

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

Floor Debate  
February 21, 2014

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[LB51 LB132 LB159 LB251 LB259 LB371A LB373 LB474 LB488 LB546 LB559 LB560  
LB660 LB671 LB674 LB692 LB700 LB713 LB717 LB719 LB728 LB744 LB751 LB752  
LB765 LB795 LB799 LB800 LB810 LB811 LB814 LB829 LB838 LB850 LB851 LB901  
LB908 LB920A LB920 LB923 LB932 LB943 LB974 LB982 LB986 LB989 LB994 LB1076  
LB1087 LB1091 LB1114 LB1115 LR448 LR449]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirtieth day of the One Hundred Third Legislature, Second Session. Our chaplain for today is Father Mike McDermott, from the Resurrection Catholic Church in Grand Island; that is Senator Gloor's district. Please rise.

FATHER McDERMOTT: (Prayer offered.)

SPEAKER ADAMS: I call to order the thirtieth day of the One Hundred Third Legislature, Second Session. Senators, please record your presence. Record, Mr. Clerk.

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

SPEAKER ADAMS: Are there any corrections for the Journal?

CLERK: I have no corrections.

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

CLERK: I do, Mr. President. Business and Labor Committee, chaired by Senator Lathrop, reports LB932 to General File; LB559, LB560, LB765, LB800, and LB943 to General File with amendments. Revenue Committee, chaired by Senator Hadley, reports LB850 to General File, and LB1087 to General File. I have a confirmation report from the Natural Resources Committee. I have the lobby report as required by statute to be inserted in the Journal. I have agency reports received. That's all that I have at this time, Mr. President. (Legislative Journal pages 599-604.) [LB932 LB559 LB560 LB765 LB800 LB943 LB850 LB943 LB850 LB1087]

SPEAKER ADAMS: Thank you, Mr. Clerk. (Visitors introduced.) Mr. Clerk, we'll move to Final Reading. Members, you should return to your seats in preparation for Final Reading. Mr. Clerk, the first bill is LB838. [LB838]

CLERK: (Read LB838 on Final Reading.) [LB838]

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SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB838 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB838]

CLERK: (Record vote read, Legislative Journal page 605.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB838]

SPEAKER ADAMS: LB838 passes with the emergency clause attached. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB838. [LB838]

SENATOR COASH PRESIDING

SENATOR COASH: Mr. Clerk, you have announcements.

CLERK: I do, Mr. President. The Banking, Commerce and Insurance Committee will meet at 9:30 in Room 2022. And the Agriculture Committee will meet now in Room 2102; Agriculture Committee meeting in Room 2102 now. That's all that I have, Mr. President.

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

CLERK: Mr. President, LB474 is a bill by Senator Krist. (Read title.) Introduced on January 22 of last year; at that time referred to the Revenue Committee. The bill was advanced to General File. I do have Revenue Committee amendments, Mr. President. (AM652, Legislative Journal page 766, First Session, 2013.) [LB474]

SENATOR COASH: Thank you, Mr. Clerk. Senator Krist, you're recognized to open on LB474. [LB474]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues, and good morning, Nebraska. And a question for the Chair and for the Clerk. Is there not a recommit, a priority motion to recommit that bill on file? [LB474]

CLERK: There...I do. You're right, Senator. [LB474]

SENATOR KRIST: So I would like to make sure that that is withdrawn. [LB474]

CLERK: Thank you. [LB474]

SENATOR COASH: So withdrawn. [LB474]

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SENATOR KRIST: Thank you, Mr. Clerk and Mr. President. In a way of introduction of LB474, most of you are aware of the situation that precipitated my actions and LB474, was what I would consider to be a bad decision by the city of Omaha to fund its public-private partnership with the university system and the University of Nebraska Medical Center by putting an occupation tax on tobacco in the Omaha area. I attended those hearings and spoke against the actual ordinance. My impression of those hearings was that that decision had already been made, that the city of Omaha had decided to donate \$35 million of taxpayers' money raised by the occupation tax on tobacco to the university system to help fund the Cancer Center at the university. And although--and I've said it many times on the record--I'm not against the university's Cancer Center improvement and campus improvement areas in Omaha, I am opposed to the way that those monies were supposed to have been or are being raised right now. LB474 was the result of that. And in my drafting of the bill I wanted to make sure that all cities understood that in my estimation, and I know it's a Tea Party kind of thing way back in the Boston Harbor days where there should be no taxation without representation. Well, I still think that's true today. I believe that there should be no taxation without representation. And, in fact, in some cities in Nebraska there have been attempts to put occupation taxes on the ballot and they've been rejected and rejected and rejected, and after rejection, the city council or the city leadership decides to put the occupation tax on anyway; and I think that's wrong. But what we have here is, honest to God, a situation where I was asked to believe that the ends would justify the means...or the means would justify the ends, or vice versa; I don't know. But to me it didn't. So this bill was initially intended to make sure that all of the cities could not tax those items that were excise taxable by the state of Nebraska. It also made retroactive that effort. So that's the way the bill stands right now. As the Clerk has stated, there are committee amendments to follow. And Senator Hadley, I'm sure, will talk you through that process. But we have kept this bill as it is right now in order to take some action today, amend it, go forward, take the retroactive portion out, but make sure the cities, all cities and townships, understand that those things that have excise taxes on them are not subject to occupation taxes by the individual. The state gives the right to tax and that is not their right. With that, I would ask you ultimately to support LB474 as it is amended, and it will take a few steps. Thank you, Mr. President. [LB474]

SENATOR COASH: Thank you, Senator Krist. Members, you've heard the opening to LB474. As the Clerk has stated, there is an amendment from the Revenue Committee. Senator Hadley, you're recognized to open on the Revenue Committee amendment. [LB474]

SENATOR HADLEY: Mr. President and members of the body, I am opening on the Revenue Committee AM652. This is no longer pertinent as we have a further amendment that will take the place of the bill, so I would ask that this be brought to a vote and that you vote no on AM652. Thank you, Mr. President. [LB474]

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SENATOR COASH: Thank you, Senator Hadley. Members, you've heard the opening to the Revenue Committee amendment. Seeing no members wishing to speak, Senator Hadley, you're recognized to close on the Revenue Committee amendment. [LB474]

SENATOR HADLEY: Again I would like to recommend a no vote on this amendment. [LB474]

SENATOR COASH: Thank you, Senator Hadley. Members, you've heard the closing to AM652. The question before the body is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB474]

CLERK: 1 aye, 23 nays, Mr. President, on adoption of the committee amendments. [LB474]

SENATOR COASH: The committee amendment is not adopted. Next item, Mr. Clerk. [LB474]

CLERK: Mr. President, Senator Hadley, I have AM1609 but I have a note you wish to withdraw. [LB474]

SENATOR HADLEY: That is correct, Mr. Clerk. [LB474]

CLERK: Mr. President, Senator Hadley would move to amend with AM1815. (Legislative Journal page 448.) [LB474]

SENATOR COASH: Senator Hadley, you're recognized to open on AM1815. [LB474]

SENATOR HADLEY: Thank you, Mr. President and members of the body. AM1815 is the result of a bill, it was LB488, which is a bill that was in the Revenue Committee, and it dealt with occupation taxes also. This bill was voted out in an 8 to 0 vote. It was meant as an amendment to LB474 and takes the place of LB474. Members of the body, I think it's important that we stick to the principle that we have to have certain revenue sources for the state to meet our duties that we have to the people of Nebraska to fund those services that are needed. And one part of the potential revenues that we have are excise taxes, and there are three primary excise taxes. There's excise taxes on alcohol, excise taxes on tobacco, and excise taxes on motor fuels. I feel it's important that we continue to hold these as resources, potential resources and actual resources, from a taxing standpoint for the state of Nebraska, not to be diminished by cities putting occupation taxes on the same items that we put an excise tax on. You know, there's a limited amount of capacity for the people of Nebraska to accept taxes, and I think we have to make sure that we keep those things that are necessary for the state of Nebraska to be used by the state of Nebraska. So the purpose of this bill, and it's a prospective bill, it's not looking back, it's not going back, it's not going to change

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anything that has been enacted already, but going forward basically cities will not be allowed to put an occupation tax on alcohol, tobacco, or motor fuels. That will be reserved completely for the state of Nebraska and their excise tax on those items. I think the amendment is a good amendment. It takes the place of the bill. I believe Senator Krist is in favor of this. It clears it up as we move forward. So I would ask for your green vote on AM1815 and I would be happy to answer any questions about this particular bill. [LB474 LB488]

SENATOR COASH: Thank you, Senator Hadley. Members, you've heard the opening to AM1815. The floor is now open for discussion. Senator Krist, you are recognized. [LB474]

SENATOR KRIST: This is only...thank you, Mr. President, and good morning, colleagues and Nebraska again. This is only an attempt to put onto the record a testimony that was taken in hearing on March 13, 2013, which I think is extremely important to the intent of the amendment--which I totally support, Senator Hadley is absolutely right--and to the bill which I prioritized LB474 because of the content and which I think is very important. There is a tax that currently is ongoing, an occupation tax on tobacco in Omaha. That tax is going to generate \$35 million. It's there for a specific purpose: to fund UNMC, as I said earlier. There is nothing in the ordinance right now that sunsets that action. There is nothing in this bill that would inhibit them from continuing that action. So I'd like to read for the legislative record what was testified to that night by the lobbyist for the Omaha area. "Good evening, Senator Hadley, members of the Revenue Committee. My name is Jack Cheloha." And he spells his name. I'll skip through part of it, but I'll quote now. "But I can assure you that our intent is only to utilize this occupation tax for the purpose of economic development to help fund the Nebraska Medical Center's cancer research center. And once we meet our \$35 million obligation, that will be the end of it." That will be the end of it. "So I just wanted to let you know that." Senator Hadley: "But right now there is..."--I quote now Senator Hadley. Senator Hadley: "But right now there's nothing in the statute that would keep you from keeping that tax going on forever, is that correct?" Mr. Cheloha responds, and I quote, "Right now there is nothing in the statute, but we've been through this discussion for the last couple of years dealing with occupation taxes. And as Mr. Mumgaard pointed out, "...who was the city attorney for Omaha at the time..."we're trying to follow the law and that's what we want to do." Senator Hadley again: "But there's nothing...you say you want to end it" and "the payment is made." Mr. Cheloha says, "Right." Senator Hadley: "But there's nothing in the statute that requires you to do that. So some" time in the "future council in Omaha could say..." Mr. Cheloha: "Right. Not in state statute but in our city ordinance we do have a December 31, 2022, ending date for this occupation tax." Senator Hadley confirms: "2022." And that's on...and Mr. Cheloha confirms: "And that's on our books." I read this into the record because at some point in the future, if I don't return, I will be in touch who whoever is here to make sure that this is understood; that that tax was put in on the back, on the burden, of the taxpayers in

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Omaha to help fund the UNMC project. And to be clear again, I have nothing against the project. But it will end when that project is fully funded at \$35 million. Thank you, Mr. President. [LB474]

SENATOR COASH: Thank you, Senator Krist. Senator Burke Harr, you're recognized. [LB474]

SENATOR HARR: Thank you, Mr. President and members of the body. So there are two different types of occupation taxes. There is the occupation tax that applies across a political subdivision, and then we have the other occupation tax that applies within a business development zone. And this bill, as currently drafted...I have a question. Would Senator Krist yield to a question? [LB474]

SENATOR COASH: Senator Krist, will you yield? [LB474]

SENATOR KRIST: Absolutely. [LB474]

SENATOR HARR: Thank you, Senator Krist. And I need to be on the record, I didn't get a chance to talk to you beforehand about this issue, and you may or may not know the answer to it. The intent of this bill is to prohibit an occupation tax on items that already have an excise tax on it. Within the first part...well, not to have an occupation tax. Is that correct? [LB474]

SENATOR KRIST: Yes. [LB474]

SENATOR HARR: Okay. Do you know, does this language prohibit, or is it the intent of this language or this statute to prohibit an excise tax on items within a business development zone? [LB474]

SENATOR KRIST: I know of no such language in this bill, and I think I've been through all of the amendments and this current amendment. And no, sir, I do not think there is language in there that would prohibit in a particular development area. [LB474]

SENATOR HARR: Okay. Would you be open to a friendly amendment that would allow...or prohibit, excuse me, occupation tax on items within a business development zone? [LB474]

SENATOR KRIST: Absolutely. Particularly, if that has not gone to the vote of the people, number one; or, number two, is on an item that would be, let's say, critical for human sustenance, etcetera. [LB474]

SENATOR HARR: Okay. Then that leads to my next question. I am working on a friendly amendment--well, hopefully, a friendly amendment, I should say--that would

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prohibit occupation tax on food, and that's a follow-up to the Tax Modernization in which we said food is one of those items that shouldn't be...we shouldn't put a tax on it. Would you be open to a friendly amendment to that degree? [LB474]

SENATOR KRIST: As I understand...absolutely, I think that you're Tax Modernization study group had noted that on several occasions during your study, that food should not be taxed in that manner. But I believe, Senator, if you just...so we make it clear, we're talking about right now, if you walk into a supermarket, there is tax on the prepared foods; it's just not the unprepared foods that we're talking about. Is that correct? [LB474]

SENATOR HARR: That is correct, yes. [LB474]

SENATOR KRIST: Yeah. I absolutely...I mean, if I...you talk about a regressive tax and a tax on people that is oppressive, start taxing their food. I mean, that is...absolutely, I'd be welcome...that would be a welcome amendment. [LB474]

SENATOR HARR: Okay. Yeah, thank you, and I appreciate the time, Senator Krist. What I'm looking at is food and food ingredients. Currently, we do not tax those items. And what could happen is we don't put a sales tax on those items but, as the statute is currently written, a person could come in, a city could come in and put a tax or a business development zone, and put an occupation tax on that food. That occupation tax is based on consumption. So, in essence, it's a back-door way...and unfortunately it would appear it would have the same effect as a sales tax on that food. And I don't think we want to do that and I don't think that's what the Legislature wants based on the findings in our Tax Mod Committee. And so I will be introducing an amendment shortly on that, and I want to thank Senator Krist for your time. [LB474]

SENATOR COASH: One minute. [LB474]

SENATOR HARR: With that, I would go ahead and yield the remainder of my time to Senator Krist if he would like it. Thank you. [LB474]

SENATOR COASH: Senator Krist, 50 seconds. [LB474]

SENATOR KRIST: I'll be very brief. Thank you, Senator Harr, for yielding me the time. I think this is an important point in our tax discussion, and I think it sets the stage for future tax modernization discussion. The year that the Revenue Committee spent on the subject matter, let me applaud them for doing that; and I believe this is the first step moving forward. So I wait to see Senator Harr's amendment. Thank you. [LB474]

SENATOR COASH: Thank you, Senator Krist and Senator Harr. Senator Nelson, you are recognized. [LB474]

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SENATOR NELSON: Thank you, Mr. President and members of the Legislature. I have a question for Senator Hadley in the Revenue Committee on AM1815. [LB474]

SENATOR COASH: Senator Hadley, will you yield? [LB474]

SENATOR HADLEY: Yes, I certainly will. [LB474]

SENATOR NELSON: Thank you, Senator Hadley. You mentioned that excise taxes in existence now, reserved to the state of Nebraska, are alcohol, tobacco, and motor vehicles. Is that right? [LB474]

SENATOR HADLEY: That's correct. [LB474]

SENATOR NELSON: Okay. And having talked with some others, it's my understanding that in Omaha any occupation taxes that we have now there, that might touch on these excise taxes, can continue until their time is run. Is that...? [LB474]

SENATOR HADLEY: The one that would be, would be the tobacco tax can continue. Nothing in my amendment AM1815 would preclude them from continuing with that until their verbal commitment to end it in 2022. [LB474]

SENATOR NELSON: Okay. If you're...help me with this. If you're going into a restaurant and we have, I believe, an occupation tax there on the bill when you order food and beverage at a restaurant. Is that correct? [LB474]

SENATOR HADLEY: Yes, there could be a restaurant tax. Yes. [LB474]

SENATOR NELSON: So how do we cut out the alcohol from food? [LB474]

SENATOR HADLEY: We would not, Senator Nelson. The excise tax we're talking about is found in the...actually is in 53-160, and it deals with distributors, manufacturers, wholesalers, where the excise tax is collected...or the excise tax is collected. And that's where this occupation tax would not be allowed. [LB474]

SENATOR NELSON: Okay, so that's...well, that's good. I'm glad to know that. That doesn't put an additional burden on people in the restaurant business then as far as how they have to sort out tax between different items, if I understand you. [LB474]

SENATOR HADLEY: No. No, sir. [LB474]

SENATOR NELSON: All right. Well, thank you. That clears that up for me, and I appreciate that information. Thank you, Senator Hadley. Thank you, Mr. President. [LB474]

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SENATOR COASH: Thank you, Senator Nelson. Senator Nordquist, you are recognized. [LB474]

SENATOR NORDQUIST: Thank you, Mr. President and members. Senator Harr's comments got me thinking and concerned. I've...you know, we have a very big project in Omaha that's being proposed with substantial payment or substantial funding for it coming from occupation taxes. And certainly we need to do our part to make sure that whatever occupation taxes are implemented for that project don't fly in the face of state policy. And I think the direction that Senator Harr was talking certainly is the right direction to go. I've heard rumblings that in this project there may be an attempt to build a large-scale grocery store in which there would be an occupation tax on the sales of that, which clearly would fly in the face of the exemption that we have established in state law on food. And if there's a way through an amendment here to ensure that that does not happen, that we do not allow municipalities to go down the road of taxing things that we as a state said should not be taxed, like food, like groceries, then we should. Whether that's in Omaha with a project that the leadership of our community may be proposing right now, I for one would do everything I could locally, but also we need to do it here as a state policymaker, to make sure that that food, that groceries, remain tax exempt. That is a policy that we have had for a long time. That is a policy that during the Tax Modernization Committee we stood by and said, yes, this is a policy we want to maintain and reinforce. We do not want to close that exemption and we should not allow any municipality to go around, essentially, state law with an occupation tax on the sales of those products. So I thank Senator Harr and Senator Hadley for their work on this, and certainly would support the proposals. Thank you. [LB474]

SENATOR COASH: Thank you, Senator Nordquist. Senator Krist, you are recognized. [LB474]

SENATOR KRIST: Thank you, Mr. President. I'd like to engage Senator Harr in a discussion if he's available. [LB474]

SENATOR COASH: Senator Harr, will you yield? [LB474]

SENATOR HARR: Yes. [LB474]

SENATOR KRIST: We spoke about the specifics I think Senator Nordquist is alluding to--the Crossroads development area, to be specific. And your point all along in the last few days as we have discussed is that food products should not be...unprepared products should not be subject to the occupation tax. Is that my understanding? [LB474]

SENATOR HARR: That is correct. I have no problem with restaurants as they currently...well, this, my amendment...which by the way, I don't think it's going to be

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ready today, I'll bring it on Select. But my amendment that I intend to bring would only apply to unprepared food and/or the ingredients, and it's defined as defined in statute, which I will get, on my amendment. [LB474]

SENATOR KRIST: Okay. And I'm going to give you the rest of my time so you can talk about that in a minute. But I want to be very clear, following Senator Nordquist also, the ability to tax in law is conveyed--I think that's the right word--by the state to the people and to the metropolitan areas and primary class and secondary class to the towns and villages in the state. So this is not an overreach. This is not a nanny state. This is...when you talk about the ability to tax legally, it belongs to the state. And these are pretty weighty decisions, colleagues, because as things go forward...and we want development to happen, there's no question about it. But we also have to be a bit protective of the citizens to make sure that some of that development is not happening on, as I called it earlier, the ability to sustain a family and buy the food that's required for a family to grow and learn and survive. And, Senator Harr, I'd yield you the balance of my time, please. [LB474]

SENATOR COASH: Senator Harr, 3 minutes. [LB474]

SENATOR HARR: Thank you. And thank you, Senator Krist. You know, to follow up on what you said, it's not...I don't know how to describe it. It is true that the ultimate power to tax lies with the state, and that the cities and counties are political subdivisions and that we give them the power to, or not to, tax, and allow that. That is the way our constitution has been drafted. It's not a bad thing. But yeah, that is correct. And so what we want to do is we want to make sure if there is a tax, that it's done for a good public policy reason. And obviously we don't want to tax food because we don't want a consumption tax on food because that would probably hurt the most vulnerable in our society. So I have an amendment. This morning on my drive down I started thinking about it, which is always dangerous, and I had some questions in my own mind that I need to settle. I have spoken with Jack Cheloha who is the lobbyist for the city of Omaha. I have indirectly spoken or communicated with the mayor of Omaha. She has indicated she does not have a problem with this legislation that would prohibit an occupation tax on groceries, and I believe that to be true; so I'll bring it. I don't think there's going to be any issue as to whether anyone is against this. But in order to make sure we do this properly and that all the t's have been crossed and i's dotted, I'm going to wait to bring that on Select File. Thank you, Senator Krist, for your time. [LB474]

SENATOR COASH: Thank you, Senator Harr. Senator Hadley, you are recognized. There is no one left in the queue. Would you like to use this opportunity to close on your amendment? [LB474]

SENATOR HADLEY: Yes, I would. That would be fine, Mr. President. I appreciate that. I just wanted to clear up just a couple of things. We are dealing with an occupation tax

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here. An occupation tax is a tax on the business. This is a tax that can be then passed on to the consumer. It is different from a sales tax that is paid for by the consumer. The occupation tax does not have to be...a business could actually, quote, eat the occupation tax if they so choose. So there is a difference between a sales tax and an occupation tax. AM1815 I think is a good bill for protecting the state of Nebraska and the resources that we need to continue to do our job. I would look forward to Senator Harr's bill, especially it seems like that the Omaha administration is favorable to it. And we will write the bill and help Senator Harr with the amendment to make sure that it's correct. But with that I would ask for a green vote on AM1815. [LB474]

SENATOR COASH: Thank you, Senator Hadley. Members, you've heard the closing to AM1815. The question before the body is, shall AM1815 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB474]

CLERK: 33 ayes, 0 nays, Mr. President, on adoption of Senator Hadley's amendment. [LB474]

SENATOR COASH: AM1815 is adopted. [LB474]

CLERK: I have nothing further at this time, Mr. President. [LB474]

SENATOR COASH: We return to discussion on LB474. Seeing no other members wishing to speak, Senator Krist, you are recognized to close on LB474. [LB474]

SENATOR KRIST: I would remiss if I didn't thank somewhere between 17 and 30 people at six to seven meetings we had in the summer and fall of 2012. The League of Municipalities, the city, the folks on the Revenue Committee, and many, many others came forward in those meetings to craft what was the original LB474. I believe that the amendment that we just passed, which takes the place of LB474, is the proper action in moving forward. And I want to thank all of those that were involved in 2012, and especially thank the Revenue staff today and Senator Hadley for the opportunity to pass this meaningful piece of legislation. And with that, I'd like your green vote on LB474. Thank you, Mr. President. [LB474]

SENATOR COASH: Thank you, Senator Krist. Members, you've heard the closing to LB474. The question before the body is, shall LB474 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB474]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB474. [LB474]

SENATOR COASH: LB474 does advance. Next item, Mr. Clerk. [LB474]

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CLERK: Mr. President, the next bill I have is LB671 by Senator Chambers. (Read title.) The bill was introduced on January 8 of this year, at that time referred to the Natural Resources Committee. It was advanced to General File. I do have Natural Resources Committee amendments, Mr. President. (AM1637, Legislative Journal page 539.) [LB671]

SENATOR COASH: Thank you, Mr. Clerk. Senator Chambers, you're recognized to open on LB671. [LB671]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, my opening will be very, very brief. I think with the coverage that has happened in the newspapers I've sent various pieces of information around to the senators. Whether you read it or not, I had sent it around. The purpose of this bill is to repeal the authority that was given to the Game and Parks Commission to establish hunting seasons on mountain lions. The Game and Parks Commission was not mandated to do so. They set some seasons. One has already ended. Two male lions were killed. One of the persons who had a permit bid \$13,500 to get the permit, and he said what he wanted to do was carry on his practice of hunting big game. So he wanted to kill one of these animals for sport and for the thrill of the kill. The second permit was obtained by way of a lottery. A young person won this permit. In both cases the way they were allowed to kill these animals disclosed that the aim of Game and Parks was to raise revenue rather than to "manage" the miniscule population of mountain lions in that area of Pine Ridge. They were allowed to use dogs. The World-Herald had a picture of a cougar in a tree, two people on the ground and dogs, and this animal was shot out of the tree. I responded in a very forceful way, expressing my outrage and the fact that I was enraged. What surprised me, I had also indicated that the way they did that gave hunting a bad name. I was called by people who said they were hunters and said that's not hunting, and that was not something that would enhance the image of hunters and hunting. If that use of dogs is an appropriate way to manage that small population, why do they allow the dogs to be used only on the two high profile cases? One where there was a high bid; the second was where a person won by lottery. And these were publicity marketing type operations. The way I drafted the bill it would not only have repealed the authority to schedule these hunts, but it also would have stricken language that currently is in the law and allows people, if their livestock or human beings are menaced, to kill one of these animals if necessary. And there were standards set in that law that had to be met to establish that genuinely a threat had occurred. I did that primarily for this reason. It would catch people's attention, first of all. But, secondly, it would show people what is in the law currently in terms of allowing people to kill one of these animals to protect livestock, pets, or humans. Had I not put that into the green copy and stricken it, that language would not be on your desk right now when you read the bill itself. I would have to stand up here and say, go to Section such-and-such and see what is allowed. That's not necessary now. All you need to do is read the language of LB671, read the stricken material and it will show you what currently is in the law. When I went to the hearing, I

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presented an amendment drafted appropriately by the Bill Drafting Office to reinstate all of that language that was stricken. So the form that the bill will be in once the committee amendment is adopted is simply to take away the authority to hunt these animals. There will be one place in the bill where the two words mountain lions will be stricken. That is the point where you find the listing of animals who can be dealt with in a certain way. So that will be stricken. Then when you read the repealer clause, it will say certain sections are repealed outright. Those that will be repealed outright are the ones authorizing the Game and Parks Commission to set these hunting seasons. I have tried to do the best I could in explaining the bill itself, my reason for presenting it, and now we will consider the committee amendment. But even though I've tried to cover the waterfront, any questions that anybody wants to present to me I will answer. I gave a handout this morning and the last sentence on that handout says, the lion is not so fierce as they paint him. But let's pretend that the lion is that fierce. I am trying to rescue an animal species, or even a subspecies according to some calculations, which is fierce. But I will not adopt the purported ferocity of that animal as we debate this bill. Thank you, Mr. President. [LB671]

SENATOR COASH: Thank you, Senator Chambers. (Visitors introduced.) As the Clerk has stated, there is an amendment from the Natural Resources Committee. Senator Carlson, you're recognized to open on your committee amendment. [LB671]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. The Natural Resources Committee advanced the bill after adopting committee amendment AM1637. And to make it completely clear, AM1637 was brought by Senator Chambers. So this was not an amendment that after looking at the bill the committee decided that this is an appropriate amendment. It is an appropriate amendment, but I want it understood that the amendment itself did come from Senator Chambers. The amendment reinstates Section 37-472 and the portions of 37-559 that allow a farmer or a rancher to kill a mountain lion that's a threat to livestock on his or her property and allows a person to defend him or herself against a mountain lion. The original bill would have eliminated those provisions, but that was not the intent of Senator Chambers and that's why he brought the amendment and we're proposing it to you exactly as he brought it. The bill also repeals outright Section 37-473 which allows the Game and Parks Commission to issue mountain lion hunting permits. Senator Chambers and the committee recognize the necessity of the statutes that allow a landowner to protect themselves, their families, and their property from harm caused by a mountain lion on their land. Again, the amendment simply reinstates what is currently the law. And regardless of your feelings about LB671, I really urge you to support the committee amendment to LB671, AM1637. I would be happy to try and answer questions that you may have, but I do ask for your adoption of AM1637. Thank you, Mr. President. [LB671]

SENATOR COASH: Thank you, Senator Carlson. Members, you heard the opening to the committee amendment. The floor is now open for discussion. Senator Christensen,

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you are recognized. [LB671]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Chambers yield to a question? [LB671]

SENATOR COASH: Senator Chambers, will you yield? [LB671]

SENATOR CHAMBERS: Yes, I will. [LB671]

SENATOR CHRISTENSEN: Senator, explain to me exactly, you know, Senator Carlson hit on it briefly but he didn't go into it, if a landowner has one when they're out there working and feel threatened by, how does that work? [LB671]

SENATOR CHAMBERS: Tell me, and I'm not trying to parse words, what is the animal doing that is perceived to be a threat? [LB671]

SENATOR CHRISTENSEN: Well, let's say you're out there fencing and you see one coming towards you. The rights of defending yourself and protecting yourself. I know you say they'll never come near a human. But if one does, does he have the rights to shoot it and eliminate it? [LB671]

SENATOR CHAMBERS: If under the circumstances that exist, a reasonable person would agree that the individual who did the shooting could justifiably feel threatened, then the person could take that action and it would not be against the law. And I'm not trying to evade your question; I'm trying to give you as accurate an answer as I can. [LB671]

SENATOR CHRISTENSEN: No, I appreciate it. I'm not trying to trap you or anything else. I just want to make sure that I understood Senator Carlson's brief comment. And what I've read about what you've sent out and stuff that a landowner can still protect himself and we're not going to have...all we're eliminating with yours is the hunting season, correct? [LB671]

SENATOR CHAMBERS: That's correct. [LB671]

SENATOR CHRISTENSEN: And so nothing else changes except them being able to sell a permit and issue a permit or lottery on one. [LB671]

SENATOR CHAMBERS: I didn't...there won't... [LB671]

SENATOR CHRISTENSEN: Isn't that the way they done it? They sold one permit and then the other one was in a lottery draw. [LB671]

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SENATOR CHAMBERS: And then they had 100 additional permits that are out there now. But with this bill, none of that would exist anymore. The law would remain exactly as it is without the Game and Parks Commission having any authority to establish hunting seasons on mountain lions. And as for what a person can do under the existing law, that would be reinstated. There have been some instances where mountain lions have been killed. And I've not aware of any person who has killed one under those circumstances being charged with a violation of the law. What the Game and Parks Commission will do is examine the animal, the circumstances, and draw a conclusion. And one of the things that must be done is that...and even with this so-called hunting season, within 24 hours of killing one of these animals, that carcass, unfrozen, must be delivered to Game and Parks for their examination. [LB671]

SENATOR CHRISTENSEN: Say that again. I don't know if I didn't hear it correct. [LB671]

SENATOR CHAMBERS: Okay. [LB671]

SENATOR CHRISTENSEN: If they kill one when they're threatened they have to present it or they did when they were hunting. [LB671]

SENATOR CHAMBERS: They have to present that animal. Whenever a mountain lion is killed, whether as has been stated or described in the papers, unintentionally, in a trap, or if you kill one on the highway, unless you're going to run off, that body has to be delivered or made available to Game and Parks. You really have to notify them immediately, then they will tell what steps should be taken from that point onward. [LB671]

SENATOR CHRISTENSEN: Has there been anyone that's got in trouble for accidentally shooting one and things that way? I know you said you didn't think so, but I want to make sure that's clear that so if they do shoot one... [LB671]

SENATOR COASH: One minute. [LB671]

SENATOR CHRISTENSEN: ...has anybody got really in trouble when they called Game and Parks or ended up in a long ordeal over it? [LB671]

SENATOR CHAMBERS: I'm not aware of that ever having happened. [LB671]

SENATOR CHRISTENSEN: Okay. Thank you, Senator. I appreciate it. I know I sit here very struggled on this bill whether it's necessary to eliminate the season. I understand the...maybe taking out the sale of the one, making it more of a trophy hunt if that's something that bothers you. But that's exactly what hunting is. When they're hunting deer, people are looking for trophies. They love to put up the big racks. This is just

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another one of those animals that...I'm not a hunter. I don't go out hunting. But I know that is just another one of the animals that people that like that sport love to have the opportunity to do. And so I'd be glad to listen to the debate. I'm not sure exactly where... [LB671]

SENATOR COASH: Time, Senator. [LB671]

SENATOR CHRISTENSEN: ...I'm going to be. Thank you. [LB671]

SENATOR COASH: Thank you, Senator Christensen. Senator Schilz, you're recognized. [LB671]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Good morning. I sit on the Natural Resources Committee. I was one of the two votes that voted not to advance the bill, and I'll give you my reasons. A couple of years ago, the Legislature through consultation with Game and Parks voted to allow Game and Parks the authority to decide whether or not there should be a season on mountain lions. Game and Parks is the agency that we have in the state of Nebraska, and I will tell you the only agency that we have in the state of Nebraska, that manages the state of Nebraska's wildlife. Mountain lions are a part of Nebraska's wildlife. The Legislature, and I can't remember what the vote was, but I think it was overwhelming gave Game and Parks that authority. The Game Commission then turned around, held hearings, took it under advisement, and decided that a season was allowable with the taking of two animals with the caveat that if any of those animals shot was a female the season was automatically over. Those seasons are going on as we speak right now. In my opinion, we should allow Game and Parks to do their job. We should allow that the Legislature that put this in place a few years ago did what they were authorized to do. And I would hope that we aren't going to jump back and forth on issues like this and make it look like maybe we don't know what we're doing. And that may be entirely the case. But consistency in law makes sense over time. Everybody says that, you know, they've looked at the numbers and they thought that maybe those numbers were too low. Well, I can tell you what: 22 breeding females that they know of in the Pine Ridge area, which isn't a very large area, and if you talk to them they will tell you that that's what they can prove is there. Of course, in South Dakota if you look at the numbers there with the number of animals that have been taken through hunting or that have been killed accidentally or killed because of threats, if you look at those numbers the mountain lions in South Dakota should be extinct by now but they're not. Mountain lions don't know the borders of the states. They don't know that they're supposed to stay here or supposed to stay there. And the male mountain lions are very territorial and they will move to find new territory, especially the young ones. The lion that was accidentally trapped in...outside of Taylor this week was a 150-pound male. That's a pretty big cat. And I can tell you this. If you don't know where Taylor, it's nowhere near the Pine Ridge. It's just north of Broken Bow, Nebraska, central Nebraska, farm country, ranch country.

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So they're out there. And I'm pretty... [LB671]

SENATOR COASH: One minute. [LB671]

SENATOR SCHILZ: Thank you. I'm pretty sure that there's probably a lot more than we know of, and that's okay. I just hope that we don't see what we've seen in places like Washington State and Colorado where people and pets have been attacked and have been threatened because that would be the worst thing that we would do. I've never seen one in the wild. I wouldn't mind seeing one in the wild, but I sure wouldn't want to be from me to ten feet away from one at any point in time in my life. Thank you very much, Mr. President. [LB671]

SENATOR COASH: Thank you, Senator Schilz. Senator Davis, you are recognized. [LB671]

SENATOR DAVIS: Thank you, Mr. President, and good morning, colleagues. Senator Chambers, would you yield to a few questions, please? [LB671]

SENATOR COASH: Senator Chambers, will you yield? [LB671]

SENATOR CHAMBERS: Yes, I will. [LB671]

SENATOR DAVIS: You talked about the dogs and your objection to the dogs being used as hunting...as a way to track the animals. Could you elaborate a little bit more on your opposition to that? [LB671]

SENATOR CHAMBERS: Yes. These animals have been called the phantoms of the plains, the ghosts of the forests, because they're not seen. There was a recent article in the World-Herald where a man who lives where there are mountain lions who said that in 20 years he has never seen one. He has seen tracks so he knows they're there, but he has never seen one. These animals are not seen. So if a hunter was required to track the animal, the hunter has about a 1 to 2 percent chance of success. The dog is expected to pick up the scent, as with fox hunting in England. The dogs will chase the animal, the animal will run. Then as their instincts which were put in them by whoever put them here will kick in and they will climb a tree for refuge or safety. The dogs will surround the tree and keep the animal in the tree. Then the hunter comes up and shoots the animal out of the tree. Game and Parks is aware of this. They know there...and they've determined scientifically there are 15 to 22 animals, not all breeding females. I was at the hearing. They examine, to use a word that you can use in polite company, the scat or the...of the animal and they can use DNA to tell whether it's from the same animal and how much territory that animal has covered. So people may see the same animal several times and the same animal may be seen in several locations. But to answer your question specifically, without the dogs they are not going to be likely

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to succeed in killing these animals. [LB671]

SENATOR DAVIS: So is the primary objection that you have the killing of the animals or the use of the dogs? [LB671]

SENATOR CHAMBERS: Killing the animals because some like these traps, I cannot say that that was intentional or not. But when it's mentioned that the one who was killed recently was far from Pine Ridge, these animals do move. They are moving eastward. They are passing through Nebraska and other states, not stopping. And this is determined by the DNA. But there are ways that these animals can be killed even without the dogs, and if you have an all-out hunting season as happens in Nebraska, they are going to be killed. [LB671]

SENATOR DAVIS: And, Senator Chambers, I was doing a little bit of research this morning and I think in South Dakota they have a hunting season which is about 75 mountain lions, and that primarily, of course, is in the Black Hills region. As you probably know, the Black Hills is only about 80 miles north of the Pine Ridge. So those animals do travel back and forth. I live at Hyannis, Nebraska. About 50 miles north of Hyannis is the Niobrara River between Hyannis and Merriman, Nebraska, and my good friend who's a plumber there in Hyannis and his friend had... [LB671]

SENATOR COASH: One minute. [LB671]

SENATOR DAVIS: ...seen a mountain lion in that particular part of the state. So you are right that they do travel around. But I wonder then if I could ask Senator Haar a question. [LB671]

SENATOR COASH: Senator Ken Haar... [LB671]

SENATOR DAVIS: Yes, Senator Ken Haar. [LB671]

SENATOR COASH: ...will you yield? [LB671]

SENATOR HAAR: Yes. [LB671]

SENATOR DAVIS: Senator Haar, you were on the Natural Resources Committee the last time this bill came up and you voted it out. I wonder if you can share what has changed in your perspective on mountain lions seasons. [LB671]

SENATOR HAAR: Okay. Yes. Two years ago, I was one of the people that voted for the bill, and the political climate has changed. Also at that time Senator Loudon was in the Legislature and he gave the stories of shoot, shovel, and shut up for mountain lions. And at that time I was convinced I guess that putting a season...and I'm going to get up

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and talk in a minute because I will support LB... [LB671]

SENATOR COASH: Time, Senators. [LB671]

SENATOR DAVIS: Thank you. [LB671]

SENATOR COASH: Thank you. Senator Kintner, you're recognized. [LB671]

SENATOR KINTNER: Thank you, Mr. President. You know, I know about nothing about mountain lions that's not something that I understand that...I got to tell you, I'm not exactly comfortable telling Game and Parks exactly what we're...what they're supposed to do. They're the game management people. They are supposed to be the wildlife experts to handle that. I'm just not that comfortable in telling them how to do their job, especially when it's something like this. So, Senator Chambers, will you yield to a some questions? Maybe you can educate me a little bit. [LB671]

SENATOR COASH: Senator Chambers, will you yield? [LB671]

SENATOR CHAMBERS: Yes, I will. [LB671]

SENATOR KINTNER: What you described, the dogs chasing a mountain lion up a tree doesn't sound very appetizing, doesn't sound very fair, and doesn't...you know, for a guy that loves to shoot things and not animals it doesn't sound great to me. But first of all, what's the difference between a cougar and a mountain lion? [LB671]

SENATOR CHAMBERS: They're the same. There are different names they apply to the animal: cougar, a puma, a mountain lion, catamount. In some parts of the country they're called panthers. But it is either the species or their subspecies, but cougar and mountain lion are terms used interchangeably in this part of the country. [LB671]

SENATOR KINTNER: Okay. I've learned one thing. We're off and running here. The next thing, my question is, why should I as a state senator try to tell Game and Parks what their policy should be? I mean, I just am not that comfortable. I hear both sides have a lot of merit to me, but why should I vote to tell them how to run game and wildlife management? [LB671]

SENATOR CHAMBERS: Wild animals don't belong to anybody. They belong, in England, to the state. The Legislature has an obligation, in my opinion, to properly protect native species. Mountain lions, cougars, were native to Nebraska. They were exterminated entirely from Nebraska which never happened in North or South Dakota. The first confirmed sighting of mountain lions again in this state was in 1991. The first confirmed sighting. Since 1991 today, until today, there is no confirmed attack--not one--of an attack by one of these animals against livestock or human beings. None. So

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if somebody talks about how many of these animals are in Colorado or South Dakota or anywhere else, it has not impacted Nebraska. The Game and Parks Commission, as I have suggested, did determine through scientific methods based on DNA and other ways of tracking where an animal originated and where it wound up, how many there likely are in this state. Nobody can give an exact number. But the number they settled on was between 15 and 22. Now if you do have confidence in the Game and Parks Commission as the entity to deal with managing these animals, they are the ones who told the number. The bill to make mountain lions huntable was not brought while I was in the Legislature. They would not have tried to bring it while I'm in the Legislature. Because although like you, I'm not an expert on these matters, but I would have studied and gotten information. And Senator Loudon knew that a case... [LB671]

SENATOR COASH: One minute. [LB671]

SENATOR CHAMBERS: ...could not be made for a hunting season. [LB671]

SENATOR KINTNER: What's their natural habitat? Are they in the Midwest? Do they go down as far as Texas? Up in Canada? Where are they native animals? [LB671]

SENATOR CHAMBERS: They're moving. This used to be known as the American mountain lion. They could be found all over, more in some states than others. In Nebraska, it's one of the states where they were completely exterminated. Now some come here and take up residency, but a lot of them are passing through Nebraska. And they can be going south, they can be going east, and one was tracked from South Dakota to Connecticut. Its carcass was found as a result of a traffic accident, and through DNA they traced it back to South Dakota. So walking they cover huge distances. And I can't tell you exactly where all of them are going or where they came from, but there are ways to make those determinations within a reasonable degree of accuracy. [LB671]

SENATOR COASH: Time, Senators. Thank you, Senators. Senator Bloomfield, you're recognized. [LB671]

SENATOR BLOOMFIELD: Thank you, Mr. President. I'm going to attempt to answer Senator Kintner's question just a little bit on why we should get involved in what Game and Parks does. If we look back over their maintenance of state parks, their financial responsibility over the last few years they haven't done all that great. I think it's time we take a look at what they're doing. And I don't know if this season has been...hunting season has been just so they can take in a few more dollars or if they really think there's a reason there to do this. I'd like to ask Senator Carlson a question if he would answer it. [LB671]

SENATOR COASH: Senator Carlson, will you yield? [LB671]

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SENATOR CARLSON: Yes, I will. [LB671]

SENATOR BLOOMFIELD: Thank you, Senator Carlson. Through your work on the Natural Resources Committee, have you learned how much money Game and Parks has taken in from the sale of these permits and maybe where that money was utilized? [LB671]

SENATOR CARLSON: Okay. Senator Bloomfield, the estimate from Game and Parks is that through January 17, 2014, just over \$31,000 in application, license fees, and auction proceeds have been raised, and then the estimate is that an additional \$20,000 in revenue could be generated. So that puts the total figure at about \$50,000. What's that used for? It's used to further study and get accurate information on populations within the state. And my understanding is that's the purpose of those dollars. They won't be there anymore, but that's what those dollars were used for. [LB671]

SENATOR BLOOMFIELD: Okay. Thank you, Senator Carlson. Would Senator Chambers yield to a question or two? [LB671]

SENATOR COASH: Senator Chambers, will you yield? [LB671]

SENATOR CHAMBERS: Yes, I will. [LB671]

SENATOR BLOOMFIELD: Senator Chambers, I understand your dislike for this hunting season. I particularly understand your dislike for them using the dogs. If we were to eliminate the use of dogs would you... [LB671]

SENATOR CHAMBERS: I would still be opposed to it. There are so few of these animals there should not be hunting season on them. There are experts who have contacted me from all over the country and I could share the information, but it's daunting for me and I have an interest in it. Nobody is going to read it all or could read it all. But they are unanimous in saying that when you have a population of these animals as small as the estimate in Nebraska, and some have said treble that number and you still don't have a viable population large enough to justify a hunting season. These animals can be managed. They should be managed by Game and Parks, but not through a hunting season. [LB671]

SENATOR BLOOMFIELD: Okay. Thank you. And the numbers that Senator Carlson gave me, roughly \$35,000 to \$50,000, does that sound right to you? [LB671]

SENATOR CHAMBERS: Yes, it does. [LB671]

SENATOR BLOOMFIELD: Okay. Thank you. I guess that's...I'm still trying to make up

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my mind on this and I'll just set here and listen a little longer. Thank you. [LB671]

SENATOR COASH: Thank you, Senator Bloomfield. Senator Chambers, you are recognized. [LB671]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the reason that I will turn on my light is to try to answer whatever questions may not have been completely answered. I can't think of any offhand right now. But here's a point that I want to make. There are standards that exist with reference to how you manage any form of wildlife, any species. There have been studies for decades, and the means of doing it are available. What Game and Parks is doing with these few mountain lions has been disapproved by every knowledgeable person who has been made aware of it. Some of them use the terms such as absurd. One used the term crazy. Unnecessary, unjustified, and that it seems more aimed at exterminating rather than maintaining. But what I am trying to focus on is the fact that there is no justification for doing what is being done in Nebraska right now. Nobody can show that any livestock has or have ever been attacked by one of these animals--ever--in Nebraska since they were first sighted. No person has ever been attacked. And when people give these anecdotal stories, they go contrary to all of the studies, all of the research, all of the authoritative information on how these animals operate. They are not like these bears that you see on videos where they come on people's porches and turn over garbage cans. They avoid human beings. The mother teaches her kittens what the appropriate prey animal or animals is or are for mountain lions. Livestock are not on the menu. That's why none can be shown to have been attacked. But if you kill a mother and the kittens are big enough and old enough to make it on their own, they go after targets of opportunity. They have not been shown and taught. Yes, animals teach their young what is appropriate and what is not. Even Game and Parks says that if you see two of these animals, no shooting because it's probably a mother and a kitten. And you will orphan the kitten, destroy the mother, then you may have a rogue mountain lion on your hands. He has not been taught the way he ought to function, and if he's young enough he will not survive. But to get to point I wanted to make. No lion based on any study has been found to sit and watch somebody gardening. There would be no reason to do that. Mountain lions if they run across the road they don't get to the other side and sit and look at the driver of the car. One way these animals are killed when you don't use dogs, if the carcass of a deer, an elk, is found and they try to cover their kill, they'll come back to it. Then the hunter will lie in wait, and when the animal comes back the animal will be killed. So there are ways... [LB671]

SENATOR COASH: One minute. [LB671]

SENATOR CHAMBERS: ...to kill these animals without the use of dogs. There are so few they pose no threat to anybody, and the proof is that nobody can show that they have behaved aggressively toward anybody. Thank you, Mr. President. [LB671]

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SENATOR COASH: Thank you, Senator Chambers. (Visitors introduced.) Returning to discussion, Senator Ken Haar, you are recognized. [LB671]

SENATOR HAAR: Mr. President, members of the body, I'm going to...I stand in support of LB671, and I want to do some talking because I took the time last weekend to drive out to Chadron. And in advance of that I've tried to come up with my priorities on this. Number one is safety, number two is to get this magnificent species reintroduced into Nebraska, and the third I'm sorry has to be hunting. So I went and talked to some of the people. I talked to a woman. Again, I want to remind you I'm voting for LB671. I talked to a woman who was in her garden, a fenced-in garden. She turned around and there outside the fence not far away was a mountain lion standing watching her. And I said to her, how did you feel? And she said, it was very exciting to see the mountain lion. This was back in September, but she said it was also very frightening. And this year was the first time she has seen mountain lions and she's...she had two other sightings, one within 20 feet of her back window. Then I talked to the man who, it was either August or...I'm sorry, this was last April, that he was walking in a creek, alongside the creek very near his house. And we went out there and he showed me exactly where, so on. He was walking along the creek and following him on the other side was a mountain lion. Because of fears he had had, he was carrying...because of fears of other mountain lion sighting he was carrying a sidearm and he shot the mountain lion as the law now permits. And it was the biggest one that was shot last year in Nebraska or South Dakota. He felt very threatened because that mountain lion was maybe two leaps and a hop away from him across the creek. And then we saw that right near Chadron State Park, and I had a very nice tour of Chadron State Park and Fort Robinson, is the Methodists have a camp for children. And in the summertime there will be about 80 children at this camp. And because of laws around sexual predation and stuff like this, if a child has to go to the bathroom during the middle of the night, he has to wake up another child to go with him. An adult can't go with him. And you can see the reason for that. So when the Dawes County Commissioner took me on this tour and introduced me to some of these people, he's concerned. There is a safety concern. You think about, well, we haven't had one so far but there are going to be 80 kids in that camp this summer. And for the first time they're actually seeing these mountain lions in that area. So I go back. Safety has to be the first one. So I'll vote for LB671, but Parks and Recreation (sic) is going to have to take up the challenge of managing those cats. We can't wait until that first child gets taken down. By the way, something else I learned from the director of the Chadron... [LB671]

SENATOR COASH: One minute. [LB671]

SENATOR HAAR: ...thank you, the Chadron State Park is that probably the favorite, the favorite food of mountain lions, at least in that area, is porcupines. They roll them over and get the soft parts. But this young man who's now the interim manager of Chadron

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State Park actually was a student at Chadron there and helped dissect mountain lions when they brought them in, and he said everyone that they dissected had porcupine quills in its stomach. And he also said he's seeing less porcupines lately. And so that's probably the natural balance of nature. The lions like the porcupines. There are more lions. They're, you know, keeping the porcupine population down. So, again, I'm going to talk some more about my trip, but safety is the first concern. Reintroducing the species is my second concern. Hunting is going to have to happen third. But Parks and Rec (sic) is going to have to manage these cats because people are seeing them and they don't just turn the other way and run away. [LB671]

SENATOR COASH: Time, Senator. [LB671]

SENATOR HAAR: Thank you. [LB671]

SENATOR COASH: Thank you, Senator Haar. Senator Schilz, you are recognized. [LB671]

SENATOR SCHILZ: Thank you, Mr. President. Members of the body, I listened to Senator Chambers talk about how mountain lions stay away from people and I thought, you know, hey, let's just go look. So I pulled up the Internet and I got out there and I looked around. And from an article...on 97.3 Mix there is an article named "South Dakota Cougar Attacks," and it says and I quote: Residents of a canyon area just outside of Rapid City--remember, Senator Davis said that Rapid City is only a few miles from the Pine Ridge area--in the Rapid City limits are asking statewide officials to remove a mountain lion they say has killed a deer and dozens of cats. A local resident said that after the lion killed a deer she found the carcass in her yard and blood on her deck. The residents are concerned for their safety. In another article put out under the page of [lions.org](http://lions.org) claimed this, that in the Black Hills area they say and I quote: According to the Game, Fish and Parks of South Dakota, there are probably ten breeding male lions in the Black Hills with a range of 300 square miles; and approximately 40 breeding females with a range of approximately 80 square miles. And at any one time, a breeding female can have up to two kittens with her who stays for her up to a year. And they said there are also an additional 20 subadult transient males who do not have established territory and are just moving through the area. Folks, they killed 75 lions last year in South Dakota. These numbers don't even support that. There is so little known about mountain lions and their habitat that we can't tell you how many there are because they are elusive, they don't want to be seen. But I can tell you this: If there weren't very many of them, you probably wouldn't see them on people's porches and in people's yards. So they do go around people. Most of the time people won't even know they're there. That's the point. Today it's cats that they're killing, and deer. What is tomorrow? We don't know. I can tell you, in the state of Washington they've had attacks on people. In the state of Colorado they've had attacks on people riding bikes, jogging. The worst thing you can do from a cat is run from it. They think they're playing and the

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instinct kicks in and they'll just go after it. So I think we need to understand that as we look at this and as we look at the numbers that Game and Parks has put out, there needs to be more study. And because of the hunting season and the money that is received from that, those studies can continue so that we can find out more about the mountain lions, so we can find out more ways to have...give them what they need and the space that they need so that they come in contact with humans less and less. Oh, and the other side of it, it is always healthy that predators be afraid of humans. [LB671]

SENATOR COASH: One minute. [LB671]

SENATOR SCHILZ: It's always healthy. And if, like any other predator that we have, if it was a coyote, there's no season on coyotes. You can shoot them on sight. The mountain lion is not an endangered species. The mountain lion is a fact that Nebraska has them, and those numbers will continue to grow because of the deer population. Where there's prey, the predators will be there. So please think about this before you go. We need the money to study these things. Hunting gives us that ability without taking precious resources from Game and Parks that we all know they need. So sometimes you need to take advantage of something that may not be as palatable as you like to find out the information we need to know. [LB671]

SENATOR COASH: Time, Senator. [LB671]

SENATOR SCHILZ: Thank you. [LB671]

SENATOR COASH: Thank you, Senator Schilz. (Visitors introduced.) Senator Davis, you are recognized. [LB671]

SENATOR DAVIS: Thank you, Mr. President. Senator Carlson, will you yield to a few questions? [LB671]

SENATOR COASH: Senator Carlson, will you yield? [LB671]

SENATOR CARLSON: Yes, I will. [LB671]

SENATOR DAVIS: Senator Carlson, you were on the Natural Resources Committee the last time this bill came forward and it came out of committee, I believe, unanimously. Now we are at six for and two against. Can you tell me a little bit about what your thinking was and why you decided to put the bill out? [LB671]

SENATOR CARLSON: Would you repeat the last part of that? [LB671]

SENATOR DAVIS: Can you tell me a little bit about how your thinking has changed between 2012 and today? [LB671]

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SENATOR CARLSON: All right, Senator Davis, I don't recall in 2012 that we spent a lot of time talking about population numbers and the efforts to try and determine that. I think the agency in the state that we should rely upon for the best estimate of population of wildlife is Game and Parks. And if you look at the committee statement, they were in a neutral position. And as we asked them specifically for their best information on population, even in the Pine Ridge area, it's around the 20 figure. Now you're from that area. You may not agree with that. You may think that's wrong. I think we're obligated to accept their best estimate on populations as we move forward in a decision, and this is part of what makes it a difficult decision. If that estimate is correct, that's not very many. That's not much of a population. And I...we heard at the hearing people that don't agree with that; they think there is a lot more. But it's Game and Parks's responsibility and I think we need to be careful before we just ignore what their studies have shown them. I know on an ongoing basis they're interested in trying to be accurate on populations across the state. That's part of what they use the money that comes in for this hunting season for, to continue their studies, and I think that should continue. But that population number is something that had some impact on me. [LB671]

SENATOR DAVIS: Thank you, Senator Carlson. Senator Schilz, would you yield to a question? [LB671]

SENATOR COASH: Senator Schilz, will you yield? [LB671]

SENATOR SCHILZ: Yes, I would. [LB671]

SENATOR DAVIS: Senator Schilz, you were at the Natural Resources Committee yesterday afternoon, weren't you? [LB671]

SENATOR SCHILZ: Yes. [LB671]

SENATOR DAVIS: And Mark Spurgin, who lives in your district, was reappointed or is recommended for reappointment to the Game and Parks Commission. Is that correct? [LB671]

SENATOR SCHILZ: Yes, sir. [LB671]

SENATOR DAVIS: Do you remember what he had to say about the numbers of animals? [LB671]

SENATOR SCHILZ: Well, it was exactly what I said before, and I think, if you're...what you're asking is...he was talking about the numbers and the one part I do remember, which I stated before, is he was talking about the numbers in South Dakota and he said that the amount, the numbers of lions that were harvested there, were more than what

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the Game and Parks folks in South Dakota even had down as being...as existing in South Dakota. And I think that's the point that I was trying to get at. I think that's what you're looking for. [LB671]

SENATOR DAVIS: And I think the other thing he said, and he did talk specifically about the number which, I believe, was 22. And then, as I recall, he sort of in a throwaway moment said, but we think there are a lot more than that. As I recall, you know, I've been in the state a long time and I remember the first sightings of these animals in the state. Game and Parks basically just flat-out denied that they existed in Nebraska until finally one, I think, was killed in Harrison probably 25 years ago. So I've always wondered if the reporting was actually under...being underreported and I sent...I did send a map out to all the body to look at... [LB671]

SENATOR COASH: One minute. [LB671]

SENATOR DAVIS: ...which shows documented sightings within the state. And you will note that they were...they're...they've been in Scottsbluff. I believe they were found in the...quite close to the high school there. Maybe Senator Harms could elaborate a little bit on that. Senator Harms, are you...would you yield to a question, if you're here? [LB671]

SENATOR COASH: Senator Harms, will you yield? [LB671]

SENATOR HARMS: Yes, I can. Thank you. [LB671]

SENATOR DAVIS: Could you elaborate a little bit on the sighting in Scottsbluff at the high school? [LB671]

SENATOR HARMS: Yes, I can. I believe this was on January 25, 2009. There was a cat, about 70-pound female, that was near the high school, laying in the ditch, and they actually had to kill it. They actually shot it and it escaped and then got into a...(inaudible) a person's garage and they finally had to shoot it there to...in order to take care of it. It's not the only sighting we've had there though, Senator. There have been other sightings that have been in Scottsbluff in regard to that particular issue. And there was one just recently, I guess in 2010, that was killed where kids were bouncing up on a trampoline and the dog started barking and they looked up on the tree where the dogs were and there was this cat. They ran into the house and they had to come out and... [LB671]

SENATOR COASH: Time, Senators. [LB671]

SENATOR HARMS: Thank you. [LB671]

SENATOR DAVIS: Thank you. [LB671]

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SENATOR COASH: Senator Avery, you are recognized. [LB671]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. I am going to support this bill for a number of reasons, one of which is that I promised Senator Chambers that I would work with him on this bill in hopes that he will work with my Game and Parks bill, LB814, and I believe that he will. So one of my pleas to you, my colleagues, is help me get that Game and Parks bill across the line and, in order to do that, there are other things we need to do and this is one of them. One thing that strikes me as a little bit odd is that mountain lions in the state of Nebraska are just now beginning to emerge from near extinction. So the question that arises is, why would we want to open a hunting season on them just as they are emerging out of extinction in our state? It's pretty clear from what we have already heard on this floor that mountain lions are not overpopulated; in fact, they are barely...barely have they established a presence in this state. Game and Parks's scientific evidence shows that we may have about two dozen that can be scientifically confirmed in the state. So why do we need a hunting season? Is it for the pleasure of certain hunters who are seeking a trophy? Mountain lions are not like deer. They're not overpopulated and they don't provide suitable food for human consumption, at least I don't know that to be the case. There is...was reported recently, I believe, in the World-Herald some very interesting scientific work by a scientist at Washington State University. He pointed out that mountain lions are native to Nebraska, but unregulated hunting, trapping, and poisoning forced them to retreat to higher-altitude western states for nearly a century. Migrant cougars from South Dakota and Wyoming began filtering back in to Nebraska in the early 1990s. Here's one thing that he pointed out that we need to be aware of and take it seriously: Young males are forced out by large, mature males that jealously guard their territories. And the males are looking for females with which to breed. By conducting radio collar studies of cougars, this scientist and his colleagues found that when a dominant male dies, potential replacements quickly move into the territory to fill the void; younger males move quickly to fill the void. So when you kill one of the old males, two or three young ones show up at the funeral. And what happens is, if you're hunting these lions, you're likely to produce a void in an area. And that's going to attract more young males and that might actually increase the population in the state of Nebraska of these animals. And if you're worried about overpopulation, let's not take action that might actually increase the population at a faster rate than we're currently seeing. With that, I remind you that this is an important bill to me and I hope that you will join me in supporting it. And I will now yield the rest of my time to Senator Haar. [LB671 LB814]

SENATOR COASH: Senator Haar, 1 minute. [LB671]

SENATOR HAAR: Phew, thank you, Senator Avery. Check out Senator Avery's Facebook for the picture of the reconstruction stuff we're doing at Fort Robinson. Once again, I would like to say, safety is my first concern. I will be voting for LB671. It

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presents a unique challenge to Game and Parks to manage. And they talked about ways to manage, the folks in Chadron. For example, there has been some experiments where you do use dogs to chase a cat that's been showing up near people. You tree him and then you shoot him with something, like rice, that hurts and scares him. So one way to manage mountain lions, and probably bears, as well--I've heard it is--is to, if they're getting too tame, too used to human beings, that you make them afraid of human beings and... [LB671]

SENATOR COASH: Time, Senator. [LB671]

SENATOR HAAR: Thank you. That's going to be the challenge of Parks and Rec (sic). Thank you very much. [LB671]

SENATOR COASH: Senator Brasch, you are recognized. [LB671]

SENATOR BRASCH: Thank you, Mr. President, and good morning, colleagues. I stand in bewilderment of LB671 in the sense that I am one of the two that objected to LB671 in committee because of the bill coming to us initially in good faith, opening the season, and then we turn around a year later and we are saying that we need to change this. Why are we changing this? Senator Chambers has said many times on the floor that he has no heart. However, he has looked into the Omaha World-Herald and felt compassion for an animal that was in a tree, with hunters, weapons. He felt it was defenseless. Those are potential signs of having a heart. As I have tried to speak with many constituents on this issue and with the residents who live in that area, I've been told that by having a dog during the hunt you are able to look at the mountain lion at close range and determine that it is a female, that it should not be shot, that it was in consideration of that specific animal that we identify it being male or a female. We do regulate our hunts through the permits. We have our Game and Parks Commission who have a mission that you can read it on their Web site, in their booklets. It's for the best long-term interests of the people, state of Nebraska, people, and also those resources, and they are stewards for the stewardship of our state's fish, our parks, and our outdoor recreation resources. Now when we look at the state of our state parks, the conditions, and we realize that the funding is not enough to take care of the thousands of acres of parks, that we are not even compliant at this point for Americans with Disability, there are great needs in those parks. We're looking at that. We're also looking at the sport of fishing and hunting, a sport that started a long...many, many generations ago with the Lewis and Clark Expedition as the explorers crossed the country. And we have a history of hunting and we should also know that Nebraska is abundant in those resources. When I spoke recently with a constituent and I heard a voicemail saying that they were out in Chadron; that all of the individuals that are living there that have seen the mountain lions that are concerned about the number and the reported number, they're in a quandary, wondering why are we now turning around and saying that... [LB671]

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SENATOR COASH: One minute. [LB671]

SENATOR BRASCH: ...that it's an animal that does not threaten them when they have seen the threat firsthand; the sportsmen in our area who follow the rules, the regulations, to the letter of the law that Game and Parks has laid out to carefully conserve our animals, that's what's puzzling here. It's puzzling in the sense that a senator with no heart wants to take on the task and challenge, you know, the numbers that Game and Parks has reported. There's national numbers. These animals travel. There is a lot to consider here. And when it comes to LB671, if this is keeping us from funding for our parks, I would like that said on record as well if that's a consideration here. Or is it a consideration that we are trusting what Game and Parks has put before us? It's not simple to make a law that protects everything and everyone, but we do our best. [LB671]

SENATOR COASH: Time, Senator. [LB671]

SENATOR BRASCH: Thank you. [LB671]

SENATOR COASH: Thank you, Senator Brasch. Senator Harms, you are recognized. [LB671]

SENATOR HARMS: Thank you, Mr. President. Colleagues, as I stated earlier on the mike, Scottsbluff, the community of Scottsbluff has had some difficulties at times with cats coming into the community near the high school, recently saw one near a church. So the issue that I have with this is that I think that the cats have to be managed. And I'd like to have Senator...well, I'd like to just talk to you, as senators, to say that if you live in rural Nebraska, you have to understand how the ranchers and the people feel. There's a lot of space between one house to another and a farmstead from another farmstead. And it is frightening for a lot of people when you see a mountain lion. Sometimes they'll come in, get into your barn, stay in the barn for a while, stay warm. A lot of times they'll just lay in the trees and it's frightening when you see one. I'd like to have Senator Chambers yield just for a second, please. [LB671]

SENATOR COASH: Senator Chambers, will you yield? [LB671]

SENATOR CHAMBERS: Yes, I will. [LB671]

SENATOR HARMS: Senator Chambers, you pick up that map that I gave you on the mountain lions present in Nebraska that's colored that I gave you, walked over and gave you. [LB671]

SENATOR CHAMBERS: Senator, could you speak just a little louder? [LB671]

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SENATOR HARMS: Pardon me? [LB671]

SENATOR CHAMBERS: Could you speak just a little louder or come closer to your mike? [LB671]

SENATOR HARMS: Yes, I sure will. I apologize for that. [LB671]

SENATOR CHAMBERS: Okay. [LB671]

SENATOR HARMS: Can you pick up that map that I gave you? [LB671]

SENATOR CHAMBERS: Yes. [LB671]

SENATOR HARMS: Let's walk through that. You're going to have to help me whether you want to or not. I'm color-blind and so color charts don't do a lot of work for me. But what I found really kind of interesting is, of course, we know the Pine Ridge seems to have the largest sum, according to this map, and it confirms what you have said and the number may be 20 or 15 or 20 or 22, whatever. But if you look down where I live, down in that Scottsbluff area, you can see the number of females that have been spotted. And also on that chart you'll...you can look down on the...and it will indicate that there's some evidence that shows that we're beginning to see a population of cats in the Wildcat Hills. And so I think the problem is going to continue to grow. And if you look then at the rest of Nebraska, if you look up around the Valentine area up along that northern tier, you can see where we've had quite a few cats come across there. Some they've tracked; some they've photographed. And what really kind of caught me by surprise occurred in the central part of Nebraska. And they have been established to move across our state, and very few on the eastern end. But most of them lie from the middle to the west. And I just feel that someday we'll going to have to begin to manage these and make sure they don't get out of hand on us. I don't think it's a sport to use dogs to hunt them and shoot them and I don't know another way we can deal with this. And I just want to know what your comments were about the map and what you see there. [LB671]

SENATOR CHAMBERS: Senator Harms, I'm not able to interpret what each one of these colors on the map will mean because they cover periods of time. For example, the yellow dots will say 2007 to 2011. [LB671]

SENATOR HARMS: Correct. [LB671]

SENATOR CHAMBERS: So that apparently means the number of sightings in that period of years. [LB671]

SENATOR HARMS: At that time. That's correct. [LB671]

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SENATOR CHAMBERS: In no one of these periods do you see as many as 20 sightings. It doesn't say that all of these were there at the same time. [LB671]

SENATOR HARMS: That's correct. [LB671]

SENATOR CHAMBERS: It says they were sighted. If you look at the map you gave me, across the top or the northern area of the state you see what looks like a corridor moving from west to east. If you come to the middle of the state, and although it's not following I-80, but for those who don't have the map, roughly, there you'll see again... [LB671]

SENATOR COASH: One minute. [LB671]

SENATOR CHAMBERS: ...a corridor. These animals are not being dispersed evenly throughout the state. In both instances where the largest number of sightings will be found, it's the corridor, and they are moving across the state. And that's acknowledged, even in other parts of the country, that Nebraska is a corridor state and, through DNA and other methodology, they can see that these animals have probably passed through Nebraska. And some other states, parts of them, might be a corridor also. But they're not staying here. [LB671]

SENATOR HARMS: Right. I think that's a good analysis. The thing we have to be concerned about is when they stop going through the corridor and decide to make this their home. And that's the concern that I have and we'll just have to wait and see and time will tell. And I thank you very much for your comments, Senator Chambers. Thank you, Mr. President. [LB671]

SENATOR COASH: Thank you, Senator Harms and Senator Chambers. Senator Schilz, you're recognized, and this is your third time. [LB671]

SENATOR SCHILZ: (Recorder malfunction)...thank you, Mr. President. Yeah. You know, we heard Senator Avery and Senator Chambers talk about...and, in fact, Senator Chambers and the folks that testified in this committee talked about cats that are killed. Well, and we heard Senator Avery talk about that too. Well, I know this, that when you kill a cat in a certain area, if it's a dominant male, others will come into that area to take over for that. It doesn't mean they will disperse farther; it means they will come to the best habitat available. And if there is a male that has a territory there, that's the habitat that the other cats will come into if that male is no longer there. A vacuum is always filled. And as Senator Chambers just said, they're following corridors, but they are spreading. So if you take out a male in an area where the habitat is best, animals aren't going to move anywhere except for into that best habitat. I think that's commonsense thinking on my part. Maybe I'm wrong. The next question: dogs, and why they use them. We heard Senator Chambers, as well, talk about how females have their kittens, and I

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even mentioned it on the mike, up to a year. One utility in using dogs is the ability to tree the animal and to find out what sex it is. And if we find out that it's a female, they can let it go because everybody knows that if you shoot one female the season is automatically over. Now is it...the question: Is it humane? Well, I don't know. But what's more humane, taking care of some kittens that are there while being able to also allow for some money to be brought in through these hunts to do the studies that are necessary to find out what all of us here want to know--what is happening with the mountain lions in the state of Nebraska? I think it's important. I think it makes sense to allow this. I think it also makes sense to let the experts in the state make these decisions. I am not a mountain lion expert; I am not a wildlife expert. I defer to the people that are. That's why we have them here in this state. The Game and Parks does not have to allow a hunting season. It's within their authority not to. The Game and Parks can name how many lions they want to have killed every year through harvest, and they could do that every year. When I look at AM1637, part of me says that's absolutely necessary. But somebody had the idea that they wanted to take away, at one point, the ability for people to defend themselves and to defend their property. That is the way the bill was introduced. I'm glad that Senator Chambers saw that that was a fatal flaw. But by gosh, guys, let's think about this for a second. Somebody, somebody had the idea that mountain lions should never be controlled, and that scares me. I will probably vote for the amendment. [LB671]

SENATOR COASH: One minute. [LB671]

SENATOR SCHILZ: But I will not vote for LB671. And it's not that I dislike Senator Chambers or anything like that. I just think...and we both have this feeling with each other on different bills. I don't like the bill. I'm not going to filibuster it. I'm just going to tell everybody my feelings, tell everybody what I think should happen, and we'll see how the vote comes out. On General File we'll see what happens and we'll see if we make it to Select File or not. And with that, I thank you, Mr. President and members of the body. [LB671]

SENATOR COASH: Thank you, Senator Schilz. (Visitors introduced.) Senator Davis, you are recognized, and this is your third time. [LB671]

SENATOR DAVIS: Thank you, Mr. President. I just want to make a few points I think are important. And I think Senator Schilz made some of what I was going to say but I'll probably reiterate it one more time. These animals, first of all, have to have nutrition every day. We know that. And so what happens to the natural balance will affect what they do to keep themselves alive. So over the last couple of years in western Nebraska we've had bluetongue in our deer population; we've had tick issues in our mule deer population. And if you look at the number of killed deer in the western part of the...in the state of Nebraska over the last year, I think we're down between 30 and 50 percent on permits. Now I didn't have time to really get the data on that. What that tells you is

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probably the population of the deer is down 30 to 50 percent. So if that's the case and we have cats that are going to need nutrition, where are they going to go for that? And maybe they're going to go for the porcupines that...as Senator Haar has said. But, you know, I'm going to tell you, there aren't that many porcupines, especially in the Pine Ridge, because so many of the trees are gone there. So my fear is we're going to see more attacks on livestock, horses, cattle. It's really hard to document what that cat does. A lot of times they'll carry him away and you never see them again. It's wide-open country. The chances of finding a carcass and being able to identify what took it out are going to be pretty hard after a couple days of decomposition and then also, of course, whatever the cat does to it. Game and Parks two years ago testified in favor of this hunting season. Now they're neutral. Why are they neutral? You know, obviously, they're neutral because they're afraid that their funding is going to be held up on the park issue and this is a throwaway thing. But this is an important...important to the constituents that I represent and I want to speak, you know, against this bill because I just think it's bad policy. Game and Parks has the authority to drop the hunting season right now if they want to do it. And maybe they should, you know...to be up to them. I just would hope that the body would look at this and say, we understand Senator Chambers' passion. And I do. I am an animal lover myself. I respect him for what he is trying to do to protect these animals. I do think this is the proper way to go about it. Thank you, Mr. President. [LB671]

SENATOR COASH: Thank you, Senator Davis. Seeing no other members wishing to speak, Senator Carlson, you are recognized to close on the committee amendment. [LB671]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. AM1637 is an important part of this bill. I want to reiterate part of what AM1637 does. It says very specifically that: Any farmer or rancher owning or operating--and operating could take in a renter--a farm or ranch, his or her agent...the farmer, rancher, or renter, or his or her agent, which to me means it might be a neighbor, it might be an acquaintance that I have, and for whatever reason--we've got the mountain lion there--I either don't know how to shoot it or I don't want to. And I could ask my agent to do it, my friend to do it: May kill a mountain lion immediately without prior notice or permission from the commission if he or she encounters a mountain lion and the mountain lion is in the process of stalking, killing, or consuming livestock on the farmer's or rancher's property. And the farmer or rancher or his or her agent shall be responsible for immediately notifying the commission. And then the next section, which is an important part, says: Any person shall be entitled to defend himself or herself or another person without penalty if, in the presence of such person, a mountain lion stalks, attacks, or shows unprovoked aggression. There's got to be leeway in how that's interpreted. What's the definition of unprovoked aggression that causes fear? But that's part of this amendment that allows a property owner or his or her agent to kill a mountain lion that's perceived to be in that category, and that's the important part of AM1637. And I would

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ask for your support. Thank you. [LB671]

SENATOR COASH: Thank you, Senator Carlson. Members, you've heard the closing to the committee amendment, AM1637. The question for the body is, shall AM1637 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB671]

CLERK: 36 ayes, 0 nays on adoption of committee amendments. [LB671]

SENATOR COASH: The committee amendments are adopted. [LB671]

CLERK: I have nothing further on the bill, Mr. President. [LB671]

SENATOR COASH: Thank you, Mr. Clerk. We return to discussion on LB671. Seeing no members wishing to speak, Senator Chambers, you are recognized to close on the advancement of LB671. [LB671]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I have exercised what, for me, is considerable restraint. There is no bill that I've ever offered since I've been in this Legislature that has affected me the way this one has. No issue, including the death penalty, has done to my mind what has happened under this bill has done to my mind. I don't say it's more important to save animals than human beings. But people who are facing the death penalty do have avenues available to try to have that overturned. And if there has been a proper proceeding, the person has done something. These animals are unoffending. Nobody could show any attack. All of these anecdotes that Senator Schilz and others will bring up are "what if," or it happened in Colorado, it happened in South Dakota. If they're are such a threat in this state, tell me in this state. When Game and Parks came before the committee during the hearing, they gave the scientific method they utilized to arrive at the conclusion that there are 15 to 22 of these animals in the region. How are those who say, let Game and Parks do their job, going to turn around and say, but because that particular aspect of their job didn't come out the way I wanted to, they're not right on that? Game and Parks, if these animals need managing, are going to use scientific and best practices methods. They can do it. There are not that many animals. And it's anecdotal to say that dogs are used so that a determination can be made whether one of these lions is a female or a male. Say you're the hunter or the huntress and there is a female lion in the tree, mountain lion in the tree. What do you care about other hunters? You would shoot it. Game and Parks does not prohibit the killing of a female. So all of that anecdotal twaddle, I would call it, about using dogs so you can determine if it's a male or a female is exactly that. Some of what Senator Schilz and others are saying will be told to them by these people called outfitters. And there are outfitters who, if they tell the truth, will tell you why there has been such a decline in the deer population. And it's not because of 15 to 22 mountain lions. It's for something else and the hunters won't even take the time to find

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out. But now that I'm on the issue, I'm going to find out. Deer are not being hit on the interstate not because of those fences. The number is diminishing. There are diseases that have broken out among elk, among deer, and Senator Schilz knows it, but they don't mention that. But the people from that part of the state know why these herds are diminishing in size. And I can read. I don't have to go inside of a volcano to say that lava is hot. I don't have to go into the outer reaches of space to say it is cold. [LB671]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: One minute. [LB671]

SENATOR CHAMBERS: I read. If somebody is giving information based on research, study, analysis, and the person doing has the requisite training and experience to draw conclusions from the facts that are derived, not only I, but others, will accept that as the state of the art or the practice or whatever it is we're discussing. Mr. President, the point I was going to make at the very beginning is that--and the "Parson" knows this is true--there is a verse in the book he loves that talks about the lion lying down...laying down with the lamb--not to eat it. Well, what you've seen this morning is what some people might perceive as the lion being transmogrified into a lamb. And how could that happen? I saved the best for last on this statement: The lion is not so fierce as they paint him. [LB671]

SENATOR GLOOR: Time, Senator. [LB671]

SENATOR CHAMBERS: I would ask for a call of the house, Mr. President. [LB671]

SENATOR GLOOR: Thank you, Senator Chambers. There has been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB671]

CLERK: 37 ayes, 0 nays, Mr. President, to place the house under call. [LB671]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Chambers, all members are accounted for. How would you like to proceed? [LB671]

SENATOR CHAMBERS: I'll take a machine vote. [LB671]

SENATOR GLOOR: Members, the question is the advancement of LB671 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB671]

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CLERK: 31 ayes, 5 nays, Mr. President, on the advancement of LB671. [LB671]

SENATOR GLOOR: The bill advances. Raise the call. [LB671]

SENATOR CHAMBERS: Mr. President. [LB671]

SENATOR GLOOR: Yes. [LB671]

SENATOR CHAMBERS: I said this bill is different, and this might be out of order, but you'll never see me do this again. Thank you for the vote. [LB671]

SENATOR GLOOR: Mr. Clerk, items for the record?

CLERK: Mr. President, I do have some items. Bill read on Final Reading was presented to the Governor at 9:20 a.m. (re LB838). Your Committee on Transportation, chaired by Senator Dubas, reports LB795 to General File. Retirement Systems reports LB713 to General File, that signed by Senator Nordquist. Revenue, chaired by Senator Hadley, reports LB159, LB829, LB986 to General File with amendments. Appropriations, chaired by Senator Mello, reports LB1114 to General File and LB974 to General File with amendments. New A bill. (Read LB920A by title for the first time.) I have confirmation reports from the Retirement Systems Committee. New resolutions: LR448 by Senator Kolowski, that will be laid over; and LR449 by Senator Karpisek, likewise, will be laid over. And amendments to be printed: Senator Mello to LB371A; Senator Mello to LB989. And finally, Mr. President, a hearing notice from the Executive Board. That's all that I have. (Legislative Journal pages 606-617.) [LB838 LB795 LB713 LB159 LB829 LB986 LB1114 LB974 LB920A LR448 LR449 LB371A LB989]

SENATOR GLOOR: Thank you, Mr. Clerk. Continuing with General File, Senator priority bills. Mr. Clerk.

CLERK: Mr. President, LB920 is a bill by the...offered originally by Senator Coash. (Read title.) The bill was introduced on January 15 of this year, at that time referred to the Judiciary Committee, advanced to General File. I do have Judiciary Committee amendments, Mr. President. (AM1781, Legislative Journal page 464.) [LB920]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Coash, you're recognized to open on LB920. [LB920]

SENATOR COASH: Thank you, Mr. President. Good morning, colleagues. I'm here today to present for you LB920 and the forthcoming committee amendment, which is also an amendment that I support. This is a bill that creates an Office of Public Guardianship (sic) in the state of Nebraska under the jurisdiction of the Nebraska State

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Court Administrator. The Public Guardianship establishes a director of the office, a deputy public guardian, and up to 12 associate guardians. While Nebraska will continue and need to continue to rely on volunteers, this office will serve as a means of last resort as a guardian or conservator for those situations where no family member or suitable individual is available. In addition, this office will provide training and resources to current and future guardians and conservators. Colleagues, we have people in our state for whom, one reason or another, are unable to be their own guardian, whether it is because of an intellectual disability, being elderly, losing capacity to care for oneself and make legal decisions, or possibly by acquiring an injury. These are examples of people who require someone to step up and perform the function of a guardian and to make life decisions on their behalf, or a conservator to help manage their financial affairs. When an individual needs a guardian, it is up to the courts to appoint one to that person, and the first choice should always be a capable family member, a friend, or someone with whom that person has a relationship. And under this bill, this will continue to remain the case and continue to be the court's preference. But beyond that, the courts do not have many options. If there's no family member willing or able to step up and be a guardian or conservator, then the court has to find someone to fulfill that role. And in Nebraska we've always relied on volunteers to do that and the system has worked relatively well, but it has been in decline for the past decade. The number of people requiring guardians is increasing, mainly due to the aging population of our state, and the number of volunteer guardians that judges have been able to draw on has been decreasing. So there is a gap where people who need guardians are now unable to get them. This gap, colleagues, has led to some pretty horrendous things that have happened to people across our state in all...in every district across our state. It has resulted in taking on multiple, in some case hundreds, of wards and stealing of their assets. In many of these instances, the guardians never even once met their wards. And I will point you to some handouts that the pages are passing out that illustrate some cases where this has occurred. LB920 mirrors what 49 other states have done. Let me repeat that, 49 other states have already done this and they have created a statewide office of public guardianship. Nebraska is the only state in the Union that does not have this. Our office extensively researched how the other 49 states structured their public guardians, and we found that there were four models that states use for jurisdiction over this office, and that included under HHS in a social services model, an independent office model, a county level model, and a court model, which ultimately is what LB920 exemplifies. Through LB920, when a judge is unable to fulfill the role of a guardian or conservator, the judge can have the Office of Public Guardian step in as a case of last resort and provide for this accountability. The decision to place the office of guardianship under the jurisdiction of the courts was made after several meetings with the Protection of Vulnerable Adults, a subcommittee on guardianship. In addition, comments and recommendations from that subcommittee have been incorporated into LB920. Data from the Nebraska Supreme Court also assisted in the composition of the size of this office. In April 2010, the Nebraska Supreme Court Chief Justice Michael Heavican formed a 14-member joint review commission on the status of adult

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guardianships and conservators in the Nebraska court system, and it comprised of judges, attorneys, legislators, court personnel, law enforcement, and accountants, on which I served along with a few other senators that are here today. The committee was responsible for examining Nebraska's guardian and conservator system. Over half of the members of the committee had served and had practical experience as guardians and/or conservators. And as you can see, there's been a lot of work that's gone into LB920. Another factor that led to the urgency of introducing LB920 this session and my resulting prioritization of this bill was the result of a report last year from State Auditor Mike Foley highlighting the present system of obtaining a guardian as inadequate and leaving state wards...wards of the state vulnerable to fraud, abuse, and theft. One case of fraud of particular concern mentioned in the report was that of Judith Widener. She was a public guardian to over 600 wards in 60-plus counties across our state. She deliberately mishandled her wards' finances and was charged with embezzling over \$600,000 of their funds by spreading it out over more than 40 bank accounts. Her appointment, hundreds of times, was a result of a judge having no other option when appointing a guardian or conservator. You're receiving handouts that show her case, along with a map that show where she was appointed. There's probably...I don't think there's a senator in this Chamber that did not have a ward from their district assigned to her. Colleagues, currently we have a situation where there is no other choice other than volunteers, and that makes it a ripe environment for people like Judith Widener, who will take advantage of vulnerable people. It is realized that creating an office of public guardianship will not solve all the challenges that Nebraska's guardianship system faces, but something has got to be done, especially as our society faces an increase in our elderly population. During the State of the Judiciary Address to the Legislature earlier this session, Chief Justice stated that in spite of the efforts of the commission, our courts, and this Legislature, ensuring the protection of incapacitated adults continues to be a challenge. It is crucial that we all work together to create improved safeguards to protect those who might easily be harmed. We all have a responsibility to keep these individuals and their assets safe. Finally, it is important to note that due to the rapidly aging population and smaller geographically dispersed families, there are no family members or interested individuals available to serve as guardians for our elderly, mentally ill, or people with developmental disabilities here in Nebraska. People willing and able to serve are in very short supply. Nebraska is facing a critical epidemic as our most vulnerable citizens outweigh those willing to take care of them. It is time for Nebraska to follow 49 other states and provide for an alternative that protects our vulnerable citizens. It is important that we get this office established now before the system becomes increasingly overwhelmed with that need that will inevitably follow the next few years. With that, I would appreciate your support of LB920. Thank you, Mr. President. [LB920]

SENATOR GLOOR: Thank you, Senator Coash. As the Clerk stated, there are amendments from the Judiciary Committee. Senator Ashford, as Chair of that committee, you're recognized to open on those committee amendments. [LB920]

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SENATOR ASHFORD: Thank you, Mr. President and members. Senator Coash has very ably described the bill, and the AM1781 is the bill, essentially. But let me just make a few comments about the process. First of all, Senator Coash did make mention of the committee that he's been working with. He has put an incredible amount of time, as has this committee, in moving through this issue. We started looking at the gravity of the problem last year and Senator Coash picked this up and has done yeoman work and has brought to you a very thoughtful bill. It isn't easy in the judicial arena to bring lawyers and judges and others, court clerks, whomever it is, together to try to change something like this. And even though, as Senator Coash has correctly stated, that the evidence of the need for this is great, it takes this body to bring everyone together for change. And that again is another example of the importance of this Unicameral Legislature, because this clearly is a problem that needs to be addressed. It is a very critical issue to our state and it...the bill and the amendments exemplify what this body can do in meeting the needs of our citizens. Secondly, I want to applaud the judiciary and the Chief for his willingness to take on another obligation. He...of course we are somewhat unique in Nebraska in that our probation system in the criminal justice area, both juvenile and adult, is actually administered by our Supreme Court. That is fairly unique. Most states administer those types of things on a county-by-county basis. So the Chief has, in the juvenile justice arena, taken on a massively enlarged role in this, within his Supreme Court Office. Now we're asking him to do it again with guardianships, and I applaud the Chief Justice for his willingness to do this. It's again, it means added lawyers on staff, added administrative people. And as this Legislature goes on into the future and the Chief comes to the Appropriations Committee for resources to do what he does, we must always be mindful, hopefully, or you will be mindful of all the responsibilities that we have placed on him and his court. Specifically, the amendments, the amendment does amend the original green copy in a few ways and I'll just outline those. The amendments do provide for the additional educational requirement of, quote, knowledge of intellectual disabilities, an added educational requirement for the background of the public guardian, a needed amendment. Secondly, the amendment would remove the immunity provisions granted to the public guardian, associate public guardians, and staff members under the original bill, and the committee didn't feel any particular overriding need to have those provisions in there, that the office will work without it. Thirdly, the amendment would modify the requirement that the public guardian file individualized reports and, instead, require aggregate reports to the Legislature and the Chief Justice regarding public guardian services, much like the juvenile reports that the Chief submits to the Legislature. And the amendment would create the Public Guardian Cash Fund, which would be administered by the State Court Administrator. The money in the cash fund would be used to support the Public Guardianship Act and would be available for investment by the State Investment Officer, as are all of these cash funds. So with that, Mr. President, I again applaud Senator Coash and the committee for their stellar work and urge the adoption of the amendment and advancement of LB920. Thank you. [LB920]

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SENATOR GLOOR: Thank you, Senator Ashford. Members, you've heard the opening on LB920 and the Judiciary Committee amendment, AM1781. We now move to floor debate. Members wishing to be heard: Krist, Lathrop, Wightman, and Nelson. Senator Krist, you're recognized. [LB920]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues, again and good morning, Nebraska. This is a very personal issue for me. I have a daughter who will someday need the guardian program, I am sure, because I'm hoping that she will outlive both my wife, her mother, and myself. The issue is disturbing for people with special needs and concerning for people who have special-needs folks in their life because there's always a wonder, there's always a concern--who will be there to take care of them, who will be there to speak for them? In some cases, they can't speak for themselves now in life, and to advocate for those individuals is left to family members or mothers and fathers. And as I approach a point in my life where I'm pretty sure the number of days ahead of me will not exceed the number of days behind me, it becomes more and more concerning to me. I liken this and spending this money and doing this to part of what Senator Campbell and her committee, of which I am a part, did in the LR37 process when we recognized that there was a problem and we took the extra step and spent the money to put an IG in place in the state, someone who could be a voice for those who had no voice or those who didn't know who to talk to or, more appropriately, what question to ask. Because as we all know in government, asking the right question gets you the right answer. And when dealing with some of our social services, not asking the right question, there is no service available. I point out that the fiscal note is identical between the judiciary and the legislative branch. I would point out that that does not come easily. That comes from a lot of hard work. It comes from nailing down the details to a point where the appropriate amount of money is spent. And I applaud Senator Coash and both Fiscal Offices for making sure that that happened. I can't tell you how important this is. I deal on a daily basis with my daughter and her friends, and a guardian, a guardian ad litem in some cases and a guardian, and this program is really the advocacy that they need to provide stability and continuity to their life. If not a parent, a grandparent; if not a grandparent, a brother or sister; if not a family member, who? A volunteer who may or may not be there? No, I think not. This is the right answer to the right question at the right time and an appropriate amount of money to make darn sure that that quality service is available for our folks in the state of Nebraska that are in need of this service. Thank you, Senator Coash, for bringing it forward. Thank you to the Judiciary Committee for walking through the process and also to the judicial branch who are more than just a casual observer to this process. Thank you, Mr. President. [LB920]

SENATOR GLOOR: Thank you, Senator Krist. Senator Lathrop, you're recognized. [LB920]

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SENATOR LATHROP: Thank you, Mr. President. Colleagues, I'm in support of LB920 and AM1781. I would like to add my expression of appreciation to Senator Coash and those he has worked with to bring us to this point in having a bill on the floor that's prioritized. And let me tell you, it's needed. We've heard people describe the bill. I'd like to maybe describe what we're actually doing on the ground level. And for those of you not familiar with guardians and conservators, basically what we do through the Probate Code is we establish guardianships for people who can't make decisions concerning their own healthcare, for example, or issues relating to the person and the care they're going to get, the placements they're going to have. And so a person who may have had a stroke or become mentally feeble for whatever reason would need to have a guardian appointed so that the nursing home can discuss the care of that patient, so doctors can make decisions or have someone they can discuss medical issues with, and that's the guardianship. A conservator is different. It oftentimes is done at the same time, but a conservator is somebody that's going to take care of that very person's money. When we talk about setting up the office of a public guardianship, what we're really talking about is...and the classic example is somebody is over at the nursing home. They've outlived their kids. Their brothers and sisters, all the family is gone, and they are there, and something happens. They go from functioning, able to make decisions, able to balance their own checking account, pay their own bills, to maybe they have a stroke or maybe dementia set in, maybe it's an Alzheimer's patient or it could be someone with an intellectual disability, and they don't have family that someone can appoint. So the facility may say, I need to have somebody I can talk to and make decisions with, and what do I do with the Social Security check that's coming in? And so someone has to be appointed. And to this point in time, I can tell you how it works because it's happened to me. You're walking down the hall as a practicing lawyer and a judge pulls you in and says, I need to have you take a case, you're not going to get paid, and we want you to serve as guardian and conservator for this fellow who's over at the nursing home, somebody you've never met. And that's worked well, but now our population is aging. The people who are willing to do that for nothing is getting smaller. We've worn them out. And it is appropriate that we set up an office where people do it for pay. And understand something, that these people will not do it in a case for someone who has the means to hire their own guardian and conservator. So if they have an estate, if they have assets, the bill says that should be done by a private individual. And if you...if the public guardian happens to get into a guardianship or conservatorship for somebody who has the means, the bill says if this person has the means the public guardian should withdraw as soon as someone who can do it for pay is put on to serve as a guardian and a conservator. The classic example is the person at the nursing home who has a stroke. They're getting along okay. They're functioning okay. They're taking care of their business and making their own medical decisions. And they have a stroke and now their cognitive function is diminished. They can no longer manage what little money they have, which is typically a Social Security check that comes in. They can't make decisions about where to get their care, what their care should look like, where their placement should be. That's when you want to have a conservator and a guardian.

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And all this bill is... [LB920]

SENATOR GLOOR: One minute. [LB920]

SENATOR LATHROP: ...saying is we need to have somebody in place for those people who cannot afford from their own assets to pay for such a person. And to this point in time...and I see Senator Nelson is up after me, I'm sure he can address that. He does more of this than I do. We're wearing people out, and they're good people. They're lawyers that volunteer their time, that agree to do it for nothing, but we've imposed on them too long. And they can't...you can't keep your office open if all you're doing is appointments for no compensation, and this provides some relief. It is a modest step, I believe, towards taking care of those people who can't afford a guardian and a conservator, and it is critical at end of life that people have someone that speaks for them and someone that takes care of their business affairs. And with that, I would encourage your support of the amendment and the underlying bill. Thank you. [LB920]

SENATOR GLOOR: Thank you, Senator Lathrop. Senators wishing to speak: Wightman, Nelson, Schumacher, and Mello. Senator Wightman, you're recognized. [LB920]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I don't think there's any question that we need to have this bill passed this Legislature. When we're 1 of...we're the only 1 of 50 states that do not have a provision for a public guardian, it seems to me it's time to act. That doesn't mean that I think we ought to do everything that the majority of states have, but I think we are absolutely passing up something here if we don't pass this law. Now there could be questions with regard to the number of public guardians that we need to have, and I think we're going to have some discussion on that before we vote on this bill. I did hear Senator Coash, and I want to thank Senator Coash for bringing this. I think it's a very important bill. But I'd like to ask him a question or two if he would yield. [LB920]

SENATOR GLOOR: Senator Coash, would you yield? [LB920]

SENATOR COASH: Yes, I will. [LB920]

SENATOR WIGHTMAN: Senator Coash, I think you mentioned that there were four types of guardianship laws that you found, public guardianship laws, and that we were following one of these. Is that correct? [LB920]

SENATOR COASH: That's correct. [LB920]

SENATOR WIGHTMAN: And can you tell me, is ours pretty much patterned after the type we're following? [LB920]

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SENATOR COASH: It is, Senator. As I mentioned in my opening, some states have gone to an independent office. That's a minority of the states. Some states went and put this office under HHS or their version of HHS. There's a good amount of those. And just as many of those there were...this office was put under the courts, which is the model that we followed. And to answer your question, yes, we followed the court model that other states have done and modified it to what I thought best meet the needs of Nebraskans. [LB920]

SENATOR WIGHTMAN: And out of the various models that you looked at, the four, how many were under the one that is adopted under this section 920...or LB920? [LB920]

SENATOR COASH: We would be...we would be the eighth state to do it under the courts. The other 49 states, the majority of them go...32 states do it with a social service agency or HHS; 11 states have a county model; and 4 states have an independent state office. [LB920]

SENATOR WIGHTMAN: And I think I'd agree with you the courts model is probably the one to follow, although it doesn't seem to be a majority, by a long ways. So I do think that it's very important that we adopt this bill or that we pass this bill. And as far as the number, I see that this one guardian had 600 cases across the state of Nebraska. Is that approximate... [LB920]

SENATOR COASH: That's correct. And I should point out that that 600 number was not necessarily all at once. That was 600 appointees over time. But at the time she was investigated and subsequently charged, it was around the 300 mark, which is a lot of cases. [LB920]

SENATOR WIGHTMAN: Now were there a lot of other appointments, court appointments of the type that she was handling as guardian or not? Were there a number of people serving in this capacity? [LB920]

SENATOR COASH: There are, and Senator Lathrop mentioned this, there are attorneys across the state who do this. She had kind of set up a little business doing this because the judge in over... [LB920]

SENATOR GLOOR: One minute. [LB920]

SENATOR COASH: ...600 cases said, we can't find anybody so we're going to give it to this woman. And frankly, it got away from the courts and she took advantage of that. [LB920]

SENATOR WIGHTMAN: And I assume from what you said it was a fairly profitable

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business for her. [LB920]

SENATOR COASH: Well, she'll have some time in prison to think about how that worked out. [LB920]

SENATOR WIGHTMAN: Thank you. Thank you, Mr. President. [LB920]

SENATOR GLOOR: Thank you, Senator Wightman and Senator Coash. Senator Nelson, you are recognized. [LB920]

SENATOR NELSON: Thank you very much, Mr. President, members of the Legislature. I rise in cautious support of LB920 and the amendment. I do have some questions. Let me preface this by saying that, since its inception, I've been a member of the Supreme Court Commission on...for Guardianships and Conservatorships. And I want to thank Senator Coash. He's been involved a lot more than I have, especially because a specific committee has been designated to look into this public guardian. And he's worked very hard on that and I think brought forth basically a very good bill. Over the years, I've served as an appointed guardian a number of times and also as a conservator. I know how hard it is. How seldom it is that we get paid adequately for what we're supposed to do. I'm surprised that Senator Lathrop ever put foot in county court so that the judge could nab him and...a long time ago. All right. So it is difficult to find guardians and conservators and those that are doing that kind of work now are really overburdened. So I think this is a good start. I guess my main concern, as a member of the Appropriations Committee is the fiscal note. I know that other states have, and perhaps practically all of them except us, have public guardians, but I am somewhat concerned that we start small and pretty soon it burgeons to the point where practically all guardianships are going to be handled by the state and not that...and it's going to get expensive. So I was interested and I will ask questions here of Senator Coash, if he will respond. [LB920]

SENATOR GLOOR: Senator Coash, would you yield? [LB920]

SENATOR COASH: Yes, I will. [LB920]

SENATOR NELSON: Senator Lathrop made some mention if there were substantial assets on the part of a ward that the state would not take that. Where does that say that in the bill? Could you point that out to me? [LB920]

SENATOR COASH: Well, first of all, Senator Nelson, if...and we heard this in testimony. If the ward...if there's a person who has considerable assets, you might imagine that person doesn't have a lot of trouble finding someone who will step up and provide guardianship services. But one of the things that we did put in the amendment, because it is possible that a person with resources could pay for that, is we put a sliding scale in

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there. Because as the law is now, a guardian or conservator can recover some of the ward's assets in consideration for the guardian performing that service. And we added that into the amendment on to page 6, lines...of the amendment, page 6, lines 15 through 17, where a sliding scale would be developed so that a person with assets would be able to pay for that service to the public guardian, which is also why we had to set up a cash fund under this office. [LB920]

SENATOR NELSON: Well, I appreciate that, and the sliding scale, and so that a person with assets, a million dollars, for instance, where they just can't find a guardian for some reason that's...but it doesn't dictate to the public guardian that they will reject that case. [LB920]

SENATOR COASH: No, it doesn't. But there is a provision in the bill that says that the petition to the public guardian has to be that of last resort. And if there's somebody willing to step up, then the court will have to appoint them before going to the public guardian. [LB920]

SENATOR NELSON: So for the record, the impetus is on the courts to do the very best that they can to find guardians, especially for those with assets for attorneys, and people willing to serve as guardians for pay can be reasonably compensated. [LB920]

SENATOR GLOOR: One minute. [LB920]

SENATOR COASH: Yes. [LB920]

SENATOR NELSON: Thank you, Mr. President. All right. It provides in here, I think on page 4, that the public guardian, there will be, I guess, a deputy and then up to 12 associates. Was there a basis for, as we start out here, providing that they could hire up to 12? Why can't we confine it to six for the first couple of years and see how things go? [LB920]

SENATOR COASH: Well, Senator, if you look at the fiscal note, you'll see it does start with 6 and then it goes up to a maximum of 12. And I will tell you that that number 12 wasn't just a number we pulled out of the air. There was some math to it. And I'll give you that math. We were able to dig through the Court Administrator's Office that there's currently a backlog of 367 folks who the judge can't find a guardian for. Then they estimate another 100 per year that would need them. And so we... [LB920]

SENATOR GLOOR: Time, Senators. [LB920]

SENATOR COASH: Thank you, Senator. [LB920]

SENATOR GLOOR: Thank you, Senators Nelson and Coash. Speaker Adams for an

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announcement. [LB920]

SPEAKER ADAMS: Thank you, Mr. President. Members, here in just a moment, right now as a matter of fact, I'm going to hand out the Speaker priority designations that I completed last night. And you'll see them there on the list, and if you have any questions about why or what for, I'd be glad to entertain those. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Speaker Adams. Returning to debate, Senator Schumacher, you're recognized. [LB920]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I rise in support of LB920 for the very reasons that we've already heard from several other of our senators who are also members of the legal community and the bar. This is a problem that is of growing concern and it is one in which we do not have adequate answers without this bill. Most likely, as this bill gets implemented and picks up some experience, we will probably have to add and subtract procedures, just as we do with about anything, because nothing ever seems to work exactly as anticipated. But it is where we need to be and it is needed to attend to those situations where there is no one available. The system right now gets pretty desperate. I'm aware of a situation where a ward was basically hanging out at the local bar, no place else to go, kind of a lonely soul. And it ended up, the bartender, feeling sorry, took on the position to help this individual manage their affairs as the guardian. Now this particular bartender is extremely reputable and I don't think there's any question that he is doing a good job. However, that may not always be the case. And that is how the system tries to manage right now. Now I share Senator Nelson's concern that this is going to grow bigger. It is. We are at a point in our history where we have this tremendous baby boomer population that is aging. Its parents are aging and dying. There are a lot of these guardianships out there right now in which the parent is the guardian, but the parent now is 85 years old and can't do it anymore. What do you do? Who do you appoint to handle the kind of affairs that guardians and conservators appoint (sic)? And this all may begin to foreshadow some of the other discussions that we're going to be having for the rest of the year, because the idea that somehow government is going to get cheaper as the baby boomers age and the social nets get stronger just isn't there. And the idea that there's going to be able to be massive tax cuts and the idea that we're going to be able to shrink government away is probably something that for at least the next few generations, unfortunately, is not reality. So I rise in support of this. It's needed. It's probably going to be far more expensive 20 years from now than it is today, but we've got to do it. We really have no decent alternatives. The crunch of the baby boomers is coming upon us. Thank you. [LB920]

SENATOR GLOOR: Thank you, Senator Schumacher. Senator Mello, you're recognized. [LB920]

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SENATOR MELLO: Thank you, Mr. President, members of the Legislature. You started to hear the conversation on the floor regarding the fiscal note surrounding LB920. And speaking with Senator Coash, Senator Nelson, and Senator Wightman, the reality is a proposal like what's in LB920 is going to cost money. We are hiring people to do a specific job where, if you've read some of the handouts from Senator Coash, we have a significant problem we have to address. Senator Schumacher just mentioned some of the demographic changes that we see and know will continue to happen across the state with Nebraska graying in a number of years, consistently getting older and graying over the next two decades. What you have in front of you with LB920, as Senator Krist mentioned, the fiscal note resembles identical to the fiscal note the Supreme Court presented. The Supreme Court said this is what it will cost us to implement this bill, and the Legislative Fiscal Office didn't disagree with them. Because if you look at it, it's hiring employees, hiring employees to be essentially case managers and take cases on behalf of public guardians for across the state. And as I was talking with Senator Wightman, just in the issue that was raised by the State Auditor in regards to the one individual who had over 600 cases, even looking at what we have here with the bill, the second full year of implementation still doesn't equate to that number of cases that we have got to deal with that just that one guardian had. And that's something that we need to be cognizant of. And I did hear someone else mention on the floor, this program likely will grow and that's something we have to take in consideration, that you have a population that's growing, you're going to have more cases that are going to need to be handled. Thus, looking at the appropriation, it's \$880,000 this biennium. Moving into the next biennium, it's going to move to almost \$1.5 million. You will have to assume the court will come back, moving forward, and will have to adjust that through the appropriations process. And that's what would happen with this, is that implementing LB920 starts the process. And the Appropriations Committee, in the budget process in the future, would be responsible for appropriating money to continue to expand this existing program. So I know that's a little bit of a process-oriented issue but the reality is the fiscal note you have in front of you is to start the program. Next year and the year afterwards it then falls in line with the Appropriations Committee to make that decision. And I know that there may be some concern about whether or not the second full year of implementation is an issue, so to speak, in regards to whether or not there needs to be...moving from 9 employees to implement the act to 18. That's an issue that the Appropriations Committee can take up with the next biennial budget if we pass LB920. So if there are concerns about whether or not that second year of implementation is a fiscal concern, the Legislature, through the appropriations process, can address that if that needs to be changed moving forward. I want to make sure to let everyone know clearly that that is a process that's available to us moving forward if we adopt the bill. It's not obviously put in concrete by passing LB920 that the second year is the full implementation at \$1.49 million. It can be changed if there is information that comes out that says maybe the department doesn't...or the Supreme Court doesn't need that full amount of money. Or they may come back and say they need more money, there are

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more cases and more seniors who need this guardianship, and that could be an issue that comes out. But that will follow, colleagues, through the budget process come next year. And really the one number we've got to keep our eye on is \$880,000, which, as Senator Hadley and myself have mentioned multiple times, we are starting to get through the agenda where there will be fiscal notes on most bills, whether they're a revenue-related bill that's a tax expenditure that reduces revenues or a bill similar to what we have in LB920 that we'll need to appropriate money to carry out an act or to change or create or add to a program. And so we will move through this process like we do every year where bills will go along... [LB920]

SENATOR GLOOR: One minute. [LB920]

SENATOR MELLO: ...from General to Select File, Select to Final Reading, and bills will sit there and wait until we're able to pass a budget that is balanced for the Legislature to send to the Governor. And then we will start to consider revenue, tax expenditure, and any spending item on Final Reading. So this is another one of those bills, as we will have more in the coming weeks, that we will debate, discuss the policy and it will have a fiscal impact. It will move through the process and wait until after we pass the state budget. With that, I think the policy itself is long overdue. It's good public policy. I think there are some ways that we can continue to work and improve it always, but I think Senator Coash has brought us a thoughtful piece of legislation that we need to pass. Thank you, Mr. President. [LB920]

SENATOR GLOOR: Thank you, Senator Mello. Senator Nelson, you're recognized. [LB920]

SENATOR NELSON: Thank you, Mr. President, members of the body. Senator Coash has brought some information on how they arrived at up to 12 guardians. I would ask him another question or two. [LB920]

SENATOR GLOOR: Senator Coash, would you yield? [LB920]

SENATOR COASH: Yes. [LB920]

SENATOR NELSON: All right. Thank you, Senator Coash. On page 7 of the bill, in Section 11 it talks about a report to the Legislature shall be made electronically and include the number and types of guardianships, conservatorships, the disposition of the referrals, and the status of the waiting list. We've established a cash fund and I guess you could look at the cash fund to see, but I'm wondering would it be fair to include in what the report would show would be the amount of fees that they've actually collected and what those have been spent for on that sliding fee scale? [LB920]

SENATOR COASH: I think, Senator Nelson, I think that would be appropriate to include

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in that report, I think. As Senator Mello mentioned, that might be...that will be helpful information for future Appropriations Committees to look at. So I have no problem in working on that, maybe put that on Select File. I would be glad to do that. [LB920]

SENATOR NELSON: And we...there's no question but we have a problem here. The article that you put out was to make a point. It's unfortunate it was under the Auditor's report of Health and Human Services. I think we have to realize that part of the responsibility is with the courts and the appointments and who they were left with to appoint. We have a very detailed system of reporting now that's come through this committee that we spoke of. It's cumbersome to a lot of extents and I'm not sure it's fully effective to prevent this sort of thing from coming. But there's a responsibility trying to find a way for the court, who makes the appointment, whether it be the public guardian here or private guardians, to make sure that there's a financial accounting and that money is not getting in the pockets of the appointed guardian. And I would agree that with a public guardian and with the people working with him that we're probably going to have a much better accounting of what's happening to the money. We still get down to the point, when you talk about, and I think Senator Schumacher, about people getting into their 80s and 90s and needing guardians, I don't think we want to abrogate the responsibility of the other members of the family if they are available. I don't want to, because of this, have sons and daughters and people, who could be responsible and ought to take on that responsibility of looking after their elderly parent and agreeing to serve as guardian or conservator of those funds, from just abrogating that responsibility and say, I'm not going to do it, it can be the state, it can be the public guardian that's going to handle these things. And I think if those are...if that's where...the point that we get to, then this is going to mushroom and the state is going to bear a lot of expense that it necessarily should not have to. I don't have any further questions at this time. I appreciate your work. Thank you, Senator. Thank you, Mr. President. [LB920]

SENATOR GLOOR: Thank you, Senator Nelson and Senator Coash. Senator Lathrop, you're recognized. [LB920]

SENATOR LATHROP: And am I last in the queue, Mr. President? [LB920]

SENATOR GLOOR: Yes, you are, Senator. [LB920]

SENATOR LATHROP: Okay. I'll use this as the close on the committee amendments. I'm standing in for Senator Ashford in that respect. And maybe as I close on the committee amendments, I can answer some concerns that we've heard. And I'd like to say things that are responsive to comments made by Senator Nelson and Senator Mello. First, when it comes to the appointment, the way the act is set up is that once the public guardian is appointed, and this is in Section 14, the office then shall make a reasonable effort to locate a successor. So understand that if there's somebody that happens to be appointed, this office happens to be appointed for somebody that has

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means, if they have an estate or family or something like that, the act requires that this office look for somebody else to serve. So that is our assurance that they will be the person to serve as guardian or conservator as a last resort. If someone suitable, like a family member, for example, is found, then the act specifically provides that the public guardian can withdraw on motion and the court will then appoint a successor guardian or conservator, and that is our assurance that this is not going to be used for people that have means to just avoid their responsibility. The other point I would make, and Senator Mello suggested that the lady that was embezzling money from guardianships or conservatorships, rather, had 600 cases and that we wouldn't service that many with this bill, understand that some of those people had the means and never would have qualified for a public guardian. It just shows the scarcity of a resource, which is people who are able, willing, and have the knowledge to serve in the capacity as a guardian and/or conservator, and what this bill also does is it provides some training and some education so that perhaps we can get some people that are more like a CASA volunteer to serve in this capacity. I'm sure that there are some people who would be happy to serve in that capacity to provide guidance and direction and serve as a conservator, but not...we're not going to be able to get that done all the time. And 12 people serving in this capacity across the state is I think a modest number. And just to be clear, this is not an Omaha problem or a Lincoln problem. It's going on all the way across the state. And when we had a hearing on this bill, we heard from judges all the way across the state, out in the Panhandle that said, we have the same problem, we can't find somebody to do this. So it is very important. The amendments, AM1781, from the Judiciary Committee improve the bill. They take care of concerns that were expressed. And I would urge your support of AM1781. Thank you. [LB920]

SENATOR GLOOR: Thank you, Senator Lathrop. Members, you've heard the closing on AM1781. The question is, shall the committee amendments to LB920 be adopted? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB920]

CLERK: 33 ayes, 0 nays on adoption of committee amendments, Mr. President. [LB920]

SENATOR GLOOR: The amendments are adopted. Seeing no senators wishing to speak, Senator Coash, you're recognized to close on LB920. [LB920]

SENATOR COASH: Thank you, Mr. President. Thank you, colleagues. My closing will be brief. I was...through this process one of the questions that was frequently asked to me was, how did we end up in Nebraska being the last state that doesn't have something like this? And I will tell you the answer to that, and that's because we are Nebraskans and we tend to take care of our own. We haven't had a problem finding volunteers. We haven't had a problem with families stepping up. And that will continue to be the case even if LB920 becomes law. We will still have volunteer lawyers who will step up and provide this. We will still have family members who will step up and provide this service. But as the last state, what we're going to find is a growing need and a

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diminished capacity. We have a capacity issue and the timing for this some say is overdue. I'll say it's just right. We did this at the right time. And I appreciate the support of my colleagues on this. And in closing I will tell you, in answer to some of the questions, this goes up to, okay, it goes up to 12 associate guardians. If we don't need them, we're not going to fill those positions. And another question that's been asked is what happens if the guardians that we have are full and somebody still needs one? Well, we're going to have to go back to the system we have now, which is still judges grabbing that attorney in the hallway and saying, the public guardian in my area or across the state is full and has reached capacity; we can't appoint somebody. We're going to continue to rely on the volunteers and we'll continue to rely on those who have performed this service, in more cases than not, honorably, ethically, and without compensation to the work that we provide for them. And I appreciate the discussion and I appreciate all of your support on the advancement of LB920. Thank you, Mr. President. [LB920]

SENATOR GLOOR: Thank you, Senator Coash. Members, the question is the advancement of LB920 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB920]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB920. [LB920]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB920]

CLERK: Mr. President, a list of priority bills as selected by the Speaker to be inserted in the Journal (re: LB51, LB132, LB251, LB259, LB373, LB546, LB660, LB674, LB692, LB700, LB717, LB719, LB728, LB744, LB751, LB799, LB810, LB811, LB851, LB908, LB923, LB982, LB994, LB1076, and LB1115). An amendment to LB901 by Senator McGill to be printed. Name adds: Senator Mello to LB752; Senator Janssen, LB829; and Senator Cook to LB1091. (Legislative Journal pages 617-618.) [LB51 LB132 LB251 LB259 LB373 LB546 LB660 LB674 LB692 LB700 LB717 LB719 LB728 LB744 LB751 LB799 LB810 LB811 LB851 LB908 LB923 LB982 LB994 LB1076 LB1115 LB901 LB752 LB829 LB1091]

Mr. President, a priority motion: Senator Mello would move to adjourn the body until Monday, February 24, at 10:00 a.m.

SENATOR GLOOR: Members, you've heard the motion to adjourn until Monday, 10:00 a.m. Those in favor say aye. Those opposed say nay. We stand adjourned.