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Transcriber's Office

Floor Debate
February 27, 2013

[LB52 LB82 LB94 LB259 LB262 LB273 LB340 LB363 LB376 LB397 LB499 LB510
LB595 LB620 LB632 LR54 LR55 LR56 LR57 LR58 LR59 LR60 LR79 LR80 LR81 LR82]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-third day of the One Hundred Third Legislature, First Session. Our chaplain for the day is Pastor Bob Wynn from the First United Methodist Church in Louisville, Nebraska, Senator Kintner's district. Please rise.

PASTOR WYNN: (Prayer offered.)

SPEAKER ADAMS: I call to order the thirty-third 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.

SPEAKER ADAMS: Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SPEAKER ADAMS: Are there any messages or reports or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports LB363 to Select File with amendments attached. I have hearing notices from the Natural Resources Committee; the Government, Military and Veterans Affairs Committee; and the Appropriations Committee. An amendment from Senator Scheer to LB510 to be printed. And a gubernatorial appointment from the Governor will be referred to Reference for referral to standing committee. That's all that I have, Mr. President. (Legislative Journal pages 533-541.) [LB363 LB510]

SPEAKER ADAMS: Thank you, Mr. Clerk. Senator Mello, for what reason do you rise?

SENATOR MELLO: Mr. President, I'd rise for a point of personal privilege.

SPEAKER ADAMS: Go ahead.

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. The preliminary report of the Appropriations Committee is being distributed as we speak. The report is required under our rules, Rule section 8 actually, to be distributed between 20 and 30 legislative days following the Governor's budget submission to the Legislature. The report outlines the committee's initial budget decisions and is the basis

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on which we are now going to be conducting our further budget hearings with state agencies. These hearings will continue through March 26. And it's important to note that this document is merely a starting point and there will be likely both budget reductions and budget increases between the preliminary report and our final recommendation. A number of senators have also introduced bills that were referenced to the Appropriations Committee and some of these concepts will undoubtedly be included in our final recommendations to the floor. Following agency budget hearings, the committee will reconvene in Executive Sessions, make final decisions, and convey budget recommendations to the floor no later than the seventieth legislative day, which is required by our legislative rules. Additional copies of the report are available in the Legislative Fiscal Office and may be accessed on-line on the fiscal report page under our budget section, along with prior years' budget documents. There's also a link directing this report on the home page of the Legislature's Web site. If you have questions, I'd encourage you to visit members of the Appropriations Committee or the Legislative Fiscal Office or myself. With that, thank you, Mr. President.

SPEAKER ADAMS: Thank you, Senator Mello. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR54, LR55, LR56, LR57, LR58, LR59, and LR60. Mr. Clerk, we'll proceed back to General File. [LR54 LR55 LR56 LR57 LR58 LR59 LR60]

CLERK: Mr. President, the first bill this morning is LB52, was originally introduced by Senator Christensen. The bill has been discussed on several occasions. Amendments have been offered and considered and adopted. The first motion I have this morning, Mr. President, is from Senator Bloomfield. Senator Bloomfield would move to indefinitely postpone LB52. Senator Christensen, as the principal introducer, you have the option to lay the bill over, Senator. [LB52]

SPEAKER ADAMS: Senator Christensen. [LB52]

SENATOR CHRISTENSEN: Yes. [LB52]

SPEAKER ADAMS: Could you indicate your wishes on the mike, please? [LB52]

SENATOR CHRISTENSEN: Yeah, just lay the bill over. It's dead. [LB52]

SPEAKER ADAMS: So ordered. Mr. Clerk, we'll proceed to the next item on General File. [LB52]

CLERK: Mr. President, LB94, a bill by Senator Dubas. (Read title.) Bill was introduced on January 10 of this year, at that time referred to the Natural Resources Committee for public hearing. The bill was advanced to General File. I do not have committee amendments, but I do have other amendments, Mr. President. [LB94]

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SPEAKER ADAMS: Senator Dubas, you are recognized to open. [LB94]

SENATOR DUBAS: Thank you very much, Mr. Speaker. Good morning, colleagues. LB94 was brought to me by the Game and Parks Commission. I've been on the Natural Resources Committee for going on seven years now and consistently Game and Parks comes forward with the need to make some statutory changes to allow them to adjust their rules and regs dealing with hunting, hunting permits, etcetera. And that's basically what LB94 is. It deals with three different items in the bill but all related to hunting and hunting permits. The first part of the bill deals with the issuance of resident and nonresident hunting permits. So in specified management units, the state is divided up into management units which allows the Game and Parks to make modifications as needed, according to the population and other things that are going on in those specified management units. It would give preference by allocating 85 percent of the available permits to residents. This would allow for a separate pool of permits for residents and nonresidents that can be tracked through the use of preference points. Hunters are familiar with this approach. It's used in most other states. And the items that are in this bill are issues that hunters themselves have brought to Game and Parks with the hope that some resolution can be found to deal with them. The second component of the bill deals with elk permits. Currently there's a lottery, a drawing for these permits, and if you are fortunate enough to be drawn in that lottery, you can never participate in the lottery again. You cannot ever seek to get a permit again whether or not you get an elk on your permit. This would change it from a once-in-a-lifetime permit to a once-in-a-lifetime harvest. And then there would be a five-year waiting period once you've, you know, been in the lottery one time. If you didn't get your elk, then you would have to wait five years before you could come back then and be entered into the lottery again. The final component of the bill deals with landowner permits for partnerships, corporations, and trusts. You know, we've had landowner permits in statute for a long, long time, which means if I am a landowner, if I want to apply for a permit to hunt specifically on my land, I can do that. Well, land ownership has changed and evolved over the years and now we have a lot of ownership that is land that is owned by partnerships or corporations or trusts, so the commission had a little bit of a struggle of how do we determine who the landowner is, who gets to apply for a landowner permit if they're a part of one of those entities. So this would allow the commission to adopt and promulgate rules and regs that create requirements and documentation to establish a qualifying Nebraska resident landowner among the members of a partnership or corporation that owns land and among beneficiaries of a trust that owns land. So for deer and turkey landowner permits, we would include language that identifies qualifying landowners of a partnership, corporation, or trust that owns or leases 80 acres or more of farm or ranchland for ag purposes, or a member of the qualified landowner's immediate family can obtain a landowner permit. So this will create a process that allows a designation of Nebraska resident landowners from those members of a partnership or corporation or beneficiaries of a trust. Then that designated landowner

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and his or her immediate family are then eligible for landowner permits for that land. The current law does not allow for a way for these landowners to qualify for a landowner permit. So again, this will give the commission the ability to adopt those rules so those that have joint ownership may be able to apply for a resident permit, and this would apply to deer and turkey landowner permits only. Relatively straightforward, it's just again allowing the commission the latitude to change with the times and try to...again, these were issues that have been brought to them multiple times by hunters across the state. They want to be able...they've been looking at these issues for quite some time and are trying to find that solution that will give them the ability to adopt appropriate rules and be able to accommodate the hunting industry in our state. Thank you. [LB94]

SPEAKER ADAMS: Thank you, Senator Dubas. Mr. Clerk, are there amendments? [LB94]

CLERK: There are, Mr. President. The first, Senator Chambers would move to amend with FA9. (Legislative Journal page 504.) [LB94]

SPEAKER ADAMS: Senator Chambers, you're recognized to open on your amendment. [LB94]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this amendment gives an indication of the kind of discussion I'm going to have on this bill along the way. But I do have some amendments which I think would perhaps clarify or improve the bill in some respects, and then raise questions about the bill itself and a different approach that might can be taken. But this first amendment goes to page 4, line 23. And it's interesting that Senator Dubas would mention the elk permit because I would insert, after the word "elk," some language. And the reason I do it, there are organizations in my community called the Elks, so we look out for our constituents around here. This language that currently is in the existing law says, "The commission may issue permits for hunting elk," and I would add this language, "provided that no such elk is a member of the species Homo sapiens." I want to be sure that everybody knows we're not talking about Elks of the variety in my community. And what made me resort to this extra caution is language I find on page 3 of the bill in the existing language in the statute. On page 3, in line 18, "The commission may provide different fees for different species." Now Senator Kintner is looking at me intently. He thinks that all I've done is made fun of Agenda 21, but it has caused me to do some deeper thinking about governmental activity. And you can't be too careful, so I would like to ask Senator Dubas a question before I proceed with my discussion. [LB94]

SPEAKER ADAMS: Senator Dubas, would you yield? [LB94]

SENATOR DUBAS: Yes, I will. [LB94]

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SENATOR CHAMBERS: Senator Dubas, as far as your intent in this bill, you have no interest...and by the way, I'm dealing with existing language, not what you're offering. You have no intent that a human Elk would be open for hunting, provided somebody got the proper permit. [LB94]

SENATOR DUBAS: Absolutely not. [LB94]

SENATOR CHAMBERS: Thank you. I don't think that this amendment is going to go, and I don't think it's necessary. So in the interest of collegiality and in order to demonstrate how reasonable I can be, especially when I'm dealing with a lady, I'm going to withdraw this amendment. [LB94]

SPEAKER ADAMS: Mr. Clerk. [LB94]

CLERK: Mr. President, a second amendment to the bill is by Senator Chambers, FA10. (Legislative Journal page 504.) [LB94]

SPEAKER ADAMS: Senator Chambers, you are recognized to open on FA10. [LB94]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this is a word change, and the reason I'm changing the particular word, it would change the word from "disposed," which would be stricken, to the word "allocated." And the word "allocated" is used other places in the law. When they talk about the distribution of these permits, whether it is pursuant to a lottery or if there are other circumstances where you have fewer permits than there are people applying for them, then the word "allocation" or "allotting" would be used. So rather than say, as the existing language in the existing law says, "the permits shall be disposed of," when you hear the word or when I hear the word "disposal" I'm thinking of something which is of no great value and you're getting rid of it. I know that's not the intent. But when this original language was put into the statute, there were not people as careful as Senator Dubas and others who are looking at these laws now. So maybe the only word that occurred to them was "disposed." So I would like to ask Senator Dubas a question if she will yield. [LB94]

SPEAKER ADAMS: Oh, Senator Dubas, would you yield? [LB94]

SENATOR DUBAS: Yes, I will. [LB94]

SENATOR CHAMBERS: Senator Dubas, does this particular amendment trouble you at all? [LB94]

SENATOR DUBAS: It doesn't appear to, but as you have often told us, as well as others, words have meaning. And so, you know, I'm not 100 percent sure if the Game and Parks uses that word for a specific reason or not. I certainly follow your train of

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thought and it would appear "allocated" would achieve the same purpose, you know, without a lot of heartburn for anybody. But again, not understanding all of the lingo that Game and Parks uses, I don't know if that's a part of their jargon. [LB94]

SENATOR CHAMBERS: Thank you for your very diplomatic answer. And I can understand somebody proceeding with caution when dealing with the Game and Parks Commission and legislation that they bring. But this, again, is in existing language. And if somebody would turn to page 3, in line 25, in new language we have the word "allocating" where we're talking about a distribution of whatever is being discussed in that subdivision. Then if you go to page 4 and look in line 7, you will see the word "allocated," "such permits shall be allocated on the basis of a random drawing." That's existing language in the statute as it exists now and that word is found in line 7 on page 4. Then, going back to page 3, in line 25 is the word "allocating." So if you look at my amendment on page 2, in line 21, instead of saying, "the permits shall be disposed in an impartial manner," it would say, "the permits be allocated in an impartial manner." Now I'm going to go back again to page 4, line...beginning in line 6, "such permits shall be allocated on the basis of a random drawing." So the same grammatic structure exists on page 4, line 7 of the existing law as the language change that I'm suggesting on page 2 would take. Does that comfort you at all, Senator Dubas, if you're willing to answer that question? [LB94]

SPEAKER ADAMS: Senator, would you yield? [LB94]

SENATOR DUBAS: Yes, I will. And I'd have no problem with that at all, Senator Chambers. [LB94]

SENATOR CHAMBERS: Thank you. And now I'm going to deal with this matter, because the bill addresses hunting. I don't believe in hunting. I don't like to hunt. I don't like hunters when they're in the act of hunting, but when they're not hunting some of them are pretty decent, civilized people. There are those among us who feel that hunting is such an important matter that it had to be protected in the constitution of the state. I'm going to read something that I wrote when I was not in the Legislature, and since I may run out of time as I'm speaking, I'm turning on my light again. And you will not be asked to vote on any of these items that I'm discussing as I digress and expatiate free over all of the things in this bill and what is implicated by them. This is something that was printed in the Omaha World-Herald, April 25, 2011, and the headline that the World-Herald supplied: Beware ill-conceived plans to amend state constitution. Oh, by the way, this item is by Ernie Chambers, a former Nebraska State Senator. I'm reading: Only adoption of lethal injection makes me more regretful of not being in the Legislature than the apparent intent to place on the ballot a legislative proposal to amend the Nebraska Constitution "to protect" hunting, trapping, and fishing. A constitution is a body of principles which forms the organic or basic law of a state. It is to consist of general principles that will allow it to be adaptable to changing times and circumstances. More

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than once I turned back ill-conceived attempts that would have demeaned, trivialized, befouled, and cluttered the constitution with such a cracked pot proposal. Unabashedly, I resorted to taunting, mockery, ridicule, scorn, irony, satire. Although the 2005 version, LR8CA, was cosponsored by 34 of the 49 senators, my many hours long, extended debate, comprising a relentless attack upon the proposal and its supporters and unyielding defense of the constitution, led to the atrocity being removed from the agenda, or killed. The transcript of the floor debate is worth reading. I told my colleagues, quote, and some of you were not here, you might do it, put the issue on the ballot, but like that old guy who ran the NRA, "You'll have to pry the constitution from my cold, dead fingers." Fortuitously, I had a book titled Original Meanings about the political world from which the U.S. Constitution was issued. I read from page 329, "To prove the absurdity of enumerating rights, Federalists lampooned one of the amendments proposed by the minority in the Pennsylvania delegation." I'm reading a quote from that book. "The silliness they would have tried to put into the U.S. Constitution would have affirmed that Americans would retain 'the liberty to fowl,' f-o-w-l, 'and hunt in seasonable times and on lands they hold and in the same manner fish in all navigable waters and others not private property without being restrained by Congress.'" That's the silly thing that was being offered, but fortunately they had people writing the U.S. Constitution who had more understanding than those in this Legislature... [LB94]

SPEAKER ADAMS: One minute. [LB94]

SENATOR CHAMBERS: ...and those in this Legislature who don't bother to read history. Continuing, quoting from that book, Original Meanings, "Nearly transported by laughter at the clause, Noah Webster proposed a further restriction 'that Congress shall never restrain any inhabitant of America from eating and drinking at seasonable times, or prevent his lying on his left side in a long winter's night or even on his back when he is fatigued from lying on his right.'" That's what the book said. That's what those drafters of the U.S. Constitution said. Continuing with my comments, I summed up... [LB94]

SPEAKER ADAMS: Time, Senator, and you're next in the queue. [LB94]

SENATOR CHAMBERS: Thank you, Mr. President. I summed up my assessment of the matter. "LR8CA is one of the silliest, most asinine, simpleminded pieces of trash that has ever come before this Legislature, and I don't care who is offended by that. I think more of the constitution of this state than I do of the simplemindedness behind LR8CA. In a postmortem column I wrote the following, "The constitution is safe from mutilation for the time being, but when I am gone from the Legislature... Prophetic? Prophetic? I hope not." It was prophetic. When the U.S. Constitution and the Declaration of Independence were signed, the people whose signatures accompanied those documents were passed down to us so that we would know who the people were who supported those documents. So I'm going to read the names of those who signed the Declaration of Independence because I learn from history. I follow the example which I

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think is a good one. And I think those who chose to amend the Nebraska Constitution deserve to have their name not only in the Journal that lists who voted and how but in the transcript of a debate of this kind. More people may read that transcript or they may actually be watching and listening to this debate right now. But before I read off the names of my esteemed colleagues, I'm going to read the names of those who signed the Declaration of Independence. As you all know, who have ever seen a facsimile, John Hancock signed his name larger than anybody else. These are the names, and for the transcribers, if they want a copy of this later to get the spelling, one will be available in my office: Button, like a button on your shirt, Button Gwinnett; Lyman Hall; George Walton; William Hooper; Joseph Hewes; John Penn; Edward Rutledge; Thomas Heyward, Jun.; Thomas Lynch, Jun.; Arthur Middleton; Samuel Chase; William Paca; Thomas Stone; Charles Carroll of Carrollton; George Wythe; Richard Henry Lee; Thomas Jefferson; Benjamin Harrison; Thomas Nelson, Jr.; Francis Lightfoot Lee; Carter Braxton; Robert Morris; Benjamin Rush; Benjamin Franklin; John Morton; George Clymer; Ja., it might be for James, Smith; George Taylor; James Wilson; George Ross; Caesar Rodney; George Read; Thomas McKean; William Floyd; Phil Livingston; Francis Lewis; Lewis Morris; Richard Stockton; John Witherspoon; Fra., it may be Frank, it may be Francis, but Fra. Hopkinson; John Hart; Abra. Clark; Josiah Bartlett; William Whipple; Sam Adams; John Adams; Robert Treat Paine; Elbridge Gerry, after whom, by the way, gerrymander was named; Roger Sherman;... [LB94]

SENATOR COASH PRESIDING

SENATOR COASH: One minute. [LB94]

SENATOR CHAMBERS: ...Sam Huntington; William Williams; Oliver Wolcott; Matthew Thornton. And in a way, this is like a little history lesson for those who may be watching and their education was not quite as thorough as it should have been. But every now and then these people ought to be memorialized, and that's what I'm doing this morning. Thank you, Mr. President. [LB94]

SENATOR COASH: Thank you, Senator Chambers. Senator Chambers, you're recognized again to close on FA10. [LB94]

SENATOR CHAMBERS: Thank you, Mr. President. I will now read for your enlightenment and edification the signers of the United States Constitution and the states from which they hailed. At the top of the list, George Washington, President and Deputy from Virginia; from New Hampshire--John Langdon, Nicholas Gilman; from Massachusetts--Nathaniel Gorham, Rufus King, William Sam Johnson; from Connecticut...oh, I gave Connecticut's people to Massachusetts. Strike William Sam Johnson from Massachusetts and put him with Connecticut--William Sam Johnson, Roger Sherman; from New York--Alexander Hamilton; from New Jersey--William Livingston, David Brearley, William Paterson, Jona Dayton; from

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Pennsylvania--Benjamin Franklin, Thomas Mifflin, Robert Morris, George Clymer, Thomas FitzSimons, Jared Ingersoll, James Wilson, Gouverneur Morris; from Delaware--Gunning Bedford, Jun., it might be pronounced June, it has no E on the end, John Dickinson, Richard Bassett, Jacob Broom; from Maryland--James McHenry, Dan of St. Thomas Jenifer, Dan Carroll; Virginia--John Blair, James Madison, Jr.; from North Carolina--William Blount, Richard Dobbs Spaight, Hu Williamson, there is no period after U, just those letters, capital H, small u, no punctuation, then the last name Williamson; South Carolina--J. Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler; from Georgia--William Few, Abraham Baldwin. They have now been memorialized and immortalized in this debate. As long as there is a Nebraska Legislature and as long as those records of the proceedings of this Legislature exist, the names of these individuals will be available. However, I would suggest that anybody who may not have the transcript obtain a copy of the Declaration of Independence. You can find it in history books. The same with the U.S. Constitution in various history books, and observe the way the names of these people are spelled. I believe I pronounced them correctly, but they're not all spelled in the way it seems that they should based on the way we would pronounce names today. Because Senator Dubas had no objection to the amendment that I offered, that is all that I will have to say on this pending amendment unless somebody has a question. And all it does is substitute the word "allocated" for the words "disposed of." Thank you, Mr. President. [LB94]

SENATOR COASH: Thank you, Senator Chambers. (Doctor of the day introduced.) Senator Chambers, you have another...this will be your opportunity to close. I misspoke on the last time. If you'd like to close on FA10, you may do so. [LB94]

SENATOR CHAMBERS: Yes, to make a correction, and I appreciate Senator Pirsch calling it to my attention. I stated the amendment correctly but it's not written correctly. Two words should be stricken on line 21, "disposed of," not merely "disposed." So I would like that correction to be made, if it can in this manner. [LB94]

SENATOR COASH: We will make that correction, Senator. [LB94]

SENATOR CHAMBERS: Thank you. And that will be my closing and I probably miswrote the amendment. Thank you. [LB94]

SENATOR COASH: Thank you, Senator Chambers. Members, you've heard the closing to FA10 to LB94. The question before the body is, shall FA10 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB94]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Chambers' amendment. [LB94]

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SENATOR COASH: FA10 is adopted. Next item, Mr. Clerk. [LB94]

CLERK: Mr. President, Senator Chambers would move to amend with FA11.
(Legislative Journal page 504.) [LB94]

SENATOR COASH: Thank you, Mr. Clerk. Senator Chambers, you're recognized to open on FA11. [LB94]

SENATOR CHAMBERS: I've said more thank-yous in that little stretch than I'll say the whole time that I'm in the Legislature for the rest of my career. I'll spread it out. But to say it that many times, one right after the other, is a rarity for me, but it didn't hurt me. Mr. President, and I want to thank you. Here's what this amendment says. You will find it on page 2 of the bill and again it is on line 24. I will strike words beginning on line 24 and continuing on line 25. The words stricken will be "who shall be eligible," and I would insert "eligibility." And here is the way the language would read, "the commission shall, by rules and regulations, determine eligibility to obtain such permits." Then it continues, "...such permits. In establishing eligibility...." It would be a harmonization, if you will, of the language. The way the words read now, and some people may not see any distinction, "the commission shall, by rules and regulations, determine who shall be eligible." I think what we're determining is a status rather than an identification or designation of an individual or person, so when we put the pronoun "who," then it doesn't say as clearly and precisely as I think it should. There would be no problem with understanding what the current language intends to do. But when I have the opportunity to improve on existing language in the statute, that is what I undertake to do. With that explanation, I would like to ask Senator Dubas a question. [LB94]

SENATOR COASH: Senator Dubas, would you yield? [LB94]

SENATOR DUBAS: Yes, I will. [LB94]

SENATOR CHAMBERS: Senator Dubas, have you had a chance to look at this amendment? [LB94]

SENATOR DUBAS: Yes, I have. [LB94]

SENATOR CHAMBERS: Do you have any problem with it? [LB94]

SENATOR DUBAS: I do not. [LB94]

SENATOR CHAMBERS: Thank you very much. And, members, since that has been taken care of and that's what we will vote on, I'm going to continue with my little history lesson this morning. When I talked about the types of amendments that I offered in defeating that idiotic LR8CA, I did not, for the record, give examples of those types of

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amendments, and the language at that time was to protect hunting, trapping, and fishing. So these are some of the amendments that I offered and discussed them at length, but my colleagues, if memory serves me correctly, probably did not accept any of them. And the reason I said if memory serves me correctly, Senator Schumacher, is because, like the "Teflon Don" in New York, where no indictments would stick--he was a Mob boss, but because no charges brought would stick they called him the "Teflon Don." Well, my brain cells, rather than having Velcro, are developing a large degree of Teflon so some things, rather than sticking, are slipping. So I will do the best that I can, speak as accurately as possible because I don't want to mislead. Some examples: to hunt for the wreckage of Amelia Earhart's airplane; to run--this is...all these things would be protected in the constitution--to run, jump, and sweat. This shows how seriously I took what they were doing: Protect the right creating, recreating, conversating, and procreating; fishing and hunting for an end to religious strife and intolerance; hunting for and trapping moonbeams and daydreams; hunting for Noah's Ark. And these are important things. They don't just pertain to people in Nebraska or even to people in the United States but people all over the world in some instances and in other worlds, if there be people located on other worlds. Hunting for the link between Noah's Ark, Joan of Arc, and Archimedes; hunting for the Holy Grail; hunting for the secret, if there be a secret, behind the enigmatic smirk of Mona Lisa; hunting for weapons of modest destruction; hunting for a little peace and quiet; hunting for the mathematical formula to square the circle; hunting for the solution to the mystery of the Bermuda Triangle; to protect laughing, crying, sneezing, coughing, sleeping, waking, creeping, quaking, walking, talking, donating, pronating, singing, sighing, buying, baking, itching, scratching, combing, boating, bloating, mining, smithing, stirring, raking, shirring, grazing...oh, gazing! I forgot to put grazing. We would want to protect the animals' rights too. But anyway: shirring, gazing, lazing, farming, ranching, welding, barbering, butchering, banking, lawyering, lounging, scrounging, dancing, jogging, lunching, munching, arguing, reading, writing, and being oneself; hunting for the "Seven Cities of Gold," fishing for compliments, trapping up a storm, and hunting for the sweetest apple in the orchard; hunting for and trapping liberal Nebraska Republicans are a valued part of the heritage of conservatives of all stripes and will be a right preserved forever for conservatives of all stripes until the twelfth of never, subject to reasonable restrictions as prescribed by law; hunting for world peace; hunting for and seeking to trap bigfoot; hunting for the "Fountain of Youth"; trapping the morning mist; hunting for Osama bin Laden; hunting for lunches is a valued part of the heritage of politicians and will be a right forever preserved for politicians, subject to reasonable restrictions as prescribed by law; hunting for a cure for cancer; trapping the "Man in the Moon" and hunting for liberal martians; fishing for anglers, trapping trappers, and hunting hunters. What I was attempting to hunt, trap, and fish for made more sense than what the people who offered that constitutional amendment were doing. Now I'm going to get down to cases. The existing language in the Nebraska Constitution on the date that this latest atrocity was introduced and voted on by a sufficient number of members of this Legislature to become a part of the constitution, this is what already existed in the constitution, and I'm

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surprised they didn't pick it up in view of how concerned many people are about the protection of guns. [LB94]

SENATOR COASH: One minute. [LB94]

SENATOR CHAMBERS: Excuse me? [LB94]

SENATOR COASH: One minute. [LB94]

SENATOR CHAMBERS: Thank you. I will not begin at this time. I will terminate this time to speak and put on my light. [LB94]

SENATOR COASH: Thank you, Senator Chambers. Members, you've heard the opening to FA11 to LB94. Floor is now open for discussion. Senator Chambers, you're recognized. [LB94]

SENATOR CHAMBERS: Thank you, Mr. President and members of the Legislature. Article I of the Nebraska Constitution is known as the state Bill of Rights, and the number one section, the first section of Article I of the Nebraska Constitution says the following, and note the kinds of things protected before the numskulls got to guns, "All persons are by nature free and independent, and have certain inherent and inalienable rights; among these are life, liberty, the pursuit of happiness, and the right to keep and bear arms." Stupid! They have no concept of the significance of these rights that they enumerated before they got down to putting "guns." I'm surprised they didn't put motherhood first and then add "and the right to keep and bear arms." Silly, frightened, fearful, cowardly, but mainly driven by the National Rifle Association, which in turn is largely funded and supported by the arms and ammunition industry. As "Deep Throat" said during the Watergate fiasco, "follow the money," and you'll find it goes back to the arms industry, passing through the National Rifle Association of which I was once a member so that I could be in a better position to ridicule, condemn, and excoriate that atrocious organization. But anyway, "the right to keep and bear arms for security or defense of self, family, home, and others, and for lawful common defense, hunting." "Hunting" is in Section 1 of Article I of the Nebraska Constitution. If hunting is already in the constitution and it was placed there in 1988, do you reckon that these...the brain trust that brought to you LR40CA did not bother to read the constitution to find out what's already there? Why do you think I said they were befouling it? They were cluttering it. They were trivializing it. Why did you have to underscore "hunting" in the way that that simpleminded LR40CA did? Why? Because legislators do not take seriously their responsibilities. They pass legislation on education and are not themselves educated. They talk about how poorly our students do in reading and they don't bother to read at all. The best example is to be an example. And when I speak, I'm looking for people to counteract what I say if they disagree, and if I'm mistaken, correct me. I want to be correct in what I say. If I am lying about "hunting" appearing in the

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constitution as of the year 1988, correct me. And some of you may not have known it until I brought it up the other day because you don't bother to read the constitution either, and those who voted for that atrocious amendment obviously didn't read it. So what is this atrocious amendment that I'm talking about? [LB94]

SENATOR COASH: One minute. [LB94]

SENATOR CHAMBERS: "The citizens of Nebraska have the right to hunt, to fish, and to harvest wildlife, including by the use of traditional methods, subject only to laws, rules, and regulations regarding participation and that promote wildlife conservation and management and that preserve the future of hunting, fishing, and harvesting of wildlife. Public hunting, fishing, and harvesting of wildlife shall be a preferred means of managing and controlling wildlife. This section shall not be construed to modify any provision of law relating to trespass or property rights. This section shall not be construed to modify any provision of law... [LB94]

SENATOR COASH: Time, Senator. [LB94]

SENATOR CHAMBERS: ...relating to Article XV, section 4, Article XV, section 5,... [LB94]

SENATOR COASH: Time, Senator. [LB94]

SENATOR CHAMBERS: ...Article XV...." Thank you, Mr. President. [LB94]

SENATOR COASH: Thank you, Senator Chambers. Senator Carlson, you're recognized. [LB94]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. You know, the Good Book says that man, and it implies women as well, have dominion over the animal kingdom. They are for our use. They can be used for food. They can be used for work, and I would think that's likely where the term "horsepower" comes from. I thought a little bit about the rules of the animal kingdom. There really are no rules. The strong survive. It's kill or be killed. Animals, and there are exceptions, but they're not generally concerned about those animals who are a threat to them. They aren't concerned about inflicting pain, about abusing, about terrorizing, about mutilating, about torturing the enemy. Really, it's survive or be killed. Now hunting by itself is not an evil. A legitimate hunter kills the game, finds the game, dresses the game, consumes the game, or provides it to someone else for their consumption. Now those who kill for the thrill of killing and then leave the animal to die are not legitimate hunters. It's too bad they get a license. We do have laws enforced by the game wardens that deal with killers versus hunters. And even if they have a license, they can be fined and they can have that license taken away. The bad actors make it difficult for legitimate hunters. And I

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think LB94 is a good bill and I ask for your support. Thank you. [LB94]

SENATOR COASH: Thank you, Senator Carlson. Senator Chambers, you're recognized. [LB94]

SENATOR CHAMBERS: Thank you, Mr. President and members of the Legislature. I will not engage Senator Carlson's comments at this moment because I want to finish what I was doing for the record, and I'm going to go back to the part that says, "This section shall not be construed to modify any provision of law relating to Article XV, section 4, Article XV, section 5, Article XV, section 6, or Article XV, section 7, of this constitution." I would like to ask Senator Pirsch a question. [LB94]

SENATOR COASH: Senator Pirsch, will you yield? [LB94]

SENATOR PIRSCH: I will. [LB94]

SENATOR CHAMBERS: Senator Pirsch, were you the primary sponsor of that constitutional amendment, LR40CA? [LB94]

SENATOR PIRSCH: Yes, I was. [LB94]

SENATOR CHAMBERS: What subject matter did these provisions of Article XV that I just read deal with? [LB94]

SENATOR PIRSCH: Well, essentially, and I have to, just in explaining things, explain that this was a couple of years ago and I didn't...with respect to those provisions, it was Speaker Flood that kind of played the lead in organizing a committee of agricultural interests and water right interests that fashioned that language to ensure that it wasn't, my understanding is, affecting water rights and agricultural interests, those type of things. [LB94]

SENATOR CHAMBERS: So they deal primarily with water,... [LB94]

SENATOR PIRSCH: That's my understanding. [LB94]

SENATOR CHAMBERS: ...water issues. [LB94]

SENATOR PIRSCH: Yeah. [LB94]

SENATOR CHAMBERS: Do you think anything may be derived from a secret attempt by the former Speaker of the Legislature to enshrine his name in the constitution unbeknownst to everybody? Do you think that could have been a part of his intent? [LB94]

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SENATOR PIRSCH: You know, I don't...I haven't thought that. [LB94]

SENATOR CHAMBERS: Okay, well, let's explore that. [LB94]

SENATOR PIRSCH: Okay. [LB94]

SENATOR CHAMBERS: You said these provisions relate to what? [LB94]

SENATOR PIRSCH: Are you talking about the one that you just referenced? [LB94]

SENATOR CHAMBERS: Yes, the group that I mentioned. [LB94]

SENATOR PIRSCH: Yeah, the... [LB94]

SENATOR CHAMBERS: They relate to what? [LB94]

SENATOR PIRSCH: Water. [LB94]

SENATOR CHAMBERS: All right. What is the last name of the former Speaker? [LB94]

SENATOR PIRSCH: Flood. [LB94]

SENATOR CHAMBERS: And of what does a flood consist? [LB94]

SENATOR PIRSCH: What does a flood consist of? When water of a large... [LB94]

SENATOR CHAMBERS: Thank you. [LB94]

SENATOR PIRSCH: Yeah. [LB94]

SENATOR CHAMBERS: Thank you. [LB94]

SENATOR PIRSCH: Yeah. [LB94]

SENATOR CHAMBERS: You see how novels are written. There's a man named Richard Brown who wrote novels about symbols and he wove a very interesting tale by doing just the type of thing that I did here, which occurred to me on the spur of the moment. There are people who are creative and they see things where other people do not see them. I'm not going to single out the brain trust at this point who offered this constitutional amendment to the unwary, inattentive, careless members of the Nebraska Legislature. And anybody who is listed or, as I've been taught to say, in the queue, in the queue, but as I look at this listing, there are five queues on page 1120 of the

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Legislative Journal for March 27,... [LB94]

SENATOR COASH: One minute. [LB94]

SENATOR CHAMBERS: ...2012. Voting in the affirmative...is this my last time to speak, Mr. President? [LB94]

SENATOR COASH: You still have an opportunity to close. [LB94]

SENATOR CHAMBERS: Say it again. [LB94]

SENATOR COASH: You may still close after this time. [LB94]

SENATOR CHAMBERS: Thank you. Then I will stop now and begin my closing so I can finish this. [LB94]

SENATOR COASH: Senator Chambers, you're recognized to close on FA11. [LB94]

SENATOR CHAMBERS: Thank you. This is the list which I propose to memorialize and immortalize along with the names of the signers of the Declaration of Independence and the Constitution of the United States of America. And I'm sure that if you could bring alive--thank you--if you could bring back to life the people who signed those documents, they would be proud of what they signed. At the end of one of the documents they said, to which we pledge our lives, our fortunes, our sacred honor. And I'm not going to tell you which document they attached that to because you can go to Google or other places and find it. Now I don't use a computer but I hear that word when people say there's something you want to know and you don't know where to find it. Maybe I should give the name, the names of those who brought this document: Senator Pirsch, District 4; Senator McCoy, District 39; Senator Krist, District 10; Senator Price, District 3; Senator Coash, District 27; Senator Fulton, District 29; Senator Bloomfield, District 17; Senator Wallman, District 30. But they're not in this alone. They cannot take full credit for this great addition to the constitution which amounts to surplusage. The Supreme Court, not only of this state but other states, have said that every word in a constitution is to be given meaning, nothing is to be considered surplusage. So if that's the case, then the word "hunting" in Section 1 of Article I of the Nebraska Constitution means something different from the word "hunting" in LR40CA. I don't know what the difference is. Maybe it has something to do with what Senator Carlson, whom I refer to as "Parson," was talking about--those who have a proper concept of the use human beings are allowed, in a moral sense, to put animals to; and the other hunting is those people like Ernest Hemingway and the so-called great white hunters who killed animals for sport so that they could get their hides, their pelts, and hang them on walls, make rugs out of them, kills elephants to get the tusk, slaughter rhinoceroses to get their tusk, and do other cruel, vicious, inhumane things to animals because they're able to do it. Now

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let me read the roster of those who voted for this bill, this constitutional amendment, which the public, like lemmings, followed. And as a result, you have two protections of hunting, which means that's more important, is twice as important, as anything else in the constitution. Here we go, voting in the affirmative, 41: Adams; Ashford; Bloomfield; Brasch--should not be so brash; Campbell--and she's in the soup; Carlson--one of my three sons of a former day, one of my four sons now; Coash; Conrad; Cornett; Dubas;... [LB94]

SENATOR COASH: One minute. [LB94]

SENATOR CHAMBERS: ...Fischer; Flood; Fulton; Gloor; Haar, K.; Hadley; Hansen; Harms; Harr, B.; Heidemann; Janssen; Karpisek; Krist; Lambert; Langemeier; Larson; Lathrop; Lautenbaugh; McCoy; Mello; Nelson; Nordquist; Pahls; Pirsch; Price; Schilz; Schumacher; Smith; Sullivan; Wallman; Wightman. [LB94]

SENATOR COASH: Time. [LB94]

SENATOR CHAMBERS: Voting in the negative, 3. [LB94]

SENATOR COASH: Time, Senator. [LB94]

SENATOR CHAMBERS: Oh, thank you, Mr. President. [LB94]

SENATOR COASH: Thank you, Senator Chambers. Members, you've heard the closing to FA11. The question before the body is, shall FA11 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB94]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Chambers' amendment. [LB94]

SENATOR COASH: FA11 is adopted. Next item. [LB94]

CLERK: Mr. President, Senator Chambers would offer FA12. (Legislative Journal page 504.) [LB94]

SENATOR COASH: Senator Chambers, you're recognized to open on FA12. [LB94]

SENATOR CHAMBERS: Thank you. Mr. President, this amendment is designed to raise an issue for discussion purposes. It says, on page 3, line 11, where the commission shall, pursuant to a given section, establish and charge a fee of not more than, and then it gives an amount, dollars for residents and not more than dollars for nonresidents for each such permit that's being established. What my amendment says

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should be done is to strike the two words "twenty-nine" and insert "one thousand." That would be in line 11 on page 3. In line 12, strike "two hundred fourteen," show as stricken, and insert "ten thousand." Now both of those amounts may seem exorbitant considering that a permit is all that is being considered here, but when you precede the amount with the words "not more than," you could put a million dollars and that gives you total flexibility without coming back to the Legislature. If these permits generate money and that money in turn is used to defray the cost of activities of the Game and Parks Commission, then don't be a piker unless you really mean that this price or this amount or this fee should never in one instance exceed \$29 and in the other never exceed \$214. If you would accept my amendment, you are not mandating that the fee be more than \$29 or more than \$214, as the case may be. What you're doing is giving the commission the authority to have a sliding scale that can slide upward and it can slide backward. So I'd like to ask Senator Dubas a question. [LB94]

SENATOR COASH: Senator Dubas, will you yield? [LB94]

SENATOR DUBAS: Yes, I will. [LB94]

SENATOR CHAMBERS: Senator Dubas, the language that I'm dealing with is existing law, so it's probably not anything that would be studied based on what it is you're attempting to do with the bill. And you'll notice, other than maybe incidentally, I've not talked about what it is you're trying to do which would be found in the underlined language. This is not a facetious question. It may sound so, but it's not intended to be. Since the construction of the fee schedule says "not more than," if we would substitute "one thousand" for "twenty-nine," would that harm anything that this fee schedule is designed to achieve, in your opinion? [LB94]

SENATOR DUBAS: I do believe it would. [LB94]

SENATOR CHAMBERS: Would you tell me how? [LB94]

SENATOR DUBAS: We put these numbers in there giving the commission some flexibility to set their rates for permits, etcetera, but it also allows the Legislature to be involved. And when the commission reaches these specific thresholds, they need to come back to the Legislature and say, things are good the way they are, we can keep them, or we probably need to have an increase. That allows for citizen input, for us to gather information from the public to determine, if we allow, if we bump this rate up higher, what kind of hardships or what type of positives. So I think if you put that wide of a range in there, that's going to take citizen input out of there and it's going to take the Legislature's ability to really determine what's going on within the commission as far as their need for finances. [LB94]

SENATOR CHAMBERS: Now, Senator Dubas, you expressed a view that I hold

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whenever it comes to any fees, but I wanted that articulated by somebody else. And thank you. You don't have to stand through all of this and if I have another question, I'll ask you. We are the policymakers and we will determine what the maximum amount, any fee that the commission can establish. We trust them up to \$29 for one of these permits; we trust them up to \$214, or whatever that amount is, for the other. But it would not be wise to give any commission the authority to, in effect, set a tax. Whenever you give something in exchange for something, you can say that is not a tax, that is a fee. But when the fee that is charged is out of all proportion to that which is being obtained through the payment of the fee, it can be analogized to a tax. This language in the statute I agree with. I offered the amendment to get the kind of discussion briefly that we had. But also, had I been serious, Senator Kolowski, after Senator Dubas dropped the hammer on me with those splendid arguments, I would have to back up and say my thinking was askew, it was corrected, and now I'll come back to reality and not attempt to amend this provision. But before I withdraw that amendment, I want to finish reading what I had started when I read the first five queues. Now that word is unfamiliar to me. I think they spell it q-u-e-u-e. I'd like to ask Senator Kolowski a question, if I may. [LB94]

SENATOR COASH: Senator Kolowski, will you yield? [LB94]

SENATOR KOLOWSKI: Yes, sir. [LB94]

SENATOR CHAMBERS: Senator Kolowski, were you ever a teacher? [LB94]

SENATOR KOLOWSKI: Yes, sir. [LB94]

SENATOR CHAMBERS: Were you ever a principal? [LB94]

SENATOR KOLOWSKI: Yes, sir. [LB94]

SENATOR CHAMBERS: But you were not a superintendent, were you? [LB94]

SENATOR KOLOWSKI: That's correct. [LB94]

SENATOR CHAMBERS: You were or you were not? [LB94]

SENATOR KOLOWSKI: No, I was not. [LB94]

SENATOR CHAMBERS: All right. Would you spell for me...first of all, are you familiar with the word "queue"? [LB94]

SENATOR KOLOWSKI: Yes. [LB94]

SENATOR CHAMBERS: Are there more things that that word, in the way we're

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pronouncing it, are there several things to which that word, the way we pronounced it, could apply? [LB94]

SENATOR KOLOWSKI: Yeah, within the dictionary there probably is, yes, sir. [LB94]

SENATOR CHAMBERS: Okay. Would it apply to a letter, the 17th letter of the alphabet? [LB94]

SENATOR KOLOWSKI: Yes, if you just take the single letter. [LB94]

SENATOR CHAMBERS: Okay. And this way that it's being pronounced in the Legislature, where I was made familiar with it, you are familiar with that word, are you? [LB94]

SENATOR KOLOWSKI: Yes. [LB94]

SENATOR CHAMBERS: Queue? [LB94]

SENATOR KOLOWSKI: Usually in the derivation of a lineup or some kind of adjustment of lining people up or lining something up. [LB94]

SENATOR CHAMBERS: Oh, line. So if we were going to have, for example,... [LB94]

SENATOR KOLOWSKI: Queue. [LB94]

SENATOR CHAMBERS: ...Richard Nixon, Rick Sheehy, Paul Douglas, Jesse James, and some of the other illustrious people, then they would be in a queue or a lineup. [LB94]

SENATOR KOLOWSKI: That's my understanding, yes. [LB94]

SENATOR CHAMBERS: Now I'm not sure how to spell the word, are you? Are you aware of how to spell the word? [LB94]

SENATOR KOLOWSKI: As you had spelled it earlier, that's how it usually is, I believe, when I see it. [LB94]

SENATOR CHAMBERS: What did I just ask you? [LB94]

SENATOR KOLOWSKI: Do I know how to spell the word queue? [LB94]

SENATOR CHAMBERS: I didn't say do you know how to spell the word queue. I asked do you know how to spell the word. Do you know how to spell the word? [LB94]

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SENATOR KOLOWSKI: If we're still talking about queue, I think so. [LB94]

SENATOR CHAMBERS: Are we? Do you know how to spell the word? You should ask me which word, because it was an open-ended question. Senator Kolowski... [LB94]

SENATOR KOLOWSKI: Yes, sir. [LB94]

SENATOR CHAMBERS: ...and I served with each other on the Learning Community Coordinating Council, and when votes were taken he generally was on the prevailing side. Am I correct, Senator Kolowski? [LB94]

SENATOR KOLOWSKI: Yes, sir. [LB94]

SENATOR CHAMBERS: And I often was on the losing side. Am I correct, Senator Kolowski? [LB94]

SENATOR KOLOWSKI: Depending on the topic, perhaps, sir. Yes, sir. [LB94]

SENATOR CHAMBERS: Yes. Senator Kolowski, have you heard the expression... [LB94]

SENATOR COASH: One minute. [LB94]

SENATOR CHAMBERS: ...revenge is sweet? [LB94]

SENATOR KOLOWSKI: Yes. [LB94]

SENATOR CHAMBERS: Do you see this as my taking revenge? [LB94]

SENATOR KOLOWSKI: No, not at all. [LB94]

SENATOR CHAMBERS: Thank you. And it's not intended to be. [LB94]

SENATOR KOLOWSKI: Never. [LB94]

SENATOR CHAMBERS: That's all I would have. Thank you very much. [LB94]

SENATOR KOLOWSKI: Thank you. [LB94]

SENATOR CHAMBERS: Members of the Legislature, I'm withdrawing the amendment which currently is pending. [LB94]

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SENATOR COASH: FA12 is withdrawn. Next item, Mr. Clerk. [LB94]

CLERK: Mr. President, Senator Chambers would move to amend with FA13.
(Legislative Journal page 504.) [LB94]

SENATOR COASH: Senator Chambers, you're recognized to open on FA13. [LB94]

SENATOR CHAMBERS: And members of the Legislature, Mr. President, rather than take the time to go through the same exercise that Senator Dubas and I went through on that previous one, I will not go into any length on this particular one. It was going to change an existing amount and increase it. And in the second part of it, it would change an additional existing amount and increase it. But before I withdraw that amendment, I want the opportunity to engage Senator Carlson, if he is available, in a little... [LB94]

SENATOR COASH: Senator Carlson, will you yield to Senator Chambers? [LB94]

SENATOR CARLSON: Yes, I will. [LB94]

SENATOR CHAMBERS: Now if the man that I call the "Silver Fox," Senator Brashear, were here, he would know what we're going to engage in is not a soliloquy, because that sounds like solitary, maybe it's a colloquy. I would like to ask Senator Nelson, the second of my three sons, a question so that I can carry on my colloquy, if that's what it is, with Senator Carlson. Senator Nelson, as a practitioner of the law, is the term "colloquy" an appropriate description of a back-and-forth between two individuals? [LB94]

SENATOR NELSON: I would say so, yes, Senator. [LB94]

SENATOR CHAMBERS: Thank you very much. Believe it or not, all of a sudden I wasn't really sure. Senator Nelson, when you...Senator Carlson, I'm sorry, when you spoke earlier you were talking, if I got what you said--I was on the phone--about what you consider to be an appropriate moral use to which animals could be put, and then you talked about a different kind of use which would be inappropriate. In general, am I correct that you established two different categories? [LB94]

SENATOR CARLSON: As it relates to hunting, yes, I did. [LB94]

SENATOR CHAMBERS: Would you briefly relate those two again? [LB94]

SENATOR CARLSON: Yes, I will. I said that hunting by itself is not evil and a hunter, legitimate hunter, kills the game, finds the game, dresses the game, consumes the game, or provides it to someone else for their consumption. An illegitimate hunter is one who just loves to kill, and kills and leaves the animal. [LB94]

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SENATOR CHAMBERS: Thank you. I thought that was what Senator Carlson...I meant Senator...yes, Carlson had said, but I wanted to be sure. I will not disagree with what he said. I do believe that people can procure animals for consumption, but when the aim is simply to deprive a creature of its life because you have the means of doing so and it's called sport, that to me is not something which can be justified among civilized people. The goal should be to try to bring about more civility among those who, for whatever reason, must exist together. When you use the term "peaceful coexistence," it generally connotes the idea of two people or two entities which are not really at peace with each other or in harmony, but they're not going to harm each other because there is something that keeps them from doing that. There should be more than simply peaceful coexistence between human beings and animals. It may seem a misapplication of a word to apply respect to that relationship between human beings and animals. But even when the hunter or the procurer of animal flesh for the purpose of consumption is involved in that, there should be respect shown. There are cultures who offer what some people might call a prayer before they take an animal, even when it's being taken for food, to show an acknowledgement, a recognition of the life force in that creature and acknowledging the good that that creature is going to provide to the one who is taking its life. I know that's a foreign concept in this society. More to the point would be the possibility of using assault weapons to kill deer, to kill elk. Fortunately, this bill has language in the existing law on page 2 which says, "Regulations and limitations for the hunting, transportation, and possession of deer may include, but not be limited to, regulations and limitations as to the type, caliber, and other specifications of firearms and ammunition used and specifications for bows and arrows used." I'm surprised that those people who worship guns haven't come running in here, except that they don't read, and if they read they don't understand, and why those who run for office don't pop up and say this is an inappropriate regulation of guns. I got the Second Amendment right; you can't impinge--they wouldn't say impinge--you can't mess with my Second Amendment right. Well, what is your Second Amendment right? What is it? What does it say? Well, I can buy and keep all the guns that I want to. They've never read it. All of them use the same language. They, like parrots, are really quite dense. They remember the words but they don't get the sense. And if it sounds like I have little regard for those who worship the gun, you got it right and maybe I spoke clearly enough to be understood this morning. It just happens that I'm making these comments in the context of a bill about hunting. I don't find fault with anything Senator Dubas is proposing in her legislation, and I did explain to her what I intended to do. And I'm not saying that she is the quarry, or the prey, and I'm the predator. But I felt I owed her at least a modicum of respect by indicating what my intentions were. And when I'm dealing with a lady, my intentions always are honorable, always. And they are so honorable that on occasion I have been ridiculed by the very female that might be trying to talk to me. There are young women who see old people, and if they have a title or any notoriety they want to be with that person. And I've been around a long time and I've got a daughter who is grown and I've mentioned that I have nieces. I have a tremendous amount of respect for

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females and a great distaste for and disgust toward the way females are objectified, sexualized, and treated as things. And anytime I see something like that and have the opportunity and the wherewithal to intervene to stop it, I will. So I've given talks before and these young, naive females would come up to me and try to say something which at my...I know what they're talking about, but because I do know and I know my responsibility, I deliberately don't know, so it passes right over my head. I ignore the remark and my response is I have a granddaughter your age; when I see you, I see my granddaughter. And my granddaughter and I get along very well. [LB94]

SENATOR COASH: One minute. [LB94]

SENATOR CHAMBERS: And I wouldn't want anybody to mistreat my granddaughter and I would never mistreat you or anybody else. And if she's a bit older, then she reminds me of my daughter. My ego is not so fragile that I would take advantage of a vulnerable, naive person. And because I'm aware of who and what I am, any woman who'd want to spend time with me is either young, naive, vulnerable in more ways than one. So when you all hear me up here talking in the way that I do, I am not egotistical with respect to everything. But there are some issues where because of the respect that I have for myself and that I want to retain for myself, lines are drawn by me which I will never cross. And if I would inadvertently cross one, I apologize and I don't offer...if I offended somebody, I know whether what I did offended, if it's brought to my attention that it was out of line, and the apology is just what I say. [LB94]

SENATOR COASH: Time, Senator. [LB94]

SENATOR CHAMBERS: Thank you, Mr. President. [LB94]

SENATOR COASH: Thank you, Senator Chambers. Members, you've heard the opening to FA13; the floor is now open for discussion. Senator Chambers. [LB94]

SENATOR CHAMBERS: Mr. President, I neglected to add that I want to withdraw this amendment that is pending now. Thank you. [LB94]

SENATOR COASH: Thank you, Senator Chambers. FA13 is withdrawn. We now return to discussion on LB94. Seeing no members wishing to speak, Senator Dubas, you're recognized to close on the advancement of LB94. [LB94]

SENATOR DUBAS: Thank you, colleagues. I just ask for your support for LB94. [LB94]

SENATOR COASH: Thank you, Senator Dubas. Members, the question before the body is, shall LB94 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB94]

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CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB94. [LB94]

SENATOR COASH: LB94 does advance. Items, Mr. Clerk. [LB94]

CLERK: Mr. President, a Reference report referring a gubernatorial appointee to standing committee for confirmation hearing. A new resolution, LR79, by Senator Pirsch; that will be laid over at this time. And a confirmation report from the Agriculture Committee; that's signed by Senator Schilz as Chair. That's all that I have, Mr. President. (Legislative Journal pages 542-543.) [LR79]

SENATOR COASH: Thank you, Mr. Clerk. We'll now move on to the next item on the agenda: General File, LB340. [LB340]

CLERK: LB340, introduced by the Natural Resources Committee and signed by its membership. (Read title.) Introduced on January 18, referred to Natural Resources. The bill was advanced to General File. I have no amendments to the bill at this time, Mr. President. [LB340]

SENATOR COASH: Thank you, Mr. Clerk. Senator Carlson, you're recognized to open on LB340. [LB340]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I'll start by saying we are a public power state, and public power has served us very well over the years. The Power Review Board currently has statutory authority to waive application hearings for electric generation and transmission lines and for the conditional approval portion of certified renewable export facilities as long as the interested parties agree and sign consents and waivers and if the Power Review Board determines that a decision can be made without a hearing. The bill itself would extend that possibility of waiving application hearings to special generation facilities. And a special generation facility is one that uses renewable energy sources or a community-based energy development project, known as C-BED. That's what this bill does: it takes what's already in statute in waiving the application hearings and extends it to special generation facilities. I think that makes the statutes consistent. And I think it's a reasonable request that came from the Power Review Board, and I would ask for your support. Thank you. [LB340]

SENATOR COASH: Thank you, Senator Carlson. Members, you've heard the opening to LB340; the floor is now open for debate. Senator Krist, you are recognized. [LB340]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. And good morning, Nebraska. I'd like to pose a question or two to Senator Carlson, if he would yield. [LB340]

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SENATOR COASH: Senator Carlson, will you yield? [LB340]

SENATOR CARLSON: Yes. [LB340]

SENATOR KRIST: Senator, I've been...actually, Senator Lautenbaugh four years ago started an airport bill that we have worked through. He handed it off to me; I've been working on it for two years. The utilities had a huge concern that when they need to spot a generation facility or a tower or whatever it might be, that they are being pushed back, stonewalled, if you will, on their response from the NDA and from the local planning authorities. That comes to a point of...pushing back to a point where it's interfering with the installation of transmission lines and servicing the public, if you will. I acquiesced to putting into the bill that they should hear back within 60 days. What I have not acquiesced to is that they automatically can do what they want to do if they don't get a response back from the NDA or the planning authorities within the state within that 60-day period. Can you talk to that just a little bit and how that relates to this bill? [LB340]

SENATOR CARLSON: I don't know that it really does, knowing that currently the Power Review Board has the authority to waive application hearings for electric generation and transmission lines. And this would extend it to special generation facilities. Now if any party is not good with this project that's being proposed, they can request the ability to protest or object. They have to be given standing with the Power Review Board in order to do that, and they make application for standing. And then they would...they would want the hearing, and they'd want the ability to protest or clarify. And I think that is covered and that's possible, and that wouldn't change with this addition. [LB340]

SENATOR KRIST: In your opening you said we are a state of public power, public utility; so I'm assuming that the Omaha Public Power District, the Nebraska Public Power, any public power, as well as wind, would have standing and be able to request a hearing on such matters. [LB340]

SENATOR CARLSON: Well, certainly all public power entities have standing. And that's a given; that's with the Power Review Board. But someone that's not public power, they can make application, and if, with the Power Review Board, they're okay with the application, it's possible that project could go forward. But there is a provision that those who object, and I think, in your case, that may be what you're talking about. [LB340]

SENATOR KRIST: Right. [LB340]

SENATOR CARLSON: There's a procedure to go through to gain standing to be able to register that concern or that complaint, and that doesn't change with this bill. [LB340]

SENATOR KRIST: Senator, thank you for your answers. And I will between General

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and Select confer with you on both this bill and on how it relates to my bill. I believe that there's a reasonable amount of time that our public utilities should be waiting for an answer. And what I'm hearing is that that member in good standing--or if the organization is in good standing--asking the question, that that reasonableness is maybe not as reasonable as both parties would think. So it's the timing involved. So if you'd like to comment, you can have the rest of my time. [LB340]

SENATOR CARLSON: Well, Senator Krist, certainly I'm more than willing to speak with you about this. And if there's something that needs to be done to clarify it, we will... [LB340]

SENATOR COASH: One minute. [LB340]

SENATOR CARLSON: ...do that. [LB340]

SENATOR COASH: Thank you, Senators. Senator Avery, you are recognized. [LB340]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. I am going to support this bill, but I do want to take this opportunity to make a few comments about the Power Review Board and its long-range 20...energy long-range plan for the state of Nebraska. I had a person in my office the other day who is a former energy analyst for the U.S. Department of Energy. He called my attention to this report. It's quite lengthy, but I spent a fair amount of time looking at it. And this is a statutorily mandated report by the Power Review Board. It is supposed to be a coordinated long-range power supply plan. It was issued last year in July, and it is a 20-year energy plan for the state. There are some glaring omissions in this report. I urge you to take a look at this; it's available on-line. It largely excludes the capabilities of new, clean, and renewable technology in Nebraska's long-range energy plan. That will, of course, greatly affect the longevity of our grid structure. The Power Review Board makes no effort in this long-range plan to discuss a transition away from fossil fuels. Currently Nebraska is reliant on coal for about two-thirds of its electricity; nuclear power provides about 30 percent; and hydroelectric power makes up the remainder. Most thermal generating plants are built for 40 years of service. Seven percent of Nebraska's plants have been in service for 30 years or more, and they are reaching the end of their useful life span. In 2010, the president and CEO of the U.S. Chamber of Commerce's Institute of 21st Century Energy told the Nebraska Chamber at their annual meeting that Nebraska was poised to play a pivotal role in America's energy future. The speaker...U.S. Chamber speaker said: A comprehensive plan that takes advantage of all resources and promotes investments in efficiency and infrastructure will be needed to meet growing energy needs in Nebraska and across the nation. This report does not reflect that. This is a 20-year plan for the state of Nebraska. The long-range plan that has been reported does little to acknowledge global warming or climate change and the impact on the future of Nebraska's environment and on our energy. This Power Review Board makes

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almost no mention of solar energy, almost no mention of net metering, natural gas, biofuels, or fuel cells. The plan undervalues the potential of wind turbines and moves to the decommissioning of them after 20 years. And that seems to make no sense, to me at least. So I would urge you to take a look at this. This long-range plan does not address environmental issues sufficiently. It certainly does not take into account the growing problem of coal-fired emissions and notes a current 31 percent fish kill caused by water cooling systems at nuclear power plants. The Power Review Board considers the Environmental Protection Agency enforcement of emissions standards on heavy metals and air toxins as a threat to their planning. This report is, really, comical in many ways. I would ask you to take a look at it, not that we can change it now, but they will be doing additional planning in the future. We have to hold these boards accountable. [LB340]

SENATOR COASH: One minute. [LB340]

SENATOR AVERY: And this, I believe, is a report that needs further scrutiny. Thank you, Mr. President. [LB340]

SENATOR COASH: Thank you, Senator Avery. Seeing no other members wishing to speak, Senator Carlson, you are recognized to close on LB340. [LB340]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I appreciate the comments of Senator Krist and Senator Avery. And certainly if there is anything additional that needs to be done with this bill, I will listen to that before Select File. But public power has a purpose of seeing to it that, to the citizens of Nebraska, we have reliable and we have affordable power. And it's served us well in the past, and I think the provision that this bill makes is consistent with what the Power Review Board does. I don't think it does anything at all to jeopardize the way we have our power delivered. And I would ask for your support on LB340. Thank you. [LB340]

SENATOR COASH: Thank you, Senator Carlson. Members, you've heard the closing on LB340. The question before the body is, shall LB340 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB340]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB340. [LB340]

SENATOR COASH: LB340 does advance. Next item, Mr. Clerk. [LB340]

CLERK: Mr. President, LB499 is a bill by Senator Brasch relating to the game law. (Read title.) The bill was introduced on January 23, referred to Natural Resources Committee, advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB499]

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SENATOR COASH: Thank you, Mr. Clerk. Senator Brasch, you're recognized to open on LB499. [LB499]

SENATOR BRASCH: Thank you, Mr. President. And good morning, colleagues. I rise to open on LB499, which I have brought at the request of the Nebraska Game and Parks Commission to make changes to the powers and duties of the commission to allow for greater public input and flexibility in the rule-making process. Game and Parks developed this legislation in coordination with the Governor's Policy Research Office. For years, the Game and Parks Commission followed a rule-making process similar to the one laid out in LB499 for commission orders. It wasn't until the late 1990s or early 2000s that the commission was forced to change the rule-making process, after the Attorney General's Office began to reject rules and regulations that were passed at a meeting where the commission had made modifications or proposed regulations following a public hearing. Under the Administrative Procedure Act, or APA, the Attorney General's Office and the Governor's Office reviews the rules and the regulations once changes are made. While the commission did not receive a formal Opinion from the Attorney General's Office, a review of the full APA indicated that their standard practices were out of compliance. Since bringing the rule-making process into compliance with APA procedure, the commission has faced problems with the timing of certain hearings. LB499 makes a new distinction between the procedures governing the commission's power to pass orders and to adopt and promulgate rules and regulations. First, the commission would be able to pass commission orders, which would fall under a new set of administrative procedures governing conservation orders, seasons, open and closed areas, and bag limits. Second, the commission's power to promulgate rules and regulations governing the methods or type, kind, and specifications of hunting, fur harvesting, or fishing gear used in the taking of any game, game fish, non-game fish, game animals, fur-bearing animals, or game birds remains under the Administrative Procedure Act, or APA. Under LB499 it also sets up a new set of administrative procedures under which commission orders are passed. Under these new rules, the commission would hold a public hearing on each proposed commission order, similar to the way business is conducted today. Under the new process, the commission would be allowed to make changes to the orders at the same meeting in response to public input, before publishing the final orders. Currently under the APA, the commission is required to table, or delay, the proposed rules before making season changes, which means many who attended these public hearings simply feel like their input is falling on deaf ears. Finally, LB499 adds bird, fish, and wild animal populations to the list of endangered items that could be allowed for the commission to open or close game seasons. Under current emergency regulations, the commission can only close a season if there is a threat to human life or property. This provision would give the commission the latitude to quickly respond to disease epidemics or other extenuating circumstances rather than waiting up to several months for the next scheduled commission meeting. Thank you, Mr. Speaker. And I would ask my colleagues for your

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support on advancing this legislation. [LB499]

SENATOR COASH: Thank you, Senator Brasch. Members, you've heard the opening to LB499. The floor is now open for discussion. Seeing no one wishing to speak, Senator Brasch, you're recognized to...excuse me, Senator Crawford, you are recognized. [LB499]

SENATOR CRAWFORD: Oh, thank you. Thank you, Mr. President. And thank you. I would just like to ask a question of Senator Brasch, if she will yield. [LB499]

SENATOR COASH: Senator Brasch, will you yield? [LB499]

SENATOR BRASCH: I will yield. [LB499]

SENATOR CRAWFORD: Thank you. I was just trying to understand the purpose for using commission orders as opposed to the regular rules and regulations process. Why do we need a different process for this, as opposed to using the existing rules and regs process under the administrative procedures? [LB499]

SENATOR BRASCH: Thank you, Senator Crawford. The reason for this is that once the rules changed, they did experience many delays. The public hearings that they held, many would come and testify; then they would have to wait until the next scheduled meeting, you know, and after it also came back from the Attorney General's Office and then the Governor's Office for review. Where currently...we experienced the drought last year, and as lakes were drying up, many fish would remain in the lakes. And for them to be able to tell the public to quickly harvest what fish is there, to avoid disease, that was a problem. Another problem, also, is delay in timing. Currently for our water fowl seasons, that we wait for federal orders to come from the U.S. Fish and Wildlife Service, and once those do come, traditionally in July, we have to wait to see what their rules and regulations are for the migratory birds until late July. And then we wait for the final review from the APA. And those rules do not come to us until the August meeting, and then to have that meeting's changes sent back to the APA, where half of the season is over already. And so many of our sportsmen and -women have expressed concerns that their season is so short because of the delays. We have many involved constituents in this area that have contacted our office. We spoke with the sportsmen's council recently when they came to visit the Legislature and their senators, and they were very supportive of seeing these measures taken. [LB499]

SENATOR CRAWFORD: Okay, thank you. So as I understand it, the protections for public input, through the procedure act, are difficult because of the time it takes, and some of these changes need to be made more quickly, if I understand your comment. [LB499]

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SENATOR BRASCH: Yes. [LB499]

SENATOR CRAWFORD: Now could you just comment on what protections for public input you see are present if we shift some of those decisions to commission orders instead. [LB499]

SENATOR BRASCH: Because they were held in the past, those protections are there. And the change has been noticeable as a deterrent to hunting. And they do hold about half a dozen meetings throughout the state and throughout the year. And those meetings are...a lot of input does come back. They have a very active group that follow the seasons. [LB499]

SENATOR CRAWFORD: All right, thank you. Are they...is there a requirement that they hold a public meeting before issuing a commission order? [LB499]

SENATOR BRASCH: On the...I'm not certain of what the requirements are. I could follow up with that. But they are very proactive in working with the state in many areas. And I just maybe have an answer for you. My... [LB499]

SENATOR CRAWFORD: All right. [LB499]

SENATOR BRASCH: Okay. [LB499]

SENATOR CRAWFORD: I appreciate that. And I appreciate your concern of making sure that decisions are made in a timely manner. [LB499]

SENATOR COASH: One minute. [LB499]

SENATOR CRAWFORD: And I just want to make sure we also make sure we're protecting public input and accountability. Thank you. [LB499]

SENATOR COASH: Thank you, Senator Crawford. Senator Wallman, you are recognized. [LB499]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Would Senator Brasch listen to a question? [LB499]

SENATOR COASH: Senator Brasch, will you yield? [LB499]

SENATOR BRASCH: I yield. [LB499]

SENATOR WALLMAN: Yes, as you realize, now it's a misdemeanor for violations. If I've got a hunting or fishing permit, how am I going to get notified that you shortened the

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season or something like this? [LB499]

SENATOR BRASCH: That...that's a very good question. They do hold the public hearings; they do distribute information through media, through different various resources. Our game wardens are very active in our areas. I had the pleasure of doing a couple ride-alongs with our game warden in our district, and they do have an excellent communication with the constituents in the areas. We also...when we had the disease of the deer, you know, they were active, boots on the ground, many sportsmen's clubs, facilities. And if it is a problem, I am confident that it would be brought up at any of those six meetings, and they would not hesitate to make that correct. [LB499]

SENATOR WALLMAN: Well, thank you. I would hope we'd protect our hunters and fishermen. You know, we have a lot of them come from out of state, and they pay pretty good prices for their permits. And so with that, thank you, Mr. President. [LB499]

SENATOR COASH: Thank you, Senator Wallman. Senator Carlson, you're recognized. [LB499]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. In listening to the discussion here, I would just relate something that I think helps explain why this bill makes sense. I remember well, 1993 in my district, in Alma, Harlan County lake, drove across the bridge, and you could see pockets of water where...that were full of fish; they couldn't escape. And so there was really nothing that could be done to help harvest those for human consumption. And this allows the commission to act in a quicker manner. They're still going to have a hearing, and so there can be input. But I think this bill that's come forth is a good bill, and I would ask for your support. Thank you. [LB499]

SENATOR COASH: Thank you, Senator Carlson. Senator Crawford, you're recognized. [LB499]

SENATOR CRAWFORD: Thank you, Mr. President. And I just wanted to note for the record, Senator Brasch and others in the body, that actually on page 4, Section 3, it does require that there is a public hearing for each commission order, so...and also notes the requirement that if it goes beyond a commission order, that it must follow the Administrative Procedure Act. So that alleviates my concern about public input. Thank you. [LB499]

SENATOR COASH: Thank you, Senator Crawford. Seeing no members wishing to speak, Senator Brasch, you're recognized to close on the advancement of LB499. Senator Brasch waives closing. Members, the question before the body is, shall LB499 advance to E&R Initial? All those in favor, vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB499]

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CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB499. [LB499]

SENATOR COASH: LB499 does advance. Next item, Mr. Clerk. [LB499]

CLERK: LB262 is a bill by Senator Cook. (Read title.) The bill was introduced on January 16, referred to the Education Committee, advanced to General File. There are Education Committee amendments pending, Mr. President. (AM138, Legislative Journal page 432.) [LB262]

SENATOR COASH: Thank you, Mr. Clerk. Senator Cook, you are recognized to open on LB262. [LB262]

SENATOR COOK: Thank you, Mr. President. Good morning, colleagues. I rise to introduce LB262, a bill to ensure statewide standards for the reporting of educational data as allowed under the federal education data reporting law, known as FERPA. The intent of LB262 is to, first, recognize the importance of sharing student data, records, and information among school districts, educational service units, learning communities, and the state Department of Education as vital to advancing education in Nebraska; second, to direct the Nebraska state Department of Education to adopt and promulgate rules and regulations providing for and requiring the uniform sharing of student data, records, and information among school districts, educational service units, learning communities to the greatest extent allowable under the federal law. Amended federal policy related to FERPA--that means "Family Educational Rights and Privacy Act"--creates an opportunity for Nebraska policymakers to access educational data. Access to this information will help us and other concerned entities to review and analyze student performance in Nebraska. LB262 will also bring our state statute in line with federal Family Educational Rights and Privacy Act. The United States Department of Education noted the ambiguity that was created by previous FERPA interpretations and inconsistent guidance among the states. The U.S. Department of Ed recently made changes to FERPA regulations to address these issues. The new regulations broadened access to state and local data systems, balanced privacy protections for students with these educational needs, and strengthened the enforcement of FERPA. This bill would give the state the authority to make sure the school districts comply with the updated FERPA regulations and share information in a standardized way. Access to more consistent student data for policymakers and interested parties is balanced with preservation of privacy rights of individual students and their families. Currently there is no statewide standard for interpretation of FERPA. Lacking a statewide standard creates confusion and hardship for entities looking to gain insight into the health and effectiveness of Nebraska's public school system. I hope the following list piques your sincere interest in the policy outlined in the bill. Here is what is allowed under FERPA: the evaluation and auditing of state and local programs and the implementing of school and district accountability; monitoring and analyzing assessment, enrollment, and

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graduation data; sharing student records from a student's prior school with the student's new or prospective school; maintaining a teacher identification system that links teachers and students and disclosing that information to the extent consistent with FERPA-authorized disclosures. Funding public schools is one of the few constitutional requirements of this institution. A reciprocal obligation exists to gauge the impact of our support of the public schools. Without statewide standards for the interpretation of FERPA, Nebraska is missing out on an opportunity to have workable data as allowed under federal law. The Nebraska Department of Education testified at the hearing; that testimony revealed that just last year they received a statewide longitudinal data system grant from the United States Department of Education. The grant was approximately \$4.4 million to be used over a three-year period. That investment is being used to create a data system and build analytical tools for education in our state. The analytical tools they are building are for the purpose of having definite indicators that look at student achievement, teacher performance, and achievement gaps in our educational system. Advancement of LB262 will dovetail with this investment and ensure that school districts and individual schools are reporting student data with privacy interests intact in a uniform and workable form. Also testifying at the hearing was Dr. Anne Herman, senior vice president of accountability, analytics, and performance at the United Way of the Midlands in Omaha. Her testimony stated that having an acceptable statewide interpretation of FERPA would be an important tool to allow for the maximizing and the ability for school districts, educational service units, learning communities, and other community organizations to work together. She also went on to say: I think the state of Nebraska has an opportunity to help really lift the burden on the school districts, for them to each individually have to interpret the intention of the law--that would be the FERPA law--and to be able to make the sharing of information, whether it be for policymakers--like ourselves--or whether it be for community partners, etcetera, a little bit easier, because we start at the same understanding of the law. I trust that my colleagues on the Education Committee and on the Planning Committee--that I serve as Vice Chair--recognize the importance of accurate and consistent data to gauge the effectiveness of our investments in education, whether that be in early childhood or through postsecondary career educational training. I want to thank Senator Sullivan and our Education Committee for unanimously advancing this legislation. I appreciate your thoughtful consideration of this proposal and ask for your support of the advancement of LB262. Thank you, Mr. President. [LB262]

SENATOR COASH: Thank you, Senator Cook. As the Clerk has stated, there is an amendment from the Education Committee. Senator Sullivan, you're recognized to open on AM138. [LB262]

SENATOR SULLIVAN: Thank you, Mr. President. This is simply a date change. What it does, it updates the 2009 reference to the federal Family Educational Rights and Privacy Act of 1974--it's been referred to as FERPA--to include changes made to the federal law through February 1 of this year, of 2013. By way of background, January 13

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of this year the President signed the Uninterrupted Scholars Act with modifications to FERPA. The modifications explicitly allow educational agencies and institutions to disclose educational records to an agency caseworker or other representative of a state or local child welfare agency or tribal organizations that has legal care and protection of the student, in order to address the student's education needs. Any information shared under FERPA continues to be protected in the hands of the authorized recipient. Authorized sharing does not necessarily require consent of the parent. Encourage adoption of AM138 to LB262. [LB262]

SENATOR COASH: Thank you, Senator Sullivan. Members, you've heard the opening to LB262 and the committee amendment. The floor is now open for discussion. Senator Price, you are recognized. [LB262]

SENATOR PRICE: Thank you, Mr. President, members of the body. Got a question for Senator Cook, if she would yield. [LB262]

SENATOR COASH: Senator Cook, will you yield? [LB262]

SENATOR COOK: Yes, I will. [LB262]

SENATOR PRICE: Thank you, Senator Cook. The question comes about...obviously, when you mention a learning community, you're going to pique my curiosity. I...first I want to tell you that I generally support the direction your bill is going. But I have a question about when we talk about any agency or organization within a learning community would have access to this data. You know, within the learning community it's a rather broad net cast. You could have an elementary learning center; you could have organizations getting involved for numerous reasons. Would every entity involved in a learning community and contracted with a learning community have access to these data files? [LB262]

SENATOR COOK: I can tell you the intent of the proposal. And that is so that the elected and appointed policymakers in the learning community--which...we just have the one--would have access to information about these students' performance to determine whether or not those aforementioned programs, like the early learning centers, are successful. My short answer to your question as to whether or not any contractor or any staff member or volunteer or parent at the early learning center would have access, my short answer to that question is, no. It is for policymakers and people who are making the decisions about the programming. [LB262]

SENATOR PRICE: Okay, so...maybe when we're off the mike and between now and whenever, we can look into that to make sure that it's scripted, because, like, earlier in the past year or two we had some lactation specialists that were used to train mothers on that subject matter. And they were brought in and a large amount of dollars were

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spent on that. Would that specialty group then have access to other students who are having children, and want to reach out to them...so start mining? In other words, when we let data fields get opened up and databases be opened, then we have mining of the data. [LB262]

SENATOR COOK: Um-hum. [LB262]

SENATOR PRICE: I have a bill right now that we heard just before about registries... [LB262]

SENATOR COOK: Yes. [LB262]

SENATOR PRICE: ...for people with functional needs and the concern about people mining that data. When we talk about a learning community, I believe a learning community's span is much greater than a typical district. And I want to make sure that only, as you said, the administrators of the learning community would have access, and not every entity that they do business with or who contracts to perform a function within a learning community would have access to that data. [LB262]

SENATOR COOK: All right. I would be happy to talk with you to ensure that the language would not cast that wide open for that kind of behavior. That is not the intent. [LB262]

SENATOR PRICE: Thank you very much, Senator Cook. And I was hopeful that that's what it was, and I didn't think anybody would do anything different. But if we don't call it out on the mike and make it a matter of public record, if it comes up at a later point in time, we're kind of behind the curve there. So I appreciate that, Senator Cook, for your time. And, members, I would engender and ask that you take your considerable capacity to reason and look at this to make sure that we are getting exactly what we want and not a lot of things we don't want. Thank you, Mr. President. And I yield back my time to the Chair. [LB262]

SENATOR COASH: Thank you, Senator Price. Senator Avery, you're recognized. [LB262]

SENATOR AVERY: Thank you, Mr. President. This is a good bill. And I'm going to support it. Let me tell you why it's a good bill. Every year the Education Committee receives a report from the executive director of the governing council of the learning community in the metro area. And every year we've been hearing from them that they are having a hard time compiling their report because they cannot get information from the schools. And they can't get that information--and, I mean, this is routine information about student performance and things of that--they can't get that information because the schools have said: Oh, we've got these FERPA requirements, and we can't abide by

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your request; we just can't give it to you. It was suggested to us that perhaps the schools didn't want to provide the information and that they were hiding behind FERPA in order to deny the learning community access to that information. This bill will do a lot to get rid of that impediment. Let me tell you that if we don't have good information, reliable information, on student performance and a variety of other activities in the schools in the metro area, the learning community is guessing about what ought to be done and how to do it. And guessing is no way to make sound policy. And this bill, it seems to me, is a good bill. It will allow us to remove that obstacle or at least reduce the ability of school districts to hide behind FERPA rules and to deny the learning community the information they need. I urge you to vote for this bill. I intend to do that. It's a good bill. Thank you, Mr. President. [LB262]

SENATOR COASH: Thank you, Senator Avery. Senator Kolowski, you are recognized. [LB262]

SENATOR KOLOWSKI: Thank you, Mr. President. This is a very good bill. And I stand in support of Senator Cook's comments and work on this. And Senator Avery's comments are exactly on target. As you heard from Senator Chambers this morning, he and I did have the opportunity to work together for the first four years of the learning community. And during that time, one of the greatest frustrations we had, especially in the first two years, was securing that kind of information that was discussed by Senator Avery. Being able to gather the data and information about student growth and achievement is extremely important. But when you're blocked by potentially all 11 school districts, and even the state Department of Education, from securing what you need to show that growth over time, it's a real impediment for the learning community or for districts working with the learning community. Senator Price's question is an excellent one. And I can guarantee him that the safety and security of the information desired is of utmost importance to everyone involved, and we would never want to see that negated in any way. But we do have to...as per the law, in the learning community they had to do a report every year. And without adequate research by your evaluators and administrators in charge of those programs, you have no basis of answering the questions of, "What kind of growth did you see take place?" and "How are the programs progressing?" So I stand in complete support of this bill for Senator Cook and thank her for bringing this forward. Thank you. [LB262]

SENATOR COASH: Thank you, Senator Kolowski. Senator Sullivan, you're recognized. There are no other lights on. Would you like to use this opportunity to close on your committee amendment? [LB262]

SENATOR SULLIVAN: Thank you for the opportunity; and, yes, I will. And to follow up, also in addition to some of the issues and questions that have been raised, even though NDE will be developing rules and regulations, they will be bound by FERPA. And I have to say that FERPA is very, very protective of the information that it allows. The

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guidelines say: strictly for evaluation purposes and, in some cases, an individual student. As I mentioned in my opening, the modifications explicitly allow educational agencies in institutions to disclose educational records to an agency caseworker or other representative of a state or local child welfare agency or tribal organizations that has legal care and protection of the student, in order to address the student's educational needs. Any information shared under FERPA continues to be protected in the hands of the authorized recipient, and I emphasize that as well. So when Senator Price talked about contracted specialists, such as lactation specialists, they would not be included in this information. So, again, I think the discussion has been good, and I urge your adoption of AM138. Thank you. [LB262]

SENATOR COASH: Thank you, Senator Sullivan. Members, you've heard the closing to the committee amendment AM138 to LB262. The question before the body is, shall AM138 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB262]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB262]

SENATOR COASH: Committee amendments are adopted. We now return to discussion on LB262. Senator Wallman, you're recognized. [LB262]

SENATOR WALLMAN: Good morning, colleagues. Mr. President, members, it kind of bothers me that we'd call a learning community...I thought all schools were learning communities. So we keep putting in bureaucracies and more management, middle management; and what is it are we doing for the children? And this has always bothered me, as the members of the body know. And I'm all for the children, for education. But Senator Price brought up a good thing: some more records could be lost. And, you know, we've had it happen in where I come from. So, you know, the more things we put up like this in this electronic age...I'm not an electronic bug person, but there's lots of people that are really, really smart on this. And so with much reservation I'll support something like this, but I think we'd better watch out what we're doing, where we're spending our money, and is it actually doing any good? And if we pass things that are not for the children, are just for administration reasons, then we're spinning our wheels, because it's all about: talk to the kids, be with the kids, whether you'd be coaches, assistant coaches, principals, vice principals. And we set up these huge buildings where a lot of our educators don't really see the kids. And if we don't see the kids...I come from a one-room school; teacher saw us all, all through eight grades. And I had a good education. So are we backing up here? And "learning community"? I would hope all our schools are learning communities. Thank you, Mr. President. [LB262]

SENATOR COASH: Thank you, Senator Wallman. Seeing no other members wishing to speak, Senator Cook, you're recognized to close on LB262. [LB262]

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SENATOR COOK: Thank you, Mr. President. Thank you, colleagues. I would simply urge the body to advance LB262. As I mentioned, the intention is for us as policymakers and interested parties to simply have access to data that would permit us to make better policymaking decisions, or the best policymaking decisions possible. Thank you once again. [LB262]

SENATOR COASH: Thank you, Senator Cook. Members, you've heard the closing on the advancement of LB262 to E&R Initial. The question before the body is, shall LB262 advance? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB262]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB262. [LB262]

SENATOR COASH: LB262 does advance. Next item, Mr. Clerk. [LB262]

CLERK: LB259, a bill by Senator Karpisek (read title). The bill was introduced on January 16 of this year, referred to the General Affairs Committee. The bill was advanced to General File. I have no amendments to the bill at this time, Mr. President. [LB259]

SENATOR COASH: Thank you, Mr. Clerk. Senator Karpisek, you're recognized to open on LB259. [LB259]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. Under current law, keno writers are considered lottery workers and must be licensed. This licensing requirement process includes background checks and possible hearings. We don't have the same licensing requirements for convenience store employees who sell lottery tickets including Powerball. LB259 would eliminate the licensing requirement by removing keno writers from the definition of a lottery worker. Right now, they have to go in, they have to be...do a background check, do all these things. If for some reason they would forget something that they didn't file, somebody finds it later, it could throw them out. Really, if they remember everything and they're honest, it doesn't really matter what they've had before. If they've had a criminal conviction, they'll probably still be cleared to do this. I think it's just an extra step along the way. These people don't deal directly with running the numbers, the picking the balls, or anything; they just get the tickets and enter them into the system. That's about all the bill does. Thank you, Mr. President. [LB259]

SENATOR COASH: Thank you, Senator Karpisek. Members, you've heard the opening to LB259. The floor is now open for debate. Senator Wallman, you're recognized. [LB259]

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SENATOR WALLMAN: Thank you, Mr. President, members. Would Senator Karpisek listen to a question? [LB259]

SENATOR COASH: Senator Karpisek, will you listen to a question? [LB259]

SENATOR KARPISEK: I will listen to a question. [LB259]

SENATOR WALLMAN: Thank you, Senator. As of right now, what does it cost to get a permit, do you know? [LB259]

SENATOR KARPISEK: There is no cost to get the permit; however, the state does absorb the cost, which is estimated to be about \$15. [LB259]

SENATOR WALLMAN: Thank you. Thank you, Mr. President. [LB259]

SENATOR COASH: Thank you, Senator Wallman. Senator Bloomfield, you're recognized. [LB259]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I was the "no" vote on this coming out of committee. What Senator Karpisek refers to as an additional step I see as an additional protection. What this bill does is allows just about anybody to go ahead and write those tickets. And maybe that's not a big deal. The rest of the committee didn't seem to think it was. But among the people that are attempted to be screened out by this process are felons and other less desirable folks that could be writing these tickets. Bear in mind, the people that are buying these tickets where the keno is played is usually where they're serving alcohol. I don't think we ought to tie it in with convenience stores, where somebody comes in...hopefully, he hasn't been drinking so much that his thought pattern is altered. I think there's a huge difference there. And I opposed this in the committee, and I'll be voting against it out here in the floor. The rest of you need to reach your own decisions on it. Thank you. [LB259]

SENATOR COASH: Thank you, Senator Bloomfield. Seeing no other members wishing to speak, Senator Karpisek, you're recognized to close on LB259. [LB259]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. And I appreciate what Senator Bloomfield said. I don't have the same concern. If a felon were to apply, be denied, they could ask for a hearing, see what happens there; it's just more time, again. My thought is we don't make c-store operators do this to sell lottery tickets, to sell scratch-off tickets, to do any of those other things. I just don't see that these people could really do as much harm as we're doing background checks and things like that on them. I think in small communities especially, if someone would forget to put down that they had a bad check written years ago, all of a sudden it throws them out. I just don't think it rises to the level of not letting them write keno tickets. Thank you, Mr.

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President. [LB259]

SENATOR COASH: Thank you, Senator Karpisek. Members, you've heard the closing to LB259. The question before the body is, shall LB259 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB259]

CLERK: 25 ayes, 4 nays, Mr. President, on the advancement of LB259. [LB259]

SENATOR COASH: LB259 does advance. Next bill, Mr. Clerk. [LB259]

CLERK: Mr. President, LB273 was a bill originally introduced by Senator Karpisek. (Read title.) The bill was introduced on January 16, referred to the General Affairs Committee. The bill was advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB273]

SENATOR COASH: Thank you, Mr. Clerk. Senator Karpisek, you are recognized to open on LB273. [LB273]

SENATOR KARPISEK: Thank you, Mr. President. And thank you, body, for the green on the last bill. LB273 would reduce the minimum time requirement between keno games from five minutes to three minutes. And that's all it does. My point with this is that many times keno is played during a certain time of day. It's not all day. They get busy at...in the evening probably. And so we try to get the people to stay or to try to get more people there to play the game. To make it a little bit...move a little bit faster, I would like to take two minutes off the time. Five minutes was not any big number. Why? When it came up, when they made the bill, it must have just been kind of a...a negotiated number. This would help. I especially feel, now that since this body has taken away state aid to cities, if the keno parlors can bring in a little bit more money, that money is used for fire trucks, police cars, parks. Maybe they can even save a little bit of property tax funding. I know that might be a little reach. But it does help their budgets. That is the whole thing: going from five minutes to three minutes. And I'd appreciate your vote. Thank you, Mr. President. [LB273]

SENATOR COASH: Thank you, Senator Karpisek. Members, you've heard the opening to LB273. The floor is now open for discussion. Senator Kintner, you are recognized. [LB273]

SENATOR KINTNER: Jeez. Ow. (Laughter) Mr. President and members of the body, Senator Karpisek, would you take a question? [LB273]

SENATOR COASH: Senator Karpisek, will you yield? [LB273]

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SENATOR KARPISEK: I will. And that was me shocking you for asking. (Laughter)
[LB273]

SENATOR KINTNER: What do other states do? Is five the norm? Three? Two? Six minutes? Do you know what the other states around us are doing, or across the country? [LB273]

SENATOR KARPISEK: A lot of them, Senator Kintner, I don't know that they have keno, because all the states around us have casinos. So keno is a pretty slow game and not very exciting for someone who likes to watch a slot machine. [LB273]

SENATOR KINTNER: Do you know how the five minutes was decided on when we first got keno? [LB273]

SENATOR KARPISEK: When we've looked back through the history, it just seems to be kind of a number that they came up with. And I don't know, ten was too much, one was too little, I guess they settled on five; I don't know. Maybe at the time, too, that might have been about as fast as they could run the game. Since we've gotten into this, of course, the technology has improved, and it can run a little bit faster. [LB273]

SENATOR KINTNER: Thank you. [LB273]

SENATOR KARPISEK: Thank you. [LB273]

SENATOR COASH: Thank you, Senator Kintner. Seeing no other members wishing to speak, Senator Karpisek, you are recognized to close on the advancement of LB273. [LB273]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I would just like to remind everyone that there is no requirement to wait five minutes in between...or even three minutes in between other forms of lottery such as scratch tickets, pickle cards, buying lottery tickets, anything else. There is also no maximum bet. If people really want to go and are going to really spend their money, they could drop it all on one game. I think this is seen as a good way for cities to be able to bring in some extra money. And I just think that it is a good way to go, especially since, really, the five minutes was never really decided on for any reason. Thank you, Mr. President. [LB273]

SENATOR COASH: Thank you, Senator Karpisek. Members, you've heard the closing on the advancement of LB273. The question before the body is, shall LB273 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Senator Karpisek. [LB273]

SENATOR KARPISEK: Mr. President, I'd like to request a call of the house. [LB273]

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SENATOR COASH: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB273]

CLERK: 32 ayes, 0 nays, Mr. President, to place the house under call. [LB273]

SENATOR COASH: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator McGill, please check in. Senators Burke Harr, Chambers, Larson, Pirsch, please check in. Thank you, Senator Karpisek. How would you like to proceed? [LB273]

SENATOR KARPISEK: May I ask the Chair a question, please? [LB273]

SENATOR COASH: Yes. [LB273]

SENATOR KARPISEK: If I ask for call-in votes, can I still change then and ask for a roll call vote? [LB273]

SENATOR COASH: Yes. [LB273]

SENATOR KARPISEK: Thank you. I would take call-in votes, please. [LB273]

CLERK: Senator Dubas voting yes. Senator Larson voting yes. Senator Burke Harr voting yes. Senator Christensen voting no. Senator Wightman voting no. Senator Krist voting yes. Senator Lathrop voting yes. Senator Chambers voting no. Senator Adams voting no. How do you want to vote, Senator? Senator Davis voting yes. Senator Chambers. [LB273]

SENATOR COASH: Senator Chambers. [LB273]

CLERK: Senator Chambers changing from no to not voting. [LB273]

SENATOR COASH: Record, Mr. Clerk. [LB273]

CLERK: 25 ayes, 14 nays, Mr. President, on the advancement of LB273. [LB273]

SENATOR COASH: LB273 is advanced. Raise the call. Mr. Clerk, next bill. [LB273]

CLERK: LB620 is a bill by the Performance Audit Committee; it's signed by its members. (Read title.) The bill was introduced on January 23, referred to the Executive

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Board for public hearing. The bill was advanced to General File. I have no amendments to the bill, Mr. President. [LB620]

SENATOR COASH: Thank you, Mr. Clerk. Senator Harms, you're recognized to open on LB620. [LB620]

SENATOR HARMS: Thank you, Mr. President, colleagues. Today I represent the Performance Audit Committee. The committee introduced LB620 to continue legislative oversight of the state and the University of Nebraska in response to problems raised in a 2012 report on state employees health insurance cost. As you may remember, at the Performance Audit Committee's request, the State Auditor conducted a performance audit of state employees health insurance cost. That report was released last May, and it contained a number of concerns about management of the state employees health insurance program. One concern was that the reserve balance maintained by the DAS and the university were much higher than they needed to be. Everyone agrees that there needs to be sufficient funds to pay for claims and a cushion in case of something unforeseen happening. However, if those reserves continue to grow unchecked, you may reach a point where you're charging your employees as well as the state or university more in premiums than you really need to be. While the DAS and the university disagree with some of the auditors' analysis, they did agree at a meeting last fall with myself and our Audit Committee Vice Chair, which was Senator Mello at that time, that their reserves were too high. And in fact, in November and December on 2012 DAS gave state employees a holiday from paying premiums in order to bring the reserve down. One thing that both entities have made clear to us is that there is no single industry standard that tells you exactly how large your reserves should be. So our committee hasn't asked them to reduce the reserves to a particular dollar amount. Instead, we asked them to develop written policies for how they would set their necessary reserve level and how they would handle the situation if the reserves significantly exceeded the targeted amounts. We have those policies, and we believe that it's important now for the Legislature to follow up on how they are going to be implemented, what happens to the fund balance in the next few years. Under LB620, the Appropriations Committee would have the opportunity to review this information annually, as the bill would require both DAS and the university to make an annual presentation before the Appropriations Committee to discuss their plans for managing their health insurance program. Under the bill, the presentation would include the amount of reserves in their health care trust fund. We did not include other specific items to be covered in the annual presentation, as we believe it would be better for the Appropriations Committee to have the flexibility to identify additional information that they need from year to year. I'd be happy to answer any questions. [LB620]

SENATOR COASH: Thank you, Senator Harms. Members, you've heard the opening to LB620. The floor is now open for discussion. Senator Krist, you are recognized. [LB620]

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SENATOR KRIST: Thank you, Mr. President. And again, good morning, colleagues. And good morning, Nebraska. This study, again, is at the core of what our Performance Audit Committee, of which I am a member, undertakes on a consistent basis. And what we see from the auditors' report and from our own investigation is that there is a genuine need to make sure that we...as I've said many times on this floor: We legislate, we appropriate, and then we apply oversight to ensure that those taxpayers' dollars are being used the way that they should be. In the university fund alone, there is nearly \$30 million of taxpayer dollars that's been put into the that fund. Now, it is a revolving fund, so the argument is that they would spend the money during the year; but they are still charging premiums to a point where that fund has grown exponentially, as has the state of Nebraska's fund grown. In the early 2000 time frame there was less than single-digit millions in the fund for the state of Nebraska; today they are nearly \$90 million, my latest figure. How do you grow a fund that big in a short period of time when the market has been the way the market has been? You are either overcharging the individuals who you are insuring; you're darn lucky at your investments; or you're not managing the fund correctly. Now it's true, Senator Harms has said and the industry has come back to us and said, there really isn't a magic formula for the proper level of reserve. But most people will tell you, in the industry, in this third-party relationship that we're in with the insurance companies in both the state and for the university, about three to four months of reserves is the industry standard. Some of you who have companies of your own understand that. And yet we exceed that. We exceed that by a year, estimates on the university side, and something like six months on the state side. When that happens and we continue to appropriate through the Appropriations Committee taxpayers' dollars going into those funds, and they sit there, that's wrong. And I'll give you one more that's wrong. Not only are these funds that are taxpayers' dollars growing exponentially during that period of time and potentially not managed they way they should be, but the university has chosen to take those funds out of our own state investment office and put it with Wells Fargo. And their excuse, or their rationale? We earned \$1 million more than we would have earned if it would have been in the state. Ladies and gentlemen, by statute the Treasurer of the state of Nebraska is the treasurer for the university, and they had no knowledge. Now you can have Attorney General Opinion after Attorney General Opinion, and they can opine that they have the right to do it or that they don't. But it is my conjecture in a bill that I have coming up in front of the Retirement Committee here tomorrow that says I don't think that's true. I don't think just because you can earn more money by going outside of our normal state investment program that you should be allowed to do that. We'll see. We'll see if it comes out of committee. We'll see if we debate it on this floor. But what's good for the goose, you know, good for the gander. How do we have anyone invest with our own state investment office... [LB620]

SENATOR COASH: One minute. [LB620]

SENATOR KRIST: ...and hold them to the statutes that are in place if the university feels that they don't have to play by the same game? This is what we do in Performance

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Audit. We apply that watchful eye, the oversight, that needs to be in place. I ask for your support on LB620. Thank you. [LB620]

SENATOR COASH: Thank you, Senator Krist. Senator Hadley, you are recognized. [LB620]

SENATOR HADLEY: Mr. President, members of the body, would Senator Harms yield to a question? [LB620]

SENATOR COASH: Senator Harms, will you yield? [LB620]

SENATOR HARMS: Yes, I will. [LB620]

SENATOR HADLEY: Senator Harms, you know, a landmark decision many years ago was The Board of Regents v. Exon. And it dealt with the ability of the Legislature to, basically, become involved in how the university spends its money. Is that a problem when we start getting involved with their healthcare and what they're spending their money for in healthcare? [LB620]

SENATOR HARMS: The answer is that, as I look at this...let me just give you some background information of this, okay? [LB620]

SENATOR HADLEY: Okay. That's fine. [LB620]

SENATOR HARMS: The amount of money that they have in that account was, exactly when the Auditor audited it, was \$92.6 million. The issue that we have and what we looked at was the actual raw management of this particular area. In fact, when you look at not only the university but get outside the university and go to the state, we have the highest health insurance in the nation. We have every right to go in and take a look at that. We're not telling them how to manage it. We've given them flexibility to be able to address the issue. But my concern is and I think everybody else's concern is it's being poorly managed, at least on the state side, the university a little bit better. But on...to be honest with you, they had people on the...receiving insurance benefits that weren't even employed. So I think we do have a right to look at that. We're not telling them exactly what they have to do. We've given them some options. We've not put a committee or a commission over them to review it. We've asked them to come before us--with our tax dollars that we have been putting into this program--and we've asked them to come before us so that we can continue to make sure that they manage it appropriately. Ninety-two million dollars is way too much. Now they have agreed to cut it back to \$80 million, and it's based on...the formula consists of what the actuary recommends to cover claims incurred but not yet paid for, plus an amount equal to the additional six months' worth of expenses. So at least they're starting to look at it. They would agree with you that that was too much money. So what we're really trying to get after is, we're

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not getting in there and telling them what they have to actually do, we're getting into the involvement to make sure that it's being done appropriately and our money is being spent appropriately and that our employees at the university or the state are not being charged more than they ought to be charged. [LB620]

SENATOR HADLEY: I certainly understand looking at the state, because I think that's our responsibility. But what I know from The Board of Regents v. Exon, I still have concerns that we're going to sit down now with the university and tell them how much they're going to have to spend or not spend or look...what is the next step? Should we get involved in what they're charging for tuition? [LB620]

SENATOR HARMS: Uh, no. [LB620]

SENATOR HADLEY: They're using state dollars, right, to fund it; that's being offset by tuition. Should we get involved in studying what the tuition increases have been? I just have a concern that...that decision, I think, was an appropriate decision. And if I read this correctly, I think we're getting involved in telling them...examining how they're spending their money. And if we want to do that through the appropriations process, I certainly understand that's a way you can do it. But I think once you start getting into that...I will yield to Senator Harms the rest of my time. [LB620]

SENATOR HARMS: Thank you very much. In fact, when we had the hearing in the Executive Committee, the university came forward and supported this. So they can't feel very strongly about that aspect. They said that it was a creative way to do it, it was the best way to do it, it gives them the opportunity to share... [LB620]

SENATOR COASH: One minute. [LB620]

SENATOR HARMS: Thank you, Mr. President...to share exactly what's taking place. So they couldn't have been too concerned about that aspect, or you would have seen them in the hearing say, hey, we don't want to do this, we think it's wrong; and they would have brought up this very issue you're talking about. Thank you, Mr. President. [LB620]

SENATOR COASH: Thank you, Senator Harms and Senator Hadley. Senator Mello, you're recognized. [LB620]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. And I will not try to reiterate, I think, a little bit what Senator Harms and Krist said. And I appreciate Senator Hadley yielding time to Senator Harms to answer that final question, which...the university did come in support of this measure and particularly because it was part of what Senator Krist mentioned as the oversight responsibility of the Legislature in regard to these funds that we appropriate to the university through our biennial budget process. I think it's wise to know...and I think it's something that Senator

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Harms mentioned in the opening, of where this entire bill started roughly three years ago in regard to the issue being brought forward that Nebraska had the highest insurance costs, for the state insurance plan, in the country. Three years later, with multiple meetings with two different Performance Audit Committees, this is one of the conclusions that came out of the final audit, which said that currently, right now, there is no oversight over these funds, both with the University of Nebraska as well as through the Department of Administrative Services. And you do not need to look any further than the preliminary budget document that was passed out earlier today to show what happens when these funds start to get involved in the budget process, in which the administration in their budget proposal, which the Appropriations Committee also accepted, was a zero percent increase in health insurance costs, in part because what was identified through the Performance Audit, that the state Department of Administrative Services had a surplus of over \$60 million in their trust fund. And thus they were able to draw that trust fund down, and we would not have to provide any additional funds this year for health insurance premium increases. This all came to fruition because of the performance audit that ultimately created LB620. So I think the underlying policy which is drafted and is in front of us today is a very common-sense measure that, yes, we require a variety of state agencies to come in front of a variety of different committees in this body every two years for the simple point of providing oversight in regard to what those committees are doing. This particular instance, the University of Nebraska felt that this was an option that would not infringe upon Nebraska v. Exon, or Board of Regents v. Exon, in the sense of ensuring that we have appropriate oversight in regard to dollars we appropriate to the university, where those dollars go, and ultimately, in this case, what they're doing with this healthcare trust fund. The same applies to the Department of Administrative Services, that this is an appropriate measure to evaluate what are these fund balances every year. And in this particular case the fund balances were so high the Department of Administrative Services and the Governor's budget recommendation called for no increase in health insurance premiums, which was a far cry from prior to the beginning of the legislative session, which...we all had estimated a 10 percent increase each year. Now what the university is going to choose to do with their own surplus in their healthcare trust fund is another issue for another day and which, correctly, as Senator Hadley said, that is not ultimately our decision to make as a Legislature. But, no doubt, it's a conversation that I've had with the university and I imagine other senators have, as well, of what is their...going to be their insurance premium increase costs, knowing they're in a similar position that the Department of Administrative Services is. The underlying aspect, colleagues, is LB620 provides oversight and accountability on trust funds that originally...it's called into question whether there was any real oversight in the first place. And when we're talking of hundreds of millions of dollars in regard to health insurance premiums that ultimately are kind of left outside of the budget process and ultimately are left outside of any one committee's jurisdiction, asking them to come in front of the Appropriations Committee to report on the balances of their fund... [LB620]

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SENATOR COASH: One minute. [LB620]

SENATOR MELLO: ...ultimately what they're planning to do in regard to health insurance premiums, which has been a driving factor in our state budget over the last four years, is good fiscal policy, and it's a good government policy. With that I'd urge you to adopt LB620. Thank you, Mr. President. [LB620]

SENATOR COASH: Thank you, Senator Mello. Senator Krist, you are recognized. [LB620]

SENATOR KRIST: Thank you again, Mr. President. I'll be brief. I just wanted to respond and fortuitously to follow Senator Mello. I doubt, I have a serious doubt that the state and the university would have come in with no additional request for insurance premiums in this area of the budget had they not been, what's the word, "identified," I'd like to say "caught." But had they been identified at the situation that they are, would they have come back in and asked for more? That is part of our oversight responsibility. We need to hold ourself accountable, and we need to hold the state, within their programs, the executive branch, and we need to hold the university accountable. And I would remind you once again, look back at the statute that has existed since the 1800s: the Treasurer of the state of Nebraska is the treasurer of the University of Nebraska. If you want to change that relationship, change the statute. As it exists today, the Treasurer should be the treasurer. Thank you, Mr. President. [LB620]

SENATOR COASH: Thank you, Senator Krist. Seeing no other members wishing to speak, Senator Harms, you're recognized to close on the advancement of LB620. [LB620]

SENATOR HARMS: Thank you, Mr. President, colleagues. I would ask you to support this legislation. I think it gives us a good opportunity to look at the issues that we have identified through Mr. Foley's review in regard to the actual study that was done in depth. We have a chance now to follow through. There are a lot of other issues that we haven't talked about, haven't identified here that the Appropriations Committee will give it the opportunity to review with them. And so I think it's important for us to make sure that we put this in the right place, have the right review done on it, and making sure that the people who are employed are not paying more than they should pay and that appropriate money is being set aside to cover any type of cost beyond what we anticipate. So I would urge you to, please, go ahead and support this. Thank you, Mr. President. [LB620]

SENATOR COASH: Thank you, Senator Harms. Members, you've heard the closing to LB620. The question before the body is, shall LB620 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB620]

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

Floor Debate
February 27, 2013

CLERK: 39 ayes, 0 nays on the advancement of LB620. [LB620]

SENATOR COASH: LB620 does advance. Items, Mr. Clerk. [LB620]

CLERK: Mr. President, Senator Price has selected LB595 as his priority bill for this session. I have confirmation reports from the Transportation and Telecommunications Committee, two separate reports. Senator Brasch offers LR80, LR81, LR82; those will be laid over. Senator Schumacher would like to print an amendment to LB82. A reminder the Exec Board will meet upon adjournment in Room 2102; Exec Board, upon adjournment, Room 2102. Name adds: Senator Wallman to LB376; Senator Bolz to LB397; Senator Campbell to LB632. (Legislative Journal pages 544-546.) [LB595 LR80 LR81 LR82 LB82 LB376 LB397 LB632]

And a priority motion: Senator Johnson would move to adjourn the body until Thursday morning, February 28, at 9:00 a.m.

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