

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

Floor Debate  
March 13, 2013

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[LB23 LB104 LB105 LB154 LB205 LB208 LB232A LB263 LB310 LB313 LB384 LB388  
LB407 LB410 LB439 LB442 LB464 LB476 LB477 LB487 LB505 LB507 LB513 LB530  
LB551 LB553 LB568 LB577 LB590 LB612 LB623 LB644 LB648 LR41CA LR83 LR96  
LR97]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-first day of the One Hundred Third Legislature, First Session. Our chaplain for the day is Pastor Lance Burch from the Shadow Lake Community Church in Papillion, Nebraska, Senator Kintner's district. Please rise.

PASTOR BURCH: (Prayer offered.)

SPEAKER ADAMS: I call to order the forty-first day of the One Hundred Third Legislature, First Session. Senators, 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: (Read corrections, Legislative Journal page 675.)

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

CLERK: I have a series of priority bill designations. The Retirement Systems Committee, chaired by Senator Nordquist, has selected LB263 and LB553 as the committee priorities. Senator Hadley has selected LB23; Senator Wightman, LB487; and Senator Campbell, LB577. I also have an amendment to be printed to LB612, Mr. President, by Senator Mello. That's all that I have. (Legislative Journal pages 675-676.) [LB263 LB553 LB23 LB487 LB577 LB612]

SPEAKER ADAMS: Thank you, Mr. Clerk. We'll now proceed to the first item on the agenda. Mr. Clerk.

CLERK: Mr. President, Senator Pirsch would move to withdraw LB648. [LB648]

SPEAKER ADAMS: Senator Pirsch, you are recognized. [LB648]

SENATOR PIRSCH: Thank you, Mr. President, members of (inaudible). I would just ask to withdraw this LB648. There's a number of issues involved in this that we're going to use the interim to discuss the best approaches. With that, I'd ask you to withdraw the bill. [LB648]

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SPEAKER ADAMS: Thank you, Senator Pirsch. Members, the question before the body is the withdrawal of LB648. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB648]

CLERK: 28 ayes, 0 nays, Mr. President, on the motion to withdraw LB648. [LB648]

SPEAKER ADAMS: The bill is withdrawn. Next item. [LB648]

CLERK: Senator Davis would move to withdraw LB644. [LB644]

SPEAKER ADAMS: Senator Davis, you are recognized. [LB644]

SENATOR DAVIS: Thank you, Mr. President. I move to withdraw LB644. A review of some provisions in LB644 reveal the need for additional research which will be conducted during the interim. Therefore I ask permission to withdraw LB644 at this time. [LB644]

SPEAKER ADAMS: Thank you, Senator Davis. Members, you have heard the motion. It is the motion to withdraw LB644. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB644]

CLERK: 28 ayes, 0 nays, Mr. President, on the withdrawal of LB644. [LB644]

SPEAKER ADAMS: LB644 is withdrawn. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR83. (Visitors introduced.) Mr. Clerk, first item. [LB644 LR83]

CLERK: Mr. President, LR41CA proposes an amendment to Article III, Section 24 of the Nebraska Constitution. Relates to historic horse racing. The resolution has been discussed. When the Legislature left the issue yesterday, Senator Lautenbaugh had pending AM581 as an amendment to the bill. And he also had an amendment to that amendment, FA26, pending as an amendment to that amendment. FA26 is the item before us at this time, Mr. President. (Legislative Journal page 661.) [LR41CA]

SPEAKER ADAMS: Thank you, Mr. Clerk. Senator Lautenbaugh, can you get us started this morning with a brief overview of your floor amendment? [LR41CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Good morning, members. Good morning, Wilber. For those of you who have been following this you may recall this is a constitutional amendment designed to authorize historic horse racing in Nebraska. It has been modified by or hopefully will be modified by AM581 to simplify the language I would argue from what was originally proposed. What it simply states, what it will simply

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state, is that we will be authorizing in the constitution with the floor amendment wagering on horse racing that is live or replayed. And what that would do with the addition of replayed to our constitution would be authorize these terminals, one of which was on display as you'll recall down in Legislative Research that replays horse races without the specifics of date and time and individuals involved, horses involved for wagering purposes in the pari-mutuel method. I would ask your support of FA26 and then your support of AM581 and your support of the underlying constitutional amendment. Thank you, Mr. President. [LR41CA]

SPEAKER ADAMS: Thank you, Senator Lautenbaugh. The floor is now open for debate on FA26 to AM581. Seeing no lights...Senator Chambers, you're recognized. [LR41CA]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I would like to ask Senator Lautenbaugh a couple of questions. [LR41CA]

SPEAKER ADAMS: Senator Lautenbaugh, would you yield? [LR41CA]

SENATOR LAUTENBAUGH: Yes, I will. [LR41CA]

SENATOR CHAMBERS: Senator Lautenbaugh, where will this wagering occur? What is the site where this wagering will occur? [LR41CA]

SENATOR LAUTENBAUGH: It would be authorized presumably with authorizing legislation at licensed racetrack facilities. [LR41CA]

SENATOR CHAMBERS: Now in the green copy, you were going to put into the constitution the requirement that it be a licensed racetrack where live racing occurs. Your amendment that you have before us now struck that requirement for it to be a track where live racing occurs, doesn't it? [LR41CA]

SENATOR LAUTENBAUGH: It is not in the amendment that I offered or agreed to with Senator McCoy on, that's correct. [LR41CA]

SENATOR CHAMBERS: And it's nowhere else in the existing language of the constitutional amendment, is it? [LR41CA]

SENATOR LAUTENBAUGH: Much like anywhere else in the constitution regarding current wagering on live horse racing, that's correct. [LR41CA]

SENATOR CHAMBERS: Now when it says at a licensed racetrack, there doesn't have to be any actual racing occurring there ever, does it, based on what this constitutional amendment says? [LR41CA]

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SENATOR LAUTENBAUGH: Under our laws there does, yes, Senator, not under the constitutional amendment, no. [LR41CA]

SENATOR CHAMBERS: But a law can be repealed, can't it? [LR41CA]

SENATOR LAUTENBAUGH: Yes. [LR41CA]

SENATOR CHAMBERS: And if interests were strong enough, they could persuade the Legislature to do away with the requirement that there be live racing at any point where this gambling occurs, isn't that true? [LR41CA]

SENATOR LAUTENBAUGH: That is certainly true. [LR41CA]

SENATOR CHAMBERS: Thank you. Members of the Legislature, there are things happening that it would be wise if the members paid attention to. There has been much discussion in the papers prior to the session about attempts to fabricate live racing. One such race lasted 18 or 19 seconds. Did you hear me? That's what these honest people were doing. Falsifying, fabricating, playing a fast shuffle on the public by running a race when there was snow in other places or it was cold that lasted 19 seconds so that they could qualify for having had live racing. Senator Lautenbaugh's original amendment proposal required live racing at this enclosure where the gambling would be allowed. With the amendment he has now, all of that was stricken. All you need to have is a licensed racetrack. He is absolutely correct in saying that the statute can determine what constitutes this enclosure and the requirements for obtaining a license. But if the members on this floor can be bludgeoned and tricked into amending the constitution in a way that's detrimental not only to the public but to the constitution itself, do you think I believe that this Legislature would withstand an attempt to amend a statute so that there's no longer a requirement that there be live racing where this gambling occurs? There is not even a definition that you can rely on of what constitutes this racetrack. [LR41CA]

SPEAKER ADAMS: One minute, Senator. [LR41CA]

SENATOR CHAMBERS: What is an enclosure? Anything the Legislature says it is. And I think that the Legislature is being dealt with in a way that is trifling because the people pushing these amendments know how inattentive the legislators are. They come here in the morning. They have other things on their mind. They're thinking about what's going to happen the rest of the day, if they're thinking at all. And a very significant matter related to the constitution is slid right past them. Thank you, Mr. President. [LR41CA]

SPEAKER ADAMS: Thank you, Senator Chambers. And, Senator, you're in the queue again. [LR41CA]

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SENATOR CHAMBERS: Thank you. Mr. President, unlike some of my colleagues, my principles don't take a vacation. They do not go into recess. As long as we are in session and functioning as a Legislature, I'm going to function as a responsible, principled legislator. And my job if nobody else undertakes to do it is to not only protect the constitution from being savaged, but to protect the public from having a sham foisted on them by this Legislature. When these people run for office, I'm sure every single one of them will make the claim which turns out to be false in practice that they're going to look out for the interests of the people of this state, that they're going to abide by the constitution and the laws. They're going to take their oath of office seriously. And by the way on this matter of oath, the U.S. Constitution specifies the language that must be in the oath of office for every member of every Legislature in this country, and that language was lifted verbatim and put into the Nebraska Constitution. And in neither constitution is any reference to God. And the Constitution of the United States requires that that oath says swear or affirm. Affirm is in the U.S. Constitution. Every place where an oath is required by that constitution, the word affirm accompanies it. Whether it's an oath of office, an affidavit by an officer trying to obtain a search warrant, when the U.S. senators sit as a court of impeachment. Anybody being sworn into office not just legislators but other state officials must subscribe to that oath that I mentioned to you. The Nebraska Supreme Court in reviewing the language of that oath stated in an opinion for those lunkheads who can't read the constitution and understand it as it's written stated specifically these words are exactly the words that must be in the oath administered to people taking that oath of office in this state. And the word affirm accompanies that requirement that you swear. But there are statutes which require people to swear without allowing the affirmation. And I want the statutes to comply with the constitution. And when I had to fill out a document to run for the Learning Community Council, it said that I swear. I drew a line through that word swear and above it wrote affirm because that's what the constitution says. And you know what Secretary of State Gale said to me? He kind of chuckled, he said: Senator, you make things so difficult. I said: but am I right? Well, yes, you're right. I'm always right on these things. Do you know why? Because I pay attention and I read and prepare myself. You know why I'm always right when I come to a stop sign and stop or a traffic light that's red, not blinking, and will stop and even if it is blinking I will stop? Because I have read what you are required to do in those circumstances. It was not by divine revelation. Divine revelation, if there's such a thing, is reserved for much more serious things... [LR41CA]

SPEAKER ADAMS: One minute. [LR41CA]

SENATOR CHAMBERS: ...than a stop sign, a traffic light, or the form of an oath. And there are people in this state who are so ignorant of the constitution and the laws that they think I'm trying to take away their right to worship. The First Amendment is as important as the Second Amendment and I say more so where these people are yipping and yapping about the right to carry guns. But they don't care about that primary First

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Amendment or the provisions and the original body of the Constitution unamended that requires every oath to also allow for affirmation. Thank you, Mr. President. [LR41CA]

SPEAKER ADAMS: Thank you, Senator Chambers. (Doctor of the day and visitors introduced.) Continuing on with debate. Senator Lautenbaugh, you're recognized. [LR41CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I won't belabor this point. As all of you know, we did in the interest of compromise agree to the amendment yesterday to keep this moving forward. It is no one's intent to have these terminals at anywhere other than licensed racetracks where racing takes place. The whole point of this is to promote live racing. And if there needs to be an amendment on Select File to clarify that we surely will. No one is trying to sneak anything by anyone. This remains about live racing, this remains about jobs, and that is and always will be the focus. Thank you, Mr. President. [LR41CA]

SPEAKER ADAMS: Thank you, Senator Lautenbaugh. Senator Chambers, you are recognized. [LR41CA]

SENATOR CHAMBERS: Mr. President and members of the Legislature, once again you're being told an amendment may be necessary but don't do it now. They are going to have to try to invoke cloture. They want this bill in the form that it's in now. They've done all of this work. I was not invited to any of the sessions. But when you're crafting language, say what you mean and mean what you say. How many days and hours have we spent on this proposal and still amendments are needed because Senator Lautenbaugh has agreed to strike necessary language that was in his green copy from the amendment that he has given you? He tells you it is not the intention of anybody to allow this gambling where live racing does not occur. Then why did he strike it from the constitutional amendment? What harm would there be if you're going to foist this kind of wrongful conduct or activity on the society, what is wrong with putting that restriction and that protection into the amendment that is being considered now? Not one amendment that has been offered so far or considered was mine. The amendments, by and large, are from those who support this thing who drafted it in the first place, and they did not get it right, not once, not twice, not three times, not four times. They are not getting it right because they have, and maybe they don't have it, they're showing contempt for this Legislature. They are showing contempt for our process. We should be more...we should have more pride in the work product that comes from us. But if you don't pay attention, how can you know? I'm sure they had prayer this morning. I didn't have my gadget on downstairs, so I didn't get to hear what was asked in the prayer. But I think it was "Paul the Imposter" who...oh, some people call him Paul the Apostle, who said: How can they know if they are not taught; how can they teach if they are not sent? My job is to serve as a teacher and it shouldn't be that. You all have the same responsibility that I have to read this legislation. You have the same responsibility that I

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have to see that the product that emerges from this Legislature is done in a way that is decent and in order. This is not an orderly process that we are engaging in. You're being told, forget that it was sloppily done, forget that it was done in haste and a slapdash manner, forget that it does not say what people who are pushing it intend it to say. Then who's intent are you advancing? If the language does not contain the intent that those who are pushing this proposal have in mind, why are you going to continue pushing it forward? And I ask again, who's intent is here? The gambling industry wants only one thing--the authorization to increase gambling. The authorization to increase gambling. Senator Lautenbaugh... [LR41CA]

SPEAKER ADAMS: One minute, Senator. [LR41CA]

SENATOR CHAMBERS: Did you say time? Oh. Senator Lautenbaugh and his minions feel that they could argue if you just put the language that's here, then they could say there must be some way to carry it out so that must be done by machines. But this is not a self-executing provision in the Constitution. This language alone will not authorize those machines. If anybody is willing to give me time, I will take it. But even if you don't give it to me on this particular proposal, I'm going to create the time for myself. Thank you, Mr. President. [LR41CA]

SPEAKER ADAMS: Thank you, Senator Chambers. Senator Lautenbaugh, you're recognized. [LR41CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I know as always my minions are paying attention but I hope the rest of you are too. Thank you, Senator Nordquist. He's nodding over there. I don't know if he's a minion or not, but either way I'll take it. I misspoke earlier when I said if there was an amendment on Select File we'd go...needed we'd go forward with it because I would direct everyone to the language that remains in the constitution. Again, all we're adding is live or replayed, and then right below it, it says in the existing constitution, when such wagering is conducted by licensees within a licensed racetrack enclosure. So that's in there, folks, and we're not taking it out. So I have to be honest, Senator Chambers, I don't understand your concern. And in the interest of comity--and you can spell that however you want--I'll yield my time back to you and you can respond if you'd like. [LR41CA]

SPEAKER ADAMS: Senator Chambers, you're yielded 3 minutes, 50 seconds. [LR41CA]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Lautenbaugh. This morning and on other occasions, you are behaving as a true gentleman, I would like to say a scholar. But Senator Lautenbaugh merely underscored what I have been saying. It says a licensed racetrack. In his original amendment where he was trying to limit and restrict where these machines would be in order to get your vote, his green

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copy says on page 3 in line 19: where live racing occurs. If you go one line above it: when such wagering occurs at a licensed...at licensed racetracks where live racing occurs. He eliminated that from his present amendment. I pointed out that the present language in the constitution simply says: a licensed racetrack. It doesn't say that there has to be racing there. If I get a license to have a casino, to build a casino, I can build that building and call it a casino even if I never play a game there. If I am allowed to conduct professional prize fights, I get that license, I don't have to ever conduct a prize fight. But if I say in the constitution that there can be wagering on prize fights when the prize fights occur in a licensed facility where live prize fights occur, then you've got to gamble where the fight is being carried on. You can license a facility and call it a racetrack, but there may be no racing occurring there. Are there tracks in Nebraska right now where racing live is not occurring? Before Ak-Sar-Ben went out of business, the racing had stopped but it was still known as Ak-Sar-Ben racetrack. You designate what it is, but it is not that because of its operation. It's that because you met the requirements to get a license to call that facility by that name. [LR41CA]

SPEAKER ADAMS: One minute. [LR41CA]

SENATOR CHAMBERS: Once called by that name, there are activities that can occur such as the racing. But if you simply have naked language in the constitution saying the wagering will occur at a racetrack that is licensed, it does not indicate there has to be a race there. And I've shown that based on the facts that exist in this state, there are tracks called racetracks where live races are not occurring, where they did not occur. But that didn't take away the designation of racetrack. Senator Lautenbaugh struck from his green amendment the requirement that there be live racing. How much difficulty will there be or would there have been in inserting that language as different forms of language have been inserted repeatedly already? Thank you, Mr. President. [LR41CA]

SPEAKER ADAMS: Time, Senator. Senator Schumacher, you're recognized. [LR41CA]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the Legislature. Let's put this all in a little bit of context. What we're arguing about is a section of the constitution, the only one like it, that limits the legislative authority of this body. It started out back in the days of 1867 as saying very simply: the Legislature shall not authorize divorce or games of chance. It was one of those futile attempts like prohibition to try to legislate into a constitution a operative document of government, a fundamental operative document, the social or economic mores of a particular piece of time. Imagine if we would have gone through on the divorce side of the question what we're going through on the gaming side of the question. If we'd have said, okay, instead of just eliminating the line that said we can't authorize divorce, we'd have had great debates on whether or not we should say divorce shall not be authorized except in the case of adultery. And I could hear us arguing on this floor that there had to be three incidents of adultery before it could be authorized and where the comma should go and how we

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should propose it to the voters in the event of adultery. And then a few years later down the road, we go and say, well, how about in physical cases of abuse. What is physical? And we'd have around and around debate here because the people who were against the scourges of divorce would have come in and made their case even though they only represent about 30 percent of the population. And then we'd have had another go-around years later about mental causes of divorce and whether we should authorize them, and that had gone back to the voters again and again. And then how about later abandonment for more than a year. And that have gone back. And, finally, we got rid of it all together with a no fault and taken that to the voters. But we did the wise thing in the case of divorce. We just simply took that archaic notion out of the constitution to leave us debate here on the floor whether...what the rules for divorce should be. We are going through the gaming side of this. We've done horse racing. Now we're doing dead horse racing. We've done charitable gaming. We've done the state lottery. When, in fact, what we are really underpinning and looking at is we are looking at the nonsense of trying to legislate on a specific issue of what some perceive as morality in a constitutional document. These restrictions are legislative matters. They are not constitutional matters and we should abhor the nature that we're going through this type of nitpicking overs something, dead horse racing which really isn't dead horse racing at all. It is a random-number generator picking a set of numbers determined by a horse in a prior horse and letting somebody bet on the selection of that random-number generator, Class III gaming. So, folks, maybe this whole approach is simply wrong and maybe we should start thinking in a bigger picture when it comes to the gaming issue. Seeing how we are surrounded by states that allow it and whatever harm there is to gambling is already occurring and we just happen to be coming short to the tune of about \$80 million a year in taxes, \$400 million a year in exported revenue, which has a multiplier effect of 1.75 according to recent testimony before the Revenue Committee. Maybe we should look at the big picture. Thank you. [LR41CA]

SPEAKER ADAMS: Thank you, Senator Schumacher. Senator Bloomfield, you are recognized. [LR41CA]

SENATOR BLOOMFIELD: Thank you, Mr. President, and so that he can keep on walking the line, I yield my time to Senator Chambers. [LR41CA]

SPEAKER ADAMS: Senator Chambers, you're yielded 4 minutes and 50 seconds. [LR41CA]

SENATOR CHAMBERS: Thank you. How many minutes? [LR41CA]

SPEAKER ADAMS: Four minutes, fifty seconds. [LR41CA]

SENATOR CHAMBERS: Four minutes. Thank you, Mr. President. Members of the Legislature, when somebody attempts to give the kind of argument that we just heard by

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saying if-then, that's how you get people on a slippery slope. Our thinking as legislators must be nuanced. There was a guy who said: My kingdom for a horse. I say if I had a kingdom, my kingdom for nuanced thinking by legislators. You are not bound to follow the kind of argument that was given. Divorce and adultery and such things as that have nothing to do with the gambling we're talking about here. We are being asked to foist something on the public which has devastated societies wherever it has existed. In Iowa where they have it--and I don't like to go into what other states have done--they've had problems. They had I think gambling on a riverboat. Then they had to get rid of the riverboat and put it somewhere else and just back and forth because racing was not the issue but gambling. We're talking not about gambling. If Senator Bloomfield likes racing, then he would come up with something to advance racing. If Senator Schumacher liked racing, he would come up with something that relates to live racing. Since we are being asked to put something into the constitution, this was brought not by me. This was brought by the gambling interests. If it's foolish, they are foolish. But they're more than foolish, they are venal. They are greedy. They are wrong. But I don't care how many people are doing wrong. That does not justify what we as legislators do in doing the wrong also. I guess my colleague, I won't call my colleague's name, who says there's gambling all around the state, other states are doing it, Nebraska should too. So you live in a neighborhood where there's a guy who beats his wife. Well, since she's going to be beaten anyway, why don't you go and beat her also? You've got those priests who rape little boys. Why don't you go rape little boys, too, because the priests are doing it? Does that make it right? The very ones who make those arguments will pray on this floor, and then if you got them in a different kind of argument they're the ones who would say morality is not relative. Morality does not depend on what people are doing at a given moment. Morality is not determined by our popularity vote or popularity contest. Morality inheres in certain basic principles which you attempt to set out and establish as to why they're basic and show that they carry humankind toward the fulfillment of a destiny which can simply be stated in this manner: Learn how to treat people the way you want to be treated. In that, you find all of the teaching of the laws and the prophets. That is it. This gambling devastates people. It's not going to advance those values that are going to make society a better place. [LR41CA]

SPEAKER ADAMS: One minute. [LR41CA]

SENATOR CHAMBERS: Everybody knows that. And it's why even those who support this that is being presented to us have never stood on this floor and said this advances the goals of a civilized, maturing society, and a society ought to mature as the result of gaining increased enlightenment. It's not enough for a few people called artists of various kinds to be mature and advanced and creative. It's the job of those of us who care about humankind to try to lift the level of understanding of everybody. That's why you have public schools. Thank you, Mr. President. [LR41CA]

SPEAKER ADAMS: Thank you, Senator Chambers. Senator Scheer, you're recognized.

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[LR41CA]

SENATOR SCHEER: Thank you, Mr. President. I would yield the time to Senator Chambers. [LR41CA]

SPEAKER ADAMS: Senator Chambers, you've been yielded 4 minutes and 50 seconds. [LR41CA]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Scheer. When a motion is made to end all debate, I will watch to see if there's at least 16 other members besides myself who will not vote to cut off all debate on this matter and let it fly on a hope and a promise. You've heard one person indicate that we're nitpicking now. I will let what I do when it comes to the constitution be labeled anyway anybody chooses to label it. If it's nitpicking, nitpicking I shall continue to do. For people who don't know, a nit is a baby louse or the egg of a louse. And those very fine-toothed combs pick nits out of people's hair because they're too small to slide between those teeth. So when you nitpick, it's not necessarily negative, and the original meaning of the term had to do with health, hygiene, sanitation, prevention of the spread of undesirable...I won't say diseases because I don't know whether these little creatures carry diseases. So to nitpick is what we ought to do when we're dealing with the constitution. Wasn't it said yesterday originally by somebody other than myself yesterday that every word, every comma, every semicolon, every "t" being crossed, every "i" being dotted, although that person was more biblical and said every jot and tittle had to be taken care of. So we must jot every "t", we must tittle every "i" when we're talking about the constitution. Nothing is supposed to be viewed as surplusage. This constitution does place limits on what the Legislature can do. If you don't put a requirement in the constitution, then what I'm saying the Legislature can do because it has the authority to do anything not prohibited by the constitution. The Legislature can define racetrack any way it chooses, any way it chooses. And since you now by law have established what a racetrack is, you then can put the gambling activity if you can surmount the hurdle that exists against slot machines. And these machines, what do they say? If it walks like a duck, looks like a duck, quacks like a duck, it's a misguided Nebraska legislator being told by the gambling industry: Do not speak truth. Do not use intelligent argument. Instead when you get up to the microphone say, quack, quack, quack, quack, quack, and waddle up and down the aisle. That's what we're being asked to do. Well, remember Nixon raised his two hands and said, "I am not a crook." He said that. But did that make it so? [LR41CA]

SPEAKER ADAMS: One minute, Senator. [LR41CA]

SENATOR CHAMBERS: I am not a duck. And we know a tree by the fruit it bears. We know a bird by the song that it sings. We know an intelligent person by what comes out of that person's mouth. And Senator Schumacher knows that of the abundance of the

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heart the mouth "speaketh." But since I have no heart, you have to say of the abundance of the brain, this mouth "speaketh." And as I have pointed out, a loaded brain is more powerful than a loaded gun, unless you're in a gunfight. This morning, there are important issues yet to be resolved by us. And if you're going to let it all be cut off by means of cloture, then I think our responsibility is being abdicated as a Legislature, as an institution, as one of the three branches of government. [LR41CA]

SPEAKER ADAMS: Time, Senator. [LR41CA]

SENATOR CHAMBERS: Thank you, Mr. President. [LR41CA]

SPEAKER ADAMS: Senator Schumacher, you're recognized. [LR41CA]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the Legislature. There are two issues on the nitpicking. One is we are forced to nitpick at the constitution because it is a futile attempt to try to regulate mores and regulate economies in tune with something that happened in 1867. And so over the years, we've nitpicked to try to get those nits out of there--the prohibition against divorce, the prohibition against horse racing, etcetera. And we maybe should just nitpick the whole thing out. But that's not what we're faced with today at least. What we're faced with today is something that Senator Chambers is very right on. The amendment before us, AM581, right now has a fatal defect. And the fatal defect is the word "and" requiring that the wagering be on something that is both dead and alive. Played and replayed. I has to be live or it's something that's in the past. And we need to fix that before we can even think about a cloture vote. Senator Lautenbaugh has suggested a way to fix it, and that is with the word "or" and pulling out the word "delayed". Delayed presumably was in there because as all of us have over-the-air television and also satellite realize that there is a delay between the time a signal is gotten to you by one method and gotten to you by another method, sometimes 10, 15 seconds. And if you were on a cell phone real quick, you may be able to beat the signal and cheat the game. So I can understand why that originally was in there and not quite sure why it was taken out now. So there is legitimate issues of debate that are remaining yet but we're not going to get to those legitimate issues of debate on this issue if we just keep going in circles on it. So I think that we have to fix this, otherwise it's total nonsense regardless of the underlining merit. So Senator Lautenbaugh's attempt to fix it and Senator Chambers it right. It...apparently you would no longer have to, if the votes in the Legislature were there, have it at a place where the races were actually conducted. But if the Legislature makes that rule, the Legislature has spoken. And that's, again, underscoring the total nonsense of this approach to governance by constitutional prohibition of a limited segment of things. One has to wonder: Why didn't the constitution say something about the death penalty and limit the authority of the Legislature one way or the other in that? There should always be a death penalty by hanging or firing squad or there shall never be a death penalty. Because those are legislative questions. And we are dealing and we dealt almost every

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year for the last many years as people struggle with the fact that we're bleeding money to Iowa with trying to get a rational gaming response through a constitutional mechanism, and that is really, really hard to do because of the complexities involved. Thank you, Mr. Speaker. [LR41CA]

SPEAKER ADAMS: Thank you, Senator Schumacher. Senator Christensen, you are recognized. [LR41CA]

SENATOR CHRISTENSEN: Thank you, Mr. President. You know, as we're coming up, I just kind of wanted to again speak about the gambling part of it and how I oppose it. And I'm not sure if we've even went through, maybe we've done a cloture vote already this year, but I just wanted to kind of explain because I know last year that a few people got confused on it, at least I felt that they did in visiting with people. You know, the cloture vote is to support gambling to go forward. If you vote against it, that's how you kill it if you don't like it. That's what Senator Chambers was talking about. He needs 16 besides him. I'm one of those and I'm going to vote no on cloture because I think it's important. That's my belief and that's why I'm opposed to the bill. And I just want to make sure everybody realizes how they're voting. Because a lot of people will ask you, give us a cloture vote. You can vote against the bill. That's because they're wanting to move the standard from 33 votes back down to 25. They just say they want and even up/down vote. This is within our rules. This is the way we operate here. And it is the ability that we give ourselves to put up high standards for the things that we're doing if it's that important, and this is one of them issues that's very divided and very important to the state. So I want to make sure you realize when it comes to 10:30 or whatever time we're going to the cloture vote that if you vote for the cloture, then you're voting in support of gambling. If you vote against it, you're opposing gambling. And I just want to make sure that's clear to everybody because I have seen people come up and say, wow, I didn't realize what I was doing or I was convinced to throw them a vote. And then now we got it done. Now you got it passed forward. So I just wanted to explain how that works a little bit. Just remind people, you know, stick to your guns. If you oppose it, vote against cloture. So anyway, I would yield the balance of my time to Senator Chambers if he'd like it. [LR41CA]

SPEAKER ADAMS: Senator Chambers, you're yielded two-and-a-half minutes. [LR41CA]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Christensen. I want to for the record, whether anybody on this floor pays attention or not, read what is in the constitution now. And I hope Senator Bloomfield is paying attention, and I see him skewering me with his eyes so he is either paying attention or pretending to. The current language when we're talking about bingo of all things. Bingo. Bingo games, they are allowed to be conducted by nonprofit associations which have been in existence for a period of five years immediately preceding the application for the license. Why? He's

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talking about nitpicking. Why say it needs to be in existence five years before somebody applies for a license? And that's not all. Bingo games cannot be conducted by agents or lessees of such association on a percentage basis. What difference does it make? That's in the constitution. So to stand here and say that you should not be considering legislation carefully that would open the way to slot machines, that we shouldn't consider the legislation preposterous. We're doing exactly what we ought to do. And what Senator Bloomfield said is what the gambling interests would love to hear. Don't even worry about it. But the current provision of the constitution knowing at the time that the language was put there, the ones who put it there... [LR41CA]

SPEAKER ADAMS: One minute. [LR41CA]

SENATOR CHAMBERS: ...said that wagering on the results of live horse races can occur if or when such wagering is conducted by licensees within a licensed racetrack enclosure. The only thing that was done in these enclosures at this time was horse racing. The language that is in the constitution now refers to a racetrack where live horse racing occurs. You're getting rid of that requirement now for the sake of the gambling industry. You want to allow them to put these machines in a place that the Legislature calls a racetrack even though no live horse racing occurs. [LR41CA]

SPEAKER ADAMS: Time, Senator. [LR41CA]

SENATOR CHAMBERS: Thank you, Mr. President. [LR41CA]

SPEAKER ADAMS: There are no other lights on. Senator Lautenbaugh, you are recognized then to close on FA26. [LR41CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. To be brief, this floor amendment simply amends AM581 to insert the language so it reads "live or replayed" on lines 10 and on lines 24 and 25, I'm sorry, 25. And I would urge your support of FA26. Thank you, Mr. President. [LR41CA]

SPEAKER ADAMS: Thank you, Senator Lautenbaugh. The question before the body is shall FA26 be adopted to AM581? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. Senator Lautenbaugh. [LR41CA]

SENATOR LAUTENBAUGH: I'd request a call of the house. [LR41CA]

SPEAKER ADAMS: 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. [LR41CA]

CLERK: 34 ayes, 0 nays to place the house under call. [LR41CA]

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SPEAKER ADAMS: 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 leave the floor. The house is under call. Senator Davis, Senator Watermeier, please return to the Chamber. The house is under call. Senator Watermeier, the house is under call. Senator Lautenbaugh. [LR41CA]

SENATOR LAUTENBAUGH: I'd request a roll call vote. [LR41CA]

SPEAKER ADAMS: Mr. Clerk, there's been a request for a roll call vote in regular order. [LR41CA]

CLERK: (Roll call vote taken, Legislative Journal pages 677-678.) 30 ayes, 12 nays, Mr. President, on adoption of the amendment to the amendment. [LR41CA]

SPEAKER ADAMS: AM26 is adopted. Mr. Clerk. We raise the call. [LR41CA]

CLERK: Mr. President, Revenue Committee will meet in Executive Session now in Room 2022--Revenue Committee, now in Room 2022. Some items, Mr. President, thank you. Transportation reports LB154 to General File, LB623 to General File with amendments. Natural Resources reports LB477 and LB513 to General File, LB388 to General File with amendments. Banking reports LB384 and LB442, both to General File with amendments. Those all signed by the respective chairs. New A bill: Senator Lathrop LB232A (Read LB232A by title for the first time.) A confirmation report from the Natural Resources Committee. And an announcement of an Executive Session tomorrow, Mr. President, by the General Affairs Committee at 10:00. (Legislative Journal pages 678-682.) [LB154 LB623 LB477 LB513 LB388 LB384 LB442 LB232A]

Mr. President, the next amendment with respect to LR41CA, Senator Chambers. Senator, I have FA25. Withdraw. Mr. President, Senator Chambers would move to amend with FA27. (Legislative Journal page 682.) [LR41CA]

SPEAKER ADAMS: Senator Chambers, you are recognized to open on your floor amendment. [LR41CA]

SENATOR CHAMBERS: Come in. I always respond when somebody knocks on the door. Mr. President, members of the Legislature, I don't see Senator Krist here, but what this amendment would do is to strike and show as stricken (2) and (3). That would remove from the constitution the authorization of a state lottery. Then it would remove in (3) the power of the Legislature to establish a lottery. And it declares how that money derived from the lottery will be spent. When I see on page 2 in line 3 beginning, "The first \$500,000 after the payment of prizes and operating expenses shall be transferred

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to the Compulsive Gamblers Assistance Fund." That will be stricken along with all these sweeteners that were used to get otherwise ethical people to vote for it. Forty-four percent of the money, forty-four percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Nebraska Environmental Trust Fund. How in the world would you be able to get people who are concerned about the natural environment to vote for gambling when to do so is going to harm the human capital? Give them some money. So you co-opted those people who work for the environment by giving them some money. Then 44.5 percent of the money remaining after those payouts will go for education. How do you corrupt the people in Senator Kolowski's chosen profession, the realm of education where you are supposed to help develop the well-rounded individual, the one who can think? Use the mind and combine with others to improve a society through collaborative efforts to make possible the striving to achieve happiness. Happiness is very important. Few people ever achieve it. There are some philosophers who say that the goal of the human being is to find happiness. And everything the person does--everything--is designed to carry that person toward what he or she thinks will make him or her happy. If you rob a bank, they asked "Willie the Actor" Sutton who could also escape from prisons and jails, why do you rob banks. He made the classic response, that's where the money is. "Willie the Actor" Sutton did not just want the money, he wanted money to be able to purchase the things that he thought would make him happy. There is a difference between pleasure and happiness. He found pleasure in outsmarting those who put him in a cage. He found pleasure in taking the improperly distributed wealth from those who were holding it. But he did those two things that gave him pleasure hoping to find happiness through the use of that money that he got. So how do you corrupt educators? Give them some money. The "Bible" does not say the love of money. It doesn't say money is the root of all evil. It says the love of money is the root of all evil, because it says in another place money "answereth" all things. And some people in a song said, money can't buy happiness, but it buys everything else that will bring you close to thinking that you've got happiness. Ray Charles said, the best things in life are free, but you can tell that to the birds and the bees. Senator Carlson, I want money. That's what his song said. That's all I want. I want money. Because money is what everybody is seeking, everybody except me but also me because there are bills I have to pay and I need money to do so and I pay my debts. I'm the only person who in the FBI files was given a stellar credit report. They wrote, he pays all of his bills on time. That's what the FBI discovered. They were checking, and I was a young man when they started, checking what I bought on credit. They were probably shocked I had credit. Some guy condemned me in the paper by saying that I'm against license plates that emblazon and advertise the service somebody has been in, and he said obviously Chambers had never been in the military. Well, I have an honorable discharge, not general, not dishonorable. And the FBI reports indicate how when they went to the reserve unit to which I returned, the FBI questioned my fellow soldiers as to whether or not I'm loyal. That's the way this country whose uniform I wore was doing to me through the FBI. Is he loyal? J. Edgar Hoover gave

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orders from the people who took care of national security to reexamine again and again what I said and did to see if I violated any federal laws so that I could be prosecuted. Did my having been in the army and gotten a honorable discharge mean anything to J. Edgar Hoover? No. And people should not talk what they don't know. And I will fight against every kind of license plate message that comes across this floor. I don't care what they try to honor. A young man, he was young at the time, wrote a play and others have tailgated on it about a man who sold his soul to the devil, Faustus. And this young man died in his mid-20s as the result of an injury he sustained in a tavern fight. He was stabbed through the eye. And although I enjoyed reading his play, that wasn't the only writing he had done, it's a statement he'd made: Cursed be he that invented war. War is not to be glorified. War is not to be glamorized. Not everybody who participates in a war is a hero. Not everybody who kills is a hero. Lieutenant Calley killed a large number of people, but they happened to be unarmed women and babies. And they didn't give him the congressional medal of honor even though I offered a resolution on the floor of the Legislature to see if those who supported the Vietnam War would give...recommend him getting the congressional medal of honor for doing what war leads people to do, and particularly and especially the people from America who were in a country where they had no business in the first place, defoliated it, destroyed the population, destroyed infrastructure. Dow Chemical Company balanced its budget for I don't know how many years from making napalm and defoliants to use against those nonwhite Asian people, the inferior people. Well, what I think is that there ought to be... [LR41CA]

SPEAKER ADAMS: One minute, Senator. [LR41CA]

SENATOR CHAMBERS: ...proper education. And the thing that education ought to teach if nothing else is to make your conduct comport with what you say you believe. And since the Legislature believes in gambling, it should not have the charge of hypocrisy along with it by pretending to be concerned about compulsive gamblers. So I want to strike that language from the constitution. Thank you, Mr. President. [LR41CA]

SPEAKER ADAMS: Thank you, Senator Chambers. (Visitors introduced.) Senator Krist, you're next in the queue. [LR41CA]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues, and good morning, Nebraska. I just need to clarify something with Senator Chambers if he wouldn't mind yielding for a few minutes. [LR41CA]

SPEAKER ADAMS: Senator Chambers, would you yield? [LR41CA]

SENATOR CHAMBERS: Yes. [LR41CA]

SENATOR KRIST: The amendment...I was actually here, I was over in the...underneath the north balcony when you made your last statement, the amendment that we just

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voted on was...tell me again what you think that amendment did? [LR41CA]

SENATOR CHAMBERS: You mean the one that we just voted on of Senator Lautenbaugh? [LR41CA]

SENATOR KRIST: Yes, sir. [LR41CA]

SENATOR CHAMBERS: He is amending this large amendment that he is presenting to us. That amendment that was adopted simply struck something about delayed races. [LR41CA]

SENATOR KRIST: Okay. So you're talking about the FA26 that we just passed or just put onto the bill, it just struck replay, delayed and inserted another word. Your comment then about... [LR41CA]

SENATOR CHAMBERS: But one thing... [LR41CA]

SENATOR KRIST: I'm sorry. [LR41CA]

SENATOR CHAMBERS: ...that didn't go to the bill yet. That just amended his large amendment that hasn't been adopted yet. [LR41CA]

SENATOR KRIST: Right. [LR41CA]

SENATOR CHAMBERS: Okay. [LR41CA]

SENATOR KRIST: So your comments when to...are going to FA27 which your interpretation is that it disturbs the money that's being put into the problem gambling fund and the funding mechanism that's there. [LR41CA]

SENATOR CHAMBERS: No. What I'm trying to do with my amendment because now I'm attempting to amend his amendment. [LR41CA]

SENATOR KRIST: Okay. [LR41CA]

SENATOR CHAMBERS: His amendment contains existing words in the constitution. So by amending his large amendment, I would strike from the constitution the original language that authorizes a lottery, that authorizes the Legislature to create a lottery. Then that language that specifies how the proceeds from the lottery will be expended. My amendment would strike those two subsections relating to the lottery from the constitution. [LR41CA]

SENATOR KRIST: Okay. And, Senator, my concern is that by striking that we will have

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eliminated the funds that are necessary to treat people with an affliction of problem gambling. And whether we have gambling in the state of Nebraska or not, people bring that disease back from Las Vegas, Atlantic City, and the incredible on-line opportunities now for our children. So I would have...even though I understand your intent and your purpose, I would have serious concern that by eliminating the funds that are available, we would be limiting the services that are...they are a reality in our society today. And I'll yield you the balance of my time to talk about it if you'd like. [LR41CA]

SPEAKER ADAMS: Senator Chambers, you're yielded two minutes. [LR41CA]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Krist. By my striking this from the constitution, it simply eliminates the authority to have a state lottery and spend the money in the fashion mentioned. It does not prohibit the Legislature from appropriating money to deal with compulsive gambling. This language was put into the constitution to get those people who ordinarily oppose gambling to now support the amendment so they could get some money for their purposes. And I said that's where the hypocrisy exists. You're going to support bringing more of the virus into play that you're trying to do away with. So how on the one hand can you advocate bringing the virus into play and then increasing the volume of that virus because they're going to give you enough money to vaccinate a few people against it? The harm you do by expanding gambling will never be nullified by the relatively small amounts of money that would be derived from the lottery to go to the compulsive gamblers treatment fund. And I say herein lies the hypocrisy on this floor right now. There were people, including myself, who voted with Senator Krist to take the administration of that gambling fund, that commission or whatever it's called, from HHS and put it under the auspices of the Department of Revenue because HHS was not spending the money in the way envisioned to help compulsive gamblers. Then those same people who where that concerned, not including myself, are now wanting to vote to increase... [LR41CA]

SPEAKER ADAMS: Time, Senator. [LR41CA]

SENATOR CHAMBERS: ...gambling even more. Thank you, Mr. President. [LR41CA]

SPEAKER ADAMS: Senator Carlson, you're recognized. [LR41CA]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I would like to address Senator Chambers, if he would yield. [LR41CA]

SPEAKER ADAMS: Senator, would you yield? [LR41CA]

SENATOR CHAMBERS: Happily. [LR41CA]

SENATOR CARLSON: Senator Chambers, how do you spell Bible? [LR41CA]

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SENATOR CHAMBERS: Say it again. [LR41CA]

SENATOR CARLSON: How do you spell Bible? [LR41CA]

SENATOR CHAMBERS: B-i-b-l-e. [LR41CA]

SENATOR CARLSON: How do you spell "Bibble?" [LR41CA]

SENATOR CHAMBERS: B-i-b-l-e. [LR41CA]

SENATOR CARLSON: Well, the last time I looked I think it was "b-i-b-b-l-e" and so I would ask you to think on that a little bit, but thank you, Senator Chambers. You brought out the truth that the love of money is the root of all evil, and you also bring the Good Book forward now and then and you know that I appreciate that. It is the truth. It is not fiction. It is not just an interesting story. It is not just a book of suggestions. It is not just food for thought. It is the truth. And if we allow it to be, it becomes a light to our path and a blueprint for our lives. But we talk about money is the root of all evil. The love of money is the root of all evil, and we could say the same thing about the love of power is the root of all evil. The love of position is the root of all evil. The love of possessions is the root of all evil. But most of us, I think, agree that money by itself is not evil. It can be used for good. It can be used to pay off debt. It can be used to buy food. It can be used to buy clothing. It can be used to buy shelter. And it enables us to help the orphans, the widows, and the foreigners, according to the Good Book. So I appreciate your bringing those truths forward now and then. And in regard to FA27, I am not in support of it and I don't intend to vote for it. Thank you, Mr. President. [LR41CA]

SPEAKER ADAMS: Thank you, Senator Carlson. Senator Chambers, you're up. [LR41CA]

SENATOR CHAMBERS: Thank you. Mr. President, I have small bits of money of varying denominations in my pocket. You have to take my word for it. And on every piece of money are the words, "In God We Trust." That to me, if I were a religious person, would be blasphemous. And the very Christians who insisted that be on the money know that there was a point, and Senator Carlson can confirm this, he's a biblical scholar, but I'm going to say something before I get to that. The God who is trusted is the money on which those words appear. The money. Preachers go after that money. Jesus said, freely you receive, freely give. Every church you go to they want you to pay for it. The mega churches on television and cable want you to pay. Money is what they seek more than anything else. In fact, you can buy salvation with money. But some people were trying to trap Jesus as they often did, but He was a slippery fish. Somebody brought the question to him, should you pay taxes? So Jesus said, give me a coin. And he was given a coin. He said, whose image and superscription is on that

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coin? It did not say, In God We Trust. Caesar, his picture and his superscription was on the coin. So then--and Senator Carlson knows this--Jesus said, render unto Caesar what is Caesar's. The money is Caesar's. You defame and cheapen your God by putting your God on money. Money has been to some of the most unhygienic places. People will handle money and then eat without even washing their hands. They accept money from anybody. They will pick money up off the ground because money moves people more than anything else. And although Senator Carlson mentioned there are other things that he considers a root of all evil, the "Bibble" only mentioned one. The "Bibble" specified money and said the love of that is the root of all evil. They said, Hell hath no fury like a woman scorned. What about a man scorned? Women might be furious, men assault, torture, and murder. When men get bored, they have wars and kill hundreds of thousands of people. Then when they create a wasteland, they call it peace when they've destroyed the ability of a country to grow crops and feed its people, and they have surpluses in this country and other countries that won the war, as they call it. It's hard to move from killing people to feeding people. So, whereas, all of the machinery that was converted to war, weapons of death, will not be reconfigured, reconverted to transport food from where there is an overabundance to the place where little children are starving. [LR41CA]

SPEAKER ADAMS: One minute. [LR41CA]

SENATOR CHAMBERS: And all those people who talk so much about being concerned about fetuses, they're not concerned about the starving children in other places. They will march down streets in America saying, no, no, to abortion, but they won't march down the street and say feed those children who are in the world who are hungry, who are dying by the hundreds and maybe thousands every day, and you pray to your Jesus every morning and it never occurs to you the things he said about being concerned about the little children. These are the ones that the Kingdom of Heaven consists of, not you all, not the preachers, not the politicians, not even Caesar, but the little children, and they're starving, and you don't care. I'll have more to say, but I'll have to turn on my light. [LR41CA]

SPEAKER ADAMS: You're next up, Senator. [LR41CA]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. I wish what Senator Carlson says about the "Bibble" were taken to heart by people, if they have a heart, and become a blueprint for life, some parts of it, because he probably knows that according to the "Bibble" the God of that "Bibble" told the Israelites to go into a place and kill everything living, kill every man, kill every woman, kill every child, kill every beast, kill the vegetation, plow it and salt it so nothing will ever grow there again. That's genocide. So on the one hand, the "Bibble" advocates genocide, then people are going to condemn Hitler. You need to put these things together and see what it is you're teaching your children because they might read things other than what you select for

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them to read, and they will see inconsistencies and contradictions, and then they will look at you and say, if it doesn't influence your conduct, you're older, you're wiser, you know more, why should it influence mine. When you tell me about this Jesus, you may as well say Mickey Mouse or Donald Duck. Jesus doesn't influence what you do, you talk to me about a God? Well, that's Goofy and Pluto. Walt Disney made more entertaining people than your God because little children will try to do what they see in comic books and cartoons, but the adults don't do what they talk about in church. So now here we come to gambling, something that everybody knows is harmful to the people in this society. But the people who say they're in favor of helping people who are afflicted with a gambling compulsion, play the role of a hypocrite because at the same time they sell out in order to support more gambling so they can get a few nickels. That's the love of money, which is the root of all evil. The evil is when you go against your conscience, and if these people are conscience driven to try to assist those people who have a compulsion to gamble, that is your conscience. When you violate your conscience, even philosophers and theologians say, that's when you commit a sin. Even the "Bible" says it. If your conscience condemns you, you're condemned. If your conscience condemns you not, that's when you have confidence toward God. You're doing the best you know how according to what you think it is you ought to do. So when your conscience says you're all right, you're all right, but when your conscience becomes corrupted through the love, the inordinate love of money, and you're willing to go against what your conscience has told you you ought to do, then you're wrong, not because of what I say, but because of that that is inside of you. It's telling you that you are wrong. So you have to go into denial. You have to do all of this rationalizing, not to bring you to a point where you can help eradicate or mitigate the cause, the source of the evil you're resisting, you nurture, you support that very evil. And you vote to spread it, make it more widespread, make it easier to be accessed. You don't want people to have to drive across, if they live in Omaha, you don't want them to have to drive to Iowa to develop this compulsion. You don't want them to have to go to Kansas as Senator Council did to engage, indulge this compulsion. She had herself banned from the casinos in Iowa trying to do what she could. She couldn't fight it so she wanted the evil purveyors to say when you see me, put me out of here, save me from myself. I'm signing the paper asking you, save me from myself and then you, her colleagues say, well, you don't have to worry about that anymore, we're going to bring it right here to Nebraska and you're going to say that's a positive good. You're behaving as ethical, moral people. You all are the ones who want the praying. I tried to get it out of here, but the Legislature resisted it. And the courts, in agreeing you could have a chaplain, said the prayers don't mean anything anyway. The court said the prayers have no religious significance whatsoever. They're just like words. So that's why I say, let Mickey Mouse talk, let Donald Duck. The court said it means nothing. You show that it means nothing, and this kind of legislation that we're being offered proves it. I say, let's save Senator Krist and all of those others who say that they're in favor of... [LR41CA]

SPEAKER ADAMS: Time, Senator. [LR41CA]

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SENATOR CHAMBERS: ...helping compulsive gamblers, remove the stain of hypocrisy. Thank you, Mr. President. [LR41CA]

SPEAKER ADAMS: Thank you, Senator Chambers. Mr. Clerk, you have a motion on the desk? [LR41CA]

CLERK: I do, Mr. President. Senator Lautenbaugh would move to invoke cloture pursuant to Rule 7, Section 10. [LR41CA]

SPEAKER ADAMS: It's the ruling of the Chair that there has been full and fair debate afforded to LR41CA. Senator Lautenbaugh, for what reason do you rise? [LR41CA]

SENATOR LAUTENBAUGH: I would request a call of the house. [LR41CA]

SPEAKER ADAMS: 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. [LR41CA]

CLERK: 34 ayes, 0 nays, Mr. President, to place the house under call. [LR41CA]

SPEAKER ADAMS: The house is under call. Senators, please record your presence. Those unexcused senators outside of the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Burke Harr, Senator Howard, Senator Pirsch, Senator Ashford, Senator McCoy, Senator Hadley, Senator Davis, Senator Schumacher. Senator Davis. Senator Schumacher, would you record your presence, please? Senator Davis, the house is under call. Senator Lautenbaugh, all members are present and accounted for. How do you wish to proceed? [LR41CA]

SENATOR LAUTENBAUGH: Mr. President, I would like a roll call vote in reverse order. [LR41CA]

SPEAKER ADAMS: Members, the first vote is the motion to invoke cloture. Mr. Clerk. [LR41CA]

CLERK: (Roll call vote taken, Legislative Journal page 683.) 33 ayes, 13 nays, Mr. President, on the motion to invoke cloture. [LR41CA]

SPEAKER ADAMS: The motion to invoke cloture is adopted. Members, the next vote is the adoption of FA27 to AM581. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LR41CA]

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CLERK: 3 ayes, 38 nays, Mr. President, on the amendment to the amendment. [LR41CA]

SPEAKER ADAMS: The amendment fails. Members, we'll now vote on the advancement of AM581. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LR41CA]

CLERK: 30 ayes, 11 nays, Mr. President, on the adoption of AM581. [LR41CA]

SPEAKER ADAMS: The amendment is adopted. Members, we'll now vote on the advancement of LR41CA to E&R Initial. All those in favor vote aye...Senator Chambers has requested a roll call vote. Mr. Clerk. [LR41CA]

CLERK: (Roll call vote taken, Legislative Journal pages 683-684.) 29 ayes, 19 nays, Mr. President, on the advancement of LR41CA. [LR41CA]

SPEAKER ADAMS: LR41CA does advance. Mr. Clerk. I raise the call. Mr. Clerk, let's move on to the agenda. [LR41CA]

CLERK: Mr. President, LB590, is a bill originally introduced by Senator Lautenbaugh. (Read title.) Mr. President, the bill was referred to General Affairs, the bill was advanced to General File. I do have amendments pending to the bill. I do have a priority motion...I shouldn't say a priority motion, Mr. President. I have a motion from the principal introducer, Senator Lautenbaugh as the principal introducer has the option to offer his motion. His motion is to indefinitely postpone LB590. Senator Lautenbaugh, you have the option to lay the bill over at this time. [LB590]

SENATOR LAUTENBAUGH: I would move to definitely postpone. [LB590]

SPEAKER ADAMS: Senator Lautenbaugh, could you approach, please? Senator Lautenbaugh, you have the option of either taking up the motion and taking it to a vote, or to lay it over. What would be your choice? [LB590]

SENATOR LAUTENBAUGH: I'll just lay it over, Mr. Chair. [LB590]

SPEAKER ADAMS: So ordered. Next item, Mr. Clerk. [LB590]

CLERK: Mr. President, the next piece of legislation is LB105 offered by Senator Lathrop. (Read title.) Introduced on January 10, referred to the Health and Human Services Committee, the bill was advanced to General File. I do not have committee amendments. I do have other amendments, Mr. President. [LB105]

SPEAKER ADAMS: Senator Lathrop, you are recognized to open on LB105. [LB105]

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SENATOR LATHROP: Thank you, Mr. President and colleagues, good morning. LB105 would require all childcare facilities that are licensed by the state of Nebraska to provide written proof of liability insurance coverage prior to the issuance of their license. In Nebraska, there are over 4,000 licensed facilities that serve over 100,000 kids. These include preschools, childcare centers, and family childcare homes. At least 23 states have passed similar legislation including many that had the legislation introduced as the result of tragic circumstances involving the injury or death of a child in the care of a childcare facility. In many of these tragedies, the childcare providers were unaware of their current...that their current insurance policy did not provide coverage for such accidents. LB105 would not only provide parents with additional peace of mind, it will also encourage childcare providers to make sure they have the appropriate coverage in case of an accident involving a child in their care. Under this bill, childcare facilities would have to maintain a minimum coverage of \$100,000 per occurrence, and have the failure to maintain that coverage would then result in the loss of their license. The cost of such liability coverage is minimal. We've received quotes from some insurance agents and they start at \$34 a year for coverage in a home with six or fewer children. If there are more than six children in the home, the day care would have to purchase a separate commercial policy to cover their day-care facility. Childcare facilities face countless situations that could result in significant financial loss if they were found liable or responsible for the death or injury of a child under their care. LB105 is good policy. It would provide additional protection for children, families, and the providers themselves. It's an idea that makes good business sense. It's already used by many providers in the state of Nebraska and could easily be made part of the current licensing process. LB105 received a public hearing on February 7 before the Health and Human Services Committee and was advanced to General File a few days later on a 7-0 vote. Supporters of LB105 including Building Bright Futures and First Five Nebraska. In summary, there are three good reasons for this bill. First, there are a lot of people who provide care in their home and think they're covered by their homeowners insurance policy when they are not. Second, if a child goes...pardon me, does get hurt and the provider can't pay for the cost involved in the incident, the responsibility would fall back on the parent, who is not at fault or negligent. And third, we always need to consider that if a significant injury occurs and the costs are so great that the parents or the guardians can't cover them, the costs would ultimately fall back on the state of Nebraska. And for those reasons I believe LB105 makes good sense and good policy and I would encourage your support of LB105. Thank you. [LB105]

SPEAKER ADAMS: Thank you, Senator Lathrop. Mr. Clerk. [LB105]

CLERK: Mr. President, no committee amendments. Senator Lathrop would move to amend with AM536. (Legislative Journal page 684.) [LB105]

SPEAKER ADAMS: Senator Lathrop, you are recognized to open on the amendment.

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[LB105]

SENATOR LATHROP: Thank you very much, Mr. President and colleagues. I have two amendments that we're going to take up and this is the first of those two that make improvements as I'll describe and for reasons I'll give you with the introduction of each amendment. AM536 would simply insert a sentence on page 3, line 2, that provides that if the childcare provider is the state of Nebraska or a political subdivision, that they may self-insure all or part of the coverage or use a risk retention group or risk management pool for the purpose of providing liability insurance for any childcare program they operate. This was an issue raised by the cities of Omaha and Lincoln and they support this amendment. Obviously, if we're going to require insurance and some people are in a position, like the political subdivisions to self-insure, that we need to make that accommodation, and I would encourage your support of AM536 as well as LB105. Thank you. [LB105]

SPEAKER ADAMS: Thank you, Senator Lathrop. Senator Krist, you're recognized on the amendment. [LB105]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues, again, and good morning, Nebraska. I am on the Health and Human Services Committee and I voted this out of committee. I did it for...and I was just discussing this off the mike with a few of my colleagues, I did it because I think that we need to raise awareness for what you are insured against and what you aren't insured for. Let me give you an example. How many of you while you're doing your part-time job with Jimmy John's are driving your own vehicle? It would be amazing for you to find out with most license...most insurance companies that you are no longer insured in your vehicle, driving your vehicle, if you are using it in your employment of delivery. It would also be amazing, I think, for us to know that some of our homeowners add-ons and exemptions are not in place if our home is being used for business purposes, or it doesn't meet a standard that licensure would bring up. This is a discussion worth having. It is an awareness that folks in the industry should have. There's a protection mechanism there. It's called an insurance policy and without insurance, one could be forced with a lawsuit into bankruptcy, or worse, loss of a home. It's a pretty serious thing. So the discussion that Senator Lathrop brings to us is a valid discussion in terms of what is our responsibility to make sure that anyone who is licensed--again, a key point,--to have childcare in their home be properly insured against such catastrophic events. I would support AM536 to LB105 and I'll wait to make comment on the second amendment as it comes forward. Thank you for your attention. [LB105]

SPEAKER ADAMS: Thank you, Senator Krist. Senator Coash, you're recognized. [LB105]

SENATOR COASH: Thank you, Mr. President. Would Senator Lathrop yield to some

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questions? [LB105]

SPEAKER ADAMS: Senator Lathrop, would you yield? [LB105]

SENATOR LATHROP: Yes, be happy to. [LB105]

SENATOR COASH: Thank you, Senator Lathrop. Senator Lathrop, do we know how many providers...is there a way to find out how many providers currently have or don't have this liability insurance? [LB105]

SENATOR LATHROP: I don't think we have a way of knowing that other than to infer or conclude from the fact that there are some folks that do this on a commercial basis. Those folks probably do because they need a commercial policy and the insurance company is going to know what they do and so those folks probably do. It's the guy who is running something out of the house that probably doesn't know that they don't have coverage. [LB105]

SENATOR COASH: Is a licensed day care considered a commercial business or when you talk about commercial, are you talking about those day cares that are, you know, in a business community or people don't live there, that's just a place of business? [LB105]

SENATOR LATHROP: Right, where you see...exactly where you see a business... [LB105]

SENATOR COASH: Okay. [LB105]

SENATOR LATHROP: ...there you're going to find it. Now, I talked to the insurers and I don't want to...you can stop me if I'm chewing up your time. I talked to insurance agents and they said that if you have, I think it's six or fewer kids, you can do that under your homeowners policy with an endorsement. Otherwise, there's an exclusion on your homeowner's policy if you're doing it and trying to make money. After six, then you go to a commercial policy even if you're doing it in your home. [LB105]

SENATOR COASH: Okay. All right. Senator Lathrop, you may have covered this in your opening, what's the threshold of children that necessitates a license? [LB105]

SENATOR LATHROP: I'm told if you have four or fewer you don't have to have a license. Once you get past four, you must have a license. [LB105]

SENATOR COASH: Okay. Does LB105...it only applies to those that are licensed, correct? [LB105]

SENATOR LATHROP: That's true. That's true. [LB105]

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SENATOR COASH: Okay. Can you comment on why LB105 does not apply to the unlicensed day cares? [LB105]

SENATOR LATHROP: Because the licensure is the mechanism of enforcement. Don't carry insurance and show proof of insurance, you don't get a license. [LB105]

SENATOR COASH: Okay. One of the things I'm concerned about...I have one more question for you in a moment. One of the things I'm concerned about and I think Senator Krist touched on this is that if the goal is to have licensed...or to have insurance on day-care providers and the threshold is at four, I wonder if some providers might say, you know what, instead of getting this license...this insurance, I'll just drop down under the threshold to where I'm required to do it and maybe just fly under the radar. Might be...and that's a concern and I'll listen to your comments if you want to on that. My last question, Senator Lathrop, as I looked at the committee statement, I noticed the trial attorneys supported it and I was wondering if you could comment on the nature of their support. [LB105]

SENATOR LATHROP: Well, I don't know what to say other than...you know, it would be easy to say trial lawyers want this because it's a chance for trial lawyers to make more fees. And I will tell you, because as you know, I've been president of that organization. My father was and my brother was and I have sat on that legislative committee before I came to this body. That group doesn't just care about attorney fees. You'll see them on bills that have to do with injured workers getting proper care that doesn't have anything to do with our livelihood. You will see them on the helmet bill because we see every day people with brain injuries and I know the temptation is to have a cynical view of the trial lawyers coming in on something that requires insurance, but we see what happens. [LB105]

SPEAKER ADAMS: One minute. [LB105]

SENATOR LATHROP: We see what happens every day in our law practices and when somebody gets hurt, and I've had these calls, Senator Coash, myself, when somebody gets hurt in a day care and you call the day care and they've been charging people to watch kids, there's an exclusion in the policy that says there's no coverage, and now Mom and Dad who trusted the kid to the day-care center have to absorb the cost of the medical bills or a funeral or those kinds of things. It's also a way for providing a measure for who is an operator that ought to carry the seal of the state of Nebraska with a licensing. [LB105]

SENATOR COASH: Thank you, Senator Lathrop. I will hit my light again and ask another question. Thank you, Mr. President. [LB105]

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SPEAKER ADAMS: Thank you, Senator Coash. Senator Campbell, you're recognized.  
[LB105]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. I rise to urge your support of AM536 and the underlying bill and I believe Senator Lathrop has another amendment. The amendments address some of the questions that the committee might have had that provided to him to strengthen the bill. So both of the amendments are very important. I want to address somewhat the licensed providers, those are four or more children. You want to stay, I think, with the licensed providers here because those are the people that are meeting all of the regulations and this is another way to look at a protection for those providers. The committee looked at both sides of this, not only as a protection for the families, but a protection for the providers. And we have a great network across the state of providers and we want to make sure that they realize that this would protect them. The other point that I want to make about the license is that you have a number of providers across the state who are grandma and auntie, and they probably take a couple of children, they may be the auntie in the neighborhood who takes a couple of neighborhood kids, but they're not the people that we're trying to get to here. To provide some protection for both sides of this, we're really trying to look at the licensed providers across the state who are already meeting the rules and regs that comes with being a licensed provider. This has a good protection on both sides of that issue, and I would certainly encourage your support for the bill and the two amendments. Thank you, Mr. President. [LB105]

SPEAKER ADAMS: Thank you, Senator Campbell. Senator Lathrop, you're recognized.  
[LB105]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I thought I'd put my light on and talk a little bit after I had a sense of the concerns, and so let me begin by giving you some of the logic for LB105, okay. Most of the big operators, the ones that you see, the places that have the inviting red roof and several employees, those folks probably already maintain a policy...a commercial policy and they're going to be fine. This isn't going to affect them because they're already paying for that policy. They're just going to show the licensing people that they have it and so that's not probably who we're most going to affect. Who we're most going to affect is the guy that's doing this out of the house. And if they have fewer than four or four or fewer, they don't have to be licensed, right? So if you want to watch the neighbor's kids and you're watching a couple kids, here's the problem though. Most of those people own their home and they have a homeowners policy and they're thinking to themselves, I can watch two kids and if something happens, my homeowner's will cover it. But there's an exclusion in that policy. Your homeowners policy will have an exclusion that says, if you are operating a business, we don't cover liability that is the result of you operating a business. So you watch the neighbor kids, you take whatever the going rate is for watching the neighbor kids, and your dog bites one of them. Or one falls down a flight of steps and ends up

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with a brain injury at the bottom. Not pleasant things to think about, but when you turn it over to American Family or State Farm they say, well, wait a minute, were you charging those people for those kids you were watching? Well, yeah, I was. Well, there's an exclusion in your policy. So guess what, you are now personally liable and you have no coverage. So this isn't...this is a gotcha for the providers actually. The guy who is running the small day care out of his house thinks he has coverage and doesn't. Now, are we dropping some big unfunded mandate on them that ought to frighten all of us? No, it's probably fifty bucks a year to get an endorsement on your homeowner's. And what's the incidental benefit to us? Why would we think this is a good idea beyond what I just explained, and the answer is, when you tell your homeowner's insurance carrier that you're operating a day care, they're going to say, well, let's talk about some of the risks you might have in your home because you ought to get rid of them before we provide the coverage. Do you have dogs? Yeah. What kind? So we don't...State Farm doesn't want to insure somebody who's got a pit bull and three neighbor kids running around. That makes pretty good sense. Do you have a swimming pool in the backyard? We had a child drowned in Washington County at day care in a swimming pool. These things actually happen, this isn't theoretical. What are your hiring practices? If you have employees, have you made sure that they're not sexual predators? So, all we're doing is, in some sense, we're involving the underwriting process of the liability carriers which is a safeguard that the places that will be watching our children are safe. And if something, God forbid, happens to one of those little kids, that there's some resource there to pay for the medical expenses or funeral expenses if there is a more serious injury that results in death. This is a piece of a bigger picture and a goal I believe that the Health and Human Services Committee is trying to accomplish, which is to bring a measure of professionalism to the day care or to the childcare facilities so that we have as we approach... [LB105]

SPEAKER ADAMS: One minute. [LB105]

SENATOR LATHROP: ...preschool education, and the education of kids at an age that predates kindergarten, that these are safe places for the kids to be at and that they are cared for by people who take the time to run the place like a business and really, really...these people think they're insured and they're not and we're doing them a favor and it won't cost anything more for the small guy but an endorsement on their homeowners policy which is nominal at best. So with that, I'd be happy to answer any questions you might have. [LB105]

SPEAKER ADAMS: Thank you, Senator Lathrop. (Visitors introduced.) Moving on with debate, Senator Chambers, you're recognized. [LB105]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I'd like to ask Senator Lathrop a question. [LB105]

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SPEAKER ADAMS: Senator Lathrop, would you yield? [LB105]

SENATOR LATHROP: Yes, I'd be happy to. [LB105]

SENATOR CHAMBERS: Senator...oh, excuse me, which amendment is this, the one that sets a date or what? [LB105]

SENATOR LATHROP: No, this is AM536 that allows for self-insurance by political subdivisions. [LB105]

SENATOR CHAMBERS: Now, I regret to tell you that I was being importuned earlier, could you tell me what that amendment briefly will do? [LB105]

SENATOR LATHROP: I'd be happy to. [LB105]

SENATOR CHAMBERS: Okay. [LB105]

SENATOR LATHROP: I'd be happy to. In a nutshell, the bill requires that licensed day-care facilities or childcare facilities have insurance. There are some, city of Omaha, city of Lincoln, political subdivisions that don't need insurance because they're self-insured. This just says, if you are a political subdivision you can be self-insured or use a risk management pool instead of making the city of Omaha, for example, buy an insurance policy when they typically self-insure. [LB105]

SENATOR CHAMBERS: Okay. That doesn't go to the kind of concern that I have, so I have no other questions on this particular amendment. Thank you. [LB105]

SENATOR LATHROP: Okay. Thank you. [LB105]

SPEAKER ADAMS: Senator Kintner. [LB105]

SENATOR KINTNER: Mr. President and members of the body. We spend an awful lot of time regulating around here and an awful lot of time helping people, so I'm always a little bit worried when I hear about more regulation and more of us helping people. But after listening to Senator Lathrop explain it, I bet you he could convince me to eat broccoli instead of a doughnut. That was a pretty good explanation. And I've got a few questions. I guess my first question is, Senator Lathrop, can I ask you a few questions? [LB105]

SPEAKER ADAMS: Would you yield, Senator Lathrop? [LB105]

SENATOR LATHROP: I'd be happy to. [LB105]

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SENATOR KINTNER: I think my first question is, how did you come up with this? Have we had some problems somewhere and this has been an epidemic of uninsured day cares having accidents and lawsuits? Where did you come up with this? [LB105]

SENATOR LATHROP: You know, I think I offered this a year ago and it was after we had had some...I'm just going to tell you, I had somebody contact me sometime ago with a child...their child had been shaken to the point of a brain injury in a nursing...or in a childcare...a residential childcare facility. And a year ago, I offered the bill and it did not advance as I recall, and this was sort of recycling a bill that was an idea that grew out of a call I took in my professional capacity of a child who had a brain injury from shaken baby syndrome and that is, forever. That is an injury forever and it is an awful tragedy, and that particular facility was not insured and so that family, or the state of Nebraska, ends up absorbing the cost of the care. [LB105]

SENATOR KINTNER: I think you touched on this a little bit, Senator, but who are all the parties that would benefit from this? [LB105]

SENATOR LATHROP: The providers that think they're covered and aren't. So, as I explained a moment ago, those smaller facilities that are operating these day-care facilities or childcare facilities out of their home, they think they have coverage and they're unaware of the exclusion. They don't. They only need an endorsement. That's who will benefit. And the parents who believe that because a facility carries that label of licensed by the state of Nebraska that it's an insured facility, so the parents, I think, will benefit too. And certainly the child and the family of an injured child will benefit in the event they need a resource to pay medical expenses or funeral expenses in the case of an injury that results in death. Those are the people it would benefit. [LB105]

SENATOR KINTNER: Well, certainly trial attorneys would benefit from this. If you're going to take legal action, you want to take legal action against somebody whose got some money and insurance. You don't want to sue someone that doesn't have much. I'm not saying that's necessarily bad, but they would benefit, right? [LB105]

SENATOR LATHROP: I would suggest to you that that's a cynical view of this bill. I may, in my professional capacity, represent people that have been hurt in all manners of accidents, but I can tell you in my six years here, my interest in policy go well beyond my work as a lawyer representing people that have been hurt. I can tell you, Senator, that the greatest share of these kinds of things are resolved between an insurance company and a family without ever calling a guy like me. And so, the likelihood that some lawyer in the next five years is going to see a fee from any of this stuff is well beside the point and probably unlikely. [LB105]

SENATOR KINTNER: For this type of insurance, do you know what that would cost a day-care center? Have you looked at that? [LB105]

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SENATOR LATHROP: Yes. Talked to some insurance guys the other night... [LB105]

SPEAKER ADAMS: One minute. [LB105]

SENATOR LATHROP: ...at an event where I ran into about three of them and had that conversation. My understanding is, if you have, is it fewer than six, it's like \$50 a year for the endorsement. Okay. If you get beyond that, you get to the point where you're watching six kids, then they require a commercial policy and I think that's maybe \$750 a year to watch...to have an endorsement to your homeowner's if you're watching that many kids. You end up getting...I misspoke. You're out of the homeowner's insurance and you're buying a commercial policy and I think the cost is something like \$750. It's not expensive. [LB105]

SENATOR KINTNER: Thank you very much, Senator. I yield the balance of my time to Senator Lathrop. [LB105]

SPEAKER ADAMS: Senator, you have 12 seconds. [LB105]

SENATOR LATHROP: I'll wait. Thank you. Thank you, Senator. [LB105]

SPEAKER ADAMS: Thank you, Senators. Senator Mello, you're recognized. [LB105]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I rise in support of LB105, but really after hearing some of the dialogue on the floor, there are a couple points of contention I do have. One, I don't think LB105 goes far enough. And the reason why is you look at an Omaha World-Herald story from this summer where a headline is, "Toddler drowns in pool at private daycare." Colleagues, we're not talking about trial lawyers, we're not talking about liability insurance, we're talking about essentially an educational system that's built in our childcare facilities asking to make sure that they have the most basic fundamental insurance in case something like this happens. The Appropriations Committee last week heard about three and a half hours of testimony on early childhood education. If that wasn't a reminder to the nine members of our committee and hopefully this whole body as we discuss this issue further as session goes on, LB105 should be at least the beginning start because what we're asking for is that license childcare facilities have the most basic liability insurance in case something like this happens again, where unfortunately a toddler drowns in a pool and a family and a business ultimately are left picking up the pieces. I admire what Senator Lathrop is doing in LB105. When I said it doesn't go far enough, I think anyone who should be watching children, if it's for a business, should have some kind of liability insurance whether it's a mom-and-pop operation or whether it's a facility like this one here that was able to take up to ten children. The reality is, we're talking about people's lives. This is not some trivial issue of a product that a company is selling, that deals with

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some kind of liability after the fact. These are children that if something, God forbids, happens to them, that there is some kind of responsible party that has to take the responsibility for it. Now, I understand that Senator Lathrop has another amendment to clear up and clarify some things that the committee wanted. I respect that, but let's not lose track, colleagues, of what the underlying issue is as you have some businesses and organizations set up as a business that we're asking to make sure they have the most basic, fundamental insurance if they're going to go into the business of providing protective service through essentially overseeing in watching young children. I don't think it's too much to ask that a business pays \$30 to \$50 a year to have the most basic liability insurance to watch over three- and four-year-olds. And my hope is, that while some have made comments about whether or not certain industries or certain professions may benefit from this, my hope would be that the cynical side of this body, so to speak, would look beyond that. This isn't about lawsuits. This isn't about who is going to win or lose in a court of law. This is about trying to require businesses to act in good faith, that if they do go into the business of trying to provide childcare to a young child, that they're doing so with protective liability behind them in case they do make a mistake, because we do know there are mistakes that are made along the way. But to try to insinuate whatsoever that this is some kind of bill designated or designed to help attorneys try to win attorney fees, is disappointing to say the least. I think a number of handful of senators have been working on childcare issues and early childhood education issues for the last three to four years and it has finally come to fruition this session. I would argue this is one of the bills that needs to come forward because it provides more oversight, it provides more, I would say, more safeguards for consumers. [LB105]

SPEAKER ADAMS: One minute. [LB105]

SENATOR MELLO: And those consumers are young children and their families. As I said, I would prefer to see all...anyone who goes into childcare be required to have this. I understand that's not what Senator Lathrop wants to do. I understand that's not what his amendments will do, but let's not lose track, ultimately, of what we're talking about, that we're not talking about lawsuits and who wins and who loses. One association may see benefit from this and one may not. It's basic safeguards over an industry that frankly doesn't have enough safeguards as it is. And my hope is that we continue to put more safeguards over this industry because we know, not just from this story that I read, but a variety of other issues that we will talk about later this session, we need to put more oversight and more emphasis in investment in early childhood education in our childcare system. Thank you, Mr. President. [LB105]

SPEAKER ADAMS: Thank you, Senator Mello. Senator Coash, you're recognized. [LB105]

SENATOR COASH: Thank you, Mr. President. Would Senator Krist yield to a question?

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[LB105]

SPEAKER ADAMS: Senator Krist, would you yield? [LB105]

SENATOR COASH: He said he would. (Laughter) [LB105]

SENATOR KRIST: Yeah, I will. [LB105]

SENATOR COASH: Thank you, Senator Krist. I chatted with him off the mike and Senator Campbell was on the phone so I thought I would ask you as Vice Chair of the committee. Senator Krist, are you...do licensed day-care providers have training requirements or requirements for continuing education under their license? [LB105]

SENATOR KRIST: They do. I think the threshold or per year is ten hours. You mentioned 12, and I didn't get a chance to check on it, but there is continuing education required. [LB105]

SENATOR COASH: So if a provider is going to have a license, they've...as part of the requirements of that license, the person, the entity, in other words the state who holds that license says, if you want to keep this license, you got to come in somewhere between 10 and 12 hours a year and we're going to give you some information that will help you do your job more effectively. [LB105]

SENATOR KRIST: That's my understanding, yes, Senator. [LB105]

SENATOR COASH: Okay. Thank you, Senator Krist. Would Senator Lathrop yield to a question? [LB105]

SPEAKER ADAMS: Senator Lathrop, would you yield? [LB105]

SENATOR LATHROP: I'd be happy to. [LB105]

SENATOR COASH: Thank you, Senator Lathrop. And I don't know if you heard the question I asked... [LB105]

SENATOR LATHROP: No, I distracted by a conversation I was having with Senator Bloomfield. [LB105]

SENATOR COASH: That's fine. Here's what we've got on the record so far that if you're a licensed provider, you've got a requirement of somewhere between 10 and 12 hours a year that the licensee holder, i.e. the state, requires you to go through, presumably there's training as part of that. So, that's part of having a license. And my question for you, after I listened to your...I was listening carefully to the reasons you gave for

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bringing this bill that we have providers out there who may think they're covered but they're not, and my question is, could we not use the mandated educational requirements to assure that those providers are aware given that we have to bring them in, we've got 12 hours with them, otherwise they lose their license. And could we raise that awareness, as you stated was important, in order to get to the same outcome?  
[LB105]

SENATOR LATHROP: You might raise awareness. You still don't help the family whose child has been bitten by a pit bull over at the day care. That guy still has medical expenses and the child still has whatever residuals that follow that kind of a terrible injury. [LB105]

SENATOR COASH: Okay. That makes sense. Let me ask you this question, Senator Lathrop, and you practice in this, if...I think you gave one of your times at the mike an example like a shaken baby, right? [LB105]

SENATOR LATHROP: Yes. [LB105]

SENATOR COASH: Would that be a criminal...I mean that would be a criminal act, right, if a provider... [LB105]

SENATOR LATHROP: It is a criminal act on the part of the person that shook the child, yes. [LB105]

SENATOR COASH: So, am I...my little boy goes to day care and if his provider did something like that and I called the police and the police issued a citation for that criminal act against that provider, how would insurance look at that given that there was a criminal act that the person would be going through? [LB105]

SENATOR LATHROP: Great question and I hope I have enough time to answer it. If I am the provider and I shake the baby, that's a deliberate act and you can't insure yourself against a deliberate act. If I hire somebody to work for me and any kind of a background check would have demonstrated this person has a history of abusing children and I hire that person, that person can't insure what they did, but I'm going to get sued for negligently hiring the guy who shakes babies. And so, from a business owner's point of view, from a person whose child has been injured, if it is the owner,...  
[LB105]

SPEAKER ADAMS: One minute. [LB105]

SENATOR LATHROP: ...probably never going to find insurance to cover that, right. It's a deliberate act. You can't insure against a deliberate act, but my negligence is in hiring somebody who has a history of child abuse and so that's how that would sort itself out.

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[LB105]

SENATOR COASH: Okay. Thank you, Senator Lathrop. And in my remaining time I did want to put on the record that I used to have a cynical view of trial attorneys and then I served with one for a while and then a family member needed one and I've changed my cynicism on that then. My question, my first question about the support of the trial attorneys was merely out of curiosity because I don't see them on child welfare issues very often, so thank you for answering that. Thank you, Mr. President. [LB105]

SPEAKER ADAMS: Thank you, Senator Coash. Senator Harms, you're recognized. [LB105]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Lathrop, would you yield? [LB105]

SPEAKER ADAMS: Senator Lathrop, would you yield? [LB105]

SENATOR LATHROP: Yes, I'd be happy to. [LB105]

SENATOR HARMS: Senator Lathrop, on the green sheet on line 20, do you have that handy? [LB105]

SENATOR LATHROP: Yes, line 20 on page 2? [LB105]

SENATOR HARMS: That's correct. [LB105]

SENATOR LATHROP: Yes. [LB105]

SENATOR HARMS: We talk about the amount of \$100,000. Is that really enough for coverage liability? That's my really big concern. I support what you're doing. I think it's important to have this, but if something really seriously happened to that child, \$100,000 would be gone in a day. [LB105]

SENATOR LATHROP: Yes. [LB105]

SENATOR HARMS: I mean, is that really, truly, have we gone far enough in regard to that? [LB105]

SENATOR LATHROP: We had this debate over in the Banking and Insurance Committee on auto liability coverage which the minimum in Nebraska is 25-50, which means 25 (\$25,000) per person, no more than \$50,000 per accident. I see cases and injuries that where the medical expenses in two days go past \$100,000, but in some respects what we're doing is trying to strike a balance between making the coverage

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affordable, providing coverage that will insure against 90 percent of the claims, and recognizing that when you sit down with your agent to buy your policy you're welcome to, or you can explore buying what we call an umbrella coverage which would take your coverages up to \$1 million. This would just become the statutory minimum for a childcare. [LB105]

SENATOR HARMS: Yes, I...thank you for your reply and I agree with the umbrella concept, but I don't know if very many of them will actually do that. That's my other concern is that whether or not that shouldn't be added to it because umbrella really covers a lot of other issues. Even in my previous world I had to have an umbrella insurance and I still have an umbrella insurance because of liability issues and all the things that we do right in here and outside of this world. So that's something else I'd like to have you give consideration to. Then on page...then on line 23, you talk about 30 days. What happens if they actually don't meet the 30 days or just plain flat don't have the liability insurance? Are they penalized, they lose...do they lose their license? What's the penalty for...? [LB105]

SENATOR LATHROP: Yes, the enforcement mechanism is the loss of the licensure from the state of Nebraska. [LB105]

SENATOR HARMS: So, if they don't meet this requirement, they can then lose their license? [LB105]

SENATOR LATHROP: Yes, sir. The next amendment...speaking of that, the next amendment is going to be to extend the effective date into the middle of next year so people have an opportunity to (a) learn about the requirement, (b) to determine if there's coverage, and then to ensure that the coverage...the premiums that we've been told will be charged don't suddenly go up in view of the mandate. [LB105]

SENATOR HARMS: Now does this legislation deal with both public and private day-care centers? [LB105]

SENATOR LATHROP: Yes, it certainly does. Any licensed day-care center would be covered. [LB105]

SENATOR HARMS: Okay. Thank you very much. Senator Mello touched on a couple of things and I'd like to, if I could, have Senator Campbell, if you would yield just for a second, please, for me. [LB105]

SPEAKER ADAMS: Senator Campbell, will you yield? [LB105]

SENATOR CAMPBELL: Yes, certainly. [LB105]

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SENATOR HARMS: Senator Campbell, as I look at this piece...this legislation, I do agree with it, but I also realize that there's a heck of a lot of difference between the private and the public and the standards that we're requiring and what we expect from both. I know that you had talked at one time about introducing legislation to start to address that issue. Have you done that? I haven't been able to follow whether you have or not, but have you done that? [LB105]

SENATOR CAMPBELL: In terms of the quality, Senator? [LB105]

SENATOR HARMS: Right, uh-huh. [LB105]

SENATOR CAMPBELL: Yes, I introduced a bill this session, LB507, which begins to deal with the quality in very large centers. And if that all goes well, then, you know, we would keep working down, but these are centers that are very large, Senator. [LB105 LB507]

SENATOR HARMS: Okay, but is there a difference between the public and the private? I guess that's what I'm trying to get to because I really...when I've looked at the private side of things versus the public, there is a big difference and I don't know if the children are really getting appropriate educational experiences and getting the right care. That's what I'm really asking. [LB105]

SENATOR CAMPBELL: In LB507 it would address a public or a private center. [LB105 LB507]

SENATOR HARMS: Would you please repeat that again? I'm sorry. [LB105]

SENATOR CAMPBELL: In LB507, the quality standards that we begin putting into place, Senator, that scale of quality would affect both public and private large centers. [LB105 LB507]

SENATOR HARMS: Well, thank you very much. I appreciate that because I think this all fits together... [LB105]

SPEAKER ADAMS: Time. [LB105]

SENATOR HARMS: ...in what Senator Lathrop's talking about, the penalty and then the quality and all that is important. [LB105]

SPEAKER ADAMS: Time, Senator. [LB105]

SENATOR HARMS: Sorry, Mr. President. Was that time? [LB105]

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SPEAKER ADAMS: Time. [LB105]

SENATOR HARMS: Thank you very much. [LB105]

SPEAKER ADAMS: Senator Dubas, you're recognized. [LB105]

SENATOR DUBAS: Thank you, Mr. President, colleagues. I just received an e-mail from someone who does in-home day care and I think their experience just highlights everything that we've talked about so far this morning. They had a child who had a fall at their day care. She was acting like, you know, she wasn't...she was hurt and so the parents took her to the doctor and apparently she had a small hairline fracture. Now, they weren't 100 percent certain if that had happened actually at day care or if maybe it had happened at home a few days earlier, but I mean, still, she had a fall at day care. And the parents agreed with their insurance to cover the medical cost, but it was a very scary time for the family who provided the in-home day care because they didn't have any additional coverage. They only had their homeowner's and they were very worried about, what's this going to mean? And I mean, thank heavens that the injury wasn't more serious than it was and it would have probably been something that they could have handled themselves financially if they had needed to. But, you know, again, it just really brought home the fact to them that, you know, if we're going to have these children in our home and accidents do happen, we better make sure that we have the proper coverage. And so, after that incident they went out and they got the extended coverage for their day care. My understanding is, it's like maybe \$100, a couple hundred dollars so it's not, you know, yes, it's another expense that has to be deducted from their income, but the peace of mind for them was priceless as the commercial so often exemplifies. So I think this is a real life example. This is a licensed day care. It's a very good day care. The families are very satisfied with it, but this is just the cost of doing business and making sure that you are protected to the degree that you need to be protected so that you can continue with your business because if something would have happened that was much more significant and that could have ultimately cost this family many, many, many more dollars, you know, they probably wouldn't have been able to continue doing day care because of those costs. So, I think this bill is the right approach. You know, when I first saw it, it raised some red flags for me, but the questions that we've had answered this morning and then this e-mail just kind of seals the deal for me about the importance of having this coverage in place. And I would yield the remainder of my time to Senator Lathrop should he need it. [LB105]

SPEAKER ADAMS: Senator Lathrop, you've been yielded 3 minutes, 30 seconds. [LB105]

SENATOR LATHROP: Thank you and thank you, Senator Dubas, for that...your comments. I thought maybe I'd take the 3 minutes that I have to visit a little bit about why we care. I mean, what could possibly happen? We drop our kids off and I'm

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reminded sometimes by my kids, I've become a bit of a safety freak because of what I do. And so most of you probably think it's never going to happen to you and I look at it like, it's bound to happen sooner or later because of what I do and my exposure in some of these types of injuries. But when a child is at someone's home being watched by someone in that sort of an arrangement, you can have injuries to the child from a dog bite. You can have them from swimming pools, other bodies of water. A big one is falling downstairs, falling out of the highchair, falls some distance where a little toddler doesn't get his arms out and lands right on his noggin and you can end up with a brain injury. And if we get to brain injuries this year, I'll go into what that's like in a lot more detail, but I can tell you that a brain injury is forever. Assault by employees. So if you hire somebody that is a pedophile and they assault one of the children, you have liability for that if you could have found out beforehand with some kind of a background check. So, there are any number of things that can happen as a consequence of inattention. A child can suffocate. There are a number of terrible things. It's hard to talk about it because we're talking about little kids, but anything that can happen to a child in a facility...and remember, somebody is not trying to watch one child, most likely, they're probably trying to watch four or five little toddlers and they're all running around, all going in different directions. If you don't have enough people there, at some point, oftentimes, there can be an injury and that's what we're talking about. And these folks deserve to have insurance and we're doing them a favor, I believe, with LB105 by requiring that they have the coverage. And it is literally, it's nominal. [LB105]

SPEAKER ADAMS: One minute. [LB105]

SENATOR LATHROP: It is an endorsement on your homeowner's policy. So with that, again, I would encourage your support of the amendment and the bill. Thank you. [LB105]

SPEAKER ADAMS: Thank you, Senator Lathrop. (Visitors introduced.) Senator Bloomfield, you're recognized. [LB105]

SENATOR BLOOMFIELD: Thank you, Mr. President. I'd like to ask Senator Lathrop a couple questions, if I could. [LB105]

SPEAKER ADAMS: Senator Lathrop, would you yield? [LB105]

SENATOR LATHROP: Sure. [LB105]

SENATOR BLOOMFIELD: Senator Lathrop, we spoke briefly off the mike. I just want to clarify some things in my own mind. We were in and out after that last vote. What is the point at which you have to be licensed? [LB105]

SENATOR LATHROP: And I'm looking...I was just talking to Senator Campbell who is

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probably going to read some of this for you, but I have the regulation in front of me. A license is required when care is provided to four or more children under the age of 13 at any one time from families other than the provider for compensation, either directly or indirectly. [LB105]

SENATOR BLOOMFIELD: So, it's four or more. So, if you have four, you really should be licensed. Three or less, actually you don't have to be. [LB105]

SENATOR LATHROP: You must be. Yeah. [LB105]

SENATOR BLOOMFIELD: You said something about if you have six, you were then a professional outfit? [LB105]

SENATOR LATHROP: In terms...when I talked to the insurance folks, they explained it this way. There is a number and I've heard it anywhere from three to six, a number at which you go from making an endorsement on your homeowner's policy, which is a nominal expense, to buying a commercial policy. At some point, and probably depending upon the insurance carrier, they treat you as either an endorsement or you buy insurance either as an endorsement on your homeowner's or if you get too many kids, then you have to bump up to a commercial policy. [LB105]

SENATOR BLOOMFIELD: And in neither case under current statute are they required to have this insurance that you're...? [LB105]

SENATOR LATHROP: That's true. They're not required to have insurance currently. [LB105]

SENATOR BLOOMFIELD: Okay. What if you're doing it as a business outside of your home? Are you required at that point to have insurance,... [LB105]

SENATOR LATHROP: I don't think you're required to. [LB105]

SENATOR BLOOMFIELD: ...or just good common sense makes you? [LB105]

SENATOR LATHROP: Yeah. My guess is if you owe money against your facility, you're running a KinderCare, you got the red roof over and you're, you know, you're bringing a bunch of kids in every day, my guess is whoever is...got the note on your building requires that you have a commercial liability policy. [LB105]

SENATOR BLOOMFIELD: Okay. Going back to what your current homeowner policy will cover, if someone drops a couple of kids off at my daughter's house and her daughter, or my granddaughter, watches those two kids, does homeowner's cover that or not, to your understanding? [LB105]

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SENATOR LATHROP: Not if it's done for compensation. And that's where the exclusion comes in, Senator, and what people I don't think appreciate is as soon as you take money for something you do at your home, your homeowner's excludes it because it has now become a commercial enterprise. [LB105]

SENATOR BLOOMFIELD: Even if it's the daughter doing it and not the homeowner. [LB105]

SENATOR LATHROP: Yes. [LB105]

SENATOR BLOOMFIELD: Okay. Thank you. And I would yield the rest of my time to Senator Lathrop if he could use it. [LB105]

SPEAKER ADAMS: Senator Lathrop, you're yielded 2 minutes. [LB105]

SENATOR LATHROP: I appreciate that Senator Bloomfield. I think I've said what I need to say and I'm happy to answer more questions though. Thank you. [LB105]

SPEAKER ADAMS: Thank you, Senator Lathrop. Senator Krist, you're recognized. [LB105]

SENATOR KRIST: Thank you, Mr. President. And I think most of the contents of what I wanted to cover has been covered by question and answer, but I would tell you again, to reiterate, and let the folks who are listening all over Nebraska understand, you need to understand your insurance policy and how you are insured and what your liabilities are. Let me give you an example again. If you're out doing a part-time job and delivering for Jimmy John's, your car insurance policy may or may not actually cover you because you're using your vehicle for commercial business. Buyer beware because once you hit somebody and you've got Jimmy John's sandwiches in the back, not only are they going to be late, but you're not going to get paid for the accident. You take two hits that day. This is the case with these insurance policies on our homes. Senator Bloomfield just brought up a great scenario and I asked a day-care provider in my area how much they pay being outside their home in a facility and it's upwards of \$3,000, but that's a commercial license to have multiple kids in your facility. The nominal fees that I talked about and Senator Lathrop has talked about, very clear. The four insurance companies that I talked to, if you're between four and seven kids, is what I was quoted, you're at a certain rate. You go over seven, it gets bumped up. So it's depending upon the amount of kids in your care under 13 years of age for the license. In one case, the insurance company quoted me a rather small operation, but a home that has a swimming pool in the backyard and the insurance is costing them about \$1,500 a year as a rider because they have a pool. Now, I want to give you one more scenario you should think about. What is an insurance company going to do? They're not just going to issue the policy.

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They're probably going to do a site visit to make sure that that facility is safe. So, if you think you're playing big brother by passing something and talking about this issue, you're really not. You're educating the people in helping them protect themselves against a catastrophic event that could send them into bankruptcy and you have to use a lawyer. With an insurance program, it should be settled with the insurance and the individual. With that, I'll yield the rest of my time to Senator Campbell. [LB105]

SPEAKER ADAMS: Senator Campbell, you are yielded 2 minutes, 25. [LB105]

SENATOR CAMPBELL: Thank you, Mr. President and colleagues. I just want to cover...Senator Lathrop covered reading you the regulation of what is covered. I want to give you the following list of what is exempt from licensure because some of you may get questions on this. You are exempt from licensure if facilities providing irregular day care. So, in other words, it's sort of hit and miss, here and there, there's no established pattern of occurrence. Number two, care is provided without cost or any form...any form of compensation. Care given to three or fewer children at any one time except by a person whose license has been suspended or revoked, and that would make sense. Number four, a recreation camp. Number five, classes or services provided by a religious organization other than childcare, preschools, or nursery schools. Six, a preschool program conducted in a school approved pursuant to Nebraska Revised Statutes, Section 79-318. Number seven, care provided to children 13 years of age or older. I don't know who would want to have ten 13 years old or older, but... [LB105]

SPEAKER ADAMS: One minute. [LB105]

SENATOR CAMPBELL: Thank you, Mr. President. Care provided by grandparents to their grandchildren, care provided on military installations, and care provided on Indian reservations by Native Americans when they have assumed the jurisdiction for regulating the care. I felt that list was important for you to hear. Thank you, Mr. President. [LB105]

SPEAKER ADAMS: Thank you, Senator Campbell. Senator, you are next in the queue. [LB105]

SENATOR CAMPBELL: And I will waive that time, Mr. President. [LB105]

SPEAKER ADAMS: Senator Campbell waives her opportunity. Senator Nordquist, you're next in the queue. [LB105]

SENATOR NORDQUIST: Thank you, Mr. President and members. I think this bill gives us a good opportunity to talk about our childcare licensing overall. You know, when we talk about regulations in general, typically less is better. I think most people agree with that but there certainly is a place for regulation. In Nebraska, we have the second

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lowest floor in the country to become a licensed childcare provider. We're ranked 49th out of 50 states. Up until last...about, I think it was a week ago when the governor signed a few new regulations which had been pending for about two years, we didn't require criminal or sexual background...sexual offender background checks up until that point. That now will be going in with new regulations. But that just shows whether our good providers out there, it doesn't take much to get in the game and to serve kids. You know, regulations we need to be responsible with them and not overregulate, but we do when it comes to our most vulnerable children that we...the parents drop off every day to these centers not knowing...I'm sure most parents in Nebraska if you told them that up to that point that the workers in that day-care center didn't have to have a background check, I think that would catch most parents off guard. Just want to highlight that point that we have the second lowest floor of regulations in the country to get in the game. This bill give us an opportunity to talk about it, but it also gives us a little additional protection to know that should something go wrong, there is coverage for that, and that's why I stand strongly in support LB105. Thank you, Mr. President. [LB105]

SPEAKER ADAMS: Thank you, Senator Nordquist. Senator Lathrop, there are no other lights on if you'd like to close on your amendment. [LB105]

SENATOR LATHROP: I will, thank you. And, colleagues, thank you for the questions, the discussion, and I want to close on AM536 by reminding you that this merely...the bill requires insurance if you're a licensed provider of childcare services. AM536 is very simple. It just says that if you're a political subdivision, you can self-insure. There's no controversy in AM536. Hard to argue with the logic behind this amendment and I would encourage your support. Thank you. [LB105]

SPEAKER ADAMS: Thank you, Senator Lathrop. The question before the body is, shall the amendment to LB105 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Record, Mr. Clerk. [LB105]

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of Senator Lathrop's amendment. [LB105]

SPEAKER ADAMS: The amendment is adopted. Mr. Clerk. [LB105]

CLERK: Senator Lathrop would move to amend with AM537. (Legislative Journal pages 684-685.) [LB105]

SPEAKER ADAMS: Senator Lathrop, you are recognized to open on your amendment. [LB105]

SENATOR LATHROP: Thank you, Mr. President and colleagues. This is the second of

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two amendments. This one is a very simple amendment and I'll give you the amendment and the logic. We're putting the operative date off into July of next year. Senator Crawford expressed some concerns to me about once we mandate this, is it going to become more expensive or are insurance carriers going to gouge these day-care providers. My own judgment is that will not happen, but I did want to acknowledge the concern of Senator Crawford and allow for an operative date that's more than a year out so these folks have an opportunity to (a) get educated, (b) go out and get quotes, and then (c) come back to us and say, wait a minute, there's a problem here. I do not anticipate that at all. But I do think it gives us, instead of having the operative date three months after our session ends, it gives these folks a little more time to get acclimated to the new requirement, to go out and get quotes, and to buy the insurance. In fact, after talking to Senator Scheer, who knows a little bit about this, we may even see as the pool of people purchasing this type of coverage gets larger, the cost per unit is going to go down or will likely go down, and so I don't anticipate that any of the numbers that I've given you for this type of coverage would go up but rather may very well go down. But this does afford us an opportunity to be responsive if the unforeseen occurs with respect to these premiums, and for that reason, I would encourage your support of AM537. Thank you. [LB105]

SPEAKER ADAMS: Thank you, Senator Lathrop. Senator Crawford, you're recognized. [LB105]

SENATOR CRAWFORD: Thank you, Mr. President and thank you, Senator Lathrop. I did...and I appreciate your attention to concerns raised about the bill. So, one of our...when I...I was on the committee and agreed that it was important that parents know what the coverage is, day-care providers know what the coverage is, and that liability coverage in itself would be a positive and value for child-care providers and for parents. Our...as we...after the committee vote, I began to have concerns about unintended consequences, not...one of my concerns was about whether or not the liability insurance would be available at a reasonable price in some neighborhoods, or in older houses, and so my concern was about the price of the insurance but also the second level, the price of what might be required in order to obtain liability insurance in the first place. So, would there be...would the insurance companies step in and provide...and what will they require in terms of changes to physical structure or training of childcare providers. And my concern is that we wanted to know what some of those would be and make sure that we don't set up something that makes it very difficult for some of the very smaller home day-care providers to be able to get the insurance and comply for their licenses. And that if we rolled this out quickly, we could set off this difficult situation where licenses might not be offered and we might have people without day-care access. So I appreciate the concern to roll back the date, and I will be asking for a study resolution for the Banking, Commerce and Insurance Committee so that we can study the availability and requirements and costs of liability insurance for healthcare providers at these different levels. Again, want to make sure that we have assurances

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before the operative date that home day-care centers will be able to get this insurance, and that we know if there are certain triggers like having a pet or some other provisions that we know ahead of time what those may be, and that then we have a chance as we come back in January if there needs to be waivers or other kinds of accommodations, we have a chance to address that before the operative date. Thank you. [LB105]

SPEAKER ADAMS: Thank you, Senator Crawford. Senator Lathrop, there are no other lights on, if you'd like to close on your amendment. [LB105]

SENATOR LATHROP: At the risk of people pulling...of pulling people off the amendment, I'll make a brief remark and that is, I think it's pretty obvious that this is a good idea, a good addition to the bill, and I would encourage your support of AM537. Thank you. [LB105]

SPEAKER ADAMS: Thank you, Senator Lathrop. The question is, shall the amendment to LB105 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Record, Mr. Clerk. [LB105]

CLERK: 34 ayes, 0 nays, Mr. President, on adoption of Senator Lathrop's amendment. [LB105]

SPEAKER ADAMS: The amendment is adopted. We now move to discussion on the advancement. Senator Lathrop, there are no lights on, you're...I'm sorry, Senator Bloomfield, you're recognized. [LB105]

SENATOR BLOOMFIELD: Thank you, Mr. President. I really wish I had the ability to talk this thing to death for a little while so I could study it a little more overnight. I think we're looking at a good idea here, but most everybody in here knows that I don't like government mandates and that's what we're doing. I am somewhat inclined to support it, but I would sure like to study it a little bit more before I have to make that decision, but I don't believe I'm going to have time to do that today. Thank you, Mr. President. [LB105]

SPEAKER ADAMS: Thank you, Senator Bloomfield. Senator Bolz, you're recognized. [LB105]

SENATOR BOLZ: I just wanted to make one brief comment in support of this legislation. My district is home to Madonna Rehabilitation Hospital. I'm very proud of their new unit which is the Alexis Verzal Rehabilitation Unit. It's named after a young girl who was injured in a childcare setting. Her parents' insurance enabled her to get eye care, it enabled her to get a helmet, it enabled her to get the rehabilitation therapy that she needed, and I would remind the body that that's what this legislation is all about. Thank you. [LB105]

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SPEAKER ADAMS: Thank you, Senator Bolz. Senator Price, you're recognized.  
[LB105]

SENATOR PRICE: Thank you, Mr. Speaker, members. Would Senator Lathrop yield to a question? [LB105]

SPEAKER ADAMS: Senator Lathrop, would you yield? [LB105]

SENATOR LATHROP: Yes. [LB105]

SENATOR PRICE: Thank you, Senator Lathrop. Could you discuss how you landed on \$100,000? [LB105]

SENATOR LATHROP: Yeah. You know, it's...I had this discussion with Senator Harms a few moments ago. It's sort of striking a balance, and is \$25,000 going to help? That's the minimum for an auto policy. I don't think that would touch a shaken baby or a child that falls down the stairs and gets a brain injury. One hundred thousand dollars isn't going to cover all those bills, probably, Senator Price, and so...but if we mandate or if we say you have to have a million in coverage, we're going to make it too expensive for some people, so ultimately it's striking the middle ground. And my hope is that people who sit down and talk to their agents about the risk will at the same time look at more coverage just because...if you're talking about a brain injury, it's way, way more expensive than one hundred. [LB105]

SENATOR PRICE: And, okay, so understanding that's how you got there. Do you know how much a \$100,000 policy might cost? [LB105]

SENATOR LATHROP: Covered that too. [LB105]

SENATOR PRICE: Okay. [LB105]

SENATOR LATHROP: I just got a note that says, this rider costs about \$6 a month. So, if you're doing this out of your home and you go to your American Family agent and you ask your American Family agent, it should be an additional, maybe, \$6 to \$10 a month. Probably less than that. [LB105]

SENATOR PRICE: That sounds reasonable. Now, the question now, the final line, part of the bill says that failure to comply would put you in...at odds with the act? [LB105]

SENATOR LATHROP: You would be...you would not be a licensed provider or you could have your license revoked if you don't do this, and probably a variety of other things licensed providers are required to do. [LB105]

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SENATOR PRICE: Is there any provision or any way that you foresee a...I don't want to say grandfathering, but allowing people to on board to the program. I mean, we're going to have this...if it goes forward, I mean, are they're going to have to do it within 30 days, I mean, for the people already existing? [LB105]

SENATOR LATHROP: This amendment, or the one we just moved, gives them a year. They got about a year and a half to get ready for this. [LB105]

SENATOR PRICE: All right, great. Thank you very much. Thank you, Mr. President. [LB105]

SPEAKER ADAMS: Thank you, Senator Price. Are there other senators wishing to speak? Seeing none, Senator Lathrop, you're recognized to close. [LB105]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I appreciate the questions, the discussion this bill has generated, and I hope I've answered all of those concerns. If I have not, feel free to catch me off the mike and I'd be happy to respond to any concerns you have. I think what we're doing with LB105 is part of a concerted effort to bring a measure of professionalism to the licensed care facilities. Why is that important? Because when you drop your child off and the provider says, we're licensed by the state of Nebraska, that causes some expectation that certain standards are going to be met, this should be one of them. This is a bill for the providers so that they will have the coverage they thought they had in the first place. It is for the families of the children that might be hurt one day in a day-care facility so that they can take care of the medical expenses or in the very, very tragic circumstance, if necessary, funeral costs. And with that, I would encourage your support of AM...or pardon me, of LB105. Thank you. [LB105]

SPEAKER ADAMS: Thank you, Senator Lathrop. The question before the body is the advancement of LB105 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Record, Mr. Clerk. [LB105]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB105. [LB105]

SPEAKER ADAMS: The bill advances. Mr. Clerk. [LB105]

CLERK: Mr. President, your Committee on Judiciary reports LB313 to General File; LB464 to General File with amendments. Senator Dubas, an amendment to LB530 to be printed. Senator Burke Harr, an amendment to LB208 to be printed. New resolutions: LR96 by Senator Bloomfield; LR97 by Senator Mello, both will be laid over. Priority bill designations: Senator Lathrop, LB104; Senator Gloor, Banking Committee, LB568 and LB205; Business and Labor Committee, LB310 and LB476; Senator Gloor, LB439 as

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his personal priority; Senator Schilz, LB551 as his priority; Education Committee has selected LB407 and LB410 as their two priority bills for the session. I have name adds: Senator Dubas to LB104; Senator Janssen to LB505; Senator Wallman, LB23; Senator Hadley, LB104. (Legislative Journal pages 685-687.) [LB313 LB464 LB530 LB208 LR96 LR97 LB104 LB568 LB205 LB310 LB476 LB439 LB551 LB407 LB410 LB505 LB23]

A priority motion, Mr. President. Senator Janssen would move to adjourn the body until Thursday, March 14, at 9:00 a.m.

SPEAKER ADAMS: Thank you, Mr. Clerk. Members, you've heard the motion. All those in favor of adjourning until tomorrow, please indicate by saying aye. Opposed. We are adjourned.