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Floor Debate
May 28, 2013

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SENATOR CARLSON PRESIDING

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

SENATOR BOLZ: (Prayer offered.)

SENATOR CARLSON: Thank you, Senator Bolz. I call to order the eighty-fourth day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Record, Mr. Clerk.

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

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

CLERK: I have no corrections.

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

CLERK: Mr. President, a series of things. A Reference report from the Reference Committee regarding interim study resolutions. All study resolutions have been referred. Several communications from the Governor. (Read re LB196, LB197, LB200, LB536, LB242, LB265.) The second communication. (Read re LB6, LB6A.) A third message. (Read re LB195.) A second communication, Mr. President. (Read re LB198.) A last communication, Mr. President. (Read re LB199.) Mr. President, an explanation of vote offered by Senator Hadley (re LB66, LB140, LB341, LB410, LB497, LB563, LB623). I have new resolutions. Senator Hadley offers LR356; Senator Davis, LR357. Both of those will be laid over at this time, Mr. President. And that's all that I have. (Legislative Journal pages 1589-1612.) [LB196 LB197 LB200 LB536 LB242 LB265 LB6 LB6A LB195 LB198 LB199 LB66 LB140 LB341 LB410 LB497 LB563 LB623 LR356 LR357]

SENATOR CARLSON: Thank you, Mr. Clerk. (Visitors introduced.) Mr. Clerk, first item on the agenda.

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CLERK: Mr. President, Select File, LB34. Senator Murante, I have Enrollment and Review amendments, first of all, Senator. (ER108, Legislative Journal page 1541.) [LB34]

SENATOR CARLSON: Senator Murante for a motion. [LB34]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB34]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The amendments are adopted. [LB34]

CLERK: Mr. President, Senator Chambers would move to amend with AM1410. [LB34]

SENATOR CARLSON: Senator Chambers, you're being recognized for an amendment. Senator Chambers, please return to the Chamber. Members, we'll stand at ease. [LB34]

CLERK: Mr. President, I understand Senator Chambers would like to withdraw AM1410. [LB34]

SENATOR CARLSON: Without objection, so ordered. [LB34]

CLERK: I have nothing further on the bill, Mr. President. [LB34]

SENATOR CARLSON: Senator Murante for a motion. [LB34]

SENATOR MURANTE: Mr. President, I move to advance LB34 to E&R for engrossing. [LB34]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The bill does advance. Mr. Clerk. [LB34]

CLERK: Senator, LB545. I do have Enrollment and Review amendments, first of all. (ER96, Legislative Journal page 1258.) [LB545]

SENATOR CARLSON: Senator Murante for a motion. [LB545]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB545]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The amendments are adopted. [LB545]

CLERK: I have nothing pending to LB545, Senator. [LB545]

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SENATOR CARLSON: Senator Murante for a motion. [LB545]

SENATOR MURANTE: Mr. President, I move to advance LB545 to E&R for engrossing. [LB545]

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. The bill does advance. Mr. Clerk. [LB545]

CLERK: Mr. President, LB224 is on General File. It's a bill originally introduced by Senator Janssen. (Read title.) The bill was introduced on January 15, referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. There are committee amendments pending, Mr. President. (AM711, Legislative Journal page 807.) [LB224]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Janssen, you're recognized to open on your bill. [LB224]

SENATOR JANSSEN: Thank you, Mr. President and members. LB224 would add language to our resident bidder statute. It would provide a preference for a resident service-connected disabled veteran over any other resident or nonresident bidder when a public contract is to be awarded to the lowest responsible bidder. I introduced LB224 to provide our honorable disabled veterans with encouragement to bid on public contracts. As you know, our nation's veterans have unique and exceptional skill sets. They're highly motivated and goal-driven. They are accountable and deliver in pressure situations. They have much to offer the state of Nebraska. LB224 would indicate our state support for our service-connected disabled veterans to provide them with the opportunity to secure certain public contracts in recognition of their abilities and their service to our country. Resident disabled veteran is defined as an individual who resides in the state of Nebraska who served in the United States Armed Forces, including any Reserve component or National Guard, who was discharged or otherwise separated with the characterization of honorable or general under honorable conditions, and who possesses a disability rating letter issued by the United States Department of Veterans Affairs establishing a service-connected disability or a disability determination from the United States Department of Defense. There is a Government, Military and Veterans Affairs Committee amendment to follow on this bill. It adds language indicating that the preference will be utilized if all other factors are equal. I call it "the tie goes to the runner." It also indicates that the disabled veteran will have a majority ownership interest and be involved in the daily operations of said business. I'd like to thank the members of the Government Committee for advancing LB224 unanimously. One of the best ways to reduce the unacceptably high unemployment rate of our Iraq and Afghanistan war veterans is to assist them in establishing their own businesses and creating new jobs themselves and for other Nebraskans. The Bureau of Labor Statistics data from 2011 showed the unemployment rate for veterans who served in Iraq and

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Afghanistan reached 11 percent in Nebraska. We must address this issue. Winning a state contract or even bidding on one can be a great launching point for new business owners. LB224 does not increase the cost of any contract with the state. The preference will only be utilized if all other things are equal. Again colleagues, LB224 will provide encouragement for honorable service-connected disabled veterans to bid on public contracts. They have served our country admirably. As they establish and grow new businesses in our state, LB224 will offer the opportunity for our state to partner with them to deliver necessary goods and services. I appreciate Senator Pirsch prioritizing this bill and Senator Mello's cosponsorship of LB224. Members, I'd appreciate your support of LB224, especially in the light of this Memorial Day weekend, and the unacceptably high rate of unemployment of veterans and also veterans that cannot find jobs that relate to their military training, and many times end up...well, there are 1 in 5 suicides right now are a veteran. So I see this as a small way to encourage them to get into the labor force and help all veterans. Thank you, Mr. President. [LB224]

SENATOR CARLSON: Thank you, Senator Janssen. As the Clerk mentioned, there are committee amendments. Senator Avery, as Chair of the Government, Military and Veterans Affairs Committee, you're recognized to open on AM711. [LB224]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. AM711 contains two main provisions. First, the amendment provides that a resident disabled veteran is allowed a preference over any other resident or nonresident bidder for contracts in the state if all other factors are equal. The preference does not put them ahead of other people unless they meet the minimum standards. The original bill did not specify what preference the veteran would receive, and this simply is a preference if all other factors are equal. The committee added language to provide that the veteran receives the preference in all cases involving contracts in the state where they qualify. The second provision changes the definition of resident disabled veteran. The committee draws upon federal law for this component and federal definitions. The amendment provides that a resident disabled veteran is someone who owns and controls a business not less than 51 percent of which is owned by one or more resident disabled veterans, or in the case of a publicly owned business not less than 51 percent of the stock is owned by the resident disabled veteran. Further, the management and daily business operations must be controlled by one or more resident disabled veterans. The committee advanced the bill as amended on an 8-0 vote. And as Senator Janssen just mentioned, we want to thank Senator Pirsch for prioritizing the bill so that we can get it on this session's agenda. With that I would ask you to approve AM711. Thank you, Mr. President. [LB224]

SENATOR CARLSON: Thank you, Senator Avery. As the Clerk also mentioned, there are amendments to the committee amendments. Senator Krist, you're recognized to open on AM1439. (Legislative Journal page 1527.) [LB224]

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SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues, and good morning, state of Nebraska. I had a conversation with Senator Janssen last week, and I intend to pull this amendment off but not before I say a few things that I think are appropriate to say during this time. I support LB224 and I thank Senator Janssen for bringing it forward. It is a noble attempt to try to give veterans a perspective into our contracting world. This kind of perspective is already prevalent on the federal side. And as I've heard the Governor speak on a number of occasions on this issue, he has not been 100 percent supportive in the past, and I'm hoping that he will support LB224, because it is the right way to go for our veterans to receive the kind of priority that they need. On the subject of AM1439, I added this not as an attempt to try to, as one of my colleagues talked to me about it, to poison the waters or a poison pill, if you will; I'm very serious about it. If you look at page 4 of the amendment, line 13, it adds veterans to the existing state plan. This has nothing to do...and let me say that again both for the public, if you're listening, and for my colleagues: It has nothing to do with LB577. Let me be very clear, this move to cover veterans under our existing state plan would be illegal if you tried to do it solely using Medicaid expansion under LB577, because it's a carve-out. Ask anyone who is on Health and Human Services, especially Senator Howard who understands this subject matter very well. It would not be possible during Medicaid expansion to carve out this group of people. It is possible today for our administration and our director of Medicaid to extend this coverage to veterans. There are approximately 2,500 veterans out there who have no interim insurance. They step off the bus with no service-related injury. They have no coverage. This plan would give them stopgap coverage between the time they are no longer wearing the uniform and they become employed and are able to benefit from an insurance plan with a...by having preferential treatment for a contract, which is in this bill, or by being employed by a company who would have an insurance plan as well. So let me say that again: This has nothing to do with LB577. And misinformation has gone out saying that it was my attempt to put...reenergize the Medicaid expansion subject. That's not true. My attempt was to give to our veterans who I feel very strongly about, I will do everything in my power to legally do anything I can for a vet. I am one. But in this particular case it has nothing to do with LB577. I withdraw it because I initially had a bit of a reservation even putting it on because I thought there was a question of germaneness. I wrestled about actually suspending the rules to put it on, but I thought we'd have this discussion; I would pull it on General, which I told Senator Janssen I would do the night that this bill was supposed to come up, and potentially put it back on, on Select, to have another discussion about how we can help our vets. It's not going to happen. It's not going to happen because I do not want to muddy the waters on LB224. I think it has enough of an uphill climb as it stands right now. So once again, for the record, this has nothing to do with LB577. It has something to do with our existing Medicaid plan and the some-2,500 veterans in this state who cannot apply or cannot qualify for any other insurances or coverages when they separate from active duty, Reserve, or Guard, that could be covered. With that, Mr. Clerk, I'd like to pull AM1439 from the schedule. [LB224 LB577]

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SENATOR CARLSON: Thank you, Senator Krist. And without objection, so ordered. Members, you've heard the opening on LB224 and the underlying amendment AM711. The floor is now open for debate. Senators wishing to speak include McCoy, Smith, Price, Chambers, Campbell. Senator McCoy, you're recognized. [LB224]

SENATOR McCOY: Thank you, Mr. President and members. Would Senator Avery yield, please? [LB224]

SENATOR CARLSON: Senator Avery, would you yield? [LB224]

SENATOR AVERY: Yes, I will. [LB224]

SENATOR McCOY: Thank you, Senator. As Chair of the Government and Military Affairs Committee, I was looking at the committee statement and I noticed that there was opposition presented by the Nebraska Chapter of Associated General Contractors. Do you know, Senator, and I apologize if I missed it in your opening on the committee amendment--and I didn't catch it from Senator Janssen either, I may ask him at time later--but do you know, Senator, is the committee amendment going to take care of and assuage that opposition that was presented in the green copy of the bill by the General Contractors? [LB224]

SENATOR AVERY: No, I doubt it, because they explained to me that this is a position they take on all preference bills involving contracts. They are philosophically opposed to them. And they were reluctant to come in and oppose this bill because it dealt with veterans, so I would characterize their opposition as soft, but not directly addressed by the amendment. [LB224]

SENATOR McCOY: Okay, thank you, Senator. An additional question: I was looking through the fiscal note for LB224, and I noticed that our Nebraska Department of Roads expressed some concerns as well in regards to potentially higher amount of contract awards, which, of course, would be taxpayer dollars. Was that...do you know, was that concern to the green copy of the bill? I assume that it was based upon the date, and I don't believe that there was a revision unless I missed it, to the fiscal note. Of course, there wouldn't be yet, since we're on General File. But do you have any information as to whether or not their potential concerns with the tie goes to the runner, as Senator Janssen explained it with the amendment, committee amendment? Do you think in your mind would that take care of NDOR's concerns? [LB224]

SENATOR AVERY: I do because the committee amendment says all other things being equal, and that, I believe, would involve lowest bid or lowest responsible bid. If the veteran met that condition and a nonveteran met the same condition, the veteran will get the preference. So it should not increase the cost to the Department of Roads.

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Under the green copy that was unclear. [LB224]

SENATOR McCOY: Okay, and I appreciate that, Senator. My last question for you would be in the committee amendment when it talks about 51 percent ownership or I think 51 percent or more of stock ownership in a company, I had a question, and not to split hairs, but I just want to make sure that I understood it correctly. Does that mean that if 51 percent ownership, does that mean that the company has to be domiciled as a resident company, or the company and the owner have to both be Nebraska residents? Maybe I missed that in the committee amendment or in the green copy. But does that make sense at all? I'm just trying to clarify... [LB224]

SENATOR AVERY: It does and I have to confess to you I'm not quite sure if I know the answer, but I will consult with committee counsel here in a minute. [LB224]

SENATOR McCOY: I appreciate that. I very much support the intent and the purpose. I believe it to be...especially in light of the fact that yesterday was Memorial Day, I very much appreciate the spirit and the direction of this legislation. [LB224]

SENATOR CARLSON: One minute. [LB224]

SENATOR McCOY: Thank you, Mr. President. And I may hit my light again and ask a few more questions, Senator Avery, and give you the time to speak with committee counsel on this. But the reason, members...and I live and breathe in the construction world on a daily basis. This is an important question in light of this legislation because all of us in the construction and contracting industry face this concern on a daily basis when it comes to state and especially federal contracts, as well, of is it to be determined that the ownership is a resident or the company is a resident? Because those are sometimes not synonymous. So with that, I will conclude at this point. Thank you, Mr. President. [LB224]

SENATOR CARLSON: Thank you, Senator McCoy and Senator Avery. Senator Smith, you're recognized. [LB224]

SENATOR SMITH: Thank you, Mr. President. And I just wanted to stand and say I agree with the intent of LB224 and AM711. You know, veterans provide so much to our community. They are...many of them are business owners, business managers. I think this is great that we are considering that. However, I do have some questions along the lines of what Senator McCoy was asking. And I'd like to start out with asking Senator Janssen a question, if Senator Janssen would yield, please? [LB224]

SENATOR CARLSON: Senator Janssen, would you yield? [LB224]

SENATOR JANSSEN: Yes. [LB224]

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SENATOR SMITH: Thank you, Senator Janssen, for yielding to a question here. And as I had mentioned just a moment ago, I do agree with the intent and I do value the contributions of our veterans. In your bill you talk about the bidder, that for the bidder if all other factors are equal will be allowed a preference. Now in many cases municipalities and businesses representing projects for municipalities have to abide by certain set-asides for disadvantaged, minority, and gender-based set-asides. So how does this stack up with that? When you say all other factors are equal, does that mean that if there's anything on their books that have to favor a disadvantaged business, a minority business, or gender business, that that is first considered before we go to what your bill suggests? [LB224]

SENATOR JANSSEN: It's my intention and I believe this only applies to state-awarded contracts, so that wouldn't specifically apply to your municipalities. A tie goes to the runner if all other things are equal. In practicality, that's very rare. [LB224]

SENATOR SMITH: All right. I missed where it says state. I thought it said public. So I would assume that there might be other municipalities, county projects that might be included in this. [LB224]

SENATOR JANSSEN: I'd have to check on that. It wasn't the intent. [LB224]

SENATOR SMITH: All right. All right, thank you. Thank you, Senator Janssen. And would Senator Avery yield to a question, please? [LB224]

SENATOR CARLSON: Senator Avery, would you yield? [LB224]

SENATOR AVERY: Yes, I will. [LB224]

SENATOR SMITH: Thank you, Senator Avery. And again I'm in agreement with what your...the intent of the bill and the amendment are, to value our veterans. You mentioned in your amendment you define controls, and I think you clarified that a bit but I just want to make certain that I understand what you're saying there, not only that they own 51 percent of the business but that they control it. Does that mean that they are active in the business, they are 40-plus hours a week? [LB224]

SENATOR AVERY: I think that's implied, and they do have to be a resident of the state. The bill does not address, though, the domicile of the company itself. [LB224]

SENATOR SMITH: All right. [LB224]

SENATOR AVERY: We might want to discuss that. [LB224]

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SENATOR SMITH: All right, thank you, Senator Avery. And I know that this is not your underlying bill, LB224 is not your bill. But I had asked Senator Janssen a question as to whether this would apply to, I think it says states as for public contracts, so it's not just state contracts. It would be other municipal contracts, is that correct? [LB224]

SENATOR AVERY: That is correct. [LB224]

SENATOR SMITH: All right. Do you know whether or not if there are set-asides already in place for those contracts for, say, disadvantaged minority or gender-based reasons? Where would this stack up in consideration of those other factors? [LB224]

SENATOR AVERY: You mean, would this trump... [LB224]

SENATOR CARLSON: One minute. [LB224]

SENATOR AVERY: ...would this trump a gender-based quota or set-aside? [LB224]

SENATOR SMITH: Yes, sir. [LB224]

SENATOR AVERY: I think it would have equal standing. I don't believe that any set-aside or quota would trump another. Certainly this is not a quota, by the way. This is simply a preference and you provide the preference to those who qualify. And if nobody qualifies, you don't have...you don't award the contracts on that basis. [LB224]

SENATOR SMITH: All right. So if a city already has something in place for preferences under contract awards, that this would have to be added to those... [LB224]

SENATOR AVERY: Yes. [LB224]

SENATOR SMITH: ...conditions. Okay. All right, thank you, Senator Avery. Thank you, Mr. President. [LB224]

SENATOR CARLSON: Thank you, Senator Smith, Senator Janssen, and Senator Avery. (Visitors introduced.) Returning to debate, Senator Price, you're recognized. [LB224]

SENATOR PRICE: Thank you, Mr. President. Members, good morning. This bill, I would stand in support of the bill and the amendment, and I would tell you that there are great things that are done with contract vehicles set up under this arrangement. I had the opportunity and the pleasure upon retiring from the service to work for a service-disabled veteran-owned business, and was able to assist that business to grow from a submillion to a multimillion-dollar business under programs like this. And what this did is it allowed for a vehicle for other veterans to get hired, a lot of individuals

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within the Bellevue-Omaha area have an opportunity for this company as they work on federal contracts. However, as you might imagine, there are a lot of different contracts available at the various political subdivisions, and having something in the state statute that will assist veterans to be on an equal standing in competitiveness with others, or at least recognizing that, and not to say equal. What's unique about this contract that we have here is it does not add a point preference. It does not add extra to the baseline determination. It says if all things equal then it would be deferred and go to the disabled veteran-owned business. I think that's an important distinction to make there and it's important to look and see how many veterans that might fall under this who are Nebraskans. So many of our returning veterans coming back from Iraq and Afghanistan now, are injured. They have very unique skill sets that don't directly apply to the private sector, yet they're necessary, and the government finds needs for them. And so they go and they form companies. Along the way then, they like to bid on other things that are available out there, whether it's hauling gravel and a transportation company. And, you know, out at Camp Ashland I believe that approximately 80 percent of the military truck drivers trained right there in Camp Ashland. I believe, in vernacular, the army...the MOS is an 88Mike, and they are trained in Camp Ashland. So once they get out, maybe they want to start a transportation company and this would be helpful in doing so. With regards to the commentary and questions on the 51 percent, to ensure that these companies aren't used as stand-up pass-throughs, the federal government has developed, and in the language of the bill we do refer back to federal guidelines, that the 51 percent ownership and they have to be actively engaged in the business. I know from a personal attempt at business ownership where I was taking over a company domiciled in Colorado, the Department of Veterans Affairs would not accept my disability qualification for that company, not because I didn't have a disability, not because I didn't have ownership, but they couldn't see how a person who lived in Nebraska could own and operate a company in Colorado. So their system does work. I don't agree with it but it's not about me. It's about a system that works the way it's designed. So I stand in support of what we are doing here today. I believe the questions that are being asked are good questions to help hone the bill, but I believe this is one of the best ways that we can assist our veterans. And we have to understand, veterans that would fall in this are not just people from Omaha. They're not just people who are from Lincoln and large metropolitan areas. A lot of rural Nebraskans serve in our Guard force and go over to Iraq and Afghanistan, and they've gone over four, five, and six times. [LB224]

SENATOR CARLSON: One minute. [LB224]

SENATOR PRICE: Thank you, Mr. President. So we're talking about something that will apply broadly across the state that will help individuals statewide. It will help those if you look at the breakdown of who joins the military at this time. It will help a broad spectrum of individuals that will apply broadly across the state in a very controlled manner. Thank you, Mr. President. [LB224]

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SENATOR CARLSON: Thank you, Senator Price. Senator Chambers, you're recognized. [LB224]

SENATOR CHAMBERS: Mr. President and members of the Legislature, maybe during the discussions that have occurred my question would be answered, but I would like to ask Senator Avery a question or two. [LB224]

SENATOR CARLSON: Senator Avery, would you yield? [LB224]

SENATOR AVERY: Yes, I will. [LB224]

SENATOR CHAMBERS: Senator Avery, on page 2, in line 14, there's a definition of resident bidder. And the resident should...can be...it means "any person, partnership, foreign or domestic limited liability company, association, or foreign or domestic corporation." The company could be outside of this state, is that correct, based on the definition that you're plugging your new language into? [LB224]

SENATOR AVERY: Yes. We drew that...this green copy, by the way, is altered by the amendment. But our amendment does draw on federal statute and definitions, and federal statute does not require that preferences given to veterans be to companies that domicile in the state. If we were to put that restriction in, Senator, it probably would run afoul of the Interstate Commerce Clause, and that we don't want to do. [LB224]

SENATOR CHAMBERS: So if you have a company outside of Nebraska and there is a disabled veteran or there would be several of them who live in Nebraska, that would bring them within the purview of this bill as it will be amended, is that true? [LB224]

SENATOR AVERY: That is true, but they would have to have 51 percent or more ownership in the company (inaudible) the benefit goes to the veterans. [LB224]

SENATOR CHAMBERS: Suppose a branch of the company is in Nebraska. Then would the veteran have to own 50 percent of the parent company? [LB224]

SENATOR AVERY: Fifty-one percent. [LB224]

SENATOR CHAMBERS: Fifty-one percent of the parent company? [LB224]

SENATOR AVERY: Yes. [LB224]

SENATOR CHAMBERS: So no large corporation could qualify under this legislation, under ordinary circumstances, because a person who lives in Nebraska is not likely to own 51 percent of that corporation? [LB224]

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SENATOR AVERY: My guess is you're right that it probably would not apply to a great many people associated with large corporations. It would be small to medium size. [LB224]

SENATOR CHAMBERS: And for the sake of clarification or clarity in the record, on page 2, where the committee amendment says if all other factors are equal...what factors...what fits into that word "factors"? [LB224]

SENATOR AVERY: Let's say you are bidding under a lowest responsible bid rule, the veteran would have to meet that criterion before they could qualify for a preference. They have to...they would have to...if the contract specifies you have to be able to do X, Y, and Z, then the veteran's company would have to do X, Y, and Z, or qualify to do X, Y, and Z, before they could get a preference. [LB224]

SENATOR CHAMBERS: And I looked at the fiscal note that Senator McCoy was touching on, and the Department of Roads did express concern... [LB224]

SENATOR CARLSON: One minute. [LB224]

SENATOR CHAMBERS: ...but they mentioned a percentage preference which you are indicating is not considered at all under the language of this bill as amended. Is that true? [LB224]

SENATOR AVERY: That is correct. We discussed that in committee and we decided that it was too complicated to go into specific percentage preferences, and we decided to adapt the amendment to federal law. [LB224]

SENATOR CHAMBERS: Thank you. And I'll continue listening to determine if I still have some things I need clarified. Thank you. Thank you, Mr. President. [LB224]

SENATOR CARLSON: Thank you, Senator Chambers and Senator Avery. (Visitors introduced.) Returning to debate, those wishing to speak include Campbell, Avery, McCoy, and Chambers. Senator Campbell, you're recognized. [LB224]

SENATOR CAMPBELL: Thank you, Mr. President and colleagues of the Legislature. Would Senator Avery yield to several questions? [LB224]

SENATOR CARLSON: Senator Avery, would you yield? [LB224]

SENATOR AVERY: To one or two, (laughter) yes. [LB224]

SENATOR CAMPBELL: Senator Avery knows how many questions I can ask. Senator

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Avery, I want to bring up an issue and it may be pretty isolated, and it certainly does fit our family business in one way but not another. We certainly have been blessed not to have had a disabled veteran. But in our family business, four people are principal owners of it, and so they do not have the 51 percent. And I can think that there might be some businesses across the state of Nebraska that would be family owned, in which a number of people might have a managing partnership. Any thought given to those situations? [LB224]

SENATOR AVERY: We did not discuss anything as qualifying that would be less than 51 percent ownership and control. [LB224]

SENATOR CAMPBELL: And I am sure you can understand it, in this situation four people own the business and they all have a managing partnership. I'm going to listen to the discussion because that may be something that as we get more refined we may want to take a look at. My second question has to do, has there been any comment...I noted the committee statement, but has there been any comment from a county or a city or the university with regard to that this would be a public contract? [LB224]

SENATOR AVERY: The definition of public, as I and the committee counsel consulted on this, and we believe that public means state and political subdivisions in Nebraska. So that would include the university, it would include counties. [LB224]

SENATOR CAMPBELL: So at this point; but none of those entities have made comment to you or to the committee with regard to the amendment. [LB224]

SENATOR AVERY: Correct. They did not appear at the hearing. [LB224]

SENATOR CAMPBELL: I'm going to try to sneak in a third question here, Senator Avery. My last question is, and you may have answered this but I'd like to go over it one more time: Are there any other examples in contracts where veterans have a preference? [LB224]

SENATOR AVERY: You mean in Nebraska? [LB224]

SENATOR CAMPBELL: Yes. [LB224]

SENATOR AVERY: Not to my knowledge. And this is...I believe this is new legislation in the state of Nebraska. [LB224]

SENATOR CAMPBELL: Thank you, Senator Avery. I appreciate that. And thank you, Mr. President. [LB224]

SENATOR CARLSON: Thank you, Senator Campbell and Senator Avery. And now

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Senator Avery, you're recognized. [LB224]

SENATOR AVERY: Thank you, Mr. President. I just wanted to clarify a couple of things, and I think that most of what I wanted to say has been drawn out of me in questioning. But one of the things that seemed to be at issue early on in this discussion was what we meant by public. And I just answered that question with Senator Campbell. And it does include the state contracts and other political subdivisions. Another issue that arose was the issue of resident veterans and whether or not the company also had to be domiciled in Nebraska. It sounds good to say, yes, they ought to be domiciled here, but we would probably have some interstate commerce issues if we were to do that. We're looking into that more now; and if we need to, we can correct that, or refine it on Select File. Thank you, Mr. President. [LB224]

SENATOR CARLSON: Thank you, Senator Avery. Senator McCoy, you're recognized. [LB224]

SENATOR McCOY: Thank you, Mr. President and members. If I may, can I ask Senator Avery another question or two? [LB224]

SENATOR CARLSON: Senator Avery, would you yield? [LB224]

SENATOR AVERY: Yes, I will. [LB224]

SENATOR McCOY: Thank you, Senator Avery. And I know conversations are ongoing on LB224, and I want to go back to a question that I had asked you off the mike. And I've gotten a little bit of clarification, so I want to make sure that I have this correct for the record. But when you...somewhere my green copy wandered off. But I think the green copy of the bill, I believe on page 2 as I recall, says that any public contract...thank you...any public contract, or "when a public contract is to be awarded." It's my understanding, talking to your committee counsel and getting some clarification from stakeholders on this issue, that this is more than just state contracts that we're talking about here. When we say "a public contract," we're talking about any contract, any public contract with any political subdivision in the state. Would that...is that your understanding, as well, (inaudible)? [LB224]

SENATOR AVERY: Yes, that is. [LB224]

SENATOR McCOY: Okay. I very much love the intent of LB224 and I support it. I think, though, perhaps we need to have some clarifications here, and the reason for that is, is that any city or political...any municipality or political subdivision across the state that already have...if they already have bidding...bid letting, I should say, preferences in ordinance, whether they be for gender, ethnicity, veteran status, whatever the case may be, this one, in essence, trump that and they will have to go in then and rewrite their

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ordinances. Is that your understanding too, Senator Avery, of how this would work in practical application? [LB224]

SENATOR AVERY: I'm going to take a shot at that. I believe that might be the case; we're trying to clarify that with committee counsel right now. [LB224]

SENATOR McCOY: Well, I appreciate that, and thank you, Senator Avery. Again I think it's an unintended consequence here that should be hopefully relative--I don't want to say easy to remedy, but I think we can still maintain the spirit and the intent of LB224, but I think tighten up how this would actually work in practical application. Again, dealing with the construction industry in contracts and the contracting industry in Omaha, outside of Omaha, we face these kind of things on a daily basis. Omaha has had in place for a number of years, in fact, I think a number of decades, preferences when it comes to bidding and the awarding of contracts, and the community is pretty familiar with that, that deals with these contracts. And I think that this is an important piece of legislation, we just need to make sure that it doesn't have unintended consequences for political subdivisions out there that may already have things in ordinance that would give preference to veterans among other individuals, whether they be based upon gender, ethnicity, and so forth. So those are just a few of the concerns that I would have that hopefully can be relatively simple to remedy. That would be my hope, and I would appreciate and I thank, I should say, Senator Avery for helping me build the record here on the intent of the legislation. Thank you, Mr. President. [LB224]

SENATOR CARLSON: Thank you, Senator McCoy and Senator Avery. (Visitors introduced.) Senators wishing to speak include Chambers, Murante, Smith, and Janssen. Senator Chambers, you're recognized. [LB224]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I must ask Senator Avery some questions. [LB224]

SENATOR CARLSON: Senator Avery, would you yield? [LB224]

SENATOR AVERY: Yes. [LB224]

SENATOR CHAMBERS: Senator Avery, this bill amends existing language, and the existing language talks about a preference given to resident bidders over nonresident bidders. And the nonresident bidders who can't get the preference are those who come from a state which offers their residents a preference. Is that correct? [LB224]

SENATOR AVERY: That's in the green copy on page 2 in the first paragraph, yes. [LB224]

SENATOR CHAMBERS: Now when we get down into the new language that is being

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offered by this bill, a definition on page 14 is given of a resident bidder. And I'm not sure whether it makes clear the difference between a resident bidder and a nonresident bidder except in the case of whatever this nonresident bidder is who is in a state where a preference is given. So in any state where the nonresident bidder lives, if no resident...if no preference is given, that person qualifies as a resident bidder. Isn't that correct? [LB224]

SENATOR AVERY: No, because if you go to line 14 on page 2 of the green copy, "resident bidder means," and then it gives the definition. [LB224]

SENATOR CHAMBERS: But a "foreign or domestic companies." [LB224]

SENATOR AVERY: That is included, yes. [LB224]

SENATOR CHAMBERS: So if it's a foreign operation, what's the difference between a resident and a nonresident? Because the difference in the existing law between resident and nonresident is that the nonresident who can't get the preference is one who is from a state that offers a preference to those within its state. That's what the difference is; not where they live, that they live in Nebraska or outside of Nebraska, if I'm reading the existing language correctly. [LB224]

SENATOR AVERY: Well, if the resident bidder has...say, is employed by a foreign corporation or a domestic one, they have to be authorized to do business in the state of Nebraska. And then the resident bidder has to reside in Nebraska and then they qualify for the preference that we are proposing here. [LB224]

SENATOR CHAMBERS: But under the definition of resident bidder, the resident bidder means a foreign or domestic company or partnership. [LB224]

SENATOR AVERY: Right. But they have to be authorized to do business in Nebraska, which is de facto residency, wouldn't you say? [LB224]

SENATOR CHAMBERS: Can a foreign corporation be authorized to do business in Nebraska? [LB224]

SENATOR AVERY: I think so, yes. [LB224]

SENATOR CHAMBERS: Yes. So what difference does that make? If they're authorized to do business in Nebraska, then the corporation could be in California or anyplace else, is that correct? [LB224]

SENATOR AVERY: Could be Saudi Arabia, yes. [LB224]

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SENATOR CHAMBERS: And the person doing the bidding would have to live in Nebraska, is that what you're saying? [LB224]

SENATOR AVERY: Yes. [LB224]

SENATOR CHAMBERS: And bid on behalf of that company? [LB224]

SENATOR AVERY: That is correct. [LB224]

SENATOR CHAMBERS: But the company, for this purpose, would have to be owned at least 51 percent by a disabled veteran, is that true? [LB224]

SENATOR AVERY: That is part of the amendment. We included that language to broaden the pool of people who would be eligible for the preference. [LB224]

SENATOR CHAMBERS: I'm not going to continue this line of questioning, but I'll tell you this much, Senator Avery: It seems to me that there might be some confusion based on the existing law... [LB224]

SENATOR CARLSON: One minute. [LB224]

SENATOR CHAMBERS: ...that talks about preferences. [LB224]

SENATOR AVERY: You may be right about that. [LB224]

SENATOR CHAMBERS: The only thing that I see in the existing law that distinguishes one who is to get a preference from one who is not, is that the one who is not is from a state where a preference would be given to that bidder. And if the person bidding is from another state but the state does not give a preference to that bidder, that bidder can get the preference in Nebraska, just like a corporation that lives in...I meant, somebody who lives in Nebraska. But maybe I'm not reading the existing language correctly. But those who are pushing this legislation should be careful because on page 3, in line 10, starting, "Any contract entered into without compliance with these sections...shall be null and void." So if there are contradictions existing in the language that's being put in... [LB224]

SENATOR CARLSON: Time. [LB224]

SENATOR CHAMBERS: Thank you, Mr. President. [LB224]

SENATOR CARLSON: Thank you, Senator Chambers and Senator Avery. Senator Murante, you're recognized. [LB224]

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SENATOR MURANTE: Thank you, Mr. President and members. And I am in support of LB224 and the committee amendment. I voted for it in the Government, Military and Veterans Affairs Committee, and I support it. However, as we discussed briefly in the committee, we've done something with this amendment that I think is an error that oftentimes happens in the Government Committee, particularly when we talk about election law, and that is that the words "plurality," "majority," and "51 percent," become synonymous with each other; and, of course, they don't mean the exact same thing. And for that purpose I'd like to ask Senator Avery a question. [LB224]

SENATOR CARLSON: Senator Avery, would you yield? [LB224]

SENATOR AVERY: Yes, I will. [LB224]

SENATOR MURANTE: Thank you, Senator Avery. Reading the wording of the committee amendment, it says that any person who controls a business that has not less than 51 percent of which is owned by one or more individuals described in the subdivision, I'm going to offer you a hypothetical situation that's based somewhat on reality that doesn't necessarily apply directly to this bill but it's something that I understand and can get my mind around. Let's say there's a pizza place in Omaha. (Laughter) And let's say that pizza place has 300 shares of stock, okay? And I own 151 shares of that stock, so I am the majority shareholder at this pizza place. I do not have 51 percent of the stock, but I am the majority shareholder. Is it your intention that this bill would apply to me in that circumstance? [LB224]

SENATOR AVERY: No, no. [LB224]

SENATOR MURANTE: And why is that? [LB224]

SENATOR AVERY: Your pizzas may be wonderful, but this would apply only to 51 percent ownership of the stock. [LB224]

SENATOR MURANTE: And why are we applying it...where did the number 51 percent come from? [LB224]

SENATOR AVERY: The federal guidelines. [LB224]

SENATOR MURANTE: So were...so the federal guidelines explicitly state that 51 percent is the number that we're to be looking at, and if you have the majority...because in some instances, depending on the number of shares of stock and depending on the value of the stock, the difference between a majority and 51 percent could be a significant amount of money... [LB224]

SENATOR AVERY: Right. [LB224]

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SENATOR MURANTE: ...and we just... [LB224]

SENATOR AVERY: We felt that tying this amendment, committee amendment, to federal law and federal definitions would eliminate most of the ambiguities and problems that we might encounter. We didn't expect it to raise more questions, but apparently it has. [LB224]

SENATOR MURANTE: Okay. Would you agree that the federal law should at least say a majority? I mean, wouldn't that make more sense? [LB224]

SENATOR AVERY: I think the federal law probably has some improvements that could be made to it. [LB224]

SENATOR MURANTE: I think we can all agree with that. If we're attempting to do this to comply with federal law, then I understand it; although I do think that the distinction between majority and 51 percent is a real difference and it could very well mean that some veteran owners will not be allowed to use this. If they buy a simple majority worth of shares instead of going all the way up to the 51 percent, we could be taking people out when we're trying to apply this to them. But thank you, Mr. President. [LB224]

SENATOR CARLSON: Thank you, Senator Murante and Senator Avery. Senator Smith, you're recognized. [LB224]

SENATOR SMITH: Thank you, Mr. President. And I had some conversations with my colleagues, in particular, Senator Janssen, since I was on the mike last. And once again I understand the intent by Senator Janssen with LB224 and the AM711 that ideally this is targeting state contracts and not all public contracts. But the way it's currently written, I do have concerns as to whether it supersedes the bill letting statutes for municipal governments. I mean, this could even reach into NRDs, the county, and all the various cities that we have. And some of these other statutes do address preferences in the contract or the bid letting process for disadvantaged, minority, and gender. And so what I would like to do is continue to have this discussion with Senator Janssen. I am willing to go forward and support this bill and to see if we can work out some of these issues that I have and some of my colleagues have raised, on Select. But with that, Mr. President, I'd like to yield the remainder of my time to Senator Janssen. [LB224]

SENATOR CARLSON: Thank you, Senator Smith. Senator Janssen, 3 minutes 40 seconds. [LB224]

SENATOR JANSSEN: Thank you, members and colleagues. Senator Smith brings up a good point; there's been some great questions about this bill. And the statute, in general, I think overall probably needs to be looked at in its entirety in the definitions

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that Senator Chambers brought up, so we can clarify this so the intent can be exactly what it is, to help service-connected disabled veteran-owned businesses, which are very few. And if all things equal, this would have a limited scope. I almost call it more of an encouragement to veterans than preference, because it's the tie goes to the runner; which I had to explain to Senator Cook who doesn't watch as much baseball as me, that if you both get to the bag at the same time, the runner gets the...awarded at the bag. And that's the case with this bill. Now we did talk about...and Senator Smith asked me a great question about whether this would apply to municipalities or states. And I incorrectly answered; I said it would just be states. I think...and I would be very amenable to clarifying this on Select, that it just apply to state contracts, and then we can look at it through the interim and specifically how it would deal with municipalities if we want to expand it there. But this is just a starting point dealing with state contracts. I'd be very open to doing that. And also making sure, as Senator Chambers said, that we have the right people that we have intended for this to help, to benefit, and definitely not to discourage any Nebraska business from competing for a bid, because we want to encourage all Nebraskans, not just service-connected disabled veteran-owned businesses from competing for these contracts. So the questions have been great and the bill is getting better, I believe, and it's helping veterans, which is the intent. And I appreciate the help from everybody on the floor this morning that is engaged in this issue. Thank you, Mr. President. [LB224]

SENATOR CARLSON: Thank you, Senator Janssen. And you are up next. Senator Janssen waives. Senator Davis, you're recognized. [LB224]

SENATOR DAVIS: Good morning, Mr. Chairman and members of the body. Would Senator Janssen yield to a few questions? [LB224]

SENATOR CARLSON: Senator Janssen, would you yield? [LB224]

SENATOR JANSSEN: Yes. [LB224]

SENATOR DAVIS: I visited with you, Senator Janssen; and maybe you haven't had time, but in case there's a violation of the contract, what recourse does the disabled veteran have then? [LB224]

SENATOR JANSSEN: You know, I would think in any contracting business...and you did ask me that question earlier and I kind of asked around about it, what would my recourse be if I was a business in that capacity and it was awarded, say, by the city of...name your city, and they went ahead and did that work. I would think your recourse would come through the judicial system in the form of a suit against the person that violated that. [LB224]

SENATOR DAVIS: So that might be against the state or the municipality or the NRD or

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whoever that... [LB224]

SENATOR JANSSEN: The person...the awarding... [LB224]

SENATOR DAVIS: ...that person was. [LB224]

SENATOR JANSSEN: The person that awarded the contract, if they felt...if somebody felt...within...which would happen with almost anything. If somebody felt that they were wrongfully, you know, obviously not awarded a bid, they could file suit. [LB224]

SENATOR DAVIS: On page 2, I think it's line 10, it talks about a responsible bidder. And I just wondered, Senator Janssen, do we need to nail that down as to what that is? Is that kind of a gray area as to what "responsible" means? [LB224]

SENATOR JANSSEN: Yeah, I would hope so. Like I had mentioned earlier on the mike, that the statute I think needs to be reworked almost in its entirety, so we get every specified, you know, what would responsible be. And in this case responsible would be the one that was qualified as defined in the statute, that would be responsible. And also I think that we'd look at previous jobs performed. That's what I would define it as, and I could probably get you a better answer. But if somebody had built a bridge, per se, and it fell in two weeks later, I'd say they weren't responsible. But there could be other factors in that. [LB224]

SENATOR DAVIS: Well, I agree with you. I just look at this as a potential...I support the bill and the intent of it, but I see some issues that could end up in the courts, and I think we need to try to prevent that before it gets to that point. Can you tell me, was this modeled on any other legislation in any other state, Senator Janssen? [LB224]

SENATOR JANSSEN: Loosely. The state of Pennsylvania passed a bill like this. We changed it and modified it and now we're...I think we're going to probably make it the Nebraska way here after we get done with General, hopefully, this morning, and move it to Select. And then we'll...then I think other states might be modeling after the Nebraska way. [LB224]

SENATOR DAVIS: And then just the last of it, I think probably I need to speak with Senator Avery and you, Senator Janssen. But this issue with 51 percent and the resident, it all gets kind of confusing when we're talking about a foreign entity and the person owning 51 percent of the stock. So I'd like to see that drawn up. Would Senator Avery yield to a few questions on that? [LB224]

SENATOR AVERY: Yes, I will. [LB224]

SENATOR CARLSON: Senator Avery. [LB224]

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SENATOR DAVIS: How do you suggest to resolve that issue of the foreign corporation and the 51 percent, Senator Avery? [LB224]

SENATOR AVERY: I'm not sure what we will do, but committee counsel is taking notes furiously and we will, between now and Select, come up with some new language in the form of an amendment. [LB224]

SENATOR DAVIS: One other thing I thought about when I was sitting here. You know, there are corporations that have voting stock and nonvoting stock, and, of course, a lot of those are trust and entities which are designed to sort of step around tax transfers and things; but that could play a part in this. So I'd suggest that we probably need a definition of what actually is an entity that's operated by a disabled vet versus just a shell corporation in which that person is put forward to get the contracts. And with that I'll yield the rest of my time to the Chair. [LB224]

SENATOR CARLSON: Thank you, Senator Davis, Janssen, and Avery. Seeing no other senators wishing to speak, Senator Avery, you're recognized to close on AM711...excuse me, Senator Chambers, you're recognized. [LB224]

SENATOR CHAMBERS: Thank you. Mr. President, I was trying to see if maybe Senator Davis' exchange would answer my question. But it didn't really touch on it, so that's why I was late putting my light on. When we are in the realm of the committee amendment, one or more individuals would own the 51 percent--one or more. That means one person could own 49 percent and that one person is not a disabled veteran. The 51 percent could be split among ten disabled veterans or one of the persons would be disabled. There is nothing which would indicate that the holder or the holders of this 51 percent would not be controlled or in cahoots with that one person who owns the 49 percent. I'm talking about things that happen when a corporation was supposed to be owned at least 51 percent by a female or a member of a minority group. They would get these individuals and agree that you're going to hold this amount of the company, but you're not going to run anything. We or I who hold the 49 percent will really run the company. To make sure that no one of you breaks ranks, they're going to be at least three or you who comprise the holders of this 51 percent. And if two of you defect, that one will prevent you two from controlling the company. But if it's a shell company, then the ones who are playing along are going to go along to get along. This other part that I was talking about, I won't go into it because I don't have enough time. This is my third time. But in the existing language of the law, we are dealing with Section 73-101.01. The existing law says: "Any contract entered into without compliance with Section 73-101.01," and it mentions .02, "shall be null and void." The contract is nonexistent, but you go to court to have that declaration made. It could mean that the veteran is going to say he or she did not get the preference and the other party would say--you did, all other things were not equal, or the other side could try...or the veteran could try to bring

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the action or the other side could try to bring the action. I think there should be care taken. Many times actions which are based on emotion, compassion, on considerations other than what are governed by law have to be scrutinized very carefully because anybody who raises a question might be afraid of running the risk of being deemed against disabled veterans. I am against bad law and I think bad law is that which is not enforceable, that which confuses the existing law, or that which might contradict the existing law. I'm acknowledging that I have not been able to analyze all of this language to the point where I'm even satisfied that the concerns that I have are valid. But when we are amending... [LB224]

SENATOR CARLSON: One minute. [LB224]

SENATOR CHAMBERS: ...existing law that does talk about a preference, there is the provision of a preference in the law now. But the preference is for a resident bidder. If a nonresident bidder has the lowest and responsible bid, then the resident bidder will be given an amount equal to the preference that the nonresident bidder would have in his or her state to equalize the two and allow the resident to get the preference, I suppose. I had nothing to do with writing the existing language, so I'm just going to have to sit it out from here until I see what actually exists. But I will say this: If you're going to try to help veterans, it's better to do it with something tangible than a notation on a license plate. [LB224]

SENATOR CARLSON: Time. [LB224]

SENATOR CHAMBERS: Thank you, Mr. President. [LB224]

SENATOR CARLSON: Thank you, Senator Chambers. Senator Davis, you're recognized. [LB224]

SENATOR DAVIS: Thank you, Mr. President. I'm going to yield most of my time to Senator Chambers if he wants to finish a few things. But just sitting here thinking about the legislation and the long-term ramifications of it, you know, we do have entities in this state that are grant-receiving entities--I'm coming up with the Humanities Council, the Nebraska Arts Council, and those entities. So Senator Avery, would those be covered by this legislation? Would Senator Avery yield to a question on that? [LB224]

SENATOR CARLSON: Senator Avery, would you yield? [LB224]

SENATOR AVERY: Senator Davis, would you repeat that, please? [LB224]

SENATOR DAVIS: You know, we've got sort of quasi government agencies like the Nebraska Arts Council that receives grants from the state or the Humanities Council, and there are probably a million other ones, but under the language that you've written,

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would that be subject to this law? [LB224]

SENATOR AVERY: I'm going to take a chance here, Senator, and say no, because that would not meet the definition of a political subdivision,... [LB224]

SENATOR DAVIS: Okay. [LB224]

SENATOR AVERY: ...the nonprofits that you were mentioning. [LB224]

SENATOR DAVIS: So you're essentially limiting it to, like, NRDs, fire districts, (inaudible). [LB224]

SENATOR AVERY: And we're talking about on...between now and Select, limiting it all to state contracts. [LB224]

SENATOR DAVIS: Okay. With that I'll yield the rest of my time to Senator Chambers. [LB224]

SENATOR CARLSON: Thank you, Senator Davis. Senator Chambers, 3 minutes 40 seconds. [LB224]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I'm going to read some language and then not that which follows. There isn't nearly enough time and I don't want to tie the body up on this bill. If I want to take time, I will make it clear that's what I'm doing, but this bill is not one that I'm using for that purpose. "When a public contract is to be awarded to the lowest responsible bidder, a resident bidder shall be allowed a preference over a nonresident bidder from a state which gives or requires a preference to bidders from that state." So a nonresident bidder from a state where no preference is given will not suffer under a preference being given to the resident bidder. It seems that the only one that the preference would work against would be a bidder...a nonresident bidder from a state where a preference is given. In that case, the preference given to the resident bidder, I presume, would be equal to the preference given to that nonresident bidder in that nonresident bidder's state. And if that is done and it puts them on an equal footing, then the nonresident bidder is out because they're equal and the resident bidder gets the preference. I don't know if that's correct or not, but that's all that I will say. I'm going to look at this and I'm not going to say that I'll resolve it. I probably will only wind up with questions. But I think Senator Janssen's notion of applying it only to state contracts might eliminate a lot of the other concerns expressed, and I don't even know if that's true. Thank you, Mr. President. [LB224]

SENATOR CARLSON: Thank you, Senator Chambers. Those wishing to speak include Avery and Schumacher. Senator Avery, you're recognized. [LB224]

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SENATOR AVERY: Thank you, Mr. President. I might be able to add some clarification to what we mean by "resident disabled veteran." I believe Senator Chambers raised that question in one of his times on the microphone. If you go to the green copy on page 3, at the top of the page there, you have to read the underlined portions. "Resident disabled veteran means," and that will be what it means in those lines. That is a part of the green copy. Go to the amendment and you will see that we retain the language in the green copy, but we add a second set of qualifications under (ii), lower case (ii), "who owns and controls a business." So you have to...you were talking really a resident disabled veteran refers to two conditions, one stated in the green copy: "an individual who resides in the State of Nebraska, who served in the United State Armed Forces, including any reserve component of (sic-or) the National Guard, who was discharged or otherwise separated with a characterization of honorable or general under honorable conditions, and who possesses a disability rating letter issued by the United State Department of Veterans Affairs." Anyway, that, and then you add the condition in the amendment which says, "and who owns and controls a business not less than fifty-one percent," etcetera. Those two define what we mean by resident disabled veteran. I believe that was probably not clear in the previous discussion. Thank you, Mr. President. [LB224]

SENATOR CARLSON: Thank you, Senator Avery. Senator Schumacher, you're recognized. [LB224]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Would Senator Avery yield to a couple questions? [LB224]

SENATOR CARLSON: Senator Avery, would you yield? [LB224]

SENATOR AVERY: I will. [LB224]

SENATOR SCHUMACHER: Thank you, Senator Avery. I think Senator Chambers alluded to the games that can be played with corporations, and the committee amendment seems a little unclear. Let's say you have a corporation that is not owned by any veterans. It then wants to get a state contract. So it sets up a subsidiary corporation in which it has 50 percent of the vote. In fact, under the...or excuse me, 49 percent of vote. And then it enters into an agreement with a number of veterans to hold the 51 percent with the understanding that they're simply going to hold that stock and they will get a director fee or something like that. Does that operate to qualify them as...for preference under this? [LB224]

SENATOR AVERY: I would say no. If you go to the amendment you will see that the language says "who owns and controls a business." So I would suspect that those people you were talking about would not control. [LB224]

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SENATOR SCHUMACHER: Well, they're legally in control. They have 51 percent of it. So the fact that they agree to be influenced by somebody else, how do we begin to control what influences a shareholder of a corporation? [LB224]

SENATOR AVERY: If you go on down in the amendment, you'll see language there it says, "(B) the management and daily business operations of which are controlled by one or more individuals described in subdivision (i)," which is the definition of resident disabled veteran. [LB224]

SENATOR SCHUMACHER: So we take one of the disabled veterans and make him the executive vice president, and that's one or more. [LB224]

SENATOR AVERY: I would say in that case you probably would qualify. [LB224]

SENATOR SCHUMACHER: Right. So, I mean, this committee definition seems to have to be tightened up quite a bit. The intentions here are really good, but the clarity that it gives to a statute and to understand what it means would seem to me to be just inviting litigation. And then we've got this killer clause in the original law that we're dealing with, as Senator Chambers pointed out, that says a contract that's entered into, not in compliance with something we don't understand for sure, shall be null and void. And that seems to be a lawyer's paradise also. If the contract amounts to anything, it seems to invite litigation. This is a bill full of good intentions. But I don't know if it's possible to work out these bugs between now and the end of the session, and now and Select File. Thank you, Mr. President. [LB224]

SENATOR CARLSON: Thank you, Senator Schumacher and Senator Avery. And now I see no other senators wishing to speak. Senator Avery, you are recognized to close on AM711. [LB224]

SENATOR AVERY: Thank you, Mr. President. I would simply point out that what we have done here in this amendment is apply federal law and federal definitions as to what is a qualifying business and adding clarity to existing law as to what is a disabled resident veteran. And if we want to, over the period of time from General to Select, try to redefine or to clarify what we mean by ownership of corporations, we can do that. We're certainly willing to work on it. But I'm just telling you that what we'll be doing is we'll be going way beyond what is in federal law when we do that. I think that we've had some good ideas and questions raised about ambiguities and some definitional lack of clarity, I suppose, that we will work on between now and Select File if you decide to advance it. And I hope that you will do that with this amendment, AM711. Thank you, Mr. President. [LB224]

SENATOR CARLSON: Thank you, Senator Avery. Members, you've heard the closing. The question is, shall AM711 be adopted? All those in favor vote yea; all opposed vote

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nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB224]

CLERK: 31 ayes, 2 nays, Mr. President, on the adoption of committee amendments. [LB224]

SENATOR CARLSON: AM711 is adopted. We return now to debate on the underlying bill LB224. Are there senators wishing to speak? Seeing none, Senator Janssen, you're recognized to close. [LB224]

SENATOR JANSSEN: Thank you. And thank you for the vote on the amendment. Obviously, we've got work to do on this and we've got to do it fairly quickly. Any time you have Senators Schumacher and Chambers voting against your bill, you've got work to do; so we're going to get that work done on Select. And I appreciate the green vote. Thank you. [LB224]

SENATOR CARLSON: Thank you. You've heard the closing on LB224. The question is, shall it be advanced to E&R Initial? All those in favor vote yea; all opposed vote nay. Record, Mr. Clerk. [LB224]

CLERK: 32 ayes, 1 nay, Mr. President, on the advancement of LB224. [LB224]

SENATOR CARLSON: LB224 does advance. Mr. Clerk, next item. [LB224]

CLERK: Mr. President, on LB348, a bill introduced by Senator Harr. (Read title.) The bill was introduced on January 18, referred to the Revenue Committee for a public hearing. The bill was advanced to General File. I do have Revenue Committee amendments pending. (AM642, Legislative Journal page 756.) [LB348]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Harr, you're recognized to open on LB348. [LB348]

SENATOR HARR: Thank you, Mr. President, members of the body. LB348 proposes to amend the Nebraska Revised Statute 77-1333 to require the use of the income approach in the valuation for property tax purposes of rent-restricted housing developments constructed and financed in whole or in part with an allocation of federal low-income housing tax credits under Section 42 of the Internal Revenue Code. Currently, Nebraska law requires county assessors to perform an income-based real estate valuation on this property, but does not require the county assessors to use this income-based valuation methodology. This has resulted in similar projects in various counties having real property valuations differing in assessed values by in excess of 400 percent, thus creating a situation where the desired uniformity of valuation among projects in this unique class of federally designated rent-restricted residential structures is not present. I think we all agree safe, decent, and affordable housing is a public policy

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priority in the Legislature in Nebraska. As a matter of fact, the Legislature...we, the Legislature, have previously recognized the legitimate state interest in providing affordable housing in Nebraska. The Nebraska Affordable Housing Act states current economic conditions, lack of available affordable housing, federal housing policies have placed an increased burden on the state, and declining resources at all levels of government adversely affect the ability of Nebraska's citizens to obtain safe, decent, and affordable housing. Lack of affordable housing also affects the ability of communities to maintain and to develop viable and stable economies. Furthermore, the Legislature finds the impediments exist to the construction and rehabilitation of affordable housing. Local codes and state statutes have an important effect on housing affordability by placing increased costs on developers. Financing affordable housing, especially in rural areas and smaller communities, is becoming increasingly difficult. To enhance the economic development of the state and to provide for the general prosperity of all Nebraska's citizens, it is in the public interest to assist in the provision of safe, decent, and affordable housing in all areas of the state; and that comes from Nebraska Revised Statute 58-702. Nebraska is not alone in finding a compelling public purpose in providing affordable housing options to its citizens. Nationwide, numerous legal decisions have addressed the existence of a legitimate state interest or purpose in ensuring the existence and sustainability of affordable housing. These properties are differently situated and their circumstances are unique, reasonably calling for a distinctive legislation for this act. In order to qualify for the federal tax credit, these properties must be both income restricted, meaning the units can only be rented to persons at or below a certain income level, and rent restricted, meaning the rents charged for the units are fixed at an affordable level. At a minimum, these properties must either (a) rent at least 40 percent of its units to persons and families earning 60 percent or less of a median income, or (b) rent at least 20 percent of its units to persons or families earning 50 percent or less of the area median income; and that goes back to the IRS Section 42(g)(1). To satisfy rent restriction requirements, the government gross rent charged with respect to any low-income unit cannot exceed 30 percent of the imputed income limitations applicable to such units. It is important to note that this gross rent amount includes utility payments. As a practical matter, this further reduces the rental income actually received by these properties. The income restrictions substantially limit the pool of potential tenants, and the rent restrictions fix the amount of income a property can generate. The income and rent restrictions are enforced through not only by the IRS through audits and rent restrictions and recapture of the federal tax credits, but also the Nebraska Investment Finance Authority--NIFA, and the tenants themselves. In addition, all properties are subject to land use agreements, also known as LURAs, which are recorded against the property in the county of location. The LURA ensures that the income and rent restrictions run with the property and thus cannot be circumvented via sale or disposition of the property. The terms of the LURA run from 30 to 45 years. In light of the forgoing income and rent restrictions imposed on the properties by federal law, it is evident the properties are substantially different in situation and circumstance from other real property, justifying this Legislature's

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recognition as proposed in LB348 of this distinctive classification and establishment of a uniform valuation methodology consistent with the requirements cited in case law. This...and that's my opening. I'm going to go on. There are three types of valuation. There's income; there's comparable sale; and there's market. There are so few of these types of properties out there that it's very difficult to do anything other than income based. We have been...I have been working with the administration, with NACO, and with the industry that does this type of housing, and we are in agreement to a large extent. And I'll be honest, there's still a section where we do not agree and that has to deal with the tax credits from year one to year ten on what is the proper valuation of those federal tax credits. I have worked, as I said, with NACO and with the administration, and we all want to come to a resolution. I would ask that you advance this to Select and I would not push it any further until we have a chance to sit down, all the parties, and to work out a further agreement as to the proper valuation of those tax credits from year one to year ten. I think we're all in agreement on how to value the property after year ten, definitely year 15 to year 35; but there is somewhat of an issue...yeah, I'll say year one to ten was where the issue is. And so with that I would ask that you advance LB348 with the amendments you're going to hear about from the committee; and I would be more than willing to answer any questions after that. Thank you. [LB348]

SENATOR CARLSON: Thank you, Senator Harr. As the Clerk mentioned, there are committee amendments. And Senator Hadley, as Chair of the Revenue Committee, you're recognized to open on AM642. [LB348]

SENATOR HADLEY: Mr. President and members of the body, this was voted out of the Revenue Committee. Basically, the amendment by the Revenue Committee specifies that the county assessor shall use the income method for determining valuation. From a standpoint of value and asset, one of the ways that you can value an asset is to take the future stream of incomes and you discount them at a discount rate and that gives you the value of the asset. And basically what the amendment says is that's the method that county assessors shall use because of the problem of finding equivalent sales to use to value these types of properties. We also went on and said that the capitalization rate, which is used to find the value, will be set up by the NIFA; and NIFA will use a market-derived rate to determine the capitalization rate. In essence, you take the income off of a property, divide it by the capitalization rate, and that gives you the value of the property. We have to take into account the tax credits available when we're doing this procedure. If there are counties or groups of counties that are unique, we allow for NIFA to use a separate capitalization rate for any of those particular counties. Thank you, Mr. President. [LB348]

SENATOR CARLSON: Thank you, Senator Hadley. Mr. Clerk for an amendment. [LB348]

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CLERK: Mr. President, I do have an amendment filed. Senator McCoy had offered AM1248; but, Senator, I have a note you wish to withdraw. [LB348]

SENATOR CARLSON: So ordered. Senators, you've heard the opening on LB348 and AM642. The floor is now open for debate. Senators wishing to speak include Ashford, Price, Chambers, and Schumacher. Senator Ashford, you're recognized. [LB348]

SENATOR ASHFORD: Are they actually...am I up or do you have an amendment? Okay, do you want me to proceed or do you have an amendment? [LB348]

SENATOR CARLSON: Mr. Clerk, do we have a priority amendment? [LB348]

CLERK: We do, Mr. President. Senator Chambers would move to bracket LB348 until June 5, 2013. [LB348]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Chambers, you're recognized to open on your motion. [LB348]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature and Senator Harr, this is a bill which cannot be properly processed, in my view, this session of the Legislature. I did not tell Senator Harr what I intended to do, but in view of what the agenda looks like it's going to be, if I can carry this bill until noon, then I will have done a service even to Senator Harr, which he may not recognize. But it's one of those bills which has complexities beyond what might be immediately evident from reading the language of the bill. Just to have an adequate explanation of these different methodologies that are discussed and weighing one against the other would take more time than we have, so I'm going to take my ten minutes on the bill. And before I do all that I owe it to Senator Harr to ask him a question or two. [LB348]

SENATOR CARLSON: Senator Harr, would you yield? [LB348]

SENATOR HARR: Yes. [LB348]

SENATOR CHAMBERS: Senator Harr, and this is a question...a statement in the form of a question. This motion does not give you heartburn, does it? [LB348]

SENATOR HARR: A little bit but not completely, no. [LB348]

SENATOR CHAMBERS: Right. And if it takes us to the time that we recess today, it is not a surprise to you that that would happen, is it? [LB348]

SENATOR HARR: Not a surprise, no. [LB348]

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SENATOR CHAMBERS: Senator Harr, if you're anything you're a realist, correct? [LB348]

SENATOR HARR: I try to be. [LB348]

SENATOR CHAMBERS: You are a pragmatic, correct? You're practical, correct? [LB348]

SENATOR HARR: I try to be, yes. [LB348]

SENATOR CHAMBERS: And for one who is realistic, pragmatic, and practical, it would not surprise you to know that this bill won't go anywhere this session, correct? [LB348]

SENATOR HARR: I don't want it to go to the finish line this session. [LB348]

SENATOR CHAMBERS: You don't want it to go anywhere this session? [LB348]

SENATOR HARR: I want it to park at Select and be done there, yes. [LB348]

SENATOR CHAMBERS: I didn't understand you. [LB348]

SENATOR HARR: I'm sorry. I want it to go to Select and then go no further; yes, that is correct. [LB348]

SENATOR CHAMBERS: So are you going to thank me for what I'm doing in case what you said was garbled and I didn't hear it all; but you appreciate what I'm doing, is that correct? [LB348]

SENATOR HARR: Well, again I'd like to see this bill go to Select, but once it's at Select I have no intention to move it any further this year; that is correct. [LB348]

SENATOR CHAMBERS: Okay. And members of the Legislature, I have no intention that it go to Select this year. There are too many bills that are really of substance which cannot be properly processed on General File and it will be allowed to move. I think that last bill fit into that category. I didn't detect a lot of opposition to the concept of the bill, but I will tell you this: If that bill is an attempt...if there is an attempt to move that bill forward in the condition or substantially the condition it's in now, I will fight against it. Memorial Day and anything else means nothing to me. The flag means nothing to me. Your pledging allegiance to the flag every Monday morning means nothing to me. What would mean a lot more is if we would spend time looking at how veterans are treated in VA hospitals. That would mean something to me and catch my attention, not just something to encourage veterans into an area where they might can make a living. Those who are in hospitals and cannot look after their own interests should not have to

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worry about getting proper care and treatment. They should at least have peace of mind about the fact that they're going to be accorded the feeling of human decency and dignity by all who work with that veteran. Some of you may not have ever dealt with anybody who was in a veterans hospital as a patient. All of this talk of being concerned about veterans means nothing. When was the last time anybody visited a veterans hospital to see what was going on in there? I get calls from veterans. I'm not with the state veterans department or whatever it's called. People can't get their false teeth taken care of; they can't get a timely appointment; they can't get to the hospital. I can't drive people to the hospital. I'm not a doctor. I'm not a psychiatrist. I'm not a psychologist. And I'm not everybody's father. But if all of these people who want to put endorsements on driver's license, notations on license plates which show a genuine interest for those people who are living now, and they don't have to be heroes because not everybody in the military is a hero and they'd be the first ones to tell you that. A lot of people join the army, just like I did, to get it out of the way so you can do something else. And this talk of trying to make everybody a hero debases the term "hero." It takes more than just making it through the military to be a hero. But if that's what you genuinely believe, there should be people watching these VA hospitals like they run around these abortion clinics and hound and harass women and their families who want an abortion. You've got time for that, but you don't have time to go walk around the VA hospital to make sure that the veterans there are going to get proper treatment. So if this bill that we just got through talking about does not meet the standard I think it should meet, I'm going to fight it and stop it, because if it's not in compliance with the law and you plugged it into existing law, any contract given to one of these veterans is null and void anyway. All this feel-good stuff has to go out the window, and there should be more people like me in the Legislature so I don't have to be one to do this on every issue and people can just sit back and say something ought to be done about it and Ernie will do it because he can take it--not can but will. My job is what it is whether anybody else does his or her job or not. If I'm the only one in this body doing that which I think is right, then I'm the only one with that obligation. Nobody else has a conscience that tells him or her you should be concerned about this, you should do that. Well, follow your conscience. But it seems to me that somewhere along the line our consciences are going to be in lockstep and the pain that somebody else suffers that bothers me might trouble you enough to make you stand on your feet and say something. We are not just a debating society. We have power. We have the means to do something. We can bind up the wounds. We can heal the brokenhearted. We can provide the care for people who get it no place else. That is us. There was a comic strip called "Pogo," and one strip said, "We has met the enemy and he is us." We, whether you like it or not, whether you think this is blasphemous or not, we are Jesus Christ. We have the power to feed the hungry, to see that the sick are taken care of, to provide shelter for the homeless. We can do it. Now if you all don't feel that way, then you're going to be uncomfortable during the times in the Legislature that you are here and I am here. I know what my job is. I can't make any of you all do anything. I can try to persuade you that what I say is right, then try to convince you to do something about it. But whether you do or not, the

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same condemnation I put on you would go double for me, because I have eyes to see with and you are blind. You don't see it. So how can you be expected to do anything about that which you don't see? But if I who can see clearly will turn my eyes away, then I should be condemned and I should be punished if there's punishment for a person like that. So I'm going to follow my conscience and I'm going to follow my mind. My mind says Senator Harr's bill should go no further and my conscience tells me it would be good for us to help these veterans, but it's overbalanced by my mind which says if we don't do it correctly,... [LB348]

SENATOR CARLSON: One minute. [LB348]

SENATOR CHAMBERS: ...we are making a bad situation worse because we're dangling the carrot once again and there's nothing behind it except momentary and temporary good intentions. Why would we not make medical care available for veterans because some fool out there thinks we're trying to trick somebody into expanding Medicaid? And even if we were, so what? Isn't it right that the veterans should have access to medical care? Isn't that important? That's right now for all of them who need it. The bill as its written may work for some, may not, and probably won't do anything other than what Senator Janssen said: encourage people to bid. Thank you, Mr. President. [LB348]

SENATOR CARLSON: Thank you, Senator Chambers. Mr. Clerk for announcements. [LB348]

CLERK: Mr. President, Enrollment and Review reports LB255 and LB90 to Select File. I have an explanation of vote from Senator Kolowski (re LB66, LB140, LB341, LB410, LB497, LB563, and LB623). New resolution, LR358 by Senator Smith. That's a resolution that will be laid over at this time. Amendments to be printed: Senator Schumacher to LB613, Senator Schilz to LB104. I have a name add: Senator Price would like to add his name to LB224 as cointroducer. (Legislative Journal pages 1613-1615.) [LB255 LB90 LB66 LB140 LB341 LB410 LB497 LB563 LB623 LR358 LB613 LB104 LB224]

And Mr. President, a priority motion. Senator Murante would move to recess the body until 1:30 p.m.

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, nay. We are recessed until 1:30.

RECESS

SPEAKER ADAMS PRESIDING

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SPEAKER ADAMS: 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. Record, Mr. Clerk.

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

SPEAKER ADAMS: Are there items for the record?

CLERK: I have one item, Mr. President. Senator McGill would like to print an amendment to LB255. That's all that I have. (Legislative Journal page 1616.) [LB255]

SPEAKER ADAMS: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR203, LR204, LR217, LR220, LR225, LR229, LR230, LR231, LR249, LR301, LR308, LR310, LR311, and LR346. Mr. Clerk, we'll proceed to the first item. [LR203 LR204 LR217 LR220 LR225 LR229 LR230 LR231 LR249 LR301 LR308 LR310 LR311 LR346]

CLERK: Mr. President, pursuant to the Speaker's agenda, consideration of overrides with respect to Governor's vetoes and line-item vetoes is before us. Senator Mello, as Chair of the Appropriations and consistent with Rule 6, Section 14 offers a series of reports. Mr. President, with respect to LB195, Senator Mello, as Chair of the Appropriations Committee, would move that certain items, line item veto in that bill become law notwithstanding the objections of the Governor. I might indicate to the membership, Mr. President, that the listing of the line items the committee has proposed to override are...can be found on your desk. [LB195]

SPEAKER ADAMS: Senator Mello, as Chair of the Appropriations Committee, you are recognized to open on the motion to override on LB195. [LB195]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. The motion to override LB195 would override a number of the Governor's line-item vetoes in the mainline budget bill, LB195. Pursuant to Rule 6, Section 14, the Appropriations Committee met this morning to review each of the vetoed items and recommend whether any or all of the line-item vetoes should be overridden. The motion before you contains a number of items in the mainline budget bill which the committee has recommended to be overridden by a majority vote of the committee on each item. These items are listed in the order that they appear in the mainline budget bill; and as the Clerk mentioned, there is a copy of the actual motion on your desk, as well as a document that lists the overrides and the vetoes that were not overridden by the committee also on your desk. First the motion...first the motion would override the veto of General Fund Appropriations in the Supreme Court for court-appointed special advocate aid and additional salary increases for the county court employees. These two budget items were both part of the same program so the body has the option to only

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override both or not to override one or the other. The committee did not, however, recommend an override of the funding for increased probation salaries which is also included in the Supreme Court budget. Second, the motion would override the reduction of aid for the Learning Community. As the body discussed at length during General File debate on the budget reducing the amount of aid could potentially force the Learning Community to shift aid funding from important programs like early childhood education to operations in their operating budget. Third, the motion would override the veto of funding for a dental health director in the Department of Health and Human Services. When the General Fund appropriations for this position was eliminated in 2009 during the special session, the department lost out on federal grant funding for this program and other dental health programs. Without state funding for a dental health director, the agency will be unable to receive these federal funds. It should also be noted that this position is laid out in state statute as a position to be funded. The motion would also override the veto of cash from Appropriations to the Homeless Shelter Assistance Fund, the Affordable Housing Trust Fund, and Legal Aid and Services Fund. Because of the economic conditions at the time, the Appropriations Committee transferred a bulk of the funds the state received from the National Mortgage Settlement last year into the Cash Reserve Fund instead of using these funds for housing purposes. Rather than transferring these dollars out of the Cash Reserve Fund, the committee instead chose to transfer a much smaller amount of funds from the Securities Act Cash Fund rather than have General Fund impact for these onetime cash transfers that were intended to assist with the mortgage and housing crisis our state just went through. The motion also would override the veto funding for dental health services at the state's six federally qualified health centers. Lack of access to dental services has been specifically identified by our community health centers as a gap in vital services for low-income Nebraskans. The motion would also override the reduction of public transit aid for local mass transit authorities. The Public Transportation Assistance Program was first established in 1975 to support public transit with an emphasis on meeting the needs of the elderly and the handicapped. The program is designed to fully fund aid requests from rural transit systems first and then prorate the remaining funds between the Omaha Metro Transit and the Lincoln Star Tran Authority. As a result of the distribution method, Omaha and Lincoln transit systems have received a smaller and smaller portion of aid as the costs of funding rural systems have increased, but the funding available has remained consistent and, actually, over the last few years has been reduced. For example, the proportion of transit funding received by Omaha and Lincoln has fallen from 55 percent in fiscal year 2008 to 39 percent in fiscal year 2012. Finally, the motion would also override the veto of funding to restore a data analyst position and the Coordinating Commission for Postsecondary Education. Funding for this position was eliminated as a cumulative result of budget reductions imposed over the last two biennial budget cycles. As evidenced by the Governor's veto message, there is significant agreement between the Appropriations Committee, the Legislature, and the Governor in regards to the overall state budget. Line items vetoed by the Governor represent just \$44.6 million of the overall budget of which \$7.8 million were General

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Funds. The items included in the Appropriations Committee override motion are those which the committee feels represent important priorities both of the committee, as well as the entire Legislature as we discussed on General, Select and Final Reading. With that said, a little bit further documentation as we move along LB195, LB198, and LB199, roughly if you add up the motions line items that the committee chose to override the Governor on, the committee, ultimately, chose to override on slightly more than half of the number of line-item vetoes the Governor issued. Roughly equating about 33 percent of the funding that the Governor totally vetoed out of all of the mainline bills, capital construction, and, ultimately, the cash transfer bill, LB199 and the deficit bill in LB194. With that I'd urge the body to adopt the committee's report in LB195. Thank you, Mr. President. [LB195 LB198 LB199]

SPEAKER ADAMS: Thank you, Senator Mello. Members, you have heard the opening on the motion. Senator Nordquist, you're next in the queue. [LB195]

SENATOR NORDQUIST: Thank you, Mr. President and members. I rise in support of the committee's recommendation, the Appropriations Committee recommendation. And while it didn't turn out exactly as...every issue...issue by issue that I had hoped one way or the other, I think it is a package that reflects the will of the majority of the committee. I do think Senator Mello made a very pertinent point there about the total amounts that were overriding. The Governor was clear in his message, veto message, that he was vetoing about \$44 million or \$45 million worth of spending items. And the Appropriations Committee is recommending to you to restore about \$14.5 million of that, or less than a third of the dollar amount that the Governor vetoed. So I think it is a reasonable package. I think it is right that the Legislature should have the final say here in these spending items. There's one issue in particular that I want to zero in on, partly because of the Governor's veto message on it. And that is related to the transit aid, and Senator Mello gave a nice history of that. I just want to talk about some of the numbers here. First of all, the Governor said we need to spend that...we need to spent that money on roads. Well, the Governor recommended \$421 million in fiscal year '14 for the Highway Construction Program for road construction. The Legislature's budget has \$447 million, or \$26 million more in fiscal year '14 than the Governor's budget. In fiscal year '15, the Governor recommended \$433 million; the Legislature recommended \$448 million, or \$15 million more. So over the total of the biennium, we're looking at about \$41 million total more in the Highway Construction Program under the Appropriations Committee's recommendation and the budget that the Legislature as a whole adopted over what the Governor had in his budget recommendations. So I do think the committee, certainly, was aware and is aware of the needs of road construction throughout our state and made that a priority inside the Department of Roads budget. One of the areas where we were able to fund the transit as we...after review, we didn't think the need for one...one example was the buildings for the Department of Roads, they ask for \$7 million for buildings for their maintenance buildings across the state; we gave them \$5 million instead of \$7 million. That freed up the money to go to the transit dollars. The way the

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transit dollars work is the rural needs are met first and then the remaining share gets divvied up between Omaha and Lincoln based on a breakdown. Well, we know that we have an aging population in rural Nebraska and needs out there are growing. But our pot of money for public transit across the state has actually...was high point in 2007 and has actually dwindled a little bit since that point. So as the rural needs have gone up, and the total funding share has gone down, the pot for the urban centers in the state, which also provide, you know, handi-van, or MOBY it's called in Omaha, services for seniors in addition to bus transit, that amount of money has dwindled for our two largest cities. In fiscal year 2008, Omaha and Lincoln shared about 54 to 55 percent of the total pot of transit aid in the state. Now they're sharing...even though the pot has gone down a little bit, they're sharing only 39 percent. [LB195]

SPEAKER ADAMS: One minute. [LB195]

SENATOR NORDQUIST: They're sharing a lower percent of a smaller pot. This \$2 million infusion is exactly what we need to continue to meet the needs in rural Nebraska, but also make sure that we're meeting public transit needs both for seniors and for people who rely on public transit to be a part of our state's economy, making sure that we can meet all of those needs. And that's why the Appropriations Committee decided strongly to recommend the restoration of that \$2 million for public transit. If anyone is interest in seeing a printout of where these dollars go in communities and the ridership, the passengers using them in every community across the state that gets the dollars, I have that available; I'm not going to distribute it on the floor, but it is at my desk if anyone is interested. Thank you, Mr. President. [LB195]

SPEAKER ADAMS: Thank you, Senator Nordquist. Senator Krist, you're recognized. [LB195]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues and Nebraska. I want to thank the Appropriations Committee for their hard work and I know you were at it all morning because you weren't here for the morning debate. It's obvious that you've carefully gone through the items that you'd like us to reconsider. And I have to say that I've been a bit inundated with number 3, Section 93, Department of Health and Human Services Program 33, administration for the General Fund appropriations of an addition of a dental health director. Colleagues, I've been aware for the last few years because of my membership on the Health and Human Services Committee and then this year as the Vice Chair. This position has been unfilled primarily because they could not get a dentist to come forward and take it without the guarantee of the funds to fill the position. So I'm reminded of Yossarian and Catch-22; do you fund it and then you get somebody in; you can't get somebody in unless it's funded. You know, you can't bet a nickel. I'm a little...I'm very supportive, I think, of the override here...not I think, I know, because I think this position is critical. I know personally, and I wish you, if you wanted to have some verification, to get ahold of...the credible source, if it's not me, we missed

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a \$400 and...I think it was a \$460,000 grant from the federal government because we don't have that position filled. So when you look at the dollars and cents, I believe that the override in this case would create the position...it would fill the position and it would create the opportunity to attract that money from the federal government. And I know that's not necessarily the goal of many people in the body; but it's true and it adds to the total health of Nebraskans. The other one I'm very concerned about that was not brought up by the Appropriations Committee is not funding the additional position at the Foster Care Review Office. Now I don't intend to put an amendment forward to line item override on this one. I don't think it is significant right now, but I would like to establish a legislative record here today that once we find out what the move from the OJS population to probation and a few of the other things that are happening and the data collection effort that we are...been trying to consolidate and bring more data that is "queriable" in the system. By that I mean, when a judge sees a young person who comes forward to him, where has that person been? And in this current system does not allow us to query in real time data and get that information. The Foster Care Review Office is one of the critical links to make that happen. So I'd like to establish a legislative record today saying, if we need this, it will come back in the very early hours of the 2014 with an E clause on it, because I think in the next six months we will be able to establish the intent in the legislative record to have this position filled. So although I understand the Governor's attempt to try to hold down the budget, and although I...at this point I will not register a complaint against it or a line item veto request...override request, I would put it now in the record that this position needs to be carefully tracked and I'll point that... [LB195]

SPEAKER ADAMS: One minute. [LB195]

SENATOR KRIST: ...out to the office to also justify that so we can look at it at the beginning of the year. With that, again, I want to thank the Appropriations Committee for their heart filled and energetic look at the override efforts and the efforts that they have made. Thank you, Mr. President. [LB195]

SPEAKER ADAMS: Thank you, Senator Krist. Senator McGill, you're recognized. [LB195]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I stand in support of this override motion and am rising to talk a little bit about CASA, this was my bill initially, LB126, and how important it is for our state moving forward with our foster care reform. I share some of the same concerns that Senator Krist has in terms of...well, both issues he brought up, but particularly with the Foster Care Review Office. But at the end of the day, I think funding directly to CASA, you know, can have the biggest impact immediately. Two years ago, as we were crafting our budget, we decided to put some money into the CASA Program, \$100,000 in the first year and \$200,000 in the second, and what the Governor vetoed was \$200,000 in each year. But the numbers, when it

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comes to CASA, and how successful it is and keeping our kids...well, preventing them from being in the system longer than they need to be are undeniable. Some of the statistics from the hearing we had on this bill said a child served by a CASA volunteer spends on average four to five months fewer in care than a foster child without a CASA volunteer. If every child had a CASA volunteer that reduced time and care is estimated at \$12.5 million per month, which is \$500...or \$50 million to \$60 million annually. This is based on 2009 statistics and really is only looking at the cost of housing the foster child, not to mention all the other elements that go around these youth. There are fewer placement changes. I mean, for those who aren't familiar with court appointed special advocates, they are one on one helping the youth navigate the system, forming lifelong bonds, many of them, you know, as the youth grow up and age out of the system, their CASA volunteer is that adult figure that surrounds them with love and support that they need moving forward. But not even half of the youth who need a CASA volunteer would be eligible are actually getting them. With the good work we've done, we've been able to increase the number of kids over the last couple of years that have a CASA by over 150 youth and we've increased the number of volunteers likewise by over a hundred to about 122 additional. And we are now in a variety of counties throughout our state. I believe the number is 37 counties being served by 22 different organizations. So some of them band together. And what we've seen is, you know, over the last couple of years, some of those current existing CASA agencies have been able to expand into new counties meaning they're serving more youth and getting out there. And the use of this new grant funding would continue that effort to get CASA into more counties where this program is needed. I mean, even in the 37 where the program currently exists, there is still 1,600 kids that don't have a CASA volunteer. So there's a long way to go. They do a great job of raising their own money as well. But considering the way our system has been failing, our guardian ad litem system is not nearly as strong as it should be in terms of having the time and effort to get to know the young people that they're working with. CASA volunteers have really stepped up and filled that void and done a great job at it. They've used the money that we allotted them two years ago very wisely to expand their programming, to expand the number youth in this program. I deeply believe that they deserve this funding moving forward. And to continue to try to improve their efforts and improve their effectiveness they are doing a study with UNO to continue to look at the effectiveness of their programming so that they can tweak it as years go on and to prove to us that they're continuing to spend this money wisely. So I rise in support, specifically, to talk about that, but in general to support this motion to override. Thank you, Mr. President. [LB195 LB126]

SPEAKER ADAMS: Thank you, Senator McGill. Senator Avery, you're recognized.
[LB195]

SENATOR AVERY: Thank you, Mr. President. I am going to speak on a couple of things, maybe more if I have time. I believe that the committee has done a very good job of going through an unusually large number of vetoes and recommending to us the

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ones that are most in need of restoration. I want to talk briefly about CASA; I know that Senator McGill just spoke about that, but this is an important program. In 2011, 561 CASA volunteers advocated for over 1,200 of Nebraska's abused and neglected children. Currently, there are more than 1,300 kids assigned to CASA volunteers and there are over 4,300 kids currently in the foster care system. CASA volunteers are important to the well being of our children and to the social safety net that we provide. They provide a child with stability in a sea of change. They are vital to the judicial process. Cases involving a CASA volunteer are more likely to be permanently closed. Fewer than 10 percent of children with a CASA volunteer reenter the foster care system. That's impressive. They are a well-run organization. They only use about \$10,000 for administrative purposes. Twenty-two local CASA programs are currently serving 36 counties in Nebraska with 634 volunteers statewide. We've had this program for over 25 years and we must fund it. I'm also in strong support of the recommendation that funding be restored for the Learning Community. Not everybody in this body, of course, is as enamored with the Learning Community as I am. I see it as a new concept in Nebraska K-12 education. I was a part of the Legislature when we created that back in 2007. It was and is a very...potentially a very significant part of solving the achievement gap in the metro area. Approximately \$1.3 million go into this each year. The Learning Community is designed to bring the counties of Sarpy and Douglas together under one administrative umbrella. The passage of LB585 this year is a classic example of how two sides who don't agree can, in fact, in the spirit of compromise work together and find some common ground. I see Senator Murante looking at me with great interest because he's wondering what I'm going to say next. It is, of course, a work in progress. We can't judge it yet until this has had more time to work. I wholeheartedly endorse the decision to restore that funding. Also important is a large item, \$2.5 million in the Affordable Housing Trust Fund. This is a part of the Department of Economic Development. They awarded over \$90 million to create 4,800 housing units in Nebraska. In addition, we have approximately 6,300 jobs that have been created as a result of these trust funds. [LB195 LB585]

SPEAKER ADAMS: One minute. [LB195]

SENATOR AVERY: This amounts...the projects that have come through that fund have been significant. NeighborWorks here in Lincoln has used trust fund monies for down payments on helping people own homes, for new construction, and we've used trust funds for purchase rehab and resale. This is a worthy fund that should be restored. I have some other things that I want to say, but how much time do I have, Mr. President? [LB195]

SPEAKER ADAMS: Thirty seconds. [LB195]

SENATOR AVERY: Thirty seconds. Let me speak briefly about the Homeless Shelter Assistance Fund. This too is a worthy program. It awarded over \$90 million to create

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about 4,800 housing units in Nebraska. And this works together with the fund that I was just talking about, the Affordable Housing Trust Fund. Together they are important and should be preserved. [LB195]

SPEAKER ADAMS: Time, Senator. [LB195]

SENATOR AVERY: I urge your support. Thank you, Mr. President. [LB195]

SPEAKER ADAMS: Senator Harms, you're recognized. [LB195]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of the override of the Governor's line-item vetoes that we have identified for you. Let me take just a few minutes and then we'll try to walk through some of the issues that we have dealt with. When we built this budget, colleagues, we spent a great deal of time and effort going over all of these. We got all the hearings, after the hearings, and you were through with your committee work, we continued to work. We submitted a budget to you for approval that was, I think, pretty conservative. And I was very proud of what we accomplished, that we submitted it, you approved it, a lot of debate, good debate on this floor which I think is healthy. And we submitted it for approval of the Governor, and the Governor has chosen to veto some of these different line items. Now you have to understand that we also today went over every one of these vetoes, we discussed them, we debated them, and we voted. No, not everything is unanimous, but majority rules and that's where we are, colleagues. Let me spend just a few moments if I can to focus on a couple of issues that might get away from us. And one is the Coordinating Commission. The Governor did veto that particular line item and I take objections to that. The Coordinating Commission has been given each year more responsibilities. It started in 1992-93; they had 11 people. They peaked out in around '01-'02 at 13. And now they're down to, this last year, 10.1, and this year, 10.5. We have given them additional responsibilities as this goes along. In with LB342, we asked them to gather more information, analyze that data and verify the validity of that data for the community colleges in 2007. We passed LB192, that's the A Scholarship Program, in 2007-08. That program has grown unbelievably. It's been highly successful, but it's a time-burdened process they have to go through. We also asked them in 2010 to do supplemental reporting for DAS. We've also asked for them to administer the Community College Act in 2012. We have also asked them in 2013 to administer and distribute community college state aid. Colleagues, the position that we're asking to be refilled they need. I've been amazed that they've been able to do what they have done without some type of error or some type of failure. We're very fortunate with that and I would urge you to support that aspect. I'd also like to talk just a moment about one of the items that was brought up and that's CASA. I support that very highly. In my community, in my region, CASA plays a very valuable role. In fact, when times are tough, CASA is the only one who came forward in my community and found where children fell through the cracks, where family got lost in the process. They interfaced, they interlocked with Health and

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Human Services. We cannot afford to let CASA fall short. We need the funding for CASA. We need the help for this program. It's critical for us, particularly in rural Nebraska. I can't speak about urban, but I know what it's like in rural Nebraska and how important that particular program is. Also I'd like to address a little bit about the dental services aid, as well as the Department of Health and Human Services dental health director. First of all, that director's position, as we heard earlier, has been unfilled for a few years. [LB195]

SPEAKER ADAMS: One minute. [LB195]

SENATOR HARMS: Thank you, Mr. President. We have lost federal aid, we have lost funding for that program because the simple fact is that we don't have a director. And it's important to have the directors so we can pursue further funding. Also, the actual aid that goes to the health...to the federally qualified health services, health centers, I think there are six of them spread out throughout Nebraska. If you talk to them, they'll tell you the dental services is the most critical thing they have in their center. They're overburdened with it. They can't even address all of the issues that they have. It's important for us to keep this funded appropriately; it's important for us to approve these...the overrides of the items that we're discussing today, colleagues. This is a good budget; it's a sound budget, and it takes us down the line of our priorities. Thank you, Mr. President. [LB195]

SPEAKER ADAMS: Thank you, Senator Harms. Senator Wightman, you're recognized. [LB195]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I rise in support of the position that has been taken, of course, by the Appropriations Committee. I think we thought this through pretty long this morning and there was a lot of compromise, to be frank with you. And I think that that compromise was pretty well thought out. I'm going down a few of the items. You know, there were three different ones that were taken out of...not General Funds cash funded. Item 1, and I'm not sure we have...everybody has the same sheet we do, but the Supreme Court special...CASA program, I know that's very important out in our county. We have...we probably have, and it surprises most people, about the highest minority population in the state of Nebraska. And in many instances those people would not be able to be represented without the aid of CASA. And it's been very important over the period of the last several years. Actually, we've been dealing as a county with almost the highest population of minorities in the entire state of Nebraska. So, I know that comes as a surprise to some people. The second item on that is...well, the first one is the CASA. Let me look and see if I can...I don't have all the information here I need, perhaps, but they...the second one would be the general dental health director...excuse me, the Homeless Shelter Assistant Fund appropriation of \$500,000. And the Legal Aid and Services Fund appropriation, and again using the Securities Act Cash Fund. All three of those, I think,

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are very important. They're important not only in Omaha and Lincoln, but they're very important outstate as well. I know a lot of outstate communities have had a lot of assistance to the funding of building projects out for low income residents. Another item is that dental health director is extremely important, I think, out...well, everywhere I think. I think it's very important...we have really not been getting the service we need to get out of that because we have not funded it. Also, the Local Authorities Mass Transit Aid, I think you'd be surprised how much of that gets to some of the communities outstate that have started a CASA program. And certainly Dawson County has been in that. But many, many other counties have been there as well. With regard to the Coordinating Commission for Postsecondary Education, I think that is very important. And throughout all of these, we took a separate issue...a separate vote on every issue that's included in this potential override, the ones that we're suggesting. But in all of the others as well, and these are the ones that ended up with enough votes to have them supported by the committee. [LB195]

SPEAKER ADAMS: One minute. [LB195]

SENATOR WIGHTMAN: So, I would say all of these are important and I certainly very easily have my commitment to all of those items that are listed and have been explained to you by the Chair. Thank you. [LB195]

SPEAKER ADAMS: Thank you, Senator Wightman. Senator Sullivan, you're recognized. [LB195]

SENATOR SULLIVAN: Thank you, Mr. President. Well, first of all, I thank the Appropriations Committee for their hard work. And I think they've presented us with a very reasonable response to the Governor's veto, and I support all their recommendations. But I'd like to talk specifically about the proposal to increase the salaries for the county court employees. We talk often in this body about the importance of our citizens having access to the judicial system. And I would like to tell you how that plays out in rural Nebraska and some of the challenges that go with it. Those county court employees are really the front line of the Nebraska court system in rural Nebraska. We know them in my neck of the woods as clerk magistrates. And I can't tell you the exact year, but previously, a number of years ago, these positions were funded at the county level but then ultimately taken over by the state. But they have continued to lag way behind in terms of compensation in salaries. So what they are presenting and what the Appropriations Committee is continuing to recommend is lifting them up, bring them up a little bit more. So we're not saying, I don't think, that it's going to be an annual, sizeable increase. They're just saying, now, as we're finally coming off these recessionary years, let's give a little bit more to these people who have really, as I said, been the front line. They are the front line of the court system in rural Nebraska. They are carrying an increasingly heavy load. They've seen their responsibilities, their workload increase, just simply because of the new laws and regulations, often that we

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load on them. But the other thing that's happening is the attrition rate. In the 8th District...the district that I represent...in District 41 there have been at least five clerk magistrates that have retired. None of them have been replaced by new employment. So you know what that means, that there are a few clerk magistrates that continue to carry that additional load. They've taken on additional responsibilities of...in other counties. That means additional travel. Certainly they use technology to the extent that they can, but there needs to be a live person in some of those situations. A one-person court takes care of additional counties or provides backup for another county. And what this means then, at the end of the day, if we don't give them this additional support via increase in salary, they'll continue to feel, quite frankly, undervalued. They certainly feel ignored. One of the clerk magistrates reminded me that five years ago, in 2008, when I was running for this position, I heard them express these concerns to me. And I told them, I'll try to do what I can to help you out. Well, this is my effort. It's taken me this long to reach this point. But we need to take advantage of this opportunity because, as I said, these people feel ignored, they've felt like they've been put on the back burner and, yet, they've done their very best to meet the responsibilities of the court system in rural Nebraska. So again, I support strongly the recommendations of the Appropriations Committee and hope that the body will follow as well. Thank you. [LB195]

SENATOR KRIST PRESIDING

SENATOR KRIST: Thank you, Senator Sullivan. Senator Campbell, you are recognized. [LB195]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. I think the Appropriations Committee did an extremely thoughtful job. As I explained to Senator Crawford this morning, not in my time here at the Legislature have we gone through what the Appropriations Committee has gone through. We didn't have any money, and so we didn't have very many vetoes and we didn't have a long list to take a look at. But this year, obviously and thankfully, our economy is changing and things are better. I want to add my voice to that of Senator Krist, mainly as a, "Colleagues, this is a heads up," in the sense that I fully understand why the Appropriations Committee did not include the Foster Care Review Office request and to tell you that, in the next six months, I expect that the Health and Human Services Committee will know a lot more about what's happening in the foster care area. We are in a period of transition. We certainly were not reviewing all of the youth before this cut was made and sustained. And so, even though the numbers may be decreasing, we still have a number of children and youth in that system. As Senator Krist indicated, we will be watching for the OJS transition and how that might fit in. And also, we are working with the advocacy centers all across the state to monitor the voluntary cases which, at some point, may come into the foster care arena. So we will try to do our best to get better information, and this request may be back on the docket. The last item I want to mention today is a question I have. And if you have your budget books, I'm on page 101. And one of the

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questions that I used to always pay attention to when I looked at budgets is, what did people actually spend? What were they requesting? And how then did we fill that? And I think Senator Mello was in the back of the room. Would he entertain a question, please? [LB195]

SENATOR KRIST: Senator Mello, will you yield? [LB195]

SENATOR MELLO: Yes. [LB195]

SENATOR CAMPBELL: Senator Mello, my question is, could you explain, sort of, how the transition or question with regard to the State Auditor, and in the sense of what that current year was spent, what the Governor proposed, and then the committee, and then you went back? And I have to tell you that in LR37 the State Auditor was a major, major partner and raised a lot of great issues for us in child welfare. Could you kind of explain how that transpired in the committee? [LB195]

SENATOR MELLO: I'll do my best, Senator Campbell. Essentially, the State Auditor provides his budget request to both the Governor, Department of Administrative Services' Budget Division, and to the Legislature's Legislative Fiscal Office, in which the Auditor requested a certain amount of increase for base...for, essentially, his base-level funding, as well as a salary adjustment. And there was a couple other items that he also put in his budget request to both the Governor and the Legislature. In the Governor's budget proposal, the Governor reduced his base-level funding by roughly that dollar amount you see on one of the handouts I gave you, roughly by about \$144,000 each of the next two fiscal years. The Appropriations Committee, after seeing the Governor's budget recommendations, ultimately approved, and this Legislature voted on multiple times, to appropriate money back up to his base level, the Auditor's base-level funding level,... [LB195]

SENATOR KRIST: One minute. [LB195]

SENATOR MELLO: ...as well as we incorporated a small salary adjustment that the Auditor requested so that he could keep senior-level auditors in his office and not let them leave to go to the private sector for auditing purposes. Ultimately, the Governor vetoed that...the changes that we made from where the Governor's proposal was, he decreased and line-item vetoed that base-level funding and the salary adjustment. The committee today met. Ultimately, we had discussions on different line items. That was one line item that the committee ultimately did not come to an agreement of wanting to make an action on. [LB195]

SENATOR CAMPBELL: Thank you, Senator Mello. I just...I would want to know whether at some point in the answering, whether he will have to now cut staff. [LB195]

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SENATOR MELLO: Senator Campbell, that is a good question. And I think the underlying issue is that's going to be left up to the Auditor in regards to how the Auditor manages his specific budget request. There was concern, he thought, that they would...they may have to either... [LB195]

SENATOR KRIST: Time, Senators. [LB195]

SENATOR MELLO: Thank you. [LB195]

SENATOR KRIST: Thank you, Senator Campbell and Senator Mello. Senator Nelson, you are recognized. [LB195]

SENATOR NELSON: Thank you, Mr. President, members of the body. I rise in support of the motion to override the ten line-item vetoes presented by our Chair. We put all of those under careful consideration and, even though I did not necessarily support all of them and did not vote for them, all of them passed by a majority and, therefore, I stand here in support of the committee's decision in that regard. Surprisingly, there has been a lot said about the State Dental Health Director by members of the committee. It's a relatively small item, all things considered, \$150,000 a year. But I was the sponsor of the bill, LB187, before the committee, and the committee approved the bill. I just want to point out, in addition to all the other things that have been said, that our statutes, 38-1149 and 38-1150, require that the position be filled with a licensed dentist. And for the last seven years that position has not been filled, even though it's authorized by statute, it hasn't been filled with any regularity. The reason we need a Dental Health Director is to expedite sound dental public health policies. And he or she works with the public health, the offices of rural health, and with Medicaid and directs resources where they are most needed. We also need to meet additional requirements, but the key is the funding. We have in the past, the department has requested grant funding and put those applications in, but have not received grant funding. And in fact, we lost out on about \$500,000 most recently, mainly for the real reason, or the most important reason, that we didn't have a Dental Director in place or hired and not funded. But I think probably the best I can do to describe how important this is, is to read a little bit of the testimony from Dr. Meeske, a pediatric dentist out in Hastings, very active. And she said...testified: The primary role of your State Dental Director is to prevent dental disease before it occurs; it's much easier than cheaper to keep our citizens free of disease than to spend more dollars; treatment of tooth decay is very expensive, costing taxpayers several million dollars a year in Medicaid items; this isn't to mention the pain and suffering many experience from the preventable disease, tooth decay; more specifically, the Chief Dental Officer spends a great deal of time working to prevent tooth decay before it occurs. And it goes on to say that he or she writes grants that, as I mentioned, we lost a fairly substantial grant. So in summary, this is what I'm speaking on at this time. I solicit your support to fund this. We need to get a practitioner hired to expedite these things that will result...in my mind, even though there are other things

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with a grant application, those can all be taken care of or modified to satisfy the health resources administration that has to okay the grants. And once we do that, I think we'll be in a good place. I will mention that a constituent of mine, Dr. Eric Hodges, a pediatric dentist in Omaha who contributes a great amount of his time free of charge, says that he has just seen some horrible cases of tooth decay in children... [LB195 LB187]

SENATOR KRIST: One minute. [LB195]

SENATOR NELSON: ...that are affecting their...or will affect their entire life, especially at school, and affects their future...future, let's put it that way, both as far as employment and health. So...and he, on behalf of the Dental Association, is a great advocate of this. And so I would urge you then to support the overrides and, specifically, then the Dental Health Director. Thank you very much, Mr. President. [LB195]

SENATOR KRIST: Thank you, Senator Nelson. Senator Hansen, you are recognized. Senator Hansen, before you continue, Mr. Clerk, do you have some items? [LB195]

CLERK: I do, thank you, Mr. President. Your Committee on Transportation reports LB249 back to the floor for further consideration. Enrollment and Review also reports LB224 to Select File with amendments, LB34 and LB545 as correctly engrossed. I also have, Mr. President, a series of amendments to LB298, LB308, LB326, LB331, LB368, LB368A, LB429, LB429A, LB479, and LB561. And I also have a confirmation report from the Transportation Committee. Thank you, Mr. President. (Legislative Journal pages 1617-1619.) [LB249 LB224 LB34 LB545 LB298 LB308 LB326 LB331 LB368 LB368A LB429 LB429A LB479 LB561]

SENATOR KRIST: Thank you, Mr. Clerk. And now, Senator Hansen, you are recognized. [LB195]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I want to reply or respond, in a way, to Senator McGill's comments about CASA. Lincoln County has a brand-new CASA program, two years old now, have had several successful fund-raisers in the county, trying to get the county commissioners to help fund our CASA program, too, which is part of county government. Our problem was, and I imagine that it's a problem of some other counties, that you have to have a lead judge and all the judges sign off on CASA. And that's what...why we were so late to get into this program is that we're...we had one judge dragging his feet, saying, no, no, no. And he happened to be the lead judge on some other programs that seem to have some problems. Well, he's gone now, and the judges that are there now are less resistant to change. So we have CASA, and we also have a very active judge in Judge Turnbull on the probation pilot program and now we...now a statewide program. So just to say, you know, we need \$400,000 more in the next two years for CASA, I'm not sure we can count on that expansion of CASA. And I wondered if maybe Senator McGill

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knows what the CASA formula is, if Senator McGill would yield? [LB195]

SENATOR KRIST: Senator McGill, will you yield? [LB195]

SENATOR MCGILL: I would. [LB195]

SENATOR HANSEN: Senator McGill, do you know what the formula is? How are...the \$400,000 increase, do you have any idea where those CASA funds will go? [LB195]

SENATOR MCGILL: Eighty percent of it goes to...it will be grants, granted to specific programs in different counties or their creation. I don't know what the breakdown is, in terms of how many will go to existing counties and how many would go to new counties. I don't know the answer to that offhand. [LB195]

SENATOR HANSEN: For fledgling counties that are just getting started? [LB195]

SENATOR MCGILL: Yeah, yeah. And I know that there will be new ones, you know, certainly most of that. And then the other percentages go to the evaluation and then to the administration, through the courts, of the grants. [LB195]

SENATOR HANSEN: I do know...thank you, Senator McGill. I do know that we passed some appropriations for some children advocacy centers, and our...in North Platte we call it the Bridge of Hope. And they've...when they filled out their grant, they filled it out for mileage. Well, they got very, very little. There were some advocacy groups got increase in employees. Some got increase in, maybe, office staff. I'm not sure what they all were, but ours just asked for mileage. Well, mileage wasn't a high priority. Well, it is a high priority in our area when you start going to 17 or 18 counties, trying to do advocacy work with children. My main reason for standing today is the cash funds grouping that is here, where money from the Securities Act Cash Fund transfers went directly to the homeless shelter, the Affordable Housing Trust, and Legal Aid service. I didn't think they'd ever been done before but they have. I asked the Fiscal Office and they said it happened in 2000 and 2001. And if memory serves me right, and hopefully it serves you better, that's when the state was in really bad shape, and we had to take some of that money from the Securities and add right to the...right to some agencies. We're not in that shape right now. I'm a little bit worried about the process that we're going through here, where we're taking these cash funds and going directly to these agencies where, in the past, those funds have always gone to Cash Reserve. And then a transfer from Cash Reserve went back to the General Fund, and then those agencies were funded. It's just a...you know, it's not a minor thing,... [LB195]

SENATOR KRIST: One minute. [LB195]

SENATOR HANSEN: ...but it might be worth fighting about. I'm going to really look hard

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at LB195, and I'm not sure I can support it. But those are the reasons. Those are some of the reasons, just some of the processes that were used. Thank you, Mr. President. [LB195]

SENATOR KRIST: Thank you, Senator Hansen and Senator McGill. Senator Dubas, you are recognized. [LB195]

SENATOR DUBAS: Thank you, Mr. President. Good afternoon, colleagues. I don't have a lot of new to add to what has been said as far as support for these override motions. I would like to reference specifically CASA and the money available for dental care through the federally qualified health centers and then also our county court employees. And, you know, what has been said before about CASA, I just really want to reemphasize how important that program is. These are volunteers that are the voice for these children in court settings. And let's remember that these are children; they're in very...they've just been removed from their homes; they're in very scary situations; they need to have that person that they can lean on to trust. You know, they have...if they're in foster families, they have their foster families. But these Court Appointed Special Advocates are there in the court system. Foster families aren't able to fully engage in the court system like these advocates can and do, and so it's just so important. I think the numbers speak for themselves as far as the success rate when CASA volunteers are involved. And when you talk to some of these children, talk to some of these young people who have had a CASA volunteer, have you ever gone over to the breakfast that they have every year, and they bring in some of these kids who have CASA volunteer advocates, you know, you can tell that there is some very significant bonding and trust that has been built between the kids and these volunteers. So, you know, this is just a very, very important program, and I think it does operate on a shoestring. And we need to give them the support. This just is another one of those pieces of the puzzle when we're dealing with child welfare reform and how having all of those pieces put together is going to create a successful welfare reform. The dental care assistance through the federally qualified health centers, you know, Senator Nelson did a good job of talking about, you know, there is a direct connection between our dental health and our physical health, especially in young people. If any of you have ever had an opportunity to go and view a Mission of Mercy, where dentists and hygienists come in, strictly all volunteer, and will spend a couple of days. And there are people who are lined up way early in the morning before it ever opens up to be able to access this care. And the work that these volunteers do is critical. And this is another one of those examples of spending the money up front, saving money down the road. And so dental care is just a very, very important public health issue. And again, these are dollars that won't be spent unwisely. And finally, our county court employees, as Senator Sullivan said, these are the smiling faces that you see when you walk into the courthouses. These are our neighbors and our friends and our family members who really work hard to keep the doors open. You know, people who are going into the courts, some things are, you know, pretty straightforward; other things are a little complex and a little confusing. And,

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you know, to have a person there that they know and that they know is going to help walk them through whatever they're experiencing is very important. And, you know, saving a few dollars at the expense of services I think is penny wise and pound foolish. And these, again, are very valuable, very valuable employees who, especially when you get out into the more rural parts of the state, go above and beyond what their job description calls for to make sure that the courts are operating the way they need to be, that people are understanding what they need to do, you know, the papers are getting filed, all of those technical things... [LB195]

SENATOR KRIST: One minute. [LB195]

SENATOR DUBAS: ...that yet are so--thank you, Mr. President--are so very important to the judicial process. So I hope members of the body will understand and appreciate what these employees mean to us on a daily basis, that their work is valued, and that we're able to give them, you know, a little bit of an increase in their pay to let them know we do appreciate the work that they do. Thank you, Mr. President. [LB195]

SENATOR KRIST: Thank you, Senator Dubas. Those still wishing to speak: Senator Cook, Kolowski, McCoy, Hadley, Brasch, Harms, and others. Senator Cook, you're recognized. [LB195]

SENATOR COOK: Thank you, Mr. President, and good afternoon, colleagues. I rise in support of the motion to override, MO92, put forth by the Appropriations Committee and want to thank my colleagues who have stood previously in support of one specific piece of this motion, which is the motion to restore the funding, as it was put forward by the Appropriations Committee, for dental services within our federally qualified health centers. I'm going to take a few minutes to share with the entire body some things that many of us who have been involved with community health advocacy and public health advocacy might be more familiar with, in terms of who delivers the services. They are, specifically in our state, six federally qualified community health centers: the Charles Drew Health Center; OneWorld Community Health Centers; Good Neighbor Community Health Center; the Panhandle Community Health Center; Norfolk Community Health Center; and People's Health Centers. I want to further offer into the record for the override consideration some additional information about who these services are provided to. I'm reading to you from some testimony that was offered, on behalf of the Health Care Association of Nebraska, on LB157. And it was presented by the chair of that board, Rebecca Rayman, who also is the executive director of Good Neighbor Health Center in Columbus, Nebraska. The...Nebraska's federally qualified health centers are community-based organizations that provide comprehensive primary care to people of all ages according to their ability to pay. So some people think that people kind of walk in and get an entirely free ride. It is offered on a sliding scale, and people do want to pay for their services and have a medical home. In 2011, our most recent year to have these statistics, 89 percent of the patients had incomes below 200 percent

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of poverty, and 65 percent of those patients were racial/ethnic minorities. That's across the state of Nebraska. These are people in the communities that are in high need of healthcare services such as dental services. The ability of Medicaid patients to access dental services in communities across the state, as we've talked about earlier today, is extremely limited and, in most cases, the health centers know of no dentists to whom they can refer patients. These uninsured patients are primarily low income and can rarely afford the rates of private dental services. So with that, I would thank the body for their consideration of this motion and encourage you to vote in favor of the override. Thank you, Mr. President. [LB195 LB157]

SENATOR KRIST: Thank you, Senator Cook. Senator Kolowski, you are recognized. [LB195]

SENATOR KOLOWSKI: Thank you, Mr. President, colleagues. I want to thank Senator Mello and his committee for the excellent job they've done on this listing of items they've given to us, and I stand in support of LB195. I wanted to speak just briefly, and building on what Senator Avery had commented on, concerning the Learning Community. The Governor's veto disrupts a carefully crafted agreement that began with Senator Smith and the Education Committee and then extended by large margins to the Unicameral in LB585. On May 8, the members of the Legislature devoted two hours to a discussion of the Learning Community's appropriation and voted 42 to nothing, 42 to 0, to set the appropriation at the \$725,000. This agreed-upon committee recommendation is already an 18 percent cut in funds from the previous years. By slashing funding in the Learning Community by over 43 percent, or \$332,000, the Learning Community will be forced to transfer all administrative expenses associated with the support of elementary programs in 8 school districts and 18 community organizations to elementary levy funds. The potential loss of staff or staff support and the loss of programs in these areas would be extremely detrimental to the Learning Community as it's gained the traction and the impact upon the communities it now serves. Thank you, Mr. President. [LB195 LB585]

SENATOR KRIST: Thank you, Senator Kolowski. Senator McCoy, you are recognized. [LB195]

SENATOR McCOY: Thank you, Mr. President and members. Would Senator Mello yield, please? [LB195]

SENATOR KRIST: Senator Mello, will you yield? [LB195]

SENATOR MELLO: Yes. [LB195]

SENATOR McCOY: Thank you, Senator. I appreciate the hard work that you've done as Chair of the Appropriations Committee this session. I wondered if I might ask...I'm trying to make sense of what is listed in the ten items on the override and along with some of

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the other items that are part of LB195. So if you could help me understand, and I'm not sure where it fits on the ten items, but...so you're moving to override for restoring funding for data analyst for the Coordinating Commission for Postsecondary Education, right? [LB195]

SENATOR MELLO: Correct. [LB195]

SENATOR McCOY: But there's not an override attempt for--I think it's been mentioned earlier--the...a staff person in the Foster Care Review Office, correct? [LB195]

SENATOR MELLO: That is correct, yes. [LB195]

SENATOR McCOY: And the same goes for a retirement specialist at the Public Employees Retirement Board that we're not asking to override on that particular staff person, correct? [LB195]

SENATOR MELLO: Correct. [LB195]

SENATOR McCOY: And then it's my understanding that the additional staff positions for the Tourism Commission are not part of the override attempt either, is that right? [LB195]

SENATOR MELLO: That is correct. [LB195]

SENATOR McCOY: Can you help me understand why that is? And, not being a member of the Appropriations Committee, I just...I look at that, and I look through the rationales as I can find them, look in the blue book. I'm trying to make sense, Senator Mello, of why we would not take up for an override on those other staff positions but we do on the data analyst for the Postsecondary Education...can you help me understand what...the rationale the committee took with that, if you would? [LB195]

SENATOR MELLO: Well, I'll do my best, Senator McCoy. And to be...to clarify, the committee did go over every line-item veto. So while we did not support some, we did go over them and gave the ability for ample discussion on each one. Senator Harms actually was probably more of an expert in regards to the Postsecondary Coordinating Commission specific line-item override, in the sense of providing the committee some rationale that the Postsecondary Coordinating Commission provided the committee again during their public hearing, in which, over the last four years, the Legislature...and Senator Adams can attest to it as the former Chair of the Education Committee. [LB195]

SENATOR McCOY: Okay, thank you. [LB195]

SENATOR MELLO: The Legislature has voted on multiple bills to provide more

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responsibilities to the Postsecondary Coordinating Commission in relationship to data analysis for community colleges, distribution now of their aid. We did a bill earlier this year that had them work, essentially, not only with the community--I'm sorry--work with the community colleges but also now distribute their aid. Last year we incorporated some changes in regards to reporting to the Department of Administrative Services on some different education items, as well as we expanded the Ace Scholarship Program, in which they have to provide more oversight with. Senator Harms also had a bill this year that changed the Nebraska Opportunity Grant program that makes them go in and make changes to some of their existing programs. So the argument that we had discussed internally, Senator McCoy, was, with all of the new items that we are asking of the Postsecondary Coordinating Commission, which is a separate, constitutional agency, independent, noncode agency, not responsive to the Governor, with all the things we've asked them over the last four years, and including bills that we've asked them this year that we've passed, their budget actually has been decreased over the last four years. And they've been...their staff, full-time equivalents have been reduced from 11.5 to 10.5 positions. And, in part, they...we did that over the last four years due to budget constraints. [LB195]

SENATOR KRIST: One minute. [LB195]

SENATOR MELLO: They came in and asked us at their public hearing, as part of their budget request, to restore this data analyst position, in part from all of the new responsibilities we gave them. But also they expressed that they are ultimately limited in regards to working on critical issues like the achievement gap, as well as some of the analysis they do with higher education with their current staffing positions now due to parts...in part to some of the decisions the Legislature and the Appropriations Committee made over the last four years. [LB195]

SENATOR McCOY: Well, thank you, Senator Mello. I think we have just a few remaining seconds, so I assume you probably won't get to answer...maybe I'll ask you, on a further time on the microphone, the rationale behind not asking for an override on these other staff positions that appear to be...maybe have some worthwhile use as well. Thank you, Mr. President. [LB195]

SENATOR KRIST: Thank you, Senator McCoy and Senator Mello. Senator Hadley, you are recognized. [LB195]

SENATOR HADLEY: Mr. President, members of the body, I will be very brief. I just want to talk a minute about the process. I appreciate the fact that the Appropriations Committee has spent a great deal of time on this budget, and I also appreciate the fact that the Governor's staff has spent a great deal of time on the budget. It's something we, as members of the Legislature that are not on the Appropriations, we don't get to get into the detail that the Appropriations Committee and the Governor's staff do. So I

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guess the reason I'm standing is to tell you that I basically support the bill that Senator Mello brought from the Appropriations Committee. I truly believe that they have looked at each of these items. They've reached an agreement. They have a good understanding of the items. I think the Governor's staff had a good understanding of the items when they did veto the items. So I see this as a process that, as a member of the Unicameral, it's almost, to an extent, I'm on the outside looking in, because I don't have the same data that both the Governor's staff and the Appropriations Committee have. So I guess I'm saying that I trust both sides of the things that they've looked at, so I do support this measure. Thank you, Mr. President. [LB195]

SENATOR KRIST: Thank you, Senator Hadley. Senator Brasch, you are recognized. [LB195]

SENATOR BRASCH: Thank you, Mr. President and colleagues. As I'm looking over the move and the items to override and hearing colleagues rise in testimony in favor, I also rise in some concerns expressed. The concerns specifically have been brought to me on Sections 102 and 222. I've received e-mails asking me to support the overrides. However, during the 2011 flooding, I pulled up testimony in committee as I was trying to introduce legislation to help families in need, during the floods, that were homeless and looking for shelter immediately. They were staying at the Dana College dormitory, as I did with them, during a week. They stayed three months in the dormitory. Families that were looking for shelter, the ones that had relatives and places to go, did go forward. And when we're talking about the need for housing and Senator Avery, who I highly admire and respect, as everyone knows, as my college professor, is talking about the...what they're doing, and I'm thinking there's a need for more to be done. You know, we're talking about a tax study. Perhaps we do need to look into a housing study for disaster situations and temporary help. And reading through the transcript here over the last several minutes, I would like to give this some more thorough thought on where is this funding going. Are we truly sending it to the right places? My memory from 2011 also told me about some nice condominiums being built, low-income housing. Are our rural areas getting the funding? Are we getting the funding to disaster areas? We had to trade housing for housing. And so at this point I am looking over every item very thoroughly for those directors who have e-mailed me asking for funds. They were opposing any funding for disaster situations, and I would like to see more funds go into disaster situations, especially in light of the tornadoes we're seeing across the country. And if it keeps raining, we may have more flooding situations, but at this point that's not being foreseen. So I would like you to consider carefully, as we look through this funding, where are the dollars intended to be directed. And thank you, colleagues, and thank you, Mr. President. [LB195]

SENATOR KRIST: Thank you, Senator Brasch. Senator Pirsch, you are recognized. [LB195]

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SENATOR PIRSCH: Thank you, Mr. President, members of the body. I would like to, first of all, recognize the work of the Appropriations Committee and Chairman Mello. They obviously have spent a lot of time and...in hearing and analyzing and formulating the proposed budget, and so we do appreciate that. I did have just a few questions. I wonder if Senator Mello would yield to the...to a few questions. [LB195]

SENATOR KRIST: Senator Mello, will you yield? [LB195]

SENATOR MELLO: Yes. [LB195]

SENATOR PIRSCH: Okay, wonderful. So with respect to...and just to kind of put perspective, before I ask you a question, we have the amount of veto measured in dollars overall. Would it amount to about \$44.6 million? Is that correct? [LB195]

SENATOR MELLO: That is correct. [LB195]

SENATOR PIRSCH: And of that \$44.6 million total veto dollars, approximately \$7.8 million of that would be in terms of General Funds, is that correct? [LB195]

SENATOR MELLO: That...an estimated amount of roughly \$7.8 (million), yes, that's correct. [LB195]

SENATOR PIRSCH: Okay, that, out of a total biennial budget of \$7.8 billion in General Funds, is that correct? [LB195]

SENATOR MELLO: Correct. [LB195]

SENATOR PIRSCH: Okay, so that's about one-tenth of 1 percent that's effectively in question today. [LB195]

SENATOR MELLO: Yes. [LB195]

SENATOR PIRSCH: Okay, and I do appreciate that. With respect to some of the items that have been maybe mentioned or alluded to earlier, could you talk about, with respect to the Affordable Housing Trust Fund appropriation using...and those are Securities Act Cash Fund dollars to the amount of \$1.25 million, I believe. What...how does that...how does the Affordable Trust Fund utilize those dollars? [LB195]

SENATOR MELLO: That's a great question, Senator Pirsch, and hopefully I can answer some of Senator Brasch's questions and concerns she just raised on the mike about the Affordable Housing Trust Fund as well. Ultimately, the Affordable Housing Trust Fund receives a majority of its funding from the doc stamp tax which is placed on real estate transactions. That money goes into the Department of Economic Development, in which

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the Affordable Housing Trust Fund takes in grant applications on an annual basis from a variety of organizations and entities across the state, knowing that the funding has to be allocated in each of the three congressional districts. So the concern or thought that some of it's not going in certain parts of the state, state statute requires that that money gets ultimately allocated statewide, in all three congressional districts, for a variety of affordable housing purposes. [LB195]

SENATOR PIRSCH: Hmm. [LB195]

SENATOR MELLO: Whether that's condominiums, townhomes, apartments, individual, single-family homes, multifamily homes, that's left up to the individual grant applications that are brought forward. [LB195]

SENATOR PIRSCH: It is spent on a grant application basis, is that correct? [LB195]

SENATOR MELLO: That is correct. [LB195]

SENATOR PIRSCH: And what's the...who's the determining organization or commission or board or whatnot that... [LB195]

SENATOR MELLO: The Department of Economic Development makes the determination of who they award the grant dollars to. [LB195]

SENATOR PIRSCH: And what's...do you know what their criteria that they utilize to determine where the monies go to, what their emphasis is? [LB195]

SENATOR MELLO: Senator Pirsch, that's probably listed more in detail on the Department of Economic Development's Web site in regards to the actual grant application. [LB195]

SENATOR PIRSCH: Okay. [LB195]

SENATOR MELLO: I don't have a specific application list in front of me. [LB195]

SENATOR PIRSCH: That's... [LB195]

SENATOR MELLO: But I can get you one if you need one. [LB195]

SENATOR PIRSCH: Yeah. Oh, that's fine. With respect to another area then, moving on, Learning Community aid, can you kind of give a little bit more details with respect to how that...there's General Funds there, about...a little under a quarter million for each of the two years,... [LB195]

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SENATOR KRIST: One minute. [LB195]

SENATOR PIRSCH: ...how those would be? And then we'll finish up that way. [LB195]

SENATOR MELLO: I'll do my best, Senator Pirsch. As a reminder, we had a lengthy dialogue about this on General File when Senator Price actually brought an amendment to do the same thing and which the Governor chose to line-item veto of reducing that dollar amount down. I believe it was \$650,000 per year not to the \$500,000 level. Ultimately, what we heard as a committee from the Learning Community, in respects to our preliminary budget and afterwards, is that any further reduction from where we were currently...what we currently had thought of, which was the \$650,000 appropriation, was having a negative direct impact in regards to early childhood education funding and in regards to their ability to appropriate aid for programming and not operations. [LB195]

SENATOR PIRSCH: Is this...we're... [LB195]

SENATOR MELLO: So by us putting the money back and overriding the Governor's veto, that means more money will go to early childhood education from the Learning Community instead of going to their operations side. [LB195]

SENATOR PIRSCH: And is this two-and-a-quarter per year...\$225,000 per year, is that targeted for early education? Or is it just general discretion? [LB195]

SENATOR MELLO: That is targeted towards their operations so that the Learning Community does not have to utilize their early childhood education levy amount to fund their operations. [LB195]

SENATOR KRIST: Time, Senators. [LB195]

SENATOR PIRSCH: Thank you. [LB195]

SENATOR KRIST: Thank you, Senator Pirsch and Senator Mello. Senator Chambers, you are recognized. [LB195]

SENATOR CHAMBERS: Mr. President, excuse me, members of the Legislature, I'll tailgate on some of what Senator Hadley said. I'm looking at what it is we're doing here today, the Legislature, acting as an institution. Every proposal that was in the budget when the bills were passed I had the opportunity, if I chose, to try to strike any one or all of them from the bills. The budget bills represented the work product of the Legislature collectively and as an institution. We had a chance to chew over everything that was in those bills. They were sent to the Governor. Everything that was in those bills, when I voted for the bills, I voted for. The Governor, as Senator Hadley pointed out, had the opportunity to look at what we had done and express his agreement or disagreement.

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And those parts he disagreed with, some of them are now presented to us in this motion to override. I had a chance to chew it once. I'm not going to chew it again. I voted for it the first time, I knew what I was voting for, and I'm going to vote for all of the overrides again. There is no single one of them so bad that I would vote against this motion. I don't think any one of us could say, even those on the Appropriations Committee, that every "t" crossed, every "i" dotted, and everything that wound up in every one of the budget bills was totally, thoroughly reviewed by each individual and completely grasped and understood. We are, as Senator Hadley indicated, taking some things on what you could call faith or trust in the expertise of those who were acting on behalf of all of us when they functioned as the Appropriations Committee. I think they did a good job on putting the budgets together, except that they gave the Attorney General too much money. I want you to know that. However, nobody is perfect (laughter), nobody. So if there are things that others felt should be considered for override, as Senator McCoy might have been suggesting--I don't know if that's what it was; he was looking for a rationale--we can each, after this motion, offer anything we choose for the purpose of having it overridden. I have such an amendment or motion up there. And, Senator McCoy, I don't know that I've been able to find a rationale for everything that would be consistent throughout. But they, from what I heard, determine which items they present to us based on those that got a majority vote of the committee. So there may have been different groups comprising the majority, or different individuals, throughout their process. But they do not limit us to what can be considered. In a way, you can say, their proposal to us by way of this motion constitutes the heavy lifting having been done. It leaves less for each one of us to do. And maybe we can analyze more thoroughly different items to see if they should be overridden and why we think they should be. But I have voted for these things once, I'm going to vote for them again, and I'm glad that the committee presented as many of them as they did. When I say "them," I meant the items that were vetoed. I would like to have seen more, but we don't always get what we want. Thank you, Mr. President. [LB195]

SENATOR KRIST: Thank you, Senator Chambers. Senator McCoy, you are recognized. [LB195]

SENATOR McCOY: Thank you, Mr. President. Would Senator Mello yield, please? [LB195]

SENATOR KRIST: Senator Mello, will you yield? [LB195]

SENATOR MELLO: Yes. [LB195]

SENATOR McCOY: Thank you, Senator. And you were very liberal with my time last time on the microphone, which is fine. I didn't call you to account for that. But I do want to ask you a few questions. I believe, unless I'm mistaken, I'm the last light on with your MO92. However, behind this motion...and I know you'll have the opportunity to address

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them in due course, but I did want to ask you about them because I think Senator Chambers provided a segue into that. Behind this motion there are four other motions that, it would appear to me, unless I am mistaken, pretty well undo what you did on the Appropriations Committee this morning. Do you view it that way? [LB195]

SENATOR MELLO: Senator McCoy, I don't view it as the...the motions, I've looked at them too. I don't think they've undone what the Appropriations Committee did this morning in regards to the report that we have in front of you. They're obviously amendments to the motion that we have presented as a comprehensive committee. And similar to how the committee operates as a whole, in regards to putting out our proposal and standing by our proposal, the committee, ultimately, I envision, will stand by our proposal again if members choose to make changes to that proposal. I've had this conversation with Senator Chambers and other members that that is ultimately how the Appropriations Committee has worked for a number of years. And with the proposal we have in front of you, I think it was as consensus building as possible of trying to find consensus behind big priorities that the committee had debated. We discussed, we cajoled, and had as much discussion as we could this morning on the items, and we will stand by our proposal, I believe. [LB195]

SENATOR McCOY: So you and the Appropriations Committee won't be supporting these motions or any in the...on this...to this bill to change the work that you did this morning. [LB195]

SENATOR MELLO: Senator McCoy, I can only speak for myself. I don't speak for the other eight members of the committee in regards to the votes they choose to take or not take. All I can say is, for myself, I'm supporting the committee's proposal that's been presented to the body, and I will more than likely not be voting on other amendments that are trying to add or take away from the committee's proposal. [LB195]

SENATOR McCOY: Well, thank you, Senator Mello. And I didn't want to put you on the spot there, but I think that that's an important question to ask, because typically we've seen a pretty good history in our body of the Appropriations Committee usually marching in lockstep, not always but usually, on issues. And clearly, when you have the magnitude of the motions following this one on this override, in addition to, I think, probably some that we'll take up later on this afternoon or this evening, I think that that's an important question to ask. So thank you, Mr. President. [LB195]

SENATOR KRIST: Thank you, Senator McCoy and Senator Mello. Seeing no one else in the queue, Senator Mello, you are recognized to close on your motion. [LB195]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. Can I get a call of the house, Mr. President, while I do my closing? [LB195]

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SENATOR KRIST: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB195]

CLERK: 32 ayes, 0 nays, Mr. President, to place the house under call. [LB195]

SENATOR KRIST: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. [LB195]

SENATOR MELLO: As part of my closing, colleagues, I'll try to remind everyone, once again, everyone should have received an individual copy of the motion that I've filed on behalf of the Appropriations Committee which seeks to override ten items of the mainline budget in which the Governor line-item vetoed. I appreciate some of the dialogue and discussion that members have given today on specific items and/or the overall Appropriations Committee proposal. But to, kind of, I would say, to argue, to some extent, we have other items still we'll need to debate. Senator McCoy alluded to there are other amendments that...there are other motions, I'm sorry, that members have brought forward. And similar to the legislative process, we will consider those motions the same way we would other motions and amendments that have been filed to the budget, both on General and Select File. Ultimately, the Appropriations Committee made a decision today to try to build consensus, to try to find priorities, in the sense of overriding the Governor on items that both the committee and the Legislature as a whole felt and deemed to be key priorities. [LB195]

SENATOR KRIST: Senator Mello, if I could interrupt? Please check in if you're in your chairs and return to the Chamber if you are out of the Chamber. [LB195]

SENATOR MELLO: Yes, yes, yes. [LB195]

SENATOR KRIST: And I'm sorry, Senator Mello, please continue. [LB195]

SENATOR MELLO: We know, from dialogue on a variety of different pieces of legislation, that sometimes the executive branch has different priorities than the legislative branch. On some of the line-item vetoes that the Appropriations Committee has chosen to override the Governor on, we felt those were priorities of the Legislature, both from individual senators, from different individual committees, as well as conversations the Appropriations Committee has had throughout the session, both during the preliminary, during the public hearings, as well as the posthearing adjustments that we made. Some of the items that we did discuss was, obviously: funding in the Supreme Court for CASA, the Court Appointed Special Advocate program; trying to provide a 1 percent salary increase for county court employees to

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help ensure the Supreme Court operates in a more efficient manner, as well as trying to keep those low-wage court employees from leaving those positions in rural Nebraska to move to a district court or into the private sector. As Senator Nelson and Senator Krist and others mentioned, we appropriated money for a Dental Health Director, in part because the state lost over \$500,000 in a federal grant, purely because we weren't funding something that was required in state statute. We also, obviously, overrode on dental health services for our federally qualified health centers. We've heard, through a variety of pieces of legislation brought not just to the Appropriations Committee but the Health and Human Services Committee, the importance of these qualified health centers and how they serve as the frontline for Nebraskans who need access to healthcare and who are more than likely part of our most vulnerable Nebraskans who have no access to healthcare and/or no insurance and/or are low income. Something else we discussed greatly at length was the national mortgage settlement, how the state received over \$8 million last year. And due, in part, to timing, because it happened at the end of session, we ultimately put that money into Cash Reserve instead of trying to focus on putting that money into specific housing-related programs. What we ended up doing this year was we made a compromise of not moving the money from the Cash Reserve but utilizing one-time cash fund transfers to make sure that money would go to the intended purpose in which that national mortgage settlement intended that money to go to. [LB195]

SENATOR KRIST: One minute. [LB195]

SENATOR MELLO: Other things we discussed, obviously, as Senator McCoy asked a question about staffing, the committee made a priority to override the Governor on components dealing with aid, overstaffing of state agencies. We made one real exception, which was the Postsecondary Coordinating Commission, because they have ultimately taken on significantly more responsibility due to legislation this Legislature passed and the Governor signed over the last four years and in response of, also, taking budget cuts. And their staffing is actually lower than where it was almost 20 years ago when we created them but, yet, we've given them significantly more responsibilities. And lastly, we discussed is an increase in public transit funding. The committee ultimately prioritized more road construction funding than the Governor by over \$12 million in our budget that this Legislature passed. But we also saw that there was a flatline of public transit funding over the last six years. And understanding that those needs are growing in rural Nebraska and in urban Nebraska, the committee voted and felt that that was a priority that we could meet, moving forward, by still prioritizing \$12 million more than the Governor did for road construction across the state. [LB195]

SENATOR KRIST: Time, Senator. [LB195]

SENATOR MELLO: With that, Mr. President, I'd urge the body to adopt the Appropriations Committee overrides. Thank you, Mr. President. [LB195]

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SENATOR KRIST: Thank you, Senator Mello. Everyone is accounted for. How would you like to proceed? [LB195]

SENATOR MELLO: Can I do a board vote first, Mr. President? [LB195]

SENATOR KRIST: The motion requires 30 votes. The question is, shall LB195, certain line items provided for in LB195, become law notwithstanding the objections of the Governor? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB195]

CLERK: (Record vote read, Legislative Journal pages 1620-1621.) 32 ayes, 5 nays, Mr. President, on the motion with respect to certain line item vetoes becoming law notwithstanding the objections of the Governor. [LB195]

SENATOR KRIST: The motion passes. Please raise the call. Next item. [LB195]

CLERK: Mr. President, Senator Chambers would move that the line-item veto with respect to Section 34, Auditor of Public Accounts, Program 506, state agency and county post audits, become law notwithstanding the objections of the Governor. [LB195]

SENATOR KRIST: Senator Chambers, you are recognized to open on your motion. [LB195]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I had all of my little documents here. You're going to have to take my word for this. Now the actual dollar amount I can't tell you, but I've got it in these papers somewhere. This is to restore to the Office of the Auditor the money that the Governor cut. Now there's a small amount of that money that would go to salaries, maybe \$30,000; the rest of it would relate to personnel. By cutting as the Governor did, it resulted in a reduction of personnel. I have always supported, when it comes to salaries, a fair salary for constitutional officers. I certainly am in favor of each one of those offices having the requisite number of employees to carry out the duties of...I'm being offered some help, but the rest of you all have probably found it by now, thank you, Senator Wallman...to do that work. Now people who were here when Senator Foley was here, other than myself, there may not be anybody, but maybe you read about it. But in case you didn't read about it and you don't know about it, let me tell you one thing. There probably never were two people in the Legislature so different, so unlike, so poles apart than former-Senator Foley, now-Auditor Foley, and myself. He was tall like a pine tree; I was and am short like a stump. He is Caucasian; I am African. He, I guess, would be called a conservative; I would be called a, well, whatever. He was...he is a Catholic and I'm not. He is very strongly opposed to abortion; I am more strongly in favor of a woman having the right to determine whether to carry a pregnancy to term. It probably could go right down the list of items where he and I would differ. There were some matters on

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which we did agree. On this one we agree. Some of you all are aware that when the thaw began to develop between China and the United States, the most unlikely person was the one who started it. That was Richard M. Nixon. For my purposes, forget the way he ended; just consider that particular activity on his part. It may be appropriate that I would be the one to make this motion because it should be clear that nothing in the way of personally liking Auditor Foley, although I have come to like him, and far much more since he got out of the Legislature...and he's over there doing what he does, but he does what he does well. I know that there are people and agencies who are made uncomfortable whenever somebody scrutinizes what it is they're doing. If you run an agency, you're well aware of the fact that not everything is going to be done precisely in the way that it should be. And if somebody is going to scrutinize it closely, some things are going to be found that need correcting. Senator...Auditor Foley did do a lot of auditing, examining, studying. There was one issue, and because I'm not trying to pull the scabs off healing wounds, I was so impressed by the thoroughness with which his office acted at the validity and correctness of their conclusions that I tailgated on that report and filed a complaint with the U.S. Office of the Inspector General. They took the complaint seriously, and they never tell you whether they're going to do anything or not. So I am endorsing this override based strictly on the work which that office has done. I am convinced that the reduction in staff would cripple what that office is doing and what it is required by law and the constitution to do. I am not going to go into a lot of dollars and cents anyway. But if you're going to look at the amount of money involved, it is not exorbitant. Nobody is going to get rich. If somebody is driving a Volkswagen today, they will not be driving a Mercedes-Benz tomorrow unless they rented it or they're...be acting as the chauffeur for somebody for pay. This, of all of the overrides, I think, is as worthy as any of the others that were included in the Appropriations Committee's list, and it ought to have been included, in my opinion. But I'm not a member of that committee. So this is the time, now, for each one of us, if we're convinced that something should be overridden, to offer it and give our reasons. If I thought that this money was fluff, if I thought the office could do its job without this money, I would not offer the motion. I hope you will support it. It was a part of the budget bill when we gave it that overwhelming vote for passage. I doubt that this office would have even stuck out in anybody's mind. But now that the Governor has focused the spotlight on it...I don't know if you all pay attention to those...let me finish that statement. Now that the Governor has focused a spotlight on it, we should take note and do the right thing, which is to override his veto. But Senator...Auditor Foley sends, sometimes on a regular basis, reports on what is available, if you want it, that I'm wondering, if he paid postage on all this, maybe he'd have enough to hire another employee. I'm joking. He is keeping us informed if we want to be informed. And I don't think there can be anybody who says that he has played favorites, either in going after, to use that term, any agency or individual or backing away from looking into any agency or what an individual who is subject to being audited is doing. And I would invite anybody who has questions of Auditor Foley about any of his reports, how he conducts his office, or any other thing to feel free to ask him. If you're talk...now I don't want to overstate. I don't want to make it seem like he can

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walk on water, although he can if it's frozen. (Laughter) Listen to the whole thing before you jump to a conclusion. So that is my presentation, Mr. President. I do hope that we'll vote for this override. Thank you. [LB195]

SENATOR KRIST: Thank you, Senator Chambers. You've heard the opening. Those wishing to speak: Senator Wallman and Senator Campbell. Senator Wallman, you are recognized. [LB195]

SENATOR WALLMAN: Thank you, Mr. President. And I do, too, appreciate what Auditor Foley does. And he's brought transparency to some agencies in this state which needed it, and that's not any fun for him, maybe, but he was tenacious. And so I'd yield the rest of my time to Senator Chambers, if he so chooses. [LB195]

SENATOR KRIST: Senator Chambers, you've been yielded 4:30. [LB195]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, in order that nothing I say would alienate anybody, if they haven't been alienated already, I want to thank Senator Wallman and show how gracious I can be when there's something that I want for somebody else. I, therefore, will say that I appreciate the time and let it go at that. Thank you, Mr. President. [LB195]

SENATOR KRIST: Thank you, Senator Chambers. Senator Campbell, you are recognized. [LB195]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. In my earlier remarks, I referred to Auditor Foley's report, and I want to amplify a little bit on that. When we did the major report on child welfare, we had eight partners in the sense that a number of agencies step forward to help us with that report. One of the people who contacted me very early on was the Auditor. And the Auditor took on the financial review of the child welfare initiative that we studied in LR37. And those of you may remember his very lengthy report on the child welfare initiative and drew out a number of facts that, honestly, we're still looking at. We are still looking at what we pay foster parents across the state of Nebraska. I would have to say that Auditor Foley did an exceptional job in terms of bringing to light many of the financial, questionable practices that had been put into place on the child welfare initiative and helped us to see how important it is to have oversight by the Legislature. And we enacted, in five bills last year, a great amount of oversight, not only by the Health and Human Services Committee but through the appropriations process. And I am very appreciative of the work that the Auditor did and certainly would support Senator Chambers' motion here, because I believe that his office is a part of the oversight that we all need to see in state government. Thank you, Mr. President. [LB195]

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

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[LB195]

SENATOR KINTNER: Well, thank you, Mr. President. I just wanted to go back to something that was said earlier, so I'm not going to talk particularly about the Auditor's salary. I'm not going to talk about what the committee has done. So I'm not going to oppose that. What I do want to talk about is the Affordable Housing Trust and just talk about what we're doing here. When we take government money and we build affordable housing and we allow people to move into that housing and own a home with government assistance, we're violating the free market. The free market gives us low-income housing. It's dilapidated housing. It gives us middle-income housing. It gives us high-income housing. And when the government sticks its nose in and says, we're going to subsidize this housing and we're going to build a townhome, and somebody who makes \$25,000 a year, we're going to help them own a townhome, well, if you're only \$25,000 a year, you probably should rent for a few more years, you ought to save up your money, you ought to work hard, you ought to do your job well, maybe get a second job, and then go buy a home when you're making \$35,000. But to say that we're going to take taxpayer money and we're going to use it to help someone get into a home, to make housing more affordable for them violates the free market. And we've had this problem around the country since the Great Society started, and we have hurt the market value of homes by doing this. And I don't think we've done any favors to people when they get assistance to move into and own their own home. We've not done any favors when they can't make their mortgage payment. So, you know, this has been...I think this stuff can be bad all the time, most of the time, many of the times, I think. And I think what Senator Pirsch...some of the questions he asked were very good. I think Senator Brasch asked some good questions. And since they were asking good questions, I think we're far better off to let the free market work and not try to monkey around with it. Thank you, Mr. President. [LB195]

SENATOR KRIST: Thank you, Senator Kintner. Senator Schumacher, you are recognized. [LB195]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. The Auditor's Office is one of five constitutional offices. It was important enough for people to put into the constitution and I believe, with term limits, has become even more important because none of us, probably, with the exception of the people that have been here before, Senator Ashford and Senator Chambers, are going to be around here long enough to know the workings of where things are hidden, what things might intuitively seem out of line, what things should be poked around into, and what things should be brought to the attention of the Legislature. The Auditor's Office is one of those sources of information, one of those hound dogs that, if it barks, we can check out whether or not if there's a bird in the bush. And I think that for us to be chintzy in one of our constitutional offices, one that we've already heard, in Senator Campbell's little talk on the floor, has done a great deal of good in seeking out issues of import--that, with many,

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many more that we've heard--not that they always show us that there's a problem. It may also tell us that there is not a problem. But it's one of those guiding lights that we're going to have to rely on as a Legislature as time goes on. And we're dealing with a relatively small amount of money here. I have a feeling that probably what is saved by having a good Auditor or the threat of an audit by a good auditor over an agency's head is far more than the little bit of money that we're...is being proposed by the Governor to take out of this budget. I think the Auditor's Office is important. I think it serves an important function for the body's information and our judgment making, and I think this is a reasonably insignificant part of money in the context of what it may very well be saving us. Thank you. [LB195]

SENATOR KRIST: Thank you, Senator Schumacher. Senator Bloomfield, you are recognized. [LB195]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, get a firm grip on your chairs. I am not opposed to Senator Chambers' amendment. I believe this is some money we need to put back into the budget. The Auditor has done, in my mind, a magnificent job of what he is hired to do, and to give him short shrift at this time doesn't appeal to me at this time. So I will be supporting Senator Chambers' amendment. Thank you. [LB195]

SENATOR KRIST: Thank you, Senator Bloomfield. Seeing no one else in the queue, Senator Chambers, you're recognized to close on your motion. [LB195]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this is just a testimonial to the fact that I bring good legislation to you. But in reality, if you look at the legislation I bring, very seldom does it spend any money. Earlier you agreed to restore \$18,000 to the Commission on Indian Affairs. This is to restore some money to the Auditor. But none of it is based on a bill that I brought which, on its own, would spend this money. And I want to assure Senator Kintner that Auditor Foley is not opposed, as far as I know, to the free market system. And I don't know who was going from a \$35,000 house to some subsidized mansion, but, I assure him, that that's not what the Auditor is doing. And my motion has nothing to do with that whatsoever, and I hope you won't hold against me Senator Kintner's objections to whatever he feels is hurting the free market system. Thank you, Mr. President. [LB195]

SENATOR KRIST: Thank you, Senator Chambers. You've heard the closing. This motion requires 30 votes. The question is, shall the provisions in MO93 become law notwithstanding the objections of the Governor? All those in favor, aye; opposed, nay. Senator Chambers. [LB195]

SENATOR CHAMBERS: (Recorder malfunction)...a call of the house. [LB195]

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SENATOR KRIST: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB195]

CLERK: 38 ayes, 0 nays, Mr. President, to place the house under call. [LB195]

SENATOR KRIST: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Smith, Senator Brasch, Senator Lautenbaugh, please return to the Chamber. All members are accounted for. Senator Chambers, how would you like to proceed? [LB195]

SENATOR CHAMBERS: I'll ask for a roll call vote. [LB195]

SENATOR KRIST: Mr. Clerk. [LB195]

CLERK: (Roll call vote taken, Legislative Journal pages 1621-1622.) 24 ayes, 16 nays, Mr. President, on the motion to override. [LB195]

SENATOR KRIST: The motion fails. Lift the call. [LB195]

CLERK: Mr. President, Senator Dubas would move that the Governor's line-item veto with respect to Section 56, Program 54, Enforcement of Standards and Common Carriers, become law notwithstanding his objections. [LB195]

SENATOR KRIST: Senator Dubas, you are recognized. [LB195]

SENATOR DUBAS: Thank you very much, Mr. President and colleagues. This is an issue that I've stood up in support for over the last several sessions when we were making budget cuts several years ago. I worked hard with Senator Louden to make sure we didn't lose our last remaining inspector. And then when this came up in the budget and there was discussion to strike it during our last budget debate, I worked really hard to convince you that that wasn't a good idea. And you stood by me then, and I hope you will continue to stand by me. For me this is a public safety issue. I will send out information here shortly that has a letter and some other information that we did some follow-up on after the last debate, questions that were raised as far as inspection of short lines. And I do need to correct, for the record, that short lines are inspected but not on a frequent basis. I was told that they're inspected at least once every three years. Because they carry less tonnage and traffic, they do receive less attention. But if a short line is demonstrating that there are significant problems, there are issues on that particular short line that deal with risks, they may be inspected more often. I'm going to read to you a copy of a letter dated May 10, 2013, from Mike Calhoun, who is the state

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program director with the Federal Rail Administration. He very clearly states that work done by state inspectors does not duplicate work done by federal inspectors. He goes on to state that Nebraska and the Federal Rail Administration have enjoyed a long and successful partnership, working together to preserve the safe and efficient operation of one of our nation's most important transportation assets. Our state partners contribute nearly one-third of the nation's railroad safety inspectors. That contribution is a crucial supplement to the federal inspection effort. The FRA estimates that state and federal inspectors are able to inspect only about 0.2 percent of railroad operations each year. The number of these inspectors is quite small compared to the size of the industry. So, clearly, states are an essential component of the national railroad safety regulatory program that strives to ensure safety practices. It is important to point out that the railroad safety inspections performed by the Nebraska Public Service Commission do not duplicate the work of federal inspectors. The roles of state and FRA inspectors are clearly defined and complementary. State inspectors provide supplemental safety inspections that nonparticipating states do not receive. Greater rail tonnage and the stress of rail car axel loadings is resulting in an accelerated rate of track deterioration and a decreased overall life expectancy for roadbed and individual parts of the track structure. That is particularly true in Nebraska where monetary damages attributed to track caused accidents, since 2011, which totalled \$20,779,135, nearly double the reportable damage of all other railroad accident causes combined. Railroad safety programs are often the only element of state government with the technical expertise to be an effective liaison with the railroad industry to address community complaints concerning train noise, train speed, blocked crossings, unkempt right of ways, and signal failures. It is our hope that Nebraska will continue its railroad safety partnership with FRA. I received a couple other e-mails, when I was seeking the information to support, why it would be so important for us to keep our state inspector. The FRA, again, does not have the ability to replace the work of state inspectors. We have limited ability to shift resources to areas of greatest need. The last full calendar year that Nebraska employed a track inspector was 2010. That year, the Nebraska track inspector filed 100 reports, inspected 4,285 track units, recorded 479 track safety defects, and submitted two recommendations for civil penalties. That level of effort has been lost to Nebraska subsequent to 2010. And there's a formula that is used to base inspection plans on. It's a mathematical formula that prioritizes the allocation of resources based on risk. And as I stated earlier, because of the lower tonnage in traffic on short lines, they may receive less intention than on the more heavily traveled lines. But if there are problems, they will step up those inspections. Nebraska is the second highest in the nation as far as what we transport, tonnage-wise. I was going to send this e-mail out before I began my comments, but I will send it out. That will include the letter from the FRA, a summary of some of the other e-mails, and then a map. And when you look at that map you will have a hard time detecting where the state of Nebraska is because it is so heavily covered by rail lines. So I think that the work that this state inspector will do will, again, only help complement and improve the safety inspection program. You know, we're the home...you know, we're the biggest...have the most rail

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transport through the entire...we have the biggest, heavily...let me start over again. We have the most heavily traveled rail corridor in the state of Nebraska. It's crucial to our economy, to the ag economy, to the economy in general. And so, to make sure that our rails are in the types of condition that they need to have, I don't think that this is money that is spent on a luxury. I think this is money that's spent on a necessity and will only go to serve and support the economy of our state and the businesses that rely on rail. So I hope that you will stand in support with me to override this veto. Thank you.
[LB195]

SENATOR KRIST: Thank you, Senator Dubas. You've heard the opening. Those wishing to speak: Senator Larson, Senator Davis, Senator McCoy, and Senator Kintner. Senator Larson, you are recognized. [LB195]

SENATOR LARSON: Thank you, Mr. President. Two years ago, I think, I voted to get rid of the railroad track inspector. I was one of those 23. I didn't support it in committee the first time it went around. I didn't vote for Senator Lautenbaugh's amendment on...when he offered it. And I didn't support it in terms of staying with the Appropriations Committee on that amendment. But this morning, when the Appropriations Committee reviewed this, I didn't vote for it then. And I hear Senator Dubas talk about how things aren't duplicated and we need this person. But again, I think it's come to the fact that we've gotten by the last two years without this person. And if I'm remembering right, and Senator Dubas can correct me if I'm wrong, but I think, when we were debating Senator Lautenbaugh's amendment, there hadn't been an increase in accidents without this railroad inspector on our tracks across Nebraska. And then I have the short lines that...most of everything that's running through my district are the short lines. And it's hard for me to imagine, when you can say that these short lines aren't getting inspected as much or they're not, you know, as much as they would like. But again, I think that your local companies and, obviously, your large companies, in terms of UP and BNSF that both run through the state of Nebraska, take great care of their track and make sure that their track is the best because, if they see a problem, they're going to fix it because they understand if their track isn't in good shape they will have an accident and it's going to cost them money. Also, when we hear that there's no duplication of efforts between the state inspector versus the federal inspectors, I guess I find that hard to believe, in the sense that the federal inspectors are inspecting the short lines to a certain extent. And if the state inspector is going on the main lines, there's obviously a duplication. It might not be a duplication the same, exact day. But we have a federal program that is doing this. I think the companies themselves have a vested interest in making sure to continue to watch their track. And in terms of taxpayer dollars, I just don't think this is a necessary thing. When the, I'm guessing it was, the Appropriations Committee in 2011 cut it out, or 2010, whichever year it was, they made a smart decision. It was unfortunate that we couldn't get this position taken out of statute and it's had to just sit there, unfunded. But I'd like to see a bill next year to take him out of...to take he or she out of statute so we don't have to have this argument on the floor

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because it just seems like unnecessary spending to me. Thank you, Mr. President.
[LB195]

SENATOR KRIST: Thank you, Senator Larson. Senator Davis, you are recognized.
[LB195]

SENATOR DAVIS: Thank you, Mr. President. Members of the body, I rise in strong support of Senator Dubas' amendment. You know, Nebraska is one of the top railroad states in the nation. We're the headquarters of two of the major railroad industries here. But we do have a lot of short lines, as Senator Larson referenced. And the fact really is this, that those short lines do not have the resources behind them and they don't have the need, in some respects, for the inspection process. So when a company is thinly capitalized, one of the first things it starts to do is it defers maintenance. And that's all well and good if it's a self-contained structure. Railroads in this state are...cover vast amounts of territory. They carry a lot of products that are hazardous, a little bit risky, and you're exposing a lot of your population to those risks when we ignore the fact that maybe we need to inspect the tracks. Having...living on a railroad like I do with the Burlington, seeing what...how many trains go through every day--I think I referenced the last time I was here--but for some time, when I would come to my crossing, I'd see the trains bouncing and I always thought, I really should call the railroad about that because it looks like there's a problem. Well, I never did that, and about two weeks later there was a huge derailment in Hyannis, and it dumped about a dozen rail cars right in the middle of town. Nobody got killed. It was a tremendous mess to clean up. Burlington did a great job for it, with it, and I have a lot of respect for the company. It's a wonderfully run company. But there are mistakes that happen, and things get overlooked. I think this rail inspection program is something that we really need to fund. We have the resources. The lives saved are going to be Nebraska lives if we have a...if we had a spill of anhydrous or something like that. While the Keystone XL Pipeline is being constructed, if it ever does come to fruition, we're going to see a lot of oil going through this state on tracks that belong to, primarily, the larger entities but probably also, maybe, on some of the short-line tracks. This is money well spent, and I would strongly urge you to support the amendment. Thank you. [LB195]

SENATOR KRIST: Thank you, Senator Davis. Senator Kintner, you are recognized.
[LB195]

SENATOR KINTNER: Well, thank you, Mr. President. You know, I was waiting for Senator Bloomfield to stand up and say, well, this is a solution looking for a problem. And, you know, I...you look at this and you say, well, the Governor looked at it, we haven't had anyone on the job in three years, let's get rid of it. And then we have today the Appropriations Committee. Now, you know, the Appropriations Committee is...you know, they're not quite as tight as I am. They like to spend a little government...a little taxpayer jack from time to time. But they looked at it. The Appropriations Committee

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looked at it and goes, no, now let's...this is not one we want to override. And so I would encourage the members to stick with the Appropriations Committee on this. We looked at it and we decided, nope, this is in the best interest of the taxpayers. Thank you, Mr. President. [LB195]

SENATOR KRIST: Thank you, Senator Kintner. Senator Dubas, you are recognized. [LB195]

SENATOR DUBAS: Thank you. I would just like to make a few other points to reemphasize my introductory comments. This bill is supported by the rail industry because they know and appreciate the importance of making sure that the tracks are in top-notch condition. They know the value of staying on top of these inspections. Also, I believe, if we have an additional inspector, they will be more involved with the short lines. And even though they may not...the short lines may not carry the tonnage, they still are an important link to get product to the mainline tracks. And so being able to have an inspection on these short lines and helping get them into compliance and up to snuff, I think, is very important. Also, I think it's important to point out that our state inspectors are very involved and oftentimes the first ones who are responding to accidents and derailments, so it's important to have them in place to do that. And I really want to emphasize the comment that was made in Mr. Calhoun's letter about the importance of them being...their technical expertise to allow them to be an effective liaison between the public and the rail industry. And when I came into the Legislature, as I campaigned my first time around, I heard, on a regular basis, concerns from people about blocked crossings. And I introduced legislation to put a time limit on how long a train could block a crossing and spent a great deal of time on it. And I had a lot of conversations with the rail industry in Nebraska and...as well as our inspectors that we had in place at that time. And those inspectors were very helpful in helping me help the general public understand the challenges that our rail industry faces in this state, again, because we're the most heavily traveled corridor in the nation. And there are a lot of improvements as far as double tracking and those kinds of things that are being done. But, you know, there are still problems, and so it's not uncommon for me to get calls from people across the district or even outside of my district who have issues with the railroad. And, you know, having someone at the state level that our citizens can have a level of faith and trust in to help navigate those problems and find solutions, I think, is very, very important. So I think, of most of the issues that Mr. Calhoun raised in his letter, I think having that person with the technical expertise to be that liaison, that go-between, between the public and the rail industry, I think is something that is very worthwhile. So again, I would appreciate the body's support to override this veto. Thank you. [LB195]

SENATOR KRIST: Thank you, Senator Dubas. Senator Kintner, you are recognized. [LB195]

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SENATOR KINTNER: Well, thank you, Mr. President. I just wanted to add one thing here. Senator Dubas said that the railroads support it. I know that...I guess Burlington Northern sent a letter saying that they support having the state pay for a track inspector. I don't know if Union Pacific did also. But, jeez, you know, it's \$108,000. If Burlington Northern wants this inspector so bad, pay for it. It's not that much. Instead of (inaudible) the taxpayers, if you think it's so important, you pay for it. So I, you know...that's...I think it's ridiculous that they're sending the letters in saying we need a track inspector for \$108,000. Thank you, Mr. President. [LB195]

SENATOR KRIST: Thank you, Senator Kintner. Senator Ken Haar, you are recognized. [LB195]

SENATOR HAAR: Mr. President, members of the body, I rise in support of Senator Dubas' amendment. Here we're talking about public safety and, public safety, it affects all of us. Someone brought up the comment that there's been no inspector for two years and, gee, we haven't had any more accidents. Well, a few years ago in Norris, Norris school district had their schools basically destroyed by a tornado. And there was an interesting article recently in the Journal Star about how they had fortified...how Norris, in rebuilding those schools, had fortified and built shelters for the future. Now, since they've done that, there haven't been any more tornadoes. So, you know, I would argue that it was still worth building those shelters. And I think that the inspections are an important public safety issue. As Senator Davis had said, there have been accidents. There have been tornadoes. We prepare for them. There have been train accidents based on derailments, so we prepare for that by having a state inspector. I think this is an important position. I think it's a matter of public safety. We shouldn't just lop that off onto the existing railroads, like Burlington Northern or UP or whatever. It's a public safety issue. If a train derails in a town, it's a public safety issue. So we prepare for disaster. Just because it doesn't happen every year doesn't mean that it's not worth preparing for. We prepare for tornadoes. I have a tornado shelter in my basement. A tornado has not hit my house yet, but I'm glad I spent that extra money. I think the public safety investment here for an inspector is an important public investment, and I support this amendment. Thank you. [LB195]

SENATOR KRIST: Thank you, Senator Haar. Senator Davis, you are recognized. [LB195]

SENATOR DAVIS: Thank you, Mr. President. I just was looking at Mr. Calhoun's letter. I'm going to ask the body to be sure to take the time to look at those maps. And if you can pull that up, you could look at it right now on your gadget there. You'll see, if you look at the central map about the tonnage, that Nebraska really is the epicenter of the entire tonnage in the country. Nebraska and Wyoming are the two largest states. Mr. Calhoun also references in his letter that there are, nationally, 172 track workers, track inspectors employed by the states. So Nebraska, with the largest amount of trackage

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and the most tonnage, has no inspectors. Now where is the sense and logic of that? Senator Haar referenced the public safety issue of this, and that's what this is really all about. It's about public safety, and it's about the safety of the employees on those trains. We've had...we do have derailments. We do have accidents. It happens consistently, even on the best-run trackage. Because there's so much tonnage that goes down those rails, they get worn out and they weigh out. And just...we can say we haven't had an accident for two or three years. Maybe that's because we...our inspection program three years ago was a good one. But it doesn't mean we're not going to have them again. I come back again, one more time, to the issue of the short lines and deferred maintenance. And I'll reference something I said when Senator Lautenbaugh introduced the amendment some time ago to not fund this. When the Chicago/North Western was still operating in northwest Nebraska from Crawford all the way to Norfolk, the track had really degenerated and was not going to be repaired by the company. So as you drove along that railroad, where there would be trains going through occasionally, and the track...the speed limit was down to, I think, ten miles an hour, but they still were using the trains. But there were derailments consistently all along that route. And if we get into a situation like that with some of these short-line railroads, we're going to have that happen. This is really an important issue for Nebraska and for our rail industry and our rail safety, our rail employees, but also for our communities, because, if we have a derailment with some hazardous materials in a community, we're going to lose lives. I really support strongly what Senator Haar said, it's a good point, and Senator Dubas. Please vote for this override. Thank you. [LB195]

SENATOR KRIST: Thank you, Senator Davis. Senator Bloomfield, you are recognized. [LB195]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I feel better now. We shouldn't be spending this money. I stand opposed to this override. No railroad owner or company is going to put multiple...millions of dollars' worth of equipment out onto a track that he hadn't looked at. It just doesn't make sense. And to Senator Davis' point, when that track was running out west there, they did have derailments continually on a 10- to 12-mile-an-hour track. That's when we had a full complement of inspectors. Inspectors is not the answer there. When we get down to a line that's not making any money, they quit running it. And that's private entity; that's where it ought to be. There's no need for the state to throw this money out there and, again, I will be opposing this amendment. Thank you. [LB195]

SENATOR KRIST: Thank you, Senator Bloomfield. Senator Wallman, you are recognized. [LB195]

SENATOR WALLMAN: Good afternoon, Mr. President. Railroads, the lifeblood of our nation, it used be. And, you know, we always say, it costs money here, it costs money there. But, folks, way back in when RR was president, they did away with this...they did

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the Stagers Act. And so it gave the...it was you didn't have to disclose what you paid for transportation costs. The big railroads pretty well pushed the short lines out. And so we have the short lines left and they can't, probably, afford to have a track maintenance worker. And I think it's, like Senator Haar said and Senator Davis, safety is an issue. We look at the total cost issue of this. Somebody is going to pay that cost if you have a train wreck or a grain train or a coal train. Somebody is paying, and it's the person at the end of the line who buys the product. So you pay me now or pay me later. And so I guess this isn't going to solve everything. But I think it's a start, and I think the state has some obligation to protect our short-line railroads, as well as our major railroads, because they do a valuable service for Nebraska. Thank you, Mr. President. [LB195]

SENATOR KRIST: Thank you, Senator Wallman. Senator Lathrop, you are recognized. [LB195]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I'm in support of this motion. And I've been listening to the debate. I turned my light on after Senator Bloomfield spoke. You know what? There's something about accidents that I've learned over the years, doing what I do. No one thinks it's ever going to happen or it's ever going to happen to them. And then, when you look back, every one of them was not an accident in the sense of we generally think of it, like an act of god or something that couldn't be avoided. Almost every one of them is a choice somebody made. Let me say that again. Almost every accident that happens is a choice somebody made. They maybe made a choice to mess around on their cell phone while they're driving down the road, but there is a choice. There's a choice that goes into them, and you can look back and say, it was a bad choice. Now we're making a choice, and it's about safety. I think Senator Davis has made a very, very, very good point. And for those of you that live in Omaha, you say, well, it's home to the Union Pacific, I'm sure they're inspecting those tracks, I'm sure they're inspecting those bridges. This is really about those small, short lines that aren't on the main drag because, along Highway 2, they're probably inspecting those. Maybe not...maybe they missed the one out in Hyannis. But generally, these are the ones that people are kind of doing a short line on a shoestring budget. And so they put the maintenance off, and then one of these things tips over and anhydrous ammonia spills out or something that's a cloud over an entire town. And you look back and you say, jeez, they didn't do their maintenance, because no one made them. Senator Bloomfield, I'll tell you what occurred to me when you talked, and that is, if we employ the logic you just shared with us, we'd stop inspecting truck brakes. All those big rigs, we would just assume that everybody who owns those big rigs care about their equipment and they'll take care of it without inspection. But every day, every day, the State Patrol is out getting on a creeper, getting underneath those trucks, and finding violations. They're finding violations. And so the logic that someone who owns something will maintain it doesn't prevail because, as soon as somebody tries to cut corners, then somebody is going to get hurt. And it's a choice. It's a choice the company makes when they don't do the maintenance on their vehicles, but it's also a choice

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somebody makes when they don't inspect their tracks. I know, because I was here a couple years ago, Senator Fischer had a bill to eliminate this position, and we didn't pass it. Now we're going to be kind of cute and have it there but not fund it. Well, we're making a choice. We're making a choice. And we'll look back, after a train tips over or derails in a small town in western Nebraska or outstate, it will tip over and we hope no one gets hurt, that they only spill coal. But it could be something that...it could be a gas. It...you can't cut corners when it comes to safety. It is a choice and, when you choose to cut corners, somebody gets hurt. Somebody is going to get hurt, or it will end up costing us more to clean it up. I'm with Senator Dubas on this one. Thank you. [LB195]

SENATOR KRIST: Thank you, Senator Lathrop. Senator McCoy, you are recognized. [LB195]

SENATOR McCOY: Thank you, Mr. President and members. I would rise to disagree with Senator Lathrop. And I might remind Senator Lathrop that this came about, this elimination, it started in FY2010 because of the LR542 process that we all went through, those of us that were here. And this has been an unfilled position since that time. I don't believe, unless I missed it, that you've heard Senator Dubas talk about, a rise in accidents. I would also remind Senator Lathrop that we, oftentimes in Nebraska, have railroad incidents that are weather related. I might direct your attention to a recent derailment in North Bend that was due to extreme high winds, had nothing to do with track maintenance. It's on one of the busiest tracks in the world, if not the busiest, I think, and that was wind related, didn't have anything to do with whether we had had a state inspector, federal inspector, maintenance on the track. It was an empty coal train that was blown off the tracks by high winds. So again, this was an LR542 process. I would merrily remind the members we went through the LR542 process to try to find areas in our budget exactly like this that perhaps weren't needed or weren't needed as much as other positions. The funding was eliminated, hasn't been in place since. And yes, safety is important. But again, I would ask to see any evidence that we've had a rise in safety incidents--I don't know of any, and I've asked--especially incidents that are from track maintenance that a rail inspector would be looking for, not weather incidents, because you have to divide out what are weather incidents that have zero to do with track maintenance and incidents that have to do with problems with the track. Thank you, Mr. President. [LB195]

SENATOR KRIST: Thank you, Senator McCoy. Senator Lathrop, you are recognized. [LB195]

SENATOR LATHROP: Thank you. And I'd like to respond, if I can, just for a moment, to Senator McCoy's remarks. The fact that there has been an act of god that blew over a train in Dodge County or wherever it was doesn't mean that safety isn't an issue for all the other tracks, for all the other trains that aren't going to get blown over. There is no connection between a train that gets blown over by a strong wind and the absence of a

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necessity for this bill, right? The two aren't connected. So we don't fund someone who is going to look out for the safety of the short lines, primarily, because the wind blew a train over in a small town. That doesn't make sense. And let me talk about the LR542 process. Yes, we did have a LR542 process, and I was here for it. And each of the committees looked through things and then they put in bills. And when the Transportation Committee put in a bill to eliminate this, it didn't pass. It didn't pass. I want to...finally, my third point is that the fact that there has not been an increase in the incidence of problems with unsafe tracks may be a testament to the safety program that was in place before we stopped funding it. You won't know what the consequences of this are, probably, this year. If we don't fund it this year, the short-term consequences will not be evident. What you'll see is, as the tracks deteriorate and as they fail to be inspected or fail to be maintained by those who own those tracks, the problem will become more and more acute, and the incidence of problems will become evident in the years ahead. It is not a short-term causal connection. You wouldn't expect to see it immediately. You expect to see it after the tracks have deteriorated over time and no one is inspecting them. So I was here for the LR542 process. Honestly, I remember Senator Fischer had that bill up. And I was here for Final Reading and it didn't pass. And, you know, I know, when you look through the budget and you say, can we get by, are...is anybody going to appreciate that this isn't in there, that I didn't vote for it? When it comes to safety, it's one of those things that's, like, do you waste money if you buy a fire truck that you never have to call out of the fire barn? No, because you never really know. You never really know, but that's part of our responsibility in making the state safe. And when it comes to rail traffic, safety is a big deal, because the accidents or the problems that follow from a failure to provide maintenance can be devastating. It can drop a cloud of anhydrous ammonia over a whole town. So we certainly don't want that to happen, and I think inspecting the rails is a good idea. Thank you. [LB195]

SENATOR KRIST: Thank you, Senator Lathrop. Senator Johnson, you are recognized. [LB195]

SENATOR JOHNSON: Thank you, Mr. President and members of the body. I haven't entered into this discussion yet. Spent most all my professional career in agriculture and how important railroads are. I managed companies that were on main line, and I've seen the maintenance that's happened there. I've managed companies and been involved with grain elevators that have been on short line. And to be real honest, I'm surprised that I have not heard more from the ag sector on this situation, this bill, and the funding of it. I think, maybe, they're a little bit under the assumption of some false security. Well, we haven't had any accidents for a while; we haven't had any major derailments. I'm aware of the one at North Bend. I think maybe that track, maybe, is a little wobbly, and maybe the wind caught it when the train was leaning to the left or whatever and tipped it over. But I think there's probably some false security in that we haven't had any derailments, major, as far...from the safety standpoint, but...and I've wavered on this thing. Initially, I thought, it's okay to get rid of it. Now, as I think of it

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more, I'm going to support Senator Dubas in this MO95 because, at this point, it's not an insurance policy, but I think it's going to give us some assurance that at least we're trying to prevent some of these accidents. And if there is an accident out there and it comes back and the industry says, and why didn't you support an inspector, I would just as soon try and...not have...try and come with an excuse. I'd rather be on the positive side and said, we did fund this, and hopefully we will, you know, save at least one or two derailments down the road. So again, I was wavering on this. At this point I'm supportive of the MO95. Thank you. [LB195]

SENATOR KRIST: Thank you, Senator Johnson. Senator Bloomfield, you are recognized. [LB195]

SENATOR BLOOMFIELD: Thank you, Mr. President. When Senator Lathrop can assure me that one inspector statewide can prevent all accidents, I would probably vote for that. But we all know that's not the case. One inspector can't cover the short lines that we're talking about. It is incumbent upon the owners to take care of those lines. Again, we don't put millions of dollars' worth of equipment out without looking at where it's going. We talked, or Senator Lathrop talked, about the trucks and the truck inspectors. We're talking about thousands of trucks a day that come across our state from all states and Mexico. I spent a lot of years at the wheel of one of those. I don't believe I ever was cited for an equipment failure. I put on roughly 4 million miles in my driving career. The companies I drove for took care of the equipment. You will find some people that will slack off now and then. But I think, if you start looking at the numbers, we're in pretty good shape in the trucking industry. And to compare that with sitting railroad lines, hundreds of miles of them, and one inspector versus a fleet of inspectors we have statewide, is not a fair comparison. Thank you. [LB195]

SENATOR KRIST: Thank you, Senator Bloomfield. Senator Larson, you are recognized. [LB195]

SENATOR LARSON: Thank you, Mr. President. Would Senator Dubas yield? [LB195]

SENATOR KRIST: Senator Dubas, will you yield for a question? [LB195]

SENATOR DUBAS: Yes, I would. Yes, I will. [LB195]

SENATOR LARSON: Senator Dubas,...and I don't know the answer to this. And if this inspector were to find a problem, do they then close down the track until its maintenance happens? Or what is the process of this inspector if they do find a problem? What happens to that short line and that commerce? [LB195]

SENATOR DUBAS: I think they have a variety of options. They can assess penalties; they can put in correction orders. There are a variety of options depending on what it is

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that they find. But they do have authority to take action. [LB195]

SENATOR LARSON: They do have authority to take action. What's the...obviously we haven't had a state inspector for three years. What are the normal actions that the federal inspectors...and if you don't know what the...when they find something on one of the main lines? And I don't know if the line going through Hyannis is a main line or a short line or not. But what is the typical action of a federal regulator, do you know? [LB195]

SENATOR DUBAS: I can't give you specifics but, again, they do have the authority to take action to cause things to be changed, if they need to be changed, or assess penalties or whatever. [LB195]

SENATOR LARSON: How often, when the track was in place, do we know that these inspectors assessed fines or assessed penalties or shut down short lines? [LB195]

SENATOR DUBAS: I don't know, specifically, of anything that was shut down. I was just looking here for some...it's...the last time we had an inspector, in 2010, that track inspector filed 100 reports, inspected 4,285 track units, recorded 479 track safety defects, and submitted two recommendations for civil penalties. [LB195]

SENATOR LARSON: And how much did they levy...or were most of this fixed rather immediately? Or what were most of the inspection reports? [LB195]

SENATOR DUBAS: I can't tell you what corrective action was taken; I just know those were the reports. [LB195]

SENATOR LARSON: Were those on statewide tracks, or were those just the short lines? [LB195]

SENATOR DUBAS: It doesn't tell me specifically which tracks those were. [LB195]

SENATOR LARSON: And so it could have been, again,... [LB195]

SENATOR DUBAS: It could have been either. [LB195]

SENATOR LARSON: ...duplicated, you know, what the federal...do the federal and the state guys, when they were there, were they working together or do they...you know, could the federal guy file one report and the state guy comes along the next day and finds it, too, or...? [LB195]

SENATOR DUBAS: My understanding, from the information that I received from the Federal Railroad Administration, that state and federal inspectors have clearly defined

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roles and duties. So, you know, I can't tell you specifically what they are, but each one knows where their particular territory and what their particular jurisdiction is. [LB195]

SENATOR LARSON: So you're saying the state inspector might not even have the territory to look at the main line, if that's not their territory, or just...you're saying the state guy has a specific territory, so he won't be inspecting statewide. [LB195]

SENATOR DUBAS: I don't mean territory. I mean duties. [LB195]

SENATOR LARSON: Duty. [LB195]

SENATOR DUBAS: They have clearly defined duties that are complementary. They're defined and they're complementary. [LB195]

SENATOR LARSON: What duties differentiate the state and the federal inspector? [LB195]

SENATOR DUBAS: I didn't ask specifically for that information. This was just what was sent in the letter from the Federal Rail Administration. [LB195]

SENATOR LARSON: Thank you, Senator Dubas. And, like I said, I didn't know any of those answers, and I appreciate your answers in terms of looking at this. And again, I rise with the same concerns. Maybe I said I supported taking it away a few years ago, and I probably would next year with...if the bill is brought. [LB195]

SENATOR KRIST: One minute. [LB195]

SENATOR LARSON: I think the federal inspectors are doing this. Obviously, they are searching statewide. And Senator Davis may have misspoke when he said and when he commented that the short lines have a lighter load and don't necessarily need to inspect. I think what he was trying to say, probably, is they might not have the time to inspect themselves instead of they don't need to inspect. But I think these companies do have a vested interest in making sure their tracks are as good as possible. And what this state inspector does, I'm not sure if going through and finding a chip in a track and filing a report or whatever these reports are, which we don't know exactly what they said or how detailed they were, is necessary. [LB195]

SENATOR KRIST: Time, Senator. [LB195]

SENATOR LARSON: Thank you. [LB195]

SENATOR KRIST: Thank you, Senator Larson. Senator McCoy, you are recognized. [LB195]

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SENATOR McCOY: Thank you, Mr. President and members. I want to take exception to a little bit of something that Senator Lathrop said, and I think it's an important distinction to make. Senator Davis, actually, his priority bill this year, LB634, provides for Wildfire Control Act and a very, very important function, in my mind, for public safety for the state of Nebraska, particularly in years of drought. In order to fit everything together in this budget, Senator Davis, I assume, since it was his amendment, had to accept a...several hundreds of thousands of dollars of reduction in his A bill, for his priority bill, in order to make everything fit together. So while I appreciate Senator Lathrop's eloquent articulation of...that this is about safety, in my mind, we can talk about safety in many different respects on many different bills that we deal with here in the Legislature. It is a matter of prioritization. And even though Senator Davis' priority bill was deemed a priority of the Legislature, the funding that originally was requested under that A bill, unless I'm reading it incorrectly and I don't believe that I am, has been reduced significantly. So public safety is important, but I think, also, we have to look at what is practical in addition to what is deemed to be of public safety. Thank you, Mr. President. [LB195 LB634]

SENATOR KRIST: Thank you, Senator McCoy. Senator Davis, you are recognized, and it is your third time. [LB195]

SENATOR DAVIS: Thank you, Mr. President, just a couple points. When you're...when you have access to Google, you can sit and just do all kinds of things on the floor, which is really nice. And so I would suggest, maybe, that everybody look at derailments, and you'll find there's one in Baltimore right now going on with an explosion. And at the bottom of that report it talks about the CSX and the number of--that's the rail car that's going through Baltimore--and the number of derailments that they have had. I believe it's down to 100 and some now this year, as opposed to 200 last year. That's a lot of derailments, folks, no matter where you are, and in Nebraska we have the same thing. There was a derailment at Jackson, Nebraska, here not too awfully long ago. Again, look at the map and see the amount of rail traffic that goes through this state, and acknowledge the fact that there are 172 state inspectors nationwide, Nebraska and Wyoming being the number one and number two states with trackage and tonnage but no inspectors. Senator Larson was probably correct in what I was trying to say about the short lines, which was, basically, well-capitalized industries--UP, Burlington--are probably going to do a really good job taking care of their tracks. Thinly capitalized entities are going to cut corners because that's the nature of business. When you cut corners, mistakes happen, derailments can happen. It's not just the company that's affected. It's the people that live in the community or the town or the farm by which that derailment takes place. So this is a statewide issue; it's important that we pay attention to it. And it's a safety issue. And I appreciate Senator McCoy's comments about my bill. I'm also pleased to say that, you know, we worked through all those problems with Lieutenant Governor Heidemann and the Governor, and I think we've ended up with a

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better bill than we had initially with my fire suppression bill. So I think this rail inspection is a vital element for us to put back in place. Safety is not a place you want to cut corners. That's what we're going to do, and eventually we're going to pay the price. And when we do, citizens in Nebraska are going to look at the Legislature and they're going to say, what in the world were you guys thinking? It's very important for us to realize what we're doing when we cut this inspection program out and we're going to turn it over to a national entity that's thinly capitalized and doesn't have the resources in the national government. You know, if Nebraska pays attention to it, we're probably going to get better response out of the federal regulators too. If we just say, oh, we're not worried about it, the federal regulators are probably going to say, well, Nebraska doesn't seem to be interested in ponying up anything, so why are we going to pay much attention to that state? So of all the things in this budget, I think this is one that is really important for us to think about and put back in place. We just can't take the risk. We just can't. Thank you. [LB195]

SENATOR KRIST: Thank you, Senator Davis. Senator Johnson, you are recognized. [LB195]

SENATOR JOHNSON: Thank you again, Mr. President. I want to comment a little bit on the last two speakers, primarily Senator Larson and Senator Davis. The industry does govern themselves to a certain extent. When we talk about lighter loads on a short line, they're probably the same size as a hopper car, if we're talking about grain, that used to run on the main lines. The main lines have the resources to upgrade the width of the rail, the strength of the rail, put on different tonnage, and they can carry bigger loads. They can travel faster. The short lines have not had the resources to upgrade the track, so they have to stay with the smaller cars. They probably have to travel a little bit slower, just because the track is not maintained as...at a high level or replaced because of their resources. But they do have a tendency--and I will vouch to this--they do have a tendency to push the envelope a little bit and maybe load some heavier cars or maybe go a little bit faster than they should be. And if an inspector around there can be monitoring that and kind of keep that under control a little bit, I think that will...that's one of the purposes, maybe, of what the inspector should be looking at. And so, again, I support MO95. A railroad does not want to have derailments. It's their economic downfall if they continue and they can't deliver the product when it's to be out there. Right now, most of the unit trains, you have to load them so fast, and you have to get them out to the coast or to their delivery point. And it's very costly to...for any type of a derailment. One of the things that's happened with the railroad industry is they've upgraded their facilities. They have improved the price of grain from Nebraska. And I don't know if I've said this on the mike before but, before they upgraded track, before they went with unit trains and the like, they improved the value of grain. And I can go back to some figures from many years back, but they improved the value of grain 85 cents a bushel. So they are conscious of their own bottom line. But I think the rail inspector can help them with that and the main factor being helping with the safety side

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of it. Thank you. [LB195]

SENATOR KRIST: Thank you, Senator Johnson. Senator Ken Haar, you're recognized. [LB195]

SENATOR HAAR: Mr. President, members of the body, there was a President who said, and I think Senator Kintner will know who this is, said, trust but verify. That was Ronald Reagan. So you've got to trust, but you also have to verify. And we see inspectors, governmental inspectors, all over when it comes to health and safety. We have agriculture inspectors in all the meat packing plants and so on. We have inspectors that go to all the restaurants and inspect. We have safety inspectors. And I think this is such an appropriate place for government inspectors is in this area of safety. So trust but verify. We have to trust the companies that they will want to make a profit, and so they will want to keep their equipment and their tracks up to the highest standards but, on the other hand, we can't always count on that. We have to verify as well. So I urge you to support MO95. And I agree with Senator Davis. It's one of the really important bills/items in this legislative session. Thank you so much. [LB195]

SENATOR KRIST: Thank you, Senator Haar. Seeing no one else in the queue, Senator Dubas, you're recognized to close on your motion. [LB195]

SENATOR DUBAS: Thank you very much, Mr. President. I'd like to point out--and if you looked at the map that I sent out in your e-mails and you can barely see the state of Nebraska because it's colored solid red almost--we are number two in the amount of hazardous materials that is transported through our state on rail, number two. I stated this in my introduction to the motion, but I think it bears repeating. In the letter from Mr. Calhoun: State and federal inspectors are able to inspect only about 0.2 percent of railroad operations each year. So based on the size of railroad safety inspection force, the number of these inspectors is quite small compared to the size of the industry. So, clearly, states are an essential component of the national railroad safety regulatory program that strives to ensure the industry's safety practices keep pace with the rapidly changing technology, operating environments, and evolving traffic patterns. There's nothing we can do or put in place that completely assures or guarantees no accidents will happen. There are accidents that will happen. But there is a very clear need for state and federal agencies to field vigilant track inspections. This is particularly true in Nebraska based on the amount of tonnage that goes through our state. And the monetary damages in 2011 directly, directly related to traffic...track-caused accidents was over \$20 million, \$20.7 million. That's nearly double the reportable damage that happens from other types of rail accidents. So that's just from the tracks. You know, it was pointed out that the railroads are going to want to take good care of their tracks. Of course they are, and they work diligently to make that happen. But to have independent inspectors, whether they're federal or state or the combination of both, is also an important kind of an unbiased, neutral eye to what needs to be done. And that's what

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they bring to this component or that's what they bring to the industry. When the bill was introduced in 2011 to not fund the second track inspector, the PSC came in, saying, you know, we understand budget is an issue, we understand, we're all having to make hard decisions, this is a hard decisions that we made. But they certainly were not thrilled with having to make that decision because they recognized the value of the position and the important value of having a state inspector. Those state inspectors are also the ones that respond to the derailments and accidents, usually first on the scene. The federal rail inspectors are typically going to come in for the bigger, you know, lots of injuries, passenger-type accidents. It's our state inspectors that are going to be the first ones on the scene to help assess what's going on in derailments. As we speak right now, I think it was brought up maybe that there's a massive train derailment on the East Coast. And if you want to go on-line and do some Googling, you can see there have been a lot of derailments, more than one here in the state of Nebraska, in the very recent past. So putting another inspector at the state level, no, I'm not going to guarantee you that that will eliminate all accidents. But, you know, it's been brought up on the floor here today about being proactive rather than reactive. And when you look at the tonnage that goes through this state on the most heavily traveled rail corridor in the nation,... [LB195]

SENATOR KRIST: One minute. [LB195]

SENATOR DUBAS: ...having another track inspector will only go...will only serve us, will only provide us additional benefits. You know, frequently I hear on the floor how we don't want to rely on the federal government and that we need to take care of ourselves. And this is an opportunity for us to step up with an additional track inspector to take care of a very important industry in our state. Not only is the rail industry important but the business that the rail industry serves, in particular, ag. So, you know, I just think that this is, as Senator Davis and Senator Johnson have said and others, we don't want to look back in a few years. If we see that those numbers are increasing, if we see we're having additional accidents or problems because we aren't keeping up with the inspection and then come back and say, you know, maybe we need to put this inspector in place, I believe it's much better, when it comes to public safety, to be proactive rather than reactive. And that's what this additional...putting this inspector back in place will do is give us that ability to be proactive in making sure that we are supporting an important industry in our state that... [LB195]

SENATOR KRIST: Time, Senator. [LB195]

SENATOR DUBAS: Thank you very much. I would request a call of the house, please. [LB195]

SENATOR KRIST: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB195]

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CLERK: 38 ayes, 0 nays to place the house under call. [LB195]

SENATOR KRIST: The house is under call. Senators, record your presence. Those unexcused senators outside of the Chamber, please return to the (recorder malfunction) and record your presence. All unauthorized personnel leave the floor. The house is under call. Senator Pirsch, thank you. Everyone is accounted for, Senator Dubas. How would you like to proceed? [LB195]

SENATOR DUBAS: (Recorder malfunction.) [LB195]

SENATOR KRIST: There has been a request for a roll call in reverse order, Mr. Clerk. [LB195]

CLERK: (Roll call vote taken, Legislative Journal pages 1622-1623.) 18 ayes, 25 nays, Mr. President, on the motion. [LB195]

SENATOR KRIST: MO95 fails. Raise the call, please. [LB195]

CLERK: Mr. President, Senator Dubas would move to amend, with respect to the Governor's line-item veto of Section 15, Program 501, the dues for the Midwest Interstate Passenger Rail Compact. [LB195]

SENATOR KRIST: Senator Dubas, you are recognized to open. [LB195]

SENATOR DUBAS: Thank you, Mr. President. Good afternoon again, colleagues. I must love railroads. I seem to be really wanting to stand up and talk about them today. I want to give you a little history on this particular issue dealing with the Midwest Rail Compact. It was put in place, I believe, in 2000-2001, sometime in that...let's see, 2001. So we've been a member of the compact since 2001. In 2007, Senator Fischer introduced LB165, which would have repealed our membership in the compact. The motion was made in committee to IPP it, and it...that IPP motion was successful. Another bill was introduced in 2012, by our own Senator Hadley, to do the same. And no action was taken by the committee at that time, and eventually the bill was IPPed. So we are still a member of the Midwest Rail Compact and, according to that compact language, withdrawal from the compact requires legislative action and will take effect one year after the effective date of that legislation. If a member state withdraws, they shall be liable for any obligations prior to the effective date of withdrawal. Currently, we are \$60,000 in arrears on our \$15,000-a-year dues. We decided during the budget debate, budget cuts that we had to make a few years ago, that we would not pay our dues to the Midwest Compact. So we still, as I said, are a member of that compact, but we have not paid our dues. The compact and the members of the compact really do want Nebraska to remain a part of the compact and have come to us, saying, you know,

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we are willing to work with you to try to help you meet your obligations and get you reengaged in the compact. And so I introduced legislation this year that would require us to pay our dues and become current and have this put under the Legislative Council, so that the Legislature would actually have oversight of this compact. In the past this money has come out of the Roads Department. This, the bill that I introduced to the Appropriations Committee, again, put it under the legislative compact (sic) or, excuse me, the Legislative Council. There were some meetings and some negotiations that took place, and they reduced our \$60,000 dues that were due down to \$30,000, and then we would pay our dues for next year, which would bring us into...get us current with what we needed to pay and get us back involved in the compact. I think there are a couple of questions here that we need to ask ourselves. Do we want to be a member of the compact? And we've had several bills introduced that would have repealed our membership in the compact. Those bills were not successful, so we are still a member of the compact and have not been successful in making that change. And then...now we have to decide, if we're going to remain in the compact, are we going to pay our past dues and become current? If we would decide in the next legislative session that we...you know, if this veto override isn't successful and we don't get current with our obligations and decide next year to introduce legislation that we want to withdraw and that legislation is successful, we would be up to \$75,000 that we would owe if the compact decided to make us liable. And that is a part of the compact language and in the statute that we do have to withdraw based on legislative action. So I think we're kind of...if we're going to be a part of the compact, we need to be a part of the compact. And what this Midwest Rail Compact does, you know, I...there's been...it's been said, we've seen nothing come of it, probably won't see anything come of it. And, no, we haven't seen any rail lines, passenger rail lines, change or come into the state of Nebraska. But this is...by being a part of the group, by being part of these Midwest states looking at things collectively, what is it that we need to do, what is it that can be done to improve passenger rail transport across the Midwest, including Nebraska. If we aren't a part of the compact, we certainly won't be a part of that discussion. And anything we may see probably will be out into the future. And I fear that if we decide to withdraw, officially withdraw, from that compact and these discussions begin to move forward in the next, you know, five, ten years, or down the road, once those decisions are being made, since we are no longer a part of that compact, we won't be a part of any of those decisions and may miss an opportunity to improve our passenger rail transport in the state. I know the city of Lincoln submitted a letter in support of the bill that I introduced this year. They see the value. You know, I know there's talk about, you know, creating that passenger line between Lincoln and Omaha and, you know, there's a lot of positives and negatives that go along with that. And that probably doesn't necessarily come into this discussion, per se. But if being a part of this compact is what are we looking at in the future, where are we looking at, at all of our transportation issues, and rail certainly needs to be a part of that. But, as of now, we are a member of that compact, we are in arrears on our dues and, in order for us to withdraw from the compact, it would take legislative action. And they would be within every right to ask us

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to pay all of the past dues that they have coming to them. So, you know, I really don't feel there's probably much to talk about here. We need to get our house in order and then maybe come back and make some decisions in the future. But, for right now, I think we have an obligation, and that obligation needs to be met before we can have any future discussions. Thank you. [LB195]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thank you, Senator Dubas. Members, you've heard the opening. There are senators in the queue. Senator Pirsch, you are recognized. Senator Burke Harr, you are recognized. [LB195]

SENATOR HARR: Thank you, Mr. President, members of the body. I stand in favor of this override. And I've been very silent today because this is very serious business that we're doing today. But we have an obligation as a state. We, as a state, gave our word to a compact that we would do certain actions, and part of that is we would pay a certain amount of money. And now we're trying to get out of that not the right way, which is to say, if you don't like it, fine, let's introduce legislation. And we tried that a couple years ago to get rid of our membership in the compact. I personally wouldn't like that, but I do...I think it's good that we're a member of the compact. But this backdoor way of not funding and not living up to our obligations...I constantly hear, the Nebraska way this, the Nebraska way that. I think it's...the Nebraska way is whenever you want something. But, to me, the Nebraska way is living up to your obligations and doing what you're supposed to do, and that's what this motion of Senator Dubas' is. It's living up to our obligations, our contractual obligations, and so I would vote...I would ask for your support of her override. Thank you. [LB195]

SENATOR GLOOR: Thank you, Senator Harr. Senator Wallman, you are recognized. [LB195]

SENATOR WALLMAN: Thank you, Mr. President. And I would have to agree with Senator Harr and also Senator Dubas. And, also, we make railroad cars right in this city here. And so is passenger rail ever going to come to the Midwest? Denver to Chicago would be a good fit, and one lane of interstate costs more than light rail from here to there. So it's an option I think we're going to have to look at instead of building more cement roads. And would Senator Dubas answer a question, if she would? [LB195]

SENATOR GLOOR: Senator Dubas, would you yield? [LB195]

SENATOR DUBAS: Yes, I will. [LB195]

SENATOR WALLMAN: When was this compact first started, do you know? [LB195]

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SENATOR DUBAS: The actual compact itself was started...it's been quite a few years ago. But we joined it in 2001, I believe. But I'm not finding when the actual compact was started. [LB195]

SENATOR WALLMAN: That's okay. [LB195]

SENATOR DUBAS: I can get that information for you. But we've been a member of it since... [LB195]

SENATOR WALLMAN: So somebody back then thought it was a good idea. [LB195]

SENATOR DUBAS: Yes. [LB195]

SENATOR WALLMAN: And it bothers me that we're behind on our payments. And so the Nebraska way, we supposedly pay our bills. And thank you, Senator. Thank you, Mr. President. [LB195]

SENATOR GLOOR: Thank you, Senator Wallman and Senator Dubas. Senator Ken Haar, you are recognized. [LB195]

SENATOR HAAR: Mr. President, members of the body, I have a question for Senator Dubas. [LB195]

SENATOR GLOOR: Senator Dubas, would you yield? [LB195]

SENATOR DUBAS: Yes, I will. [LB195]

SENATOR HAAR: I was looking around for a lawyer, but I'll ask you this question first and then maybe the other Harr. Can we just ignore a compact? A compact is more than just a whim, right? [LB195]

SENATOR DUBAS: Correct. I mean, it's in statute that we are a part of this compact. [LB195]

SENATOR HAAR: And my understanding...is this a federal compact in the nature of, you know, it's an agreement between states that can't just be broken without agreement from the other states? Or is this a compact where we can just withdraw anytime? [LB195]

SENATOR DUBAS: We may withdraw, but it takes legislative action, and then that withdrawal doesn't go into effect for a year after that legislative action. [LB195]

SENATOR HAAR: Okay, well, I recall that, in the not-too-far past, we ignored a compact

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and wound up in court. Isn't that likely to happen here as well? [LB195]

SENATOR DUBAS: My understanding is, if we want to withdraw and we do legislative action, if we have any liabilities, outstanding liabilities, we would have to fulfill those liabilities. [LB195]

SENATOR HAAR: Okay, thank you for that. Senator Mello, I have a question for Senator Mello if he'd be willing to answer. [LB195]

SENATOR GLOOR: Senator Mello, would you yield? [LB195]

SENATOR MELLO: Yes. [LB195]

SENATOR HAAR: Senator Mello, when you talked about this in...I favor this MO96 by Senator Dubas. Did you consider or talk about the fact that we just don't pay our dues? [LB195]

SENATOR MELLO: Senator Haar, we had extensive conversation as a committee, both when the committee decided to put in funding to pay our past dues in arrears as well as the current dues for the biennium after Senator Dubas brought the bill to the Appropriations Committee, before we released the final budget, as well as this morning we discussed the same issue at length. And, ultimately, the majority of the committee felt that this was not as big of a priority as other priorities that the committee had considered. [LB195]

SENATOR HAAR: Does the committee...you know, I appreciate all the work you've done. But does the committee believe that we can just ignore this and we're not going to get stuck for our membership? [LB195]

SENATOR MELLO: Well, I think the dialogue, Senator Haar, in the Appropriations Committee this morning stemmed around some of the dialogue we've heard this afternoon with Senator Dubas' amendment, which is, if the...we do not choose to fund this, which the committee chose not to incorporate into our proposal, the Legislature needs to strongly consider withdrawing ourselves from the compact because that was an issue that was raised both at Senator Dubas' bill introduction to the...and the public hearing on...in front of the Appropriations Committee, as well as every stage of debate we had internally in the committee, was, if we don't fund this, we need to have a conversation with Senator Dubas and the Transportation Committee to make a determination of whether or not the state really needs to be a member of this compact because, ultimately, Nebraska, it's not our way to not pay our bills when we, ultimately, are part of something. And at this point in time, as Senator Dubas said, statutorily we're part of this compact. We've not been paying our bill and so, if we're not going to pay our bill in the future, we probably should choose to leave the compact. [LB195]

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SENATOR HAAR: So it was also the feeling then in the committee that we could just ignore the fact that we're not paying our bills? [LB195]

SENATOR MELLO: Well, Senator Haar, to some extent, the state right now is on, essentially, kind of, a probation with the compact in which our membership, Senator Hadley and Senator Price, are nonvoting members of the compact. They're unable to get reimbursed for any travel for official business. So, in that sense, we had this dialogue, which is, if we're choosing not to fund our dues and/or pay any of our arrears, one, right now, the state...it's questionable in the sense of what the state is currently going to be continue to getting from the compact,... [LB195]

SENATOR GLOOR: One minute. [LB195]

SENATOR MELLO: ...with the exception of having nonvoting members attend meetings. And, as Senator Dubas knows this, it's a conversation we've had multiple times prior to her bill introduction. If this is the will of the Legislature not to fund the dues, we need to make a determination of withdrawing ourselves from the compact because it's not, I would argue to some extent, it's not in good faith we're acting if we continue to try to send representation to meetings where they can't participate, they can't vote, because we're not paying dues. [LB195]

SENATOR HAAR: Okay, well, I don't think it's the Nebraska way just to say, sorry, I'm going to stiff you, and we're not going to pay our dues and, I would agree with Senator Dubas, we should make that decision before we just say we're not going to pay our dues. Thank you very much. [LB195]

SENATOR GLOOR: Thank you, Senator Haar and Senator Mello. Senator Hadley, you are recognized. [LB195]

SENATOR HADLEY: Mr. President, members of the body, would Senator Dubas yield to a question? [LB195]

SENATOR GLOOR: Senator Dubas, would you yield? [LB195]

SENATOR DUBAS: Yes, I will. [LB195]

SENATOR HADLEY: I was looking at some of the information on the compact again. Has Iowa withdrawn from the compact? [LB195]

SENATOR DUBAS: I couldn't answer that for certain. I don't know. [LB195]

SENATOR HADLEY: It looked to me like they had, which would...certainly could impact

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Nebraska when they talk about a Chicago to Omaha link. But on the other hand, I do think the...I have a concern about paying the dues. I actually introduced a bill, as you said, a couple of years ago in the Transportation Committee to withdraw from the compact because we weren't paying our dues. I felt that we were listed as a member without paying the dues. So I had a concern about the payment of the dues versus membership. Now whether we pay the dues now, with this bill, or if we decide to withdraw, I think we have a legal/moral obligation to bring our dues up to date because we have been a member. So I think that the question of membership has to be brought up again. And I would hope that next year we have a robust debate on whether or not we need to withdraw from the compact, because that is certainly the key question at this point in time. Thank you, Mr. President. [LB195]

SENATOR GLOOR: Thank you, Senator Hadley and Senator Dubas. Senator Schumacher, you are recognized. [LB195]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I've spent some time trying to find the actual language of this compact. I think I found it on-line at miprc.org. This is what the rules say: Withdrawal from this compact shall be by enactment of a statute repealing the same and shall take effect one year after the effective date of the statute; a withdrawing state shall be liable for any obligations which it may have incurred prior to the effective date of withdrawal; if a compacting state shall at any time default in the performance of any of its obligations, assumed or imposed, in accordance with the provisions of this compact, all rights, privileges, benefits conferred by this compact or agreements hereunder shall be suspended as of the effective date fixed by the commission, and the commission shall stipulate the terms and the maximum time for compliance under which the defaulting state may resume its regular status; unless such default be remedied under the stipulations...let's see, unless the default be remedied under the stipulations and within the time period specified by the commission, this compact may be terminated with respect to the defaulting state by affirmative vote of the majority of the other commission members; any such defaulting state may be reinstated, by vote of the commission, by performing all acts and obligations stipulated by the commission. It almost seems to me, from reading that, unless there's some history or agreement otherwise, that what they can do to us if we don't pay our dues is kick us out. And it looks like the due deal, the amount of dues assessed, are kind of different. All these states, even states as big as Ohio and Wisconsin and Minnesota, Missouri, Illinois, pay the same dues. You don't have different dues if you're big or little. And it would appear that if Iowa is gone and Colorado never joined it and I don't see Wyoming in the list, that we would be in a position not...this commission would not be able to help us very much. I don't think...I think the remedy that the commission has is not to sue us, it's not a debt we owe, unless we specifically incurred it. And it would almost appear to me that all they can do is kick us out, and they have the option to do that. Thank you. [LB195]

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SENATOR GLOOR: Thank you, Senator Schumacher. There are no senators remaining in the queue. Senator Dubas, you're recognized to close upon your amendment. [LB195]

SENATOR DUBAS: Thank you very much, Mr. President. And it is my understanding that Iowa did withdraw, although they are considering rejoining the compact. I guess there's probably some question as to do we or don't we owe money. We have...since we haven't been paying our dues, we certainly have not been able to be an active participant in the compact. But if it would end up being that we do owe money, you know, I'm looking at...with the agreement that the compact made with us for this year in cutting back from \$60,000 to \$30,000, so there would be that \$30,000 plus the next year's dues of \$15,000. So we're looking at \$45,000, versus if we would be required to pay the full amount. That's \$75,000. I do believe we need to come back next year and we do need to make an absolute decision about do we or don't we want to be a part of this compact and do that then. But for right now, we owe money. We have been a part of this compact, and we owe money. I believe, as been stated on the floor, that, you know, we need to pay our bills. And then, after we have taken care of that, then we can come back and make the decision about whether this compact is worth our belonging to or not. So I would hope that the Legislature would support this motion to override. Let's get our bills paid. Let's take care of outstanding debt. Let's do what we need to do and then come back and make the second part of this decision next year in the Legislature. So I would request support for this motion to override and a call of the house, please. [LB195]

SENATOR GLOOR: Thank you, Senator Dubas. There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB195]

CLERK: 29 ayes, 0 nays to place the house under call. [LB195]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Wightman, Senator Burke Harr, Senator Chambers, Senator Lautenbaugh, and Senator Christensen, please return to the Chamber and record your presence. Senator Dubas, all senators are accounted for. How would you like to proceed? [LB195]

SENATOR DUBAS: Roll call, regular order. [LB195]

SENATOR GLOOR: This motion requires 30 votes. The question is, shall the amendment to LB195 become law notwithstanding the objections of the Governor? Mr. Clerk, roll call. [LB195]

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CLERK: (Roll call vote taken, Legislative Journal pages 1623-1624.) 13 ayes, 29 nays, Mr. President, on the motion. [LB195]

SENATOR GLOOR: The motion fails. Raise the call. Mr. Clerk for another amendment. [LB195]

CLERK: Mr. President, Senator Krist would move to override the line-item veto with respect to Sections 19, 21, and 22 to the Supreme Court. [LB195]

SENATOR GLOOR: Senator Krist, you're recognized to open on your amendment. [LB195]

SENATOR KRIST: Thank you, Mr. President, and good afternoon, colleagues. Earlier today I spoke with the staff in the judiciary...judicial branch, and we discussed this particular veto. And I told them that I would carry the motion, MO97, which would restore the money for the...in the probation area. Since then, there has been communication with the Chief Justice and through Senator Ashford and through others. I will, at the end of a few remarks, pull this motion. The reason that it...that I will pull it is, very clearly to me, there has been a magnanimous effort on the part of the judicial and the executive branch and the legislative branch to bring us together on LB561. Those efforts that have been made in that regard have been generously looking at what it's going to take to make that a success and the funding mechanism that goes along with that. There are some issues here that will be dealt with again, partly in a function of LB561. But at this point, to speak of \$180,000 when there were tens of millions of dollars dedicated to that proposal seems a bit fruitless. So with the permission of the Chief Justice who, again, has done wondrous things for our kids...and in this case of LB561, the Governor has also been real forthright coming to the table and making LB561...giving LB561 the chance to succeed from the very beginning. And that's what this is about, coming together as three branches and making it happen. It happened a few years ago with the efforts involved with foster care, and it's happening here again this year with LB561. So I would like to pull MO97 at this time, Mr. President. [LB195 LB561]

SENATOR GLOOR: Thank you, Senator Krist. Seeing no objection, so ordered. Mr. Speaker for an announcement. [LB195]

SPEAKER ADAMS: Thank you, Mr. President. Members, as we are working through this, my intention would be that we would stay in session until we have completed the override issues that are before us tonight. And there won't be any food back there. We're going to keep working until we're through with this. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Mr. Speaker. Mr. Clerk.

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CLERK: Mr. President, I have no further overrides with respect to LB195. Senator Mello reports, on behalf of the Appropriations Committee, that they, the committee, would recommend that LB198 become law notwithstanding the line-item vetoes of the Governor. [LB195 LB198]

SENATOR GLOOR: Senator Mello, you are recognized to open on your motion. [LB198]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. The motion before you would override the Governor's line-item vetoes in the capital construction bill, LB198. As I stated during my introduction on the previous override motion, the Appropriations Committee met this morning to review each of the vetoed items and recommended whether any or all of the vetoes should be overridden. Each of the veto items included in LB198 were recommended for override by a majority vote of the committee so the motion would provide that the bill becomes law notwithstanding the line-item vetoes of the Governor. The Governor exercised three line-item vetoes for the capital construction projects. What he did was he eliminated funding for construction of a new facility for the University of Nebraska Medical Center's College of Nursing, Lincoln Division; reduced by 25 percent funding for the renovation of the Nebraska Historical Society museum; and reduced funding roughly...over...roughly \$550,000 for the Nebraska Capitol Commission to undertake capital improvements here at the State Capitol Building. The committee felt that these projects were important priorities, not just of the committee and the Legislature, but as...but important priorities for the entire state and has recommended that the vetoes contained in LB198 be overridden as a whole. There's been a couple of issues that have come up, I would argue, over the last couple of days in talking with both members of the committee and other members not of the Appropriations Committee specifically regarding the University of Nebraska's nursing college facility. For one reason or another, there has been concerns raised in the sense of this project not having enough scrutiny or transparency during the legislative process to warrant the state choosing to invest in this important healthcare work force development facility. I have before me, and I can make copies for the body or you can speak with the Fiscal Office, the actual document from September 15, 2012, the university submitted with their budget proposal asking for the full amount of money for the nursing college. As I discussed on General File when there was an amendment brought forward to strike the funding, the legislative process works where the university brought this request to the Governor and to the Legislature through the standard legislative appropriations request, which was due on September 15, 2012. Ultimately, the committee considered the capital construction project in the preliminary and chose not to act on it because we wanted more information from the university. In that process and that time frame, the University Board of Regents met in January and made the determination that the funding for the veterinary diagnostic lab was going to be reduced by roughly \$9 million. They ultimately had changed the scope of the project, realized

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that they were able to do the project at a lower amount, and the Board of Regents voted to reduce the size of that project. And in return, the president, President Milliken, came forward to the Appropriations Committee at the University of Nebraska's public hearing and made the same request that they had made in their budget document from September 15, 2012, of seeking funding for the University of Nebraska Medical Center, Lincoln Division, nursing college. But what they suggested was a way to help finance it which was by the reduction the Board of Regents made to the veterinary diagnostic lab center that the Legislature could make the determination to utilize some of that potential funding that would come to the General Fund and instead redirect it to help build the nursing college under the same provisions that the other projects that we approved last year would be met in the sense of private funding being raised to help cover the additional cost that the state would not pick up for these facilities that the university felt were necessary and this Legislature felt were necessary in moving our healthcare work force forward. I say that as a point of clarification, colleagues, because I've had a number of people come and approach me raising some concerns about this was some kind of special way of going about doing a capital construction project. To the contrary, we follow the same legislative process for all capital construction projects. This was brought forward by an agency. The agency ultimately came into the public hearing, provided feedback of why they wanted the request, what ultimately were ways that they thought could be financed. And in this particular case, they thought this project could be financed similar to the way we financed the veterinary diagnostic lab through providing bond payments to the overall project with the understanding the university would raise the additional money necessary to cover the complete cost of the project. I say that again just for a point of clarification. The committee ultimately today decided to approve all of the capital construction veto overrides because, as I mentioned, they felt that it was a priority, not just of the committee and the Legislature, but for the state because these projects have statewide focus and statewide impact, both in respects to the university, the State Historical Museum, and the State Capitol, which was the other component of the Governor's line-item veto. With that, I'd urge the body to adopt the overall motion to override the Governor on LB198. Thank you, Mr. President. [LB198]

SENATOR GLOOR: Thank you, Senator Mello. Members, you've heard the opening on the motion to override. Members in the queue: Chambers, Nordquist, Hadley, Avery, Coash, Wallman, and others. Senator Chambers, you're recognized. [LB198]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I supported this bill when it was before us on Final Reading. I support the work of the Appropriations Committee. All we need really, brothers and sisters, are 21 votes. The 9 votes from the Appropriations Committee will be there. Are there 21 more of us who will back up what we did on Final Reading? I will not detail what each of the projects is because we all know. But it gives me an opportunity to scratch an itch that I've been feeling, not physically. I use the term clique, cabal, and cabal. All three involve a relatively few people, but clique is spelled c-l-a-q-u-e. In the same way that in the old

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days they would hire mourners at a funeral, a clique is a group of people hired to applaud or praise or give approval. That's a clique. A clique, which could be pronounced cleak (phonetically) or click, like leak or lick, whichever way you want to pronounce it. But you know what that is--an exclusive little group. A cabal is either a small group of conspirators or the plot itself. So when I use the term clique, it is not c-l-a-c-k. It's c-l-a-q-u-e. A member of that group is known as a claquite, c-l-a-q-u-i-t-e. A member of the clique is known as a cliquite, c-l-i-q-u-i-t-e. A member of a cabal is a cabalist. Now I will not say that the nine members of the Appropriations Committee comprises a clique, a clique, or a cabal; but they are as one. And the way I did my hands, it could describe a sphere or a globe. And a definition for globe, since I've taken it upon myself to deal with grammar and other things, that's a three-dimensional...what do you call it when you're dealing with shapes? Geometric. Isn't that geometry? It's a three-dimensional geometric surface where each point on that surface is the same distance from a fixed center. So since you're talking about every part of the surface, that let's you know it's three dimensional; and it would be described or could be described as a globe or a sphere, and that separates it from a mere circle or a disk. And in case you forgot, the circle is that plane figure, p-l-a-n-e, that's curved and every point of it is equidistant from that fixed center. Now that you know all of those things, I will go back to what we're doing here today. This vote should not be that difficult. [LB198]

SENATOR GLOOR: One minute. [LB198]

SENATOR CHAMBERS: We only have three items that we were considering as far as I can recollect and what I've been told, and I don't think any one of them slipped under the radar. We knew what we were voting for. And I hope that with the clique, clique, or cabal we can get at least 21 other members who, for the institutional integrity of our body, will confirm that wise and appropriate vote that we cast on Final Reading. And that's all I will say on this motion. Thank you, Mr. President. [LB198]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Nordquist, you are recognized. [LB198]

SENATOR NORDQUIST: Thank you, Mr. President and members. Kind of envision us more as a wolf pack, Senator Chambers, or maybe a quasi clique. But I rise in support of all three components that we're talking about here. The nursing college, largely because we know...we heard the discussion on Medicaid expansion about the need to continue to move our healthcare work force forward. I think pretty much everyone agreed upon that. And this investment will allow us to do that. We are turning away about 60 percent of the qualified applicants at our nursing college in Lincoln because we don't have the space. This will be about a 30 percent increase, and it also allows us to teach more of the teachers, to teach more of the people who can educate more nurses in the future, and that's what we need to create a true pipeline. This project has had more transparency, I think, than just about anything during my time in the body.

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We've had a hearing on this every biennium for the last three bienniums. We appropriated money for planning, about \$80,000 or \$90,000 for planning. That was done before I was elected when I was working with Senator Synowiecki in 2008 so there's no question about the transparency that's been involved in this project. I would just say on the Historical Society, I listened closely to my colleagues, Senator Kintner and Senator Nelson, when they did a full tour and looked at the ADA compliance issues, looked at the electrical issues where there were brownouts in the building or blackouts in the building when they would turn on certain exhibits that just...and there certainly is fire code issues there. And then on the State Capitol, we often, every time I've...the years I've been in the Appropriations Committee, we, you know, we've appropriated money to restore a couple of our offices on our...in the legislative side of the Capitol. But there's a lot of the rest of the Capitol that is often neglected. And that's what this money is ultimately for--to make sure that we are maintaining the entire Capitol that the people of Nebraska rightfully own, the taxpayers of this state rightfully own. And it's up to us to be good stewards of this space and to properly appropriate money to maintain it. With that, I'd yield the rest of my time to Senator Lautenbaugh. [LB198]

SENATOR GLOOR: Senator Lautenbaugh, 2 minutes 30 seconds. [LB198]

SENATOR LAUTENBAUGH: Thank you, Senator Nordquist. I won't take all of that. I do rise to object to one of Senator Chambers' comments. I believe the members of a clique are called cliqueurs, not claquites. But this topic surely doesn't involve me so I'll yield the rest of my time back. Thank you, Mr. President. [LB198]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Senator Hadley, you're recognized. Senator Hadley, you are recognized. [LB198]

SENATOR HADLEY: Mr. President, members of the body, I'd like to talk in favor of overriding the veto on the nursing program in Lincoln. And I want to do that for two or three reasons. One, we basically have this as part of the package, the healthier Nebraska package, and it was the one part that wasn't passed earlier. So if there's a process problem, I think it was...it's not like it's just out of the blue. Secondly, we spent a lot of time this session and other sessions talking about the shortage of health professionals, and it isn't going to get better. And in outstate Nebraska, it is really becoming quite a serious problem. So if we can have ways of increasing the number of nurses in Nebraska, I think it's very, very appropriate. Would Senator Mello yield to a question? [LB198]

SENATOR GLOOR: Senator Mello, would you yield? [LB198]

SENATOR MELLO: Yes. [LB198]

SENATOR HADLEY: Senator Mello, is there a matching component to this particular

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project? [LB198]

SENATOR MELLO: There is, Senator Hadley. It follows the very similar path that the other three projects of the Building a Healthier Nebraska initiative followed which is roughly about a 25 percent private dollar match. And in this particular case, it's a little more than that obviously. It's about \$5.6 million of the total cost and \$12 million picked up by the state. [LB198]

SENATOR HADLEY: Thank you, Senator Mello. I want to say a few words about matches on buildings. It is very, very difficult to go out and raise money for bricks and mortar. I realize that if you're a University of Nebraska Med Center you have some people who are very interested who have significant amounts of money. But the average person in Nebraska, it's difficult to convince them that they should contribute money to bricks and mortar because the average person in Nebraska sees this as a state responsibility. They see that they're more than willing to give the scholarships and such as that to enhance the student's experience in school, but it is difficult to raise money. So when we have these projects where we have a 25 percent local match, it is not easy to go out and convince people to give money for that kind of project. You're competing against ask for scholarships, ask for endowed professorships, ask for many different things that the money raised by the university is used for. So it's not a given that you can go out and raise 25 percent of the total needed for these projects. And I can just speak from experience at UNK is that we're still working at UNK to raise the money for the match that is required out there. And it takes some time to get that, takes some time to get the process going. So we're not looking at nurses next year, an increase in the nursing numbers next year. It's going to take time to raise the money. It's going to take time for construction. Again, it's a four-year class so we're looking down the line to increase the number of nurses in Nebraska. We should start that now rather than later. Thank you, Mr. President. [LB198]

SENATOR GLOOR: Thank you, Senator Hadley. Senator Avery, you are recognized. [LB198]

SENATOR AVERY: Thank you, Mr. President. I, too, support this motion to override under the capital construction budget. There are some pressing needs that are being met by the appropriations that the committee made. The nursing school is, of course, probably the highest priority. That it something that the university has been putting on their priority list for years and the need is great. We have 73 Nebraska counties right now out of the 93 that have fewer nurses than the national standard. Forty-two qualified applicants to nursing programs in Nebraska were turned away in 2010-11, mostly because they lacked the instructional facilities and faculty. Over the next nine years that shortage is expected to reach nearly 5,600. There's also another very worthy item in this motion and that is the reinstatement of funds for the State Historical Museum. That building has a structural age of 45 years. Museum systems...the museum has an

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operating system that is at least 31 years old. A great part of the structure was built in 1967. The roof was replaced in 2009 by the 309 Commission. Emergency repairs have been made elsewhere in the structure over time. I was looking over the committee transcript and I was really shocked when I came across a reference to problems with the elevators. Of course, they're not ADA compliant. The bathrooms are not ADA compliant. But the elevators are so old that getting replacement parts to maintain the elevators often requires the state to go to Mexico to purchase these because Mexico still uses aging elevators and they have the parts. That is awful. The auditorium in the museum is a converted step-down bar left over from the building's earlier life as an Elks Club. It seats about 75 people. They need at least twice or about twice that capacity to be able to meet their needs. We need to fund that as well. I also was intrigued by the inclusion of some additional money for the State Capitol improvements. That's the capitol with an "o." That means this building. And we all have experienced discomfort in this building when the need comes to transfer the heating and cooling system from heating to cooling. It's a cumbersome process. It doesn't work well, and we know that we often erect fans in here to keep ourselves cool during that transition. Now the money that is to be reinstated if we support this bill would pay for a study that is sorely needed and is currently called for in law, a study that would start the process for a complete replacement of the existing heating, ventilation, and air conditioning system in this building. We have great pride in this building and we want to maintain it at the optimal level... [LB198]

SENATOR GLOOR: One minute. [LB198]

SENATOR AVERY: ...that we can given our resources. We have the resources to do this, and I think all three of these programs that are in LB198 are laudable and worthy of our consideration and our support. Thank you, Mr. President. [LB198]

SENATOR GLOOR: Thank you, Senator Avery. The Chair recognizes Senator Harms. [LB198]

SENATOR HARMS: Thank you, Mr. President, colleagues. I would ask that you support the committee's recommendation to override this veto for capital construction. All three of these projects are very important. Senator Avery did a nice job of really giving you a good summary. The Administrative Services construction and improvements is critical to what happens to this building, and we need to continue to maintain that. Our windows need to be replaced. We're losing a lot of heat and we add a lot of heat in the summer to it. We need to make sure that that's done. And the Appropriations Committee has also asked for a long-range plan so we have a better picture about what has to be done and what order that it has to be done and then fiscally what it will be like. So the next time you have this discussion in the future, the next time you come through that budget cycle, hopefully whoever is here will be able to present that to you so you have a good picture of exactly what our costs are, what the plan is, and how much we're going to

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have to do to take care of that. The Historical Society, colleagues, I don't know if you've been there or not. My wife and I, Pat, have been there on numerous occasions. It's badly needed of a lot of help. It was an old Elks Club. It's deteriorating. They do the best they can. As Senator Avery said, the elevators need to be fixed. We have rest rooms that don't meet handicap requirements. There's all kinds of issues in that particular building with power and just the entryway. If we could get some of these things straightened up, it would be very helpful. And as far as the University of Nebraska's nursing program is concerned, it's critical that we get this out of downtown. I don't know if you've taken the time to go down and take a look at that, but as you walk down the street, you have to walk past bars, retail business, people wander into that facility. And to be very honest with you, if I had a daughter who wanted to go into nursing here, I don't think I would recommend that she go here because I don't think it's a safe environment. I think we do everything we can to secure it, but it needs to be on campus. It needs to have campus security. It needs to have a collegiate environment setting like all the other programs have. So I would urge you to support these overrides. All three of these projects I think are critical. All three of these projects are part of the plan that we should have for this great state and for this Legislature. Thank you, Mr. President. [LB198]

SENATOR GLOOR: Thank you, Senator Harms. The Chair recognizes Senator Wightman. [LB198]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I don't intend to speak a long time, but I agree with all three of the provisions that we have in LB198. Some of these are merely the first part of expenses we're going to have over the next several years. The State Capitol improvement is perhaps a one-time, although we probably will have looked at every year, but it's just a necessity that we keep up and restore the areas of the State Capitol that are really kind of falling down from time to time. And it's just not the two or three offices that we spend most of the funding on, but it's also just looking at things that are...you see it as you walk through where paint is coming off. A number of things are coming off, and we just need to take care of that on an annual basis. The museum renovation is definitely just the first stage, but things that need to be done before we start restoring that building. And it does need a lot of work. With regard to the College of Nursing, I think this is absolutely essential to maintain the nurses that we need in the state of Nebraska. We're short now. We probably are going to get shorter and maybe substantially shorter if we don't provide some funding for some new facilities. So with that, I do rise in support of all of the three items that we have in the capital construction fund and would ask that you support them as well. Thank you. [LB198]

SENATOR GLOOR: Thank you, Senator Wightman. The Chair recognizes Senator Pirsch. [LB198]

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SENATOR PIRSCH: Thank you, Mr. President, members of the body. I would just ask if Chairman Mello would yield to a question or two. [LB198]

SENATOR GLOOR: Senator Mello, would you yield? [LB198]

SENATOR MELLO: I would. [LB198]

SENATOR PIRSCH: Thank you. And so there are essentially embedded in this LB198 is three items, one of which includes, and it was previously touched on by, I think, Senator Avery, Administrative Services category, the State Capitol improvements. This money that is to be spent, and I think that's biennium total of about \$544,000, could you just describe how this money would be spent with respect to the Capitol Building? [LB198]

SENATOR MELLO: Well, I'll do my best, senator Pirsch. Essentially the Appropriations Committee in the capital construction budget appropriated a little more than a million dollars total over the biennium to fund capital construction projects identified by the Office of the Capitol Commission. And part of that, half of that money essentially, give or take, was to focus on legislative space in the Capitol to renovate, whether it's committee rooms, committee hearing rooms, individual offices, other legislative space that the Legislature occupies, and the other half and which was vetoed and what we're seeking override of LB198 is the funding available for all other aspects of the State Capitol. So that would include other office space in the ultimate Capitol tower, would include window replacement. As you can look out down the hall there, there's hallways in the Capitol that need to be replaced due to water damage. So essentially what the committee chose to do was to choose to override that specific line item of the Governor vetoed. Because as Senator Nordquist and others have mentioned, the Capitol is a state treasure that belongs to the people of Nebraska. And some of the deferred maintenance projects are millions and millions of dollars that ultimately we couldn't appropriate all that money for this year. But we felt it was necessary to continue to try to whittle down some of those deferred maintenance projects to try to once again ensure the Legislature and the Capitol as a whole, legislative space and the Capitol as a whole had adequate funding to deal with the most pressing capital construction needs. [LB198]

SENATOR PIRSCH: Yeah, and thank you. And with respect to the second category I guess we'll describe it as that, Historical Society for the museum renovation, that biennium total would be some \$709...\$710,000. Is that correct? [LB198]

SENATOR MELLO: Yes, roughly that. [LB198]

SENATOR PIRSCH: Okay. and I think we've had some comments with respect to the usage there. Certainly with respect to me the most compelling of the three items is

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the...and I won't ask you any questions about the College of Nursing. You know, I don't disagree that nursing is an area of shortage for the state, as it is with other healthcare providers. But with respect to the Historical Society, could you frame it...was this...the veto, was that a total veto or a reduction in the appropriation as the Governor made that veto? [LB198]

SENATOR MELLO: The reduction was a 25 percent reduction over the period of time which the appropriations lasted, which was a three-year period. The ultimate issue that was raised by the committee in the seeking of overriding the Governor on that 25 percent reduction was the concern that because the committee and the Legislature as a whole... [LB198]

SENATOR GLOOR: One minute. [LB198]

SENATOR MELLO: ...appropriated less amount...a lesser amount of money that the Historical Society requested for the ultimate project in the overall project, the concern was further reducing that, and the way it was reduced, which was a larger percentage in the third year, that the amount of money even that the...the total amount of money the Legislature appropriated, the \$6 million, may not be enough to cover the entire ADA and code compliance issues with the Historical Society museum, purely because of inflationary costs that are going to occur year after year. And the way the committee decided to fund that, we understood that there's a chance that there would be no additional funding for renovation. But by providing \$6 million, we felt that that would at least cover the basic necessities of the mechanical and code compliance and ADA compliance of the building, knowing it was done over a three-year period. They...the Historical Society and other members, we had this conversation, don't believe the Governor's veto allows for that to occur because of the reduction of 25 percent. [LB198]

SENATOR GLOOR: Time, Senators. [LB198]

SENATOR PIRSCH: Thank you. [LB198]

SENATOR GLOOR: Thank you, Senator Pirsch and Senator Mello. Senator Schumacher, you are recognized. [LB198]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. These particular items are classified as capital construction. And capital construction isn't necessarily an expenditure because you've got an asset when you're done after you spend the money. So to that extent, the numbers of what we're saving, if we sustain the veto, are probably high. We're probably going to see in the future substantial inflation at some point. And if that inflation happens before we make these investments, we're going to pay a lot more for them. The State Capitol improvements, we're probably going to have to do those, so we just as well do them now as risk paying an inflated price

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later. The renovation of the Museum of Nebraska History, unless we privatize that building or just get rid of it entirely, we're probably going to end up having to do it. It sounds like the building is in pretty sorry shape, and fixing it up isn't going to get any cheaper by putting it off a year or two or three or four. And we risk paying substantially more if we see a return of inflation. The UNMC College of Nursing at the Lincoln facility, either we're going to do that or we're not. If we're not going to do it, then maybe we can say let's forget it, we don't need that nursing education facility, and we can save a little money, looks like you're on the order of \$1.4 million a year by not doing it. On the other hand, we're probably going to get stuck expanding our nursing training facilities because we've got this glut of baby boomers who are going to want to be nursed as they get older and older. And that's a bullet which we, unfortunately, are probably going to have to bite. We're probably going to need to expand that facility to take care of the baby boomers and also to provide additional capacity should this state join the folks who are financing healthcare in the future through Medicaid expansion rather than through a hidden tax or insurance subsidy on insurance premiums. So I think because this is capital construction, because we're going to have an asset after we're done with it, it's really not an expenditure in the sense of just blowing some money. And we're probably going to be saving money because we're probably going to be seeing significant inflation at some point when the Federal Reserve loses its ability to keep inflation suppressed. So I rise in support of these capital expenditures. Knowing they're like life, you're going to have to pay them one way or the other, so you just as well get them over with and get those wisdom teeth pulled ahead of time rather than waiting until they get infected or impacted or whatever wisdom teeth get. So thank you, Mr. President.
[LB198]

SENATOR GLOOR: Thank you, Senator Schumacher. Seeing no senators remaining in the queue, Senator Mello, you're recognized to close on your motion to override.
[LB198]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Could I do a call of the house right now while I do my closing? [LB198]

SENATOR GLOOR: Members, there has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB198]

CLERK: 27 ayes, 0 nays, Mr. President, to place the house under call. [LB198]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Mello. [LB198]

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SENATOR MELLO: Thank you, Mr. President, members of the Legislature. As I mentioned in my opening on LB198, the Appropriations Committee met this morning and considered each of the three line items vetoed by the Governor in LB198, the capital construction bill. The committee by a majority vote chose to override each one of those capital construction items which is why we brought the entire bill, LB198, before the entire body to consider for an override motion. As I mentioned, and you heard other speakers on the floor discuss, the three projects that were line item vetoed, one, the new University of Nebraska Medical Center, nursing college, Lincoln Division, which has been the number one capital construction project at the university for a number of years, which while it was ultimately not supported last year, the university brought it back again this year and brought a way to help finance a portion of that project in conjunction with private dollar fund-raising to help make that a reality. The second project was a 25 percent reduction of what the Legislature voted to support in regards to the Nebraska History Museum renovation. As you heard, that is a state museum. It's a state obligation. As we discussed greatly on General File, we have the ability either, one, to fund the renovation to make sure that we keep its code inspection up to date; that we ensure the facility meets ADA compliance, as well as all the mechanical and electrical needs; that we had two committee members go visit, see, and identify there was a need there. And the reality is the committee and the Legislature as a whole decided that while we did not fully fund the request for that project we did fund \$6 million worth, which we thought even with inflation over a three-year period would cover the mechanical, electrical, code compliance, and the ADA requirements necessary for the renovation at the history museum, as well as there may be a possibility of doing a tweak here or there in regards to renovation. But that ultimately will only occur if the project is able to move forward at the \$6 million level. The third item which Senator Pirsch and Senator Avery discussed was roughly a half a million dollars, roughly I think \$544,000 for capital construction at the State Capitol. As mentioned, the State Capitol belongs to all of Nebraska. And we know by walking through the halls and walking up through the tower, the various office spaces of the variety of different state agencies, there's significant needs here at the State Capitol, whether it's windows, whether it's hallways that have water damage, whether or not it's floors, you name it, we see it on a day-to-day basis. And with the visitors that come into Nebraska and to the Capitol on a regular basis, the number of projects, deferred maintenance projects, are continuing to grow because we haven't put enough money into that deferred maintenance over the last four years because of budget concerns. It was a priority of the committee and ultimately of the Legislature to provide roughly a little more than a half million dollars to deal with some of the deferred maintenance we see at the State Capitol, with the hopes that we can continue to try to improve once again windows, other energy conservation efforts outside of the legislative space, as well as repair what we know is specific water damage and other mechanical damage inside the Capitol itself. With that, I'd urge the body to adopt the entire bill, LB198, with the committee...Appropriations Committee motion to override. Thank you, Mister... [LB198]

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SENATOR GLOOR: Senator Mello, all members are present and accounted for. How do you wish to proceed? [LB198]

SENATOR MELLO: A board vote, please. [LB198]

SENATOR GLOOR: Members, the motion is: Shall the provisions within the motion to LB198 become law notwithstanding the objections of the Governor? All in favor vote aye; all opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB198]

CLERK: (Record vote read, Legislative Journal page 1625.) [LB198]

SENATOR GLOOR: The motion is adopted. Raise the call. Mr. Clerk. [LB198]

CLERK: Mr. President, the next motion I have is with respect to LB199. Senator Mello, as Chair of the Appropriations Committee, would move that LB199 become law notwithstanding the line-item vetoes of the Governor. [LB199]

SENATOR GLOOR: Senator Mello, you're recognized to open on your motion. [LB199]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. The motion to override the Governor's line-item vetoes in the fund transfer bill, LB199, is before you as a vote of the majority members of the Appropriations Committee as based on the bill that was already overridden, LB195 I should say, the Appropriations Committee report of LB195. As I stated under my previous introduction on the previous override motions, the Appropriations Committee met this morning to review each of the vetoed items and recommend whether any or all of the vetoes should be overridden. Each of the vetoed items included in LB199 were recommended for an override by a majority vote of the committee so the motion would provide that the bill becomes law notwithstanding the line-item vetoes of the Governor. The transfers which were vetoed in LB199 are directly related to the Cash Fund appropriations that were contained in LB195 and the successfully overridden motion adoption with MO92 of the Appropriations Committee report. I'd urge the body to adopt the override motion on LB199 as the Legislature already moved to override with the Appropriations Committee report on LB195. Thank you, Mr. President. [LB199 LB195]

SENATOR GLOOR: And thank you, Senator Mello. Are there senators wishing to be recognized? Seeing none, Senator Mello, you're recognized to close on your motion to override. [LB199]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. As I mentioned, LB199 is simply the Cash Fund transfers that were associated with the Appropriations Committee override of the mainline budget, LB195. So for us to be able ultimately to carry through the override motion on LB195, we also have to override the

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entire bill, LB199, which was, once again, approved by a majority of members of the Appropriations Committee. With that, I'd urge the body to adopt LB199. Thank you, Mr. President. [LB199 LB195]

SENATOR GLOOR: Thank you, Senator Mello. This motion requires 30 votes. The question is, shall the provisions within the motions to LB199 become law notwithstanding the objections of the Governor? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB199]

CLERK: (Record vote read, Legislative Journal pages 1625-1626.) 36 ayes, 3 nays, Mr. President, on the motion to...that LB199 become law notwithstanding the objections of the Governor. [LB199]

SENATOR GLOOR: The motion is adopted. Mr. Clerk. [LB199]

CLERK: Mr. President, the next item I have is LB194. The Appropriations Committee makes no recommendation as it relates to LB194. I do have a motion from Senator Carlson. Senator Carlson would move that LB194 become law notwithstanding the line-item veto of the Governor. [LB194]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Carlson, you're recognized to open on your motion. [LB194]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. The U.S. Senior Golf Tournament in July in Omaha is only the second USGA event to be held in Nebraska. The U.S. Amateur was in Omaha in the 1930s. And in 2009, the Legislature passed and the Governor signed a \$250,000 appropriation to assist the U.S. Senior Open Committee host this event. Now later in 2009, many of you remember the Governor called a special session to address budget reductions, and the \$250,000 was one of the items pulled out of the budget. This state has financially supported other national sporting events with General Fund dollars, including the Olympic swim trials, figure skating championships, and the Special Olympics. The expected \$30 million of economic impact will generate about \$1.35 million in state and local taxes. There is an expected attendance of 150,000 spectators for the event. The \$200,000 would be spent to promote Nebraska at the tournament through the work of the Department of Nebraska Tourism. And government support in other states for the past three U.S. Senior Opens were in Kansas, \$750,000; Wisconsin, \$200,000; and Colorado, \$600,000. There would be an informational booth. There would be a full-page, four-color ad in the program for the spectators. We have the "Get Driving" golf campaign in Nebraska, which is to show people where they can pursue golf all across the state of Nebraska. There would be daily announcements for the "Get Driving Nebraska" campaign. The dollars would help promote Nebraska to a group of people who have money to spend, will travel long distances to get to Nebraska. Many are avid golfers and

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look for new places to play. And I believe the investment is the right thing to do. I also realize that maybe there's question in the kind of support for this appropriation. The Appropriations Committee did not vote to override the veto, and so I question whether the votes are there to make this override. Now earlier today Senator Chambers told us that he had chewed on the issue of the budget, and once he chewed it, made up his mind and voted, that that's the way the rest of us should do as well. And I took the voting from LB194 and sure enough, I know that I have some votes with me on this override because they've chewed it and they've made their decision. Senator Chambers, I've got his vote. Senator Bloomfield, I've got his vote. Senator Kintner, I've got his. Senator Larson, I've got his. Senator McCoy, I've got his. And I know that Senator Chambers understands and knows the Good Book says that a double-minded man is unstable in all his ways. He's not going to change his vote. So I believe that I probably have more support than some of you think. Now I really think in a serious matter it's a mistake not to be a part of the Senior Open promotion. This is a great event in the state of Nebraska. And so I feel badly that we're not going to take part in it as I think we should. I think to a certain extent it's embarrassing for the state of Nebraska, but I also know that people do have the freedom to change their mind on how they support or not support something. So I thank you for listening, and with that I request the motion be withdrawn. Thank you, Mr. President. [LB194]

SENATOR COASH PRESIDING

SENATOR COASH: Without objection, so withdrawn. Items for the record. [LB194]

CLERK: Mr. President, I have General Affairs confirmation reports, two separate reports. Senator McCoy offers LR359; that's a resolution that will be laid over at this time. And an amendment to be printed to LB574 by Senator Schumacher. (Legislative Journal pages 1627-1628.) [LR359 LB574]

Mr. President, I have a priority motion. Senator Larson would move to adjourn the body until Wednesday, May 29, at 9:00 a.m.

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