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Floor Debate
April 04, 2013

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SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-fourth day of the One Hundred Third Legislature, First Session. Our chaplain for today is Senator Coash. Please rise.

SENATOR COASH: (Prayer offered.)

SENATOR GLOOR: Thank you, Senator Coash. I call to order the fifty-fourth day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I have no corrections, Mr. President.

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

CLERK: Mr. President, I have neither messages, reports, nor announcements at this time.

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

CLERK: Mr. President, LB629 is a bill by Senator Conrad. (Read title.) The bill was introduced on January 23, referred to the Appropriations Committee, advanced to General File. There are Appropriations Committee amendments pending. (AM641, Legislative Journal page 748.) [LB629]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Conrad, you're recognized to open on LB629. [LB629]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. LB629 requires the Governor as part of his biennial budget submission to include information on tax incentives, including the number and type of jobs created, the average wage and benefits per job, and his recommendation on whether to continue, modify, or terminate such incentives. I introduced this legislation as a consideration to increase transparency on business tax incentives and to make information available via the budget process

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that essentially puts these massive spending programs on budget and on par with other state expenditures. LB629 has no fiscal impact. There were no opponents at the public hearing. It improves transparency and accountability in concert with recommendations from our own Legislative Performance Audit on this topic recently. And this statute would model best practices utilized in other states in terms of a continued evolution regarding transparency and accountability of these programs. With that, I know that Senator Harms is going to speak specifically to some of the recommendations put forward by the Legislative Performance Audit Committee. And I know the chairman is going to open on the committee amendments which have been carefully negotiated in concert with all members of our committee and those in the administration as well, which I think improves the bill and helps us move forward in a positive posture. With that, of course, I'm happy to answer any questions and look forward to a spirited debate. Thank you, Mr. President. [LB629]

SENATOR GLOOR: Thank you, Senator Conrad. As the Clerk stated, there are amendments from the Appropriations Committee. Senator Mello, as Chair of that committee, you're recognized to open on the committee amendment. [LB629]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. The committee amendment, AM641, strikes the original sections and becomes the bill. First, AM641 amends Section 81-125 to include a summary of the report required by Section 77-5731, regarding foregone revenue due to tax incentives and expenditures within the Governor's biennial budget submission. This means that essentially future Governors would need to include a summary of the existing tax incentive report and the existing tax expenditure report with their budget submission. Second, Section 81-125 is further amended to allow the Governor to make recommendations on the continuation, adjustment, or elimination of tax expenditures and incentive programs in the biennial budget process. This allows future Governors to make tax policy recommendations within the budget submission to give a more complete picture of the overall state fiscal policy. Finally, the amendment amends Section 77-382 of the Nebraska Revised Statutes. This changes...eliminates the requirement that the Nebraska Department of Revenue make recommendations on tax expenditures and incentive programs since that privilege would instead be given to the Governor. This effectively removes the policymaking function from the Nebraska Department of Revenue. AM641, as Senator Conrad mentioned, was forged in consensus and compromise with members of the Appropriations Committee, the Governor's budget office, as well as the legislative Fiscal Office. The committee believes this is good public policy which adds transparency to the budget process and voted the amendment in the bill out 9-0. I would urge the body to adopt AM641. And for a further point of clarification as I know, no doubt we have started the dialogue on LB613, the Nebraska Tax Modernization Commission, as well as a variety of tax related issues, incentives, and otherwise in the Revenue Committee. If you jaunt back six years when the Legislature did its last tax study, better known as the Burling Commission, one of the recommendations in the final Burling Commission was

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essentially LB629. I have it here if you want to take a look at it. It's highlighted. It's Section 1-7 that encourages the Legislature to incorporate foregone tax revenue due to tax expenditures and tax incentives into the budget process to give what, ultimately, LB629, with the adoption of AM641 included, trying to provide a clear, more accurate fiscal picture for the state as state spending occurs, not just through the appropriations process, but also through the tax code by doing tax incentives and tax expenditures. With that, I'd urge the body to adopt AM641. Thank you, Mr. President. [LB629]

SENATOR GLOOR: Thank you, Senator Mello. Members, you've heard the opening on LB629 and the committee amendment. We now move to floor debate. Senator Harms, you are recognized. [LB629]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of AM641 and the underlying bill, LB629. As the Chairman of the Performance Audit Committee and also a member of the Appropriations Committee, I rise...as I said, I rise in support of this bill. I think it's extremely important. As Senator Conrad indicated, the issue was raised in a recent Performance Audit report of the Nebraska tax incentives. We found that the Revenue Department is technically complying with the statutory requirement that it provide recommendations to the Legislature regarding incentives that would be eliminated or limited. However, the department only recommends...recommendation is, no recommendation, which we believe may not be meaning the spirit of the law in the requirement. Our concern is that because the department is not making specific recommendations, the Legislature is not getting information it needs about the efficiency and the effectiveness of these programs. At the same time, we believe a requirement itself is problematic because it may be unrealistic to expect such policy recommendations from department staff whose responsibility is program administration and not policy development. Under the Appropriations Committee amendment, AM641 to LB629, the responsibility for reporting on whether to continue or to eliminate any tax incentives would be shifted away from the Revenue Department to the Governor, where I believe it belongs, who would include such recommendations in his biennium budget. The amendments would also require the Governor's budget request include a summary of two reports the Revenue Department is currently required to prepare. Doing so would bring tax incentives information into the broader discussion of state revenues and expenditures. As you know, because tax incentives relieve businesses from the obligation to pay certain taxes, they impact the amount of revenue the Legislature has to work with. However, unlike direct appropriations, tax incentives are not tracked in the state budget, therefore, are not...are reviewed regularly by the Appropriations Committee. Including additional information on incentives in the Governor's budget request would provide the Appropriations Committee with a better view of the state financial obligations, and I'd urge you to support AM641 and LB629. Thank you, Mr. President. [LB629]

SENATOR GLOOR: Thank you, Senator Harms. The Chair recognizes Senator Krist.

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[LB629]

SENATOR KRIST: Good morning, Mr. President, and good morning, colleagues. And good morning, Nebraska. I am a member of the Performance Audit Committee and as Senator Harms has described, there is frustration and there is also some concern that the data that has been asked for on many occasions is either not available or not available to us. Let me say that again. Not available or not available in a timely manner to us. Anything that we can do to require information to be given to the Legislature so that we can make a proper decision and we can apply the oversight, which is part of our responsibility, is critical to making good decisions. You've heard the old saying, garbage in, garbage out. We need good information to make good decisions. I'd also remind you that this is a citizen Legislature. This is a part-time job, quote, unquote. The citizens voted that way when they voted our pay raise down the last time. They obviously think that we're here just for six months or nine months out of the year. But neither here nor there, we are not here full time and we do not see what the executive branch is doing 365, unless you're Speaker Adams and you live here. The point is that every report that we can put into place respectfully, every piece of information that we can have provided to us respectfully and honestly, aids in good decisions that we make. I wholeheartedly support AM641 and the underlying LB629 and ask you to vote green. [LB629]

SENATOR GLOOR: Thank you, Senator Krist. (Doctor of the day introduced.) Returning to floor debate, Senator Hadley, you're recognized. [LB629]

SENATOR HADLEY: Mr. President and members of the body, I have a couple of things. First of all, thank you for all your consideration on my arm. I would like to at least set the record straight. This was not caused by either my wife, the Governor, or Senator Chambers. So I just wanted that for the record. I do stand in support of this bill. Part of what we do as senators involves transparency, and we have to have transparency with our constituents. The one thing I would like and I have talked to Senator Schumacher and I have talked to Senator Conrad. Senator Schumacher has a bill coming up that we're going to hear later, LB612 that deals with reporting also and the different reports for tax expenditures and such as that with the Advantage Act and such as that. And I hope, since both of these bills deal with the Revenue Committee, and both of them went through other committees than the Revenue Committee, I hope to be able to work with Senator Schumacher and Senator Conrad so we can see where the commonalities between these two bills, so that maybe we could come up at Select File with a bill that basically sets in statute the way the Legislature wants to get information about what is happening on the tax side of the house. Now, the last thing I'd like to say, so often we talk about the fact that we have foregone taxes and such as that. I realize we have that, but one of the offsets to foregone taxes is economic development. So we can't lose sight of the fact that we may forego some taxes now to hopefully get more revenue for the state to fund these other programs in the future. So I stand for both the amendment and this bill, and I hope there's a green light for it. Thank you, Mr. President. [LB629]

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LB612]

SENATOR GLOOR: Thank you, Senator Hadley. Senator Larson, you're recognized. [LB629]

SENATOR LARSON: Thank you, Mr. President. Would Senator Conrad yield to some questions? [LB629]

SENATOR GLOOR: Senator Conrad, would you yield? [LB629]

SENATOR CONRAD: Yes. [LB629]

SENATOR LARSON: Senator Conrad, are the reports to the Revenue foregone by the operation of the current laws in effect already being reported somewhere else? [LB629]

SENATOR CONRAD: The...there is an existing report regarding revenue policy that is presented to the Revenue Committee each year and that is linked to on DAS, Governor's budget Web site. So what this legislation does, as you know, we visited about this issue in committee, is really utilizes those existing reports and information and puts it together in a more streamline fashion so we're not asking anybody... [LB629]

SENATOR LARSON: But they are being reported somewhere else, currently. [LB629]

SENATOR CONRAD: Yes. [LB629]

SENATOR LARSON: Has the Governor or the Department of Revenue ever mismanaged these reports in the past and not reported it in an acceptable manner? [LB629]

SENATOR CONRAD: Well, I think, as you heard from Senator Harms, that question is open to debate based upon the Legislative Performance Audit finding in regards to whether or not there was statutory compliance with these reports and corresponding recommendations. [LB629]

SENATOR LARSON: Thank you. And can the Governor currently communicate with the Legislature in any fashion that he approves or wishes to eliminate certain tax incentives, should he wish to do so? [LB629]

SENATOR CONRAD: To be clear, there is no possibility through our efforts or state law to limit the Governor's free speech rights, and I definitely don't know any governor who has ever been shy about sharing his ideas in regards to the state's economic development policy, so there's no limitation there. [LB629]

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SENATOR LARSON: All right. Thank you, Senator Conrad. The reason I rise and ask these questions is because Senator Conrad talks about these are the best practices and, you know, these reports already do exist and we just need to add transparency. And this just kind of reminds me of a debate that we had Tuesday and yesterday in terms of, if it's already being done and they already have the ability to do it, why do we need to clutter the statutes? It's already being done. And I know there were a number of people, Senator Conrad included the other day, that said on my bill, LB57, this is already being done by the Environmental Trust. Why does it need to go in the statute? This is already public information. Why does it need to go into the statute? I think there's some very good parallels here of, this is already being done. We can already go look at all this. I think we have to ask ourself those questions. Is this good for transparency? I voted it out of committee. I'll probably continue to vote for it because I do think it offers transparency, but at the same time, I think we can't say we want transparency over here, we want added transparency in the statute over here, but we don't want added transparency in the statute over here. And it's just funny to me that this would come up the day after we heard this. So, colleagues, I appreciated the vote on LB57 yesterday. LB57 is good government. We want to put in statute the good practices that are already happening. I will probably continue to support LB629 and AM641 as the process goes through, but I think we need to be a little consistent when it comes to transparency and good practices in government. Thank you. [LB629 LB57]

SENATOR GLOOR: Thank you, Senator Larson. Mr. Clerk, for an amendment. [LB629]

CLERK: Mr. President, Senator Lautenbaugh would move to amend the committee amendments with FA48. (Legislative Journal page 897.) [LB629]

SENATOR GLOOR: Senator Lautenbaugh, you're recognized to open on your amendment to the committee amendments. [LB629]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And my amendment is very simple. On page 4, line 26, it mentions that there's some information to be presented by February 1st. I'm troubled by that date. I think it should be March 1st. Now, I want you to understand, I don't sit on the committee that put this out here. I wasn't privy to the discussions. I really have no basis for preferring March 1st and I really have no conception of what other deadlines that's going to mess with. But I think it's important that you know that I have a preference for that date and my preferences are valid and it's incumbent upon you to sit there and listen while I give them voice. So I think, passionately, that March 1st is better than February 1st. And I think people have a right, including future governors, to submit their reports on March 1st rather than February 1st. And I'll be cold, dead in the ground, before I'll accept February 1st as an acceptable date to me. And I think this raises good questions. I was listening to Senator Larson's testimony and, boy, I really have to question the committee that put this bill out here because it doesn't sound like it's really needed and it sounds

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like the reports already exist. So maybe it's my turn just to start wailing on a committee for putting something out that I didn't like. Of course, I never heard of this bill until yesterday. But what the heck, I might have gotten an e-mail about it telling me some statistics without telling the other statistics. So, I'll just stand at the mike and give voice to them. But, my gosh, February 1st troubles me and I don't know how we could go on with such a date in statute in putting such a burden on future governors. It seems arbitrary, it seems unfair, and somebody called my office once with a story about how they couldn't make that deadline. And I asked somebody to investigate it. I don't know if anything ever came of the investigation, but the fact that I asked for one is significant to make you wonder whether or not what I'm saying really doesn't have a lot of merit to it. I think I might have written a letter to somebody once about this. I don't recall and I don't know if they answered. And if I had it, I would read it to you because I'm sure I made a lot of good points in there. And the fact that I said them, means they must be so, or at least worthy of discussion. So I'll look forward to a vigorous discussion on the merits of this date that I arbitrarily picked versus another date that exists in law that may not have been arbitrarily picked, may hinge on a bunch of other deadlines, and may be absolutely rationale, defensible, but I don't prefer it. So, we should talk about this. Perhaps we should talk about this all morning. Perhaps we should talk about this tomorrow morning. Perhaps we should talk about this this evening. Perhaps we should talk about this tomorrow during my son's baseball game. Perhaps we should do anything other than move the agenda forward. And you're settling in...Mr. President, could I get a gavel? Thank you. This is important stuff. You're all settling in because you know the drill. Someone is at the microphone going on saying a bunch of absurd things, and sometimes he'll raise his voice so you know when to listen, or not, but you know that the morning is now shot because someone has a bee in his bonnet and we're going to go. So...oh, I was going to tell you which way to vote, but I forget now. I don't remember if I prefer February 1st or March 1st, but one of them means an awful lot to me so I'm hoping you'll vote for this amendment because it's the right thing to do, and it would be manifestly unjust to the visually impaired and everyone else to do otherwise. So, I'll look forward to your green light on this. [LB629]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Members in the speaking queue: Harms, Schilz, Krist, Mello, Smith, and Conrad. Senator Harms, you're recognized. [LB629]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in opposition to this amendment. Colleagues, I just would urge you take a moment to think about what our Performance Audit Committee found. And the important thing about this is that the spirit of the law of the requirement is surely not being met by the Revenue Committee and that's what this is about. We need to make sure that you have all the right information. This is foolish about February versus March, and I don't know what all that issue is about because I missed part of the floor debate yesterday. But this is the heart of this thing is to make sure that we have the right information. If you go back and look

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at that, the findings of a Performance Audit, we have absolutely no way that we can measure the success of these programs. Unless the people who house the records tell us that these are not working and you need to make recommendations to make the changes, we don't know that. We will never get to that information. And when you attach this to the budget, when you attach this to the performance of our Governor coming here and telling us what his budget is, you will then see for the first time how these all interact. This has a major impact on what happens to our revenue in the future. And as senators, you need to know whether these are working or not working. You need to know whether you want to keep these or adjust these or just don't care. That's not where I'm at. If you're truly interested in the tax structure, you're truly interested in looking at our taxes and the overall revenue, colleagues, this is a major player of this. It's important for us to have the Governor tell us what he wants to have changed, or that it's working fine. We're not straddling any future governor. If I was a future governor, I'd be happy to have this. I'd want to know exactly what these are doing. Hey, we're giving a lot of money away here, colleagues, and we need to understand it goes into the millions, and I'm not arguing the fact that the Advantage Program is not good and it doesn't do what it's supposed to do. What I'm telling you is, this is important for us, and we shouldn't get caught in petty politics today. This is an issue that's important to the state and to this Legislature and you need to listen carefully and be a part of this. I'd urge you to vote against the amendment and support the bill and the amendment, AM641. I'd like to yield the rest of my time to Senator Mello. [LB629]

SENATOR GLOOR: Senator Mello, 2 minutes and 5 seconds. [LB629]

SENATOR MELLO: Thank you, Mr. President. Thank you, members of the Legislature, and thank you, Senator Harms, for yielding time. Just so the body is fully aware of what Senator Lautenbaugh's FA48 does, because I caught some overtones from Senator Lautenbaugh in regards to maybe previous floor debates that he was referring to on other bills, FA48 changes the date in which a newly elected governor submits their budget proposal to the Legislature from February 1 to March 1. In a 90-day legislative session like this year, that essentially would mean the governor would propose his budget...or her, would propose their budget recommendation after the Appropriations Committee has already finished with the preliminary budget. So, if Senator Lautenbaugh ultimately wants you to vote green on this, this would dramatically alter the state's budget process, which I don't know if he really is sincere with wanting to change this or if he simply wanted to put an amendment up to start a dialogue on this, but it dramatically alters what happens now in the sense that it takes the Governor, if this is what ultimately he wants to do, it takes the Governor... [LB629]

SENATOR GLOOR: One minute. [LB629]

SENATOR MELLO: ...out of the budget process. So if this is really what Senator Lautenbaugh wants to do is to take the Governor out of the budget process or minimize

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the Governor's budget recommendation to well after the Appropriations Committee has already provided a preliminary budget, I'm interested to hear more ideas on it. But, ultimately, I think in talking with the Fiscal Office, February 1 has been a deadline that has been given to new governors for as long as anyone can remember, and we're going to find the exact date to provide the historical perspective, but it's a date that gives the newly elected governor two weeks additional to what the current office holder has when submitting their proposed budget to the Legislature. With that in mind, I would urge the body not to adopt FA48. Thank you, Mr. President. [LB629]

SENATOR GLOOR: Thank you, Senator Harms and Senator Mello. Senator Schilz, you're recognized. [LB629]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Good morning. And I would like to ask Senator Conrad a couple of questions if she's available. [LB629]

SENATOR GLOOR: Senator Conrad, would you yield? [LB629]

SENATOR CONRAD: Absolutely. [LB629]

SENATOR SCHILZ: Senator Conrad, thank you, this morning. And I heard in your opening and was listening, when we talk about...when we talk about this report contained within your bill, what all is contained within this report that you want to...that you want to have reported by the Governor? [LB629]

SENATOR CONRAD: Sure. Thank you, Senator Schilz. The report includes information regarding each tax expenditure and incentive program, and whether or not those should continue for a fixed number of years, and the reasoning why they wouldn't make that recommendation. It also includes information about the types of jobs created with those programs. [LB629]

SENATOR SCHILZ: I see. So we're talking about all the sales tax exemptions or just the incentives? [LB629]

SENATOR CONRAD: It relates to each tax expenditure and incentive program. [LB629]

SENATOR SCHILZ: Okay. Okay. And then you talked about...oh, shoot. There it is. I'll get on to my next question. Maybe I'll remember the follow-up that I had. And then the next question is, as Senator Larson asked, this is being done in other places possibly. What is...what is the reasoning behind wanting this to be in the Governor's...does it go in the budget itself or does it go into a separate report? [LB629]

SENATOR CONRAD: Thank you, Senator Schilz. And to be clear, this information is

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already reportable. There's no argument about that but as Senator Harms noted and as I noted, based upon the Legislative Performance Audit review of the existing statutes and reporting requirements, one area that is void that is not being complied with is a policy recommendation about whether or not to continue these programs. We had a great debate about this at the committee level and everyone agreed. And you know how diverse that committee is, that it was probably inappropriate to ask a code agency to make a policy recommendation. They should be charged with implementing and executing the policy as it stands. So, of course, we felt it made better sense for the Governor to make that policy recommendation. So that is a key piece that is not duplicated in other law, that would be new, and that is necessary. [LB629]

SENATOR SCHILZ: Okay. Thank you very much. And then one final question and I'll give this to you. So right now, it's your contention and that the Governor is not...is it that the Governor is not keeping up with his responsibility,... [LB629]

SENATOR CONRAD: No. [LB629]

SENATOR SCHILZ: ...or is it the executive branch? Would you explain that to me, please? [LB629]

SENATOR CONRAD: Yes. The current statutes as I understand it, Senator Schilz, regarding tax expenditures and tax incentive programs, ask the Department of Revenue to make a policy recommendation about whether or not to continue those programs, modify those programs, etcetera. That is the component that is not currently being complied with. The department usually issues, or always issues no recommendation. So we all agree that, again, it's probably wrong for a code agency to issue policy recommendations and more appropriate for a Governor to do so. And so that's a key component that is not duplicated in other areas of law and probably a better fit. [LB629]

SENATOR SCHILZ: And so you believe that by moving it from the auspices of the Revenue Committee having...or the Revenue Department having to do this up to the Governor, that you may see...you may see more policy recommendations in the future. Is that correct? [LB629]

SENATOR CONRAD: Yes, yes. [LB629]

SENATOR SCHILZ: And then, does he...would he have to put policy recommendations within this report or could he just say the status quo is fine and move on? [LB629]

SENATOR GLOOR: One minute. [LB629]

SENATOR CONRAD: Thank you, Mr. President. Thank you, Senator Schilz. He...it would be up to the discretion of the Governor whether or not to make a specific

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recommendation. And if you look on page 4, line 17, you'll see the operative word "may" which makes it a permissive guideline for whoever sits in the Governor's chair and it would be their province to say, I want to continue with the status quo, that would be just fine. [LB629]

SENATOR SCHILZ: Thank you, Senator Conrad. And I will sit and listen to the debate and I'm sure, try to make the best decision that I can moving forward. Thank you very much, Mr. President. [LB629]

SENATOR GLOOR: Thank you, Senator Schilz and Senator Conrad. (Visitors introduced.) We continue with discussion. Senator Krist, you're recognized. [LB629]

SENATOR KRIST: Thanks again, Mr. President and colleagues. And good morning, Nebraska. The reason I say good morning, Nebraska, every time I get up is to remind me that I'm on a mike speaking to the state of Nebraska so I should watch my tone, my demeanor, and all my bad words. I think the emotional maturity in this Chamber this morning has dipped below ten, ten years of age. A lot of emotion, a lot of what we talked about yesterday and the day before and the kinds of things that shouldn't really have ever been brought to the floor to begin with. This is a new tone for me in the five years that I have been here and it's time for me to stand up and simply say, if this is the way it's going to be, then I'm in my office and I'll get a call of the house and the only time I would come out here is if it's important to me. Because the amendment that is in front of you right now, clearly, I don't have any reason to want the 1st of March. I guess I want the 1st of March. I guess I want the 1st of February. To emulate someone who gets up and does that and again to set a tone in this Chamber the way that we have, in my estimation, is disrespectful to this institution. I won't leave the Chamber except when I absolutely have to. I will sit here and I will listen to things, but I'm just reminding my colleagues. The thing that we love so dearly about this Legislature is that 49 people own the floor, and you can get up and say anything you want to say at anytime you want to say it. But let's be constructive because if we do eight hours on every bill, you do the math. It's almost time to suspend the rules and do cloture by the rule at four hours or two hours. So we only have to listen to somebody babble for that period of time. It is our job to make things better. Senator Chambers made that bill better in the first three minutes that he was up yesterday in one particular case, and then we spent the rest of the day talking about what? What? Can you tell me? This is my turn on the mike. I get my five minutes. I want to be more respectful to people and I want you to be more respectful to others as well. And if that's wrong, then you get up and you tell me it's wrong. You get up and you tell me that that's wrong to be respectful to 48 other people who get paid a \$1,000 a month and all you can eat to be here to do the work of the citizens of the state of Nebraska. Let's get to work. Thank you, Mr. President. [LB629]

SENATOR GLOOR: Thank you, Senator Krist. Senator Mello, you're recognized. [LB629]

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SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I had my light on prior to Senator Harms yielding time, but ultimately just as a point of clarification in thinking through FA48, Senator Lautenbaugh's floor amendment, just to further clarify, if the body would to adopt FA48, it would move a newly elected Governor's budget submission from February 1st to March 1st, which is after the deadline in which the Appropriations Committee creates and develops a preliminary budget, effectively eliminating the Governor from doing a two-year budget submission to the Legislature. Very interesting concept. Something that I never thought I would be advocating for and I'm not purely advocating for it right now, but so the body fully understands if we would adopt this, any newly elected governor would not essentially have a whole lot of say or feedback in the submission of a real budget to the Legislature, and that power would be ultimately ceded to the Legislature in the Appropriations Committee. But I think I heard, if I'm not mistaken, from a colleague of ours on the committee, Senator Larson, trying to draw, I think, parallels between LB629 and LB57 which was his priority bill that was discussed for eight hours in General File. Currently, right now the Governor does not submit a budget recommendation with foregone revenue. That's not being done in statute now. I will repeat, that is not being done now in the Governor's budget submission, nor has it been done, nor is it put in statute. Just for clarification purposes in case Senator Larson...I heard some dialogue between him and Senator Conrad and I wanted to clarify their dialogue. That is not being done in statute. What is being done in statute are two reports through the Department of Revenue. First, the tax expenditure report which collects data in regards to all tax expenditures that have been passed into statute, and what those fiscal costs are associated with that expenditure, as well as the tax incentive report, which ultimately provides a look back in regards to what are the costs of all of Nebraska's tax credit and tax incentive programs. Those reports are available on-line to the Legislature and to the public at large and they're actually produced at different periods throughout the budget cycle. What LB629, by adopting AM641, says those reports get submitted with the budget submission by the Governor so that the Legislature and the public see all of it combined in regards to essentially one report. But more importantly, and we had this lengthy discussion in the Appropriations Committee, the addition to foregone revenue through tax expenditures and tax incentives provides a clear fiscal picture for the state because ultimately when the Legislature passes and the Governor signs or doesn't sign and then possibly gets overridden, a new expenditure or a new incentive, that essentially, colleagues, is spending through the tax code. And spending that goes through the appropriation process, we have a very lengthy process laid out in statute and through our rules which any new spending through the appropriation process goes through a lengthy review, both as the bill gets introduced or gets brought in front of a committee, public hearing, lengthy debate within the committee, gets either part of the budget or not, or it's done through individual senators pieces of legislation through A bills. What happens though is that new spending gets reviewed every two years through the budget process. So when we appropriate money, let's say, Senator Hansen has a bill that appropriates money to

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the Brand Committee, and that gets part of their budget from here on out, that gets reviewed by the Legislature every two years through the appropriations process. But what doesn't always get reviewed is tax expenditures and tax incentives through the budget process. [LB629 LB57]

SENATOR GLOOR: One minute. [LB629]

SENATOR MELLO: That process will start with the adoption of AM641 and LB629 simply by incorporating that foregone revenue from those two reports that are compiled and incorporate that into the budget process. It's not making a indication or it's not passing judgment on what is good policy or bad policy and that needs to be clarified. We're not saying something is good public policy or bad public policy. We're simply trying to provide a clear fiscal picture of all of the spending that occurs in the state and this is spending that occurs outside of the budget process. It occurs in the tax code and that needs to be incorporated into our budget process to provide a clear, more global perspective of what's being done in our state budget. Thank you, Mr. President. [LB629]

SENATOR GLOOR: Thank you, Senator Mello. Senators in the queue: Conrad, Lautenbaugh, Larson, Kintner, Chambers. Senator Conrad, you are recognized. [LB629]

SENATOR CONRAD: Thank you, Mr. President. I'm not sure if Senator Lautenbaugh is serious with his amendment or not, but I thought I would rise to address it. And I share similar feeling with Senator Lautenbaugh that there is no situation that sometimes doesn't require a little bit of levity. So, if this is his attempt at trying to make a point and hopefully in a good natured way, so be it. But to be clear, the floor amendment contemplates sections of law that were not altered in my original legislation or in the committee amendment. And, in fact, have never been subject to public hearing. So not only does the floor amendment fail to demonstrate a comprehensive understanding of the budget process and how the Governor interfaces with that, it fails to understand and demonstrate the clear misunderstanding of our own process in regards to public hearings on bills and issues of statute which are contemplated and not. That being said, fair game. They want...opponents are asking questions about my belief in regards to another bill which we spent a great deal of time on and that's fine. I think a clear distinction point is that, for example, our own Legislative Performance Audit Committee conducted a review of the Nebraska Environmental Trust and didn't put forward any suggestions for statutory improvement. That's not the case when it comes to the tax incentive programs. So, I think that's a clear distinction in that regard. And on that note, people don't have to like me. They don't have to like my politics, but I'm going to do my best every day to fight for my district and to do what I think is best in terms of the citizens of the state of Nebraska. It is never personal for me. It is always policy-based. It think you see the opposite contention reflected in FA48 and that's unfortunate. Thank you, Mr. President. [LB629]

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SENATOR GLOOR: Thank you, Senator Conrad. Senator Lautenbaugh, you're recognized. [LB629]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I do understand Senator Krist's feelings. I certainly do. I may have...I'll say, frittered away 45 minutes today and we just can't stand for that kind of thing. That's 45 minutes we'll never get back and I don't know where I get off thinking this is proper to stand here and say things that I really have no basis for, but just have a feeling or an opinion, or maybe somebody told me it was the right thing to do, and just waste floor time. And I know that doesn't happen here very often and I should be more apologetic that I'm doing it today. And if Senator Krist is offended, I'm very sorry. But, who knows, maybe I have a score to settle with Appropriations. I mean, the senior golf tournament, I guess, wanted to be funded for \$250,000 and they only gave them \$200,000 and that's within my district. You can see it from my back porch so I'm outraged by that, that \$50,000, and I will never let this bill go until that injustice is redressed. And you can try to stop me, you can try to shut me down, but it will never work because I own all of you. Okay, I've rented all of you then, with an option. (Laughter) But Senator Krist really did get to the point of it, and if only somebody else had stood up here repeatedly and said, you know, there is a way to suspend the rules and everything doesn't have to take eight hours. And it used to be done all the time, and in the last decade we seem to have lost our nerve. But I know it's in the rules, because it's in the rules. And I'm the Rules Chairman and some day I'm going to read those rules and you're all going to be in trouble. (Laughter) I know that eight hours isn't in there. I know there's a motion to suspend the rules. I know we can suspend part of the rules. I know we can advance bills as a big bunch. So, you guys already passed my real priority bill. The OPS thing is done. The election is under way. We've already had the primary. So, there you go. I guess maybe I do own you guys, although I already used that one because, what do I want now? I want to make a point. And the point is that if you guys have things you want to pass, and I assume you all do, there better be a level of seriousness about this. And sometimes it's fun to all get on the bandwagon and we can be very opportunistic and, you know, caucuses come and go, and alliances come and go, depending on the issue. And we think this is the time that we really want to chew up time. But when it becomes excessive and you start to see your particular priority being imperiled, and I hope you all can see that from here right now because we're halfway through the session, and we haven't done a whole lot of your priorities yet, you had better be prepared. To quote the movie...or the line from the Untouchables, what are you prepared to do? What are you prepared to do? Are you prepared to suspend the rules? Are you prepared to advance things? Are you prepared to stop debate in under eight hours? Or are you going to play by the rules and by the customs and the unwritten rules, more to the point, and let your bills die and let your bills not be gotten to? Because there's more than one of us that can ride roughshod over all of you and take up all the time we want. Any one of us can do it. We just don't choose to. And now, I'm being completely unsettled because Senator Krist kind of beat

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me to the punch... [LB629]

SENATOR GLOOR: One minute. [LB629]

SENATOR LAUTENBAUGH: ...and happily drew the conclusion that I was going to get to, maybe later. Thank you, Mr. President. And I hope you're all listening still, because this really hasn't been that long especially by the standards of our debate lately. What are you prepared to do? What are you prepared to do when it's your priority and it's stuck? Or your priority is the next one and the one in front of it is stuck? Because some of you find yourself there now and all of you will, I promise you that, it appears, so what are you prepared to do? Thank you, Mr. President. [LB629]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Senator Larson, you're recognized. [LB629]

SENATOR LARSON: Thank you, Mr. President. First, I'd like to say in AM641, I agree with Senator Conrad that the report...on page 4, lines 11 through 14, that requires that the Department of Revenue make the recommendations on policy does need to be taken out. That is very much true. Senator Mello brought up a point that the Governor currently doesn't give us these reports, and he's correct. I think what I was trying to get out of the dialogue with Senator Conrad are these reports are currently being done. And Senator Mello reaffirmed that. These reports are happening and we as state senators can go get them. We do have access to them. What AM641 does is just tells the Governor he has to get them for us instead of us having to go get them for ourselves. Some might call that laziness. Some call that good government in transparency. It just depends. Again, I supported AM641. I supported LB629 out of committee. I will continue to support AM641 and LB629, but I think those points need to be made in the sense that we are adding language to statute of things that are already being done and we have access to. And with that, if Senator Lautenbaugh would yield to a question, I'd have one. [LB629]

SENATOR GLOOR: Senator Lautenbaugh, would you yield? [LB629]

SENATOR LAUTENBAUGH: Yes, I will. [LB629]

SENATOR LARSON: Senator Lautenbaugh, I'll ask you the question and then you can take the rest of my time. Does your fear of AM641 leading to the floor amendment, FA48, have anything to do with Agenda 21 or anything of that nature? [LB629]

SENATOR LAUTENBAUGH: I have to be honest, Senator Larson. I get up every morning in fear of Agenda 21 and you just never know when it's going to get us. So, that has been one of my motivating principles. I wish I had a clever mathematic way to derive that from either the floor amendment number or the amendment number or the

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bill number. But, you know, I think you can assume that's the underpinning of everything I'm doing here today. Or, you can assume that the underpinning of what I'm doing here is exactly what I just told you, which is, we are wasting a ton of time and you all have priority bills and you have to be prepared to do something about it in relatively short order because the clock is ticking. And there are ways. And maybe someone will explain those this afternoon, maybe not, but you better be ready. And with that, Mr. President, if I may, I'd like to withdraw this amendment. [LB629]

SENATOR GLOOR: Seeing no objection, so ordered. We return to discussion on the committee amendment and LB629. Senator Kintner, you're recognized. [LB629]

SENATOR KINTNER: Well, thank you, Mr. President and members of the body. This LB629 and AM641, took a journey and I appreciate the hard work that Senator Mello and Senator Conrad have put in to make this work for everybody. It wasn't easy to get it out of this committee, Appropriations, 9-0. They worked very hard on it and I appreciate that hard work. And Senator Conrad, I want to tell you I support this bill. It's April 4th at 10:01. Please note the time and the date that I'm supporting this. You know, there's a need for transparency, I think, in everything. And I agree with transparency. Some don't think we need transparency on the Environmental Trust. I think we need it on the Environmental Trust. I think we need it on this. I think we need it on everything and I will generally vote for transparency every time. This is our way of telling the Governor, hey, Governor, look at this stuff. Let us know what's going on. We're not going to beat you up. We're not going to force you, but to look at this stuff and report to us. I don't think that's bad. So, I think this bill is fine. I encourage my fellow colleagues to support this and I will yield the rest of my time to Senator Lautenbaugh. I've enjoyed what he's had to say and I think maybe he can...if he's here. Senator Lautenbaugh, if he's not here...is he here? Well, I was going to let him entertain us a little longer, but I'm done. Thank you. [LB629]

SENATOR GLOOR: Thank you, Senator Kintner. Senator Chambers, you are recognized. [LB629]

SENATOR CHAMBERS: Mr. President and members of the Legislature. I listen to everything that happens on the floor as I stated. I'm probably on the floor longer, continuously, than any other senator in this place. It would be one thing if I would lash, lambaste, persuade, beg, plead, grovel, capitulate, and pander, and then leave. But I'm here. This is a bill that I don't have anything to say on because enough people are discussing it. But, as far as the rest of it, I'm not affected by anything anybody says, even Senator Lautenbaugh, and those who say you can vote for cloture immediately, do it. If any of those things were addressed toward me, do whatever you want to do. I will win because I don't care, and you all do. You might vote cloture immediately for two or three days. Then when the media begins to say, Senator Chambers is the person they're trying to stop, so they've thrown all of their responsibility out the window, they're

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not going to debate a bill because they want to show him that they can cut off debate immediately. I win no matter what you do. But I'll tell you this if you pay attention, which you don't, every time I force this body to engage in extended debate, the bill that I was discussing underwent some changes, some promises from those who supported it that they were going to do something about it. That there were issues they had not thought of. They've acknowledged that the hard work I do in trying to take an unclear thing, meaning bad, garbled language, and straighten it out. They would say, it is better. I know what I'm doing. I know why I'm doing it. I'm going to continue to do it. Those things that are being said here don't even work with children. When they want you to do something, so they say, you better not do that, then you're supposed to do it. That doesn't work with the children at least in my community and I am not a child. Some people are Anglophiles. They love everything that happens in Britain or England. They love the parliamentary system. Have any of you all ever seen any place on the news of how parliament works? When the top person in the country is speaking before parliament in England or Canada, they boo, they hiss, they make all kind of raucous displays of what you could call disrespect. But so what, he's the head of the country, he can take it. So he just waits until they get through, then he starts and they start, and that's the push, the pull, the give and the take, but people in this country are so immature, so juvenile that if things are not said with a smile and a bow, then you're being rude. Well, call me rude. You're being disrespectful. Call me disrespectful, but I'll tell you what I respect more than what happens on this floor. I respect the obligation I have to fight for the issues I was sent down here to fight for, and I will fight against everybody on this floor and anywhere else if necessary. Let it be me against all, and all against me. And you think I'm going to go away. Certainly not. Some guy sent a letter out about the gun bills they were supposed to support, and I think they mentioned a bill that Senator Bloomfield had. And I got a paragraph in his letter. Senator Chambers has said he's going to fight this bill so we need to have a big turnout so all of them came and... [LB629]

SENATOR GLOOR: One minute. [LB629]

SENATOR CHAMBERS: ...I was supposed to be intimidated because the room was full of them. That doesn't mean anything to me. They even got so raucous as law-abiding citizens, which they always call themselves, that one of them had to be taken out of the room and the others had been chastised by the chairperson of the committee. And they're coming to put me in my place. That is the silliness that takes place in this state, and it shows the kind of people they're accustomed to dealing with, and they have to know that I'm not one of them. I am not one of them, and I will stand and I will say what I've got to say. But again, this bill is not on my radar scope. I'm listening and I'm learning. Thank you, Mr. President. [LB629]

SENATOR GLOOR: Thank you, Senator Chambers. (Visitors introduced.) Continuing with debate, Senator Schilz, you're recognized. [LB629]

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SENATOR SCHILZ: Thank you, Mr. President. I'd like to talk just a little bit more about the bill itself and see some of the reasons, or try to find...get to the bottom of some of the reasons why we are where we're at now, and where we need to go in the future to make sure that we're spending our dollars wisely as a public entity and as the state of Nebraska. It should always be important to the people of the state that their money is being spent, that folks understand how their money is being spent, and spent in such a manner that benefits the people in the way that it was intended to do that. So, would Senator Conrad submit to a couple more questions? [LB629]

SENATOR GLOOR: Senator Conrad, would you yield? [LB629]

SENATOR CONRAD: Yes, of course. [LB629]

SENATOR SCHILZ: Thank you, Senator Conrad. I appreciate it. As we talk here and we talk about these incentives programs and the jobs that are created and things like that, I guess that when you bring up legislation to require something like this for these changes, they're...do I sense it right that you believe there may be an issue with how these monies are being spent or how they're being overseen? Is that the case? [LB629]

SENATOR CONRAD: No, I don't think there's a value judgment at all in regards to tax incentive programs contemplated in LB629. I think simply what LB629 says is that we scrutinize every line item in every budgetary program carefully through our process as does the Governor. One thing that we don't do on par with that is provide the same consideration to how tax expenditures and tax incentive programs impact that budgetary process and those budgetary decisions. This simply says, let's put that on par with the other aspects of the budgetary process and contemplate them together in a more comprehensive manner, which is in line with past precedent in this Legislature. Senator Rich Pahls asked for similar information to be provided as part of this process. The Legislature adopted that just a few years ago and this is really a continuation of that kind of policy to ensure that these issues are on the same par from a budgetary perspective as other spending programs. But there is no value judgment. [LB629]

SENATOR SCHILZ: I see. And so, basically, you're using this as an educational tool as well as a transparency tool to make sure that...if somebody wants to use this to make a value judgment they would be able to, correct? [LB629]

SENATOR CONRAD: Yes, absolutely, and I think every governor has that ability and should engage in that process to decide, as you noted earlier, if the status quo is serene as well, or if we should change some of these programs to better meet important public policy objectives like we've done in the past. We evolved our economic development programs from the original LB775 into the Nebraska Advantage Act and we've continued to make changes to best meet our state's interest, so that's part of the

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process. It should be the part of any governor's deliberations and any Legislature's deliberations to continually ask the hard questions about, are these programs best meeting the needs of business and our citizens? [LB629]

SENATOR SCHILZ: Thank you, Senator Conrad. And one last question this time around, what kind of dollars are we talking about? How many dollars are we discussing here? [LB629]

SENATOR CONRAD: There's no fiscal note on the bill. [LB629]

SENATOR SCHILZ: But what I'm asking is, when you talk about those incentives, there's a dollar amount of incentives that are out there either as not received or as spent through these businesses that are utilizing these incentives. [LB629]

SENATOR GLOOR: One minute. [LB629]

SENATOR CONRAD: That's right, Senator Schilz, and I apologize, I don't have that number right off the top of my head. But I'd be happy to grab that in my file because I know it exists in existing reports and that's put out by the Department of Revenue. [LB629]

SENATOR SCHILZ: Sure. And the reason I ask is I'm sure it's a rather large number and I think it would be beneficial for everybody on the floor to hear that. Thank you very much, Mr. President. [LB629]

SENATOR CONRAD: Very good. [LB629]

SENATOR GLOOR: Thank you, Senator Schilz and Senator Conrad. Senator Lautenbaugh, you're next in the queue. [LB629]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I think we're probably getting where we need to go on this topic. Just another reminder. I am obviously, because some have helped me illustrate it, probably unintentionally, making a point with this, or either prematurely or unintentionally, either way. Subtlety is a lost art, so I gave up on it as well. But if you're outraged by this, I hope your outrage isn't selective. I hope it comes back and you visit it upon the next person who starts taking up time and those that heap on board, jump on board. And you can object to the tone, but you're probably a little late in doing so, unless we're all going to take that to heart which would be good, I think. I can't help but notice that there's a certain animal I'm frequently compared to and no, I'm the wrong party, so it's not the one you're thinking of. It's a bear. Senator Chambers routinely calls me a young cub. Another senator pointed out he's thinking of that cartoon with the big dumb cub and the short angry father, which I suppose I should take offense at. Another of our colleagues called

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me a couple of years ago the momma bear. Said whenever I attack one of your cubs, you come roaring out of the cave. Well, I'm not sure who my cubs are necessarily, but I thought it was funny at the time. And, yeah, sometimes we will come roaring out of the cave. So, if you are going after someone on the floor, you'd better make sure, I guess, that you are secure in your own upcoming bills and whatnot because you never know who's going to hop up next and do something similar. And that is another point worth making. And if that is a waste of time and that offends, then so be it, but it's meant sincerely. And the session will proceed as it will proceed, I guess, but I'm offering some thoughts here and I hope we're paying attention. Thank you, Mr. President. [LB629]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Senator Hadley, you're recognized. [LB629]

SENATOR HADLEY: Members of the body, just a couple quick notes. You know, we had a couple of bills in the Revenue Committee and one them in particular I dislike because that's the bill I fell down on in the Revenue Committee, so I dislike that bill that Senator McCoy brought. But other than that, Senator Schilz was talking about the amount of dollars in this report. What we certainly found out from those hearings that we had, I think, I want to say we had close to 100 citizens of the state of Nebraska that came in. Companies or individual citizens come in and talk to us. And a large part of this tax expenditure report deals with inputs to agriculture and inputs to manufacturing. That's where, when we talk about giving up sales tax dollars, those are the two largest areas that we give up. But there's a reason we give them up. And this was pointed out time after time after time to us. We want our Nebraska farmers and manufacturers to be competitive in a national and international market. And you cannot have pyramiding taxes. So when you look at the burden report and the tax expenditure report you see this huge number to start with. And what I'm saying is, there's a reason for a number of those exemptions. I've been on the Revenue Committee five years now, and every year we've had some kind of exemption bill...numerous exemption bills brought to us. We study them. We look at the impact in the future. We try to determine what's best for the state of Nebraska to grow the economy of the state of Nebraska. I don't know the exact dates, but a few years ago, my first year, Senator White brought a bill that put sunsets on the Nebraska Advantage Act. It has a sunset. It's going to...some of you are going to be in this body when you have to reauthorize the Advantage Act. So, you'll get your chance to do away with it if you want. Also, national meetings, there is a kind of a growing feeling that when possible, we should use the appropriations process. But I had a number of bills that came before the Revenue Committee and I would talk to the introducer and say, wouldn't this be better placed in the Appropriations Committee? And my golly, the reaction was just almost atomic. Oh, no, we can't put it in the appropriations process because when we give these kinds of incentives, we can't be changing them every year. We cannot put them in a position that we change them every year or two years, which can happen in the appropriations process. So, I'm just saying, I think this is a good report. I think it's...putting it in the budget makes sure that all of us

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read it, at least look at it to understand what's happening. But I'll agree with one last thing Senator Conrad said, it doesn't mean we have to change anything just because we have the report there. It's our job to analyze what's happening with those reports. And a lot of what we do is kind of on the come. We just don't have that crystal ball. We don't have a crystal ball to say if we invest in this wind energy project, it's going to be the greatest thing in the world. But at times we have to roll the dice and that's what we're doing here. Those of you that have bills to help... [LB629]

SENATOR GLOOR: One minute. [LB629]

SENATOR HADLEY: ...the Health and Human Services, that help education by requiring more money, remember we've got to find that money someplace. And one of the ways we do it is to expand the economy in the state of Nebraska. Put people...more people to work. Get them higher paying jobs. Increase the revenues of Nebraska through expanding the economy. Thank you, Mr. President. [LB629]

SENATOR GLOOR: Thank you, Senator Hadley. The Chair recognizes Senator Chambers. [LB629]

SENATOR CHAMBERS: Mr. President and members of the Legislature, Senator Lautenbaugh is so provocative. I've got bills probably that will come up. I have a priority bill. You think I don't know that. You think I don't know that people who want to take out after me, who have the opportunity to do so, I know all of this. I've said it. Senator Lautenbaugh has not listened. But I'll tell you one thing I've also said, I will never seek to invoke cloture. So, if I have a bill and you want to talk it to death, you'll have that opportunity. And you'll see that unless you're making a point that is of consequence, I won't even get in your way. I will let you do whatever you want to do. And any bill that I support, the same thing holds true. In my community when I was growing up and engaged in fisticuffs--see we even called it something different--I would always tell somebody, don't tell me, show me. And I don't ever talk about military issues, but those things are going to come up. I was the only black guy in the barracks when I was taking basic training at Fort Leonard Wood, and I was in very good physical condition. And these guys, they spoke like southerners, and some of them would say that they were hillbillies. They'd use that term. And I'd tell them, you don't like people saying it, you shouldn't say it. They'd say, well, it doesn't...in their way, it doesn't make us any difference. So one of these guys wanted to box me. And I said, look, what you're trying to find out is if you can whip me. So, I won't box you, but I'll fight you. And that's the way I was. We're not going to spar around and see who is the best or who might be the best. I have to be shown. And I let them know, if you whip me, you're going to have to whip me more than once. And that's just the way I feel. And I carry that attitude not about physical encounters. We're beyond that. I've listened to my law abiding friends, so I'm not going to engage in fisticuffs with you. I'll shoot you. Did you hear me? I will shoot you. Isn't that what we're taught? That's why I would carry a gun, except that I don't.

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The point I'm making now through all of this is some people do stand on the floor and say what they're going to do just to be saying it. And they might do it just to do it. But I have a reason for everything that I do. When what I am trying to accomplish has been accomplished to the extent that I can, then I let that go. If I can accomplish something in less than eight hours, that's fine. But I assure you of this, it will not be every trifling issue that I disagree with which I will carry through eight hours of discussion because it's a waste of my time. Forget the Legislature's, or the legislators' time, they make time for lobbyists whenever they want to talk to them. They're going to be hunting lunches and mooching meals when we go late. You'll not see me stopping to drink water. You'll not see me stopping to make water, and you'll not see me mooching meals. I will not spend one second in that place where you all... [LB629]

SENATOR GLOOR: One minute. [LB629]

SENATOR CHAMBERS: ...are going to be slurping up that food. Because when the belly is full, the head is empty. And what you all need to understand is that when you eat sweets, that does not give you energy, it slows down your brain. So you're lucky that I eat a lot of candy, so it brings me closer to being in line with my colleagues. You all get so upset. See, except that I don't like M&Ms. They're too sweet. When you cover chocolate with other candy, you're spoiling it. That's what you're doing, so I don't do that. I'm picky about that. But, colleagues, don't be so easily offended. Don't be so easily distracted. And now you know the way I operate, you can just ignore me if you want to. You don't have to listen. [LB629]

SENATOR GLOOR: Time, Senator. [LB629]

SENATOR CHAMBERS: You don't have to stay in the Chamber. You certainly don't have to look at me. That's why you have eyelids. [LB629]

SENATOR GLOOR: Time, Senator Chambers. [LB629]

SENATOR CHAMBERS: Oh, you said time. [LB629]

SENATOR GLOOR: Time, sir. [LB629]

SENATOR CHAMBERS: You know it's been said that I don't hear well when I choose not to hear well. Thank you. [LB629]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Schilz. Oh, excuse me. The Chair recognizes the Speaker. [LB629]

SPEAKER ADAMS: Thank you, Mr. President. Members, just a moment for an announcement. There have been all kinds of inquiries from inside the body and a whole

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lot more on the outside about consent calendar. I'm here to tell you that there is going to be one. We will send out a notice to you next week and we will try to build that consent calendar at somewhere around the end of this month. In April we'll take time on the floor for a consent. So, despite all the rumors that there won't be one, there will be one. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Mr. Speaker. Senator Schilz, you're recognized.
[LB629]

SENATOR SCHILZ: Thank you, Mr. President. It's good to know that we're going to have a consent calendar thing this year. I like that. Quick. Moves. Kind of like that. Be a different change of pace for here. You know, we heard earlier Senator Hadley stand up and talk about where the vast majority of these exemptions are going, and I think he's exactly right. I think that as you look out there to what drives and what makes the state of Nebraska, what moves their economy forward is agriculture, manufacturing, those kinds of production jobs that hire people, create value, and put money in the pockets of both the citizens of the state as well as the government coffers. And I don't think that there is any way that you can look to folks that are in agriculture and say that they are not paying their fair share as it is when you look at the amount of property tax and how those fund our local governments--counties, schools, those kind of things. So when you look back over the past five years and how this state has kind of remained out of the worst of the economic woes that the rest of the country has seen, I know there's only one place to point to and only one sector...I shouldn't say just one but one sector that needs to be thanked, and that is the agriculture sector. Every day they're out there making sure that there's money coming in, that their products are going out, and with that we are one of the biggest, best agricultural states in the Union. That coupled with the fact that we have a constitutionally required balanced budget puts us in a very good spot. As a conservative Legislature, I also like the idea of making sure that people are keeping an eye on where that money goes and to whether or not things have changed over time and if we need to do anything to change how government responds, too, because I think that as we've heard, things do change. The realities of the world change, thank goodness, because if they didn't we'd all be where we are 50, 100 years from now, pick a spot in time. So I commend the people that want to take a look at this, that want to find ways to not only spend our money as wisely as possible but are willing to look at new and different ways and are also willing to look at some of the unintended consequences of what our decisions in the past have brought us, and to adjust those laws, to adjust those situations so that the state of Nebraska and the public entities that are spending those monies are spending them as wisely as possible and with the same intent that the Legislature set those up to do. And I think you can see a theme starting here whether we're talking about situation yesterday with the Environmental Trust or this situation here today, it is our responsibility to make sure that the agencies that are underneath the Legislature or the state of Nebraska that have power to expend money, that we are the oversight for that. So I don't disagree with Senator Conrad's bill. [LB629]

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SENATOR GLOOR: One minute. [LB629]

SENATOR SCHILZ: I think it makes some sense. And albeit I think there's other situations that it also makes sense to look at things, to tweak the laws to make sure that we continue to do the work of the people of Nebraska. And that, majority of that work, is to make sure that the taxes that are brought in and that the monies that are expended going out are being done as efficiently and spent as wisely as possible. Thank you, Mr. President. [LB629]

SENATOR GLOOR: Thank you, Senator Schilz. Senator Wallman, you are recognized. [LB629]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Here's a Performance Audit and it says we have...we can authorize tax incentives often referred to specific categories of business activities, livestock modernization, teleworkers, research and development activities, or targeted specific geographic areas. However, the Legislature did not develop yardsticks which we should have against which to measure the effectiveness of these programs. So we're expected, the tax incentives, we expected that to stimulate business activities and expand the tax base. But how much? That's the question, folks. How much? So we need a yardstick here because these programs all suffer from the same problem from the evaluation standpoint as does the Advantage Act in the absence of clear, measurable goals and relevant data. So it's difficult to say whether the act is actually doing what the Legislature intended it to. So, folks, I'd urge you to vote for the bill and against the amendment. Thank you, Mr. President. [LB629]

SENATOR GLOOR: Thank you, Senator Wallman. There are no senators remaining in the queue. Senator Mello, you're recognized to close on the committee amendments to LB629. [LB629]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Just as a reminder of what AM641 actually does since we had interesting and extensive floor debate on a variety of issues that are not incorporated in the amendment. The amendment starts off by incorporating in the budget process starting with the Governor's budget submission, incorporating foregone revenue through tax expenditures and tax incentives that now are part of the budget process. That's the first aspect. Those numbers essentially are derived by the two reports that the Department of Revenue produces every two years in relationship to tax expenditures and tax incentives. Those reports are also incorporated into the budget process as well as the last aspect is that the Governor may offer recommendations through the budget process of changes that that person may want to make in relationship to tax expenditures or tax incentives. As I know Senator Hadley mentioned it, Senator Conrad mentioned it, and I

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will finish with it, there is no determination and there is no judgment call being made in relationship to any current tax expenditure or tax incentive. That's not what this bill does. It simply reports the data in the fiscal information that's associated with existing state law that has created an expenditure or an incentive program. It's not saying one is good, one is bad. It's not saying one is performing or not performing. It's simply reporting the foregone revenue the state would have received without that exemption and that statute in place so that we can now start putting what we're spending in the tax code on line with what we're spending through the appropriations process. It's simply more fiscal transparency to try to provide a more global picture of what the state is doing in relationship to spending policies both through appropriations and through the tax code. With that, I'd urge the body to adopt AM641. Thank you, Mr. President. [LB629]

SENATOR GLOOR: Thank you, Senator Mello. Members, the questions before us is the committee amendment to LB629. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB629]

CLERK: 39 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB629]

SENATOR GLOOR: The amendment is adopted. We continue discussion on the advancement of LB629. Senator Lautenbaugh, you are recognized. [LB629]

SENATOR LAUTENBAUGH: Thank you, Mr. President. And I think there's a danger that we're going to talk this to death, so I would urge all of you just to move on. And I'll yield the rest of my time to Senator Bolz. [LB629]

SENATOR GLOOR: Senator Bolz, you are recognized, 4 minutes, 50 seconds should you care to use it. [LB629]

SENATOR BOLZ: Vote green. Thank you. [LB629]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Thank you, Senator Bolz. Seeing no senators wishing to speak, Senator Conrad, you're recognized to close on the advancement of LB629. [LB629]

SENATOR CONRAD: Thank you, Mr. President. (Microphone malfunction) (Inaudible) Oh, hello. Sorry. I just couldn't hear very well. As I noted in my opening, I looked forward to a spirited debate and indeed we had one. So that's always an invigorating way to start off the day, kind of like a legislative 5k. Now that we have our cardio done, let's move onto the business at hand. And I think we had a good discussion about how this is important legislation to improve accountability and transparency related to tax expenditures and tax incentive programs and really put that into the budgetary process and correct statutory deficiencies when it comes to a recommendation regarding those

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issues that is currently housed at the Department of Revenue and moving that to a more appropriate place in the Governor's Office. I appreciate all of the comments that we heard. If people want to continue the dialogue in between here and Select File, I'm happy to do that. I did also want to be responsive to Senator Schilz in previous questioning. If you look at the DAS budget site or the Department of Revenue site and as implicated in the legislative Performance Audit report on tax expenditures and tax incentive programs, most notably on page 6, there are a variety of significant amounts and numbers that, again, I think are deserving to be put on par with other budgetary programs. For example, and from a general sense, if you just look at sales and use tax and income, income tax exemptions, we see about a \$3.2 billion impact over the biennium. And if you look on page 6 of the Performance Audit report, they note that the Nebraska Advantage Act which is just one tax incentive program had multimillion dollar impact in terms of our overall budgetary picture. So, again, I wanted to make sure to follow up and be responsive to that issue. I think that this was a good debate, it's a step in the right direction; it ensures that Nebraska models best practices in other states; and it's an important way to move forward on these important issues. Thank you, Mr. President. [LB629]

SENATOR GLOOR: Thank you, Senator Conrad. Members, you've heard the closing on LB629. The question is the advancement of LB629 to E&R Initial. All those in favor vote yea; all opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB629]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB629. [LB629]

SENATOR GLOOR: The bill advances. Continuing with General File. [LB629]

CLERK: Mr. President, LB423, introduced by the Agriculture Committee and signed by its members. (Read title.) The bill was introduced on January 22, referred to the Agriculture Committee. The bill was advanced to General File. There are committee amendments, Mr. President. (AM614, Legislative Journal page 741.) [LB423]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Schilz, you're recognized to open on LB423. [LB423]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. Wow! That last bill only took an hour and 37 minutes. That's...we're on a record pace. Speed legislating right now. Appreciate it. Good morning, everyone. LB423 arises from the discussions initiated by LR575 that was assigned to the Agriculture Committee during the 2012 interim. This bill responds to growing concerns regarding the potential fiscal liabilities of local governments in enforcing animal cruelty laws with respect to livestock, particularly if it involves responsibility for providing for care and boarding of large numbers of livestock that may be present in commercial livestock operations. The continuing drought adds some urgency in helping local authorities be prepared to handle potential

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cases of neglect. Provisions of LB423 would insert the counterpart into the Livestock Animal Welfare Act to Sections 29-818 inserted by LB712 in 2010. That same year, LB823 was also enacted removing livestock from the animal cruelty provisions of Chapter 28, Article X, and setting forth crimes against livestock animals within Chapter 54, Article IX. Due to complexities and considerations such as diverse ownership and security interests that may be present in livestock, Sections 29-818 was limited to apply to pets and horses with the expectation that disposition protocols for livestock animals involved in neglect and cruelty situations would be addressed distinctly with amendments to the Livestock Animal Welfare Act. LB423 is broken down into the following primary elements. It inserts a new section stating legislative findings recognized in the state livestock health interest and incidents of livestock neglect and abuse and assigning authority to the Department of Agriculture to provide the following services to assist local authorities in enforcement of livestock cruelty enforcement. The commission...it would commission veterinarians trained in animal cruelty investigations available to advise local law enforcement regarding condition and disposition of animals and to represent the state veterinarian with respect to the state livestock health interests, and it would make available such other appropriate assistance within the department's authority and capabilities. This provision of the bill is what generates the fairly substantial fiscal note and is stricken by the committee amendments. And I will address more of the opening on the amendment. It does amend 54-906 of the Livestock Animal Welfare Act, inserting express authority to euthanize animals found injured, disabled, or diseased beyond recovery for useful purposes with a provision for owner/custodian to have their personal vet present. Authorizing law enforcement to...it also authorizes law enforcement to enter an agreement with the owner/custodian by which the owner agrees to take management interventions to avoid seizure. Animals would be subject to seizure if the agreement is violated. And it inserts a new section setting forth procedural steps for resolving disposition of seized livestock animals. Upon seizure of livestock animals, the agency taking custody shall have seven days to petition for a hearing before the district court with the hearing scheduled for within ten days of the petition unless otherwise directed by the court. Notice of the hearing is to be provided to the seized animal owners or to custodians and lien or security holders of record. Upon finding of probable cause that abandonment or cruel neglect or mistreatment, the court may order immediate forfeiture to the seizing agency and authorize ultimate disposition of returned custody to the owner/custodian but under conditions ordered by the court to take necessary management actions, including culling by sale, forfeiture, etcetera, and assurances that animal needs will be met, and order, bond, or security the benefit of seizing law enforcement agency although hold the agency to account for the use of funds and return of unused residue of funds to the owner. This bill incorporates appeal procedures from this hearing modeled after those in 29-818. Previous Chairman of the Agriculture Committee, Senator Carlson, convened a meeting of a wide array of stakeholders in September and continue to develop the bill in consultation with these interests. And you can see that the bill enjoyed a broad swath of support from the agricultural, banking, and law enforcement community. The

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enforcement of animal abuse violations can be extremely burdensome and a growing liability for local governments, particularly if it involves responsibility for providing for care and boarding of large numbers of livestock that may be present in commercial livestock operations. While current provisions of the Livestock Animal Welfare Act do provide potential for governments to recover such costs and does impose civil liability for the costs and care provided by seizing authorities or third parties, these remedies are uncertain and not typically available until completion of associated criminal proceedings. Recent incidents in both companion and livestock abuse/neglect have demonstrated a need to mitigate costs through expedited mechanisms for determining the disposition of animals. Disposition of livestock animals is complicated by factors not typically present in companion animal situations such as diverse ownership, lien security and other legal interests that may be present in commercial animals. Additionally, the need to maintain biosecurity and potential implication of animal health issues further complicates incidents involving livestock. Local officials are highly dependent on charitable assistance from rescue organizations and other private associations for both assessment and boarding of animals. A guiding principles is that the ultimate goal is to safeguard animal welfare by assuring owners and custodians fulfill their responsibilities vis-a-vis livestock. The bill attempts to provide additional civil and other noncriminal interventions available to local authorities to obtain that result by resulting in quicker resolution and limit local government costs and exposure to liabilities. And I would like to thank Senator Carlson for all his work and all the work of all the people that came together to make this bill possible. And I would urge you to vote green on LB423. Thank you very much, Mr. President. [LB423]

SENATOR GLOOR: Thank you, Senator Schilz. As the Clerk stated, there are amendments from the Ag Committee. Senator Schilz, as Chair of that committee, you're recognized to open on the committee amendments. [LB423]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. LB423, the committee amendment, AM614. First, the committee amendment would strike Section 3 of the bill which assigned authorities to the Director of Agriculture to provide assistance to local law enforcement when requested for purposes of assessment of animal condition and to represent the state veterinarian in any state animal health interest that might be present. The fiscal note appears to be based on an assumption that the department would assume a role as primary livestock cruelty complaint and investigative entity which is actually contemplated...which is actually contemplated was to provide for the creation of a core of veterinarians with specialized training to be available as a resource to advice law enforcement in carrying out duties assigned to them at the point of actual entry with the potential for law enforcement taking custody. Additionally, there is a deep interest among the livestock community for assuring biosecurity if animals are relocated and carcass disposal. Our assumptions in drafting the bill is that a law enforcement might need to avail themselves of this service rarely. The fiscal note assumes that this service would be utilized often. Because of the lack of

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consensus with the administration of defining the role of the personnel or the department would provide under the bill, the committee strikes Section 3. However, the underlying issues are valid and the committee may continue to explore means to coordinate state livestock health authorities with the livestock cruelty and neglect authorities exercised at the local level. Secondly, the committee amendment inserts a new Section 1 that removes horses from the disposition procedure of 29-818. This is because the more specific procedural steps added to the Livestock Animal Welfare Act create a conflict with disposition under 29-818 with respect to horses as livestock are defined by the act to include horses. I have elected to eliminate the conflict by excluding horses from the 29-818 since the ag constituency have generally advocated that horses be included in livestock in part because seizure of horses may entail commercial interests, liens, etcetera, that are rare with respect to domestic animals. Third, as mentioned in the opening, the bill provides for an expedited hearing upon seizure of livestock by law enforcement. Upon a finding of probable cause that abuse or neglect has occurred, the court is authorized to order remedies that may include: an order of forfeiture and instruction for disposition; an order directing the owner to implement certain management actions; and to order the owner to provide financial responsibility to reimburse costs that may be incurred by local authorities to care for seized animals. As introduced, the bill provides that the court may order the owners to provide financial responsibility in the form of a bond or other security. The amendment inserts an additional option of order direct installment payments modeled after that found in Section 29-818(2)(c) of Section 6 is rewritten to incorporate this option. The committee amendment also rewrites a provision that would require reasonable accommodation of an owner's request to have a veterinarian of his or her choosing present at the time of assessment of the animals. As introduced, the bill provides accommodation of this request shall not delay any necessary euthanization deemed necessary for more than 24 hours. This amendment provides that such accommodation may not unduly delay euthanization where appropriate. The amendment further provides that law enforcement may forgo euthanization if the animal is placed in the care of the veterinarian. Finally, the amendment would direct that if an owner or a custodian enters an agreement for management interventions to be taken by the owner to avoid seizure, a copy of the agreement is to be provided to the owner. And with that, I would also hope for your green light on AM614 to LB423. Thank you very much, Mr. President. [LB423]

SENATOR GLOOR: Thank you, Senator Schilz. Members, you've heard the opening on LB423 and the committee amendment. We now move to floor debate. Senator Sullivan, you are recognized. [LB423]

SENATOR SULLIVAN: Thank you, Mr. President. Good morning, colleagues. I have been listening to the introduction of this bill because I had a fairly large situation in my district that involved horses. So I'm going to have to ask for a few clarifications from Senator Schilz. I didn't warn him in advance, but I wondered if he would yield for some questions. [LB423]

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SENATOR GLOOR: Senator Schilz, would you yield? [LB423]

SENATOR SCHILZ: I will sure try. Yes. [LB423]

SENATOR SULLIVAN: Thank you, Senator. As I said, had a fairly large situation in my district that involved some animal welfare issues and potential abuse, but it was horses. So I need some clarification in terms...I just heard you say that what you're proposing here does not include horses. [LB423]

SENATOR SCHILZ: No, it does include horses. [LB423]

SENATOR SULLIVAN: Okay. Tell me one of the... [LB423]

SENATOR SCHILZ: What we did is we moved them into this part of the statute just because of the same situations that you're talking about where we can have large numbers of animals that need to have something done with them. And that's why we moved the horses from the other side which is the pet and domestic animals over to the livestock section. [LB423]

SENATOR SULLIVAN: Okay. Very good. I appreciate that. Tell me a little bit more than, too, when animals are seized who is responsible, whether it's taking care of the animals in the interim when they're trying to be disposed of or placed in a different arrangement and situation. Is this where the Department of Agriculture intervenes? [LB423]

SENATOR SCHILZ: Well, right now that's a very good question that you ask because there is no set protocol out there today that tells law enforcement, county law enforcement, or whoever where they should go as a next step on this. And that's what this bill works to do. What this bill does is it gives those sheriffs and county law enforcement folks the ability to make some of those decisions that need to be made as soon as possible, and it works as an incentive, so to speak, for people that don't want to see, you know, costs go through the roof if somebody would happen to...if they have to forfeit their animals to a county or to some other political subdivision that then would keep tabs on the costs and charge those back to the person. And it also has a provision in there that you would contact lienholders and things like that. So hopefully what will happen is that we won't ever get to the point where there would be forfeiture or anything like that. Hopefully folks will take care of their responsibilities before we get to that point. But this bill allows for that, allows to bring in a veterinarian to give a professional opinion on whether or not the animals need to be euthanized, forfeited, or what other management practices need to happen, and then in order to make this work there can be agreements between the owners of those animals and the law enforcement agency to make sure that the owner's responsibilities are kept up. [LB423]

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SENATOR SULLIVAN: But in the whole process of that as costs are incurred either in the process or in the end result, who picks up the tab? [LB423]

SENATOR SCHILZ: And that's a good question. In here as it states is that as long...once the animals are forfeited, even if they're not forfeited, once the animals are under a management agreement, and maybe they have...they're being fed and maybe they're being taken care of by a third party necessarily, those costs either have to be taken care of somehow by the owner either with a bond or with direct payments or some other instrument to make sure that they are covered. If in fact you go through the hearing, you find all this out, and it comes back that that owner was not in any...did not perform any wrongdoing or anything like that, then those dollars that they expended are paid back to that owner. If not, it falls upon the county or the political subdivision that actually forfeited those if it comes back that nothing wrong was done. [LB423]

SENATOR KRIST PRESIDING

SENATOR KRIST: One minute. [LB423]

SENATOR SULLIVAN: And if it falls back on the owner, then there's a judgment against him to... [LB423]

SENATOR SCHILZ: Correct. [LB423]

SENATOR SULLIVAN: Okay. [LB423]

SENATOR SCHILZ: That is correct. [LB423]

SENATOR SULLIVAN: Why was the Farmers Union opposed to this? [LB423]

SENATOR SCHILZ: That's another good question. And how it turned out was it was very soft opposition. In fact, when we sat down and talked about it further, we found out that they are really in favor of the bill. And I would ask you if you're curious about that to go talk to them about it. But it seemed to be a little bit of a mix-up as to when to get up and sit down and give the testimony. [LB423]

SENATOR SULLIVAN: Thank you for your explanation. Thank you. [LB423]

SENATOR KRIST: Thank you, Senator Schilz and Senator Sullivan. Senator Bloomfield, you are recognized. [LB423]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good morning, colleagues. If you look at your gadget, you'll see I was one of two senators that did not vote to move this out of committee. There were actually three; one was absent. My reasoning for this and

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my heartburn with the bill deals with what Senator Sullivan was pursuing a little bit I think. And that is if an animal is seized and taken to a shelter or the veterinarian or a third party, that cost can be turned back on the individual it was seized from. And there is nothing in this bill that prevents somebody from putting way more than the animal is worth into taking care of it and dumping that cost back on the owner. In days of \$350-, \$400-a-ton hay, you don't have to feed a whole lot of hay to a horse that somebody thought looked a little thin to surpass the value of that animal. I have a little concern with that. The committee has worked to make this bill I think as fair as they can. I haven't yet decided how I'm going to vote on it out here. I may just sit on my hands and not vote as I did in committee because I do think there are issues there yet that need to be resolved. I'm certainly not going to mount the filibuster that we're used to seeing out here. But I think we need to take into consideration that an owner that may not have all the money in the world that is trying to take care of that animal may not have the highest quality hay but that animal will survive and get to grass should not necessarily be given a bill that he can't afford to pay and have a judgment put on his land if he happens to own the land or he happens to be a renter using the pasture, we don't know where the expense goes if the owner can't pay. I think there is some vagueness in this yet and I think the bill still needs a little bit of work, but that's the decision you folks will make. Thank you. [LB423]

SENATOR KRIST: Thank you, Senator Bloomfield. Senator Carlson, you are recognized. [LB423]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. And as Senator Schilz indicated in the initial work and meetings that took place on this bill, I was involved in that and then was not at the hearing because of a commitment to another committee. But if you look at the committee statement, those that were in support of this bill, the pork producers, the cattlemen, Nebraska Bankers Association, there's a reason that they would be interested in animals being seized. They may have financial interest in that regard or a lien, Sheriffs' Association, Farm Bureau, Nebraska Veterinary Association. I do have a question for Senator Schilz if he would yield. [LB423]

SENATOR KRIST: Senator Schilz, will you yield? [LB423]

SENATOR SCHILZ: Yes. [LB423]

SENATOR CARLSON: Senator Schilz, I appreciate the answer that you gave Senator Sullivan concerning Farmers Union. Another group that had been involved in the meetings and I didn't see them attending the hearing, and I don't know if you know what their thoughts were but I would think it would be supportive of the bill would be the county attorneys. [LB423]

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SENATOR SCHILZ: Yeah. And as far as I know in the meetings that we had, there was no opposition from the county attorneys in what we have here or in the original green bill. I think they're on board. [LB423]

SENATOR CARLSON: Okay. Thank you, Senator Schilz. I think that this bill is a good bill. It's the right approach in taking care of things that need to be taken care of, acknowledging when there are difficult situations, even abuse, that takes place that we can address that and address it in the right way and see that it is solved. And so I certainly support AM614 and the underlying bill LB423 and thank the committee for the work that they've done on it. Thank you. [LB423]

SENATOR KRIST: Thank you, Senator Carlson and Senator Schilz. And, Senator Schilz, you are the last one in the queue and if you'd like to make this a closing. [LB423]

SENATOR SCHILZ: I would be happy to. That would be great. Folks, thank you very much for listening to this. I know that as we were sitting here on the mike I did get a note from Farmers Union who said...who wanted to make sure that I stand up and tell them that with the amendments they are in full support of the bill. And so I appreciate that from them as well as everybody else that came to the table to get this done. This is albeit we don't see very many cases, it's relatively rare, but when we do have cases that this bill is looking to address, you need something like this to take care of it. If you have 200, 300 animals and there's an issue as to whether or not they're being fed or whether or not there are any other abuses occurring, the first thing is to take care of the animals. Let's make sure that those animals are fed properly and taken care of properly so that there isn't any undue distress on them. And then, secondly, let's make sure that the people that own these animals understand from the beginning that they have a responsibility to take care of those animals as long as they own them. And sometimes if they don't take care of them properly, somebody is going to come back and make sure they do. And that's what this bill is here to do, to reduce the cost to those counties so that they don't sit there month after month and day after day waiting with the continuances and things like that and civil court to get their bills paid as well. So hopefully this will alleviate that and I think that it will go a long ways towards that. With that, I would wish for your support for the amendment and for the bill itself. Thank you very much, Mr. President. [LB423]

SENATOR KRIST: Thank you, Senator Schilz. You've heard the closing on the amendment. The question is, shall the committee amendments to LB423 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please report. [LB423]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB423]

SENATOR KRIST: The amendment is adopted. Any further discussion on LB423?

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Seeing none, Senator Schilz, you're recognized to close on LB423. Senator Schilz waives closing. The question is the advancement of LB423 to E&R Initial. All those in favor vote aye; opposed vote nay. Mr. Clerk, please report. [LB423]

CLERK: 34 ayes, 1 nay, Mr. President, on the advancement of LB423. [LB423]

SENATOR KRIST: Thank you, Mr. Clerk. The bill advances. Next item. [LB423]

CLERK: LB216 is a bill originally introduced by Senator McGill. (Read title.) The bill was introduced on January 15, referred to Health and Human Services, advanced to General File. There are committee amendments pending, Mr. President. (AM502, Legislative Journal page 669.) [LB216]

SENATOR KRIST: Thank you, Mr. Clerk. Good morning, Senator McGill. You're recognized to open on your bill. [LB216]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I'm here to introduce LB216, the Young Adult Voluntary Services and Support Act. I think the easiest way for me to explain the purpose of this bill is to tell you about a young Nebraskan named John. John was in the foster care system for many years until he turned 19 last September. When a foster child reaches the age of majority, juvenile court jurisdiction ends. And the child is no longer a ward of the state of Nebraska, and assistance from HHS ends. All these things happened when John turned 19, and he had no home, no money, and no direction. So, literally, kids are going from being in a group home, turning 19, and later in that day leaving for the City Mission. A few weeks ago, John came into my office and asked if this piece of legislation had passed and so that it could help him. He is homeless, unemployed, and struggling every day. When he came to my office he said that his life had no structure and he didn't know what to do. Despite all of this, John has been here, at the Capitol, lobbying for this bill and telling his story. He's also been applying for jobs, although it's difficult, as a homeless youth, to have an employer take you seriously. I would like to thank him for the work that he's done and all the other young people who have worked so hard on this project. As most of you know, members of the group Project Everlast, a group of former foster children, have been outside the Chamber the last few days, and I would like to give a special thank you to those young people for the passion they show in trying to change not only their own lives but the lives of other foster youth. Colleagues, this bill is about homeless teenagers, plain and simple. The state raises these children and then turns them loose at 19. We all know that the state makes a terrible parent, so, not surprisingly, these 19-year-olds are nowhere near ready to live life on their own. Many of us were not ready to live life on our own at 19 and received some level of support from our parents into our 20's and even into our 30's at times. Now imagine going through that experience with no support from your family, nowhere to go for Christmas or Thanksgiving, and that's what these young people are dealing with. I passed around a cost-of-aging-out handout from

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Project Everlast that has some very troubling statistics: that 71 percent of young women who are aging out of the system will be pregnant by the age of 21, and 62 percent of them will have two children by the time they're 21; 80 percent of young men will be arrested at least once by the age of 26, and 60 percent of them will be convicted of a crime. LB216 would provide these youth with a variety of services to help prevent some of these negative outcomes and costs on our community. It would provide healthcare--although the federal government is already covering that as well, through the Affordable Care Act--housing, some educational supports, case management, and judicial oversight for former foster children, ages 18 to 21. You can get a full list of all of the services those caseworkers would be providing on pages 4 through 6 of the green copy of the bill. The bill would allow young people to stay in foster care if they wanted, and this could help provide that needed adult guidance and support that these kids so desperately need. There is federal money available to all states for programs like these under the Fostering Connections Act of 2008. Nebraska does not currently take advantage of this program. Nebraska does have a program for youth leaving foster care, called Former Ward, but this program is not widely utilized and is not codified in Nebraska law. Many young people do not qualify for Former Ward services because you have to be currently enrolled in college as you're aging out in order to qualify, and many others don't even know about the program. This program we're trying to create here with LB216 would allow a young person who is turning 19 who just wants to get the heck out of foster care and out of state involvement to come back six months later and say, oh, my goodness, I'm homeless, I don't know what to do, this program can at least get a roof back over my head so I can figure out the next steps in my life. The qualifications for this program you can find on page 3 of the amendment, and they include: being in school; working at least 80 hours a month; or being disabled and unable to qualify in these other ways. This bill is a result of a long-term project that involved a lot of collaborative work over the last few years. I introduced a similar bill in 2012, and the work on this project continued over the interim with young people, judges, other stakeholders in an older youth stakeholder group. And that also included the Department of Health and Human Services, the Foster Care Review Board, other legal agencies, legislative staff, and legal advocates, and they've all been spending the last year trying to figure out how to smoothly implement this program if it is adopted. So the time we would need between the passage of this bill and implementation doesn't have to be as long as would otherwise be needed because so much groundwork has already been laid in the creation of this program. You will see that there is a fiscal note attached to this bill, which is why...and a fiscal note that would leave the state with about a \$3.4 million responsibility in the first year. And so I've been working with the Appropriations Committee to find a way to streamline my bill to just one population of former state wards, and that is the former foster care kids who are either state wards through HHS or dually adjudicated and leaving out the OJS kids that are also state wards. This has been an incredibly tough decision to make because they make up over half of our state wards, and their needs are just as great. But I also recognize the fiscally responsible thing to do this year is to limit the program so that we can afford to have a two-year

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program for these youth. And so in a couple years, we could hopefully come back and say this has truly been a valuable use of our dollars. I'll talk a little bit more about the amendment, when I get to introduce it, and what that new fiscal note is. This body has closely examined many aspects of the child welfare and juvenile justice systems. We have looked at the way children enter the system, the way they are served while they are in the system, but we have not closely scrutinized the way these children leave the system. This is a critical piece that we cannot afford to overlook. I ask for your support. Thank you, Mr. President. [LB216]

SENATOR KRIST: Thank you, Senator McGill. And as the Clerk stated, there are amendments from the Health and Human Services Committee. Senator Campbell, as the Chair of the committee, you're recognized to open on the amendments. [LB216]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. A few years ago, Congress had an act called Fostering Connections, and in that act the federal government stipulated some ways in which we could help young people get ready to age out of the foster system. This Legislature three years ago passed a Nebraska version of aging out and Fostering Connections. The impetus of that bill, which I carried, was to prepare them to age out. But what we have found in the ensuing years...that sometimes that preparation is lax. And one of the most startling things that happened to me in looking at child welfare was listening to a young person tell me that their plan, that had been developed with the department, that the final statement in that plan for them to age out was, go to the People's City Mission. Folks, I said on the floor of the Legislature when I first told that story, and I say it again, we can do a lot better. The amendment from the committee would do the following. It would clarify that the department is not required to have legal counsel present at the young adult's permanency review hearings. This change helps reiterate the voluntary youth distinctiveness of the program and permanency reviews and addresses the fiscal impact of the additional cost for the department if attorneys were required to participate in the permanency reviews. The second point the amendment does is to raise the age from 14 to 16 years of age, and yearly thereafter until 19 years of age, for the age of youth in foster care that will receive information from the department regarding the young adult voluntary services. The change in the number of years the department must provide information helps to mitigate some of the cost related to the program. And, colleagues, what you need to understand is that the original rules had that the plan had to be developed before the child or youth left foster care, but it had been at six months or one year, and this makes this planning start earlier. The third change in the amendment changes the appointment and oversight of the Young Adult Voluntary Services and Support Advisory Committee from the department and the director of Children and Family Services. It changes it to the Nebraska Children's Commission. This Legislature has felt strongly that issues dealing with child welfare should come under the Nebraska Children's Commission. Additionally, the representatives from the Legislature and judicial branches of government should be nonvoting, ex officio members, again, to

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protect the separation that is required by the Nebraska Constitution. This change allows for coordination with the Children's Commission's child and juvenile strategic planning, the purpose of the commission regarding integration of youth and juvenile programs, and additional oversight of the program. It also addresses the potential separation of powers between the branches of government, as I had explained. It expands the definition--the description, I should say--of case management to include the development of a case plan, developed jointly by the department and the young adult, that includes a description of the identified housing situation or living arrangement and the resources to assist the young adult in the transition from the program to adulthood. And hopefully that section would preclude saying, go to the People's City Mission. Our last amendment that the committee puts forward makes language changes to provide flexibility and clarify the intent of the program, including: changing the words "state ward" to "youth transitioning out of foster care placement and into adulthood"; allowing the department to contract for services to young adults; changes a young adult residing in a "group home" to the broader term of "foster care facility"; and, lastly, adds "transitional living facilities" to independent living setting options for young adults. I want to commend Senator McGill and certainly all of the youth in Project Everlast whose dedication and commitment to this issue, through thick and thin, has been so apparent. We had an interim study on this. All of the Health and Human Services Committee heard from Project Everlast youth as we traveled the state for LR37. This is an extremely important piece of legislation, and we thank you for your attention to it. Thank you, Mr. President. [LB216]

SENATOR KRIST: Thank you, Senator Campbell. The floor is now open for debate. Senator Dubas, you are recognized. [LB216]

SENATOR DUBAS: Thank you, Mr. President. Good morning, colleagues. I am a cosigner onto Senator McGill's LB216 because I am just as passionate about this issue as she is, and I appreciate all of the work and time and energy that she and her staff and the Health and Human Services Committee have put into this because it is just so very important. The first time I realized that this was an issue was early in my legislative career. I attended a Foster Care Review Board meeting in my district, and they were talking about the different cases. And one case in particular was of a young person who was within a few weeks of approaching their 19th birthday. And the talk among the people at that meeting was, well, we're done, there's nothing more that we can do for this young person. And I just couldn't quite track with what they were saying. It's like, so, you know, is there a plan in place? What's going to happen? And basically they said, no, you know, once that young person is of age, they are on their own. And it just made me step back and think of my kids when they turned 19, thinking about them just all of a sudden, you know, me saying, goodbye, you know, have a good life, you're on your own. I just could not imagine what that feeling must be for those young people and just thinking of all the phone calls home from my kids who, you know, had car trouble or troubles in school or whatever the issue was. They had someplace to turn to, and these

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young people have no one. Senator McGill handed out, I think, a very effective piece of information dealing with the costs of aging out too young. So, you know, we're going to invest money in these young people one way or another, and this bill, I think, is...will give us a much better return on our investment than some of the other issues that are on that sheet, whether we pay for them through the justice system or the fact that they maybe become unwed mothers or parents or...I...there's just all kinds of areas where we're going to put money into these young people that won't be as productive as going this route with Senator McGill's bill. I've had the opportunity to meet on several occasions with members of Project Everlast from my area, as well as across the state. This is an incredible organization. And the young people that are a part of it, as I've sat and listened to their stories, these are young people who really do have hopes and dreams. They have certainly become hardened by the life that they have lived and don't have a lot of trust in adults for the most part, and you can understand why. But yet, as I said, they still have that "this is what I want to do with my life." One young woman in particular had a child, and she was committed to getting an education so that she...she knew education was a key to her ability to provide for her child, to her ability to put a roof over their heads, to put food on the table, and not just, you know, the bare minimum subsistence. She knew that through an education she was going to get a better job and she was going to be able to provide a good future for her child, better than what she...a better childhood than what she had experienced. So while a part of me felt saddened as I listened to those stories, another part of me felt very encouraged because it doesn't take a lot to let these young people know that they can meet their goals and objectives,... [LB216]

SENATOR KRIST: One minute. [LB216]

SENATOR DUBAS: ...that there is hope in their lives, that they have the ability to overcome all of the challenges that they've had while they were growing up. And it...and I think the fact that Senator McGill has had to scale this bill back as much as she has only indicates how big and how very real this problem is for these young people and what it means to them to just be, you know, cut off, as in Senator Campbell's introduction to the amendment, when she talked about the young person who their plan was to go to the People's City Mission. That's not what we want for these young people. That's not going to be a productive place for them to be. There's certainly help, and I don't mean to say that the People's City Mission doesn't offer assistance. But that shouldn't be the goal; that shouldn't be where we are sending these young people to. We should be sending these young people to school. We should be offering them some support systems so that they can support themselves. [LB216]

SENATOR KRIST: Time, Senator. [LB216]

SENATOR DUBAS: Oh, (recorder malfunction). Thank you. [LB216]

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SENATOR KRIST: Thank you, Senator Dubas. Senator Harms, you are recognized. [LB216]

SENATOR HARMS: Thank you, Mr. President, colleagues. Senator McGill, would you yield? [LB216]

SENATOR KRIST: Senator McGill, would you yield to some questions from Senator Harms? [LB216]

SENATOR MCGILL: Yes, I would. [LB216]

SENATOR HARMS: Senator McGill, first, thank you very much for introducing this. And I'm going to say, for our colleagues who are new here, I remember when you came as a freshman senator and how quiet and timid you were. And I know you were trying to find your way, and you have found that. And what you...I've learned is when you finally have decided what you're going to become a specialist in and about people, you've done amazingly well, and I thank you for that. And I thank you for bringing this in, to start with. [LB216]

SENATOR MCGILL: Thank you. [LB216]

SENATOR HARMS: You're welcome. I have a couple questions I wanted to ask. First of all, when I look at the committee statements I see that the Department of Health and Human Services, the Division of Children and Family Services were opponents. That bothers me just a little bit. Could you tell me why, just a little? [LB216]

SENATOR MCGILL: Of course. Their explanation was in the fiscal analysis, and I can also share that I think it's the department and the Governor's opinion that they do not want to expand services. [LB216]

SENATOR HARMS: Okay. [LB216]

SENATOR MCGILL: So I think there's that fundamental difference, is that they see this as a new expansion. [LB216]

SENATOR HARMS: Yeah. [LB216]

SENATOR MCGILL: When it comes to the fiscal note, in the interim, Nebraska Children and Families Foundation, Appleseed, Sherwood Foundation have been working with an organization called Mainspring, which is a national expert on the implementation of these systems across the country, and they know how many kids are using this as..the program as it's been implemented everywhere. And so they came up with a fiscal analysis that I feel is very accurate based on how many kids they think would be taking

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advantage of this program and what they've seen in other states. The Department of Health and Human Services chose to come and just say, 50 percent of all kids that are eligible are going to do this program, and I don't think that that is a responsible analysis of the situation based on what every other state has done. But even so, the amendment that I'm bringing after this one takes out populations that they worked into their equation and brings us their...will bring their fiscal analysis significantly down as well. But from what I understand, the opposition is just the increasing...expanding of services and where is the money going to come from. [LB216]

SENATOR HARMS: Okay. In your opening comments you indicated that, of course, these young people age out at 19. Do we know the actual number of teenagers like that, that are homeless, and the actual number of teenagers, when they opt out, that need the help and assistance? [LB216]

SENATOR MCGILL: We don't know how many specifically are homeless. National studies say about 20 percent end up completely homeless, who were aging out. And then there are youth who end up...I mean, sadly, some end up in human trafficking or selling themselves for sex so they can put a roof over their head. So not all of them are homeless. And some, like some of the Project Everlast kids we've been meeting, have been able to make it work in one way or another. In terms of how many kids are aging out, it's a little over 600 kids a year that are aging out of the system. And, you know, as sad as it makes me feel, like, my amendment will mean that only about 175 of those youth are actually eligible for this program under my amendment. So it will bring down those numbers. [LB216]

SENATOR HARMS: Well, I...you know, the numbers are...I've had this experience in my own community in regard to teenagers aging out. I've seen some pretty terrible things happen, and I think we have a responsibility. When these teenagers are really struggling to start with and they age out of the system, we just dump them out, and they struggle tremendously. I know that in my own community we have teenagers that are homeless. [LB216]

SENATOR MCGILL: Um-hum. [LB216]

SENATOR HARMS: I've been really surprised when I talk to the public school people... [LB216]

SENATOR KRIST: One minute. [LB216]

SENATOR HARMS: ...thank you, Mr. President, the public school people in my region that talk about how many kids are actually homeless. And I think that's a tragedy. This is rural Nebraska. I can't imagine what it would be like in urban America, the number of teenagers that are homeless. So I think this piece of legislation is really important, and I

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think it focuses on where we need to focus. It's a problem that we have that it's time that we quit ignoring this problem. And the thing that I would like for us, as we maybe move down this line and maybe get this established in some form or manner, is do a little more research so we can get identified where these kids fall that are homeless and some of the special issues that they have because this is important for us. This is Nebraska, people. These are our kids. They can't help that they were given a poor family environment and turn out battling for their life and battling for their survival. The majorities of young people that I have spoken to, and I have taken the time to do that... [LB216]

SENATOR KRIST: Time. [LB216]

SENATOR HARMS: Thank you, Mr. President. [LB216]

SENATOR KRIST: Thank you, Senator Harms and Senator McGill. (Visitors introduced.) Continuing with debate, those still in the queue: Coash; Avery; Kintner; Scheer; Hadley; Dubas; and Harms. Senator Coash, you are recognized. [LB216]

SENATOR COASH: Thank you, Mr. President. Good morning, colleagues. I want to make a couple of comments on a couple of things. I want to start with something that we heard Senator Campbell say, that once in a while, more often than we would like to admit, a child coming out of the system is taken to the homeless shelter in the community where he or she is. And I was watching the reactions when she said that, and maybe I'm leading into this, but I saw some of my colleagues' faces go, really, could that really happen. And I'm standing up today to tell you, yes, that happens. And in fact, my experience tells me...because I used to run shelters, and these were kids who were wards of the state. And when they got close to 17, 18, 19 years old, the department had a responsibility to say, what's the plan for this kid? And the older that kid got, the more difficult it became to plan for what happened to that child. And once in a while you'd see a plan that said, upon his birthday, take him to the homeless shelter. Now sometimes you'd see, as bad as that is, sometimes you'd see a little bit of a better plan that said, between his 18 years and 6 months birthday and his 19th birthday, start to show him the bus routes that get him to the shelter, introduce him to the administrator at the local shelter so that he would know who to talk to on his birthday. And as the administrator of the shelter it was my job to drive him to the shelter on his birthday. Happy birthday. So yes, colleagues, that did happen, it does happen, and Senator McGill has brought us an approach to try to address that. And I don't want to...I'll save some comments on this approach for another time. But I want to shift my discussion at this point to why we are where we are, and I hope the members of the Appropriations Committee are listening. I hope you're all listening because we didn't get to this point by accident. This was a problem 15 years ago; this was a problem 20 years ago; this is a problem today as it was then. And HHS, as a large entity, and I'll pare it down to Child and Family Services, has struggled with this population of kids. And what's happened, colleagues, is the

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department and us and our predecessors have decided we're going to address this and we're going to make a plan. We're going to make a plan for kids who are in the system, and we're going to do some things that will make things better. And plans come out of the HHS Committee and plans come out of the Judiciary Committee. It's happening this year. And then we start to move bills along. And the Appropriations Chair, as it is his or her responsibility, will stand up and say, this costs a lot of money, so we've got to find a way to pare it down. Senator McGill is already talking about paring her bill down. And so what will happen, as has happened in years past, is at the end of the session we all feel like we've done something, and we've done it for 20 percent of the cost that we initially thought we could do...we would need to solve the problem, 30 percent of it. And everybody feels like they got a door prize at the end of it because we all feel like we can go home after 90 days and say, we've done something to solve the problem when, in fact, what we've done is we've framed the problem, we've framed a solution, and then we've taken the solution and we've funded it at 50 percent. [LB216]

SENATOR KRIST: One minute. [LB216]

SENATOR COASH: And I understand why we do that: because we can't be all things to all people. But I'm starting to change my tune a little bit on how we're going to...I'm going to look at things, especially when they relate to children. I am of the opinion that if we start to do these initiatives and we fund them at 40 percent, we're probably doing more harm than good. If we're going to do it, we need to do it. And so when we get towards the end of the session and we start seeing initiatives that help kids and we start saying, well, I'm going to take this initiative and we'll fund it 30 percent and this initiative at 40 percent and then we're going to do both of these things but we're going to do it at half the cost, I don't know how I'm going to vote on that. I'm going to stand up and say, no, we need to do this 100 percent and this we're going to have to wait until next time. One of the things we'd better consider with this bill is: Do we want to help the kids in the system, or do we want to help the kids out of the system? Because we don't have all the money to do both. [LB216]

SENATOR KRIST: Time, Senator. [LB216]

SENATOR COASH: Thank you, Senator...Mr. President. [LB216]

SENATOR KRIST: Thank you, Senator Coash. Senator Avery, you are recognized. [LB216]

SENATOR AVERY: Thank you, Mr. President. A few days ago I attended a lunch that was sponsored by Project Everlast. And I was directed toward a young man, and I was told that this young man was a constituent of mine. So I went over to him, introduced myself and, thinking that he lived, perhaps, in an apartment near the Capitol, I asked him, where do you live? He said, the City Mission. I wasn't prepared for that answer. I

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talked to the young man and I found out that he was 19 years old, that he had been a ward of the state for a good part of his life, and that when he turned the age--whatever it is, 18 or 19--where he aged out of the foster care system, he was tossed out on the street; he had nowhere to go; he had dropped out of high school; he fell into substance abuse; and he wound up as a longtime, long-term resident of the City Mission. Now this is not a criticism of the City Mission, but that young man deserves better. He is not where he is in life because of things that he may have done. It is not his fault. He left me with a very, very heavy heart. I...it was heartbreaking to talk to him because he wants to achieve. He's working to get a GED. He admits that he's made mistakes. But his sense of despair was profound, and it had an impact on me. Now I realize that this bill makes a lot of us nervous because it's expensive. You know, I've got to tell you, folks, some things that we do in this room matter more than others. And if we're not looking out for these young people, we are shirking a responsibility. Not everything we do that needs to be done can be done on the cheap. Now I know that there are some...there is an amendment in the queue that will reduce the fiscal note, and I'm looking forward to hearing the discussion of that. But I just want to tell you that this is an important bill and it deserves our full attention, and it deserves a green vote and it will certainly get mine. Thank you, Mr. President. [LB216]

SENATOR KRIST: Thank you, Senator Avery. Senator Kintner, you are recognized. [LB216]

SENATOR KINTNER: Thank you, Mr. President and members of the body. I understand what's trying to be accomplished here, and I commend Senator McGill for taking on a tough issue here and trying to come up with a solution. Senator McGill, I have a question or two. Would you yield? [LB216]

SENATOR MCGILL: Yes, I will. [LB216]

SENATOR KRIST: Senator McGill, will you yield to a question from Senator Kintner? [LB216]

SENATOR MCGILL: Yes. [LB216]

SENATOR KINTNER: Now as I understand it, I think, based on what Senator Harms said, they, HHS, was opposed to this because of the cost. Is that correct? [LB216]

SENATOR MCGILL: The cost, and I think general beliefs from the corner office in not expanding programming. [LB216]

SENATOR KINTNER: I've got to tell you, I think I about had a coronary when I saw the fiscal note on this. What's the money being spent on exactly? Is there something per kid you can wring your hands around, you know, that you can explain that it's being spent

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on? [LB216]

SENATOR MCGILL: Well, first of all, I want to clarify a few things regarding HHS, and that's that Director Pristow has even acknowledged that this program really is a best practice that's being adopted around the country and is a good program, and so I just want to put that out there. They've been at the table, helping us draft the bill to make sure that if it did pass it would be functional, so I just wanted to put that in there. In terms of the fiscal note, as I said, we've been negotiating with HHS. And the high number, in terms of the fiscal note, you know, largely comes from, you know, a different...and the difference between my fiscal note or the fiscal note we're seeing...and HHS actually has a different set of numbers that they estimate. And the difference between those fiscal notes comes from the difference in how many kids we think are going to use the program. You know, they think that in the first year almost 1,000 kids are going to be using it. There's no way that's possible. You know, they...we've said, look, Mainspring looks at other states and how effective it's been in other states, and it's only at 10 percent in the first year. And HHS says, well, Project Everlast has done a really good job here in Nebraska, laying the groundwork for this and connecting former foster youth, so the numbers will be higher. But then I looked up how many kids are in foster or in Project Everlast. It's less numbers than my original report estimated from Mainspring, so it's less than 10 percent. And so, I mean, we can go back and forth on if it's 10 or 20 or 30 or 50 percent. But the fiscal note is taking out a whole...the original fiscal note had 18-year-olds in it. And the original program in the green copy had 18-year-olds who choose to leave the system or get some sort of guardianship before they're 19. We're removing all of those youth, so that's a third of the fiscal notes that were originally introduced. And I'm sorry I'm taking up so much of your time, but (inaudible). [LB216]

SENATOR KINTNER: That's okay. But what's the money being spent on exactly? [LB216]

SENATOR MCGILL: Oh, okay, so... [LB216]

SENATOR KINTNER: When you have a kid, what's it being spent on? [LB216]

SENATOR MCGILL: It's the housing stipend for them on a monthly basis. That's the largest chunk. [LB216]

SENATOR KINTNER: So we're sending them money? [LB216]

SENATOR MCGILL: For housing. [LB216]

SENATOR KINTNER: How do we know it's being spent on housing? [LB216]

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SENATOR MCGILL: I would have to look at how the current Former Ward program gives a housing or a dorm room stipend, and I'll look into what the protocols would be in ensuring that. But yes, it is providing money to put a roof over their head, which is the biggest problem right now facing the youth, because there are great charities who are providing programming for former youth, in terms of some of the building skills and education. But they can't afford to put the roof over their head. [LB216]

SENATOR KINTNER: Well,... [LB216]

SENATOR MCGILL: And that's what the federal government (inaudible). [LB216]

SENATOR KINTNER: Wouldn't these kids be better off in a structured environment rather than putting them up in an apartment and saying, have at the world, kid? [LB216]

SENATOR MCGILL: So you're saying they should stay in a group home longer? [LB216]

SENATOR KINTNER: I'm not sure. But it looks like some structure would be... [LB216]

SENATOR KRIST: One minute. [LB216]

SENATOR KINTNER: ...in their best interest. [LB216]

SENATOR MCGILL: I would disagree. I mean, we're trying to also teach them independence. I mean, right now these kids who are aging out and going to the homeless shelter are on all kinds of federal and state aid, whether it's their health insurance or it's food stamps or...everything they're doing is on federal aid. We're also trying to teach them independence. [LB216]

SENATOR KINTNER: All right, thank you, Senator McGill. I'm just trying to get to the bottom of this. I'm certainly not an expert at best practices. But boy, giving a 19-year-old troubled kid a free apartment, I'm not sure anything good becomes of that. But I may not know. Thank you very much, Mr. President. [LB216]

SENATOR KRIST: Thank you, Senator Kintner... [LB216]

SENATOR MCGILL: I...sorry. [LB216]

SENATOR KRIST: ...and Senator McGill. Senator Scheer, you are recognized. [LB216]

SENATOR SCHEER: Thank you, Mr. President. If Senator McGill would answer a question or maybe just clarify? Because I might be getting ahead of her presentation, and it may be handled later. But in looking at the fiscal note, it talks about 429 youth, and then you said your amended one will be 175. And I know that you had mentioned a

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percentage, around 10 percent, that you thought were going to enroll versus that were eligible. Could you, maybe just on a tutorial basis, explain where the numbers are coming from so that we all have a better understanding of the commitment, as far as numbers, and where those numbers are coming from perhaps? [LB216]

SENATOR MCGILL: Senator, you'll have to give me a chance to calculate the percentages based on some of these new numbers. We are looking, like I said, at 175 youth who are aging out. And what they're estimating in the first year is 94 19-year-olds and 78 20-year-olds. So let me...that 10 percent was from the original fiscal note. So I just want to run the numbers, and I can address that again later. [LB216]

SENATOR SCHEER: Okay, thank you. I'll be patient then. Thank you, Mr. President. [LB216]

SENATOR KRIST: Thank you, Senator Scheer and Senator McGill. Senator Hadley, you are recognized. [LB216]

SENATOR HADLEY: Mr. President and members of the body, would Senator McGill yield to a few questions? [LB216]

SENATOR KRIST: Senator Mello, would you yield to a question from Senator... [LB216]

SENATOR HADLEY: McGill. [LB216]

SENATOR MCGILL: No, no. [LB216]

SENATOR KRIST: Oh, I'm sorry. Senator McGill, would you yield? [LB216]

SENATOR MCGILL: I know we look alike. [LB216]

SENATOR HADLEY: I'm sorry. (Laughter) [LB216]

SENATOR KRIST: Okay, thank you. I'm confused. Senator McGill. [LB216]

SENATOR HADLEY: I could Mello a few questions, but I don't think he'd know the answers. Senator McGill, I rarely speak on these kinds of bills, but this one has kind of intrigued me. Is this a program that other states have been successful in using? [LB216]

SENATOR MCGILL: Yeah, a number of states have started to implement it. Some have had more hiccups than others, like California has had some hiccups there. But many states have already expanded this kind of support to 21 or, in some cases, even higher. [LB216]

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SENATOR HADLEY: I guess a concern I have...you know, if we extend it from 19 to 20 or 19 to 21, do we run into the same problems when they're 21 then? Have we just postponed the problems for two years or one year? What do we do with them at age 21 then? [LB216]

SENATOR MCGILL: That is one of the legitimate, you know, concerns with...that I've heard is just bumping it back a couple years. But I think, you know, giving a couple of years of independence with a roof over your head and a little bit of structure, through some of those supports, and coaching along the way through that caseworker can indeed make a big difference because it can get them established at college. It can get them established in a career during those two years, or the beginning of a career. So I do believe it does make an impact. [LB216]

SENATOR HADLEY: That it can do an impact. Well, not too long ago I went to a meeting in Kearney on homeless in Kearney. And I would think, if you went to the average citizen of Kearney, Nebraska, and talked about homeless, they'd look at you like, what are you talking about, we're a very successful community, things are on the move, low unemployment, we don't have any homeless. Well, that isn't true. And I just have a concern that we need to do things to help these children because most of us came from situations that are not like this, and our children do not face this. But again, I hope...we have to make sure that it is successful and that the money will be well spent and that we can see some results as we go forward. Thank you, Mr. President. [LB216]

SENATOR KRIST: Thank you, Senator Hadley and Senator McGill. Still in the queue: Senator Dubas; Mello; Coash; Karpisek; Hansen; Bloomfield; and Kolowski. Senator Dubas, you are recognized. [LB216]

SENATOR DUBAS: Thank you, Mr. President. There's been some references, through several comments here this morning, about Project Everlast, and I'd invite you to go to their Web site. It has some great information on it. This organization is...offers a lot of support to those young people. As Senator McGill said, they offer them a lot of, you know, job training or applying for jobs or educational information or what have you. But it's that putting that roof over the head, it's giving them that place to call their own, rather than a homeless shelter, that really allows these kids to, you know, to take off and, as I mentioned in my previous comments, take their goals, their dreams, their hopes, and actually start to make them happen. So Project Everlast is just...I've had the opportunity to meet with these people and the young people that are part of the group. It's really...it's the young people that are a part of Project Everlast that drives the group, that sets the tone for what they want to have done. They are really learning how to articulate their issues. They are really becoming very good at lobbying, so to speak, for their efforts. I think there have been many of them out in the lobby over the course of the last several days. And I hope you've had an opportunity to visit with some of them because they are very good at bringing their message to us and helping us understand that what

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these dollars would mean in order to allow them to become what we want all of our children to become. And what they so much want to become is productive members of our society, contributing members of their local communities and of our state. They have the same hopes, dreams, and goals that every one of our children have. They just haven't had quite all of the opportunities. They haven't had, maybe, the home, the support systems as they grew up, to know what to do to make those hopes, dreams, and goals come to fruition. I also want to remind the body that these young people are state wards. They were removed from their home because of a decision that the state made. It was probably the right decision to make if they were in a home that wasn't safe for them to be in. And they've been placed in foster care and, thankfully, we have good foster families who are willing to take these children in. But yet again, these children are in the position that they're in because the state chose to remove them from their home. So I believe very strongly is if we've made that decision as a state, then we as a state need to step up and make sure that these kids have the tools available to them to move them forward and to make them productive members of our society. Would Senator McGill yield to a question, please? [LB216]

SENATOR KRIST: Senator McGill, will you yield? [LB216]

SENATOR MCGILL: I'd love to. [LB216]

SENATOR DUBAS: Senator McGill, you've also worked on another issue that's very important to you, and that deals with human trafficking. Is there a connection between what you're talking about in this bill and the issues that you deal with through human trafficking? [LB216]

SENATOR MCGILL: Absolutely. As I alluded to when I was discussing things with Senator Harms, there is a young woman that I have met who was in foster care because her mother was schizophrenic. She aged out and fell in with the wrong people on the streets and the other people living on the streets, and she began her own escort service company. So she was selling her services, and there were other young women who worked for her, selling their services. And she saw that many of them, if not most of them, were former foster care youth. [LB216]

SENATOR DUBAS: Thank you, Senator McGill. And I think this goes back to the comment that Senator Hadley made. Most of us who come from...well, probably all across the state, but especially in the more rural areas of our state, our smaller communities and cities across the state, if you ask the average person on the street, is there a homeless problem in your community, I'm going to bet that they say, no, no, we have good families in this community, we have... [LB216]

SENATOR KRIST: One minute. [LB216]

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SENATOR DUBAS: Thank you, Mr. President. That's not a problem. But it is a problem. It's a very real problem from one end of the state to the other. And no, these are significant dollars that we're talking about in this particular bill, and Senator McGill is working hard to get those dollars down. But the dollars, what it costs us in so many other ways through where these young people end up, is vastly higher than what the fiscal note on this bill is demonstrating. So I hope the body will see fit to their support and their commitment to the effort Senator McGill is putting forward in LB216. Thank you. [LB216]

SENATOR KRIST: Thank you, Senator Dubas. Senator Mello, you are recognized. [LB216]

SENATOR MELLO: Mr. President, members of the Legislature, first off, I want to address the body in relationship to the original green copy of the fiscal note under LB216. And then Senator McGill has provided me, working with the Fiscal Office, an amendment that essentially will dramatically reduce the fiscal note from where it currently is. The current fiscal note--I heard Senator Coash raise this issue slightly, a little bit--of General Funds, give or take, is about \$6.7 million over the biennium, the green copy of the bill, without any amendments. With an amendment from Senator McGill that, from what information I had received from her and consultation with the Fiscal Office, depending upon this amendment, that would change who would qualify under LB216 from those who are...would only be, essentially, not OJS kids, or OJS youth would be dropped from the bill. It reduces the fiscal note, roughly, by two-thirds, if not more than two-thirds, roughly, three-quarters of what you see in the green copy. Senator McGill, I appreciate her willingness, when I originally saw the fiscal note, to come up with a variety of different options to try to address what, ultimately, I know every senator has talked to...about, in the sense of wanting to make sure that some bills are unable (laugh)...we have a visitor in the Chamber this morning. [LB216]

SENATOR KRIST: We have a visitor. Let's give him a round of applause. Next time, he needs the red coat on, please. Senator Mello, that time won't count against you. Go ahead. [LB216]

SENATOR MELLO: Thank you, Mr. President. (Laughter) As I mentioned, Senator McGill had come up with a variety of different options that looked at reducing the fiscal note cost. And I am appreciative of her in regards to what other senators also have looked to do, which is to reduce the fiscal notes associated with their bills by honing their legislation further and further without jeopardizing the underlying purpose and underlying goal of why they introduced the legislation in the first place. So, as I said, with the adoption of Senator McGill's amendment that essentially will drop OJS youth that would not qualify under LB216, it will dramatically reduce the fiscal note from roughly \$6.7 (million) to an estimate well below \$2 million over the fiscal...over the biennial budget. With that being said, as I mentioned multiple times, there are pieces of

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legislation that, while I have to discuss the fiscal issues, I do ultimately support, policywise. Senator McGill knows I support this policy because I did an interim study initially on exploring this issue back in 2011, where we held a roundtable discussion with youth from Project Everlast. It's a worthwhile initiative that's trying to focus on helping those foster youth that are aging out of the system, to help them live productive lives as they grow older in Nebraska. What Senator McGill is trying to do under LB216, with the help of, obviously, the Health and Human Services Committee, is something that I think is sorely needed. The underlying policy was expanding the programming to more foster youth that we know are falling through the cracks. Because of, obviously, our fiscal situation this year of not being able to fund every priority and every bill, I applaud her willing to make the tough compromise on this policy at the end of the day, and it's a step moving forward. Granted, in the future we need to reconsider trying to address those OJS youth, and it's something...my hope is that in future years we'll be able to try to do. But, at the end of the day, I appreciate Senator McGill's compromise and willingness to continue to move the bill forward in relationship not just to the policy but the underlying fiscal issues. Thank you, Mr. President. [LB216]

SENATOR KRIST: Thank you, Senator Mello. Senator Coash, you are recognized. [LB216]

SENATOR COASH: Thank you, Mr. President. Let me catch my breath here. I want to continue on from my comments earlier, and this isn't about LB216. Senator McGill has brought us an approach, a solve to a problem that plagues the children of our state that have been placed in the state's care. And so these comments aren't about LB216 but just about the system and about our role here. If we did a better job with kids when they entered into the system, we wouldn't need LB216. If parents did a better job in raising their children, we wouldn't need a system. But we are where we are, and we've got kids in the system, and sometimes those kids age out. I want us to consider where...the biggest bang for our buck here. We should be root-cause thinkers here. We should be thinking about the root cause of why Senator McGill has to bring this bill, and are we addressing that. And if we are, does the left hand know what the right hand is doing? HHS is a big system. It's got a lot of moving parts. It intersects with another branch of government because these kids go...get...that are state wards are under the court's jurisdiction as well as the executive branch's jurisdiction. And for my five years here, I've seen initiatives brought from different committees, and we all try to take stabs at fixing them. And last time on the mike I talked about how my concern is that, you know, we're funding them at half of what we need to do. And so, you know, Senator Mello has teed that up for us and said, look, we've got to get these fiscal notes down. But I want to make sure we're taking a look at the bigger picture. And then, if LB216 is to pass, as amended, as Senator McGill has indicated, is it in a silo? Does it fit with what the Judiciary Committee is doing? Does it fit with what the other initiatives within the HHS Committee are looking at and have prioritized? We've got to make sure this stuff fits, because if we don't have those initiatives behind LB216 working well, we're going to

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need a lot more money than what Senator McGill is asking for; because if we're not fixing the root cause of what happens with kids in the system, then we're going to have LB216 of the next session to increase the funds because we're going to have more kids aging out. And so, to that end, I would like to yield the remainder of my time before lunch to Senator Campbell so she can speak to all the initiatives. Thank you, Mr. President. [LB216]

SENATOR KRIST: Senator Campbell, would you yield to a question? [LB216]

SENATOR CAMPBELL: Yes. I think Senator Coash... [LB216]

SENATOR KRIST: Oh, I'm sorry. Senator Campbell, you're yielded 1 minute and 53 seconds. [LB216]

SENATOR CAMPBELL: Okay, I will start. Yes, this is a part of a greater plan. And, for the new senators, this greater plan was put into effect last year after the LR37 study and then the five major bills that came forward. The most important part of what Senator Coash is asking here is: Is this...at the 50,000-foot level, are we paying attention? I would draw your attention to the Children's Commission and their first-phase strategic plan. We have a plan. We are going to start working on it, piece by piece, as we can. But they are all interrelated, and there are really four major child welfare bills that we'll be working on this session. And, most likely, I'm going to have to come back on the mike to deal with those. But do understand that the Children's Commission is what is watching over this whole process of child welfare reform. And it's extremely important that we understand that none of these bills... [LB216]

SENATOR KRIST: One minute. [LB216]

SENATOR CAMPBELL: ...are in isolation of the effort--thank you, Mr. President--in isolation of what the other bills are trying to accomplish. And I much appreciate Senator Coash's comment. Other states certainly don't take it fully to age of 21, and I think Senator McGill has seen that. I think what...even with her amendment, it will start us on a good path to evaluate where we are with this program. And with that, Mr. President, I'll conclude and come back. Thank you. [LB216]

SENATOR KRIST: Thank you, Senator Campbell. Just as a reminder, members, at 1:30 we come back to LB271; at 1:30, LB271. Mr. Clerk for an announcement. [LB216]

CLERK: Mr. President, Enrollment and Review reports LB57 to Select File.
Amendments to be printed: Senator Schumacher to LB82; Senator McGill to LB216.
(Legislative Journal pages 898-903.) [LB57 LB82 LB216]

And, Mr. President, I have a priority motion. Senator Brasch would move to recess the

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body until 1:30 p.m.

SENATOR KRIST: You've heard the motion. All those in favor say aye. Opposed, nay. We are adjourned. We are recessed.

RECESS

SENATOR KRIST PRESIDING

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

ASSISTANT CLERK: There is a quorum present, Mr. President.

SENATOR KRIST: Thank you, Mr. Clerk. Do we have any items for the record or announcements?

ASSISTANT CLERK: Mr. President, one item. New bill, LB634A by Senator Davis. (Read LB634A by title for the first time, Legislative Journal page 904.) [LB634A]

SENATOR KRIST: Thank you, Mr. Clerk. First item on the agenda.

ASSISTANT CLERK: Mr. President, LB271 was legislation introduced by Senator Lautenbaugh. (Read title.) The bill was read for the first time on January 16 of this year, referred to the Government Committee. That committee placed the bill on General File with no committee amendments and it was discussed yesterday. [LB271]

SENATOR KRIST: Thank you, Mr. Clerk. Senator Lautenbaugh, would you care to refresh us on LB271? [LB271]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. LB271 is a very simple bill meant to adjust the deadlines for in-person early voting, from 35 days out to 25 days out, to allow for the programming of machines that tabulate and mark the ballots for the visually impaired, which have to be programmed once the paper ballots are done. We had floor debate yesterday and we are continuing on that today with, I guess, the explanation of why this is necessary. Thank you, Mr. President. [LB271]

SENATOR KRIST: Thank you, Senator Lautenbaugh. The floor is now open for discussion. Senator Kintner, you are now recognized. [LB271]

SENATOR KINTNER: Well, thank you, Mr. President and members of the body. We

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had a pretty interesting discussion yesterday. I think it had nothing to do with the bill at times, but we talked a lot about...it seemed to be there was a lot of insinuation that trying to fix this problem would disenfranchise voters, make it tougher to vote. Senator Karpisek, could you take a question? Would you yield? [LB271]

SENATOR KRIST: Senator Karpisek, would you yield to Senator Kintner for a question? [LB271]

SENATOR KARPISEK: Yes, I will. [LB271]

SENATOR KINTNER: Well, thank you. You had a problem yesterday with reducing the number of days, even if it was to fix a problem. What was your problem with that? [LB271]

SENATOR KARPISEK: Because I think there's other, better ways that we could fix the problem rather than cutting out days for people to vote. [LB271]

SENATOR KINTNER: Well, what's the result if we cut out days? [LB271]

SENATOR KARPISEK: There's less days that people can vote. [LB271]

SENATOR KINTNER: You know, in 1984, Ronald Reagan won 49 states and we had a voter day, one day that we all voted. Was there a problem there? [LB271]

SENATOR KARPISEK: Maybe he wouldn't have won. (Laugh) [LB271]

SENATOR KINTNER: Yeah, he might have only won 47 states. Okay, how about Lyndon Johnson? Didn't he win 47 states? Was there a problem with one day of voting? [LB271]

SENATOR KARPISEK: I bet a lot...I don't know what the turnout was, but I would venture to guess that it was less than it is now. [LB271]

SENATOR KINTNER: I think our voter turnout now is lower than it was back in the '60s. [LB271]

SENATOR KARPISEK: And that could be. [LB271]

SENATOR KINTNER: Okay, thank you. Senator Nordquist, will you yield to a question? [LB271]

SENATOR KRIST: Senator Nordquist, would you be kind enough to yield a question to Senator Kintner? [LB271]

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SENATOR NORDQUIST: I would be kind enough, yes. [LB271]

SENATOR KINTNER: I guess my question is the same thing. If we reduce the number of days, is there an adverse effect, in your opinion, on voters? [LB271]

SENATOR NORDQUIST: Well, I do know...I've been doing a little quick Googling on Wikipedia here. And their data, just what's on Wikipedia, it is from a couple studies that we have seen in uptick since 1996 in voter turnout in presidential elections, so...and I do think there has been a trend nationally, certainly since the '90s, to expand opportunities to vote and times to vote. I don't see any harm in having an expanded window of voting, and I don't know...I'm just not inclined...and you may have a different opinion. I'm not inclined to shrink that window if we don't have to. That's what my statement was yesterday. [LB271]

SENATOR KINTNER: Well, are you saying, if we only allowed 10 days or 20 days, there's something wrong with that? [LB271]

SENATOR NORDQUIST: I would say I would be inclined to err on the side of keeping it as long as we reasonably can. [LB271]

SENATOR KINTNER: Well, you're old enough to remember when we used to have voting day, when the neighbors and friends all went down to the precinct to vote, maybe the school or the church, maybe someone's house. And we saw our neighbors and we all voted. It was a civic assembly of sorts. Was there anything wrong with that? [LB271]

SENATOR NORDQUIST: You know, it probably worked for the time but, certainly, times do change. [LB271]

SENATOR KINTNER: Thank you. [LB271]

SENATOR NORDQUIST: Thank you. [LB271]

SENATOR KINTNER: Well, you know what, as we have expanded the opportunity to vote from election day to election month and maybe more, let's look at what we've got now. We've got 46 states that prosecuted are convicted cases of voter fraud. More than 24 million voter registrations are invalid yet they remain on the rolls. Part of this Help America Vote Act makes it harder to get people off the rolls. There are 1.8 million dead voters still eligible to vote right now in America; 275 million Americans are registered to vote in more than one state. There are 348,000 dead people on the rolls in 27 states; 49,000 in California; 30,000 in Florida; 28,500 in Texas... [LB271]

SENATOR KRIST: One minute. [LB271]

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SENATOR KINTNER: ...25,000 in Michigan; and 24,000 in Illinois. We've loosened this up so much that we've got voter fraud everywhere. And the last thing I'll say is, in my home city of Cincinnati, they prosecuted a Democratic poll worker for voting six different times. And she said, I'll fight for Mr. Obama and Mr. Obama's right to sit as President of the United States. That's why she voted six times. There was a nun that's being prosecuted for voting for a dead person. There is another man who voted for his wife, all in Cincinnati, all Democrats, and all beneficiaries of loosening up the voting rules. I think there is a different side to this. It wasn't talked about yesterday. I'm talking about it today. Thank you, Mr. President. [LB271]

SENATOR KRIST: Thank you, Senator Kintner. Senator Campbell, you are recognized. [LB271]

SENATOR CAMPBELL: Thank you, Mr. President. And good afternoon, colleagues. I just felt that I wanted to share some comments with you. And in the grand scheme of things, they probably don't...won't change how you may look at this bill. But I took the time yesterday to exchange some e-mails with Dave Shively, who is the Lancaster County Election Commissioner, and I appreciated his response even though he was away from the office for a family matter. But he took the time to communicate and we exchanged e-mails. And he told me that as he watched some of the debate yesterday afternoon, that the greatest problem was clearly articulated by Senator Murante and his telling us that the certification and all the process that goes through to get that ballot ready to be certified by the Secretary of State, particularly as we have been pushing national conventions later and later and affording those who may wish to put someone on a ballot for a presidential election or those who wish to put on, by petition, issues for a ballot. I believe, after exchanging communications with Mr. Shively, that he will make work whatever the Legislature sets forward. I want to say that, even though it was his office that brought forward this problem, I want to make it very clear the he has done an exemplary job. And it was a person who began to articulate and say, there is a problem here, and the whole process could be reviewed. He's been diligent in managing his office and working to serve citizens in their right to vote. I have the utmost confidence in him. And he said, whatever you set forward we certainly will make it work. I had this conversation this morning with Senator Lautenbaugh and he assured me that he had some ideas in mind for this afternoon. But I do want to say that, all across the state of Nebraska, there are county clerks and election commissioners who do a valiant job to do the best they can to ensure that all Nebraskans can get to the polls or have a mail ballot or whatever choices they're given, that they have the right to vote and that they try diligently to make sure that happens. And I want to thank Mr. Shively for taking time to correspond with me about the problems that have been identified. Thank you, Mr. President. [LB271]

SENATOR KRIST: Thank you, Senator Campbell. Mr. Clerk. [LB271]

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ASSISTANT CLERK: Mr. President, Senator Lautenbaugh would move to amend with FA49. (Legislative Journal page 904.) [LB271]

SENATOR KRIST: Senator Lautenbaugh, you are recognized to open on your amendment. [LB271]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. This is what happens when you say, I am not seeking amendments or compromises or anything like that. Eventually, something comes your way, inevitably. But there are some things you need to understand. And the next time someone comes with something that expands the opportunities to vote, I hope you will understand why I dig in my heels and start filing amendments and we go the full eight hours. And the reason for that is, once you grant any accommodation, you cannot in any way alter it downward without being accused of wanting to infringe on rights or take away rights or disenfranchise people, a word that has utterly lost its meaning in current discussions of voting law, because you just can't do it. It's a one-way ratchet, and you better not give up any more ground because you can never take it back if it proves to be improvident. Now here we are. We've had people say that the ten days is necessary. Yesterday we heard, well, gee, if it's the company is the problem, maybe we should just hire another company. Well, folks, these machines have to be certified by the feds. This is part of the Help America Vote Act. And there's about two or three ballot companies nowadays that could actually undertake this. And how vigorously do you think they compete with each other to do something like this, hurry up and come out here and program it? And guess what happens if you don't make the deadline now that everyone is looking? That's not realistic. But as I kind of hinted at this morning, realism was not really a big part of yesterday's floor debate in a lot of ways, so we are where we are. This amendment says, okay, you can start in-person voting 35 days out, but...I'm sorry. You can start voting by mail 35 days out and in person 30 days out. So instead of lopping off the ten days that we were told was necessary to make sure this is right and accurate, we're going to try to do it in five days. And I suppose, when a compromise is arrived at, we're supposed to smile and pretend like it's a good thing. I'm just not quite there yet because it isn't. It's what we can do. And I talked to the Secretary of State's Office and I talked to the election commissioners and they said, well, we'll do the best we can and, if we run afoul of it like we have for years and just no one noticed, well, then we'll be back, asking for more. Maybe we'll get sued in the interim. This is not a wise approach to this problem and, understand, there actually is a problem or we wouldn't be here talking about it. But we will, I guess, live with the five days in order to move this on and hope--which is, again, always a great way to make policy--hope that it works. And if it doesn't, well, I'll be gone. You all mask your disappointment at this point. I'll be gone and you'll be dealing with it, some of you, again, maybe paying the claims when we're sued, if we're sued, and maybe you can harken back to this floor debate. So it's at least possible I am the worst person here at announcing a compromise because I haven't

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quite mustered the enthusiasm for this yet, but I'm sure I'm building towards it. And that's the deal. I would...well, urge is kind of overstating the case. I would find it agreeable if you supported this amendment and I will, likely, do the same, and we'll cheerfully proceed on down the road. Thank you, Mr. President. [LB271]

SENATOR KRIST: Thank you, Senator Lautenbaugh. The Chair recognizes Senator Chambers. [LB271]

SENATOR CHAMBERS: Thank you, Mr. President. Senator Lautenbaugh is a lawyer and he probably has heard it said, as everybody does, that a true compromise is reached when neither side is pleased. So that's where we are. We have a true compromise. And I, over the noonhour, anticipating that we would reach this point, typed a little rhyme that I want to read into the record. I could sing it. And Senator Kintner is not here, so I won't. But it would be to that tune of Billy Joel's: Friday night I crashed your party, Saturday I said...well, that's what it would be if I'd sing it. Yesterday, like raging cattle, locked up in ferocious battle, snorting, bellowing, tearing up the ground. Both of them refused to flinch. Neither one would give an inch. Their exertions made a mighty sound. If their war resumed next day, neither could survive that way. Both decided 'twould be best to cease. To-the-death fight made scant sense. Both decided to commence using brains, not brawn, and seeking peace. Both combatants, yes, were daunted. Neither could get all he wanted. So as thinking men, they had to say, for our own sakes 'twill be best if we let this fighting rest, then, as wiser men, we meet halfway. Members of the Legislature, there is another song which I won't try to sing. But one of the lyrics goes, you don't always get what you want. So I would add, you get what you can. And that's where we are at this point. I've thought about this a great deal. And I've said in the past and I'll say it again, no matter how forcefully I declare a position, unless it's based on one of those deep-down, dyed-in-the-kidneys principles, if I'm shown a better way, then I will lay aside all that I had said and seize that better way. This is a better way. And when you are results-oriented and the result that is possible to be achieved is on the verge of being achieved, how you react to it emotionally or any other way makes no difference whatsoever. Once the die is cast, then fate has been sealed. I'm going to vote for this compromise. And I really don't think that either, if you want to call them sides, I don't think either side is damaged to any extent, any significant extent. And that's all I'll have to say at this point. Thank you, Mr. President. [LB271]

SENATOR KRIST: Thank you, Senator Chambers. (Visitors introduced.) Senator Avery, you are recognized. [LB271]

SENATOR AVERY: Thank you, Mr. President. I want to address some of the background to this amendment, FA49. We had an extended debate yesterday. I think a lot of people were able to say things on the microphone that they wanted to say, even though it may not have been all pertinent to the actual bill that was under discussion.

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But it became clear to Senator Lautenbaugh and to me that we needed to try to find some middle ground, and that is what this amendment reflects. We had deep discussions with the Secretary of State and his staff. We had discussions with some of the people who were in opposition on the microphone yesterday. We talked with Senator Chambers. He mulled it over, overnight, and his position was reflected very nicely in this poem that I intend to hold on to because it reflects some of the thinking that I have about compromise. You all have heard me say in here before that it's...a good compromise is when everybody gets a little bit of something but they don't get all they want. That's what Senator Chambers just mentioned. But then I add to that, that everybody leaves the room a little bit unhappy but nobody is completely unhappy. And that is the nature of compromise. That's what we do in the body. Reciprocity helps move the process forward. This bill, or this amendment, will take us to 30 days instead of 25. Now that's halfway between where we started out. The Secretary of State can tell us with a great deal of certainty, if I have ten days, then I can make sure all those AutoMARKs are in the right places and they are ready to go. At five days I can't be absolutely sure. So understand that when we vote on this amendment, it is necessary for us to move this bill forward, that this amendment pass. But understand this, that that does not mean that the Secretary of State will be able to promise us with 100 percent certainty that he will be able to have all of those AutoMARKs up and running after or within that five-day window. He will try his best and I think that, in most cases, they will succeed. We will, however, not have to worry about noncompliance unless we get...unless some of the...we fail to get these machines in place in time and somebody files a complaint and the hearing officer upholds the complaint. We have to take that risk. But this is something we need to do because we're now...we know we're out of compliance. This will still leave us with a little bit of risk, not as much exposure as we now have to that risk, so I would urge you to support this amendment. It's an amendment that we reached with...after extensive debate and discussion with all parties. All the parties now have said, I can live with this. And again, that doesn't mean everybody is happy with it, but they can live with it. Even Senator Lautenbaugh can live with it, I think. Anyway, thank you very much for the participation that you have offered to this important debate, and I hope that we've gotten everything off our chest now and we can move forward with this amendment and the underlying bill, LB271. Thank you, Mr. President. [LB271]

SENATOR KRIST: Thank you, Senator Avery. (Visitors introduced.) Continuing with discussion, Senator Karpisek, you are recognized. [LB271]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I, too, can live with five days. I decided that last night, maybe, sleeping on it or maybe even on the way up this morning. I was just kind of holding my breath to see what Senator Chambers would say. I didn't know that he could live with it. And then I probably would have been on the other side of him, which is where I normally find myself, which isn't as much fun. But I do think that this works. I know I'm not overly happy about losing any

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days. And it is true that we didn't used to have all these other ways to vote. But I think we didn't used to have...it was a different world then too. We didn't have, maybe, as many shift workers. We didn't have all sorts of different things that made it just different. I appreciate the fact that we make it easier for people to vote. I think it's still very ridiculous that people don't go vote. And I think, if you showed up on their doorstep, each and every one of them, they probably wouldn't all vote. And I think that that is just ridiculous, but there's nothing, I guess, that we can do about it. Any other country they fight for these rights. This country has fought to keep those rights. I completely understand when Senator Lautenbaugh says he doesn't want to expand any more ways to be able to vote because then you can't take them back. And I agree that you can't take them back once you put them out there. That's why I haven't liked the bill. But let's think about this. With technology and just things changing in this world, there's going to be different ways to vote. I wouldn't doubt, someday, we'll get to voting on the Internet. Maybe not any time soon but someday, or the next thing after the Internet, and I'd be okay with that. I've never voted early or absentee because I like to go to the poll. And I agree that that is just how I like to do it. I like to be involved in it. But if sometime I can't, I'm sure going to be happy that I don't have to go there. So I agree with Senator Avery that this is how this body should work, work together and try to come up with a compromise. It's not perfect but it'll work, in my opinion, if that matters. And I hope that we can move forward and keep moving some things along the line today. Thank you, Mr. President. [LB271]

SENATOR KRIST: Thank you, Senator Karpisek. Senator Lautenbaugh, you are recognized. [LB271]

SENATOR LAUTENBAUGH: Thank you, Mr. President. And I wonder if Senator Schilz would yield to a question. [LB271]

SENATOR KRIST: Senator Schilz, will you yield to a question? [LB271]

SENATOR SCHILZ: Yes, I will try. [LB271]

SENATOR LAUTENBAUGH: Senator, I just heard something about yesterday, like raging cattle. Do cattle rage? [LB271]

SENATOR SCHILZ: At times, I would suppose, you could consider...it could seem like a rage, yes. [LB271]

SENATOR LAUTENBAUGH: Okay, thank you, Senator Schilz. I have to learn this stuff because, I think, my priority bill deals with cattle or corn or something like that. Anyway, be that as it may...and I always like to get Senator Schilz's expertise on this. Apparently, he's a cattle feeder, and I just thought they ate on their own accord. So he's managed to make a career out of something that I thought they would just do without a lot of

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supervision. But you learn something new every day. So I'm warming to this. I wonder if Senator Chambers would yield to a question. [LB271]

SENATOR KRIST: Senator Chambers, will you yield to a question? [LB271]

SENATOR CHAMBERS: With great trepidation, yes. (Laughter) [LB271]

SENATOR LAUTENBAUGH: Thank you, Senator Chambers. How did you describe your assent to this earlier today? [LB271]

SENATOR CHAMBERS: C-G-P: capitulating, groveling, pandering. [LB271]

SENATOR LAUTENBAUGH: Thank you, Senator. No more question, ever. (Laughter) Okay, I guess we could live with this and we can move on now that Senator Chambers has done that, what must be, humiliating thing. And I think I just smiled when he asked me if I was prepared to do the same. So please vote for this amendment. Thank you, Mr. President. [LB271]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Seeing no other lights on, if you'd like to close, you're next. Oh, I'm sorry. Senator Chambers, you are recognized. [LB271]

SENATOR CHAMBERS: That's all right. Mr. President, members of the Legislature, after what I just did, as far as lowering myself, I'm not surprised you didn't see my light up there. I'm surprised that you can even detect me standing here. But at any rate, since Senator Lautenbaugh was wondering whether cattle can rage, it's clear that he has never heard of a fighter named Jake LaMotta, and he is not aware of a movie based on his life. I'd like to ask Senator Kolowski a question since we're just kind of rambling around for a minute or two. [LB271]

SENATOR KRIST: Senator Kolowski, would you like to engage in question? [LB271]

SENATOR KOLOWSKI: Absolutely. [LB271]

SENATOR CHAMBERS: Senator Kolowski, what was the name of that movie about the life of Jake LaMotta? [LB271]

SENATOR KOLOWSKI: Raging Bull, sir. [LB271]

SENATOR CHAMBERS: Thank you. So cattle do rage. (Laughter) Even though there are other types of critters who have bulls, we're talking about cattle. So we were right, myself and Senator Schilz. That's when we get together on something, we're always right. [LB271]

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SENATOR KRIST: Seeing absolutely no other lights on, Senator Lautenbaugh, you are recognized to close. [LB271]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I wish Senator Bolz were here so I could discuss this with her at length. But that said, I think we've adequately covered the amendment and its complexities, so please, please, vote for the amendment and the underlying bill. [LB271]

SENATOR KRIST: You have heard the closing. The question is, shall the amendment to LB271 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB271]

ASSISTANT CLERK: 30 ayes, 2 nays on the adoption of Senator Lautenbaugh's amendment. [LB271]

SENATOR KRIST: The amendment is adopted. Discussion on...any other discussion on the bill? Seeing no other lights, Senator Lautenbaugh, you're clear or you're...yeah, you can close on LB271. [LB271]

SENATOR LAUTENBAUGH: (Laugh) I'll be clear to bring this in for a landing. (Laughter) Please vote for this half-measure that, hopefully, will work. Thank you, Mr. President. [LB271]

SENATOR KRIST: Thank you, Senator Lautenbaugh. The question is the advancement of LB271 to E&R Initial. All those in favor vote aye; opposed vote nay. Have all those voted that wish to? Mr. Clerk. [LB271]

ASSISTANT CLERK: 31 ayes, 0 nays on the motion to advance the bill. [LB271]

SENATOR KRIST: The bill advances. Next item on the agenda. [LB271]

ASSISTANT CLERK: Mr. President, the next bill is LB79, offered by Senator Avery. (Read title.) The bill was read for the first time on January 10 of this year. It was referred to the Government, Military and Veterans Affairs Committee. That committee reports the bill to General File with committee amendments. (AM452, Legislative Journal page 614.) [LB79]

SENATOR KRIST: Thank you, Mr. Clerk. Senator Avery, you can now open on LB79. [LB271]

SENATOR AVERY: Thank you, Mr. President. Most of you will remember that, two years ago, the U.S. Supreme Court ruled in a case entitled Arizona Free Enterprise Club's Freedom Club PAC v. Bennett that Arizona's campaign finance scheme was

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unconstitutional. There were key elements of that decision that ruled the Arizona case unconstitutional that are similar to elements, or at the time were similar to elements, in our Campaign Finance Limitation Act. This led the Nebraska Accountability and Disclosure Commission to request an opinion from the Attorney General about whether Nebraska's campaign finance law, which had those similar components, was, indeed, unconstitutional as well. The AG's Opinion concluded that the Nebraska Campaign Finance Limitation Act was, indeed, unconstitutional in light of the ruling of the U.S. Supreme Court. In 2012, the case was considered by the Nebraska Supreme Court, and they agreed with the Attorney General and ruled that our campaign finance law was unconstitutional. Because of these events, LB79, by necessity, repeals the Campaign Finance Limitation Act. I never thought that I would be here, standing before you, actually, calling for the repeal of something that I worked so hard to get passed back in 1993. But here I am, because I am a realist. And the reality is that the U.S. Supreme Court is the supreme law of the land, and they have ruled that this is unconstitutional or at least what they...their actions led us to do that. After the CFLA was declared unconstitutional, I did a great deal of study, along with my staff, on what could be Nebraska's next step and what we should do, if anything, to deal with campaign finance and the influence of money in campaigns. We looked at several different models from different states to see if there was a campaign finance scheme that might pass constitutional muster and, at the same time, keep campaigning cost down. In the end, even though we did find some promising, possible solutions, I decided that the best course of action would be to provide additional transparency and openness in our current system of reporting contributions and expenditures. To accomplish this, the original version of LB79 contained two more components. The first was to lower the thresholds for reporting various contributions and expenditures. These provisions are going to be removed from the green copy by a committee amendment that I will present next, if you approve it. Secondly, the bill requires the Accountability and Disclosure Commission to develop, to implement, and maintain an electronic filing system for all campaign statements and other reports required to be filed with the commission and will make such statements and reports available on the Web site as soon as practicable. Now this is in line with one of the objectives of making our law more accessible and making the whole process more transparent. I don't think any...many of us would argue that we could not benefit from an electronic filing system. By creating an electronic filing system with the Accountability and Disclosure Commission, there will be greater transparency, of course. The public will be able to see where the money is coming from, where it is going. It will be searchable by topic in various...very highly user-friendly features. In order to pay for this expensive new filing system, LB79 calls for the transfer of money from the current CFLA Cash Fund, which is sometimes referred to as "Fair Fight" Fund. And it should be...it would be transferred to the Accountability and Disclosure Commission's Cash Fund to be used for the explicit purpose of implementing and maintaining this new electronic filing system. I have an amendment filed to the committee amendment that I will be discussing that will go into further details about the money in the CFLA. Finally, the bill also includes some technical and cleanup provisions

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in the language of the Accountability and Disclosure Commission, including adding limited liability companies and partnerships to the list of entities that must establish a separate, segregated political fund in order to receive contributions. That is the bare bones of LB79 in the green copy. And I will be talking about amendments to that later. Thank you, Mr. President. [LB79]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Thank you, Senator Avery. As the Clerk stated, there are amendments from the Government, Military and Veterans Affairs Committee. Senator Avery, as Chair of the committee, you are recognized to open on the committee amendment. [LB79]

SENATOR AVERY: This first amendment here is committee amendment AM452. This strikes the original sections of the bill and replaces them with the following provisions. Like the original bill, the committee amendment repeals the Campaign Finance Limitation Act, something we must do. The committee amendment requires the Accountability and Disclosure Commission to develop, implement, and maintain an electronic filing system for campaign statements and other statements required to be filed with the commission, and it will make such statements and reports available on its Web site as soon as is practicable. The amendment provides that any money in the Campaign Finance Limitation Cash Fund be transferred to the Accountability and Disclosure Commission's Cash Fund to be used for the development, implementation, and maintenance of an electronic filing system. This provision is the same as in the original bill. The amendment also adds limited liability companies and partnerships to the list of entities that must establish a segregated, separate political fund in order to receive contributions. Again, this is similar to language in the original bill. The committee amendment removes several provisions from the original bill. It eliminates all language lowering the thresholds for contributions, expenditures, independent expenditures, and lay contributions. The committee amendment also eliminates the language requiring all filings with the commission to be electronic as of January 1, 2016. Remember, the language reads earlier in this amendment that as soon as practicable. Finally, the amendment eliminates the requirement that each committee submit to the commission periodic annual statements from the financial institutions designated as having the official depository of all contributions for that committee. In plain language, that simply means that you will not be able...have to submit copies of the annual bank statements or monthly bank statements from the bank that...where your campaign money is deposited. So let me summarize this. In the...this amendment takes out all language lowering the thresholds for contributions, expenditures, independent expenditures, and lay contributions. The language requiring all filings with the commission to be electronic as of January 1, 2016, is also taken out. The requirement that each committee submit to A&D Commission periodic account statements from the financial institution designated as the official depository for all contributions for that committee, that also is taken out.

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What is left in after the committee amendment is the repeal of the CFLA, language that the committee will develop, implement, and maintain an electronic filing system for campaign statements and other reports required to be filed with the commission as soon as practicable. Also, what is left in is the transfer of money in the Campaign Finance Limitation Cash Fund to the A&D Commission's Cash Fund to be used for the development of this electronic filing system. It also...also, it's...that part that's left in is the addition of limited liability companies and partnerships to the list of entities that must establish a segregated, separate political fund in order to receive contributions. Some of this is cleanup. This last one, for example, we already do this and have been doing it for a long time. It is felt though that we need to put this into statute even though it's current practice. This bill, with the amendment, was advanced from committee on an 8 to 0 vote. There were no opponents to the bill at the public hearing. That ends the introduction of the committee amendment. Thank you, Mr. President. [LB79]

SPEAKER ADAMS: Thank you, Senator Avery. Mr. Clerk, there is an amendment to the committee amendment? [LB79]

ASSISTANT CLERK: There is, Mr. President. Senator Avery would offer AM710 to the committee amendments. (Legislative Journal page 829.) [LB79]

SPEAKER ADAMS: Senator Avery, you are recognized to open on your amendment to the committee amendment. [LB79]

SENATOR AVERY: Thank you, Mr. President. It's going to look like I can't make up my mind what I want on this bill. This is AM710. This amendment changes the amount of money transferred from the CFLA Cash Fund to the A&D Cash Fund for the use of implementing a new electronic filing system. The A bill, if you have looked at it, that would follow discussion of LB79 transfers \$630,870 from the CFLA Cash Fund to the A&D Cash Fund. This amendment makes the bill consistent with the A bill. That A bill reflects a lot of discussions with the Secretary of State and with the Appropriations Committee. The amendment also provides that the remaining balance of the CFLA Cash Fund will be transferred to the Election Administration Fund that is controlled by the Secretary of State. And, well, the reason for this is the following. You may remember that in the Governor's budget the Governor recommended that all of the CFLA Cash Funds be transferred to the Election Administration Fund to be used to maintain the state's election equipment. That's a very real need, folks. LB79 transfers all of the cash funds in the CFLA to the A&D Commission's Cash Fund. In other words, the government...the Governor's budget recommendation is in conflict with the green copy of LB79. I worked with Senator Mello and the Appropriations Committee, with the Secretary of State, and with the Accountability and Disclosure Commission to find a way to resolve these conflicts. And I have to tell you that those were some of the most productive and enjoyable negotiations I have engaged in, in my almost seven years in this body. Everybody came to the table with an open mind. Everybody came to the table

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with the idea they wanted to make something work. And they came to the table with the idea they wanted to make sure everybody left the table with something that they considered valuable but that nobody left completely empty. Under the compromise that we reached, the Accountability and Disclosure Commission will receive the \$630,870 that you see in the fiscal note from the CFLA Cash Fund. That's about two-thirds of what is in there. I think it's about \$920,000. And this would be the bulk of the money that they would need to implement the new electronic filing system that we are requiring them to implement in LB79. The rest of the CFLA Cash Fund's approximately \$300,000 would be transferred to the Secretary of State's electronic...or the Election Administration Fund. That would go toward his cost of maintaining the current election voting systems. Different funds will be used to make up the difference for maintaining the election equipment. That \$300,000 is not quite enough and the different funds have been identified to make up the difference. This amendment implements the compromise that we reached. It was a good compromise and I really, really want to applaud Senator Mello, Frank Daley, and Secretary Gale for their willingness to work with us on this issue. I am pleased with the outcome. I hope you will agree with me and that you will approve this amendment and the prior amendment so that we can move LB79 to Select File. I'll be happy to try to answer any questions you might have about this amendment or the previous one, and I urge you to go easy on me. Thank you, Mr. President. [LB79]

SPEAKER ADAMS: Thank you, Senator Avery. The floor is now open for discussion. Senator Ken Haar, you are recognized. [LB79]

SENATOR HAAR: Mr. President, members of the body, Senator Avery repealing the CFLA, I will never expect a greater surprise in my life. (Laugh) No, I just got up to make that little bit of laughter. But I want to thank you for all the work you've been doing over the years and continue to do to contain expenses on races. It's become obscene. It's very difficult, even for the most seasoned campaigners, to raise the kind of money that has to be raised these days. So thank you very much. [LB79]

SPEAKER ADAMS: Thank you, Senator Haar. Senator Avery, you are recognized. [LB79]

SENATOR AVERY: I...Senator Haar, thank you very much for those kind words. You prompted me to think that there are few times that I am faced with the ultimate irony of my life. This is one of them. I did put in a great deal of time back in the early '90s on the CFLA. We had a good bill. It was prioritized by the Speaker of the body at that time, Senator Dennis Baack. We had to make compromises along the way but it worked. We kept spending down. I'm profoundly disappointed that the Supreme Court didn't see it my way. Thank you, Mr. President. [LB79]

SPEAKER ADAMS: Thank you, Senator Avery. Senator Avery, there are no other lights on. You are recognized to close on your amendment. Senator Avery waives closing on

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the amendment. The question is, shall the amendment to the committee amendment to LB79 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Record, Mr. Clerk. [LB79]

ASSISTANT CLERK: 27 ayes, 0 nays on the adoption of the amendment to the committee amendments, Mr. President. [LB79]

SPEAKER ADAMS: The amendment is adopted. We now move to the committee amendment and the floor is open. Senator Lautenbaugh, you are recognized. [LB79]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I just told Senator Avery it would not be gracious of me to say anything at all, so I'll not. Thank you, Mr. President. [LB79]

SPEAKER ADAMS: And thank you, Senator Lautenbaugh. (Laugh) Senator Bloomfield, you are recognized. [LB79]

SENATOR BLOOMFIELD: I'm going to be a little less gracious than Senator Lautenbaugh, maybe not. I want to thank Senator Avery. This bill was, I know, distasteful to him all the way through. But he worked, he kept the committee together on it. I appreciate his leadership on it, even when it was something he didn't like, and I will be supporting this amendment and the bill. And again, I'd like to thank Senator Avery for his leadership on this. [LB79]

SPEAKER ADAMS: Thank you, Senator Bloomfield. Senator Avery, there are no other lights on. You are recognized to close on the committee amendment. Senator Avery waives his closing. The question is, shall the committee amendments to LB79 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Record, Mr. Clerk. [LB79]

ASSISTANT CLERK: 26 ayes, 0 nays on the adoption of committee amendments. [LB79]

SPEAKER ADAMS: The committee amendment is adopted. The floor is now open for discussion on the bill. Senator Avery, there are no lights on. You're recognized to close. [LB79]

SENATOR AVERY: Thank you, Mr. President. Now with these amendments, and I thank you for your votes on both of them, we have a bill that is very clean. It does two main things. It eliminates the CFLA that is now obsolete in our law, and it transfers enough money, with the other combination of funds in that last amendment you just approved, to modernize the filing system for the A&D Commission. You're going to like this, folks, because very soon you're going to be able to file electronically, and that's

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going to be good for you. It's going to be good for the commission, and it's a more accurate reporting of your filings. You're also going to...your constituents are going to have greater access to information that improves accountability. Accountability begets good government. And let me tell you that openness begets accountability. What we're doing here is making the state a little bit more transparent, a little bit of a better democracy because the voters now will have more information in order to cast informed votes when they go to the polls. I think you can be proud of vote that you're about to cast, which I hope will be green. Thank you. [LB79]

SPEAKER ADAMS: Thank you, Senator Avery. The question is the advancement of LB79 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Record, Mr. Clerk. [LB79]

ASSISTANT CLERK: 27 ayes, 0 nays on the advancement of the bill. [LB79]

SPEAKER ADAMS: The bill advances. Members, cookies that are being handed out are in recognition of Senator Schumacher's birthday today. Next bill, Mr. Clerk. [LB79]

ASSISTANT CLERK: Mr. President, LB79A was introduced by Senator Avery. (Read title.) [LB79A]

SPEAKER ADAMS: Senator Avery, you are recognized to open on LB79A. [LB79A]

SENATOR AVERY: Thank you, Mr. President. As I discussed earlier on LB79, this A bill transfers \$630,870 from the CFLA Cash Fund to the A&D Cash Fund. The language is consistent with the language in LB79. These funds...that is, LB79, as amended, these funds will be used by the commission to implement a new electronic filing system. With that, I urge your approval of LB79A. Thank you, Mr. President. [LB79A LB79]

SPEAKER ADAMS: Thank you, Senator Avery. The floor is now open for discussion on LB79A. Senator Avery, there are no lights on. You are recognized to close. Senator Avery waives his closing. Members, the question is the advancement of LB79A to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted that wish to? Record, Mr. Clerk. [LB79A]

ASSISTANT CLERK: 26 ayes, 0 nays on motion to advance the A bill. [LB79A]

SPEAKER ADAMS: LB79A advances. Next bill on General File, Mr. Clerk. [LB79A]

ASSISTANT CLERK: Mr. President, LB637 was introduced by Senator Wallman. (Read title.) The bill was introduced on January 23 of this year, referred to the Government, Military and Veterans Affairs Committee. That committee placed the bill on General File with no committee amendments. [LB637]

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SPEAKER ADAMS: Senator Wallman, you are recognized to open on LB637. [LB637]

SENATOR WALLMAN: Thank you, Mr. President. Members of the body, friends all, as my friend, Don Preister, used to say. LB637 is about accountability. LB637 has, really, four simple principles. First, the bill would require the Nebraska Department of Environmental Quality, called NDEQ, to prepare a statement describing the annual economic impact a proposed rule or regulations will have on all affected businesses when considering the adoption of rules or regulation imposing requirements different than federal regulations or increased cost on the regulated persons and other entities. As with any business, in considering a capital improvement or expansion, government agencies should be held to a similar standard, accurately describing what the real cost of new or amended rules or regulations would have on affected stakeholders. Under the bill, NDEQ would also solicit, receive, and consider applicable information from the regulated persons and other entities in preparation of the annual economic impact statement prior to drafting any proposed rules or regs. It only makes sense, folks, that the agency should reach out to the proposed regulated industry in designing rules and regulations that are not only practical but also take into consideration the experience and expertise of the regulated entities to achieve the goals of the proposed regulation in an affordable and commonsense manner. In other words, regulators should be encouraged to work with the industry to succeed by understanding and then adopting regulations that are cost-efficient. By working with stakeholders, NDEQ would also be required to file a regulatory flexibility analysis that would consider less-intrusive or costly alternative methods for achieving the proposed rule or regulation on regulated persons, on other entities, including less-stringent schedules or deadlines for compliance, simplification of reporting, and the establishment of performance standards in place of design or operational standards. However, if NDEQ determines not to implement an alternative method for achieving compliance rather than imposing new rules and regs on the affected businesses, the agency then would be required to issue a statement explaining their reasons and including references to any data used in the determination. Finally, LB637 establishes an additional check on the practicality and cost analysis done by the NDEQ on any proposed rule or regulation, including alternatives to reduce the regulatory burden by the Governor's Policy Research Office, called PRO. The PRO would then review any proposed NDEQ rule or regulation having a total estimated economic impact greater than \$500,000 on all regulated persons or other entities and imposes new requirements or cost on regulated persons and other entities and consider then the applicable information from the regulated businesses. PRO may also suggest alternatives to reduce the regulatory burden any proposed new NDEQ rule or regulation may impose on regulated persons and other entities. So then regulators within the department may suggest that LB637 adds additional cost and added bureaucracy in the drafting of proposed rules and regulations on regulated persons or other entities, especially as they relate to their interpretation of federal rules and regulations. However, I would argue here that just the opposite, as in many instances, the adoption of federal

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rules and regulations affecting the industry, verbatim, would have the opposite and more cost-efficient effect. Thank you, Mr. President. [LB637]

SPEAKER ADAMS: Thank you, Senator Wallman. (Visitors introduced.) The floor is now open for discussion on LB637. Senator Johnson, you are recognized. [LB637]

SENATOR JOHNSON: Thank you, Mr. President, and thank you to my colleagues. Senator Wallman has done an excellent job of describing the bill, so I'm not going to go into that. But I'm going to talk a little bit about, maybe, what creates the need for this bill: federal regulations. That's what has happened and that's what we're trying to address. The expansion of federal regulations in the last few years has been tremendous. Recently, Senator Johanns introduced some legislation at the federal level to try and slow the process down. But we have what we have. We have a lot of new federal regulations. And I'm not saying we accept all of those. We do have a lot of industry within the state that I've heard from as I was out campaigning last year. We might talk about it from the standpoint of the banks, the insurance industry, the health industry, legal, manufacturing, livestock operations, grain operations, crop production, renewable energy. All of these are all affected by a lot of new regulations, and that's a concern of all of our citizens. So what are we talking about? We're not...here in this bill, we're talking about the DEQ, but we've also got the EPA and OSHA and the list goes on. So we bring LB637 to your attention. The people that testified at the hearing were representatives of the ethanol industry, but this is not an ethanol bill. This is a bill that affects all industry, all business, anyone that has to deal with any of these agencies. Very truthfully, it's talking about the DEQ because that's the one that seems to be pushing right now with this particular industry. The DEQ, at the regional level, Region 7, in the past, when ethanol industry was becoming of age in I'm going to say the last 15 to 20 years has met with the industry representatives. They've met with the people that have built the plants. They've been on the site and helped. The industry helped develop the regulations that are in place today. As I said before, I'm not always in support of all the regulations they put in, but we have what we have. What this addresses is, if the Nebraska Department of Economic Quality...Environmental Quality looks at the regulations and tries to make them more intrusive, extends them further, adds additional cost to Nebraska business, then we need to look at it. And this is what this bill maybe slows down a little bit. The Governor has been in favor of staying with the federal regulations and not enhancing them anymore. So if we...if the bill does what it's supposed to do, if the Nebraska Department of Environmental Quality looks at the rules and says, we've got to make them more stringent, then they need to prove that they're right. They need to meet with the industry. They need to meet with manufacturers. They need to meet with the people involved in the industries or the business in order to get their input on it. We put in a threshold of \$500,000, so this doesn't mean everything. It means those that have an impact of over \$500,000 would need... [LB637]

SPEAKER ADAMS: One minute. [LB637]

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SENATOR JOHNSON: ...be required to have this study. One of the other concerns that people have is the fiscal statement, the impact. If the Nebraska Department of Environmental Quality decides to study this and enforce and make these laws more stringent, then there will be an environment...a fiscal impact. What we're saying is, let's live with the federal. If they really feel that there should be an increase in the regulations, make them more stringent, yes, there would be a fiscal impact. But I believe that there will be no fiscal impact in probably 90 percent of the cases--and I pull that just, kind of, out of the air--is that most of the things that they will be proposing, hopefully, would be more minor things and nothing as major... [LB637]

SPEAKER ADAMS: Time, Senator. [LB637]

SENATOR JOHNSON: ...as affecting it to the extent of over \$500,000 in that first year. [LB637]

SPEAKER ADAMS: Time, Senator. [LB637]

SENATOR JOHNSON: Thank you. [LB637]

SPEAKER ADAMS: Senator Brasch, you are recognized. [LB637]

SENATOR BRASCH: Thank you, Mr. Speaker, and good afternoon, colleagues. I rise in support of LB637. I am also one of the cosponsors of this bill. When Senator Wallman brought this bill to me, it really hit home, home in my district. Here, at the Capitol, I see they give me wonderful, very well-informed paperwork, copies of certified mail, of activities in the district. I believe the agency is thorough. They do a great job in what I have seen, on paper, here in the Capitol. However, what...where my interest became engaged is back in September, during interim, I received a phone call from a very distraught constituent, a cattleman in my district and, in fact, Cuming County, where we have a lot of feedlots and a lot of the most wonderful cattle in the entire state. Lights may go on here contesting that, but we are known for our cattle. This cattleman wanted me to come to their operation. And spending several hours there, looking at their concern, it was over a DEQ regulation, not federal but a state regulation, that they had enacted, and it was regarding a lagoon on part of their operation. This cattleman, very, very proud of his longstanding, hard-work operation--his family is involved in it--takes pride in his practices, his environmental practices, being a good steward, and longtime activity. However, there was a recommendation that cost them over half-a-million dollars, basically. They were also told that they would, probably, or they could, get a \$200,000 credit of some sort should they move forward. Seeing no option, they moved forward, invested a lot of acres of land, a lot of money that they felt could have been better used, put into economic development, in the growth of the community, but their investment, what they thought was just to the satisfaction, according to this cattleman,

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for the DEQ. They were so upset they even made an appointment with the EPA in Washington. They bought a plane ticket. They did everything they needed to do. They went to EPA for a second opinion. And the EPA said, this is a Nebraska thing, this is not us here in Washington. This cattleman said, I would love to see the EPA flying over my operation here, I'm inviting them here because I've done nothing wrong, yet, I'm being penalized over half-a-million dollars on something that he could not contest in order to stay in business. They went forward with it. This morning I did give them a phone call off my cell phone in the back here, just to validate, has anything changed, because our office was told that they will look into this, they will talk with them. And to their knowledge, nothing has happened to alleviate this circumstance. I can only speak of one. I'm sure there are good operations. There are good communications. There are. But one like this is one too many. I do think that we need to be thorough. [LB637]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: One minute. [LB637]

SENATOR BRASCH: We need to have full disclosure. We need to have the transparency that every agency and every entity of government has. On the Capitol it says, the watchfulness of the citizen is the salvation of the state. I do stand in support of LB637 and thank Senator Wallman for bringing this important issue here today. Thank you, colleagues, and thank you, Mr. Speaker. [LB637]

SENATOR CARLSON: Thank you, Senator Brasch. (Visitors introduced.) Those wishing to speak include: Senator Seiler, Bloomfield, Schumacher, and Chambers. Senator Seiler, you're recognized. [LB637]

SENATOR SEILER: Thank you, Mr. President. I was...and members of the Unicameral. I was waiting for an audience from Hastings to speak. No, seriously, Hastings has got...was designated the first superfund and the largest superfund by the DEQ. And they've been there for 25 years. We call ourselves the "University for the Education of Employees," and the reason is, every time they come to town from Kansas City, they bring a whole carload of new people. Well, yeah, that...we spent \$25 million of cost to the DEQ and we still haven't got it solved. They're coming next week to start the whole process over again. And if all of you think this doesn't affect you, we are no longer the number-one superfund. You, Omaha senators, ought to be listening up because you are now number one on their hit parade, and they will not be leaving for a long time. Yeah, any other communities that have had the old coal or alcohol plants, they'll be around to see you before long. So these new rules and regulations that Senator Wallman has put forward are a great step in helping, at least, get some semblance of organization for this...for those cities and villages and areas that the superfunds will apply. Thank you, Mr. President. [LB637]

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SENATOR CARLSON: Thank you, Senator Seiler. Senator Bloomfield, you're recognized. [LB637]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, if you look on your gadgets, you'll see I'm one of the numerous endorsers of this bill or introducers of the bill, cointroducers. I'd like to thank Senator Wallman for bringing it forward. It is something, I think, will be of great benefit to not only the ethanol people, the feedlot people. I think it'll help the state, finance us generally, and I urge your support on it. And that's about all I've got to say on it. [LB637]

SENATOR CARLSON: Thank you, Senator Bloomfield. Senator Schumacher, you're recognized. [LB637]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. And thank you to Senator Wallman for bringing LB637. It's easy for government and for regulatory agencies to only look at one side of the equation when they go about their business. But there's two sides to a regulatory equation. There's the side of the government and the police and the enforcers, and there's a side of the business, the individuals, and the entrepreneurs who have got to bear the cost of the regulation. And sometimes that's a delicate balancing act, but it's a balancing act that's got to be undertaken consciously, knowing what the consequences to the business community, to the private sector are from what may be well-meaning, but not necessary, regulation. This particular measure says that, if we go farther than the federal government in trying to regulate something in this particular area--and it's hard to imagine why Nebraskans would ever want to go farther than the federal government in regulation, but it has been a problem--that if that's the case and if the impact is anticipated to be a very significant, six-figure impact, then we've got to, as a state and as a government, justify going farther with proper hearings, with proper analysis. And oftentimes, the mere need to do such hearings and analysis will wake up the bureaucrat to the fact that what might be ideal on paper is not workable or even practical in reality. We can sit here and we can pass all the economic development legislation that we want to pass. We can give incentives. We can create angels. We can give internships. But in the end, if the business community that has to deal with the regulations that we create find them just not competitive with those of neighboring states, too onerous to play in Nebraska, too expensive to have to deal with regulators, we will not be an environment that welcomes economic expansion and decent jobs. This piece of legislation, by saying, if we go farther than the federal government we'd better be able to justify it, is a good piece of legislation and I encourage your support of it. [LB637]

SENATOR CARLSON: Thank you, Senator Schumacher. Senator Chambers, you're recognized. [LB637]

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is one of the

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worst pieces of legislation I've seen. They're talking about regulations being imposed. What they're asking the DEQ to do doesn't make sense to me. How in the world are the people at DEQ going to estimate total annual economic impact that compliance with the proposal will have on all--emphasized--regulated persons or entities, including assumptions made and data used? I'd like to ask Senator Wallman a question. [LB637]

SENATOR CARLSON: Senator Wallman, would you yield? [LB637]

SENATOR WALLMAN: Yes, I would. [LB637]

SENATOR CHAMBERS: Senator Wallman, when you say, persons and entities, the word person, apparently, stands for individuals. Is that true? [LB637]

SENATOR WALLMAN: It could be. [LB637]

SENATOR CHAMBERS: How do they even know which individuals are going to be impacted? [LB637]

SENATOR WALLMAN: Well, if they don't obey, if they impacted by a regulation by our DEQ over whatever the federals demand. [LB637]

SENATOR CHAMBERS: How do they know how many individual people are going to be impacted? You wouldn't even know, would you? [LB637]

SENATOR WALLMAN: No, I wouldn't know how many are affected. But this would take care of people that would be affected. [LB637]

SENATOR CHAMBERS: So how...no, here's what they have to do. They have to estimate the total annual economic impact that compliance with the proposal will have on all regulated persons or entities, including assumptions made and data used. How do you...let's say that you think they're not complying with this. And you say, I think there are more individuals who will be affected than the number that DEQ said. And they say, well, how do you know that, how do you arrive at that conclusion? You say, I just feel that way. So let's say that DEQ does not do what somebody thinks they ought to do. What is the remedy that that dissatisfied person has against DEQ? [LB637]

SENATOR WALLMAN: Well, if this was in place, he'd have the federal DEQ regulations. And that would be his remedy, if he would obey those regulations. [LB637]

SENATOR CHAMBERS: No, here is what I'm saying. Based on what this bill says, DEQ is going to go beyond the federal regulation. The federal regulation is on my left hand. DEQ is on my right hand. My fingers represent a few of the requirements placed on DEQ if they're going to go beyond what's on my left hand. If DEQ does not meet all of

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the requirements that this bill places on DEQ, what is going to be done against DEQ?
[LB637]

SENATOR WALLMAN: There will be nothing done against DEQ here. The federal requirements here are in place if they obey the federal requirements. And then they have to explain why they did this above \$500,000 and why they decided to go this route.
[LB637]

SENATOR CHAMBERS: And suppose DEQ doesn't give an explanation. What happens? [LB637]

SENATOR WALLMAN: Well, if this was in place, they'd have to go back to the federal regulations and, I suppose, you'd... [LB637]

SENATOR CHAMBERS: Does this bill say that, if DEQ fails to carry out one of these proposals, then the regulation DEQ is considering cannot be put in place? Is that what the bills says and, if so, would you show me where it says that? [LB637]

SENATOR WALLMAN: Yeah, I don't have the bill right here now. But maybe that has to be tweaked a little bit. [LB637]

SENATOR CHAMBERS: Well, it's in your red book. You've got the red book,... [LB637]

SENATOR WALLMAN: Yeah, yeah. [LB637]

SENATOR CHAMBERS: ...the one that says, LB601 to LB655. [LB637]

SENATOR CARLSON: One minute. [LB637]

SENATOR WALLMAN: I'll press my button. [LB637]

SENATOR CHAMBERS: Take my time. (Laughter) [LB637]

SENATOR WALLMAN: Yep, I pressed my button. (Laughter) [LB637]

SENATOR CHAMBERS: Okay. [LB637]

SENATOR WALLMAN: Which page are you on? [LB637]

SENATOR CHAMBERS: No, I'm asking you to show me where... [LB637]

SENATOR WALLMAN: Oh. [LB637]

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SENATOR CHAMBERS: ...the bill says what will happen to DEQ if they don't follow all of the things laid out in this bill. In other words, what enforcement action will be taken against DEQ? Who asked you to bring this bill? The ethanol people asked you to bring this bill, didn't they? [LB637]

SENATOR WALLMAN: Yes, they did, with some others. [LB637]

SENATOR CHAMBERS: But ethanol people are the ones primarily concerned, aren't they? [LB637]

SENATOR WALLMAN: Yes. [LB637]

SENATOR CARLSON: Time. [LB637]

SENATOR CHAMBERS: Thank you, Mr. President. [LB637]

SENATOR CARLSON: And, Senator Chambers, your light is on again. You're now recognized. [LB637]

SENATOR CHAMBERS: Thank you. I'm not going to have Senator Wallman do that searching. Here's what happens. Our colleagues are given a piece of trash legislation. It's brought to us. People don't like regulation so they say, that's good legislation. So I'm going to look at some of those who signed on with Senator Wallman and ask that person a question. I'd like to ask Senator Bloomfield a question because he's the first one named after Senator Wallman. [LB637]

SENATOR CARLSON: Senator Bloomfield, would you yield? [LB637]

SENATOR BLOOMFIELD: Yes. [LB637]

SENATOR CHAMBERS: Senator Bloomfield, suppose DEQ fails to carry out one or more of these requirements imposed. What happens to DEQ? [LB637]

SENATOR BLOOMFIELD: If, as proposed, the legislation is passed, DEQ would then be in violation of state law. And the penalties have not been set or any of that stuff, but they would be in violation of state law. [LB637]

SENATOR CHAMBERS: So there is nothing that would be done to DEQ though, is there, based on this statute? [LB637]

SENATOR BLOOMFIELD: I... [LB637]

SENATOR CHAMBERS: Let's say DEQ says, I cannot do what you're asking me to do.

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Suppose--and I'll read for you--estimate the total annual economic impact that compliance with the proposal will have on all regulated persons or entities, and DEQ says, there is no way that we can even determine the total number of individuals who will be impacted by this rule, so we cannot do that. What happens? [LB637]

SENATOR BLOOMFIELD: I think, at that point, DEQ could simply drop back to what the federal law has allowed and would be then in compliance with it. [LB637]

SENATOR CHAMBERS: Is there something in this bill that says, if DEQ does not comply with one of these provisions, that DEQ shall not be able to impose the regulation? Is there anything in the bill that says that? [LB637]

SENATOR BLOOMFIELD: I don't believe there is, no. But as Senator Wallman said, there may be some tweaking needs to be done here. But the idea is to keep DEQ. [LB637]

SENATOR CHAMBERS: But, Senator Bloomfield, because my time will run, you don't really know what's in this bill either, do you, specifically? [LB637]

SENATOR BLOOMFIELD: Not to 100 percent, no. [LB637]

SENATOR CHAMBERS: Right. You like the idea of making it more difficult for DEQ to put in place a regulation more stringent than that of the federal regulation. That's what you agree with. And you were told that this bill would accomplish that, and you supported what you were told the bill would do. Is that, more or less, an accurate assessment? [LB637]

SENATOR BLOOMFIELD: No. I like the idea that DEQ cannot exceed federal regulations... [LB637]

SENATOR CHAMBERS: Have you read... [LB637]

SENATOR BLOOMFIELD: ...without coming to us on a matter that's in excess of a half-a-million dollars. [LB637]

SENATOR CHAMBERS: Have you read... [LB637]

SENATOR BLOOMFIELD: They need to be held liable or held responsible to some point for what they do when it comes to overregulating the people of Nebraska. [LB637]

SENATOR CHAMBERS: Have you read this entire bill? [LB637]

SENATOR BLOOMFIELD: I have not read the entire bill down to the jot and tittle of the

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last dotted "e" in the... [LB637]

SENATOR CHAMBERS: So then you really don't know what's in it, do you? [LB637]

SENATOR BLOOMFIELD: I have a fair idea of what's in it. [LB637]

SENATOR CHAMBERS: And I'm not trying to be mean. You really don't know what's in it, do you? [LB637]

SENATOR BLOOMFIELD: Not 100 percent, but I have a pretty clear idea of what's in there. [LB637]

SENATOR CHAMBERS: Then you tell me. DEQ says there's no way to estimate the number of people that are going to be affected. And the bill says, estimate the total amount. If they don't even know how many people are going to be affected, how can they estimate the total economic impact? [LB637]

SENATOR BLOOMFIELD: They can, at that point, find a way to do it, or they can drop back and stay within the federal regulations. [LB637]

SENATOR CHAMBERS: No, they wouldn't. They'd go ahead and impose their regulation. [LB637]

SENATOR BLOOMFIELD: At which point they would be in violation of state law again. [LB637]

SENATOR CHAMBERS: Actually, they wouldn't, because the law does not require anybody to do that which is impossible to be done. [LB637]

SENATOR CARLSON: One minute. [LB637]

SENATOR CHAMBERS: Thank you, Senator. Members of the Legislature, the law says and courts have said, the law does not impose on anybody a duty to do that which is impossible. Even if the Legislature imposes an impossible requirement, then that could not withstand legal analysis. You don't know how to determine it. Senator Wallman doesn't know how to determine it. They're telling DEQ, determine what we, who pass the law, don't know how it's to be done. It's like saying, learn how to fly when you jump off a building. And the person says, well, how? You say, well, you jump off the building, then you figure it out. This is another piece of that preposterous legislation that a stumbling, failing industry is bringing. Without that heavy federal subsidization, ethanol, as an industry, could not exist. [LB637]

SENATOR CARLSON: Time. [LB637]

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SENATOR CHAMBERS: They cannot send ethanol... [LB637]

SENATOR CARLSON: Time. [LB637]

SENATOR CHAMBERS: Oh, I'm sorry, Mr. President. [LB637]

SENATOR CARLSON: Thank you, Senator Chambers. Senator Johnson, you're recognized. [LB637]

SENATOR JOHNSON: Thank you, Mr. President. I'm not sure I can answer all of Senator Chambers' questions. But I do know that there is a process that the NDEQ, I think...we keep talking about the DEQ. To me, that's federal. NDEQ is the one we're talking about that, when they propose something, they will meet with the industry. And I believe it's probably the industry's responsibility to help identify and come up with numbers, come up with things that are going to be detrimental to the industry, whether it's ethanol or whether it's crop production or whether it's the grain industry, whatever, because the bill doesn't say anything about ethanol. So I think it's the numbers that are put together are put together in cooperation with the industry. They're going to present information that's going to say, this is the effect on this plant, or this, and we have ten plants in Nebraska that are operating this way, it's going to affect this many farmers, or whatever the case might be. So I think they can, together, come up with the numbers in order to come up with an economic analysis of the damages that would be caused by this increase in the federal regulation. Hopefully, they can come to a consensus and say, okay, this number is larger than a half-a-million dollars. Then it's whether they proceed and have to do more implementation of it. The Policy Research Office studies all of the regulations that come forward, so they would have already looked at this and, if there's a question out there, I would hope that they would reach out to industry in order to help get some of this information. Thank you. [LB637]

SENATOR CARLSON: Thank you, Senator Johnson. Senator Wallman, you're recognized. [LB637]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. We would hope that state agencies would have this in place and EPA and all these agencies. And so they do, like Senator Johnson said, do this at the federal level. And so I would hope we could follow this same thing, here at the Nebraska level, so NDEQ has the resources available to do this. And so the economics there, they can roughly figure this out. Nobody knows for sure about economic numbers. But if it affects your bottom line and you cross state lines with various businesses, then you're at a disadvantage if you don't follow the federal playbook. The feds have a playbook, folks, and so our DEQ should really follow the federal playbooks. And thank you, Mr. President. [LB637]

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SENATOR CARLSON: Thank you, Senator Wallman. Those still wishing to speak include: Schilz, Bloomfield, Chambers, and Schumacher. Senator Schilz, you're recognized. [LB637]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. Looking at this bill and hearing what's been said here on the floor, I don't disagree with Senator Wallman that regulations have some real...that increased regulation and regulations that are in place have a real impact on everybody that's out there trying to do their job and trying to do their business, private business. It's important that we keep, you know, people's feet to the fire, that they understand that regulation or overburdensome regulation is not healthy for the state, not healthy for the economy. I tend to, also, agree with Senator Chambers when he says, you know, how do you look to get this done? And as Senator Chambers knows and all of us here know, there is a myriad of reasons why bills are introduced in the Legislature. And some of those are to make sure that a message is sent to those outside the glass so that they understand some of the important things that our constituents tell us. Every day...I shouldn't say every day. On many days, when I'm back in my district, people come up to me and they tell me. You know, whether it's about, you know, concentrated cattle feeding or whether it's about ethanol plants or whether it's about Nucor and slag and all these other issues, people within the state are getting buried, at times, by these regulations. So I think it's healthy to talk about it at times. I think it's healthy to ask the question, why we would want to have a regulation that is different or more stringent--and most of the case here comes when it is more stringent--than the federal regulations that are out there? I think that's a fair question to ask. I think it's a fair question to ask the bureaucracy--and that, I mean, that's what we're talking about here--why this is the case. I think this kind of pushback, at times, is good and is healthy because we do have to find a balance. We have to find that balance to make sure that business can move forward, be productive, make a profit, and be healthy because, if not, it doesn't matter. And on the other side, we have to make sure that the regulations protect others in the state of Nebraska that may be affected by any of these procedures or processes or whatever they've done. So that's where I come from on this bill. Now if there's ways to do this that we can reduce that fiscal cost, I'm all for that, too, because I don't think that we should have that be in there and be part of it. If we're going to do this, not only do we have to keep the regulations down, we have to keep down what it costs. And we've heard arguments as to whether or not this is a true fiscal note, and that can go around and around all the time because we see that. If the fiscal note goes for you and it looks good, you're going to use it; if it looks bad, you're going to complain about it. We've seen that all the time. So I think it's good to have a discussion. I think it's good that we talk about certain regulations. And I can't talk intelligently about many of them. [LB637]

SENATOR CARLSON: One minute. [LB637]

SENATOR SCHILZ: But this, again, is a function of the Legislature, to make sure that

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we don't...or that we are keeping our finger on what state agencies are doing and that they are being responsive to the people of the state of Nebraska. Thank you, Mr. President. [LB637]

SENATOR CARLSON: Thank you, Senator Schilz. Mr. Clerk for an amendment. [LB637]

ASSISTANT CLERK: Mr. President, Senator Chambers would move to amend the bill with FA51. (Legislative Journal page 905.) [LB637]

SENATOR CARLSON: Senator Chambers, you're recognized to open on the amendment. [LB637]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, on page 2, my amendment would strike lines 17 through 20. And the language is the following: An estimate of the total annual economic impact that compliance with the proposed rule or regulation will have on all regulated persons or entities subject to the proposed rule or regulation. First, I want to make something clear. This bill doesn't just deal with a rule or regulation different from a federal regulation. Any rule that DEQ considers...I'm reading the language of the bill. I've had to read numerous bills so that I could assume the responsibility of trying to see that they do what they ought to and no more. Beginning on page 1, in line 1, If the Department of Environmental Quality intends to adopt a rule or regulation that will impose requirements different than--it should be different from; I don't know who wrote this, but that's not unusual, to have poor grammar--that would be different than federal regulations or increase costs on regulated persons, that word "or" separates out regulations that have nothing to do with a federal regulation that the DEQ is going to exceed. Any rule or regulation that DEQ intends to implement would have to establish this impact on all individuals and entities. So I didn't really follow everything Senator Johnson said. But if there is a suggestion that the federal government would already have made certain estimates and calculations, that's not going to apply to these other rules and regulations, that DEQ could impose, that have no reference to any federal rule or regulation. I'm looking at the way the bill is written, and I don't believe one person whose name is on this bill as an introducer or cointroducer has read all of this bill. And if he has read it, I don't believe he can explain it all. The reason I say he...oh, there is...he or she. I see Senator Sullivan is in there; oh, and Senator Brasch. So he or she can explain all that's in this bill. Senator Johnson said, or somebody who spoke said, ethanol is not mentioned in the bill. When you're savvy, like I am, it doesn't have to be mentioned in the bill. I know what the bill is about if those who cosigned it don't know what it's about. I know what it's about. And all I have to do is look at the main ones who spoke in favor of the bill, and that's...and the information supplied to us. There are two people with the Association of Nebraska Ethanol Producers. Then you have the Farm Bureau Federation, which is not even, primarily, a farm operation, a farm organization. It is known for the insurance that it

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makes available. And the majority of the people who belong to the Farm Bureau are nonfarmers and they belong because of the insurance being offered. So when I see Nebraska Farm Bureau, I don't consider them a farm entity at all. They're an insurance operation. And when you read the advertisements that they put in urban newspapers, they talk about their insurance. And I've questioned them down, through the years, as a member myself, being the member of the Ag Committee, and they have to acknowledge--they're reluctant to get into it--that the majority of their members are not farmers. But the reason I'm striking this language is because it doesn't make sense. The DEQ, let's say, is going to regulate whatever it is. We'll say entity A. This requires an estimate of the total economic impact that compliance with the proposed rule or regulation will have on all regulated persons or entities subject to the proposed rule or regulation. I'd like to ask Senator Johnson a question because he... [LB637]

SENATOR CARLSON: Senator Johnson, would you yield? [LB637]

SENATOR JOHNSON: Yes, I will. [LB637]

SENATOR CHAMBERS: Senator Johnson, does DEQ have to go out and locate all of the entities and individuals who will be regulated? [LB637]

SENATOR JOHNSON: No. I believe that the industry that they're targeting--in this case, we'll say it's ethanol--that the NDEQ would go to those people and ask them to provide the information as how they see it would have an economic impact on the industry and bring those numbers back to the NDEQ for analysis and interpretation. Hopefully, they can agree that this will have an economic impact and they'll agree with those numbers. [LB637]

SENATOR CHAMBERS: Does the bill, by its terms, require the DEQ to go and seek out these entities or, simply, advertise the fact that they are considering this rule and regulation and invite comment from whoever would like to make comment? How is that to be done? [LB637]

SENATOR JOHNSON: They would be...they would do that through their public hearing process. [LB637]

SENATOR CHAMBERS: So then they don't have to go out and seek out these people and these industries, do they? [LB637]

SENATOR JOHNSON: They could probably get their own witnesses and their own people if they feel they need to. But I believe it would also be the responsibility of, let's call it, the affected industry to provide information for their side of the case. [LB637]

SENATOR CHAMBERS: So DEQ is not required to go beyond anything that is supplied

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by the industry, is that correct? [LB637]

SENATOR JOHNSON: I believe that would be correct. [LB637]

SENATOR CHAMBERS: And is the DEQ required to accept the numbers of persons that the industry would give as the number of persons who will be affected by this rule or regulation? [LB637]

SENATOR JOHNSON: I believe that would be discussed in the hearing and, I believe, they would accept or deny those numbers or challenge them. And I would hope that the two entities, the industry and the NDEQ, would come to an agreement before anybody would have another ruling. [LB637]

SENATOR CHAMBERS: Is there anything in the bill that says that the DEQ shall or may accept or reject information supplied by the industry, in terms of the number of persons who would be affected? [LB637]

SENATOR JOHNSON: No. I believe they could go ahead on their own and move forward with the rule if they do not believe the numbers. I believe it sends a signal out to them that they need to look at the numbers to see what it's going to cost to implement this expanded regulation and how it's going to affect the industry. And the industry, I think, it's the responsibility of the industry to educate them on their case. [LB637]

SENATOR CHAMBERS: Going above, on the page, to lines 4 and 5, we're talking about the department shall prepare a statement that describes the annual economic impact. How does the department know what that impact will be? Do they...what do you think they would base it on, in determining what the economic impact will be? [LB637]

SENATOR JOHNSON: I suppose they would use their own numbers as they've evaluated. [LB637]

SENATOR CARLSON: One minute. [LB637]

SENATOR CHAMBERS: What would they look at though in determining the impact? When you say their own numbers, what...how do they determine it? [LB637]

SENATOR JOHNSON: They would probably have to employ somebody from the manufacturing or somebody that's involved in the industry somehow. It might not be the...if we're talking ethanol, it might not be the ethanol plant. But maybe it's the manufacturing industry that helps build the plant or the people in the software side that present the technology. They could sure go to them. [LB637]

SENATOR CHAMBERS: By using the term "estimate" in line 17, DEQ could just say,

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this is what we think it is. And nobody is in a position to challenge it, since all they have to do is give an estimate. Isn't that true? [LB637]

SENATOR JOHNSON: It appears that that would...I would agree with you on that. [LB637]

SENATOR CHAMBERS: So if they underestimated the impact and the industry said, we think it's... [LB637]

SENATOR CARLSON: Time. [LB637]

SENATOR CHAMBERS: Thank you. [LB637]

SENATOR CARLSON: Thank you, Senator Chambers and Senator Johnson. Senator Bloomfield, you're recognized. [LB637]

SENATOR BLOOMFIELD: Thank you, Mr. President, colleagues. I believe Senator Chambers may have used the wrong analogy a moment ago when he suggested we're telling DEQ that they should jump off the building and hope they learn how to fly on the way down. I believe, in fact, what we're telling them, if you do not fly, don't jump off the building. And I would yield the rest of my time to Senator Schumacher. [LB637]

SENATOR CARLSON: Senator Schumacher, 4 minutes and 30 seconds. [LB637]

SENATOR SCHUMACHER: Thank you, Mr. Chairman, members of the body. Thank you, Senator Bloomfield, for yielding some time. A few questions have been raised with regard to the regulatory process here. What is attempted to be done in this bill is to force the DEQ or the folks over there to come face to face with the reality of the economics of their regulation. If they are going to be more stringent than the federal government...they can't be less stringent; we all learned that the federal government is king. But if they're going to be more stringent than the federal government, then they are going to have to put together an estimate of the various things set out in (a), (b), and (c) on page 2 of the bill. They don't have to certify it as being the absolute truth. They don't have to swear on the Bible about it. But they've got to make an estimate. And in the process of making an estimate, their estimating mechanism is subject to the Open Meetings and the Public Records Act (sic--Open Meetings Act and public records law) and public scrutiny. It's part of the system of transparency. If they do not follow the rules, they're not going to go to Leavenworth, and we're not even going to put them in the State Penitentiary. But what it does do is lay the groundwork for the folks who are affected to contest the validity of any regulation that is not made in conformity with this act. It's going to force litigation if they don't behave themselves, and that's how the administrative process works all the time. If an administrative agency does not follow the rules, the courts can step in, in following the procedures of the Administrative

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Procedures Act. So it begins a process, a process which winds its way through the Governor's Policy Office, where it can intervene and weigh the pros and cons and pluses and minus of the proposed regulation, the public benefit versus the public and private costs. This process, hopefully, will either cause public outcry, if it's abused by the DEQ and they do not regulate using commonsense and proper balancing of public interest versus the cost they impose, or it will bring about sensible regulation. Regulation is a difficult thing to do. It's probably harder than raising taxes, and that's a terrible thing to do. But it is something we have to try to do with common sense and transparency. And in the modern economy, where we're competing with other states and competing globally, it has to do with what is the cost of the regulation versus the benefit. And up to this point, it's been really, really difficult to even begin that focus from an industry and from a governance point of view. If the Legislature has some of this information and can look over the shoulders of the DEQ to see whether it's using its judgment in fair and reasonable ways, then, if the DEQ is out of line, the Legislature can step in and lay out guidelines. [LB637]

SENATOR CARLSON: One minute. [LB637]

SENATOR SCHUMACHER: But this is a process bill. It's not a criminal bill. It's not even a regulatory bill. It is a process bill that begins to focus on marrying the interests of an effective, competitive economy with that of what might be bureaucratic niceties. It's not an easy process. There's no easy answers. But it is a process, at least, that we need to start on if our state is to be competitive and our regulations are to be reasonable. Thank you, Mr. Chairman. [LB637]

SENATOR CARLSON: Thank you, Senator Schumacher and Senator Bloomfield. Those wishing to speak include: Chambers, Brasch, Wallman, and Burke Harr. Senator Chambers, you're recognized. [LB637]

SENATOR CHAMBERS: Thank you, Mr. President. The language that I'm trying to strike I've discussed. Since we're going beyond that, I'm going to move to the following page. And in line 7, there is discussion of, quote, a regulatory flexibility analysis that considers any less intrusive or less costly alternative method of achieving the purpose of the proposed rule or regulation. The analysis shall consider the following methods of minimizing the economic impact. Suppose the DEQ indicates that, based on our reading of this statute, we formulated this rule or regulation. There is no less intrusive or less costly alternative method. And then it might seem impertinent to the industry, but I ask, do you think that we're going to deliberately impose on you something that's more costly than is necessary, something that is more stringent than is necessary, to achieve the purpose of this regulation? That wouldn't be enough because they go on, whoever wrote this bill for him, and I think it's somebody from...let me ask Senator Wallman a question. [LB637]

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SENATOR CARLSON: Senator Wallman, would you yield? [LB637]

SENATOR WALLMAN: Yes, I would. [LB637]

SENATOR CHAMBERS: Senator Wallman, who brought this bill to you and asked you to introduce it? [LB637]

SENATOR WALLMAN: Senator Schmit. [LB637]

SENATOR CHAMBERS: Senator who? [LB637]

SENATOR WALLMAN: Schmit. [LB637]

SENATOR CHAMBERS: Senator Smith (sic)? Senator Schmit, he runs the Ethanol Producers Association, doesn't he? [LB637]

SENATOR WALLMAN: Yes, he does. [LB637]

SENATOR CHAMBERS: Okay, so it's an ethanol bill, isn't it? [LB637]

SENATOR WALLMAN: It could be. It could be for anything. [LB637]

SENATOR CHAMBERS: We...if a banker brought you a bill, would you presume the industry involved would be the banking industry? [LB637]

SENATOR WALLMAN: Well, probably. [LB637]

SENATOR CHAMBERS: Okay, maybe you wouldn't. But I would, just as, if a grocer brought me a bill, I'd think it was the grocers. Thank you. You answered the question that I needed an answer to. Somebody put all of this stuff in here to make it as difficult as possible for the DEQ to do its job. For one, speaking for myself, I do not think the DEQ, being a politically scrutinized operation, is going to deliberately impose a costly, intrusive method, unduly costly, by way of a regulation. You all know better than that too. But we've had some silly legislation brought to us this session where, when it's considered, all common sense goes out the window. We don't think anymore. We don't bring our experience in this world to bear anymore. We go by what's in this legislation that we have obliged ourselves to bring and justify when it makes us look foolish doing so. If you think that the DEQ is a bad operation, why don't you just abolish it? The DEQ is not established in the constitution. The Legislature can abolish it. I would like to ask Senator Schumacher a question. [LB637]

SENATOR CARLSON: Senator Schumacher, would you yield? [LB637]

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SENATOR SCHUMACHER: Yes, I will. [LB637]

SENATOR CHAMBERS: Senator Schumacher, since the federal government imposes regulations in the areas that the state DEQ deals with, why don't we just abolish the state DEQ? [LB637]

SENATOR CARLSON: One minute. [LB637]

SENATOR CHAMBERS: Would you support a bill like that if I bring it? [LB637]

SENATOR SCHUMACHER: I think there's probably some room for regulation at the state level, and there are some areas that the federal government has not preempted. [LB637]

SENATOR CHAMBERS: So then you think there is a basis to have a DEQ. [LB637]

SENATOR SCHUMACHER: There probably is, as Senator Schmit probably thought there was when he conceived the idea, back, probably, when you were serving with him. [LB637]

SENATOR CHAMBERS: In your experience, have you been aware of the DEQ imposing rules and regulations that are excessively intrusive? I'm not going to ask you to specify, but where they've done the kind of things that this bill says they shouldn't do? [LB637]

SENATOR SCHUMACHER: I practice law with the agricultural community, and the DEQ is not a...well, it's not a four-letter word. It's a three-letter word. [LB637]

SENATOR CHAMBERS: It's not a what? [LB637]

SENATOR SCHUMACHER: It's not a four-letter word, but it's a three-letter word. And the folks in the agriculture community where I practice law have a lot of bones to pick with the DEQ. [LB637]

SENATOR CHAMBERS: And I think time is up so I will... [LB637]

SENATOR CARLSON: Time. [LB637]

SENATOR CHAMBERS: Thank you, Mr. President. [LB637]

SENATOR CARLSON: Thank you, Senator Chambers and Senator Wallman and Schumacher. And, Senator Brasch, you're recognized. [LB637]

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SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues. I did want to stand and speak on this again. I think Senator Chambers was going alphabetically across the list there of cosponsors and I would be next in line. I thought I'd just make it more convenient. But for Senator Chambers I wanted to reiterate. There are important tasks that our DEQ has at hand and that they are fulfilling. However, I was not contacted by the ethanol or Senator Schmit or anyone else. The reason I signed was because I have a constituent, a situation, that has nothing to do with ethanol. It is a cattle feedlot in my county, and I would encourage you to make a trip there to see exactly what has happened. I did that. By invitation, I went to their operation, firsthand, and I observed what they were being asked to do. This individual had a time line of events, expenses, and people that he flew out to D.C. with the EPA, saying that, why I am I doing this? And they said, not because we asked you to, it's because your DEQ wants you to. It was apples and oranges here. And they went back and they asked for an extension of time. And the lines you want to strike, I think, they're important because there is economic impact. This particular cattleman had to spend \$500,000 to meet the local Nebraska DEQ's compliance. And they also had to take, I believe, 30 or more acres out of operation. I had my LA call them and validate numbers and land. And there is an economic impact. They had excavation done. They had engineers come out. They had surveyors come out. They spent a very good amount of money being compliant. And it's not unusual to have hearings. Game and Parks, they have public hearings on when they change rules and regulations. Their...they have federal compliance that they follow. But they also bring in the public, when they enact rules, commission orders, and the agency itself, for clarity, for communication, for consistency, for information, and planning operations of our ranchers and our farmers. And be it the ethanol producers, I need someone to explain to me how that enters in here. I'm not quite that familiar with that process. But this bill will make a difference in clarity, information, planning. This afternoon...or this morning I had six FFA members from the district come to my office to visit with me briefly, and I asked each one of them about farming. And one of them is a young man with the cattle...grandparents and parents in the cattle operation. And they said that, you know, what was really challenging was determining, fiscally, your budget, your impact, your gains, your losses. [LB637]

SENATOR CARLSON: One minute. [LB637]

SENATOR BRASCH: Cattlemen and farmers do have a budget. They do need to be very cautious and plan ahead with their money. And the banks require it to borrow money for operations. And so I do ask Senator Chambers to, please, reconsider his amendment for the sake of those who are not ethanol producers, who are asking to be compliant with Nebraska-based DEQ rules that have not had any public hearings like other agencies, other entities do. I don't know the harm in a public hearing and asking for clarity. And people are in a database. We are not alone. We are all being observed. We're documented. You know, everyone's number is somewhere, in some system, somewhere. I don't think sorting that data would be improbable or data that we already

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don't have at hand. [LB637]

SENATOR CARLSON: Time. [LB637]

SENATOR BRASCH: Thank you. [LB637]

SENATOR CARLSON: Thank you, Senator Brasch. Senator Wallman, you're recognized. [LB637]

SENATOR WALLMAN: Thank you, Mr. President. Would Senator Chambers yield to a question? [LB637]

SENATOR CARLSON: Senator Chambers, would you yield? [LB637]

SENATOR CHAMBERS: Yes. [LB637]

SENATOR WALLMAN: Do you burn ethanol in your car? [LB637]

SENATOR CHAMBERS: I didn't understand you. [LB637]

SENATOR WALLMAN: Do you burn ethanol fuel in your car, E10? [LB637]

SENATOR CHAMBERS: Do I do what? [LB637]

SENATOR WALLMAN: Burn ethanol. [LB637]

SENATOR CHAMBERS: No, I've never burned ethanol in any of my cars. [LB637]

SENATOR WALLMAN: Do you think your gas is subsidized? [LB637]

SENATOR CHAMBERS: Well, I think the oil industry...I think every large industry gets federal tax breaks. That's what the tax code is riddled with, and there have been attempts to take away some of the special breaks that the petroleum industry obtains. [LB637]

SENATOR WALLMAN: Thank you, Senator. Here's a...we can call this an ethanol bill, whatever we want to call it. But ethanol has been good for rural Nebraska, been good for cattle feeders. And it started out with some incentives, but it's really helped the corn farmer. And the corn farmer is reinvested in rural America. So...and also, as far as penalties to DEQ, we don't want to poke anybody in the eye here. We assume that the state Legislature, if we have too many complaints, we do something about it and because we fund the agency. Is that right? I think it is. So...and also, DEQ has...they have the federal...they have the resources to do this, and so I don't think it'd be an

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economic hardship on them at all. And if we're going to adopt new rules and regulations what's different from the federal rules, so why wouldn't they want to give us an economic impact? Folks, if we want to keep business in Nebraska, the quickest way to kill them off is overregulation. And sometimes we do get overzealous in our local areas. I'm a...I live on a farm. I should know. I live along the highway. I tell you what, Senator Chambers, come to rural America. It's not like it used to be. So we have rules and regs. Do they affect us? Absolutely. And so the Governor's Policy Research Office, it has more than \$500,000. The Research Office is a good place. They have the wherewithal and the expertise to do these things. So let's use them. Let's use them to keep the businesses in this state. Whether it be elevators, grain processors, ethanol producers, agriculture, I think, everybody knows it drives our state. And so I know there's trouble with this bill, maybe, with some people. But I think it's good legislation and it sends a message to our businesses that, hey, we're friendly here. And it's also DEQ, would, hopefully, pick up on this and it would help them, not hurt them. And so we, here in this Legislature, it's our job to make this place friendly for Americans. We passed the--especially Nebraskans--Advantage Act, you know, all these things we passed in here. And so are we going to overregulate things out of business? Is that what we want to do? So this is something, I think, is voting...is very well both...well, the green vote. Thank you, Mr. President. [LB637]

SENATOR CARLSON: Thank you, Senator Wallman and Senator Chambers. Mr. Clerk for an announcement. [LB637]

CLERK: Mr. President, thank you. Enrollment and Review reports LB158, LB388, LB629 to Select File. Senator Krist would like to print an amendment to LB13, Senator Crawford to LB429, and a confirmation report from Natural Resources. (Legislative Journal pages 905-907. Thank you, Mr. President. [LB158 LB388 LB629 LB13 LB429])

SENATOR CARLSON: Thank you, Mr. Clerk. Resuming debate, Senator Burke Harr, you're recognized. [LB637]

SENATOR HARR: Thank you, Mr. President, members of the body. When I hit my light, I hit my light because I wanted to clarify the Administrative Procedure Act and to clarify what the enforcement mechanisms are within this bill. I think Senator Schumacher has done a very good job of that. So I'm going to talk on my conservative Nebraska values. Maybe I'm the most conservative member of this body here, but maybe I'm not. But I believe in the ability of Nebraskans to decide what is best for Nebraskans. And I don't need the federal government telling me how to do that all the time. I think we Nebraskans can figure out our own values and rules, and those may not be the same as the feds. And so that's what this bill does, and that's what DEQ does. DEQ says, there's the floor, federal government, here is the floor. We pride ourselves as stewards of the land and, as stewards of the land, we hold ourselves more accountable and to a higher level than the feds do. That's all DEQ does. That's who they are and that what they are,

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do. That's what this bill is about. Now can they go too far? Anyone can go too far. So we have this bill today that says, if you are going to do something to benefit Nebraska and our environment, you are going to have to, also, analyze the cost of what you do. And that's fine. But my problem with this legislation as it's currently written is it only emphasizes the costs. We've also got to look at what the benefits are. Why are we doing the regs that we are? In here we constantly talk about cost, cost, cost, cost, cost. This is cost-benefit analysis. At some point, I think, this bill should require the DEQ to do more and identify what the benefit they're trying to achieve, because, if all you know is the cost and I don't know what the benefit is, how am I able to do a cost-benefit analysis? So instead of striking language, I think we need to add language that requires the DEQ--NDEQ, so we can make it a four-letter word--determine what is the benefit, so that we can all do a cost-benefit analysis. This bill is a little incomplete. It's a little one-sided right now. I don't think what...oh, and the other point I wanted to make, quickly, is that there was a little misunderstanding. The Administrative Procedure Act applies to all regulatory bodies. It...there is a requirement for a public hearing. There were statements earlier that DEQ doesn't have public hearings. That's probably not accurate. And if they do create regulations that are outside the APA, Administrative Procedure Act, then someone needs to sue because those are not enforceable rules or regulations, because they weren't done properly. We have a process set up. What we're doing here, to a certain degree, is what we are blaming the NDEQ of doing, is we are creating and micromanaging how they make rules and regulations. That's all this bill does is we're creating greater criteria for them to make rules and regulations above what is already required for everybody else. That's what this bill does. It's not a bad thing if you're okay with that. But if we're going to do a cost-benefit analysis, we have to know what the benefit is. So I might be bringing an amendment, after we do Senator Chambers' floor amendment, to require analysis of the benefit of the bill so that we can have proper analysis. Thank you very much. [LB637]

SENATOR CARLSON: Thank you, Senator Harr. Senators wishing to speak include: Krist, Johnson, Chambers, and Bloomfield. Senator Krist, you're recognized. [LB637]

SENATOR KRIST: Good afternoon, Mr. President, colleagues, and good afternoon, Nebraska. I have to take exception, Senator Chambers, to a comment that you made earlier. I have dealt with the FAA, the EPA, and about every other alphabet soup that you can name at the federal level, and just dealt with the Department of Agriculture with an ag spraying issue that went to your committee, went to Agriculture. And you know what, there are some folks out there that are just darn mean. There is a federal regulation that says that this is the standard and, yet, we come back and make it more difficult for, I don't know, whatever reason because we want to be more safe, we want to be more stringent about what we're doing. And if there is good reason, then that's fine. But when you're double fining an aerial applicator, the pilot himself and the business, for the same offense because you can, without any other justification, I think that is not good business. And don't challenge that department. Don't dare challenge them. Some

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of the reason that people aren't supporting this bill is they don't want to mark a bull's-eye on their back with DEQ or with NDEQ. The reality of the situation is that we never evaluate a federal regulation and do anything less stringent than it is. It's illegal. But when we evaluate it, there is always the concept that we could probably do that better. So doing a cost-benefit analysis, an analysis of what that action and reaction will cause, what the unintended consequences would be, I believe, is good, sound business. Section 1 of this bill, if you read it and if you understand it, very simply says, rather than allowing the agency, the department, to establish those rules, put them in place with no interaction with the shareholders, they will bring the shareholders to the table, they will talk about why it is good policy, why we should be more strict, more stringent, and they will allow for comment before it goes into effect, before it is unquestioned. They're following the same track that the EPA follows: I am god, I will tell you how to do things, there is no compromise, we will not permit any more nuclear stations, we will not permit any more refineries, we will not permit any more coal power plants. Now you can disagree or agree with any of that. But when you blanketly say, no, no, no, I know the way to go, and you have no oversight--and I'm talking about the EPA now, from the federal government--that's wrong. So I have read this bill. I'm not sure that I understand what consequence DEQ would have if they didn't go forward or NDEQ would have if they didn't go forward and accomplish every item, every checklist item. But I do know this: The strongest part of this bill is in having the stakeholders come to the table and have the agency, the department, the person who is going to make it more strict for them to do their business, going to cost them more money and, seemingly, in some cases, not with good reason, be at the table and talk about why we're doing what we're doing. That, I think, is the strongest part of this bill. And I understand that there are amendments coming, and I will listen intently to the debate. But I think, when you make the statement that these agencies don't do anything to deliberately hurt or deliberately move in that direction--... [LB637]

SENATOR CARLSON: One minute. [LB637]

SENATOR KRIST: ...thank you, Mr. President--I think that's a little naive because I have personally witnessed in my professional life and I've witnessed since I've been here, seemingly, unwarranted extra restrictions, regulations put on businesses which are, seemingly, doing their job by the federal regulation, but we want to be more stringent, more strict. Just a caution: To assume that someone next to you is not ever going to hurt you, you all know what assume actually does for all of us. There is no assumption in this process. And I think Section 1 is, probably, again, the strongest part of this bill. Thank you, Mr. President. [LB637]

SENATOR CARLSON: Thank you, Senator Krist. Senator Johnson, you're recognized. [LB637]

SENATOR JOHNSON: Thank you, Mr. President. Again, a question came up a little bit

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ago, what is NDEQ's job? Well, I know one of them is to enforce the federal law. And they do meet with Region 7. I believe that's the number. And they do...they were involved when they learned the regulations. So they are to enforce the federal laws that are under their jurisdiction. A second part of it is to make sure that the businesses and industry, all those affected in Nebraska, are in compliance. And so they do have compliance checks. I'm not involved directly in the ethanol business. I've been a supporter of it. But I was involved for many years in the grain industry. And I talked to people in the grain and the crop production industry and they did not come and testify. They did put in letters of support, but they did not testify. And I asked why. Well, we've become of age. We've settled our issues. We're getting along fine with them, so they didn't feel the need for them to come forward. Senator Burke Harr brought up a good comment and talked about the benefit. When I was in business, we did sit down with the NDEQ on occasion and talk about something that they were, maybe, proposing that was more stringent. And so we did talk about the cost and the benefit. And there it was not having to do so much with the environment, but it had to with, probably, more...I need to back up, this, the one I'm going to cite, probably had more to do with OSHA. They wanted us to install some equipment that was probably going to cost, probably, \$15,000--I'm just pulling that number out; I don't know the exact numbers--in order to make the location safer. We had multiple locations, so I'll just use ten. So we have 15 (thousand dollars) times 10. And what were we going to do? We were going to protect in case a very small child got into our area that was off base anyway. That child would get in there and might get their finger caught in something that the gap was a sixteenth of an inch. They thought it should be a little bit tighter. I mean, that was an instance. So what was the benefit, the likelihood of that to happen? Was...is that going to be a big issue? There, the cost outweighed the benefit, in our mind. Yeah, you don't want a small child to have that type of an injury. But when you've got to have a guard on something that's got to be changed that little amount, that's where, I think, we talk about the cost and the benefit factor. In the ethanol industry, we're talking about the emissions out of plants. And the federal has looked at that in very much detail. And I think if they, if the state NDEQ looks at that and says, okay, that's what we're going to go by, leave it where it is. To me, the bottom line is, state, don't try and make it more stringent, don't try and make it stronger. If you're going to try and do that and want to prove your point, there is going to be a fiscal impact. But until you prove that, let's go by the federal. Thank you. [LB637]

SENATOR CARLSON: Thank you, Senator Johnson. Senator Chambers, you're recognized. [LB637]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I wish Senator Harr were still here, Burke Harr. But he made a good point. If this bill is not designed to take DEQ out from under the rules and regulation requirements of every other entity--they have to have public hearings, they have to allow the input--this bill is not requiring anything other than what is already done, unless the intent is to do that. That's

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why I asked Senator Johnson, under this, are they requiring DEQ to go out and do something. No. And rules and regulations have to be submitted to the Attorney General, then the Governor, and they have to sign off on them. So this isn't something where, if DEQ formulates a rule or regulation, they just say, this is it, and that's it. But he also made a point. The federal government establishes the floor, the minimum. Nothing can be done less stringent than this without violating federal law. Since the federal law covers 50 states and 2 of them are not even contiguous with the other 48 states, they are not going to try to specify and particularize a federal regulation that's going to cover every state. That's why they make it clear that this is the minimum. Each state then particularizes what is necessary to bring their state into compliance with what that federal rule is trying--or law--to provide. The courts in Nebraska, the U.S...the Nebraska Supreme Court has said that the U.S. Constitution establishes a minimum level of due process. Any state is allowed to provide greater protection for its citizens than would be found in the U.S. Constitution, but no state can provide lesser protection. So when you come to these two areas, you can say that the federal law is the general statement. The state rules and regulations fill in the gaps and particularize, customize, and make it fit the conditions found in each state. When you start looking at all of these things that are imposed on DEQ, you then try to involve the Governor's Policy Research Office. Senator Schmit, if he had this drafted, knew that he couldn't compel the Governor's Office, which is a branch of the executive department. So he said, the Governor's Policy Research Office may do these various things once the DEQ gets through trying to jump through all of the hoops, surmount all of the hurdles and obstacles that those who don't like the DEQ are trying to put in its path. You have similar things that the Governor's Research Office is to do, estimate or figure how much economic impact is going to be had on all these individuals and entities. And the Governor can say, we're not going to do that, that's too detailed, that's not what we're about, we're not going to do it. And there is no mandate that the Governor's Policy Research Office do anything. This is just put here to give the appearance of more difficulty to satisfy some people. If Senator Brasch is available, I'd like to ask her a question or two in the time I may have remaining. [LB637]

SENATOR CARLSON: Senator Brasch, would you yield? And it's one minute. [LB637]

SENATOR CHAMBERS: Senator Brasch, what was this person required to do to comply with the DEQ rule or regulation? What was involved? [LB637]

SENATOR BRASCH: They were required...and, yes, I will yield. They were required to change an entire existing lagoon system that was compliant with the EPA. [LB637]

SENATOR CHAMBERS: Was it determined by the DEQ that this lagoon system was not adequate to meet the needs that the DEQ thought were necessary to be met to protect the health and welfare of Nebraska citizens? Is that what DEQ was maintaining? [LB637]

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SENATOR BRASCH: That's what they maintained, but the opinion of the EPA was it was adequate. [LB637]

SENATOR CHAMBERS: But DEQ said it wasn't, obviously. [LB637]

SENATOR BRASCH: Correct. [LB637]

SENATOR CHAMBERS: And DEQ would have to show that the welfare of the citizens would be involved. Otherwise, that person could have gone to court and gotten an injunction. Did the person try to do that? [LB637]

SENATOR CARLSON: Time. [LB637]

SENATOR CHAMBERS: Thank you, Mr. President. [LB637]

SENATOR CARLSON: Thank you, Senator Chambers and Senator Brasch. Senator Bloomfield, you're recognized. [LB637]

SENATOR BLOOMFIELD: Thank you, Mr. President. I'd like to address Senator Chambers, probably not in a Q and A, but just so that I know he's somewhat listening. [LB637]

SENATOR CARLSON: Senator Chambers, would you yield? [LB637]

SENATOR BLOOMFIELD: I'm not asking him to yield, Chair. [LB637]

SENATOR CHAMBERS: Oh. [LB637]

SENATOR BLOOMFIELD: I'm just...I would like to make sure that he is somewhat listening. [LB637]

SENATOR CARLSON: Senator Chambers, don't yield. [LB637]

SENATOR BLOOMFIELD: (Laugh) But listen, please. Senator Chambers made the statement that he didn't think the DEQ or the Nebraska DEQ would overregulate because it was not in their interest. I live, roughly, 100 miles north-northwest of north Omaha. I find it hard to believe that the police overreact in north Omaha. You have assured me several times that it happens. I assure you now, the DEQ does overregulate and overreact in rural Nebraska when it comes to feedlots. It has nothing whatsoever to do with ethanol. This was brought by the ethanol people. I talked to the ethanol sponsors yesterday, for the first time. And that was on another matter, but we ended up talking about this a little bit. But I just...as difficult as it may be for you to

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believe that they treat us that way when we're sitting 100 miles from the situation that you know and understand, it's difficult for me to see that from where I'm at. And if you'd like to make a comment on that, I would yield you the rest of my time. [LB637]

SENATOR CARLSON: Thank you, Senator Bloomfield. Senator Chambers, 3 minutes and 15 seconds. [LB637]

SENATOR CHAMBERS: Thank you, Mr. President. First of all, Senator Bloomfield, I know the people in this Legislature don't believe what I've said about the police. I know that. It's been demonstrated to me over and over. But I say it for the record. But when it comes to what I said when I was discussing provisions of this bill, I asked, if you're requiring DEQ, after suggesting a rule or regulation, to go behind itself and say that they've got to find a less intrusive, less costly alternative, is it likely that they deliberately are going to select a more intrusive, more costly method than is necessary to achieve the purpose? I don't believe it. And if that is the case, then this is not going to take care of that because the DEQ could do that very thing. And there is nothing you can do, or anybody else, pursuant to the terms of this bill, about it except gripe. But since they're required to have a public hearing, the alternatives are offered by those who come to the public hearing because they have to be shown the proposed rule or regulation. And when the people who are going to be involved come to that hearing, that's when they present their point of view. And it would be one thing to say that DEQ, as any other entity with rule- and regulation-making authority would do, is to consider the information presented. But you cannot compel them to take as true everything that somebody comes and says. So if all they're to do is go by what the industry people say, all of that is said at the hearing. And there is enough representation at that hearing to cover everything that you're putting into the statute, and there's no reason to put it in the statute. It's taken care of already. [LB637]

SENATOR CARLSON: One minute. [LB637]

SENATOR CHAMBERS: And this goes along with what was being done against the Environmental Trust. You're going to micromanage and tell them what they must do when this...what I'd like somebody to do who favors this bill is show me something being required here that would not already be covered by the way the rule-making process allows this information to be presented by those who are affected. What you're doing is saying, in case these people--I guess you're saying it--in case these people don't make this, the case, you've got to make it for them, you've got to point out that what you're doing is overly intrusive, it's overly costly, and there is a different and better way to do it than this, and tell us why you didn't do it that way. You're making that presumption. And DEQ could just say, well, we...this is the best way, there is no alternative. [LB637]

SENATOR CARLSON: Time. [LB637]

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SENATOR CHAMBERS: Thank you, Mr. President. [LB637]

SENATOR CARLSON: Thank you, Senator Chambers. Senator Wallman, you're recognized. [LB637]

SENATOR WALLMAN: Thank you, Mr. President. And this has brought a lot of argument about this bill. And DEQ doesn't...we didn't demand or punish them because we do...we could punish them here. We could do away with the funding. So this should be a guideline for them to follow, and I think they would embrace this. And why wouldn't you want to embrace something like this? I don't know. And so that's why I brought this forth. I...if the ethanol producers, elevators, all these things that have dust problems, all these other...trust me, it's caused farmers some heartburn, and not only farmers, other businesses as well, so...power producers. So I think we have to look back, back at America, what we're trying to do here. If we truly want an economic upturn to continue, we may have to look a little bit more of deregulation. And the DEQ is probably more apt to do that at the fed level than they are here. And so why would somebody want the fed regulations? Because it's steady, it doesn't change because of a new director or new directors or whatever. Whether you like the feds or hate them, it's pretty well steady. And that's what people in business want, something that's steady, they can look at, and look at the rules and regulations, what they have to follow, air emissions, water quality. All these issues are set up for interstate commerce. So we deal with interstate commerce on numerous things, water flowing out of our area, for instance, with Kansas, the Blue River Compact. We had a meeting on that the other day. So somebody before us assigned these things. And did we go along with that too easy? Absolutely. And so I think all the discussion, I think, for people, I'm against this amendment and enjoy this dialogue here. And I know it's hard to write a perfect bill. It can't be done, I don't think. Somebody will always...going to get a word here, a verb here, something out of place, maybe, but we try to do the best we can. And so thank you, Mr. President. [LB637]

SENATOR CARLSON: Thank you, Senator Wallman. Senator Brasch, you're recognized. [LB637]

SENATOR BRASCH: Thank you, Mr. President and thank you, colleagues. To answer Senator Chambers question when we were cut off with time, this particular cattlemen had made changes to meet previous requirements and had tried in the past to make changes without success. So, no, I don't think they hired an attorney to fight this. They had asked for more time because the time line, they could not meet. They had an extension of time granted, and then the third...and they began work on it. Excavators, surveyors, people with piping equipment, a 30-acre span of land, they basically gave up on trying to fight them. They've learned that DEQ does make their rules different from the EPA. But it was quite expensive, and when I did call this particular cattlemen after learning of this bill, they were very optimistic that perhaps this is a new beginning and were happy to hear about the legislation. I am not familiar with how this is affecting

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ethanol. I will look into that. And I was just invited to go behind the glass and had a good dialogue with the DEQ. And the DEQ had said, this will not help our cattlemen and they will look into this situation and I will get more clarity on that. But, hopefully, it does help the cattlemen, other farmers, and people operating under rules and regulations with the DEQ. I will yield any of my remaining time to Senator Wallman. [LB637]

SENATOR CARLSON: Thank you, Senator Brasch. Senator Wallman, 2 minutes and 40 seconds. [LB637]

SENATOR WALLMAN: Mr. President. [LB637]

SENATOR CARLSON: Yes, you have 2 minutes and 29 seconds. [LB637]

SENATOR WALLMAN: Okay. Again, I am opposed to FA51. And so, going on about DEQ, they do have to draft a rule to be effective and from the hearings in LB637 with regulations would have to be done. So, I agree with Senator Harr, you have to have hearings. And why? Because that's good policy. We have to have zoning hearings in the country. And if you're going to put an elevator or anything, you have to have hearings nowadays, and if you live along federal highway. So, I think this is still...I'm not poking DEQ in the eye here. I'm just hoping they have the bottom here for rules and regs, like Senator Harr said, and we go forward with that. And it would be a good thing to do. And if it helps our industry, even makes them feel better, sometimes it just takes a little bit. And this is a...if this industry wants this bill and interstate commerce and all these issues, I think it's okay. And, again, I oppose the amendment and please vote green for the bill. [LB637]

SENATOR CARLSON: Thank you, Senator Wallman. Senator Schumacher, you're recognized. [LB637]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. It might be well for us to pause for a moment and think about the regulatory process. Probably somewhat undefying and probably somewhat sloppily done at times here in the state of Nebraska. It begins with the Legislature setting forth some objectives and some guidelines. All too often we set forth objectives and guidelines which are really nebulous and really unclear and then we kind of punt it off to a regulatory agency. Sometimes we do a better job and give a clearer delegation of authority. Unfortunately, our court system has been very lenient with us and said if we just kind of tell them what we want, then we pass the ball over to the executive branch. And that is sometimes a mistake because that passing of the ball under a broad grant of authority that is not defined or limited, is a transfer of real power that it's really difficult to get back into this room. But we've done it and we continue to do it. Once that ball is passed, then the regulatory agency that's assigned the task, is supposed to promulgate rules and regulations. And there's a whole book called the Administrative Procedure Act, which

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says how they're supposed to do it and what kind of hearing times they're supposed to have, and what kind of hearing officers they're supposed to have, and things like that. And they're supposed to publish the proposed rules or its proposed regulations and eventually those go to a three-member board. I think it's the Governor, and maybe the Secretary of State and the Attorney General, for them to sign off on and I think that's after review by this Governor's Policy Office. At any rate, those regulations are often complex and sometimes they're often very nebulous. And oftentimes, that step is even skipped. And they go down to rules. And those strict format of how you hold hearings and things don't necessarily apply to rules. And it's very typical of our administrative agencies to just issue a rule skipping or relying upon a very nebulous regulation. And then, those rules, regulations, and internal memo by agencies are administered by various agents that run around in the country and look at operations and be the policemen. So, it is a very difficult process indeed. And particularly the farther you are away from the litigators in Omaha and Lincoln who always take on the agencies, it is a very confusing process and one which you can throw up your arms in absolute frustration and just give them what they want, because you certainly don't want to poke them too hard because they'll poke you right back three times for every poke you give them. So that's the world that's out there, not at all like what Senator Bloomfield pointed out here when Senator Chambers complains about some of the police situations in Omaha. And yes, Senator, there's at least one Senator here that believes that police do engage in misconduct and he's put some of them in the penitentiary and in jail. But the situation that we have is that all we're trying to do in this bill is simply say, before we engage that monster, tell us how much it's going to cost. Give us an estimate. Listen to us complain about not just the regulation, but how we feel the rule is going to be administered; what kind of discretion an inspector might have. For five years, I know of one instance where the inspector just looked the other way and kind of chuckled.
[LB637]

SENATOR CARLSON: One minute. [LB637]

SENATOR SCHUMACHER: The next guy wrote them up and they had a substantial expense in conforming to the write-up. So, this is not anything that is onerous. It is attempt to bring into balance the interest here. It is not perfect, but it is doing something that is not being done now and that is bringing into the equation the cost. And Senator Harr might be correct. Probably in here what Senator Schmit did not put in here is the benefit thing and that might be an appropriate thing for an amendment that the benefits as seen, economic and otherwise to the state, should be part of this analysis. But certainly, the cost to the taxpayer and to the citizen of Nebraska and to our competitiveness is part of the cost and that needs to come into account in these regulatory processes. Thank you. [LB637]

SENATOR CARLSON: Thank you, Senator Schumacher. Senator Watermeier, you're recognized. [LB637]

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SENATOR WATERMEIER: Thank you, Mr. President and good afternoon, Nebraska. I rise in opposition to FA51 that Senator Chambers has brought up, but in support of LB637. And just real basically here, it was brought to the floor by the ethanol industry, I do believe that, but with good cause. The ethanol industry has an issue in this state. Right now, they burn one-third of the corn that is produced in the state of Nebraska. They're a big part of the state of Nebraska and they have a vested interest both in doing it right and I believe that they do want to do the industry correctly. The thing that I have in opposition with what sometimes happens behind the scenes and what Senator Krist had mentioned earlier does happen. In real life, it does happen. I'm going to defend the DEQ in a lot of things that they do, but in this case when they want to take...and I'll give you an example. Let's just say that this is not an ethanol issue. It's another manufacturing issue and they manufacture corn pops or whatever it is. In their process they put out .05 billion parts per million, parts per billion of water out of the plant into the air. Now the federal regulations say that's all right. But Nebraska has looked at it and said, no, that's not good enough, we want to make it .01. Well, in order to do that, it's totally cost ineffectively, it shuts the industry down. It shuts the industry down. So that's what this bill's intention to do to make sure everybody is accountable. There's lots of issues that I have with other things as far as policymaking and rules making. I think there's some things that we can do better. But I'm going to tell you that I think the NDEQ does a good job in the state of Nebraska, but we have a responsibility to step forward and watch what happens here and I think we can do that. So I am in opposition to the floor amendment, but I am totally in support of the bill. Thank you, Mr. President. [LB637]

SENATOR CARLSON: Thank you, Senator Watermeier. Senator Wallman, you're recognized. [LB637]

SENATOR WALLMAN: Thank you, Mr. President and thank you, Senator Watermeier and Senator Schumacher and Senator Bloomfield and others. And absolutely, you make an excellent point and why do we want to do this? And as far as promulgating rules and regulations with the federals, we have to do that anyway and then why we go on beyond this is beyond me. If we're scared we go beyond this, maybe we are going beyond this if we have people against this. And so, it's...it should be business friendly in this state of Nebraska and ethanol is a tremendous boon to the Ag Department. And I know some people don't like it, but I do and it's helped the economic boom in the state of Nebraska for corn, for by-products. And for cattle feed, corn is about 125 percent more...worth more per bushel than it is before it gets treated. So it's...actually corn is worth more. You get more out of a kernel of corn than before. And so, this is about rules and regulations and why we should need this bill. Usually somebody brings us a bill and if we believe in it, we carry it. So, it's really kind of a simple bill, I think. So if...and a chance to adopt the rules and regulations differs from the feds, just pay attention. Then you have to prepare an impact study. Businesses, banks, they need impact...economic

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impact studies. You're not going to borrow \$10-\$20 million without an impact study. So, they have to seek input from regulated persons before drafting new rules and regs. Why wouldn't you want to do that? I don't know. So, then you deliver copies of the proposed rules to the Governor's Policy Research Office not later than 60 days prior to the public notice. So, if you're going to build something, 60 days is not very long. A lot of places by the time you get your permits for water, for sewer, for air quality, it goes on and on and on. Electricity, it goes on and on what you need. Natural gas issues. So, I think it's a good bill and I vote against the amendment again, and I'll say it strongly for the bill. And so then the department shall make available to the public the proposed rules and regs not later than 60 days. So, then the Administrative Procedure Act requires publication in the newspaper, so then you're probably talking 90 days or 30 days prior to public hearing anyway. So there's no opportunity to amend or rule the regulation that public hearing before the Environmental Quality Council. So if the rules or regulations were made available to the public prior to drafting of the final rule. Some of these things just make common sense, but do we have a lot of common sense sometimes in government? In rules and regulations or regulatory offices? Sometimes, we get caught up in the office and we think this is good or this is bad. So, I don't know. It looks to me like this is a good, good bill. And again, strong against the amendment. And so the actual information needed for the accurate cost analysis would already be made available to the ag agency, thus alleviating the agency's need to hire new employees to receive an impact study. So we already have the people on board to do this. So the impact financially should be minimal. And if it is more, then maybe we need more because the study, what it actually does for our state or doesn't do. Senator Harr may have a good idea... [LB637]

SENATOR CARLSON: One minute. [LB637]

SENATOR WALLMAN: ...what it does do for our state, it could really help our state. So between now and Select we could look at that amendment and see what...if the body would be open to that but as of now, he's not here, I don't think. So, something like that might be looked upon with favor if it benefits the business and the state. And so, thank you, Mr. President. [LB637]

SENATOR CARLSON: Thank you, Senator Wallman. Senator Chambers, you're recognized to close on FA51. [LB637]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, if you look at the information in our bill, then you'll see that the Governor's Policy Research Office submitted a note. And it points out some of the problems in this bill. First of all, it mentions the review that the Policy Office already makes on rules and regulations. Since the Governor has to sign off on these things, they're going to look at it anyway. But this is what might be of interest to my colleagues, and maybe not. Many of the time lines proposed in LB637 would conflict with existing legal requirements imposed upon

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agencies under the existing Nebraska Administrative Procedures Act. It is not clear that either the Department of Environmental Quality or the Governor's Policy Research Office could comply with regulation time constraints imposed by LB637 and the current law. This bill conflicts with the law that is in place now. Did you know that, Senator Bloomfield? I'd like to ask Senator Bloomfield a question. [LB637]

SENATOR CARLSON: Senator Bloomfield, would you yield? [LB637]

SENATOR BLOOMFIELD: Yes, I will. [LB637]

SENATOR CHAMBERS: Did you know that this conflicts with existing law in requirements that are on the Governor's Policy Research Office right now? [LB637]

SENATOR BLOOMFIELD: I was not aware of that, Senator Chambers. [LB637]

SENATOR CHAMBERS: Are you aware now? [LB637]

SENATOR BLOOMFIELD: I believe so. [LB637]

SENATOR CHAMBERS: And if you doubt it, not that you do, but the slip is in here that the Governor's Office presented or the Policy Research Office. Thank you. I'd like to ask Counselor Schumacher a question, if he would respond. [LB637]

SENATOR CARLSON: Senator Schumacher, would you yield? [LB637]

SENATOR SCHUMACHER: Yes. [LB637]

SENATOR CHAMBERS: Counsel, were you aware of the conflict that is noted by the fiscal note submitted by the Governor's Policy Research Office? [LB637]

SENATOR SCHUMACHER: Senator, statutory interpretation generally says the later statute will govern and it will reign over the conflict. [LB637]

SENATOR CHAMBERS: If there are conflicts right now. See, a statute if it's going to repeal an existing statute, it must do so explicitly because no statute is repealed by implication. If you have two statutes dealing with the same subject, in pari materia, they are interpreted together and if there is no conflict, then the most recent one prevails. If there's a general and a specific, then the specific prevails. That's how you interpret statutes and this does not go to statutory interpretation. This goes to a conflict in the law. [LB637]

SENATOR SCHUMACHER: I think this is more specific than the general, which is the general rules of the Administrative Procedure Act. [LB637]

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SENATOR CHAMBERS: Thank you, "Mr. Obfuscater." That's all that I have. Members of the Legislature, I would appreciate it if I had a bill that I thought was in good shape and somebody showed me that it conflicts with the law. I would just say, I didn't know it, I'll try to take care of it. But this law was not well-read by those who signed it. I know that Senator Brasch was not aware of it. Senator Sullivan was not aware of it. Because women are more intelligent when they become aware of problems, they want to solve them. Now when it comes to these hardheaded male Senators, I can't speak for them. They can speak for themselves. But in fairness, I don't think any of them knew. They like the concept of sticking a finger in the eye of the federal government, which they're not doing. So they look at the federal government's little orphan child, the Nebraska Department of Environmental Quality. And they are going to try to make it so burdensome for them that they won't be able to carry out their job. But I don't think you can require them to do more than what the law would require. This is bad legislation. And in the short time that I have left, why do you all think... [LB637]

SENATOR CARLSON: One minute. [LB637]

SENATOR CHAMBERS: ...ethanol is not sent by way of pipeline. It corrodes it. Ethanol is moved by trucks. Maybe you all didn't know that. You knew that didn't you, Senator Davis? Oh, he...you knew it Senator Wallman, didn't you, that they truck ethanol? [LB637]

SENATOR WALLMAN: Mostly by rail. [LB637]

SENATOR CHAMBERS: Oh, by rail, okay. But the idea is it can't go by...can't go in a pipeline. That's been a problem all along. You know, if we're told whiskey is for drinking, water is for fighting. Corn is for eating and for those who want to, drink it. Gasoline is for fuel in cars. But you got 400 billion excess bushels of corn bursting silos right now. Because when the price of corn went up, farmers overplanted and now there's a surplus and the prices are going to go down, so now maybe more is available for making ethanol and it would be cheap for feed for livestock. [LB637]

SENATOR CARLSON: Time. [LB637]

SENATOR CHAMBERS: Thank you, Mr. President. [LB637]

SENATOR CARLSON: Members, the question is, shall FA51...Senator Chambers, for what purpose do you rise? [LB637]

SENATOR CHAMBERS: I would like to withdraw that amendment, Mr. President. [LB637]

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SENATOR CARLSON: Without objection, it is withdrawn. Mr. Clerk for an announcement. Speaker Adams for an announcement. [LB637]

SPEAKER ADAMS: Thank you, Mr. President. Members, if you'll look at the agenda, there's an indication there that at 4:30--and we're essentially there--that we will now shift away from Senator Wallman's bill and will move on to the next division. It would be my intention and hope that if we can deal with the three bills, LB230, LB612, and LB263 today, we'll stop when we conclude that. Thank you, Mr. President.

SENATOR CARLSON: Thank you, Speaker Adams. Mr. Clerk, are there items for the record?

ASSISTANT CLERK: Mr. President, there are. New A bill, LB495A offered by Senator Sullivan. (Read LB495A by title for the first time.) Amendment to be printed from Senator Murante to LB646; Senator Chambers has an amendment to be printed to LB637; Senator Sullivan an amendment to LB495. That's all I have. (Legislative Journal pages 907-909.) [LB495A LB646 LB637 LB495]

SENATOR CARLSON: Thank you, Mr. Clerk. Mr. Clerk, next item.

ASSISTANT CLERK: Mr. President, LB230 introduced by Senator Karpisek. (Read title.) The bill was read for the first time on January 15 of this year. It was referred to the General Affairs Committee. That committee placed the bill on General File with committee amendments. (AM355, Legislative Journal page 589.) [LB230]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Karpisek, you're recognized to open on LB230. [LB230]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. LB230 is a General Affairs Committee priority bill. LB230...I'm going to speak toward the amendment, Mr. President. LB230, with the committee amendment, is intended to strengthen the Liquor Control Commission's ability to regulate alcohol that is being shipped into Nebraska and will specifically protect our youth from the temptation to purchase alcohol on-line and have it shipped directly to them. This bill also provides the Department of Revenue the ability to enforce sales tax on out-of-state businesses that ship alcohol directly to Nebraska consumers. The following is a summary of the committee amendment which becomes the bill and I'll walk you through that after we...you have the amendment up? Okay. Instead of any person being able to get a direct shipper's license, which is the law now, only manufacturers, Section 1(4), page 2, and licensed retailers, Section 1(5) on pages 2 and 3 could be issued a direct shipper's license. This change tightens up the language which many other states have already done in order to narrow who could get a direct shipper's license. Section 1(7), pages 4 and 5, outlines the application requirements for a direct shipper's license, including the

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brands of alcoholic liquor they intend to ship: (a), licensee agrees to file reports and pay taxes; (b) licensee agrees to allow the commission agents to examine records; (c) a Liquor Control Act violation may result in a license suspension, cancellation, or revocation; (d) licensee agrees to notify the commission of any license violation in other states; (e) manufacturers are required to notify Nebraska wholesalers of their intent to ship into Nebraska products that the wholesaler currently distributes. Section 1(8), pages 6 and 7, requirements of the licensee: (a) licensee can only ship the brands listed on the application; (b) licensee can only ship alcoholic liquor that they own; (c) licensee can only ship alcoholic liquor that is registered with the Federal Alcohol and Tobacco Tax and Trade Bureau; (d) licensee cannot ship products that the manufacturers or local wholesalers have agreed not to carry; (e) licensee cannot ship more than nine liters per month and only for private consumption, not for resale; (f) licensee must use an approved common carrier to ship their products. Under (f)(i) the common carrier must verify the recipient is at least 21 years old; (ii) the recipient must sign for the alcoholic liquor; (iii) common carrier agrees to submit information to the Liquor Control Commission when requested. The packaging must clearly read "contains alcoholic beverages; signature of person at least 21 years of age required for delivery." Delivery to a minor is a violation and the common carrier is liable. Section 1(9), page 8, requires that both the Nebraska excise and sales tax be paid on alcoholic liquor shipped into the state and any local sales tax must also be paid. Many of these changes in the committee amendment came about from concerns raised at the initial hearing on LB230 by Wine.com and Omaha Steaks. A second hearing was then held on an amendment that was very similar to what now is the committee amendment. At that hearing, the representative for Wine.com and Omaha Steaks testified that their concerns have been addressed. Their representative has also been committee...has also seen the committee amendment and is still supportive of the bill with the amendment. Again, the intent of this bill and amendment is to provide the Liquor Control Commission with the necessary means to regulate the alcohol that is being directly shipped in to Nebraska consumers and to make sure that the necessary taxes are being paid. My primary focus since becoming Chair of the General Affairs Committee has been to better professionalize the alcohol industry and to protect consumers and this bill does both, and I would appreciate your support in adopting the amendment and advancing the bill to Select File. Thank you, Mr. President. [LB230]

SENATOR CARLSON: Thank you, Senator Karpisek. Members, you've heard the opening on LB230, as well as AM355. The floor is now open for debate. Those wishing to speak include Murante and Schilz. Senator Murante, you're recognized. [LB230]

SENATOR MURANTE: Thank you, Mr. President and members of the Legislature. This was one of my first challenges as a State Senator in that this was a bill that I didn't really like, but I appeared to be the...I was certainly the only member of my committee who saw any problems with it and didn't know quite how to handle my opposition. So, I did a lot of work with Senator Karpisek, and would Senator Karpisek yield to a question?

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[LB230]

SENATOR CARLSON: Senator Karpisek, would you yield? [LB230]

SENATOR KARPISEK: Yes, I will. [LB230]

SENATOR MURANTE: Senator Karpisek, first of all I want to thank you for your patience and your work with me on this. I know the remainder of the committee didn't see any problems with the bill and so you just had to deal with me in trying to work through my objections. [LB230]

SENATOR KARPISEK: Only one is very good and not normal. (Laughter) [LB230]

SENATOR MURANTE: We should all be so lucky. [LB230]

SENATOR KARPISEK: Right. [LB230]

SENATOR MURANTE: But I have some questions for you on this because I'm still not a hundred percent clear in my mind, but I do again thank you for the amount of time you spent working through this with me. [LB230]

SENATOR KARPISEK: Sure. [LB230]

SENATOR MURANTE: First of all, out-of-state retailers that ship into Nebraska today, how are they regulated? What regulations do they have to go through to ship their liquor into Nebraska? [LB230]

SENATOR KARPISEK: They have to get a shipper's license, pay the \$500 and they can ship in. [LB230]

SENATOR MURANTE: And if your bill passes with the amendment attached, what are the new regulations going to look like? [LB230]

SENATOR KARPISEK: They will have to tell...let me get to that part. They'll have to go through the Liquor Control, the Committee...Commission. Number one, they'd have to pay taxes collected or they have to collect and pay taxes. Allow the Commission to examine their records. They could have their license suspended if they had...do something wrong. They notify the committee of any license violations in other states and they also have to tell the manufacturers of Nebraska...or no, I'm sorry. Manufacturers tell the wholesalers of Nebraska their intent to ship into Nebraska products that the wholesaler distributes, and tell the commission what they're shipping in. [LB230]

SENATOR MURANTE: So, like a lot of legislation, the first question that I asked when I

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saw this bill is, what is the problem that we are trying to remedy? I think you have identified a good problem insofar as there are taxes which currently Nebraskans are supposed to be paying on their sales tax which I think everyone would acknowledge many people do not. [LB230]

SENATOR KARPISEK: Correct. [LB230]

SENATOR MURANTE: Your bill goes much beyond just the collection of taxes, so beyond the tax issue, what problems are currently existing that you're trying to remedy? [LB230]

SENATOR KARPISEK: Well, I don't know if there are problems going on now, but we're trying to make sure that they don't happen. We want to make sure that the shipper or the carrier makes sure that the person receiving it is 21. We want to make sure that if there is a recall of something, that the commission knows what is coming into the state, make sure that it's not something that's already...that the in-state wholesalers have agreed not to carry. Those sort of issues that the commission would like to know who is doing what shipping in. [LB230]

SENATOR MURANTE: Okay. And one of the provisions that kind of stuck out to me was the provision in your amendment which states that...as far as the application goes... [LB230]

SENATOR CARLSON: One minute. [LB230]

SENATOR MURANTE: ...to permit and to subject to all the powers granted by Section 53-164.01, the commission is...or its authorized employees are authorized for inspection and examination of the applicant's premises and to pay for the expenses to inspect the premises of those retailers shipping into Nebraska. And it goes on to say, anywhere within the United States. So, am I reading that correctly and saying that if the Liquor Control Commission wants to inspect a shipper that's shipping into Nebraska, anywhere in the United States, that the shipper is the one who is going to pay for the costs for the Liquor Control Commission to fly out wherever it is that the retailer resides and inspect the property? [LB230]

SENATOR KARPISEK: I think that you are correct, but let me make sure on that. [LB230]

SENATOR MURANTE: Okay. [LB230]

SENATOR CARLSON: Time. Thank you, Senator Murante and Senator Karpisek. Senator Schilz, you're recognized. [LB230]

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SENATOR SCHILZ: Thank you, Mr. President and members of the body. I serve on the committee, General Affairs Committee, with Senator Karpisek and Senator Murante and I was one of those that voted it out and I can tell you, it's a good bill in my mind. And here's what it does and here's why it does it. And ever since 1935 we've had a system put in place in Nebraska that handles how alcohol can be shipped around, sold, and everything else, and it's called the three-tier system. And in 1935, no one anticipated that you could have something like the Internet that would come along that would allow people to direct-ship and bring stuff right to people's doors. And this bill closes that loophole while at the same time giving those folks the opportunity, if they're a manufacturer or retailer, the opportunity to bring their products in, comply with the three-tier system that we have now and maintain that and strengthen it. And, oh, yeah, and the added bonus to that is we get some tax dollars that we weren't getting before. And as I look at that, I think it gives us opportunities to make sure that we can keep an eye on those that are shipping things in. It gives us the opportunity to understand where that's going. As Senator Karpisek said, there's some restrictions on what they can send and how they can send it, and it gives the Liquor Control Commission the opportunity to look at those folks, make sure they're doing everything right, make sure they're good actors. So, I wholeheartedly support this bill. I think it's the right thing to do and I hope we can move this through and get it to Select File. Thank you very much, Mr. President. [LB230]

SENATOR CARLSON: Thank you, Senator Schilz. Senator Hansen, you're recognized. [LB230]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I have a question for Senator Karpisek, if he would yield. [LB230]

SENATOR CARLSON: Senator Karpisek, would you yield? [LB230]

SENATOR KARPISEK: Yes, I will. [LB230]

SENATOR HANSEN: Thank you, Senator Karpisek. You under...or you explained to us while in your opening that you had two hearings on this bill, is that correct? [LB230]

SENATOR KARPISEK: That is correct. [LB230]

SENATOR HANSEN: When was the fiscal note that we have in our packet, when was that developed? [LB230]

SENATOR KARPISEK: The fiscal note was on the first hearing and then there is not a second one done. [LB230]

SENATOR HANSEN: Okay. And that's what I wanted to look into just for a little bit on a

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fiscal note. The...it states that there's 289 licenses sold right now at \$500 apiece and that's \$144,500. And the...that goes to the State Treasurer and it ends up in the winery and grape producers promotional fund, which is the way they promote Nebraska wine and vineyards, I assume, is that correct? [LB230]

SENATOR KARPISEK: That is correct. [LB230]

SENATOR HANSEN: Okay. And then the fiscal note...well, let's skip over to the committee statement. I count 14 hoops that these folks from out of state need to go through, or at least, you know, agree to pay the taxes and you went through that whole list before. [LB230]

SENATOR KARPISEK: Right. [LB230]

SENATOR HANSEN: Are all of those new? [LB230]

SENATOR KARPISEK: They are new for the people shipping from out of state, but I think that there are things that people that have a brick and mortar business in Nebraska need to do now. [LB230]

SENATOR HANSEN: Okay. And collect the taxes at the same time. [LB230]

SENATOR KARPISEK: Correct. [LB230]

SENATOR HANSEN: Clear down at the very bottom, it says that the common carrier has to make sure that they get a signature of a person at least 21 years of age. So who is that, UPS, FedEx driver? [LB230]

SENATOR KARPISEK: UPS, FedEx, yes. [LB230]

SENATOR HANSEN: That's to make sure that they get a signature of someone 21. Do they go through that training? [LB230]

SENATOR KARPISEK: They probably would have to go through that training and right now, as far as we know, they all do it, but this would codify it. [LB230]

SENATOR HANSEN: They all do what, Senator? [LB230]

SENATOR KARPISEK: They...now if they ship in wine, UPS will make a person of age sign for it. [LB230]

SENATOR HANSEN: Okay. It may be against their policy, but sometimes they drop off boxes and packages that no one signs for at all. (Laugh) [LB230]

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SENATOR KARPISEK: That's right, but I think if it's alcohol and if it's labeled as such, then they don't. [LB230]

SENATOR HANSEN: That's a great idea. With the new 14 different steps that they need to go through, do you think that the fiscal note will still stand at a loss of \$1,500? That's only three licenses short. [LB230]

SENATOR KARPISEK: That is true. [LB230]

SENATOR HANSEN: Do you think it's going to stand at that, or do you think you'll lose some of the other 289 licenses? I just don't want to see anything happen to the supply of out-of-state wine. My wife is a big wine drinker and we have to...(Laugh) [LB230]

SENATOR KARPISEK: I don't...this wouldn't take anything away from the brick and mortar stores. They would still get it. And I don't think that a lot of these companies, a lot of them are threatening, or some are threatening. I think there was seven that actually responded to an e-mail, or eight. And some of those said, they may. I don't think...when we went up to the \$500, many said that they wouldn't ship in. We have more now than we did then. Vermont has this same sort of law and they've got 800 and some... [LB230]

SENATOR CARLSON: One minute. [LB230]

SENATOR HANSEN: So, there's plenty of shippers out there if they'll just buy the license. I understand... [LB230]

SENATOR KARPISEK: In my opinion, yes, and it may dip a little in the beginning but I think it will come back. This is not...this is modeled off the Vermont law...Virginia law. Sorry, Virginia law. [LB230]

SENATOR HANSEN: One of those "V" states. [LB230]

SENATOR KARPISEK: Yeah, right. (Laugh) [LB230]

SENATOR HANSEN: All right, thank you, Senator Karpisek. Thank you, Mr. President. [LB230]

SENATOR KARPISEK: Thank you. [LB230]

SENATOR CARLSON: Thank you, Senator Hansen and Senator Karpisek. Those wishing to speak include Murante and Krist. Senator Murante, you're welcome...you're recognized. [LB230]

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SENATOR MURANTE: You're welcome, Mr. Chairman, Mr. President. Would Senator Karpisek yield to a few more questions. [LB230]

SENATOR CARLSON: Senator Karpisek, would you yield? [LB230]

SENATOR KARPISEK: Yes, I will. [LB230]

SENATOR MURANTE: Thank you, Senator Karpisek. I'd like to go back to the inspection of the premises of the retailer who is shipping...the out-of-state retailer who is shipping liquor into Nebraska. [LB230]

SENATOR KARPISEK: Okay. [LB230]

SENATOR MURANTE: Under what circumstances would the Liquor Control Commission send someone out to an out-of-state retailer to inspect their premises? [LB230]

SENATOR KARPISEK: In...as we talked about that is current law right now. I would say if we...if they would have a suspicion of illegal activity going on or I suppose some unsanitary conditions, those sort of reasons. And I don't know that they have ever done that up to now, but I think we'll try to find that out. [LB230]

SENATOR MURANTE: All right. Fair enough. Now, I'd like to move on to who this bill applies to and who it does not apply to. And I know in committee, we heard a lot of testimony about Amazon.com. And I'm trying to...I'm still trying to wrap my mind around when on Internet service like Amazon.com, that doesn't possess any liquor, they don't own any liquor, they just have a Web site in which millions of people go and view and it makes it easy to advertise liquor to a broad audience, which is a very vital service, when they become subject to the regulations of this bill and when they have to get shipper's licenses. [LB230]

SENATOR KARPISEK: When they start shipping alcohol. When they start into the alcohol business. Now, I realize they would never touch it, but when they start selling it on their Web site, then they would be...have to go by this law. [LB230]

SENATOR MURANTE: So, if I start a Web site, which isn't exclusive to liquor but it is broadly popular and draws the eyes of millions of people, and all I'm doing is advertising liquor being sold from an out-of-state retailer that I have nothing to do with except where I'm letting them advertise on my Web site, and I never touch liquor, I am the person, according to this bill, who is responsible for getting a shipping license into Nebraska? [LB230]

SENATOR KARPISEK: If the money flows through you, then I would say, yes. [LB230]

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SENATOR MURANTE: And does the means in which the money is collected matter at all? Does it matter whether I'm letting this Iowa-based liquor store advertise on my Web site for a flat fee, or they're getting some sort of percentage off of the sales, does that make any difference? [LB230]

SENATOR KARPISEK: I think it does because it flows through you. If you have this John's Discount Burgers and you sell some kind of beer on the side, the money flows through you, so you should be the one that collects the tax and remit it. [LB230]

SENATOR MURANTE: Okay. Okay, I think this is one of those instances where it's just a public policy matter that I've tried to wrap my mind around. I've genuinely in our committee, Senator Karpisek, I think I voted with you about 95 percent of the time and it physically pains me to disagree with you, but I think I just have to at this point. And thank you for your patience with me and thank you for answering the questions. [LB230]

SENATOR KARPISEK: Thank you. [LB230]

SENATOR CARLSON: Thank you, Senator Murante and Senator Karpisek. Senator Krist, you're recognized. [LB230]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues again, and good afternoon, Nebraska. Don't worry about it, Senator Murante, you'll get used to being pained in disagreeing with Senator Karpisek. But I want to talk specifically about two items regarding this issue because we've heard it several times and I've been on the committee, and we have, honestly and reverently, as Senator Hansen described. I carried a bill a couple of years ago that removed the sunset on the money that goes to the license fees that goes to the wine industry that allows them to reinvest that money in the industry and grow the industry. It's the right thing to do, and they really have done a great job. Now, they have a concern. And I'm sure all of you have either seen it or will see it between now and Select. Their concern is that the number of licensees, which they depend on for that reinvestment money, is going to go down. My contention is that they may have, as they say, a contention that that may happen, but I don't think it's justified in terms of actual data. And I would say that it will be really obvious within the next couple years if we have, as they say, exacerbated a good law. We can always come back and we can look at it. We can always make a concession if we're disturbing that flow because I think that flow is very critical. I am listening to their concerns and that's one of our jobs is to apply that oversight and will continue to do that. But I think the thing that's been missing from this discussion is the word "nexus." If a distributor has a nexus in the state, then we can collect tax. We can control how the distribution is made. We can tell UPS and FedEx, you will not distribute that product. And Senator Karpisek is absolutely right. Right on the box they're required to say, hazardous cargo or alcohol and not just distribute that box or deliver that box to no one on the doorstep.

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You need to have a signature of someone who is 21 years of age. So, by developing the nexus which is the license, we now have a taxing authority, which is a good thing. That's a very good thing. We have some control over what's coming into the state. And as Senator Murante correctly depicted, that nexus then could be Amazon, although they want nothing to do with being a nexus anywhere. But it could be the distributor of the alcohol on the East Coast, it could be a European distributor. We're not interrupting the flow of that specialty wine or product that comes into the state. We're taking some control over it and we're collecting some tax on it. And really, realistically, think about it. I'm sure all of you volunteer every time you order something on Amazon or on-line and you voluntarily write a check for the tax that you're supposed to pay. I say that sarcastically. Because if we don't collect it, if we don't find a way to collect it, we will not be able to collect it within the state. So, I wholeheartedly support AM355 and LB230 and voted them out of committee. I'm hoping that you'll vote green on them as well. [LB230]

SENATOR CARLSON: Thank you, Senator Krist. Senator Bloomfield, you're recognized. [LB230]

SENATOR BLOOMFIELD: Thank you, Mr. President. Senator Murante, just to address your pain with voting against our good Senator in the back of the room, back there, it doesn't pain me at all to vote against him. In fact, I think he believes that I sometimes relish it. And maybe I do, just a tad, but on this bill, alas, I could not. The bill does too many good things for the state of Nebraska. I voted it out of committee, I support the amendment, and I support the bill. And if Senator Karpisek would like a little time, he can have the remainder of mine. [LB230]

SENATOR CARLSON: Senator Karpisek, 4 minutes. [LB230]

SENATOR KARPISEK: Thank you, Mr. President. Thank you, Senator Bloomfield and it pains me sometimes to have to vote with you too, but every once in a while we do. But that's why we're here to agree and disagree on matters. And Senator Murante, I have absolutely...I thank you for listening and trying. We can't always agree on everything. I understand that and I appreciate that. If you can't get there, I understand. There's other bills sometimes I'm the only red up there. It's not because I'm trying to be a problem. Maybe I can't just go there, so I do appreciate...unless it's Senator Chambers bill, then there's a reason why I'm the only red. (Laugh) But I do appreciate you trying to work on it. I do want to address the e-mail that was sent out by the wine institute, just quickly. If you read through it, I have some rebuttals to what they have said. I think it comes down with me, they are upset that they're going to have to start paying sales tax to Nebraska. Well, in my opinion, that's too bad. Every brick and mortar store here in Nebraska has to do it. Everybody...every Nebraska store has to check ID's. They have to do all the things that we're doing in this bill. They have to allow the Liquor Control Commission to come in. All these different things. I know sometimes people look at a bill like this from me and wonder what's going on because it's no big secret that I like to have a cocktail now and

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then. But what I'm trying to do, and I've tried to do since I've been here, is to professionalize the liquor industry so it doesn't have such a bad rap, so it doesn't have so many problems. I don't like to see that. I don't like to see the problems that are created by alcohol, but at other times I think some of our laws are archaic and just not needed and we have addressed some of those too. So, if anyone has any questions about the e-mail, I'd be glad to talk to you about them and if not, I will use my next time to close. Thank you, Mr. President. [LB230]

SENATOR CARLSON: Thank you, Senator Karpisek and Senator Bloomfield. And Senator Karpisek, you are up and you can close if you'd like to use this time. [LB230]

SENATOR KARPISEK: If I am the only light, I'd like to close, Mr. President. I'd like to thank Senator Murante and Senator Bloomfield for chiming in and Senator Krist. And again, Senator Murante has some questions. And as we've talked through this, we just couldn't quite agree on the bill. The wine institute contends that a lot of people aren't going to ship into Nebraska because of this bill. That is one of the last things that I would like to have happen because I do want them to ship in. I want them to pay, number one, the shipper's fee so that money will go to the wine and grape growers. I've come to be great fans of those people. They're doing a great job in bringing a lot of money and keeping money in the state, and good business people. And a lot of fun, just for good measure. I also want the money from this wine or beer or spirits that come into Nebraska that isn't being collected now. We all know that it's cheaper to go on-line and buy something, especially if they're advertising free shipping and you don't have to pay the sales tax. You're supposed to remit that yourself. Let's not kid ourselves. Some people may, some may do some. I'll admit I wouldn't even know where to find the form. I suppose I could and I'll probably find out as soon as I'm off the mike. I do think that this is a good bill. It came from the Liquor Control Commission. They would like to know what's coming into the state, what we have, and get our money that we should be getting. If nothing else to be more fair to our brick and mortar stores in the state. And I would ask for your approval of AM355. Thank you, Mr. President. [LB230]

SENATOR CARLSON: Thank you, Senator Karpisek. Members, you've heard the closing on AM355 to LB230. The question is, shall AM355 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB230]

ASSISTANT CLERK: 28 ayes, 2 nays on the adoption of committee amendments, Mr. President. [LB230]

SENATOR CARLSON: The committee amendments are adopted. Mr. Clerk, for an amendment. [LB230]

ASSISTANT CLERK: Mr. President, Senator Karpisek had AM249, but I have a note he

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wishes to withdraw that. [LB230]

SENATOR KARPISEK: I do, Mr. Clerk. [LB230]

SENATOR CARLSON: So ordered. [LB230]

ASSISTANT CLERK: Mr. President, I have nothing further on the bill. [LB230]

SENATOR CARLSON: Thank you, Mr. Clerk. We return to discussion on LB230. Are there senators wishing to speak? Senator Schumacher, you're recognized. [LB230]

SENATOR SCHUMACHER: Thank you, Mr. Chairman, members of the body. Would Senator Karpisek yield to a question? [LB230]

SENATOR CARLSON: Senator Karpisek, would you yield? [LB230]

SENATOR KARPISEK: Yes, I will. Senator Hadley is teaching me where to put that on my return. I knew I would learn. [LB230]

SENATOR SCHUMACHER: Did you learn it for sure? You want to take the test now? [LB230]

SENATOR KARPISEK: No. No, I'd rather not. [LB230]

SENATOR SCHUMACHER: Okay. All right. Senator Karpisek, oftentimes when you take a trip through the country and you go up through Pennsylvania or Virginia or I suspect in California, even though I haven't been out that direction, you'll stop by a little winery and they'll have samples of their wine and you have to pay them 20 bucks and you get to sample some wine. And then they try to sell you a bottle or two or three. I'm sure that most of those little wineries out in that neck of the woods probably don't ship very often to Nebraska. They may not even know where Nebraska is. If I were to go there and I were to buy two bottles of their wine and tell them, ship it to Nebraska, would they have to tell me no, after this bill is passed? [LB230]

SENATOR KARPISEK: They wouldn't have to tell you no, but they'd have to get a direct shipper's license or get...find a shipper, a wholesaler. [LB230]

SENATOR SCHUMACHER: So, basically for Nebraskans traveling out of state that way, this bill does close a door to...could I buy the bottles myself and put them on UPS and ship them in? [LB230]

SENATOR KARPISEK: That's a good question, Senator. I'm going to give you, off the hip, I think you can do that, but I could be wrong. I would like to say though, and you are

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correct, but right now they still have to have a shipper's license. This is only making that...getting that shipper's license a little bit harder. [LB230]

SENATOR SCHUMACHER: Well, I would guess that some of the places that I've shipped from probably don't have a shipper's license. There are just a lot of them up there and I would...they're almost like small farms. So, one thing maybe between now and Select File if we could look into that. And I'd sure hate to see it for Nebraskans touring around the country and stopping by a little winery that they couldn't have a bottle or two of wine shipped in after they've been convinced it really is good stuff. Thank you, Senator Karpisek. [LB230]

SENATOR KARPISEK: Thank you, Senator Schumacher. [LB230]

SENATOR CARLSON: Thank you, Senators Schumacher and Karpisek. Senator Lautenbaugh, you're recognized. [LB230]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. This will be shocking and out of character, but I really have nothing to add. But I had the feeling that Senator Karpisek might be getting some information that allows him to give a more complete answer and I thought it had come in but maybe it has not. So, I was going to take a little time and encourage him to expand and revise his prior comments maybe. And, wow, usually the lulls don't bunch up like this, but. Okay, so I would urge you to vote for this bill because this is taking longer than I thought. I think it's a heck of a bill and I'm sure I voted it out of committee, unlike like Senator Murante. Thank you very much. [LB230]

SENATOR CARLSON: Thank you, Senator Lautenbaugh. Seeing no other lights, Senator Karpisek, you're recognized to close on LB230. [LB230]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. As executive director of the Liquor Control Commission told me, he thought as long as you don't ship more than nine liters in, that you would be able to ship it to yourself. In the case of you finding this little place to ship you a couple bottles, right now under current law without LB230, they still are required to have a shipper's license to ship it to you. Again, so this would not change that but if they do want to get a shipper's license, if they have one, this will change that to set the bar a little higher. The amendment became the bill, so I would appreciate your green on LB230. Thank you, Mr. President. [LB230]

SENATOR CARLSON: Thank you, Senator Karpisek. You've heard the closing on LB230. The question is, shall LB230 be advanced? All those in favor vote yea; opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB230]

ASSISTANT CLERK: 27 ayes, 1 nay on the motion to advance the bill. [LB230]

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SENATOR CARLSON: LB230 does advance. Mr. Clerk, next item. [LB230]

ASSISTANT CLERK: Mr. President, with respect to LB612, that bill was introduced by Senator Schumacher. (Read title.) The bill was read for the first time on January 23. It was referred to the Executive Board. That committee placed the bill on General File with committee amendments attached. (AM321, Legislative Journal page 560.) [LB612]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Schumacher, you're recognized to open on LB612. [LB612]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. LB612 is an effort to make our life a little bit more intelligible as we struggle with the short times that we're down here due to term limits and the complexity of some of the revenue and spending matters that we have to deal with. The Legislature over time has passed various incentive programs, the Nebraska Advantage Rural Development Act, the Employment and Investment Growth Act, the Quality Jobs Act, the Invest Nebraska Act, the Nebraska Advantage Act, the Nebraska Advantage Research and Development Act, and the Nebraska Advantage Microenterprise Tax Credit Act. And in the language in all of those bills, it requires the Department of Revenue to submit a report to the Legislature. And, in fact, they do. And if you Google any one of those acts, Nebraska Advantage Act Report, for example, you'll get a link to a very, very nice report covering all of these things, the things approximately 100 pages long full of pretty tables and graphs and tries to explain various things. If you guys are like I am, sometimes you misinterpret what a graph means or the data behind it or what a table means, and it's a real struggle to get a good idea of what reality is from those reports. They're very complex. This is an effort to try to develop communication so that we have an adequate understanding of the information that is presented to us so that we can make halfway decent decisions. And what it very simply does is it says once a year--it was in July when the bill was written--there's going to be subsequent amendments that try to tweak the dates to make life easier for the Department of Revenue, but that there would be a joint meeting of the Appropriations and the Revenue Committee. And the folks in Revenue Department would sit down and explain the reports to us, explain how the data that compiles the reports was put together, answer our questions. Hopefully, help us make more sense out of the reports and then if we had some questions or wanted some information, it would have them provide it to us within 30 days of the time that at least three members on the panel requested such reports. So it's an attempt to make us smarter and hopefully wiser and hopefully be able to deal with the enormous numbers, sometimes incomprehensible. And I sympathize with those people with federal government because those really got to be incomprehensible, but the incomprehensible numbers, make some sense of it and maybe make the state a little better place to live and maybe with a little less taxes or better knowledge of our expenditures. So, this is a very simple bill. All it is, has the Revenue Department sit down with the two committees,

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discuss the reports, and provide supplemental information if requested. Thank you, Mr. President. [LB612]

SENATOR CARLSON: Thank you, Senator Schumacher. As the Clerk mentioned, there are committee amendments and Senator Wightman, as Chair of the Executive Board, you're recognized to open on AM321. [LB612]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. All but one of the reports referenced, and there are several referenced in the bill, are required to be issued on or before July 15 of each year. As originally drafted, LB612 required the Department of Revenue to present these reports at a joint hearing of the Appropriations and Revenue Committees on or before that same date, July 15. The committee amendment proposes to change the date the presentations are made to the committees to September 1 instead of July 15 so that the reports and presentations are not due on the same day. This amendment was in response to a request from the Department of Revenue. I would appreciate your support of the committee amendment. Thank you. [LB612]

SENATOR CARLSON: Thank you, Senator Wightman. Members, you've heard the opening on LB612 and the committee amendment, AM321. The floor is now open for debate. Senator Wallman, you're recognized. [LB612]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Would Senator Schumacher be open for a question. [LB612]

SENATOR CARLSON: Senator Schumacher, would you yield? [LB612]

SENATOR SCHUMACHER: Yes, I will. [LB612]

SENATOR WALLMAN: I noticed on page 11 you said, provided in the report that is presented, you know, on confidential issues. As federal issues maybe I can understand, but state, we have confidential issues as well with our funding? [LB612]

SENATOR SCHUMACHER: What was that page number and line, Senator? [LB612]

SENATOR WALLMAN: It was page 11. [LB612]

SENATOR SCHUMACHER: Okay. [LB612]

SENATOR WALLMAN: Bottom of the page, 25 on to the next page. [LB612]

SENATOR SCHUMACHER: Okay. And your question is? [LB612]

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SENATOR WALLMAN: Do we have any idea how much confidential we have in monies? You know, we have...we did some audits, you know, and some money was missing in certain agencies. Do we have any...why would we have confidential issues on monies? [LB612]

SENATOR SCHUMACHER: Well, I don't...on that page 11, line 23, I don't see any reference to any confidential issues. I think the total amounts of money involved are known. There may be some other provisions in those Advantage Act type laws that talk about disclosure of who is actually getting the money. [LB612]

SENATOR WALLMAN: Okay. Excuse me, it was on the last page, on the back page. [LB612]

SENATOR SCHUMACHER: Excuse me. That's in the existing law. That's not in the new language. [LB612]

SENATOR WALLMAN: Yeah. Okay. [LB612]

SENATOR SCHUMACHER: It basically says that these particular reports which are public information shall not contain things that are confidential under state or federal law. [LB612]

SENATOR WALLMAN: Okay. Thank you, Senator. [LB612]

SENATOR CARLSON: Thank you, Senator Wightman and Senator Schumacher. Are there other senators wishing to speak? Senator Pirsch, you're recognized. [LB612]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I wonder if Senator Schumacher may yield to a quick question or two. [LB612]

SENATOR CARLSON: Senator Schumacher, would you yield? [LB612]

SENATOR SCHUMACHER: Just a quick one. (Laughter) [LB612]

SENATOR PIRSCH: I'll try to speak fast, then. So, the way that this bill is envisioned, that the substantive matter that's going to be presented by the Department of Revenue to the members of both the Revenue Committee and Appropriations Committee will include just tax incentive program type of...that kind of stuff, or is it going to be broader and include more appropriation-related material? [LB612]

SENATOR SCHUMACHER: This basically goes over the tax credit on the Revenue side and those six or eight reports that it already files in it, it has them sit down with us and explain what's in there. The reason the Appropriations Committee is involved is we're

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very well learning an appropriation of tax credits affects the budget as much as the appropriation of real money. [LB612]

SENATOR PIRSCH: Okay. That's...I guess that was my question is, you know, that the...with respect to the subject matter was squarely within the jurisdiction domain of the Revenue Committee and so I was wondering the significance of the Appropriations Committee also being included in it. So, thank you. [LB612]

SENATOR SCHUMACHER: Thank you. [LB612]

SENATOR CARLSON: Thank you, Senator Pirsch and Senator Schumacher. Seeing no other senators wishing to speak, Senator Wightman, you're recognized to close on AM321. Senator Wightman waives closing. The question is, shall AM321 be adopted to LB612? Those in favor vote yea; opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB612]

ASSISTANT CLERK: 28 ayes, 0 nays on adoption of committee amendments, Mr. President. [LB612]

SENATOR CARLSON: Committee amendments are adopted. [LB612]

ASSISTANT CLERK: Mr. President, Senator Mello would offer AM598. (Legislative Journal page 676.) [LB612]

SENATOR CARLSON: Senator Mello, you're recognized to open on your amendment. [LB612]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. AM598 seeks to speed up the release of what is known as the biennial Tax Burden Study that is done by the Nebraska Department of Revenue. The Legislature passed a bill last year that changed the implementation date of the Tax Burden Study to delay it, ultimately, to 2013 instead of having it being created and released in 2012. As part of the dialogue that's occurred with LB613, the Tax Modernization Commission, the Tax Burden Study is the one study that's produced by the Nebraska Department of Revenue that creates a stratification of who pays taxes in Nebraska. It bases it essentially on different income segments and brackets based on AGI as well as based on census data. The reality is it takes a two-year process for the Department of Revenue to be able to acquire this information to be able to produce the report. But since they ultimately do the report and we thought it would be useful to be able to utilize this report as part of the potential LB613, if it becomes law, we thought it would be worthwhile in conversations in the Executive Board to speed up the release of this report by one month. Ideally, in my ideal world, they would release it in September 1 to give possibly the Revenue Committee or the Tax Commission more time to be able to analyze it and be able to utilize it in

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deliberations. But in speaking of Executive Council staff and speaking of working with the Department of Revenue, they felt it could be moved up only a month based on when they received the data from the federal government. So, I'd urge the body once again...it's not, I would say, a monumental change in policy that's occurring in the Department of Revenue. It's the report still stays the same, it simply speeds up the release of the report so the Legislature and the public can utilize that sooner before legislative session begins. Ideally, that if LB613 becomes law, the Tax Modernization Commission could utilize that data in that report a month earlier prior to when a preliminary report may be released on December 15. Outside of AM598, I want to thank Senator Schumacher for bringing LB612. I spoke and talked with Senator Schumacher at the beginning of session in the sense of some of the tax debates and conversations we were going to have regarding tax expenditures. The release, essentially, of these reports, ultimately, unfortunately, sometimes get overlooked and they're very important reports as we had debate this morning on LB629, Senator Conrad's bill that starts to incorporate the information from these reports into the budgeting process. I appreciate Senator Hadley and Senator Schumacher working, obviously, in discussing this bill of wanting to incorporate the Appropriations Committee in this public hearing in a very similar way that the Appropriations Committee has a joint hearing with the Transportation and Telecommunications Committee when the roads assessment, long-term roads assessment report is released on a biennial basis. So it's a very similar concept that you have in LB612, but instead it's surrounded the Tax Expenditure Report as well as the Tax Incentive Report that's done on alternating years. It's a way for both the Revenue and the spending side of the house, so to speak, to be able to learn more, ask questions of the Department of Revenue in relationship to these tax expenditures currently in law, in relationship to the fiscal information that comes from them on an alternating basis. So, with that, I'd urge the body to adopt AM598 and the underlying bill, LB612. Thank you, Mr. President. [LB612 LB613 LB629]

SENATOR CARLSON: Thank you, Senator Mello. You've heard the opening on AM598. The floor is now open for discussion and Senator Pirsch, you're recognized. [LB612]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. Again, I would just have a quick question. I wonder if Senator Mello would yield to a couple of quick questions. [LB612]

SENATOR CARLSON: Senator Mello, would you yield? [LB612]

SENATOR MELLO: Yes. [LB612]

SENATOR PIRSCH: Great. Could you kind of give us a brief description of the origin of this, you know, the Tax Burden Report of which you mentioned? When was that created by statute? I'm assuming...and what year was that and can you just kind of fill me in on the origin? [LB612]

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SENATOR MELLO: Senator Pirsch, I would have to get, probably, I think, maybe more detailed legislative history to give you the exact creation of what bill created the Tax Burden Study. No doubt it was done in the 1990s. There's still specific statutory language that references 1992, having the initial report being released by 1992 to the Revenue Committee and the Appropriations Committee. So, I would, ultimately, believe that it was sometime in the early '90s without being able to verify that through looking through the statutes. [LB612]

SENATOR PIRSCH: And the report is issued on what reoccurring basis? Every biennium or yearly? [LB612]

SENATOR MELLO: It's done every biennium, every two years. [LB612]

SENATOR PIRSCH: Okay. And you said Department of Revenue compiles that report, is that right? [LB612]

SENATOR MELLO: That is correct. [LB612]

SENATOR PIRSCH: Okay. Do you know since...has that been to this point in time used...that report extensively by the Legislature in any significant manner, to your knowledge or...? [LB612]

SENATOR MELLO: I cannot speak, Senator Pirsch, for the other 48 members in regards to their utilization of any report that's generated by a department. But I do know I used it last year in regards to looking at what the 2010 Tax Burden Study said in relationship to who was paying income taxes in Nebraska and at what levels based on their incomes as the Legislature had considered doing income tax reform last year on LB970. [LB612]

SENATOR PIRSCH: And I appreciate that. And I don't want to catch you, you know, obviously this background information I find helpful, but obviously it's maybe not anticipated by you. But if you know, do you know what the...is there a cost experienced in having the report generated? [LB612]

SENATOR MELLO: I do not believe there is a cost associated with anything more that's outside of the Department of Revenue's operating budget. So I assume when the bill was passed in the early 1990s, there may or may not have been a fiscal note. I'd have to find out from the Fiscal Office and look once again, as I said, at the legislative history of the creation of the Tax Burden Study, but it is now become a biennial report... [LB612]

SENATOR PIRSCH: Yeah. [LB612]

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SENATOR MELLO: ...that's released by the department and they utilize their operating funds to produce it. [LB612]

SENATOR PIRSCH: Sure. Well, thank you for your answers there and I think you're right if we're going to be taking a look at some tax related structures here in the coming year, it probably makes sense that we have this type of information as well in time to kind of figure that into the equation. I wonder if Senator Schumacher, if I can just clarify one more thing about the overlying, overarching bill, LB612. [LB612]

SENATOR CARLSON: Senator Schumacher, would you yield? [LB612]

SENATOR SCHUMACHER: Yes. [LB612]

SENATOR PIRSCH: The purpose of the joint committee meeting with the Department of Revenue that's just purely informational so that you're given a venue to digest the material in a better, more easily digestible manner, is that right? [LB612]

SENATOR SCHUMACHER: Right. Be able to digest it and if we have questions of how the numbers came to be, we can ask and rather than send letters back and forth and the Department of Revenue get letters from three or four people or having to sit down, explain individually, we can do it in one group and hopefully be smart. [LB612]

SENATOR PIRSCH: Wonderful. Mr. President, how much time do I have left? [LB612]

SENATOR CARLSON: One minute and ten seconds. [LB612]

SENATOR PIRSCH: I would yield time to Senator Schumacher should he desire it to address anything. Thank you. [LB612]

SENATOR CARLSON: Thank you. Senator Schumacher, one minute. [LB612]

SENATOR SCHUMACHER: I think we've basically covered the area. It's a very simple situation, a very simple concept that will hopefully enable us to act in a smarter, better way. And Senator Mello's amendment is a good one to give us that information a month early. I would encourage the body to support this. Thank you. [LB612]

SENATOR CARLSON: Thank you, Senator Schumacher. Senator Mello, you are recognized to close on your amendment. [LB612]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. For a point of clarification of Senator Pirsch's questions, the Tax Burden Study was created in 1992 through LB719A. As my staff did a quick research, they somehow must have

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guttled an A bill and made a change in statute ultimately to pass what is now the statutes were looking to change in AM598, which once again changes the date in which this biennial report is released from December 1 to November 1 with the hopes that any tax-related discussions that may happen over the interim can utilize this report more than the 14 days before preliminary report is possibly should be due, if LB613 passes. With that, I'd urge the body to adopt AM598. Thank you, Mr. President. [LB612 LB613]

SENATOR CARLSON: Thank you, Senator Mello. Members, you've heard the closing on AM598. The question is, shall the amendment be adopted? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB612]

ASSISTANT CLERK: 29 ayes, 0 nays on the adoption of Senator Mello's amendment. [LB612]

SENATOR CARLSON: The amendment is adopted. We return to discussion of LB612. Are there Senators wishing to speak? Seeing none, Senator Schumacher, you're recognized to close. He waives closing. The question is, shall LB612 be advanced? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB612]

ASSISTANT CLERK: 31 ayes, 0 nays on the advancement of the bill, Mr. President. [LB612]

SENATOR CARLSON: LB612 does advance. Mr. Clerk, next item. [LB612]

ASSISTANT CLERK: LB263 was introduced by the Retirement Committee. (Read title.) The bill was read for the first time on January 16 of this year, referred to the Retirement Systems Committee. That committee placed the bill on General File with committee amendments. (AM835, Legislative Journal page 846.) [LB263]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Nordquist, as Chair of the Retirement Committee, you're recognized to open on LB263. [LB263]

SENATOR NORDQUIST: Thank you, Mr. President and members. LB263 as introduced includes primarily Internal Revenue Code updates in technical and clarifying changes to the judges, State Patrol, Class V schools, school, state and county employees retirement plan and the Public Employees Retirement Board responsibilities. Many of the changes were recommendations of the 2012 compliance audit conducted on the state administered retirement plans. Compliance audit is conducted once every ten years and we, our committee, heard the findings of that audit in November. From the compliance audit, the underlying bill clarifies that in the county plan that only those employees who meet the definition of a county employee are eligible to participate in the plan and if the board, the Public Employees Retirement Board, determines

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members are ineligible, then they become inactive after 30 days notice, but are still fully vested in the plan. It requires part-time county employees to exercise the option to join the plan within 30 days of initial employment. It inserts Internal Revenue Code 414(h)(2) pickup language into all bills clarifying that employee contributions are considered tax deferred for tax deferred employer contributions. It designates that DROP, which is Deferred Retirement Option Plan, funds are placed in an Internal Revenue Code for 414(k) account and are subject to IRC 415 limitations. Inserts the language into the Public Employees Retirement Board statute that the board duties including maintaining the plans qualified plan status pursuant to Internal Revenue Code 414(d). Clarifies forfeiture language in the county and state plans. Specific to the Omaha school employees retirement plan or a Class V plan, there are several updates. It updates the statute to comply with the current practice of completing the annual actuarial report for that plan every year rather than every three years as is currently stated in statute. It authorizes the board to determine the amount of interest on purchase of service, credits and delayed payments. It adopts changes in response to amendment of applicable tax laws and incorporates the limitations on maximum benefit that may be paid under the Internal Revenue Code 415. It eliminates required registration fee for preretirement planning sessions. Specific to our school employees, the state school employees retirement plan, it clarifies what service is allowed within 180 days of termination. It clarifies regular employee definition to include employees who provide services less than 15 hours a week but more than 500 hours within a plan year. Once this threshold is reached, contributions will begin with the next payroll period and apply to all future employment with the same employer. Requires school members to file retirement applications 120 days prior to the effective date of the members' initial benefit; current statute is 90 days. This opens the window for our Public Employees Retirement Board, helps them handle administration. Compensation base definition under this...under the underlying bill is clarified to establish base years for the 9 percent salary and 8 percent salary cap. It also clarifies that the five-year cap is not limited to service with one employer but covers all school employers. So, therefore, if you have an administrator or any school employee moving from district to district and they get big raises, that is capped at 8 percent under current statute. Termination is determined by the end of a member's contractual agreement or by the employer if there is no contract or partial fulfillment of contract. A member is not deemed terminated if the board determines that the claimed termination was false or was not a bona fide separation or the member was compensated for a full contractual period, but the member terminated prior to the end of the contract. It also requires all school employee contracts to specify the contractual period of employment, including the start and end date of the contract. There are also a few miscellaneous provisions in the underlying bill. It adds the definition of retirement date and retirement application to all the plans. It extends the period from 30 days to 180 days for patrol members to apply for vesting credit for years of service in other Nebraska governmental plans. Again, this would be if somebody transferred from local law enforcement to the State Patrol, they would be able...it wouldn't be up for local law enforcement, but anytime that they would have credits that they could vest, it gives the

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Public Employees Retirement Board additional days up to 180 days to...for a member to submit application for appropriate credit. It also makes it permissive for the Public Employees Retirement System to charge a fee for preretirement planning and retirement education, financial planning programs. That was the essence of LB263 prior to committee amendment. [LB263]

SENATOR CARLSON: Thank you, Senator Nordquist. As the Clerk mentioned, there are committee amendments. And, Senator Nordquist, you're recognized to open on AM835. [LB263]

SENATOR NORDQUIST: Thank you, Mr. President. AM835 becomes the bill and incorporates LB321 as amended, and LB594. It also makes the following additional clarifying changes to each of the retirement plans. It amends the definition of "employee" in the county plan. Employees of counties with populations of 200,000 would not be eligible to be in the county plans. Currently, statute says employees of 150,000, but with Sarpy County's growth, we needed to up that. So only Douglas and Lancaster County are not...their employees do not participate in the county plan. Those two counties have their own plan for county employees. So we needed to up that amount to accommodate for Sarpy County's growth. It requires elected county officials who want to join the county plan to exercise the option to participate within 30 days of taking office. This is a compliance audit issue. It grants authority to the Public Employees Retirement Board beginning July 1, 2013, to determine whether a governmental entity currently participating in the county plan is a qualified employer under Internal Revenue Code 414(d). It establishes time frames for the board action's, grants full vesting to affected members, and grants the board rule and regulation authority to carry out the specific provision. It clarifies that the state employees who become county employees, pursuant to the transfer of assessment functions to a county, are not deemed terminated for purposes of the state plan. Specifics...it specifies in each of the plans, the specific employing unit related to Internal Revenue Code pickup provisions. Again, a compliance audit issue. Clarifies that forfeiture funds are to be allocated to the accounts of the remaining members of the county and state plans. It establishes minimum accrual rates for specific years in the judges, State Patrol, and school plans. It clarifies that in the school plan that only per diems paid as expenses are not considered compensation. Clarifies language for the salary cap applied to the school members whose retirement date is between July 1, 2012, and July 1, 2013. It establishes new definitions and clarifications for the 8 percent salary cap applied to all members whose retirement date is on or after July 1, 2013. Strikes proposed language that change provisions regarding services provided within 180 days following termination of service, and proposed language regarding part-time employment and reinstates original language. It clarifies that members may adopt a policy which limits or denies employees from providing voluntary or substitute service within 180 days of termination. We also incorporated into that committee amendment two pieces of legislation, LB321, which is Senator Crawford's bill. LB321, as amended by the

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committee, requires only permanently disabled officers to spend down all credits for unused annual sick leave or other similar credits in order to receive disability salary or disability pension. Police officers with temporary disability are not subject to this requirement. Senator Crawford may speak to this, but we found in first class cities, this applies to first class city officers, that there was some confusion about the statute. This specifies that if you're temporarily disabled, you do not have to spend down your sick leave or your annual leave. If you're permanently disabled, you do. And then we incorporated LB594, Senator Price's bill. This directs the Investment Council rather than the Board of Educational Lands and Funds to manage and invest the Nebraska Veterans Aid Fund. It's a simple change. It puts the Nebraska Veterans Aid Fund under the Nebraska Investment Council. With that, Mr. President, that is the essence of this amendment also. [LB263 LB321 LB594]

SENATOR CARLSON: Thank you, Senator Nordquist. Members, you've heard the opening on LB263 and the underlying AM835. The floor is now open for discussion. Senator Price, you're recognized. [LB263]

SENATOR PRICE: Thank you, Mr. President and members of the body. I just wanted to rise to say thank you to the committee and Senator Nordquist for taking LB594 and incorporating that, and that again moving that title there from the Board of Educational Lands and Funds to Nebraska Investment Council cleans things up. And again, I just wanted to express my appreciation, Senator Nordquist. Thank you. [LB263]

SENATOR CARLSON: Thank you, Senator Price. And Senator Crawford, you're recognized. [LB263]

SENATOR CRAWFORD: Good afternoon, Mr. President. Thank you. And good afternoon, colleagues. I rise in support of AM835 in which incorporates portions of LB321, and I thank the committee as well and thank Senator Nordquist for considering inclusion of this in the bill. LB321 clarifies language in statute that was causing confusion for first-class cities. We found that cities were applying the statute inconsistently in terms of their treatment of disability payments to first responders who become injured on the job. At issue was whether the mandate and the statute applied to temporary or permanent disability or both. As originally drafted, LB321 just struck the language making the statute silent on the issue. Instead the language incorporated into AM835 clarifies that the statute applies to permanent disability. During the hearing on the bill that struck the provision, the League of Municipalities was the only opponent to the bill. Now that the language clarifies that state law solely applies to permanent disability, the League has dropped their opposition. Because there was no opposition to language clarifying the statute, I'm grateful to the committee for recognizing this change as an appropriate component for a cleanup bill. As such, I urge you to vote green on AM835 and LB263 to help clarify the statute and ensure it's applied consistently across the state. Thank you. [LB263 LB321]

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SENATOR CARLSON: Thank you, Senator Crawford. Are there other senators wishing to speak? Seeing none, Senator Nordquist, you're recognized to close on AM835. [LB263]

SENATOR NORDQUIST: I think we have covered the essence of the bill, Mr. President, and thank you. [LB263]

SENATOR CARLSON: Thank you. The question is, shall AM835 to LB263 be adopted? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB263]

ASSISTANT CLERK: 33 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB263]

SENATOR CARLSON: Committee amendments are adopted. Are there senators wishing to speak on the underlying bill, LB263? Seeing none, Senator Nordquist, you're recognized to close. He waives closing. The question...excuse me, Senator Chambers, you're recognized. [LB263]

SENATOR CHAMBERS: Mr. President and members of the Legislature, listening to the Chairman speak, that was so exciting. My blood started pumping and I just had to say something and now that I've said it, thank you very much. (Laughter) [LB263]

SENATOR CARLSON: Thank you, Senator Chambers. The question is, shall LB263 be advanced to E&R Initial? All those in favor vote yea; opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB263]

ASSISTANT CLERK: 32 ayes, 0 nays on the advancement of the bill, Mr. President. [LB263]

SENATOR CARLSON: LB263 does advance. Mr. Clerk, announcements, items for the record. [LB263]

ASSISTANT CLERK: Mr. President, no announcements.

I do have a priority motion. Senator Murante would move to adjourn until Friday, April 5, 2013, at 9:00 a.m.

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. We are adjourned until 9:00 a.m. tomorrow morning.