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Floor Debate  
January 24, 2014

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[LB96 LB278 LB313 LB405 LB406 LB464 LB474 LB485 LB561 LB588 LB656 LB657  
LB658 LB659 LB665 LB907 LB916 LR424]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twelfth day of the One Hundred Third Legislature, Second Session. Our chaplain for today is Pastor Bob Lawrence of the South Auburn Church of Christ, York, Nebraska, Senator Watermeier's district. Please rise.

PASTOR LAWRENCE: (Prayer offered.)

SENATOR GLOOR: Thank you, Pastor Lawrence. I call to order the twelfth day of the One Hundred Third Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

ASSISTANT CLERK: I have no corrections this morning.

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

ASSISTANT CLERK: There are, Mr. President. I have a Reference report from the Executive Board for LB1013 through LB1115, plus three resolutions. I have a report of registered lobbyists for the current week. Various agency reports have been filed with the Legislature on the legislative Web site and are available for review. A series of appointments to the Public Employees Retirement Board, the Information Technology Commission, and a gubernatorial appointment report from the Government Committee regarding the Adjutant General of the Military Department. That's all that I have this morning. (Legislative Journal pages 349-354.)

SENATOR GLOOR: Thank you, Mr. Clerk. (Doctor of the day introduced.) Mr. Clerk, we'll now proceed to the first item on the agenda.

ASSISTANT CLERK: Mr. President, LB313, introduced by Senator Christensen. The bill was considered yesterday. (Read title.) The bill was read for the first time on January 17 of last year, referred to the Judiciary Committee which placed the bill on General File. [LB313]

SENATOR GLOOR: Senator Christensen, would you give us an abbreviated review of LB313, please? [LB313]

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SENATOR CHRISTENSEN: Thank you, Mr. President. LB313 is trying to work with some of the crowding problems that we have in the facilities, trying to better utilize some of the beds that are being left open for the courts because within WEC it's the only facility in the prison system that the judges can place prisoners. And they're not utilizing it to the fullest capacity and so they're...they've been real respectful not to go ahead and fill them and have other logistical problems. So they're asking to be put in full control of the prison system at McCook, just like the others, so they can keep the facility full, take off some of the crowding that we have. And then it also strikes the ability for judges or alleviates the problem that we have had under 19 being sent there, which breaks a federal rule. So that's the basic part of the...principle of the bill is just to ease the crowding and let the full management, all the prison systems be within Department of Corrections. Thank you. [LB313]

SENATOR GLOOR: Thank you, Senator Christensen. Members, you've heard the opening on LB313. We now move to floor debate. Senator Ashford, you are recognized. [LB313]

SENATOR ASHFORD: Yeah, hi, thanks. Good morning, Mr. President. This...Senator Christensen and I have had a chance to chat about this bill and I'm going to just respond briefly. Senator Christensen over the years has done a superb job of working with the McCook facility and the problem we're having. And I believe...and I might ask Senator Christensen a question if I could, just on the mike. [LB313]

SENATOR GLOOR: Senator, would you yield? [LB313]

SENATOR ASHFORD: As I believe the body knows, starting next week or the week after we're going to have hearings on our prison reform packages. There are a number of bills and initiatives which will include a discussion about the McCook facility, the nature of which has changed dramatically over the last number of...few years. McCook is now really a corrections facility. It used to be a facility that was used by the Probation Department for people on probation coming back into the community. Senator Christensen, is it your desire to keep this bill here and wait until that discussion occurs? [LB313]

SENATOR CHRISTENSEN: Well, Senator, I've visited with the department people since I was able to talk to you last. And if we leave it and don't do anything this year, as I...when I visited with Senator Chambers also, that leaves us with the ability that judges have sent 18-year-olds out there before which put us against federal law. And so they would like to see some of this definitely get forward. When I left the discussion with you and Senator Chambers, there was still the possibility we wouldn't get this bill done or get it rolled into another one. And I'm thinking because of some of this we need to make sure that we get some of this accomplished. So I guess I need to have your word,

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Senator Ashford and Senator Chambers, that we'll definitely take care of some of these issues. [LB313]

SENATOR ASHFORD: Sure. [LB313]

SENATOR CHRISTENSEN: And what...you and I both know that we have overcrowding. This is one way we can ease that. [LB313]

SENATOR ASHFORD: Yes. Thanks, Senator Christensen. The situation at McCook is not good. And what we've done is we've taken a facility that Mark has...Senator Christensen has really shepherded over the years. And he has done a great job of ensuring that services were available to people as they were going on probation, going through the McCook facility, and moving back into the community. We desperately need in Nebraska a staff-secure facility for offenders who are hopefully moving into what we call supervised release, and that's going to be the subject of our bill, LB907, as we discuss it next week. Senator Christensen, you absolutely have my assurance as Chair of the committee that the McCook facility will be a significant part of any reform that we do. I mean it...and it's because, quite frankly, Senator Christensen, over the years, that you have spent the time that you have spent in making...in talking to the people at McCook, in working with the community college out there, and in developing programming for offenders who are at the McCook facility. But we can't have the McCook facility simply be a place where we stick offenders because of prison overcrowding. That's not an acceptable way to deal with the prison system. And quite frankly, Senator Christensen, I am very appreciative of the work you've done and I do promise you that the McCook facility will be a central, core part of any reform that we do. [LB313 LB907]

SENATOR GLOOR: Senator Ashford, you are next in the queue. [LB313]

SENATOR ASHFORD: Well, that's really my only point. And I guess, just for the record, I could ask Senator Christensen again if I...another question if I could. [LB313]

SENATOR GLOOR: Senator Christensen, would you yield? [LB313]

SENATOR CHRISTENSEN: Yes. [LB313]

SENATOR ASHFORD: Senator Christensen, would you agree with me that there needs to be, first of all, a focus on the McCook facility and a clear definition of what the McCook facility is now and what it's going to be in the future? Would you agree with me on that? [LB313]

SENATOR CHRISTENSEN: I have no problems agreeing that if we think the focus needs to change we need to have hearings and discuss that. I guess my concern right

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at the moment is to make sure we don't get the underage sent out there. And that's been a problem once and we don't want to be on that side of things. We all know that we have an overcrowding problem and there's beds that could be better utilized. I want to make sure we deal with these issues this session. And that's my concern. If we wait, will we get this done? [LB313]

SENATOR ASHFORD: Senator Christensen, that is an extremely legitimate concern. It's a concern that is well-stated. And I will guarantee you that, if this body so elects, we will deal with McCook and we will deal with every other aspect of the prison system in Nebraska this session. It must be done now and I appreciate your concern for that and I absolutely promise you that at least our committee--and you're an important part (laugh) of that committee--that we will have those issues out in front of the Legislature and we'll have a full debate about the prison system in Nebraska. [LB313]

SENATOR GLOOR: Thank you, Senator Ashford and Senator Christensen. Senator Chambers, you are recognized. [LB313]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I have to get clarification for myself of...on Senator Christensen's intentions, so I'd like him to yield to a question if he would. [LB313]

SENATOR GLOOR: Senator Christensen, would you yield to a question from Senator Chambers? [LB313]

SENATOR CHRISTENSEN: Yes. [LB313]

SENATOR CHAMBERS: Senator Christensen, you said that you talked to the people of...at the Department of Corrections. What is it that they told you they insist on this body doing this year with reference to this bill? Because they're not going to insist on anything as far as I'm concerned. But what did they insist to you that the Legislature must do this session to satisfy them? [LB313]

SENATOR CHRISTENSEN: I don't think if "insist" is the right word. What we discussed and they've asked if I can try to get accomplished is the ability to make sure we don't have the underage sent there and also that either...we've talked about a couple different things. [LB313]

SENATOR CHAMBERS: But just tell me what they said because my time...and I'll...take your time and I'll put my light on again. I was thinking this might be my third time already. Take your time. Go ahead. [LB313]

SENATOR CHRISTENSEN: All right. They would like to see that the underage can't be there and also make sure that they can better utilize the facilities so that we don't have

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as much crowding in the male facilities. It's where we have most of the problems, Senator. [LB313]

SENATOR CHAMBERS: Okay. I hear what you're saying. Members of the Legislature, we shouldn't do anything on this bill this session. There are people...and I'm not going to include myself in that group, although even before Senator Ashford or anybody who is here go into the Legislature I led the way on prison reform and it was recognized by people in other parts of the country. One of the first things we did was got rid of that old Bastille-like building, new construction. We tried to put in place some type of training for those who are going to be the guards. But I just mention that to indicate my interest does not start this session. I don't trust people in the Department of Corrections. I don't trust them. And because the Judiciary Committee and other entities not connected with the Legislature have been working for months on a comprehensive approach to the prison problems, I'm not in favor of "piecemealing" it and turning an institution over to this man who is not even the Director of Corrections yet. He's interim. I don't even know that he ought to be confirmed. Let him function as the interim director, being a caretaker. Then when a new Governor is in place, that Governor can make a determination. I'm not saying it has to be that way. But prisons are in the bad shape they are in Nebraska because of the political playing with the system, the "piecemealing"--here a little, there a little--and none of the parts are designed to fit and mesh with a program which a correctional system is supposed to implement. And that purpose is to prepare people to the extent that is possible in correcting the conduct of human beings, prepare people to reenter society and become law-abiding citizens. That is not being done currently. And I see where Senator Christensen--he didn't draft this bill, the department did--wants to strike... [LB313]

SENATOR GLOOR: One minute. [LB313]

SENATOR CHAMBERS: ...programming. They're not going to supply any programming. They're not interested in that. This would be like a safety valve to run a...whatever number of people will fill the number of empty beds to make it look like the problem of overcrowding is being addressed. If you move something from one spot to another, that's the kind of thing we're talking about. But it's more like three-card Monte. Don't ever play that game with anybody. You'll never win. Just three cards are put facedown. You will never win unless they want to let you win to sucker you into playing more and more. This is worse than three-card Monte because we're dealing with human beings. And if you turn it over to the department exclusively, they'll put somebody out there and say, we're going to put you out there because you've done what we want you to do. But it can be a sword over their head and they can reach out and pull a person back for no reason at all. [LB313]

SENATOR GLOOR: Time, Senator. [LB313]

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SENATOR CHAMBERS: Thank you, Mr. President. [LB313]

SENATOR GLOOR: Thank you, Senator Chambers. Senators in the queue: Hadley, Chambers, Ashford, and Christensen. Senator Hadley, you're recognized. [LB313]

SENATOR HADLEY: Mr. President, members of the body, in Kearney we have something called YRTC--Youth Rehabilitation Training Center--and I think this has to be part of any conversation that we have about the entire prison system. It certainly isn't a prison, shouldn't be a prison. It should be rehabilitation and treatment. But we have to make sure that the right kind of youths are sent to this institution so that we don't get them in the prison system. We have been having problems out there with assaults. I had a note from one of the employees the other day that had been assaulted six times. Can you imagine going to work every morning worrying about whether you're going to be assaulted or not? This is a difficult situation. Would Senator Ashford yield to a question? [LB313]

SENATOR GLOOR: Senator Ashford, would you yield? [LB313]

SENATOR ASHFORD: Yes. [LB313]

SENATOR HADLEY: Senator Ashford, do you see YRTC as a part of the spectrum when we talk about prison reform and the whole idea of that type of reform? [LB313]

SENATOR ASHFORD: Unquestionably. [LB313]

SENATOR HADLEY: Thank you. I just think that we can't forget this and we can't forget Geneva. We've got a festering problem here. We've got to deal with it. If it costs money we've got to do the right thing. We're dealing with youth here, and the last thing we want to do is send youth to YRTC and then have them end up either at the penitentiary or someplace else. So I applaud what Senator Ashford and the Judiciary Committee is doing and I wish them the best. Thank you, Mr. President. [LB313]

SENATOR GLOOR: Thank you, Senator Hadley. Senator Chambers, you are recognized. [LB313]

SENATOR CHAMBERS: Mr. President and members of the Legislature, one of the problems that you have in a legislative assembly is when people outside the body have an overabundance of influence on what happens here. I cannot have a discussion with Senator Christensen, as I did yesterday evening, and come back here this morning and that discussion mean anything because people from the department come in and then everything is changed. So I'm going to try to stop this bill. Now you're going to see what extensive debate ought to be. But here's what I tell you in advance: I'm not trying to improve a bad bill, I'm trying to stop what would be bad policy. I am not...if I can stop it, I

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am not going to allow that work camp--it bears that name but it doesn't conform right now to what the intent was--turn that over completely to the Department of Corrections when they have blundered so far on everything that they have had under their control. Senator Lathrop--and I'm very pleased he did--offered a resolution yesterday to do some serious investigative work by the Legislature. One of the most important jobs we have is to deal with the prison system. And if, before we get the information we need to put a comprehensive plan together, you're going to turn this over to the ones who have created all kinds of problems through their derelictions, taking people who need mental health and putting them in solitary confinement and keeping them there, no treatment, no counseling, because they've got what I call a quack--his name is Scott Moore--who will misdiagnose serious mental illness as behavioral. Then they can say, well, this guy just misbehaves, he doesn't need psychiatric care, he doesn't need counseling, since he's a bad actor we lock him up and leave him there. That's what they did with Nikko Jenkins. And Bob Houston, who was the then-director, misled me as to what they were doing. They are not trustworthy. Their spokesperson acknowledged, after the bad things associated with the Nikko Jenkins case became public, that the director was well aware of my concerns. They knew and did nothing. They made a bad situation worse and then turned a man loose without the treatment that he himself asked for, that a judge said he should get, that his family wrote to try to get by having a civil commitment taken place. And the Department of Corrections did nothing with any of it. And I'm expected to trust them and turn this work camp facility over to the untrammelled discretion of a man who has not even been confirmed as the Director of Corrections? I will not do it. And I want Senator Christensen to know that I'm going to fight this bill. And if some of you can understand what I'm saying about the importance of allowing this work that the Judiciary Committee is doing to go forward where it hasn't even been determined yet precisely what role that work camp will have,... [LB313]

SENATOR GLOOR: One minute. [LB313]

SENATOR CHAMBERS: ...leave status quo as it is. What do they say is the first principle of medicine? First, do no harm. This will be harmful. And Senator Karpisek is going to have to stand up during my extended debate and say, I don't know why we're doing this. And I'll say, that's because you were busy reading and you didn't listen. But he's listening. I'm going to put a motion up there and bring this to a head right away and see what we're going to do. Thank you, Mr. President. [LB313]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Ashford, you're recognized, and this is your third time, Senator. [LB313]

SENATOR ASHFORD: Thank you. Thanks for that information. Senator Christensen, if he would answer a question for me? [LB313]

SENATOR GLOOR: Senator Christensen, would you yield? [LB313]

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SENATOR CHRISTENSEN: Yes. [LB313]

SENATOR ASHFORD: It's my understanding, Senator Christensen, that what...and the department is talking to you about this, in fairness, and has brought this amendment to you. And they are suggesting to you that they want a law that says that a judge may not sentence a juvenile to the Work Ethic Camp. Is that what they're trying to do? [LB313]

SENATOR CHRISTENSEN: That, and they want to better utilize the beds so that the judge can still place people there but they'll have to consult with them to make sure there's room or so they can open up a spot, whatever would have to be done. [LB313]

SENATOR ASHFORD: And is...do you know what the reason for that is? Are they taking McCook and turning it into a correctional facility? Is that what they're trying to do here? [LB313]

SENATOR CHRISTENSEN: I don't believe that's what they're trying to do because there's...I've got a list of the different... [LB313]

SENATOR ASHFORD: Well, it is a correction facility but I mean are they trying to turn it into an adult facility? [LB313]

SENATOR CHRISTENSEN: Well, it has to be. Federally, you can't have minors with adults. That's the reason for that part, and it's happened once and that's wrong. [LB313]

SENATOR ASHFORD: Right. But they're trying to change it...they're changing it from a probation-centric facility into a correction facility. Is that what they're trying to do? [LB313]

SENATOR CHRISTENSEN: Well, the Legislature has basically done that since 2007 was the first bill moving it. And then...I forget. I helped lead one a few years ago and, yes, the Legislature has moved it that way. [LB313]

SENATOR ASHFORD: Members, seriously, I think that...Senator Christensen sits on the Judiciary Committee and he has a role to play in...will have a significant role to play in developing our prison reform package. And this...I need to know more about what they're talking about at McCook. And the...and Senator Hadley has...makes a great point. And what we've been trying to talk about here, the Judiciary Committee has brought many, many bills out here on juvenile justice. And the issue that Senator Hadley raises is critical. You cannot any longer simply patchwork the prison system. You can't do it anymore. It's...what we have done is created a dangerous situation in our state and in our system because we simply try to patchwork the problem without developing a system, a system. The problems at Kearney continue. There's no way you can change



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Kearney, Senator Hadley, as Senator Hadley knows, until you change the culture of how you deal with juveniles at Kearney. You don't have a physical facility that lends itself to treatment. When I first started going out to McCook, and Senator Christensen took me out there, it was a facility for probation, people on probation. Judges would send people there who were in transition back into the community or just beginning a probation term, whatever it was. But it was a...quite frankly, I thought what was going on there was significant. Now we're changing it over the years into an adult correction facility. All we're doing here is doing what we've been doing for 25 years, is patchworking the problem. This committee, our committee, I...we haven't had the hearings yet. We're only in our first...second week here. We will have hearings starting on the February 6. We will take up these issues. I understand Senator Christensen's desire to work with the department on this issue. But at this point, at this point, the best course of action, it seems to me, is to not take up this bill because,... [LB313]

SENATOR GLOOR: One minute. [LB313]

SENATOR ASHFORD: ...quite frankly, Senator Chambers is absolutely right. It opens up a Pandora's box of discussion about the entire prison system. And we will be...we can start that debate today and we will spend the...and I'm not arguing with Senator Christensen. But we will start that debate today and we will continue that debate today and on into next week on this bill when I would suggest to everyone here that the best course of action is to address this in the package of prison reform bills that are coming out. And we will do so, obviously do so. Thank you, Mr. President. [LB313]

SENATOR GLOOR: Thank you, Senator Ashford. Mr. Clerk. [LB313]

ASSISTANT CLERK: Mr. President, Senator Chambers would move to bracket LB313. [LB313]

SENATOR GLOOR: Senator Chambers, you're recognized to open on your motion to bracket. [LB313]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, myriad motions could be offered on this bill. And if it takes more than this particular motion for me to say what I've got to say, I will do it. Anybody who has even read the newspapers will be aware of the different individuals, groups, organizations, however you want to characterize them, who have all been working together to try to address the problems in the correctional system. From overcrowding to mental healthcare to programming, everything that is supposed to be involved with a system, one of the purposes of Senator Lathrop's resolution is to have the Legislature become involved, as was the case with the problem at Beatrice. Had the Legislature not gotten involved in that, the problems would not have been addressed at all. The place might have been decertified for good. There would have been no place to disperse those people to. And just the

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other day one of the employees pleaded guilty to a criminal charge, rather than be retried, because there was a hung jury. So that investigative committee did good. This one that Senator Lathrop is talking about will be addressing what exists now as a crisis situation. Corrections people are interested in being territorial and holding as much power, as they perceive what they're doing, as they can. They're trying to reach out, grab more, and consolidate it. These groups that have worked cannot be said by anybody who has watched their work that they are fiddling around while Rome is burning. Rome is burning, but they are trying to squelch the flames and rebuild something that is fire-retardant and worthy of maintaining. The system now is broken. When an effort was made by the Ombudsman to present a fact-based report on the subjects he brought up, the first thing the Governor did, who runs the Department of Corrections, was to attack the man as being soft on crime. The Governor runs the Department of Corrections. He appoints the director. He tells them what they are to do and what they are to say. And there may not be the will on the part of my colleagues to stand against that. But I will. And when I say "that," it indicates I'm going beyond this dispute that we may have with the Governor. I'm going to a system that's going to be here after all of us are gone. But Senator Christensen won't even be here next session to try to help clean up the mess that this bill will put in place. Just because he lives out there doesn't mean we have to give him everything he asks for. But he is not the one who originated this. The former director, Bob Houston, if you look at the committee statement, is the one who engineered this, and he bailed out suddenly because I made it clear that I was going to go after him because of the way he mishandled the Nikko Jenkins case and the way he lied to me. So I think he tendered his resignation while on an airplane flying back from somewhere in Europe where he went to hide and thought he could lay there until the heat blew over. But he suddenly decided he had to get out of here and he's the one who started this. And I am not going to let it go. I don't think this bill is worthy of taking all the time it's going to have to take. My bracket motion will not kill it. It leaves pending, even though no action will be taken on it, everything that's in this proposal. And it will be given consideration. You didn't hear Senator Hadley say, because things at Kearney haven't been what they ought to be, we want to turn it into a freestanding organization or operation that is run by the people in Kearney. He knows that is has to be a part of the overall work that's being done. He knows that there are issues that have been raised to a level where they cannot be ignored. They are being addressed and they will be addressed. But nothing definitive has been done yet and cannot be done yet because not enough time has been available. Haste makes waste. There was a fellow. I think it was Roger Bacon who wrote about him and he said: This man was wont--w-o-n-t, meaning of a mind to or it was his habit--to say to people who were acting with too much haste on a matter, stay with me a while in order that we may complete this work sooner, meaning that when you're out there running and flailing, you can make a situation worse. Then you're going to have to bring it back to where it was and then try to move from there. I think that the groups have been proceeding cautiously, with care, with a full understanding and appreciation of how serious the issues are that we're dealing with. The Governor doesn't care about the overcrowding.

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He's out of here. If a federal court decision comes down, it'll come down after he's gone. Other people are going to be left to clean it up. If you have people working, don't make the situation worse than what it is. Do not put into the hands of those who have created a lot of these problems the opportunity to mess up even more. And I, with this motion, am presenting to my colleagues the opportunity for us to do what a prudent, cautious, responsible legislative body ought to do. Nobody, that I'm aware of, in this Legislature is saying abolish the work camp facility and turn it into some kind of a commercial structure or use the land for something else. It is envisioned as a part of the comprehensive work. Let's say that we have a vehicle that needs extensive renovation. So while we are assembling a crew which can do the work and some have begun to do the setting up of the tools, assigning jobs, then somebody comes and says, well, let me take the carburetor out and do what I want to do with it. Well, whatever else we may get done, the car is not going to run without a carburetor. I'm trying to give a drastic example because we're dealing with a drastic situation. I was not present--and that's nobody's fault--when this bill was voted out of committee. Senator Christensen probably had an inkling, even though we didn't talk about it, that I would oppose this bill. I've opposed similar bills where they've tinkered with that work camp. I'm sure the interim director had an inkling that I would oppose this bill--the stealth director, if you will. Don't do this bracket motion for me. Do it for yourselves and the Legislature and those who have worked and are continuing to work. Senator Ashford offered a bill and at the time he offered it he has acknowledged that there will probably be amendments because it hasn't had a hearing yet. Much work remains to be done. [LB313]

SENATOR GLOOR: One minute. [LB313]

SENATOR CHAMBERS: And I would advise my colleagues to adopt this bracket motion. And I won't tell you what my understanding was from talking to Senator Christensen yesterday, but I'll tell you this: What's being done now by him is not in line with that. And it's not Senator Christensen. He is working with people outside the Legislature and what they work out is more important than what he gives his fellow senators an understanding will be the case. There were no rock-solid commitments. But I've been in my office. We were going to talk this morning and see where he was. He probably was busy and we never talked as I thought we were. And when I come up here he wants to move the bill and Corrections wants to get something done with the bill. [LB313]

SENATOR GLOOR: Time, Senator. [LB313]

SENATOR CHAMBERS: Thank you, Mr. President. [LB313]

SENATOR GLOOR: Thank you, Senator Chambers. Members, you've heard the opening on the motion to bracket. Members wishing to speak: Christensen, Lathrop, Krist, and Chambers. Senator Christensen, you are recognized. [LB313]

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SENATOR CHRISTENSEN: Thank you, Mr. President. I just want to emphasize some of the things that are unique about this facility. One of them is that courts can send people there, and that's one of the things this bill is trying to change. Why is it set up that way that courts can send to this one and not others? That's an interesting one to me. Things that they do out there that are also different: They have their welding program. There's eight slots, seven-week courses. So you literally can about do 64 people a year, which probably is more than the individuals out of 140 that's there now, or even out of 200 if they would ever get there, would probably be looking for that career. Then they have business technology, eight slots there, nine-week course. It's nine credit hours for the business technology. It's two credit hours on the welding program. And then they have a lot of the same things they have at the others--the intensive outpatient treatment, the outpatient substance abuse, 7 Habits on the Inside, Transformation Project, the victim impact classes, parenting classes. And so there is some uniqueness about this facility. It's a very minimum security place and, you know, I would like to see the place fully utilized and make sure that, as I said before, that we don't have the minors sent out there. And I've got an amendment drafted if the issue is putting it all in control of the department, leaving judges can send as long as they correspond with. But I don't know that we don't need to deal with some of this now or we've got to make sure the department is comfortable with Senator Adams...Senator Ashford getting it done later. And so I think it's important that we discuss this bill a little further and that you know that this is the only facility judges send people to. Otherwise they go to the Evaluation Center and then they put them where they want. So I think it's important that we have a little more discussion on this and figure out for sure where we want to go. And I would yield my extra time to Senator Chambers. [LB313]

SENATOR GLOOR: Two minutes twelve seconds, Senator Chambers. [LB313]

SENATOR CHAMBERS: Thank you, Senator Christensen and Mr. Speaker. I'll take this time. And if Senator Christensen has the screws put to him, I feel sorry for him because it's going to compel me to take the eight hours and I will. You all know now that I can. And it was on a nonsense bill, that amber light bill, which resulted in my colleague misleading us and some other things that have poisoned the well. But if I can go eight hours on a nonsense bill like that, I will go more than eight hours on a bill which is as significant as this one--not that it has merit, but the damage it will do. I wonder sometimes why I waste my time trying to talk to my colleagues and don't just come up here and load a bill up with amendments and just go the eight hours because I'm not going to persuade you to do anything. You're not doing anything for me. We have work to do and some of you are not going to be involved in that hard drudgework of... [LB313]

SENATOR GLOOR: One minute. [LB313]

SENATOR CHAMBERS: Oh, time on this one. Thank you, Mr. President. [LB313]

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SENATOR GLOOR: One minute, Senator. [LB313]

SENATOR CHAMBERS: Oh. You're not going to do that hard, drudgework which is entailed when you work on these intractable correctional problems that have been allowed to fester. Senator Christensen talked about various programs. There are programs that have been cut out of the department, out of the penitentiary by the Governor. He has overseen the destruction of programs by insisting that they cut money out of that budget. And the first thing they do is cut programs and they've been cut. There are people who are entitled and qualified to be paroled but they have to take certain programming first and it's not there. They can't get the programming. They cannot get paroled. They jam out and there is no supervision when they get out because they couldn't get paroled. That's what the Governor created. Thank you, Mr. President. [LB313]

SENATOR GLOOR: Time, Senator. Thank you, Senator Chambers. Senator Lathrop, you are recognized. [LB313]

SENATOR LATHROP: Thank you, Mr. President and, colleagues, good morning. I'm going to support the bracket motion and maybe make a couple remarks about this bill, the subject of the work camp, and the work of the Judiciary Committee, and start by acknowledging that Senator Christensen has been a strong advocate for the work camp, that the work camp be permitted to do what it was charged to do, which is to try to rehabilitate. He has been strong in his advocacy for that work camp and for that I have a great deal of respect for Senator Christensen. That said, colleagues, I had...Senator Crawford turned around to me and said, why did you vote this thing out? And maybe that's the question that I'd like to take a second to answer. We moved this bill to the floor because we were told that it was about making room for corrections to bring more people out. And since then we have become as a committee, the Judiciary Committee, and perhaps those of you that are following the...what's going on in corrections can appreciate that the issue of overcrowding has become acute and it has come to our attention. We actually, if I can take a second to talk about the overcrowding, when you get to...if you take the women and the children out of the mix of corrections, we're at 160 percent of capacity, 160 percent of capacity. Now there may be plenty of us here that say, I don't care, put those people in there, they can triple-bunk, it doesn't matter to me. But I can tell you that when you get to this place--and we're in what I would call the litigation sweet spot; in fact, we have one pending right now--what happens is prisoners have a right to bring a federal procedure or a federal lawsuit challenging the constitutionality of the circumstances of their confinement. They did it in California. They've done it in other places. And when you get to a place where you're not providing the rehabilitation and you get to 160 percent of capacity, you're in the sweet spot. You're ripe for a federal judgment and then we have a federal judge, not the Legislature, not state government, but a federal judge imposing

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the solution. That solution can be start turning people loose or build more prisons. What we have learned since this bill advanced from Judiciary Committee is we have a very, very, very serious problem with overcrowding. It's very serious because if we don't do something about it and do it well and correctly, we'll have a federal judge impose a solution. That should be done inside this Chamber. The question we have now, given the overcrowding, given what we know about the circumstances in the penitentiary right now, or the correctional system, is, is this bill brought to us by Corrections as an attempt or a symptom of the overcrowding or is it a good piece of legislation? We need to back up. We need to back up and have a comprehensive approach to overcrowding, a comprehensive approach to corrections reform. And having this bill pass gets out ahead of the solution. It gets out ahead of a full understanding of the problem and that's why I think LB313 should be bracketed. Allow the Judiciary Committee, allow those that are working on the corrections issue to get to the bottom of, A, the problem, and then, B, bring a solution to this body. And we can have a full debate about where the McCook Work Ethic Camp fits in... [LB313]

SENATOR GLOOR: One minute. [LB313]

SENATOR LATHROP: ...and whether judges should be permitted to refer people there as a condition of probation, which is the law right now, or whether that should be the exclusive province of Corrections to send people to the Work Ethic Camp. That's what's at issue. That's why I believe it's appropriate to step back, table LB313 for now, and let us bring back to you a full understanding of the problem as well as a comprehensive solution. Thank you. [LB313]

SENATOR GLOOR: Thank you, Senator Lathrop. Mr. Clerk for a priority motion. [LB313]

ASSISTANT CLERK: Mr. President, Senator Krist would move to bracket the bill until March 4. [LB313]

SENATOR GLOOR: Senator Krist, you are recognized to open on your motion to bracket. [LB313]

SENATOR KRIST: Good morning, colleagues, and good morning, Nebraska. Senator Ashford, Senator Lathrop, Senator Campbell, and I could go down the list, Senator McGill, myself, we have all worked diligently on corrections reforms--I'm lumping us all together; some of us specialize in different areas--corrections reforms, juvenile justice reforms. We have taken the best-of-the-best experts around the United States and brought that information back here from the MacArthur Foundation, from Annie E. Casey, and I think what's coming up in the next month in hearings and in debates on this floor will prove to this body and to this state that we are very, very serious about correction reform and very serious about our juvenile justice reforms. I dropped an

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amendment in yesterday to LB464 which sits on Select File. It will be the corrections that we need on the bill that the Chief Justice, in his address, said was a landmark piece of legislation in juvenile justice reform, LB561. It was called that by somebody who has been in juvenile justice for years and years, Mr. Dick Shea in Sarpy County, a man that I respect, a man that has done much for our juveniles, our kids across the state. This bracket motion is not meant to cast a shadow upon Senator Christensen or corrections or any part of the process. It is meant to say we need to have the discussion as a whole. It needs to be addressed as well-thought-out changes to the corrections and the juvenile justice system. And you will hear that discussion, I promise you, in the discussion on LB464, on the discussion of corrections, on the discussion of how we need to take care of our kids in the juvenile justice system. We cannot destabilize our corrections system and our juvenile justice system, our healthcare system for our kids in the Eastern Service Area. All of this fits together. It's a mosaic. These pieces fit together. And when we come together we can create wonderful results. Again, this bracket motion does not mean to cast a shadow on Senator Christensen or his abilities or the Corrections Department. That is not my intent. My intent is to get through the discussions in the upcoming several months that create a better system--corrections, juvenile justice, and the caring for kids. Please vote yes on this bracket motion and let's move forward and take into consideration the collective of those things that we need to pay attention to in the next couple of months. With that I would yield the rest of my time to Senator Christensen. [LB313 LB464 LB561]

SENATOR GLOOR: Senator Christensen, 6 minutes 44 seconds. [LB313]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Ashford yield to a question, please? [LB313]

SENATOR GLOOR: Senator Ashford, would you yield? [LB313]

SENATOR ASHFORD: Yes. [LB313]

SENATOR CHRISTENSEN: If I agree to this bracket,... [LB313]

SENATOR ASHFORD: Yeah. [LB313]

SENATOR CHRISTENSEN: ...as you've been stating before, you'll definitely work on this with me, you'll hold the committee to working with this so that we can put it in a comprehensive package? [LB313]

SENATOR ASHFORD: No question. I mean...and let me just say this, Senator Christensen, if I might, because we have quite a bit of time here. I have a vision for McCook, I think it's similar to yours, that we could turn this into what it was originally intended to be and put it on the front lines of reform so that offenders are getting out into

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the communities and they have the services available to them for once so that they can find a job and be productive. And I have a vision for McCook. McCook, as Senator McGill just reminded me and you've reminded me so many times, the community of McCook has embraced this facility, as has been the case in Geneva and in Kearney. And it's unfortunate that the state has not been able to keep up with the desires of those communities--small, rural Nebraska cities--to be part of helping people. We need to be good partners and I see McCook as an extremely important part of this process. [LB313]

SENATOR CHRISTENSEN: Thank you, Senator Ashford. And in hearing that I'll just ask the body to approve this and help me hold Senator Ashford and the committee to working on this. Thank you. [LB313]

SENATOR GLOOR: Thank you, Senator Krist and Senator Christensen and Senator Ashford. Senator Chambers, you are next in the queue. [LB313]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I appreciate the fact that an accord was reached so that we can terminate dealing with this bill. But this is an article that I had intended to read. It appeared on the op-ed page of the Omaha World-Herald January 9 of this year. Now if I had a heart it would break. If I was a weepy, teary person, you'd see tears coming out of my eyes. But since I'm neither one of those, I'm just going to read the words here. The headline: With options limited, woman sent to jail. A blind and mentally disabled Nebraska woman who violated her probation for manslaughter has been sentenced to 7 to 15 years in prison. She should not have even stood trial for manslaughter, in my opinion. Angie B. Norris on Monday was sent to the Nebraska Correctional Center in York after a judge found her guilty of breaking probation. In her sentencing order, Saunders County district judge Mary Gilbride said Norris would be eligible for parole in three and a half years. Norris, 38, failed to follow the rules of a Bellevue facility that provides support to people with mental illness, said Thomas J. Klein, K-I-e-i-n, Saunders County Public Defender. The facility declined to take her back. Quote from Mr. Klein: We tried several times to find another facility that would take Angie, but there was nothing available, Klein said. Truly she is not an individual who needs to be in a correctional institution. But when it comes down to being homeless, on the street, or in the York facility, then she is better off at York. Why do we turn our back on the mentally disabled? Why? And I'm surprised that I, the heartless, what people call unbeliever, am troubled by these things, but the servants of Jesus Christ don't even notice it, don't say anything about it. I've been waiting to see if anybody would mention it. But let me continue. Klein said Norris, who has no living family members...and that's probably why she's mistreated in this way. She has nobody to look out for her, nobody to go her bond, nobody to speak for her, nobody to say this is a time when mercy is warranted, show some compassion. They say this is a Christian country, this is a Christian state. The senators even say "under God" every time they say the flag salute. What god are you serving? She is in segregation for safety reasons



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because she would be an easy target for the other inmates, he said. She is in her room for perhaps 20 hours a day, he added. Norris pleaded no contest to manslaughter after Elizabeth Collins, 56, was fatally injured September 18, 2010, at an assisted living facility in Wahoo. During an argument, Norris pushed Collins, who fell backward and hit her head. A blind woman, mentally disabled, in a quarrel with somebody who could see...who does not push back? The other person fell, died, and this woman was charged with manslaughter. No mental health treatment now. This doesn't say... [LB313]

SENATOR GLOOR: One minute. [LB313]

SENATOR CHAMBERS: ...they're going to treat her at York. Maybe they don't have the wherewithal, just like they refuse to treat mental illness out at the penitentiary. Continuing: During an argument, she pushed the woman down. Saunders County Attorney Scott Tingelhoff recommended probation after consulting with the victim's family. He said there was "zero chance" that Norris meant to injure Collins, who was her friend. The county attorney said this woman was the friend of the other woman. The woman who died had family members who said give her probation. Some of you all don't know what it means to be a caregiver to somebody who has a mental disability that makes it necessary for that person... [LB313]

SENATOR GLOOR: Time, Senator Chambers. [LB313]

SENATOR CHAMBERS: Thank you, Mr. President. [LB313]

SENATOR GLOOR: Senator Chambers, you're next in the queue. [LB313]

SENATOR CHAMBERS: And I'm not going to extend the debate. I want to complete this. There are things that people without a mental disability are going to do, and the courts, prosecutors will say there are extenuating circumstances. Two friends arguing and a blind...do you all know what it means to be blind? You cannot see. The county attorney said there is zero chance that she meant to hurt the woman. So maybe they were saying, this is a way to get her out of here, we'll charge her with a crime, get her to plead guilty, nobody is looking out for her, and we'll put her someplace and get her out of that facility where she had been staying. And now she is a convicted criminal, convicted of a homicide, criminal homicide, and now in violation of probation. And a person who is as innocent as a lamb would be, in my opinion, is staying in a room 20 out of 24 hours a day because others at that institution would harm her. What kind of state is this? Let me wrap this up. Norris was given five years' probation and sent to live at a facility run by John Pinkerton in Omaha. He said Norris asked to move out about one-and-a-half years ago. Prison "may be the best thing for her or it may not, but it allows the system to control her," Pinkerton said. "Our jails and prisons are full of mentally ill people, though, and there should be a better way to help them." What have

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we talked about this morning? Did you hear anything in what the Department of Corrections talked about and sent Senator Christensen here to us about helping the mentally ill? You all say those words but they're just words. This is a real situation going on in your state right now, and you don't even care. Had I not read it, you wouldn't know about it, and my having read it means nothing to you. What do you care about this woman? She's crazy. She's mentally disabled and blind. Of what good is she to anybody? Send her to jail so they can control her, not treat her. And I don't mean just treat her like a human being whose dignity as a human being will be respected. I wouldn't want to be a Christian. I wouldn't want to be a Jew from the standpoint of the religion. I would not want to be Muslim. I wouldn't be connected to any of these phony religions. You talk it, and the people you are supposed to help can be right in front of you and you won't reach out to help them. We control the system and all we talk about here is giving the Director of Corrections complete control of a work camp. Did any of you all see this article? Right next to it was one that says: Mental health issues get short shrift. And this was written by Nicholas Kristof of The New York Times. And the two items were side by side. And I know some of you all read those political commentaries on that page so you had to see these two things. [LB313]

SENATOR GLOOR: One minute. [LB313]

SENATOR CHAMBERS: And you did not care. That Jesus you all worship, you know what he said? I was in prison and you visited me not. Here's somebody that we could do something for but we don't care. I care but I'm not Jesus. I can't take care of everybody who has a problem. I can't take care of everybody who has needs. But I do what I can, and I can at least trumpet these things to you and let you make a decision to knowingly, consciously, and intentionally turn your back and walk away. Thank you, Mr. President. [LB313]

SENATOR GLOOR: Thank you, Senator Chambers. Members wishing to be heard on the motion to bracket, date certain: McGill, Johnson, Wallman, and Chambers. Senator McGill, you're recognized. [LB313]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I stand to reiterate some of the things that Senator Ashford and Senator Lathrop have said in terms of how big this issue is and how committed we are as a committee to prison reform and trying to make the best system that we can and one that does include the services needed for folks to get back into their communities and live full and successful lives. I...around last fall, in fall of 2012, I went and visited York and the women there at the correctional facility, initially wanting to chat with women about human trafficking and what they were seeing in terms of the sex trade and their own lives. And not only did I learn that the majority of them have sexual assault in their own past but that these women were thirsty for programming to help them gain control of their lives, to help them with their substance abuse problems, not just to wean off of the drugs while they're in jail but

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looking for how they will manage their...those failings once they're back out in the community, how do they work forward and really get the self-esteem-building programming that they are just so thirsty for. There was a gentleman who was just there who does have a great program about taking responsibility for your actions and the impact you've had on your community. And they said, we would go listen to this guy every weekend if we could, even if it was the same lecture, because we want this so much and we're not getting it. So we have a lot of work to do in terms of filling those voids and making sure that we're not just helping people skill build, which is not happening enough either, but also helping them feel a sense of self-worth and personal responsibility that is so important for all of us and especially for them as they're transitioning back out. But I also originally pushed my button to talk about Delancey Street, which is a program in San Francisco and now around the country that I've had a chance to visit, where there are folks who had substance abuse problems, former gang members, the whole array of ex-convicts that are a part of this program who work for a living while they're still in this program. I mean they're actually bringing money into the facility to help support the whole program. But they run a restaurant, they run a construction company, they are learning other skills, landscaping. And I see McCook and another facility, like creating another facility somewhere else in the state, that we could really be adopting this model. These folks are taking responsibility for themselves, they're out there working, they're learning a skill that they can take with them. Some of the folks as they graduate out of this program are starting their own restaurants or they're getting jobs at four-star restaurants or they're able to start their own moving company or automotive shop. I mean, this is the future we want for these folks who are dedicated to making change in their lives. And so I certainly am committed to Senator Christensen and the rest of the Judiciary Committee and our state in trying to find the most efficient and effective way to be investing in these folks because the vast majority of them are going to be back out in our communities and can truly be active members of our society if we give them the right opportunities and the right setup to do it. It's unfortunate that at the work camp judges weren't sending enough folks there for the original purposes and intentions. And I think as a part of this overall prison reform we can do a much better job of this and really utilize McCook and its supportive community in the best way possible for our state. Thank you, Mr. President. [LB313]

SENATOR GLOOR: Thank you, Senator McGill. Senator Johnson, you're recognized. [LB313]

SENATOR JOHNSON: Thank you, Mr. President. I was not going to enter into the discussion on this. I'm not an expert in corrections or rehab or probation, anything like that, but I've had some experiences. And when Senator Chambers...he definitely got my attention when he started reading the article about Wahoo. I want to tell you a little bit about the background of that. We had an assisted living home that built a new facility. We had an empty building. And this is about the time that the mental institutions in Nebraska were being phased out and needing to find local locations for the mentally ill.

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And this John Pinkerton, who I worked with extensively as my position as mayor, in order to get a conditional use permit for him to use that facility for those people with mental conditions...I know the situation. I remember the story now. I know the lady, as I would go up to the Liberty House and visit the people that are up there. And a lot of people are scared of those people. But they need a place like that. And because of the situation, it was in my mind truly an accident that this happened. But everybody gets up in arms, even within the community, because they're scared of these people. These people need to be in an institution where they do have that type of supervision. If they are not...this happened in an institution or in a facility and still was punished or found guilty, but what happens when they...there is no facility like that and they are sent out on the street again? Then they end up in jail, in prison, and then how do we handle that? I've also lived in McCook. And I've not visited the work farm out there, but I've visited with a lot of friends out there. We were out there recently and talked about that facility. And they are...there's frustration that it's not fully utilized. So I believe we...it's not a McCook problem, it's not a work farm problem. It's a total problem. I support the idea of putting together one total package dealing with McCook, dealing with Corrections and, I also believe, dealing with the mentally ill so that we can protect them from becoming so-called criminals. I do support the bracket in order to make sure that it's still there but it gets involved in other discussions. I look forward to the report of the Judiciary Committee. Thank you, Mr. President. [LB313]

SENATOR GLOOR: Thank you, Senator Johnson. Senator Wallman, you are recognized. [LB313]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Too many people I think still go back to the old movie One Flew Over the Cuckoo's Nest and we're woefully, woefully inadequate at taking care of mental issues with people in our prisons and...because we don't have enough counselors in our public schools and our churches used to take some of that over. The nuclear family has somewhat disintegrated. So the state and the government has to make sure we help those who can't help themselves. And Senator Chambers is absolutely right. We as Christians fail on some issues. But if we want to be a Christian, they'll know we are Christians by our love. And so I've been in these institutions and visited with people. And yesterday morning you know we had a person downstairs that the police had to subdue. And so what is the answer? We'll never be perfect but we have to try. And I want to thank Senator Christensen for submitting this and also Senator Chambers...that we vote for the bracket. Thank you, Mr. President. [LB313]

SENATOR GLOOR: Thank you, Senator Wallman. Senator Chambers, you're recognized, and this is your third time speaking, Senator. [LB313]

SENATOR CHAMBERS: Right. Thank you. Mr. President, members of the Legislature, you know why I make references to the scriptures, as you all call them? Because you

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profess to believe them and I try to remind you of what they say. And Jesus did say to his disciples, his followers, I was in prison and you visited me not. And they said, Lord, when were you ever in prison and we didn't visit you, the idea being, well, if you were there you know we'd have come to see you. So he said, if you don't do this for the least, then you haven't done it for me. You say those words. Some of you even get up there and say them and they mean nothing. They mean nothing. I'm going to tell you a little story that Jesus told, and it might mean something to you and it might not. There was this poor widow woman who was being oppressed and she described the one who was oppressing her as her adversary. This king was described as an unjust king who neither feared God nor regarded man. So every day he would leave his palatial settings and this poor widow woman would say, avenge me of mine adversary. And he'd push her away and walk on by. This went on and on. So finally one day she said, avenge me of my adversary. And the man looked down at her. He said, though I do not fear God and I do not regard man, this woman is going to wear me out. Woman, what do you want? She said, avenge me of mine adversary. And using the language of the day he said, done, not because he ceased being unjust. He was tired. So maybe I can make you all tired enough to at least exercise the kind of quasi or faux, f-a-u-x, morality of the unjust judge and you will do at least as much as what an unjust man did. I pose the question to you that God posed to Cain in the myth that you find in Genesis. It is a myth. It's got to be a myth because if you believed it as reality, you'd do differently. You don't believe it. Senator Carlson tried to tell you there's really a lake of fire. You don't believe him. You don't believe the "Bible." But at any rate, God asked Cain, where is your brother? And Cain responded, am I my brother's keeper? We don't know what God said in response to that. The question was just left in the air as a lot of questions are left. And I've told you all what my response is, but then, see, I'm not a Christian. I'm not a Jew. I'm not a Muslim. So my answer without hesitation: Yes, I am my brother and my sister's keeper. Do you all realize that Francis of Assisi, after whom the present Pope took his name...he was a man who referred to wild creatures as his brothers and sisters. He would have helped me save the mountain lions. Not only did he refer to them as his brothers and sisters, he preached to them. He preached to them and he wasn't locked up. He was made a saint and a Pope whom people all over the world can identify with more than any other person in that position, including myself, took the name of Francis of Assisi, not Cesare Borgia or any of those kind of people. We have the opportunity to do things about every issue that is raised on this floor. Let your religion be shown by being merciful, compassionate, and kind to those who need it. The Pope even got tired of listening to the Catholics... [LB313]

SENATOR GLOOR: One minute. [LB313]

SENATOR CHAMBERS: ...run around here and spending all their time saying, we've got to stop a woman from having an abortion, we've got to stop women from getting contraceptives, and we've got to stop this gay marriage. The Pope said, you can talk about that but there are weightier matters of the law that you should give your time to,

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and you should reach out to draw people instead of always wagging a finger in their face and preaching and moralizing when your own life doesn't measure up to what you're talking about. And in this area that I'm talking about, a part of our oath, I think, carries us to the point where we're to do something about these issues. Thank you, Mr. President. [LB313]

SENATOR GLOOR: Thank you, Senator Chambers. Are there other senators wishing to be recognized? Seeing none, Senator Krist, you're recognized to close on your motion to bracket, date certain. [LB313]

SENATOR KRIST: Thank you, Mr. President. It is very clear the intent is to delay any further discussion on this bill. I thank Senator Christensen for his support, I thank Senator Ashford for agreeing to look at this matter in conjunction to the other things that are coming up and I would invite you all to look at the amendment that's been dropped in on LB464, which is on Select File, and come back with questions, if you have some, to me, and to look very carefully at the bills that are coming out that have great consequence for corrections, juvenile justice, and our care of families and children. With that, I would ask your support for the bracket date until 3-4 of 2014 for LB313. [LB313 LB464]

SENATOR GLOOR: Thank you, Senator Krist. Members, you've heard the motion...or the closing on the motion to bracket. The question before us is, shall LB313 be bracketed until March 4, 2014? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB313]

ASSISTANT CLERK: 34 ayes, 0 nays on the motion to bracket the bill until March 4, Mr. President. [LB313]

SENATOR GLOOR: LB313 is bracketed. Mr. Clerk, for the record. Items for the record, please. [LB313]

ASSISTANT CLERK: Thank you, Mr. President. An announcement from Senator Murante regarding Rule 3, Section 4. Notice of committee hearings from the Appropriations Committee; Business and Labor; and Agriculture. I have various reports on gubernatorial appointments from Natural Resources; a report from the Reference Committee regarding various gubernatorial appointments, as well as the reference of LR424. And finally, an amendment to be printed to LB665 from Senator Krist. That's all I have, Mr. President. (Legislative Journal pages 354-357.) [LR424 LB665]

SENATOR GLOOR: Thank you, Mr. Clerk. Continuing with the agenda. Mr. Clerk.

ASSISTANT CLERK: Next bill, Mr. President, is LB278, which was introduced by Senator Pirsch. (Read title.) The bill was read for the first time on January 16 of last

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year; referred to the Government, Military and Veterans Affairs Committee. That committee placed the bill on General File with no committee amendments. [LB278]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Pirsch, you're recognized to open on LB278. [LB278]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. LB278 was brought on behalf of the Secretary of State's Office. It passed out of committee with no, no votes, no opponents, no neutral testimony, one present and not voting. The purpose of LB278 is to update provisions of law relating to on-line services offered by the Secretary of State's Office. The Secretary of State's Office offers many on-line services relating to business and uniform commercial code records. LB278 allows the Secretary of State to provide an electronically transmitted certificate indicating whether a business is properly registered with the Secretary of State. Currently, the law provides for an electronically transmitted letter. LB278 clarifies language regarding pricing for the contents and images stored in the corporation's and Uniform Commercial Code databases. Thank you. [LB278]

SENATOR GLOOR: Thank you, Senator Pirsch. Members, you've heard the opening on LB278. We now move to floor debate. Senator Chambers, you're recognized. [LB278]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, when I heard that voice I had to look and see who this stranger is among us standing up to the microphone addressing us as though he's a member of the Legislature. Then I focused and it's Senator Pirsch. I'd like to ask him a question or two, if I might. [LB278]

SENATOR GLOOR: Senator Pirsch, would you yield? [LB278]

SENATOR PIRSCH: Yes. [LB278]

SENATOR CHAMBERS: First thing, welcome back, Senator Pirsch. Senator Pirsch, I'm just reading the committee statement because I was otherwise occupied. And one paragraph says, under the current law, a fee of 45 cents is paid to the Secretary of State for images of records accessed over the Internet, not to exceed \$2,000 per request for batch request. LB278 eliminates the language that the fee is not to exceed \$2,000 per request for batch requests. I am not high-tech, so I have to ask you this question. How does a person go about accessing these records over the Internet? [LB278]

SENATOR PIRSCH: Yes, well, thank you. I believe it's through Nebraska.gov. The...what you're referring to is batch request is a...and I'm referring to, those following along, page 3, line 6 through 9. And the language is crossed off. It says not to exceed \$2,000 per request for batch requests. It's my understanding from speaking with the

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Secretary of State's Office that with respect to that capacity, a charge, it's never been requested and never been exercised. That the...largely those who are requesting more than, you know, small amounts of records are exclusively large corporations, national companies in the business of data mining and repackaging the information for resale. And that does, I'm told...so they use the vendor through Nebraska.gov is the method by which they sell. So... [LB278]

SENATOR CHAMBERS: Well, just before you lose me. [LB278]

SENATOR PIRSCH: Yes. [LB278]

SENATOR CHAMBERS: When you access, Nebraska.gov ... [LB278]

SENATOR PIRSCH: Yes. [LB278]

SENATOR CHAMBERS: ...is that information that you're going to receive available already and you just hit keys... [LB278]

SENATOR PIRSCH: Yeah. [LB278]

SENATOR CHAMBERS: ...and it prints out for you, or does somebody go collect it, feed it into their machine, and then send it to you? How does...? [LB278]

SENATOR PIRSCH: Yeah. Well, it does have to be fed in. They're images and so there are time consumed and dollars consumed in capturing the images, but then it is...you can request, my understanding is, the images then through Nebraska.gov. [LB278]

SENATOR CHAMBERS: Thank you, Senator Pirsch. He explained it as though he understands this all about as well as I do. So, I'm going to ask "Professor" Schumacher a question. [LB278]

SENATOR GLOOR: Senator Schumacher, would you yield? [LB278]

SENATOR SCHUMACHER: With pleasure. [LB278]

SENATOR CHAMBERS: Senator Schumacher, do you understand what is entailed in the activity described by this bill? [LB278]

SENATOR SCHUMACHER: Well, Senator Chambers, I kind of think this bill raises a lot of interesting issues, because who is Nebraska.gov? Is that the state of Nebraska? I don't think so. [LB278]

SENATOR CHAMBERS: That's why I'm asking. I have no idea. [LB278]



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SENATOR SCHUMACHER: I don't think so. I think that's a private company. In fact, it raises a more interesting question of who owns electronic state government? And what if that private company... [LB278]

SENATOR GLOOR: One minute. [LB278]

SENATOR SCHUMACHER: ...disappeared, or who gets the \$2,000, or how is that divvied up? Or why, in other states you don't have to be a member of a private organization to access data coming in from the Internet? Our system is a fee-based system that was originated back, I think, in the mid-1990s and whether or not that still meets our function is something that perhaps the Legislature, once upon a time, will find it desirable to look at. But there are a lot of complicated issues here, and it may boil down to Nebraskans not owning their electronic government. [LB278]

SENATOR CHAMBERS: Before my time runs out and I've got my light on, they show cartoons often where kids say, are we having fun yet? Have you answered my question yet? [LB278]

SENATOR SCHUMACHER: I don't know. I forgot what your question was. (Laughter) [LB278]

SENATOR CHAMBERS: Well, you asked some good questions. I'll continue pursuing it to try to get an understanding of the very things you talked about. [LB278]

SENATOR GLOOR: Time, Senators. [LB278]

SENATOR CHAMBERS: Thank you, Mr. President. [LB278]

SENATOR GLOOR: Thank you, Senator Chambers and Senator Schumacher. And Senator Schumacher, you are next in the queue. [LB278]

SENATOR SCHUMACHER: Thank you, Mr. President. I would yield my time to Senator Chambers so we can continue this discussion and he can ask me his question that I forgot. [LB278]

SENATOR GLOOR: Senator Chambers, 4 minutes. [LB278]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, and I can refer to him as I do in my way. Thank you, "Professor" Schumacher. I'm going to try to formulate a question which when you answer it, I will understand. If I...first of all, I don't know where this information is located. I don't know what form it's in so that it can be accessed over the Internet by way of the Internet, so here's the first question I will ask. What form and

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where would this information be if I'm going to access it by way of the Internet? Is it someplace already in existence, or is somebody going to get my request, then they have to go out and compile what it is I'm asking for? [LB278]

SENATOR SCHUMACHER: I believe that the information is probably on server computers, which are probably located here in the city, maybe also backed up somewhere else, and I would believe that it is not the kind of thing that somebody is going to have to sit down and actually go do any research. That you can issue a query to these computers that probably is already preprogrammed, never touched by human hands, and produces the result. If it isn't, then we need to make it that way. [LB278]

SENATOR CHAMBERS: Thank you. Oh, it's your time so I won't ask Senator Pirsch. [LB278]

SENATOR SCHUMACHER: Well, I yielded it to you. [LB278]

SENATOR CHAMBERS: Oh, okay, then I would like to ask Senator Pirsch a question. I'm going to be the pass-through. [LB278]

SENATOR GLOOR: Senator Pirsch, would you yield? [LB278]

SENATOR PIRSCH: I would. [LB278]

SENATOR CHAMBERS: Senator Pirsch, who is [Nebraska.gov](http://Nebraska.gov), first of all? [LB278]

SENATOR PIRSCH: Well, it's an overarching entity. I tell you, I didn't expect a question on the technical aspects of electronic on-line delivery as much as the substance of the bill. So I'll have to get you... [LB278]

SENATOR CHAMBERS: Then let's get with that. Okay. Would it cost, whomever you are seeking this information from, \$2,000 to make that information available? Is the cost to the individual, whoever that is, wherever that person or company is located, would it cost them \$2,000 to provide you with a quantity of information? [LB278]

SENATOR PIRSCH: Okay. Let me make sure I directly answer that and the answer is, no. So I asked that question with respect to, is it...I guess your basic premise or question is, is it a fair price? And so when I directed that question to Colleen Byelick at the Secretary of State's Office and she indicated that the vendors said that they don't even have that functionality currently. So if someone were to actually make that request of something they could not currently provide technically, and this is with her consulting with the vendor who... [LB278]

SENATOR CHAMBERS: Let me stop you before I get lost. So if you contact

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Nebraska.gov, because that's what you said, you couldn't even get this information that this, whoever this is, is seeking? [LB278]

SENATOR PIRSCH: Not at...certainly not at this price. It would cost the taxpayers of Nebraska much, much more because they'd have...if in fact you were going to deliver that, it would be, in her opinion, vastly exceed \$2,000. [LB278]

SENATOR CHAMBERS: Oh, what...what is the cost based on? What is it that whoever is making this information available, what is that person doing that would justify a cost of \$2,000? You said it would cost the taxpayers far more. [LB278]

SENATOR PIRSCH: It could. [LB278]

SENATOR CHAMBERS: How is that going to be? [LB278]

SENATOR PIRSCH: Well, if you were to...for example, they have 2 to 3 million images currently existing and stored in their databases with respect to the two databases, the Uniform Commercial Code and corporations. So if you were, obviously, to request that, and there's no means to deliver, and nobody has ever requested that, by the way. Nobody, to my...when I asked her that, nobody has ever, not even these large national corporations that data mine and repackage them, have ever requested it. So it's kind of a moot point in that regard, but if they were, you'd have to hand build something from scratch, is my interpretation, and that that cap of \$2,000 would be vastly insufficient to pay for that undertaking. [LB278]

SENATOR CHAMBERS: So they want to eliminate this so they can charge more money. It's not that a request won't be made. They want to be able to charge more money. [LB278]

SENATOR PIRSCH: Well, I think it's both. It's never been made and they've been...and quite frankly, they've been in...yeah, so it's never been made. They don't anticipate that request will ever be made, but should in theory it ever be made.... [LB278]

SENATOR GLOOR: Time, Senator Chambers. But, Senator Chambers, you're next in the queue, if you'd like to continue questioning with Senator Pirsch. [LB278]

SENATOR CHAMBERS: Thank you. And now what I'm going to do is ask Senator, whom I refer to as "Professor" Schumacher a question or two. [LB278]

SENATOR GLOOR: Senator Schumacher, would you yield? [LB278]

SENATOR SCHUMACHER: I will. [LB278]

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SENATOR CHAMBERS: Senator Schumacher, did you understand what Senator Pirsch was saying? [LB278]

SENATOR SCHUMACHER: I understood that there's a couple million picture files, either PDF or picture files on a server somewhere, and somebody thinks it will take \$2,000 to write a...more than \$2,000 to write a simple query that says, transfer those files to another file. Whether it's smart or not to cost more...or charge more than \$2,000, and whether or not the requester is going to make a boatload of money on it, is another question. But to retrieve information from a computer or from a database, if it isn't...been programmed to be done with a simple query, should have been, and this is no big process. [LB278]

SENATOR CHAMBERS: So, it should...it's not going to cost the...or is it going to cost the taxpayers a lot more than \$2,000 if they make such a request? [LB278]

SENATOR SCHUMACHER: Have to be an awful wealthy programmer or an order to justify that. I don't think so, honestly. [LB278]

SENATOR CHAMBERS: Thank you, Senator Schumacher. Now, I will turn myself about and ask Senator Pirsch a question or two. Senator Pirsch, this is not to embarrass you. [LB278]

SENATOR PIRSCH: Sure. [LB278]

SENATOR CHAMBERS: Do you really understand this bill? [LB278]

SENATOR PIRSCH: I think I understand the essential elements of this bill and what we're talking about here is the cost of technology services, and on one hand, the Secretary of State's Office, which is utilizing the specific vendor and asking that question who apparently day in and day out does that for a living, is...has related one type of information and Senator Schumacher, who I'm not knocking, but I don't know his...if his business is with respect to providing technological services doubts that that's correct. [LB278]

SENATOR CHAMBERS: So is the Secretary of State working with another entity who has compiled this information and who ultimately will respond to the request that's made? [LB278]

SENATOR PIRSCH: Well, the Secretary of State's Office works with vendors, and I...who my understanding is have technological understanding of...I mean, I assume that that's what they do day in and day out for a living, is my understanding. So, I can certainly get more information. I think if you would like, if you'd feel more assured if you had more specific detail about the cost, we can certainly obtain that. [LB278]

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SENATOR CHAMBERS: I guess everybody else understands it because nobody is asking questions, or maybe they're too embarrassed to acknowledge that they don't understand this in the way that I'm willing to ask, because it makes no sense to me. First of all, no request of the kind that would cost this kind of money has ever been made, if I understand you. [LB278]

SENATOR PIRSCH: That is the question I posed just this morning to Colleen Byelick. Like I was saying, she.... [LB278]

SENATOR CHAMBERS: But if such a request is made, it will cost more than \$2,000 to respond to it. [LB278]

SENATOR PIRSCH: And that is...and I want to say, specifically, she said the vendor said they don't have that functionality currently and couldn't provide that for \$2,000. No one has ever requested that, and the vendor had related something to the effect of, it would be doubtful that even that there would be a capacity by the customers to be able to receive that amount of images, the 3 million...2 to 3 million images. [LB278]

SENATOR CHAMBERS: So when we're talking, when you use the word "that," that word "that" is referring to something which is theoretical or speculative... [LB278]

SENATOR PIRSCH: Right. [LB278]

SENATOR CHAMBERS: ...in terms of the amount of information somebody would ask for. [LB278]

SENATOR GLOOR: One minute. [LB278]

SENATOR PIRSCH: That is correct, yes. [LB278]

SENATOR CHAMBERS: So why then remove \$2,000? It doesn't...it's irrelevant, isn't it? Or do they think that, in fact, that kind of request can be made and an attempt would be made to satisfy it and they want to charge more than \$2,000? If that's not the case, we don't even need this bill unless you're just going to change the word "letter" to "certificate." [LB278]

SENATOR PIRSCH: Well, and that is part of it changing the word "letter" to "certificate," but I think that they...since they've opened this up, this particular area up, that they thought for good housekeeping sake, that they would make the needed language changes as well in this area, albeit, it is not presented here because there's an impending crisis of some large foreign corporation demanding 3 million images for \$2,000. [LB278]

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SENATOR COASH PRESIDING

SENATOR COASH: Time, Senators. [LB278]

SENATOR PIRSCH: Thank you. [LB278]

SENATOR COASH: Thank you, Senator Pirsch and Senator Chambers. Senator Chambers, you're recognized. [LB278]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, Senator Pirsch, I'm not working from the green bill. I'm working from the committee statement, but I'm sure that what I asked you, you will know what I'm talking about because I don't have any idea of what we've talked about up to this point, except that there's a request which, if made, would cost a certain amount of money, but such a request has never been made, it could never be filled, and no requester would be capable of receiving that much information anyway. Is that basically what you told me? [LB278]

SENATOR PIRSCH: Well, I'm not sure that it couldn't be filled if it was determined that that was a legal obligation of law. But it wouldn't...the information that I've been given is that it couldn't be filled at a...at the price, at the cost that would...that the statute currently allows not to exceed \$2,000. [LB278]

SENATOR CHAMBERS: Okay. Let me go to the next paragraph. Also a fee of \$800 is charged for monthly updates of the image database regarding corporations of the Uniform Commercial Code. Wait a minute, I must be reading this incorrectly. Also a fee of \$800 is charged for monthly updates of the image database regarding corporations of the Uniform Commercial Code. When they say corporations of the Uniform Commercial Code, what does that mean? Because it seems like something is missing from the sentence or I just don't understand these terms of art. [LB278]

SENATOR PIRSCH: Well, if I may, maybe I can explain a little bit. [LB278]

SENATOR CHAMBERS: Sure. [LB278]

SENATOR PIRSCH: My understanding is there's two distinct separate databases, one UCC and one corporations, and the historical practice has been... [LB278]

SENATOR CHAMBERS: Here's what I'm trying to find out. Do they mean regarding corporations under the Uniform Commercial Code or of the Uniform Commercial Code? [LB278]

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SENATOR PIRSCH: I think they're two separate, so, yeah. [LB278]

SENATOR CHAMBERS: Okay. Go ahead then. [LB278]

SENATOR PIRSCH: So, I was just going to say, and that's existing language that says \$800 monthly subscription rate for the...but what this would do is clarify the longtime interpretation and existing practice which has gone on for a long time, at least a decade, which if you're working with...if you request, there's these two separate databases. If you request from corporations, some sort of request, then there would be the \$800 monthly subscription rate. [LB278]

SENATOR CHAMBERS: Let me interrupt you without being rude, my time is running out. [LB278]

SENATOR PIRSCH: Sure, you bet. [LB278]

SENATOR CHAMBERS: Would you turn to page 3 of your bill? [LB278]

SENATOR PIRSCH: Okay. [LB278]

SENATOR CHAMBERS: Is that paragraph supposed to be dealing with lines 1 and 2? [LB278]

SENATOR PIRSCH: Yes. Lines 1 and 2 on page 3. [LB278]

SENATOR CHAMBERS: Line 22? [LB278]

SENATOR PIRSCH: I'm sorry. Oh, you said line 22? [LB278]

SENATOR CHAMBERS: One and two. [LB278]

SENATOR PIRSCH: Oh, one and two. Yeah, are you referring to in line 2 the word "and" is crossed out and the word "or" is underlined and added? Yeah. [LB278]

SENATOR CHAMBERS: Yes. Well that's where the problem...it's the word in the bill is "or". [LB278]

SENATOR PIRSCH: Right. [LB278]

SENATOR CHAMBERS: In the committee statement it says "of" and that's why I was saying, it doesn't make sense to me regarding corporations of the Uniform Commercial Code. But this language says, regarding corporations or the Uniform Commercial Code. [LB278]

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SENATOR PIRSCH: Right. [LB278]

SENATOR CHAMBERS: Okay. Why do they charge that amount? [LB278]

SENATOR PIRSCH: Well, \$800 has always been...it's the amount in existing statute. What this... [LB278]

SENATOR CHAMBERS: Okay. That's good enough for me. [LB278]

SENATOR PIRSCH: Okay. [LB278]

SENATOR CHAMBERS: That's not a new fee in other words. [LB278]

SENATOR PIRSCH: The word "\$800" in line 5 is existing statute, yeah. [LB278]

SENATOR CHAMBERS: The only place where we're dealing with any fee... [LB278]

SENATOR COASH: One minute. [LB278]

SENATOR CHAMBERS: ...is where an amount is being stricken, the amount that would be the limitation that could be charged. [LB278]

SENATOR PIRSCH: And in...and let me clarify also, that in line 1 and 2 of page 3, it reads as follows in (d): Where the entire contents of the database regarding corporations....and then the old language was, "and the Uniform Commercial Code." And what's happening is the word "and" is being crossed out and the word "or" is being inserted. And what that is, again, when I talked about this being a housekeeping measure, as the longstanding practice and interpretation of the word corporations and Uniform Commercial Code, it's been understood that they...that that means the \$800 monthly subscription rate was applied to each one of those two possible subscriptions. For clarity sake, they... [LB278]

SENATOR COASH: Time, Senators. [LB278]

SENATOR CHAMBERS: (Laugh) Thank you, Mr. President. [LB278]

SENATOR COASH: Thank you, Senator Pirsch and Senator Chambers. Senator Schumacher, you are recognized. [LB278]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Would Senator Pirsch yield to some questions? [LB278]



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SENATOR COASH: Senator Pirsch, will you yield? [LB278]

SENATOR PIRSCH: Yes, I would. [LB278]

SENATOR SCHUMACHER: Senator Pirsch, the two databases in question, the one that has copies of the corporate filings and the other one the UCC filings, do you know the size of those databases? [LB278]

SENATOR PIRSCH: And I'm sorry I'm having a little trouble hearing you. If you said, do I know what about the databases? [LB278]

SENATOR SCHUMACHER: The size of those databases. How many megabytes, gigabytes, terabytes are they? [LB278]

SENATOR PIRSCH: I do not know the answer to that question, no. I do know that with respect to images, the figure that I was...that had been spoken to me, was about 2 to 3 million images. [LB278]

SENATOR SCHUMACHER: Thank you, Senator Pirsch. Part of the issue that this is tangentially referring to is the nature of electronic government and how much we pay for services to produce Web pages, for example, for our government. I'm understanding one of the community colleges just spent per capita almost more than the Obamacare Web site, Web page, on their new Web page, which has nothing to do with distance learning, it's just a Web page. I've seen reports come through here that says, oh, in order to...on fiscal notes, in order to accomplish this, that, or the other thing, it's going to be \$80,000, it's going to be \$250,000, enormous things that are clearly out of line unless somebody is cutting a fat hog. And those are things that we probably should begin to look at. I would suspect that these databases that are so expensive, so hard to work with, are probably in the order of a few hundred gigabytes and easily transferred with no more than a few key strokes. And then let the outfit that you transfer them to figure out how to sort them, shuffle them, and do whatever else with them. But there is a lot of expense in government right now and in industry due to the fact the people using these services who made themselves dependent upon these services haven't the foggiest idea of what they do or how they're done or what they should really cost. And it is a subject that perhaps, down the road, the Government Committee and...may want to take a look at to see exactly what is going on, who owns state government, what would happen in the event that those particular private companies went belly up. And certainly when we hear things like, \$2,000 max, or \$850 a month just to transfer a few files on an update service, begins to wonder where the economic flow is this, and how much of our budget, which originally was intended to somehow be supervised through outfits like the Nebraska Information Technology Commission, how much of that has just fallen apart and really created some pretty decent gravy trains. Thank you, Mr. President. [LB278]

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SENATOR COASH: Thank you, Senator Schumacher. Senator Bloomfield, you're recognized. [LB278]

SENATOR BLOOMFIELD: Thank you, Mr. President. I serve on the Government Committee that forwarded this bill and I've been looking back over the transcript of the hearing. And I think part of the problem is that documents prior to 1996 are still on hard copy, and were someone to make a request for a massive amount of those documents, it would be great expense in getting them made electronic and then being made available. And I would certainly ask any other members of the committee to weigh in on this. I don't believe we're trying to do anything here just to financially rape the public. I think what we're doing here is trying to cover ourselves in case there's a request made for documents that are old enough that they do not appear electronically. Again, I wish some more members that were in attendance of that hearing would look at this and see if I'm on the right track or if I'm running amuck here. But that's my perception of it. Thank you. [LB278]

SENATOR COASH: Thank you, Senator Bloomfield. Seeing no other lights on, Senator Pirsch, you're recognized to close on the advancement of LB278. [LB278]

SENATOR PIRSCH: Well, thank you, Mr. President and members of the body. And actually I really do appreciate Senator Chambers questions and concerns and Senator Schumacher's also. I think that they're asking the right questions. This bill is just intended to, first of all, change the word "letter" to "certification." Other states use the word "certification" and so it really doesn't do anything substantive but just semantic change. The issue of crossing out the word "\$2,000" per batch request, I do know that that does...it does merit questions. I just want to assure you that I asked that question as well. That...with smaller requests, which typify individual users and business users in Nebraska, it's a...that per page, per image fee doesn't change, is my understanding. This just is with regards to really situations that have never been encountered where it's...and if it did, it would involve exclusively a large corporation, national company and business of data mining and repackaging. So the issue presented in that case would be, do you want to subsidize out-of-state large corporations as they use our information, and have the state subsidize them, or do you want to put the fee, the onus on these out-of-state businesses, these data miners, should they ever decide in the future, which, you know, that it's doubtful they ever would engage in that. This is largely theoretical and largely housekeeping. But I think it is important that as we're touching with the other issue that we clean up the statute, make sure everything is in good shape. So that's the purpose of this. And I do think Senator Schumacher is correct. We should look towards--which is a different issue--the issue of electronic providing of governmental services on-line. We do need to look into make sure that they're efficient, that they reflect fair pricing. And that's not involved in this bill here, but I would agree with him that that is an important consideration. I would support looking into that, just in general. And, you know, I'm sure Senator Schumacher, you know, when he puts his mind to things, he

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follows through, so. I look forward to doing that maybe in an interim study, and...but I would ask for your passage in LB278, and so far as that's not what's at issue here, just simple housekeeping type of bill. So, thank you. [LB278]

SENATOR COASH: Thank you, Senator Pirsch. Members, you've heard the closing to LB278. The question for the body is, shall LB278 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB278]

ASSISTANT CLERK: 27 ayes, 2 nays on the motion to advance the bill, Mr. President. [LB278]

SENATOR COASH: LB278 does advance. Do you have items, Mr. Clerk? [LB278]

ASSISTANT CLERK: Mr. President, I do, thank you. Your Committee on Enrollment and Review reports LB656, LB657, LB658, and LB659 all to Select File. That's all I have at this time. (Legislative Journal page 357.) [LB656 LB657 LB658 LB659]

SENATOR COASH: Thank you, Mr. Clerk. We will proceed to the next item on the agenda.

ASSISTANT CLERK: Mr. President, LB588 was introduced by Senator Watermeier. (Read title.) The bill was read for the first time on January 23 of last year. The bill was referred to the Government, Military and Veterans Affairs Committee. That committee reports the bill to General File with committee amendments. (AM646, Legislative Journal page 735, First Session, 2013.) [LB588]

SENATOR COASH: Thank you, Mr. Clerk. Senator Watermeier, you're recognized to open on LB588. [LB588]

SENATOR WATERMEIER: Good morning, Mr. President, and good morning, Nebraska. Mr. President and members of the Legislature, the intent behind LB588 is to create awareness of and update the Veterans Preference program that we have in current law, granting veterans preference when applying for jobs. Current statutes state that a preference shall be given to eligible veterans when seeking employment with the state or its governmental subdivisions. Veterans who obtain passing scores on all parts of an examination shall have 5 percent added to their score if a claim for such preference is made at the application. An additional 5 percent is added to the passing score of any disabled veteran. The current program was put in place more than 40 years ago. The hiring process has significantly changed during that time. When enacted, the use of civil service exams was common and the additional point system was applicable. The state no longer uses testing as a primary method in hiring making it unclear as to how a veteran is granted preference. The issue was first addressed in

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1983 in a hearing before an administrative law judge with the Department of Labor. In this case, the administrative law judge found that there were no examination was given, a veteran would be entitled to a placement or selection in the position over other applicants of equal qualifications who do not hold such a preference. This interpretation has since been adopted in Nebraska Administrative Code. Prior to the public hearing on LB588, I met with the Governor's Policy Research Office, state personnel, and the Department of Veterans Affairs. These discussions were the basis for an amendment that I offered to the Government Committee and is now before us as a committee amendment. Furthermore, as I understand, the fiscal impact to the Department of Labor would be eliminated with the committee amendment. The committee amendment strikes the bill as introduced and introduced language taken from the Department of the Administrative Services rules and regulations, which were developed to indicate how veterans preference is assessed with the state personnel system. Under the amendment, if an examination or numerical scoring is not used, preference would be granted to the qualifying veteran, if there are two or more equally qualified candidates for a vacant position. This provision would make current practice for the state also consistent among political subdivisions. A spouse of a veteran with a 100 percent service-connected permanent disability would also be allowed to receive the veteran's preference under the committee amendments. The necessary documentation to prove veteran's status and disability status must be submitted to the hiring authority. Finally, the amendment requires that all notices of positions available for veteran's preference and all applications for such positions shall state that the position is subject to a veteran's preference. Furthermore, it would be required that veterans be notified if not hired within 30 days of the position being filled. When a veteran serves our country, not only are they placed in potential danger, they also must be away from their home and family for extended periods of time creating many hardships. Upon their return, veterans should not be penalized for their time away and lack of job experience or education during the time they served. The State Chamber recently announced that it will lead efforts to recruit military veterans to Nebraska. This emphasizes the importance of modernizing our veteran's preference law. With the committee amendments, LB588 simply updates current statutes by placing state personnel rules into law for consistency among all political subdivisions. It also strengthens the application process, includes spouses of disabled veterans, and places a notification requirement in statute if a veteran is not hired. LB588 was advanced on a 7-0 vote from the Government Committee. I encourage your support in the adoption of the committee amendments and the advancement of LB588. Thank you, Mr. President. [LB588]

SENATOR COASH: Thank you, Senator Watermeier. As the Clerk has stated, there are amendments from the Government Committee. Senator Avery, you're recognized to open on the committee amendment. [LB588]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. The committee amendment, AM646, strikes all the original sections of the bill and replaces

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those sections with the following provisions. Most of these, Senator Watermeier has already indicated what they are, but I will briefly review them. Veterans who obtain a passing score on all parts of an examination, or numerical scoring, will have 5 percent added to their passing score if a claim for the preference is made on the application. This language is based on current law of a 5 percent preference on tests, but adds the language regarding numerical scoring. When no examination or numerical scoring is used, the preference will be given to a qualifying veteran if two or more equally qualified candidates are being considered for the position. That's clearly, of course, a veteran's preference measure. All notices of positions of employment available for veteran's preferences will state the position as subject to that preference. A veteran desiring to use the preference will provide the hiring authority with a copy of the veteran's Defense Department form 214. This is a document that provides a complete and verified record of military service specifying awards and medals, dates of service, whether the person served in combat, whether they served overseas, and things of that sort. This verifies that the person is indeed a veteran. The amendment also allows the spouse of a veteran who has a 100 percent permanent disability to claim the preference. So if the veteran is 100 percent disabled, then the spouse can claim this. The spouse of a veteran will provide the hiring authority with a copy of the veteran's DD form 214 that I just mentioned. Also the spouse will provide the veteran's disability verification from the VA, and will provide proof of marriage. Within 30 days after filling a position, veterans who have applied and are not hired, will be notified that they have not been hired. This notice will also advise the veteran of any administrative appeal that might be available to him or her. Senator Watermeier brought this amendment to the committee as he has stated. It does reflect current DAS rules and regulations dealing with veteran's preferences. The amendment should also eliminate most of, if not all, of the fiscal note that is attached. This act becomes operative on January 2014. Obviously, that will be changed. Senator Watermeier has an amendment following this amendment that will change this date to January 2015. The bill was advanced from the committee on a 7-0 vote with 1 person being absent. I just might add that this legislation, with the amendment, is important to the state of Nebraska should we be faced with a future base realignment and closure commission. They look at whether the state is doing its best to provide a friendly environment for veterans. This is also one of a couple of other veteran's preference bills that we have considered here in the last couple of years. And it's important not only to the base realignment and closure process, it's also important to the development of our work force here in the state of Nebraska. The State Chamber is working on this at the present time. Thank you, Mr. President. [LB588]

SENATOR COASH: Thank you, Senator Avery. Mr. Clerk, you have an amendment to the committee amendment. [LB588]

ASSISTANT CLERK: Mr. President, I do. Senator Watermeier would move to amend the committee amendments with AM1576. (Legislative Journal page 142.) [LB588]

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SENATOR COASH: Senator Watermeier, you are recognized to open on AM1576. [LB588]

SENATOR WATERMEIER: Thank you, Mr. President. AM1576 just merely changes the date as Senator Avery had changed...January of 2015. Thank you. [LB588]

SENATOR COASH: Thank you, Senator Watermeier. Members, you've heard the opening to LB588, the committee amendment, and the amendment to the committee amendment. The floor is now open for discussion. Senator Smith, you are recognized. [LB588]

SENATOR SMITH: Thank you, Mr. President. And would Senator Avery yield to a question, please? [LB588]

SENATOR COASH: Senator Avery, will you yield? [LB588]

SENATOR AVERY: Yes, I will. [LB588]

SENATOR SMITH: Thank you, Senator Avery. This is...my line of questioning is not in opposition to the bill. I'm just trying to have a better understanding, but in your amendment, AM646, on page 3, line 12, where it starts with discussing the requirements of the veteran or the spouse that's desiring preference, and what they have to do to satisfy those requirements, it talks about the form DD14. Now, what happens if the veteran or the veteran's spouse chooses or refuses to provide the DD form 214? [LB588]

SENATOR AVERY: Well, the DD form 214 is essential, so, to establishing the accuracy of the veteran's claim or the validity of the claim that he or she is, in fact, a veteran. So without that, my guess is that the claim would be denied. [LB588]

SENATOR SMITH: Okay. So they would not have to consider that request for a preference. The employer would not have to, right? [LB588]

SENATOR AVERY: Right. [LB588]

SENATOR SMITH: Now, is there any case...I know this is a little bit sensitive, but is there any case with a DD form 214 that there may be information there that would indicate to the employer that this might not be the best employee for the job? Is that a possibility? [LB588]

SENATOR AVERY: Well, they...the DD form 214 does not include things like disciplinary action that may have been taken. I suppose, though, if there was a major issue like a court martial and a demotion or reduction in rank, that might be reflected on

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the DD14. It is a complete record of the veteran's military service and it is considered the most valid documentation of one's military service and veteran's status. [LB588]

SENATOR SMITH: All right. All right. And one last thing. I notice in committee that Senator Lautenbaugh was present but not voting. I know Senator Lautenbaugh is not here otherwise I would ask him that question as to why he was not voting. Do you have any understanding as to why he may not have voted on that bill? [LB588]

SENATOR AVERY: I'm going to guess, I'm not quite sure. He may not have been present for the hearing. [LB588]

SENATOR SMITH: Okay. All right. Thank you, Senator Avery. [LB588]

SENATOR COASH: Thank you, Senator Smith. Senator Nelson, you are recognized. [LB588]

SENATOR NELSON: Thank you, Mr. President and members of the body. I stand in support of the amendments and the bill itself. I do have a question on wording that was added that, if Senator Avery will yield. [LB588]

SENATOR COASH: Senator Avery, will you yield? [LB588]

SENATOR AVERY: Yes, I will. [LB588]

SENATOR NELSON: Good morning, Senator Avery. [LB588]

SENATOR AVERY: Good morning, sir. [LB588]

SENATOR NELSON: You, I think, were a tenured professor at the University of Nebraska for a number of years. Is that correct? [LB588]

SENATOR AVERY: That is correct. [LB588]

SENATOR NELSON: All right. I have a question here on page 2 of the committee amendment, lines 26 and 27. I think I know, but would you just go into a little detail of why numerical scoring was added there? What does that mean when you talk about passing scores on all parts of an examination, or numerical scoring? [LB588]

SENATOR AVERY: I think the numerical scoring is simply saying, not only did you pass, but you passed with this score. And I'm not sure what a passing score is, but a lot of times employers want to know, okay, you passed, but what's the score? How well did you do? It gives a little bit more information as to whether you just barely skinned through, or are you extremely well-qualified for this position, or are you just okay.

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[LB588]

SENATOR NELSON: So, for instance, 60 might be a passing score but they want to know if you got an 80 or an 85. Is that what we're saying here? [LB588]

SENATOR AVERY: That's what I would think, yes. [LB588]

SENATOR NELSON: Okay. And there would be apparently then later on some positions where there just wasn't any testing necessary? [LB588]

SENATOR AVERY: That is true. [LB588]

SENATOR NELSON: Okay. All right. Thank you. That answers my question. Thank you. Thank you, Mr. President. [LB588]

SENATOR COASH: Thank you, Senator Nelson. Senator Garrett, you're recognized. [LB588]

SENATOR GARRETT: Thank you, Mr. President, and I rise in support of LB588 and the amendments. We were having an off-line discussion here about the DD214. I am the recipient of a form DD214. It typically is a chronology of your service and your overseas assignments, your decorations, your education, and that type of thing. The off-line discussion had to do with the type of discharge a member might have and whether or not that would negatively influence selection. There could be a discharge under...other than honorable conditions and that obviously would want to impact your decision on whether someone should have preference for hiring. So I think we'd like to continue that discussion off-line and do a little additional research. But I am definitely in support of LB588. And I particularly like the part where for a 100 percent disabled veteran, where the spouse would be able to get the hiring preferences. That's the least we could do for a 100 percent disabled veteran. I yield the rest of my time. [LB588]

SENATOR COASH: Thank you, Senator Garrett. Senator Crawford, you're recognized. [LB588]

SENATOR CRAWFORD: Thank you, Mr. President, and thank you, Senator Garrett, for filling us in with some of those details on that form. And I rise in support of LB588 and the amendments. And I wanted to emphasize two points. First, this is a very timely time for us to pass this bill. The State Chamber is engaged with many other stakeholders in working actively to develop a wide program to recruit and retain veterans to our state, to improve our work force, and bring more people to this great state. And so it's very timely to pass this now so that this can be a part of the package that they go out and talk to other veterans about...about how they could come to Nebraska and experience the good life. And so I appreciate Senator Watermeier for bringing this forward. I also want



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to echo what Senator Garrett so eloquently stated about the spouses. Military spouses, I...a military spouse came to testify at the hearing for our instate tuition bill and she spoke movingly of the fact that they sometimes feel very disenfranchised. So they're in it for their family and they understand the sacrifice, but every time they move, then they have to restart their education or restart their careers and they are happy to do that for the rest of us, but is a big sacrifice. And so, in the case where the veteran is 100 percent disabled, it's definitely a situation where that spouse is going to have to pick up and have an extra role in terms of being responsible for the family. And as Senator Garrett said, it's the least that we can do for those spouses who have paid that sacrifice throughout their entire working lives, and then now, have the added responsibilities of carrying for that veteran to whom they're married. So again, I stand in enthusiastic support of LB588 and I thank Senator Watermeier for bringing it to us. [LB588]

SENATOR COASH: Thank you, Senator Crawford. Senator Hadley, you're recognized. [LB588]

SENATOR HADLEY: Mr. President and members of the body, I certainly stand in support of the bill and the underlying amendments, but I think it's very important that we have the record straight in this body because it is a historical record. And I think there was a misstatement. I think Senator Nelson asked Senator Avery if he was a tenured professor at the University of Nebraska. Actually, in alphabetic order and order of importance, it goes University of Nebraska at Kearney, University of Nebraska at Lincoln, University of Nebraska Med Center, and the University of Nebraska at Omaha. So I just wanted to clear up the record of where Senator Avery stands in that pecking order. Thank you. [LB588]

SENATOR COASH: Thank you, Senator Hadley. Seeing no other members wishing to speak, Senator Watermeier, you're recognized to close on AM1576. [LB588]

SENATOR WATERMEIER: I'd just like to thank the body for the debate behind the scenes and reassure everyone that we had quite an extensive debate to get it to where it was. We pretty much scrapped the first idea, and we are where we are now because of the PRO Office, Department of Veterans Affairs, and the personnel. So there was quite a bit of work done behind the scenes on this. It may not be perfect in every way, but it's the best shot we can do today and I'd just appreciate your advancement of both the amendments and the bill. Thank you. [LB588]

SENATOR COASH: Thank you, Senator Watermeier. Members, you've heard the closing to AM1576. The question for the body is, shall AM1576 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB588]

ASSISTANT CLERK: 40 ayes, 0 nays on the adoption the amendment to the committee

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amendments, Mr. President. [LB588]

SENATOR COASH: AM1576 is adopted. We return to discussion on LB588 and the committee amendment. Seeing no other members wishing to speak, Senator Avery, you're recognized to close on the committee amendment. [LB588]

SENATOR AVERY: Thank you, Mr. President. Before I address the amendment, I do need to correct the record that was just stated by Senator Hadley. He knows that the University of Nebraska-Lincoln is the flagship campus. That means it's number one in the university system. So I think the written record ought to show that. Now, he might be number one, and I think he is, but the University flagship campus is UNL. Just for the record. Now, on the amendment. I did have some conversations off the microphone with Senator Smith and he raised an issue that I think we will want to address between General File and Select, and that has to do with the ability of employers to use information on the DD form 214 in making their decisions on whether to hire a veteran. The DD form 14 does include information that could be relevant to an employer's decision. For example, if a veteran gets a general discharge, that is not the same as an honorable discharge. It does suggest that there's something in the veteran's record that is reflected in that discharge, and we will try to work on that between now and Select to see if we can clarify it. But the...what you have before you in AM646 is the committee amendment that replaces the bill, and it...it spells out in some detail the procedures and the qualifications in how this bill would work in a real life situation. This is a...as I said, an important part of our preparation for any future base realignment and closure commission that might be formed by U.S. Congress. It also is important to the State Chamber and the Department of Economic Development in our work force development. I urge you to vote for AM646 and then go on and vote also green on LB588. Thank you, Mr. President. [LB588]

SENATOR COASH: Thank you, Senator Avery. Members, you've heard the closing to AM646, the committee amendment. The question for the body is, shall AM646 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB588]

ASSISTANT CLERK: 37 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB588]

SENATOR COASH: The committee amendments are adopted. We return to discussion on LB588. Seeing no members wishing to speak, Senator Watermeier, you're recognized to close on LB588. Senator Watermeier waives closing. Members, the question for the body is, shall LB588 be advanced to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB588]

ASSISTANT CLERK: 37 ayes, 0 nays on the motion to advance the bill. [LB588]

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SENATOR COASH: LB588 does advance. Next item, Mr. Clerk. [LB588]

ASSISTANT CLERK: Mr. President, LB96 was introduced by Senator Dubas and others. (Read title.) The bill was read for the first time on January 10 of last year, referred to the Committee on Revenue. That committee placed the bill on General File with no committee amendments. [LB96]

SENATOR COASH: Thank you, Mr. Clerk. Senator Dubas, you are recognized to open on LB96. [LB96]

SENATOR DUBAS: Thank you very much, Mr. President and good morning, colleagues. LB96 is a bill that I have either...a similar bill that I have either cosigned or introduced almost every year since I've been down here since 2007. I believe in this bill, not because of who the obvious beneficiaries may be, the farmers and ranchers, but because of what it means to our implement dealers all across the state and especially those who are located along our borders. Currently, Nebraska is one of only eight states that still charges sales tax on ag repairs and parts. All of our neighboring states, except for Wyoming, are tax exempt. That puts our implement dealers and especially those on the borders at a very distinct competitive disadvantage. Nebraska's pace of job losses in the farm equipment business was more than three times that of our border states. Our dealers located along the borders lost 16.3 percent of their jobs compared to 5.8 percent of those from the interior of our state. There are no longer any dealers located in Brown, Furnas, Dixon, and Johnson Counties, and that's a loss of around \$900,000 in annual payroll for those four counties. I have sent all of you a link to the study titled The Economic Impact of Exempting Farm Repair and Replacement Parts from the Nebraska Sales Taxes. The data in this report is very compelling and I think makes all of the arguments that I'm going to lay out for you. We frequently talk about the importance of job creation, and how can we find opportunities to keep our young people right here at home in Nebraska. This bill will help us attain those goals. Right now we have community colleges training students to repair farm equipment, as well as to work in parts departments. Major equipment companies are providing scholarships with job offers after graduation. And these are good paying jobs with benefits that will keep these young people or bring them back home in our communities. If we had maintained our 1998 share of the region's equipment dealers, we would have employed over 3,900 workers in 2009. Instead, we show a loss of 283 employees, which computes to over \$5 million in lost wages. Agriculture and ag-related business field is highly competitive. The profit margins are slim even when prices are good. Inputs continue to climb, so shopping around to save dollars is just a part of running a profitable farm or ranch. It is not out of line for a producer to travel additional miles to avoid paying higher prices as a result of our sales tax. As farmers and ranchers, we also tend to build relationships with those dealers. We work hard, as I said, to develop those relationships. And so, if our farmers and ranchers are traveling to another state to buy their repairs, they are

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ultimately buying their equipment there as well. These are big ticket items costing hundreds of thousands of dollars. So, not only are we losing the revenues on the parts that are bought, but we are losing revenues on big ticket items as well. And you can't ignore the multiplier effect either. Dollars spent in implement dealers ripple out across our local economy. When I'm at home, my job is often that of the gofer. That means I make a run for repairs travelling anywhere from 20 to over 100 miles, depending on what's needed, and where we can find that part. It's not uncommon for me to make my trips count. I may stop to buy groceries or other items that I'm not able to get in my local community. I'm spending my money in that community, and if I stay in Nebraska, that's good. But if I'm someone who is traveling out of state and I'm spending those additional dollars in another state, then I'm supporting another state's economy and that's not good for us. To further illustrate the challenges to keeping these businesses viable and profitable, we are seeing more of our dealerships being bought by out-of-state companies. Over the past 24 months, Titan Machinery, a publicly-traded company based in Fargo, North Dakota, has purchased ten Case IH or New Holland dealerships in Nebraska. Over the past 12 months, Grossenburg Implement, a privately held company based in Winner, South Dakota, has purchased dealerships in northeast Nebraska. A&M Green Power based in Glenwood, Iowa, purchased the John Deere location in Plattsmouth, closed it, and then built a new facility and their corporate headquarters in Glenwood, Iowa. These previously locally-owned businesses are now sending their dollars, which really are our dollars, to another state. Buying repairs is an input for our business. In 1987, the Syracuse study made recommendations regarding our state's tax structure. Among those recommendations was to exempt business and farm purchases of material, machinery, and equipment. We adopted that recommendation in 1992, although the exemption for repair and replacement parts was not implemented. The Burling study, I believe, made similar recommendations and our most recent study conducted by the Tax Modernization Commission has made this recommendation as well. I'm very happy to bring this bill to you. As I said, it means a lot to me as a farmer and a rancher because I value the implement dealers and the services that they provide, not only to me personally, but to the ag sector all across this state. They're a very, very important part of the backbone of the ag economy in this state. And so, whatever we do to benefit this company, I believe will come back to us many, many times over. And so providing this exemption, as I said, is not something that the obvious beneficiaries for the farmers and ranchers, but for those businesses that are such an integral part of our farming economy, and are more times than not located in those smaller communities across our state. And so anytime those communities lose a business, it does have a real devastating impact on them. You know, as I said, I brought this bill or been a part of this bill almost every year since I've been down here in the Legislature, and even during the tough times there were...and I know the equipment dealers have brought this bill almost since the recommendations were made in that Syracuse study. They haven't quit because they see what's happening to their businesses and they want to do whatever they can to keep them strong. And there's been times when we've said, well, maybe we need to just toss in the

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towel and say this is a lost cause, but I always came back to the fact that, if you don't introduce the bill, you don't get invited to the table. And if you aren't at the table, sometimes your "what's for lunch," and I didn't want that to happen to this very important bill. So I'm happy that we have finally got it out of committee and to the floor for, hopefully, very strong support. And I appreciate the opportunity to do this and would be happy to answer any questions, if there are any. Thank you. [LB96]

SENATOR COASH: Thank you, Senator Dubas. Members, you have heard the opening to LB96. The floor is now open for discussion. Those in the queue: Senators Hadley, Carlson, McCoy, Johnson, and others. Senator Hadley, you are recognized. [LB96]

SENATOR HADLEY: Thank you, Mr. President and members of the body. I thank Senator Dubas for bringing this bill. As she said, this is a bill we've consistently heard in the Revenue Committee and, more importantly, on the Tax Modernization Committee. This was a comment that we heard consistently across the state. And those of you, some of you think that we're never going to do anything with that Tax Modernization Study, this was one of the recommendations that we came up with and put out, was the fact that the exemption of the repair parts. It is an ag input. And our agricultural producers are in a very tight market. They compete against producers in other states, and if we put additional taxes on them, they do not have the ability to pass those through because they're given a price. They're price takers, not price givers. So this is very important. Being in higher education, we used to have a concept called the sidewalk concept. If you're building a campus, you never put in sidewalks. You wait for a couple of years and then you go out and look at the grass and you figure out where people are walking and you put the sidewalks in there. I think that's what we're doing here. Right now, the people are walking outside of the state to get their products. We've got to put the sidewalk to the local dealer. This is important. It is not revenue neutral because while we're exempting the sales tax, a lot of that is not being paid today. Secondly, if they buy the repair parts in Nebraska and they have the dealer put them on, this will boost employment in the dealers. By boosting employment, it becomes an economic development tool. I think it's a great bill. I do believe that we might have to look at an amendment on Select to make sure the dates in the bill are brought up to speed. It was just brought to my attention that there's some...maybe some dates in the bill that we have to. But I would encourage your vote green on LB96. It's a start of tax modernization and it is a perfectly logical bill. Thank you, Mr. President. [LB96]

SENATOR COASH: Thank you, Senator Hadley. Senator Carlson, you are recognized. [LB96]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I, too, appreciate Senator Dubas bringing LB96 and I am in support of it. And this is a sales tax exemption on repair or replacement parts for agricultural machinery and equipment used in commercial agriculture. I've said many times that I believe in

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Nebraska we must have a tax system that is both fair and competitive, and those two things are difficult to come by in many instances. I think that this bill is headed in that direction, because it is a fact that people that are in agriculture near the border, cross the border to buy repair parts, have equipment repaired, and consequently buy new equipment from that dealer across the border. It's also a fact that we understand that in the last several years, equipment dealers have had good financial years because grain producers have had good years with corn at \$7 a bushel and soybeans well above \$10 a bushel. Other grains priced well, they've been good years. Grain prices are down and there's going to be a change in 2014. And so I think more farmers that have been trading equipment rather regularly are going to think more about repairing rather than replacing. And when this happens, there's going to be a bigger pressure on repair and repair parts, repair labor. And so I think this is a very timely bill that would help keep that business in Nebraska with our equipment dealers. I think it's the right time for it. I think it's the fair thing and I'm in support of LB96. Thank you. [LB96]

SENATOR COASH: Thank you, Senator Carlson. Senator McCoy, you are recognized. [LB96]

SENATOR McCOY: Thank you, Mr. President and members, and I stand this morning in favor of LB96. Happy to be a part of the Revenue Committee as we voted this bill out. I think this is very timely, as has already been stated this morning, for industry and agriculture across our state. You know, I've said it before, but my brothers and I's first business was a custom haying operation that we set up when I turned 16. And when you buy parts or you buy equipment from a dealership, you develop a relationship much the same way as if you purchase a car or a pickup or anything else from a business. And we were no different. We chose to purchase our equipment from a dealership in McCook because we had developed a relationship for parts over the years with him. And I think that's something that's easy to overlook in this situation as these are jobs. And these are jobs that are what we desperately need for our communities across the state. You know, for the third lowest unemployment rate in the country, we have open jobs everywhere. And whether they're diesel technicians, whether they are tool and die folks, whatever they are, whatever those occupations are, we are in desperate need of additions to our work force in skilled labor. And that's what these are. You know, I talked to the owner of an implement dealership...chain of implement dealership a couple of weeks ago on the other end of the state, and they talked about today they have a recruiter in their organization who goes around to high schools to talk to kids to try to get them to come work for their business because they're in such short supply. They talk to parents much in the same way, Coach Peline and his staff recruit young men to the University of Nebraska at Lincoln for football, or for any of our other sports across the state. You know, that's how competitive this has become in this industry. This is how much this matters to our state that we grow jobs in rural Nebraska, and this is one way to do that and to benefit our number one industry in our state and that's agriculture of which I have been a part of all my life. So I stand in support of LB96 not only...and thank

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not only Senator Dubas for introducing this bill, but Senator Hansen for prioritizing it and I think his light is on, but I would be happy to yield the remainder of my time to Senator Hansen if he would so wish it. [LB96]

SENATOR COASH: Senator Hansen, 2 minutes. [LB96]

SENATOR HANSEN: Thank you, Senator McCoy and members of the Legislature. I would rise in support of Senator Dubas' bill, worked together on this last year, and then decided towards the end of the session, we'd better pull it, and, hopefully, you know, come up early like it did this year. A lot of things we do in the Revenue Committee that deals with tax policy, and some things we don't do that deals with tax policy. This is one of those things I've talked to numerous senators that have either been term-limited out, or have retired from the body, that have carried this bill. Many, many senators have carried this bill. It's something that shows direct neglect on the part of the Revenue Committee not to look at the fairness and competitiveness across state borders. There's a list in the material that Senator Dubas sent to you electronically and I can relay some of those to you while you're looking those up if you want to do it later. It's a study by Ernie Goss in 2009. It went back to 1998 where they... [LB96]

SENATOR COASH: One minute. [LB96]

SENATOR HANSEN: Thank you, Mr. President. They had a list of losers and winners and the only loser in the whole group was Nebraska where we lost 16.3 percent of the jobs along the border states in this field, just in ag machinery dealers and repair people. Colorado increased their number of people employed by this industry, 142 percent; Iowa, 34 percent; Kansas, 27 percent; Missouri by 268 percent. We still collect personal property taxes on those sales of those machinery, but when I come back to the mike I'll try to explain to you how long some of us keep this machinery. Some people trade every two years. Some don't, and we put a lot of money into repairs, and those people along the border are the same way. Thank you, Mr. President. [LB96]

SENATOR COASH: Thank you, Senator Hansen. Senator Johnson, you are recognized. [LB96]

SENATOR JOHNSON: Thank you, Mr. President. I rise in support and thank Senator Dubas for continuing the effort to move this forward. Senator Hadley explained part of what I was going to talk about. And I think this is the first step of our tax modernization actions that we're going to take. Some might say, well, why don't we wait on this bill until we start looking at the whole package. I think this is as important that we need to definitely move forward with this bill. And another comment I would make. Senator Dubas talked about the purchases of ag equipment dealers in Nebraska recently and stated that Titan had purchased several facilities. Two of those facilities are within the trade area of my district. In one of those facilities, they rent the current building, that

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they acquired the business, but not the building. And so they are in the process of looking for a new site. When I was involved with city government, we worked on that. They're still continuing to work on that. I'm not in that inner circle now, but I'm wondering if they're waiting to see if we do something about the sales tax on ag equipment, used equipment. This trade area is within 20 miles of Iowa. So I would hope that this would encourage those dealers to continue to locate within the trade area we have now and maybe not move to Iowa. I do support LB96 and ask for your green vote. Thank you. [LB96]

SENATOR COASH: Thank you, Senator Johnson. Senator Bloomfield, you are recognized. Senator Hansen, you are recognized. [LB96]

SENATOR HANSEN: Thank you, Mr. President. As I said, I'd like to explain a little bit. We simply ranch, and like Senator McCoy was talking about, we used to have hay crews, we used to have small equipment. It's harder, it was harder and harder to get the hay crews lined up in the summer and get people out there to do it the old-fashioned way. So over the years, slowly over the years, we have gone to bigger machinery, more expensive machinery, but we make them last. I know some of the farmers, that may even be in here, they trade that equipment every couple of years and they want to keep it new, fresh and under warranty. But a lot of people...and now that we have a downturn in the price of grains, especially, those...it's going to add to the machinery repair costs and the replacement. It's not going to affect my operation because the most expensive machine we have is a brand new windrower and it only cost \$132,000, so it's one of the cheaper machines. But we still have to maintain that. We take it in for maintenance, routine maintenance every year. And we've gone from a stacker, an overshot stacker to a baler now. So we run three balers where we used to have 17 people in the hay crew, and we've just done it on machinery. So machinery costs, machinery repairs have certainly increased. But when you look at the map and you look at the figures, and you look at Ernie Goss' report, and you look around the border states, and that's the problem. We've lost those dealerships. We've lost those places that have repairs and the places where we buy the machinery replacement and repair parts. Extremely uncompetitive with surrounding states. Can't say that enough. I mean, we have ignored that for way too long. It's time we do something and thanks to Senator Dubas' bill, it might make this right. Thank you, Mr. President. [LB96]

SENATOR COASH: Thank you, Senator Hansen. Senator Conrad, you're recognized. [LB96]

SENATOR CONRAD: Thank you, Mr. President and good morning, colleagues. Number one, I'd like to thank Senator Dubas for her thoughtful leadership on this issue, and I also rise to thank Senator Hadley and the Tax Modernization Committee for their thoughtful approach to tax reform over the interim period and carrying into this session. Colleagues, this is an example of thoughtful tax policy grounded in good public policy. It



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is modest, it is targeted, it reflects a business input, and there is indeed a border-bleed issue. However, a word of caution as we move forward. Please keep in mind as you visit today about your support or opposition to this measure, and let me be clear, I'm supportive of this measure. This is a government benefit to a certain aspect of our citizenry. I hope that you will look as equally generously towards other government benefits to certain members, certain citizenry that we will take up this session, most notably when it comes to Medicaid reform, Medicaid expansion, and the Affordable Care Act. Let's think about those parallels. Let's be thoughtful, let's be conscious, and let's do the right thing that's targeted to those who need assistance grounded in good policy. Another note of caution. I believe that we can move forward with this modest and targeted legislation because it does have a modest price tag, but make no mistake, every tax cut has a price tag. It impacts our ability to fund other critical programs and to take care of our future needs. And I think this legislation stands in sharp contrast to some of the radical and fiscally irresponsible approaches that members of this body have put forward in regards to tax policy in Nebraska this session. And make no mistake, if members seek to push those radical measures forward, we cannot and will not be able to do sound policy like this. The resources won't exist. The political will, will not exist. I, again, thank Senator Dubas for her leadership. I, again, thank Senator Hadley and the members of the Tax Modernization Committee for their hard work, but let's use this as a lesson. Let's use this as an opportunity for how to do tax policy in Nebraska that follows our traditions of doing something that's modest, of doing something that's responsible with an eye towards today and an eye towards the future. Thank you, Mr. President. [LB96]

SENATOR COASH: Thank you, Senator Conrad. Senator Davis, you're recognized. [LB96]

SENATOR DAVIS: Thank you, Mr. President. I just rise in support of Senator Dubas' bill and want to tell you why it's so important to rural Nebraska. I represent a district that has a lot of border communities and over the last several years, many of our dealerships have moved out of state, moved to other places, and people will drive across the state line to get their parts. Rural Nebraska has a population problem, a declining population problem. And the last thing we need is to have tax policy, which ends up closing a business in Chadron, Valentine, Alliance, Ainsworth, because people can drive across the border and get parts. And this is a manufacturing input just the same as any other manufacturing input. The Tax Modernization Committee made a good decision in promoting and supporting this. I just rise in support and thank you. [LB96]

SENATOR COASH: Thank you, Senator Davis. Senator Schumacher, you are recognized. [LB96]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. I want

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to rise in support of this bill, thank Senator Dubas for bringing it. She adequately stated the case for it. It was one of the items that came up in the Modernization Committee in which there was overwhelming support for, and it represents a kind of incremental thought-out change in tax policy that makes sense and can get agreement, and I would strongly encourage the body to support it. Thank you. [LB96]

SENATOR COASH: Thank you, Senator Schumacher. Senator Mello, you are recognized. [LB96]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. Obviously, hopefully, everyone has taken a look at the fiscal note regarding LB96. If you haven't, it has a fiscal note cost of this biennium of being \$6.7 million for the second year of the biennium and roughly \$9.5 million the first year of the next biennium. That's something that you can all read and see. And I think Senator Hadley and Schumacher and Conrad all kind of broached upon the subject that I wanted to leave upon everybody. As a member of the Tax Modernization Committee, this was a policy that we heard across the state and it was a policy that for those members of the committee who signed our document and signed our study, this was something that we felt was good public policy. It was something that was...or we considered it to be a business input and it's something that we should try to eliminate in regards to the pyramiding that occurs when you tax a business input. That being said, I generally support the concept in LB96, but as others on the floor have mentioned, there is not an unlimited pot of money, so to speak, simply to do tax expenditures like this without making the balance sheet work on the other end, which is the money that is appropriated for education, higher education, healthcare for senior citizens, those with developmental disabilities, and other appropriations that this body has made for the next two years. Senator Hadley and the Revenue Committee knows there's a significant number of revenue bills that is in front of their committee, and arguably, there's a significant number of revenue bills that are similar to this nature which are a tax expenditure bill that is either on General or Select File that this body will need to consider moving forward. As a slight reminder of process, as much as anything else, passing a bill like LB96 to Select File, and even passing a bill like this to Final Reading, the bill will sit and wait until after we pass the state budget. Any bill that has a General Fund impact, whether it is an appropriation related bill or whether or not it is a revenue tax expenditure related bill, will sit on Final Reading until after we pass the budget, so that we have a balanced budget to be able to present for the Governor for his signature and/or his vetoes. That's more of a process question. As we move forward, I think it's something we need to be cognizant of, as that if we continue to put forward spending and revenue related bills, we will get to the point at the end of the session where we will need to prioritize, that we will not be able, in theory, to pass every bill that has a spending and/or revenue reduction. So, I think it's something people need to start thinking about now. I'm supportive of LB96 for some of the reasons that Senator Hadley, Schumacher, and Conrad mentioned, as well as the members of the Tax Modernization Committee who diligently worked on the report, signed the

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report, came forward, felt this was good public policy for us to do. So, I think keep that in the back of your mind, colleagues, as we start to continue to look at not just Revenue, but also spending policies because we will have to make things balance out at the end of the session like we always do, and this will, no doubt, be one of those areas that we will have to make the determination at a later point if it's a priority of this entire body or it's not. Thank you, Mr. President. [LB96]

SENATOR COASH: Thank you, Senator Mello. Senator Burke Harr, you're recognized. [LB96]

SENATOR HARR: Thank you, Mr. Chairman. I just want to go on the record. I voted against this in committee and let me tell you why I did vote against it. I voted against it because I heard a lot of talk about our dealerships are leaving town and our farmers are going across the border. And our poor farmers this, and our poor farmers. And I thought to myself, if they really wanted to keep these implement dealers here, they would have serviced these implement dealers. They would buy from these implement dealers. So, it's kind of hard to feel sorry for you, for the farmer, when they're the ones making the decision not to go to these dealers. Then, you know, we also have the issue of there's a lot of consolidation going on in agriculture and this is part of the consolidation. And I just want to say, I was wrong because with further thought, and this part with the Tax Modernization is looking at, and in reaction to last year's LB405 and LB406, we cannot tax input to business and be to be, business to business. It doesn't work long term for the state and it's not in the state's long-term best interest. So, after further consideration, I think this is a very good bill. I support it completely. I want to thank Senator Dubas for bringing it. I want to thank Senator Hansen for prioritizing it. I look forward to voting yes on LB96. Thank you. [LB96 LB405 LB406]

SENATOR COASH: Thank you, Senator Harr. Senator Chambers, you're recognized. [LB96]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature. Senator Dubas, relax. (Laughter) I don't know ultimately what I will do on this bill, but I won't stand in the way at this point. I just want to use it as an opportunity to remind my rural colleagues, not those who voted on the spillage bill the way they should, but if I acted on the anger that I felt when Senator Hansen, Senator Larson, and these other insensitive people stood up and said, this is manure...this is good fertilizer you put on your yard. Those kind of insulting things upset me at the time I hear it, but they don't linger, and I will not let it carry over to a bill like this. That's one thing. The second one, is the expansion of Medicaid. This bill will give us an opportunity farther down the line to look at it, and I want those people who were in favor of Game and Parks to know that every dollar that goes to something else, may come out of the hide of Game and Parks. I may, cannot get you to do it, but it's going to be very hard and I'm going to lay on that budget and when it first comes out here, I'm going to get enough amendments on that

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budget to hold it up eight hours, myself. Then, when you vote cloture, you're going to have to support everything on the budget bill. You won't be able to offer an amendment, you won't be able to debate it, and you'll have to send the whole budget bill across intact. I am going to get Game and Parks. I am furious with them. Every time I read something, I become more indignant. One of those people on the commission said, well, people in my area believe that mountain lions are a danger and if they believe they're a danger, they're dangerous. Save me from such people. If somebody...and I put it on the handout, if somebody believes the earth is flat, therefore, it's flat. I'm not even going to take my full five minutes because I've made it clear. I have got Game and Parks on the brain. I'm going to let those people who are the commissioners know what I feel. I'm going to send a transcript to show them how I refer to them as dishonest, untrustworthy people. And I'm going to share it with my colleagues. You may not want to read it, but you'll have it. And this bill is not even a part of what I'm talking about, except that when you go ahead and pass it, it's going to make it easier for me to show why Game and Parks shouldn't get what it is they're after. And if they're not listening...if any of you all have them as friends, let them know they'd rather tangle with a mother cougar whose got two kittens than me. And they might not believe you, but they're going to find out because they want money and anything that comes up here relative to Game and Parks, I'm going to take some time on it and fight it. And I'll fight what's in front of it, and I'll fight what's behind it. Everything is fair game for me, just like they want to let these rich people bid on getting the right...it doesn't say the right to hunt, but the right to kill. And now, by their own reckonings, there are 15 to 20 of these animals in this state. I don't have to live out there to be concerned about these animals. I don't live out there but you want me to vote on your tax bill. And at this point, I'm not going to vote at all because I've got something downstairs I've got to do and you might not get to a vote quick enough. But I just wanted to let Senator Dubas know that at no point before... [LB96]

SENATOR COASH: One minute. [LB96]

SENATOR CHAMBERS: ...Final Reading will I mess with your bill at all. I can't say the same for others because it depends on what my mood is at the time. Thank you, Mr. President. [LB96]

SENATOR COASH: Thank you, Senator Chambers. Seeing no other lights on, Senator Dubas, you're recognized to close on LB96. [LB96]

SENATOR DUBAS: Thank you very much, Mr. President. I thank everyone for their support and their words of encouragement. I'd like to thank Senator Hansen for his priority designation on this and for everybody who has helped cosign and support this along the way, and ask for your green vote to advance LB96. Thank you. [LB96]

SENATOR COASH: Thank you, Senator Dubas. Members, you have heard the closing

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to LB96. The question for the body is, shall LB96 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB96]

ASSISTANT CLERK: 44 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB96]

SENATOR COASH: LB96 does advance. Items, Mr. Clerk. [LB96]

ASSISTANT CLERK: Mr. President, I do thank you. I have notice of committee hearings from the Education Committee and from the Executive Board. Name adds: Senator Cook to LB916; Senator Coash to LR424; Senator Dubas to LB485; Senator Mello to LB474. (Legislative Journal pages 358-359.) [LB916 LR424 LB485 LB474]

Finally, a priority motion. Senator Hansen would move to adjourn until Monday, January 27, 2014, at 10:00 a.m.

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