it's good policy for us to stick our nose into any independent association that any entity uses tax



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dollars to belong to. Does this...will this entity lobby on behalf of its members? Most do, so I wouldn't find it shocking that some of those funds may be used for lobbying. But through the true definition, it's not a governmental agency. It doesn't act like a government. It doesn't make decisions. It meets and discusses. That's it. It cannot, by its nature, make any policy. It cannot make any decisions and it cannot expend any governmental dollars from a community college. It is all voluntary. That's what the main bill is doing. It's making this association voluntary. I think we just have to be careful...you know, just because we had something that was a government entity, when we turn it into a nongovernmental entity, yes indeed, it loses the requirements of a governmental entity; and in this case, it does lose the requirement to be under the open meetings law. That doesn't make it bad. That's just the fact of the matter. This association has nothing to hide. They're very frank and open right now. Is it guaranteed? Yeah, based on where the statute is today; not where it would be after the adoption of this bill. So let's stop and think about what this association is. It's an association; it's not a governmental entity. It does not make decisions. Everything it talks about, everything it suggests still has to go through every community college. I would venture to say every community college, in their contracts with their president or with most of their associate deans, part of their contract says they'll pay dues to associations, to their associations. How much farther down the realm are we going to go with community colleges? This bill takes them out of an association that was required, thus the state requirement for open meetings. We are removing that. It should not be held to the same responsibility as a city or a county or anyone else that's a government entity. It cannot and does not make decisions. It does and cannot commit finances on behalf of a community college. It's that simple. [LB211]

SENATOR COASH: One minute. [LB211]

SENATOR SCHEER: We can guise it however we want, but the fact of the matter is, we are removing that requirement. It no longer is part of government. Thank you, Mr. President. [LB211]

SENATOR COASH: Thank you, Senator Scheer. Senator Dubas, you're recognized. [LB211]

SENATOR DUBAS: Thank you, Mr. President. Good morning, colleagues. This is a good policy debate because we are talking about openness and transparency among bodies that represent varied interests. And there is no question that there is a serious lack of trust between citizens and various forms of government from the local to the national level. And so anything that we do that could be perceived as trying to do things in a less open manner deserves to have a very legitimate discussion. At this point I'm inclined not to support the amendment but I do have some questions I'd like to get cleared up, if Senator Adams would yield. [LB211]

SENATOR COASH: Senator Adams, will you yield? [LB211]

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SENATOR DUBAS: Thank you, Senator Adams. So...and I think you've addressed these things. I just want to have some further clarification so I'm clear in my mind. So the purpose and the function for this association now will be what? [LB211]

SPEAKER ADAMS: That's up to them, because, in effect, what this bill will do is take away a lot of their responsibilities, particularly the responsibility of coordinating between the six community colleges. That now falls into the hands of the Postsecondary Coordinating Commission. [LB211]

SENATOR DUBAS: But it's going to be voluntary, correct? [LB211]

SPEAKER ADAMS: Absolutely. [LB211]

SENATOR DUBAS: So it may be possible that only a couple of community colleges... [LB211]

SPEAKER ADAMS: Might...yeah, might be that only two of them associate. [LB211]

SENATOR DUBAS: So not really for sure what this membership will end up looking like since it is voluntary. [LB211]

SPEAKER ADAMS: Not at all. [LB211]

SENATOR DUBAS: Okay. So what's the difference between--and I think you've just touched on that--between what this association will be doing and what other entities who must comply with the open meetings law, what will be the difference between the two? [LB211]

SPEAKER ADAMS: Well, good question. I think the key is this, and you can look at this in terms of community college board of governors, a city council, a village board, an NRD board. Those entities are public bodies under statute. They have the ability to levy. They have the ability to expend funds. Hence, they do fall under the Open Meetings Act. What we're doing in this bill is to essentially say that the mandatory existence of the Community College Association will be no more. We've already made it voluntary, but in statute the existence of the association itself by statute is mandatory even though there's only five people in it, five schools in it right now. This will take that status away. So any association beyond this, if this bill were to pass, is of their doing, just like Fullerton Public Schools may or may not choose to be part of the state School Boards Association. [LB211]

SENATOR DUBAS: It's probably very likely any discussions or anything that go on amongst this association will come back to those individual elected boards for further

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discussion or approval or...I mean, it will be discussed in a manner that has to comply with open meetings laws. [LB211]

SPEAKER ADAMS: Yes. Yes, I would think so. [LB211]

SENATOR DUBAS: Okay. I think that...I guess along that same line of questioning, could there be any decisions made by this association that could lead to a lack...a breach in the public trust? That's probably possible with anything. That's a pretty... [LB211]

SPEAKER ADAMS: I think you're right. That's possible. But with...I mean, the League of Municipalities, state school board, anybody could do something that would violate the trust. But ultimately it comes back to the members of the board of governors who are elected. [LB211]

SENATOR DUBAS: So there will still be an accountability amongst elected officials for any actions taken. [LB211]

SPEAKER ADAMS: I believe so. [LB211]

SENATOR DUBAS: Right. Thank you very much, Senator Adams. [LB211]

SENATOR COASH: Thank you, Senator Dubas and Senator Adams. Senator Avery, you're recognized. [LB211]

SENATOR AVERY: Thank you, Mr. President. I heard some arguments that I really think I ought to address. The fact that there are similar groups and organizations in the state that are not required to abide by the Open Meetings Act, such as NACO, the School Board Association; and if we're not going to require them to do it, we shouldn't be requiring this group to do it. This group it seems to me to be in a category that is perhaps not as public as it once was, but it still exists for a public purpose. And the fact that we are not also addressing the other organizations is a classic "look over there" strategy. Let's not talk about the NCCA as a public purpose entity. Let's look over there at those other groups that don't comply with the Open Meetings Act? That doesn't get us anywhere. We can look at those other groups and we can, maybe next year, come up with legislation requiring them to abide by the Open Meetings Act. That has nothing to do with this issue. That has nothing to do with the NCCA. Its most direct public role and function, yes, it will be eliminated. Senator Adams has made that clear. But it still exists with public money. It still exists for a public purpose. It has no other purpose. I have one question for everybody to contemplate. What do we lose by continuing to require this public purpose association to abide by our Open Meetings Act? What do we lose? Or to put it in the converse, what do we gain? What do they gain? What does this body gain? What does public policy in this state gain by exempting them from the Open

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Meetings Act? Does it advance transparency? I wouldn't submit to you that they gain nothing and that we lose something. You can start eroding a little bit here. Transparency can be damaged maybe not a whole lot now, but you start eroding here, and the next thing you know we're going to have another little debate about who gets exempted. So what do they lose? They lose nothing. Absolutely nothing. And the state of Nebraska, if we pass this amendment, might gain something by sticking to a very important principle of government, and that's transparency. I don't think this group has anything to hide. But if they don't, then why shouldn't they be eager to open up their meetings? Thank you, Mr. President. [LB211]

SENATOR COASH: Thank you, Senator Avery. Senator Crawford, you're recognized. [LB211]

SENATOR CRAWFORD: Thank you, Mr. President. I just wanted to clarify a few points and get answers to a few questions about the open meeting law and transparency here. If Senator Adams would yield. [LB211]

SENATOR COASH: Senator Adams, will you yield? [LB211]

SPEAKER ADAMS: Yes, I will. [LB211]

SENATOR CRAWFORD: Thank you. The bill talks about the Coordinating Commission for Postsecondary Education. And so is it fair to say that the many of the functions that used to be carried out by the NC...by the original group that we're talking about will now be carried out by the Postsecondary Commission...the Coordinating Commission for the Postsecondary Education? [LB211]

SPEAKER ADAMS: That's correct. [LB211]

SENATOR CRAWFORD: So in terms of making decisions about flows of money and...just also wanted to clarify if there are discussions about coordinating, setting up new job training programs, ways that the community colleges would work together on those programs. Is it the expectation of this bill that those kinds of coordinations would now occur through the Coordinating Commission for Postsecondary Education or would that kind of coordination still occur through the Community College Association? [LB211]

SPEAKER ADAMS: Degrees and programming, just to give you two examples, are within the purview of the Coordinating Commission; hence those kinds of responsibilities would fall more directly on the Coordinating Commission. That does not, of course, preempt the obvious, that you may have some community college presidents, CEOs, get together and talk about programming. [LB211]

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SENATOR CRAWFORD: And if they get together to talk about programming, would you assume that discussion would be covered under the open meeting law? [LB211]

SPEAKER ADAMS: It...right now, it is. With the passage of this bill, without this amendment, they wouldn't have to have that same level of scrutiny. [LB211]

SENATOR CRAWFORD: Okay. And is it the case that the Coordinating Commission for Postsecondary Education is covered by open meeting law? [LB211]

SPEAKER ADAMS: It's a constitutional entity, therefore it is covered. [LB211]

SENATOR CRAWFORD: Okay. And would you answer the question that was just asked by Senator Avery of what is the harm of requiring this group to retain under Open Meeting Act. [LB211]

SPEAKER ADAMS: You know, Senator Avery raises a good question, rhetorical though it may be. My concern is that if this body today, on this little flag waver right here, the NCCA issue, decides that, all right, we want them to comply with open meetings. If this body decides that, then should there be an expectation that any one of us may bring bills next year or thereafter saying, League of Municipalities, you receive money from cities; we think you should comply when you have your board meetings; NACO, when you have your board meetings. And if that's going to be the policy of the body, so be it. I'm not sure it ought to be. Hence I'm drawing a line in the sand here to make that decision. [LB211]

SENATOR CRAWFORD: Okay. So, and again, just to clarify, a key function of the bill is to shift responsibility from NCCA to the Coordinating Commission for Postsecondary Education. Is that correct? [LB211]

SPEAKER ADAMS: That is correct. [LB211]

SENATOR CRAWFORD: Okay. And those public responsibilities now shift to the Coordinating Commission for Postsecondary Education, which is covered under open meeting law. [LB211]

SPEAKER ADAMS: Yes. [LB211]

SENATOR CRAWFORD: Thank you. [LB211]

SENATOR COASH: Thank you, Senators. Senator Sullivan, you are recognized. [LB211]

SENATOR SULLIVAN: Thank you, Mr. President. As we well know in this body, words

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matter. And I listened carefully to Senator Schumacher's comments and recitation of features that are in the open meetings law. I am not an attorney. He is. But as I listened to his comments and his recitation of what is in the law right now, he mentioned the word "governing" body. Under this proposed legislation the association is not a governing body. Those covered under open meetings laws are created by law. We are removing the association from the statute. Another feature under open meetings law is the public level. We are removing the public responsibility for this association. So, quite frankly, I see no reason...and he again, he mentioned that, well, maybe under these circumstances and parameters a judge may assume that this association would be covered. But that was the other term that I failed to hear in his comment in identifying the certain groups and entities that would be covered. There was no mention of associations. So in my estimation, not only is this amendment far-reaching; it creates an impediment for associations like this, and others, and there is simply no reason to mention it in the statute because open meetings laws identify that it doesn't need to be. Thank you. [LB211]

SENATOR COASH: Thank you, Senator Sullivan. Senator Johnson, you are recognized. [LB211]

SENATOR JOHNSON: Thank you, Mr. President. Thank you, body, for listening to me. I can relate this a little bit...most of my questions have been answered in the discussion, but I can relate this changing the names from community college down to the city council. City council goes together and goes to a league meeting. There might be a quorum of council members there. They can listen to the presentations. They can talk about it. But the League of Municipalities has no governing action over that group. They need to go back...the city council then is required to go back. If they want to discuss this further or take action, they need to post the open meeting law and work under that function. I suppose if they knew, going into that meeting, that they wanted to take action while at the league meeting, they would have to post that prior to going into the meeting in order to comply with open meeting laws. I agree this is probably going down the wrong road. You could insert any of the governing bodies' names in place of the college NCCA, and they would all be affected the same way. I do oppose the amendment, AM124. Thank you. [LB211]

SENATOR COASH: Thank you, Senator Johnson. Senator Schumacher, you're recognized. [LB211]

SENATOR SCHUMACHER: Thank you, Mr. Chairman, members of the body. To clarify a few things. In the definition--and you're all free to pull it up on your gadgets--of public body in 84-1409, there is no mention that a public body is restricted to a public body that expends funds. Nowhere in that definition does it say, one that makes decisions or ultimately makes decisions. A public body is an instrumentality of government, something the government uses in the formation of policy. There's one section in the

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law that's before 84-1409, and it's 1408. Here's what it says. "It is hereby declared to be the policy of this state that the formation"--not the final vote on--"the formation of public policy is public business and may not be conducted in secret. Every meeting of a public body shall be open to the public in order that the citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided in the constitution." Our Supreme Court has looked at that and our Supreme Court has made some comments. In 1990, "The primary purpose of the public meetings law is to ensure that public policy is formulated at open meetings,"--formulated. Not finally voted on; formulated. This body comes together to do something. I mean, why would it even exist if it wasn't going to do something, going to make a report, going to search out ideas, going to "formulate" things. The Supreme Court, again in 1984, "The public meetings law is broadly interpreted and liberally"--oh, there's an L word--"liberally construed to obtain the objective of openness in favor of the public, and provisions permitting closed sessions must be narrowly and strictly construed." The court is telling the courts and the attorneys, hey, any doubt, resolve this thing in favor of the Open Meetings Act and public access. If we do not speak clearly, aye or nay, on this issue, we have not done our jobs. And if this amendment fails, then we must consider the opposite; and I am prepared to introduce a floor amendment which says the opposite so we can give lawyers and boards and the Supreme Court clear indication of what we thought. But before we do such a thing, remember that at one time in history this body lit up green lights on that board in favor of openness of public decision making and policy formation. Thank you, Mr. President and members of the body. [LB211]

SENATOR COASH: Thank you, Senator Schumacher. Those still wishing to speak: Senators Ken Haar, Nelson, and Scheer. Senator Ken Haar, you're recognized. [LB211]

SENATOR HAAR: Mr. President and members of the body, a good discussion, and it's emotional and we should have strong feelings about open meetings. It's absolutely crucial to our democracy. And Senator Schumacher just said some of this but I'm going to repeat it. If you look at the open meetings law, it says "declared to be the policy of this state that the formation"--it doesn't say passing. It says "the formation of public policy is public business." Open meetings law doesn't talk about governing. It doesn't use the word "governing." It doesn't use the word "responsibilities." It talks about formation of public policy. If we don't accept that in terms of the NCCA, then we do need an amendment, and I will work with Senator Schumacher on this to say that the NCCA may not discuss public policy, may not work on formulation of public policy, because that's what the open meeting law says. And when you look at the public bodies which are covered, sure, it includes cities and counties and commissions and advisory committees. But point (vi), and this is in Section 84-1409, "instrumentalities exercising essentially public functions." Now if the only funding comes from a public body and the only purpose is for public bodies, then what is an instrumentality exercising essentially public functions? Then some people have been saying, oh, this is a slippery slope that if we do this, we've established a broad policy that covers everything with the word

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"Nebraska" in it. That's not true and we know that. The Legislature deals all the time with one issue at a time, and yes, it opens up some other interesting questions. And I've been contacted by the administrators and so on, and yeah, they see this as something that will lead to further discussion. I didn't bring this bill forward. This bill opens the question of open meetings. So we are going to discuss this and at any time in the future a senator can come forward and say, okay, this XYZ group has to have open meetings laws. We can do that anytime. By taking one action now, it doesn't apply to everybody and we know that. And we have to be careful, as Senator Scheer said. Now I want to tell you that this...the NCCA was a nonprofit established in 1980--a nonprofit. Then along came the Legislature and says everybody has to agree with it and therefore you have to have the open meetings law. I don't find that in this thing of how the open meetings law describes "formation of public policy is public business." It says nothing about everybody having to join. It doesn't say anything about governing, anything about given responsibilities. So the Legislature took a nonprofit organization which was established in 1980, and it said everybody had to agree with it and that's what makes it public. That's not what the open meetings law said. That's something we said to this group; and we also said at the same time, you have to have open meetings law. It's still going to be a nonprofit organization. So by saying we took a...we made this a public group simply with that action that happened in 1992, no, it's still a nonprofit, if that's the way you want to describe it. It was a nonprofit before the Legislature took action. [LB211]

SENATOR COASH: One minute. [LB211]

SENATOR HAAR: It will still be a nonprofit. And the spirit of the open...not just the spirit, the text of the open meeting law says that the policy of this state, that the formation of public policy is public business and may not be conducted in secret. If we don't go along with that, then I hope you'll vote for the amendment that says this group in the future may not discuss public policy, because that's the definition of the open meetings law. And if you believe that this sets precedent for all time, this bill has opened the question, not my amendment. Thank you. [LB211]

SENATOR COASH: Thank you, Senator Haar. Senator Nelson, you're recognized. [LB211]

SENATOR NELSON: Thank you, Mr. President and members of the body. I belong to a nonprofit organization called the Kiwanis Club, and we may be discussing public policy; we may be hearing about public policy when we have people visit us from various groups, but we don't formulate public policy and neither does the NCCA as it will be constituted in accordance with this bill. I like to think of them as perhaps an advisory group. If they want to get together and discuss what they might do as colleges collectively or individually, or not offer or may offer, I don't think that has anything to do with public policy, and they're not regulating anybody. They're not a regulatory body



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anymore. It's purely a group that's getting together for perhaps the best interests of the college. But as has been said before and as was said very well by Senator Scheer, I'm not going to repeat all that, I thought he covered the topic very adequately of what this nonprofit organization will be doing in the future. Everything goes back to the respective boards of the other colleges, and there they can discuss it in an open forum and people can object as to anything that is suggested there. I'm a minimalist and I don't think we should even take the chance of extending what we do here today, if we were to advance this amendment or adopt it, so that we would have some argument later on or a lot of arguments about, well, we did it here with the NCCA, and if we're going to think in terms of them as being a group that's formulating public policy because they get together and talk in a collective advisory capacity, then we ought to extend it to all these other groups. I don't think that's what the intention is of the open meetings law. I think we need to confine it to groups that are effective and formulating public policy and confine it to that and not go any farther, and certainly not what's being proposed at this time by the amendment. So I stand in opposition to the amendment and I urge you to vote against it. Thank you. [LB211]

SENATOR COASH: Thank you, Senator Nelson. Senator Scheer, you're recognized. [LB211]

SENATOR SCHEER: Thank you, Mr. President, and I again just wanted to quickly respond, much like Senator Nelson, to Senator Schumacher's point as far as formulating public policy. It does not say discussion of public policy. And I think if we're all going to be realistic about what goes on and how policy is developed, it starts with a discussion. It's not formulated; it's discussed. And every association, every community college, every city, municipal government, county organization, all will have representatives that go to certain meetings and they'll talk about different types of legislation that they see to be helpful or hurtful, or regulations that are helpful or hurtful. That discussion isn't formulation; it is discussion of public policy. It's not formulating. Public bodies are the only ones that can formulate and pass public policy, thus the term "public." You have to be a public institution to formulate and pass public policy. You can't be an association and pass public policy. Associations don't have that power. And I would just...and in quick response to Senator Crawford's question about being able to get together and talk about different programs and so forth, that's not formulating anything. Those discussions take place outside of the meetings of the community college the way it is now. The presidents or academic people in different disciplines will get together and talk about formulation or discussion or different classes and so forth, and that would continue to go on regardless of the passage of this or not. What we're really talking about is if this association is a public entity. And by the main bill, it no longer is a public entity. So from that vantage point, it's fairly clear. Do we want a public...actually it's much easier. If you want it to continue to be under the rules of the open meetings law, then don't vote for the main bill, because the main bill takes it out of the public arena. And if we're taking it out of the public arena, it is no longer covered by

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the open meetings law. It's that simple. Thank you, Mr. President. [LB211]

SENATOR COASH: Thank you, Senator Scheer. There are no members wishing to speak. Senator Haar, you're recognized to close on AM124. [LB211]

SENATOR HAAR: Thank you. Do I have five minutes, Mr. President? [LB211]

SENATOR COASH: Five minutes. [LB211]

SENATOR HAAR: Thank you very much. Well, we played with words a lot here today. For example, discuss versus formulate. When I was on the Lincoln City Council--seven members, four of us couldn't legally get together to just discuss. So we can play with the language all we want, but here's what the open meetings law says, and I think it is this simple. "It's hereby declared to be the policy of this state that the formulation of public policy is public business and may not be conducted in secret." When I was on the city council, four of us couldn't get together and just chat or discuss or get on a conference call. We had...when four of us got together to discuss, we considered that, at least, and I think lawyers would consider that covered under the open meetings law. The open meetings law says nothing about governing. It says nothing about responsibility. It says nothing about having the ability to regulate, to pass laws, to expend money. It says a "formation of public policy," the discussion of public policy. So yeah, as a group outside of this NCCA, they can get together and talk about whatever they want. But this organization, if it discusses public policy, it falls under the open meetings law. And under point (vi), which bodies are covered, "instrumentalities exercising essentially public functions." Now I don't think the Kiwanis uses public money for a public purpose. The only purpose of the NCCA is using public money for a public purpose...it uses public money for a public purpose. So we can play around with this all we want, but if we fail to take action on this issue sometime during this session on the Nebraska Community College Association, I believe we're taking a step backwards. I think the people have a right to know what happens when you discuss...when you discuss as a body, and that's what this group does--discuss, formulate; I guess the courts will decide on that part of it. So I thank you for this good discussion. I will bring some amendments to Select File and I will work with Senator Schumacher on that. I will work with Senator Avery, I'll work with the NCCA. And with that I would like to withdraw my amendment. [LB211]

SENATOR COASH: AM124 is withdrawn. We now return to discussion on LB211. Are there members wishing to speak? Seeing none, Senator Adams, you're recognized to close on the advancement of LB211. [LB211]

SPEAKER ADAMS: Thank you, Mr. President. The debate on the open meetings issue is a valid one. It is a valid one, and most certainly if this bill moves on to Select File those issues can be raised again. That's what we're here to do. In the meantime, in

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closing on this bill, let me highlight the points. What this bill will do is to essentially say that the Nebraska Community College Association is no longer mandated in statute, and certainly membership is not mandated in statute. However, if two or more community colleges decide that they want to meet, certainly they would be allowed to and some of their public monies that has been voted on at their open board of governors' meetings could be used to pay membership dues to an association; that the Coordinating Commission for Postsecondary Education would, in effect, take over the coordinating duties of the Community College Association. The last thing that it does in addition to the committee amendment, the last thing that it does, the Program 99, the grant money that goes out to the community colleges, membership is determined in prior year's statute; what this will also do is designate a representative from the Coordinating Commission to be the chairperson of that group, to call the meeting, to review the applications for grants under the Program 99. Thank you, Mr. President. [LB211]

SENATOR COASH: Thank you, Senator Adams. Members, you've heard the closing to LB211. The question is, shall LB211 advance? All those in favor vote aye; those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB211]

CLERK: 34 ayes, 1 nay, Mr. President, on the advancement of LB211. [LB211]

SENATOR COASH: LB211 is advanced. Next bill, Mr. Clerk. [LB211]

CLERK: Mr. President, LB70 was a bill originally introduced by Senator Schilz. (Read title.) Introduced on January 10, referred to the Agriculture Committee, advanced to General File. I do have committee amendments, Mr. President. (AM44, Legislative Journal page 369.) [LB70]

SENATOR COASH: Thank you, Mr. Clerk. Senator Schilz, you're recognized to open on LB70. [LB70]

SENATOR SCHILZ: Thank you, Mr. President. Members of the body, good morning. LB70 is a bill that would expand the nomination process for membership on the Nebraska Dairy Industry Development Board to provide for supplemental at-large nominations and selection as necessary to maintain a seven-member board. I'd just like to give you a little bit of background about how this came about and where we're at. The Nebraska Dairy Industry Development Act was enacted in 1992 because the federal government was looking at taking away some of the funds that they used to promote dairy back in 1998. And this was a reaction to that. The membership on the dairy board is set forth under Section 2-3951. The appointment process has historically been designed to apportion board membership to members nominated by dairy cooperatives and other first purchasers of milk in close proportion to the proportion of the state's milk producers that market through that cooperative or first producer. When the act was

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originally put in place, there was one member for each 100 producers. In 2001 the Legislature amended that so that membership on the board maintained at one member for each 50 milk producers. And in 2004 we revised it again in LB836 and currently maintains the size of the board as approximately one member for each 40 producers affiliated with major cooperatives with memberships in the state, and one member for each 40 producers selected from nominations from all other first purchasers and producer/processors. Here's the purpose of the bill. There are currently seven members, but due to the continuing attrition of milk producers the current statutory formula will result in membership falling below seven members during 2013 and potentially further reduction in 2014 and beyond. This bill is brought at the request of producers, organizations, and the board who believe the board can better maintain an equitable representation of milk production and function more effectively if the board size is maintained at seven members. Let me go through the changes that actually occur in the green copy. LB70 provides for at-large nomination and selection of producers to maintain membership of the Dairy Industry Development Board at seven members. The primary substantive provision of LB70 is found in Section 3 which sets out existing subsections (1) and (2) of Section 2-3951.02 as subdivisions of subsection (1), and inserts a new subsection (2) expanding the nomination process whenever the board membership, as determined under subsection (1), results in fewer than seven members. And subsection (2) provides for additional nomination and appointment of producers solicited and selected at large by the dairy board to maintain board membership at seven members. The bill would provide that whenever the board falls below seven members, under the existing formula for board membership, the board is directed to call for nominations for members to be appointed at large. And then the remainder of the bill makes necessary harmonizations in other sections of the Dairy Industry Development Act. Primarily, this is to incorporate the process for notifying producers of the board position and for soliciting and presenting nominations for at-large positions into the existing nomination and appointment procedures. Folks, there is a committee amendment that I will speak to shortly. The bill was heard by the committee on January 22 and advanced to General File with seven members voting yes and one absent. And with that, I would appreciate your support for LB70. Thank you. [LB70]

SENATOR COASH: Thank you, Senator Schilz. As the Clerk has stated, there is a committee amendment from the Agriculture Committee. Senator Schilz, as Chair of that committee, you're recognized to open on the committee amendment. [LB70]

SENATOR SCHILZ: Thanks once again, Mr. President and members. The committee amendment substitutes a rewritten version of the at-large membership provisions inserted by the bill to more closely follow the statutory scheme for nomination of existing categories of board members elsewhere in 2-3951.02 and to clarify that the nomination process will follow the same procedures prescribed for other nomination classes. The amendment provides that the board shall submit two or more nominations for each at-large seat and the Governor would choose from such nominees. As introduced, the

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bill provides that when at-large nominees are required, the board shall submit one or more names. The amendment changes this to require two or more nominees to be submitted. Additionally, the amendment relocates to Section 2-3951.02 what is currently subsection (5) of 2-3951.04 that authorizes the Governor to reject nominees and require submission of additional nominees. Both the requirement to submit two or more names and the authority of the Governor to reject nominees are to avoid unduly restricting the Governor's power to appoint by limiting nominations in violation of the Governor's appointment powers under Article IV, Section 10. Finally, the amendment inserts a statutory cleanup provision into 2-3951 unrelated to the primary purpose of the bill. The amendment would strike the Nebraska Dairy Industry Association as one of the ex officio members of the board and clarify that the director of Agriculture or his designee is a nonvoting member. The amendment also inserts the emergency clause to enable the nominating and selection process for the at-large membership to proceed in concert with the November term commencement and termination of existing board members. And once again, with that, I would welcome your support and encourage it on AM44. Thank you, Mr. President. [LB70]

SENATOR COASH: Thank you, Senator Schilz. Members, you've heard the opening to LB70 and the committee amendment. The floor is now open for discussion. Seeing none, Senator Schilz, you're recognized to close on the committee amendment. [LB70]

SENATOR SCHILZ: Thank you, Mr. President. I'll just take this opportunity to mention, you know, as we look at this and as we see numbers of producers diminishing in the state, it is a cause for some concern. It seems to be that we are maintaining cow numbers, dairy cattle numbers. The unfortunate thing is that we're not expanding that at all and that's one of the things that we need to work on as a state, because dairy could be a huge part of the economic development in rural areas in Nebraska. This board and this nomination process, the way it goes into place, will make sure that those funds that can be expended on promotion and education in the dairy, of dairy products and dairy promotion, can move forward and be represented by the whole industry as it needs to be. And with that, I will close. Thank you. [LB70]

SENATOR COASH: Thank you, Senator Schilz. Members, you've heard the closing to the committee amendment. The question is, shall the committee amendment to LB70 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB70]

ASSISTANT CLERK: 35 ayes, 0 nays on the adoption of committee amendment, Mr. President. [LB70]

SENATOR COASH: The amendment is adopted. We return to discussion on LB70. Seeing no members wishing to speak, Senator Schilz, you're recognized to close. Senator Schilz waives closing. The question before the body is, shall LB70 advance? All

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those in favor vote aye; those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB70]

ASSISTANT CLERK: 40 ayes, 0 nays on the motion to advance the bill. [LB70]

SENATOR COASH: LB70 is advanced. Next bill, Mr. Clerk. [LB70]

ASSISTANT CLERK: Mr. President, LB31 was introduced by Senator Hadley. (Read title.) The bill was read the first time on January 10 of this year, was referred to the Urban Affairs Committee. That committee reported the bill to General File with no committee amendments. [LB31]

SENATOR COASH: Thank you, Mr. Clerk. Senator Hadley, you are recognized to open on LB31. [LB31]

SENATOR HADLEY: Mr. President, members of the body, I'm bringing this bill, LB31, on behalf of the Department of Motor Vehicles. The DMV issues parking permits for handicapped and/or disabled persons and to specific motor vehicles used for transportation of handicapped persons. DMV-issued handicap parking permits fall into two categories: permanent permits which are renewed every six years, and temporary permits which under current law may be issued for up to six months but can vary in length based on the estimated date of recovery. Most temporary permits are issued for the maximum six-month period. However, a significant number of permits are issued for one or two months and they are then renewed for an additional similar period. LB31 proposes a third option: a three-month temporary permit for those with anticipated shorter recovery periods. The proposed change has the potential to decrease the number of permanent permits that are issued because of the statutory imposed limit to the number of renewals of temporary permits. Under current law, a temporary permit can only be renewed once. Every day temporary permits are issued to individuals who have undergone surgery or been injured. Initially, the medical profession estimates a short recovery period, say one month. Frequently, these permits are renewed due to another injury, a surgery, or the fact that the patient does not progress as anticipated. It is not uncommon that at the time of expiration of the renewed temporary permit the patient has not fully recovered. That individual continues to have a need for a parking permit and is entitled to the permit. However, in such case, because the applicant has exceeded one statutorily authorized number of permits, the only alternative the DMV has is to issue a permanent six-year permit. By offering a minimum of three-month expiration period for the temporary permits on the front end, we can reduce the number of times that a permanent permit is issued unnecessarily at the back end of the process. I believe it will cut down on abuses. Offering the two options for expiration periods for the temporary permits can reduce the cost and increase efficiency of the program. The department expects to realize cost savings and efficiencies from the expected reduction in the number of renewal temporary permits issued. Specifically, LB31 amends

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60-3,113.02(3) and 60-3,113.05(3) to provide for issuance of temporary handicap permits for either a three-month or six-month period. A temporary permit may be renewed only if recovery extends beyond the expiration of the temporary permit. The bill retains the existing statutory requirement that a new application for a temporary permit be submitted if the temporary permit must be renewed. I ask for your approval of LB31 and I would answer any questions anybody might have. Thank you, Mr. President. [LB31]

SENATOR COASH: Thank you, Senator Hadley. Members, you've heard the opening to LB31. The floor is now open for debate. Are there members wishing to speak? Senator Nelson, you're recognized. [LB31]

SENATOR NELSON: Thank you, Mr. President, members of the body. I have a question or two of Senator Hadley if he will respond. [LB31]

SENATOR COASH: Senator Hadley, will you yield? [LB31]

SENATOR HADLEY: Yes. [LB31]

SENATOR NELSON: Thank you, Senator Hadley. Just a matter of interest that is...you covered in your opening here. Could you tell me a little bit about the six-year permit, if you know? Is that issued for a six-year period of time and there's no review at any time? In other words, someone is good for six years before they have to apply for renewal? [LB31]

SENATOR HADLEY: That is my understanding, Senator Nelson. This is a permanent, where the disability has been deemed permanent by the physician and it lasts for the six-year period. [LB31]

SENATOR NELSON: And if I understand correctly, is there a limit on the total number of permits, whether they're temporary or permanent, that can be issued by the Department of Motor Vehicles? [LB31]

SENATOR HADLEY: I believe there is not a limited number for the permanent permits. You could do it every six years. But the temporary can only be renewed once. [LB31]

SENATOR NELSON: And then you'd have to get something from a doctor that says it's no longer a temporary but it's a permanent. [LB31]

SENATOR HADLEY: That's correct, sir. [LB31]

SENATOR NELSON: (Inaudible) at that time. Do you think, Senator Hadley, in light of your recent mishaps, that you might be applying for one of these temporary... [LB31]

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SENATOR HADLEY: I'm going to the physician at 12:30 today and if I get a blue permit, I will be parking there tonight. [LB31]

SENATOR NELSON: Thank you, Senator Hadley. Thank you, Mr. President. [LB31]

SENATOR COASH: Thank you, Senator Nelson. Seeing no other members wishing to speak, Senator Hadley, you're recognized to close on LB31. Senator Hadley waives closing. Members, the question before the body is, shall LB31 advance? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB31]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB31. [LB31]

SENATOR COASH: LB31 does advance. Next item, Mr. Clerk. [LB31]

CLERK: Mr. President, LB295 is a bill by Senator Sullivan. (Read title.) Introduced on January 16, referred to Urban Affairs, advanced to General File. I have no amendments to the bill, Mr. President. [LB295]

SENATOR COASH: Senator Sullivan, you're recognized to open on LB295. [LB295]

SENATOR SULLIVAN: Thank you, Mr. President and members. LB295 adds relocation incentives for new residents to the list of activities in Section 18-2705 that may be included in a local option municipal economic development program. By way of background, these are the economic development programs in cities and villages created under the Local Option Municipal Economic Development Act and adopted by the voters in each individual city and village. We often call them the LB840 programs from the original bill from 1991 that created the legal framework. LB295 is the result of several years of discussion and study about how to reverse the loss of residents in rural Nebraska, and you know that that's something that's near and dear to my heart and something I really want to work on. Several years ago Senator Hadley and I spent some time studying the issue of rural depopulation. A public hearing was held in Kearney in the fall of 2011. Many of the people that came to testify were rural economic development officers in rural Nebraska. Throughout the hearing, these folks emphasize that they had jobs available in their communities but they just did not have the skilled labor to fill those jobs. As I have continued to visit with rural economic development folks in my legislative district this past year, the issue of how to recruit people for the jobs in their communities has continued to come up. They were experiencing work force development issues--how to get people to their communities to fill good jobs that were available. Many of these cities and towns have an unemployment rate of 3 percent or less. The available jobs include such things as plumbers, electricians, nurses, welders, IT professionals, and manufacturing. The lack of people to fill these jobs can actually



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limit a business' ability to grow and expand, and certainly limits the opportunity for a rural community to grow and thrive. As of today, 60 Nebraska communities have economic development programs created under the Local Option Municipal Economic Development Act. Cities and villages of all sizes located in every corner of our state have voted to create and fund these local economic development programs. Section 18-2705 contains a list of activities that may be included in a local option municipal economic development program. LB295 adds relocation incentives for new residents to that list of activities. The decision about what constitutes relocation incentives for new residents and the decision about whether to provide relocation incentives would be up to the each city or village, recommended by the local economic development board, and approved by local elected officials on the city council or village board. That means local decisions by local people expending local funds. And I underscore that and will remind you of that several times. This option will be available to any community that has a local option municipal economic development program approved by their voters. Larger communities may not need this option. They might have an ample pool of skilled labor to fill the jobs in their city. However, we also know that there are communities that support this bill that are larger and would like the opportunity to target new residents as part of their economic development program. LB295 provides a simple way for communities to recruit new residents to meet their employment needs. There is no cost to the state. If communities don't want to use their economic development dollars in this way, they don't have to. The proposal must be on the city council or village board agenda. The public has a chance to comment, and the city council or village board has the final say. LB295 gives communities the option of another tool for economic development. I encourage you to advance this bill to Select File. Thank you. [LB295]

SENATOR COASH: Thank you, Senator Sullivan. Members, you've heard the opening to LB295. The floor is now open for debate. Senator Murante, you are recognized. [LB295]

SENATOR MURANTE: Thank you, Mr. President and colleagues. This was one of those bills that when I first read it, my first inclination was that it was fairly innocuous in nature, and then something just didn't sit right with me. And what I want to do right now is kind of go through the process. I have studied more on the Municipal Economic Development Act in the last week than I ever thought possible, but I'd like to go through how I understand the program to operate, and then I'd like to yield time to Senator Sullivan to let me know if I'm on the right track or, if I'm wrong, correct me where I'm going wrong. So as I understand it, a city council will develop an economic development program. The details, the contents of this program is generally defined in statute but it's up to the city council to determine what's in their package. After they develop the program, the program is submitted to the people on the ballot for a vote. If the people approve the program, the program is adopted and the taxes can be collected and the money can be expended. And then what I did not realize was later on the people, if they don't like how the money is being spent, essentially there is the opportunity for a

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referendum to discontinue the program if they see fit, but that requires a petition and a significant number of signatures to make that happen. So can I ask Senator Sullivan a question? [LB295]

SENATOR COASH: Senator Sullivan, will you yield? [LB295]

SENATOR SULLIVAN: Yes. [LB295]

SENATOR MURANTE: Senator Sullivan, was my description of how this whole system operates generally accurate? [LB295]

SENATOR SULLIVAN: Well, you're on the right track. You're not done yet. [LB295]

SENATOR MURANTE: Okay. I'm not done yet. [LB295]

SENATOR SULLIVAN: No. [LB295]

SENATOR MURANTE: Okay. Where...what am I leaving off? [LB295]

SENATOR SULLIVAN: Well, first of all, okay, you left off the point where the plan will be subjected to a vote of the people, right? [LB295]

SENATOR MURANTE: Okay. I... [LB295]

SENATOR SULLIVAN: Is that where you left off? [LB295]

SENATOR MURANTE: Well, I hope I had included that, but then the people have the right, after one year of the implementation of the plan, to discontinue the plan by petition if they want to. [LB295]

SENATOR SULLIVAN: Yes. And in that plan...well, and let me back up just a little bit in terms of there will be broad parameters for a budget outlined in that plan and it will indicate, because of statute and because of the size of that community, the amount, the maximum amount that can be expended. [LB295]

SENATOR MURANTE: Uh-huh. [LB295]

SENATOR SULLIVAN: And there are certain levels of a total budget, depending upon the size of the community. So the plan is filed with the clerk, has the public hearing or has the public review, and then it's put to a vote of the people via the ballot. [LB295]

SENATOR MURANTE: Uh-huh. [LB295]

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SENATOR SULLIVAN: If it's approved, then at that point the city council or village board appoints a citizen advisory committee. [LB295]

SENATOR MURANTE: Uh-huh. [LB295]

SENATOR SULLIVAN: At that point then they go to work with their plan and the citizen advisory committee that will...and the plan will include, as I said, the total amount that can be expended, because that was identified in the original plan, but then they will establish a budget, specific on how they will expend those funds. And that budget requires a review and approval on an annual basis by the local governing board. [LB295]

SENATOR MURANTE: So to be clear, how the money is being spent is not what the voters, when they are looking at the package, are approving. They are simply... [LB295]

SENATOR SULLIVAN: Okay. [LB295]

SENATOR MURANTE: ...approving how much money is going to be spent. Is that correct? [LB295]

SENATOR SULLIVAN: No. [LB295]

SENATOR MURANTE: Okay. [LB295]

SENATOR SULLIVAN: Because the other thing that they are approving in that plan that, again, has been made public, because it was filed with the city clerk and the public... [LB295]

SENATOR COASH: One minute. [LB295]

SENATOR SULLIVAN: ...has a chance to review it, that plan identifies...and you can say either...it's kind of a continuum, broad parameters that we have identified in statute, and relocation incentives is one of those things that we're planning to add, in addition to that, more specifics. Does it put a dollar figure by each of those? No, but it does talk about the ways that the funds will be spent, because that's part of their plan. [LB295]

SENATOR MURANTE: And do you, if this bill passes, does simply telling the people we're going to spend X amount of dollars for relocation incentives, is that sufficient detail for the people to be able to approve or reject? [LB295]

SENATOR SULLIVAN: Okay, if this bill passes, a couple of things in response to that. As I interpret the LB840 guidelines, when we are adding this term to those lists of things that can be included,... [LB295]

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SENATOR COASH: Time, Senators. Senator Carlson, you're recognized. [LB295]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I would like to address a question to Senator Sullivan, if she would yield. [LB295]

SENATOR COASH: Senator Sullivan, will you yield? [LB295]

SENATOR SULLIVAN: Certainly. [LB295]

SENATOR CARLSON: I'm not sure that I understand fully this act, but I thought we put in statute incentives to move, to relocate. I didn't quite understand how that they can't already do that. And then I see earlier it says "may" or "shall" but not limited to. So it looks like there's quite a bit of discretion here in terms of what a local entity could do in its plan. And let's see if I can find that line. [LB295]

SENATOR SULLIVAN: Well, and you know to a certain extent they could technically already do it, but I'm just looking for the items that are identified in statute that says these are the areas that you can use economic development funds for under LB840. And if you look at some of those, it can actually...you can actually determine right now that relocation incentives could possibly be included in them. [LB295]

SENATOR CARLSON: I agree with that, and here I'm showing that I don't fully understand. What's this about...what kind of a vote do the people have to have in order for a local community to implement a plan? Is that a vote of the people? [LB295]

SENATOR SULLIVAN: Yes, it is. [LB295]

SENATOR CARLSON: At a special or general election. [LB295]

SENATOR SULLIVAN: General election. [LB295]

SENATOR CARLSON: Needs to be a majority of the voting public... [LB295]

SENATOR SULLIVAN: Uh-huh. [LB295]

SENATOR CARLSON: ...to implement a plan like this. [LB295]

SENATOR SULLIVAN: Yes. [LB295]

SENATOR CARLSON: Okay. [LB295]

SENATOR SULLIVAN: Under the guidelines that are set forth in statute, an...and I'm

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reading from the statute right now, "An economic development program may include, but shall not be limited to, the following," and then it goes on to say such things as direct loans or grants to qualifying businesses, loan guarantees, job training, the purchase of real estate, and then the one thing that I'm proposing to add with this bill--relocation incentives for new residents. [LB295]

SENATOR CARLSON: And it said in there: may include but not limited to. Now... [LB295]

SENATOR SULLIVAN: So that's my point. It could be covered right now. [LB295]

SENATOR CARLSON: But does that mean that, not limited to, whatever is put in there has to be voted on by the people? [LB295]

SENATOR SULLIVAN: Exactly. [LB295]

SENATOR CARLSON: Okay. So that clarifies that. And I'm going to support the bill. When you have a community that has very low unemployment, which means there still are some unemployed people there, and then you put this in, it's a rather serious decision. Because those that aren't employed, they may say, well, I'm available, I want that job. So I think it's a good provision. I think that certainly they should be able to use it and I do support it. But it's not cut and dried that everybody is going to agree with it. Thank you. [LB295]

SENATOR SULLIVAN: Uh-huh. [LB295]

SENATOR COASH: Thank you, Senators. Senator Murante, you're recognized. [LB295]

SENATOR MURANTE: Thank you, Mr. Chairman. Would Senator Sullivan again yield to some questions? [LB295]

SENATOR COASH: Senator Sullivan, will you yield? [LB295]

SENATOR SULLIVAN: Certainly. [LB295]

SENATOR MURANTE: This is probably going to be the last time I ask you any questions, Senator Sullivan. [LB295]

SENATOR SULLIVAN: That's fine. [LB295]

SENATOR MURANTE: We've gone through this a couple of times off the microphone as well. And thank you for being willing to work with me on this. But one of my concerns is kind of what Senator Carlson was getting at. When I first looked at the bill and I

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thought you were asking for relocation incentives, what I thought you were asking for is to permit local municipal funds, through this program, to be able to help defray the costs of a business relocating to a municipality. It seems like what you're doing is actually much broader than that. Would you...is that correct? [LB295]

SENATOR SULLIVAN: It's purposely kept broad. [LB295]

SENATOR MURANTE: Uh-huh. [LB295]

SENATOR SULLIVAN: But I will also say that it's entirely possible, through the channels at the local level, approved by the city council or village board, what you just said could conceivably happen, but not...with oversight of the local governing board. [LB295]

SENATOR MURANTE: Okay. Well, I'm a populist in nature. I think if the people vote to authorize a city council to spend money on whatever they want to, they should be allowed to do that. It's their government and if they want to spend money on something that I think is silly, it's their right as Americans to do that. And I agree with you. I don't see...I don't...using your logic, and I agree with you, I don't understand why there are parameters. I think, generally speaking, if a city wants to offer a program to the people and the people authorize it, that's their right. What concerns me is the people aren't...is the specificity that the cities are asking the people to vote for; that if they're just asked, can we spend money to help incentivize a business to relocate here, I think most people are going to say, yeah, sure, but then how that money is actually being spent they may object to. And I don't see anything in here that really has any specificity. So what I would like to see is something where we are getting kind of specific that the city council is submitting to the people, this is what we want to spend our money on, yes or no? And if the people say yes, then whatever they want they get. But it's not an open-ended, broad question: People of your local municipality, can we use money for economic development? Which everybody is going to say yes to. That's my concern. Could you comment on that? [LB295]

SENATOR SULLIVAN: First of all, as I mentioned earlier, if we were to go ahead and add this term "relocation incentives" in the list for LB840 funds, it would immediately kick off, in my estimation, a discussion among the city council or the village board, because that is a change in statute. So that's where a conversation will take place. That's a public meeting that's open to the people, and that starts to get the public involved. Also, the citizens' advisory committee, it starts to look at this and decide how they're going to carry it out. Again, that is something that's going to be transparent to the public. So I think there is quite a level of transparency that gives the public opportunity to see what the funds are going to be expended for and to react to it. [LB295]

SENATOR MURANTE: Okay. Now later on in statute, they go through the procedures by which these elections have to take place. The statute is actually fairly detailed in

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what has to be submitted to the people for approval in terms of how the money is being collected and how much money is being collected, but there's not a lot of detail that is required to the people for how much money is being spent. So would you be willing to work with me or at least toss around ideas between now and Select File on possible language that could include some sort of specificity communicated between the city council and the people... [LB295]

SENATOR COASH: One minute. [LB295]

SENATOR MURANTE: ...on how the money is being spent? [LB295]

SENATOR SULLIVAN: Admittedly, this gets a little confusing and I would be more than happy to look at it more carefully with you. And if need be, we can craft something. [LB295]

SENATOR MURANTE: All right. Thank you, Senator Sullivan. Thank you, Mr. President. [LB295]

SENATOR COASH: Thank you, Senators. Senator Sullivan, you're recognized. [LB295]

SENATOR SULLIVAN: Thank you, Mr. President. Is there anyone else in the queue? [LB295]

SENATOR COASH: There is. [LB295]

SENATOR SULLIVAN: Okay. All right. Well, as I said, I think that sometimes this can get a little confusing but the LB840 statutes and the packet that goes along that's given to communities is fairly explicit in terms of the steps that they have to follow, in terms of using the funds. There are limits on that. They have to develop a strategy, if you will, and that comes about by having public involvement in that. And with that strategy they develop a plan. That plan, once looked at by the city council or the village board, if they like it they adopt an ordinance that says, okay, we're cool with this. At that point, the plan is submitted to the city clerk and it's made available for review by the public. And then from there, the ballot question is put on for, again, for the citizens to vote on whether or not they want to have an economic development program. And I will tell you there are, as I mentioned, several communities, and there's several of them in District 41, that currently have these plans in place and that typically these plans are put in place for a long period of time. I just was talking with the economic development person in St. Paul and also in Ord and there are similarities in all of them. Their plan lasts 15 years. The public has approved it. From once the plan is developed and approved by the voters, then they form this citizens' advisory group and they start to formulate more specific activities, including a specific budget, keeping in mind that there's only so much, under LB840 guidelines, that a city or a village can expend using these sales tax

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dollars. So they develop the budget and they start to carry it out. And they form the citizens' advisory committee, which provides some oversight. They do have an annual budget. That annual budget requires approval every year. So I think there is, as I said, a fairly transparent process that gives the voters of the community ample opportunity to weigh in and they can see how these development activities are being carried out in their community. Thank you, Mr. President. [LB295]

SENATOR COASH: Thank you, Senator Sullivan. Senator McGill, you're recognized. [LB295]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I rise in support of LB295. Just want to clarify a few more things on LB840, since we have been taking a lot of questions. I think it is a good tool for our cities, considering we don't have a lot of other economic development incentives for our cities to use. There are 60 cities that currently have LB840 plans. And the problem that I think we're trying to address here isn't that...I mean, some cities I think are probably already using their money to do something like this, but there are other cities that really look to what is explicit in law and aren't willing to do anything that isn't explicitly stated. And so this will help clarify that this is an appropriate use of the funds. I do think that perhaps we can go back and look at LB840, maybe next session or maybe even the rest of this year, about maybe if we have concerns about the process itself, like Senator Murante, you know, in his discussion may beg some questions that are much bigger than what Senator Sullivan's bill is about. For instance, we know some cities are passing plans that say we're going to use for this purpose and anything the Legislature may let us do in the future. And so right now it's not clear that that's even something they should be able to do, but there is no oversight. At the same time, if people feel like their money is being misused, as, you know, Senator Murante was discussing as a possibility, then they can not only...there aren't only just ramifications for the city council but they can start a petition process and repeal it altogether, and that takes signatures up to 20 percent of how many people voted in that last election. And so there are safeguards for if people are unhappy with the way that money is being spent. There are caps on how much money can be spent. And so I do think we have some pretty good safeguards. This has been a good discussion, but ultimately I think that adding this new clause is a good thing for our cities to help clarify what is included or could be included in their LB840 expenditures. Thank you, Mr. President. [LB295]

SENATOR COASH: Thank you, Senator McGill. Senator Price, you're recognized. [LB295]

SENATOR PRICE: Thank you, Mr. President, members of the body. Would Senator Sullivan yield to a question? [LB295]

SENATOR COASH: Senator Sullivan, will you yield? [LB295]



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SENATOR SULLIVAN: Yes, I will. [LB295]

SENATOR PRICE: Thank you very much, Senator Sullivan. I'm in agreement. I absolutely agree we have to do whatever we can to enable cities to develop all over Nebraska, and I agree. But I just was hearing the discussion and I hear that...is it a 20 percent threshold for the petition process in this bill? [LB295]

SENATOR SULLIVAN: I guess I don't know. I'll find that out and get back to you. [LB295]

SENATOR PRICE: Because I know yesterday we heard a bill with a 5 percent threshold,... [LB295]

SENATOR SULLIVAN: Yes, that's right. (Laugh) [LB295]

SENATOR PRICE: ...so I've got, you know, that you've brought forth, I have a 20 and a 5 and perhaps later on we can discuss that. But that's a pretty significant difference when we're talking about petition. Thank you very much, Senator Sullivan. [LB295]

SENATOR SULLIVAN: Certainly. [LB295]

SENATOR PRICE: Ladies and gentlemen, that was the...we had a bill yesterday about wanting to take counties' officials into a nonpartisan status for all, and the petition level there was 5 percent, so. And we had discussed in the committee to change that, trying to, I guess if you want to say, harmonize amongst the other statutes that garner the petition process. So with that, I yield back my time, Mr. President. Thank you. [LB295]

SENATOR COASH: Thank you, Senator Price. Seeing no other members wishing to speak, Senator Sullivan, you're recognized to close on LB295. [LB295]

SENATOR SULLIVAN: Thank you, Mr. President. And I certainly appreciate the discussion that we've had on this and would certainly be open to further discussion and refinement and revisiting of some of the details of LB840 program. I think it's a good one. I think it's been a great tool for towns in District 41 and across rural Nebraska. And I, as I said, I'll be welcoming the further discussion. I don't want you to lose sight, though, of my reasoning for introducing this legislation in the first place, and that's doing what I can and helping all I can to give tools to these small communities to help with revitalizing them. And if this relocation incentive component helps in that respect, that's a great thing. And as you know, I speak on this numerous times about the passion I have for the small towns in rural Nebraska and wanting to help them all I can, and this tool truly is a hallmark in terms of local people getting involved in their local government and local decisions being made with the dollars that are developed there. So again, I

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really hope that you will advance LB295 to Select File. Thank you. [LB295]

SENATOR COASH: Thank you, Senator Sullivan. Members, you've heard the closing to LB295. The question before the body is, shall LB295 advance? All those in favor vote aye; those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB295]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB295. [LB295]

SENATOR COASH: LB295 is advanced. Items, Mr. Clerk. [LB295]

CLERK: Mr. President, a resolution: Senator Burke Harr offers LR53, that will be laid over. Mr. President, I have a unanimous consent request. Senator Schilz, as Chair of the Agriculture Committee, would like to conduct his hearing on Tuesday, February 19, in Room 1524 as opposed to Room 2102. That's a unanimous consent request, Mr. President. (Legislative Journal pages 405-406.) [LR53]

SENATOR COASH: With no objections, so ordered.

CLERK: Mr. President, name adds: Senator Pirsch would like to add his name to LB78; Senator Johnson to LR29CA; Senator Pirsch to LB180, to LB225, and to LB80. (Legislative Journal page 406.) [LB78 LR29CA LB180 LB225 LB80]

Mr. President, priority motion: Senator Conrad would move to adjourn the body until Monday, February 11, at 10:00 a.m.

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