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Floor Debate
March 05, 2014

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SENATOR KRIST PRESIDING

SENATOR KRIST: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the thirty-seventh day of the One Hundred Third Legislature, Second Session. Our chaplain for today is Pastor Randall Herman from Bethany Lutheran Church in Lyons, Nebraska, Senator Brasch's district. Please rise.

PASTOR HERMAN: (Prayer offered.)

SENATOR KRIST: Thank you, Pastor Herman. I call to order the thirty-seventh day of the One Hundred Third Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I have no corrections, Mr. President.

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

CLERK: I have a Reference report referring certain gubernatorial appointees to a standing committee for a confirmation hearing. And Senator Coash would like to print an amendment to LB404. That's all that I have, Mr. President. (Legislative Journal page 739.) [LB404]

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

CLERK: Mr. President, a series of confirmation reports. The first is from the Natural Resources Committee involving the appointment of Mark Spurgin to the Game and Parks Commission. (Legislative Journal page 604.)

SENATOR KRIST: Senator Carlson, as the Chair of the committee, you are...you can open on the report.

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. The

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Natural Resources Committee had a hearing on February 20 for Mark Spurgin from Ogallala for Nebraska Game and Parks Commission. This is a reappointment representing District 7. Mr. Spurgin is self-employed. He's the owner/operator of Spurgin Inc. and Spurgin Farms. He's a farmer and a cattle feeder. He's got a very impressive background having served in the U.S. Army for 28 years. He's a member of several boards, including the National Cattlemen's Beef Association, Ducks Unlimited, Pheasants Forever, Midwest Electric Cooperative Corporation, and the Keith County Planning and Zoning Board. We had a good discussion with Mr. Spurgin. The committee voted 7-0 for his confirmation. I would ask for your support. Thank you.

SENATOR KRIST: Thank you, Senator Carlson. Seeing no one wishing to speak, would you like to close? Senator Carlson waives closing. The question is the confirmation of the report. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 740.) 30 ayes, 0 nays, Mr. President, on adoption of the Natural Resources Committee confirmation report.

SENATOR KRIST: They're adopted. Next item.

CLERK: Mr. President, the second report is from the Judiciary Committee. It involves the appointment of Esther Casmer to the Board of Parole. (Legislative Journal page 635.)

SENATOR KRIST: Senator Ashford, you're recognized.

SENATOR ASHFORD: Thank you, Mr. President, members. I'm very pleased to recommend the confirmation of Esther Casmer to the Board of Parole. The committee voted unanimously to confirm Ms. Casmer. She is an integral part of the workings of the Parole Board and the entire system of our prison system and our corrections system. She does an amazing job, in my opinion. And as we move forward with our reform efforts in this Legislature into the future, because it's certainly not going to all be done this year, Esther Casmer will be a critical part of that effort. She's from Bellevue. She has worked in and around the area of corrections for many years beginning in the early seventies. She spent some time in her early part of her career as a social service worker for the Child Protective Services. She was first appointed to the board in 1995 and was named vice chair in 1999, holding that position ever since. What was so significant to me as we discussed these issues of our corrections system with Ms. Casmer a few weeks ago, her candor and her willingness to share with us how we can improve our system. What is impressive to me about Ms. Casmer and always has been is her willingness to tell us where we are and where we should be going and how we can get there. She is committed to finding new and innovative ways for offenders to reenter the community. She works tirelessly to find programs in the communities that

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the parole administration can utilize for reentry. She's just a fabulous person to be on the Board of Parole. And I recommend her appointment very, very highly. So thank you, Mr. President.

SENATOR KRIST: Thank you, Senator Ashford. Seeing no one wishing to speak, Senator Ashford, you're recognized to close. Senator Ashford waives closing. The question is the adoption of the confirmation report. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal pages 740-741.) 32 ayes, 0 nays on the adoption of the report, Mr. President.

SENATOR KRIST: The report is adopted. Next item.

ASSISTANT CLERK: Mr. President, the next report is from the Government, Military and Veterans Affairs Committee in regards Andrew Loudon to the Accountability and Disclosure Commission. (Legislative Journal page 650.)

SENATOR KRIST: Thank you, Mr. Clerk. Senator Avery, you're recognized.

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. Andrew Loudon is being nominated for a new term. This is not a reappointment but this is a first term to the Nebraska Accountability and Disclosure Commission. The hearing was held on Wednesday, February 19. The length of this term is July 1, 2013, to June 30, 2019. Mr. Loudon is an estate planning attorney in Lincoln. He has a law degree from the University of Nebraska. He also has a bachelor of arts in political science from the University of Nebraska-Lincoln. We have thoroughly examined Mr. Loudon's qualifications for this position and we find that he is eminently qualified to serve in this capacity. The members of the committee voted 7 for, 0 against, and 1 absent. So I ask that you approve this nomination.

SENATOR KRIST: Thank you, Senator Avery. Seeing no one wishing to speak, would you like to close, Senator Avery? He waived closing. The question is the adoption of the confirmation report. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal page 741.) 31 ayes, 0 nays on the adoption of the report.

SENATOR KRIST: The report is adopted. Next item.

ASSISTANT CLERK: Mr. President, the next report from the Government Committee regards appointees to the State Emergency Response Commission. (Legislative

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Journal page 650.)

SENATOR KRIST: Senator Avery.

SENATOR AVERY: Thank you, Mr. President. We have one, two, three, four nominees for the State Emergency Response Commission. I'm going to take up two of these together because they were confirmed, or at least they were...the hearing was held on the same day for...no, that's not true. The vote was the same for these two. It's my understanding that if you have different votes you need to take them up separately. Is that correct, Mr. President?

SENATOR KRIST: You can do Grimes and...

SENATOR AVERY: Salo.

SENATOR KRIST: ...Salo together, sir.

SENATOR AVERY: Yes. They had the same vote. That was my intent and I just wanted to confirm that with you. We had two appointments to the State Emergency Response Commission. John Grimes from Norfolk, a new appointment. The hearing date was Wednesday, February 12. He is being reappointed for a term beginning September 14, 2013, ending September 13, 2017. He is trained in FEMA's National Incident Management System. Well qualified for this position. He's a certified trainer for Department of Transportation hazardous material. He is trained in CPR, first aid, AED, and power industrial trucks, and respirators. Also, he is an authorized OSHA trainer for 10- and 30-hour general industry courses. He is a member of the community emergency response team. So we felt that Mr. Grimes was eminently qualified. We also took up Benjamin Salo for the same commission, the State Emergency Response Commission. This is also a new appointment, beginning November 7, 2013, and ending September 13, 2017. He has worked for the Union Pacific Railroad in Omaha since February 2012 as the manager of hazardous materials. He has also worked in the same position in Roseville, California, from April 2008 to February 2012. He has over ten years' experience in public safety, including emergency management, fire service, and hazardous materials response. He also has six years of experience related to the transportation of hazardous materials, and also has past experience working with various types of governments, including federal, state, local, and tribal. The members of the committee voted both appointees out of committee on a vote of 7 votes yes, 0 no votes, and 1 person absent. We believe they are qualified for this position and ask for your approval. Thank you, Mr. President.

SENATOR KRIST: Thank you, Senator Avery. You've heard the opening. Those wishing to speak, Senator Bloomfield, you are recognized.

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SENATOR BLOOMFIELD: Thank you, Mr. President. Good morning, colleagues. I've known John Grimes for somewhere between 25 and 30 years. He has handled emergency situations at Affiliated Foods when I worked there. He is extremely capable. He has worked through vehicle accidents with hazardous material. He has worked through floods in the Norfolk area. If anyone is qualified for this position, John Grimes is qualified for this position. And I would highly recommend his approval. Thank you.

SENATOR KRIST: Thank you, Senator Bloomfield. Seeing no one else wishing to speak, Senator Avery, would you like to close? Senator Avery waives closing. The question is the adoption of the confirmation report. All those in favor vote aye; opposed, nay. Have all voted that wish to? Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal page 742.) 30 ayes, 0 nays on the adoption of the report, Mr. President.

SENATOR KRIST: The report is adopted. Next item.

ASSISTANT CLERK: Mr. President, the next report from the Government Committee regards Sherry Blaha to the State Emergency Response Commission. (Legislative Journal page 651.)

SENATOR KRIST: Senator Avery.

SENATOR AVERY: Thank you, Mr. President. Sherry Blaha is being considered for the State Emergency Response Commission also. This is a new appointment. Hearing date was Thursday, February 20, 2014, by phone. She lives in Gering. This is both an appointment and a reappointment. The reappointment would be for September 14, 2013, to September 13, 2017. Over the years, Ms. Blaha has taken several courses through NEMA and FEMA. She is a certified emergency manager. Through her employment as an emergency manager, she has coordinated state, local, and federal disasters, and that includes two tornados, a sugar factory explosion, and a train derailment and chemical spill. She is qualified for this position. The committee voted 8-0 to advance this to the floor, and we ask for your approval. Thank you, Mr. President.

SENATOR KRIST: Thank you, Senator Avery. Seeing no one wishing to speak, would you like to close? Senator Avery waives closing. The question is the adoption of the report. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal pages 742-743.) 30 ayes, 0 nays on the adoption of the report.

SENATOR KRIST: The report is adopted. Next item.

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ASSISTANT CLERK: Next report, Mr. President, is in regards to Larry Johnson to the State Emergency Response Commission. (Legislative Journal page 666.)

SENATOR KRIST: Senator Avery.

SENATOR AVERY: Thank you, Mr. President. This is the last of our appointments to the State Emergency Response Commission: Mr. Larry Johnson. This is a reappointment. The hearing date was Wednesday, February 26, 2014. The length of this term is September 14, 2013, to September 13, 2017. Mr. Johnson has been president of the Nebraska Trucking Association since August 2004. This is a reappointment. He has a lot of experience with different situations that the State Emergency Response Commission deals with. We decided to approve this nomination and report it to this body for consideration on a vote of 6-0 with 2 people absent. We ask that you approve this nomination. Thank you, Mr. President.

SENATOR KRIST: You've heard the opening. Seeing no one wishing to speak, Senator Avery, would you like to close? Senator Avery waives closing. The question is the adoption of the report. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote, Legislative Journal page 743.) 31 ayes, 0 nays on the adoption of the report.

SENATOR KRIST: The report is adopted. Next item.

ASSISTANT CLERK: Mr. President, the next report is from the Transportation and Telecommunications Committee. It regards four appointees to the Board of Public Roads Classifications and Standards. (Legislative Journal page 669.)

SENATOR KRIST: Good morning, Senator Dubas. You are recognized.

SENATOR DUBAS: Good morning, Mr. President and colleagues. The Transportation and Telecommunications Committee unanimously approved four appointments to the Board of Public Roads Classifications and Standards. This board oversees annual construction planning and fiscal reporting for state and local highways, roads, and streets, as well as the application of minimum design, construction, and maintenance standards for functional classifications of public roadways. The standards ensure that each segment can safely handle the traffic pattern and volume it is expected to carry as a part of policy enacted in 1969 to provide for the efficient management, operation, and control of an integrated system of state, local highways, roads, and streets. Barbara Keegan, James Litchfield, Mick Syslo, and Edward Wootton are all reappointments to this board. They are highly qualified and have done a great job for us so far and I would encourage your green vote on the confirmation of these appointments.

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SENATOR KRIST: Thank you, Senator Dubas. Speaker Adams, you are recognized. Thank you, sir. Seeing no one else in the queue, Senator Dubas, you're recognized to close. Senator Dubas waives closing. The question is the adoption of the report. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 744.) 28 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR KRIST: The report is adopted. (Doctor of the day introduced.) Mr. Clerk, next item.

CLERK: Mr. President, Select File. LB371A. No Enrollment and Review. Senator Mello would move to amend with AM1966. (Legislative Journal page 612.) [LB371A]

SENATOR KRIST: Senator Mello, you're recognized. [LB371A]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. AM1966 would remove the General Fund appropriation from LB371A. With the adoption of AM1863 to the underlying bill, the only remaining fiscal impact would be from revolving funds. I'd urge the body to adopt AM1966. Thank you. [LB371A]

SENATOR KRIST: Seeing no one wishing to speak, Senator Mello waives closing. The question is the adoption of the amendment. All those in favor, aye; opposed, nay. Please record, Mr. Clerk. [LB371A]

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of Senator Mello's amendment. [LB371A]

SENATOR KRIST: The amendment is adopted. [LB371A]

CLERK: Senator Murante, I have nothing further pending, Senator. [LB371A]

SENATOR KRIST: Senator Murante for a motion. [LB371A]

SENATOR MURANTE: Mr. President, I move to advance LB371A to E&R for engrossing. [LB371A]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. Advanced. Mr. Clerk. [LB371A]

CLERK: LB359. Senator, I have Enrollment and Review amendments, first of all.

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(ER119, Legislative Journal page 334.) [LB359]

SENATOR KRIST: Senator Murante for a motion. [LB359]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB359]

SENATOR KRIST: You heard the motion. All those in favor, aye. Opposed, nay. They're adopted. [LB359]

CLERK: Senator Cook would move to amend with AM1737. (Legislative Journal page 636.) [LB359]

SENATOR KRIST: Good morning, Senator Cook. You are recognized. [LB359]

SENATOR COOK: Thank you, Mr. President, and good morning, colleagues. LB359 was advanced to Select File during the first week of our legislative session. The bill helps alleviate the cliff effect for Nebraska families working to get off of public assistance. As I hope you remember, the problem addressed by LB359 is that working Nebraskans are having to turn down raises they are earning because the additional income for a raise would make them ineligible for the childcare subsidy program. They're turning down the extra income because the raise, while well earned, is not enough to cover the expense of childcare. AM1737 to the bill addresses an issue that arose in further review of the fiscal note. Unfortunately, there was an incorrect assumption that led to an inaccurate fiscal estimate. The amendment based on that estimate and adopted on General File resulted in a ballooned fiscal impact. I offer AM1737 to remedy that inflated impact. The amendment requires that a family be continuously on the childcare subsidy for 12 months before the 10 percent income disregard kicks in. That's the 10 percent income disregard that the body endorsed on General File. Adopting this amendment and the corresponding AM2074 which will amend the fiscal note will return the overall fiscal impact of LB359 to approximately the same impact as the originally introduced legislation. To review, adopting the amendment and advancing LB359 will not change initial eligibility to the childcare subsidy program, but ongoing eligibility after 12 months on the program will now be 10 percent. The average cost of childcare in our state is \$150 per week or \$600 per month. Public policy should support Nebraskans who are working hard to get off of public assistance programs. LB359 as amended by AM1737 will do this. Thank you, Mr. President. [LB359]

SENATOR KRIST: Thank you, Senator Cook. Seeing no one wishing to speak, Senator Cook, you're recognized to close on your amendment. Senator Cook waives closing. The question is the adoption of AM1737. All those in favor vote aye; opposed, nay. Have all those voted that wish? Please record, Mr. Clerk. [LB359]

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CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Cook's amendment. [LB359]

SENATOR KRIST: Senator Carlson, you are recognized. [LB359]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I would like to address Senator Cook if she would yield. [LB359]

SENATOR KRIST: Senator Cook, will you yield? [LB359]

SENATOR COOK: Yes, I will. [LB359]

SENATOR CARLSON: Thank you, Senator Cook. And I certainly believe that I'm in support of LB359. And looking at the graduated scale, tell me again what happens, and I understand that if an individual has an opportunity for a raise and that's an advancement and that makes them headed toward the road of greater independence, that's exactly what we want. Tell me again just how this works and maybe even with a numerical figure. But could you try and help me a little bit with that? [LB359]

SENATOR COOK: I will try. And when you...you're looking at that graduated scale that I used as an exhibit on General File, sir? Is that what you're making reference to? [LB359]

SENATOR CARLSON: I may want to look at that again. If... [LB359]

SENATOR COOK: Okay. [LB359]

SENATOR CARLSON: I can't seem to get my hands on it. [LB359]

SENATOR COOK: Yes, I kind of know that feeling right now. [LB359]

SENATOR CARLSON: Okay. [LB359]

SENATOR COOK: But, here, I'll just revisit some of my testimony that I introduced at General File, and I hope that that will help you understand what our goal is here. The overall goal as you understand is to eliminate a cliff effect for people who have been on the childcare subsidy and receive let's say a nominal raise into the next pay scale. What this amendment does, what happened during the interim was that it was discovered that there was an incorrect assumption that went into the coming up with the fiscal note. So what the amendment we just adopted did was to change the substantive law back to be more in line with the fiscal note that we all agreed to. And right now as I'm talking to you, I'm looking for an example, a numerical example like you are asking me for. So, and I also can't put my hand on that. [LB359]

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SENATOR CARLSON: Senator Cook, if you can't find that at this moment that's okay. [LB359]

SENATOR COOK: Okay. Thank you. [LB359]

SENATOR CARLSON: I would talk to you off the microphone. But is the impact of LB359 such that we encourage someone to advance themselves and take a raise but it's no longer a cliff, and I understand the cliff is not a good thing. [LB359]

SENATOR COOK: Right. [LB359]

SENATOR CARLSON: But we still need to have a period of time over which they're receiving some subsidy but eventually work their way off of it, and yet it's an encouragement to take the advancement which is what we want people to do. [LB359]

SENATOR COOK: Absolutely. That is the intent of the bill proposal, that we give a family time to move up in their workplace and eliminate the indirect incentive, if you will, to turn down a raise or a promotion in order to lose...that would cause them to lose their childcare subsidy. [LB359]

SENATOR CARLSON: Okay. And whatever we do, whether it's this or whether it's something else, when we can put an incentive in position that encourages and helps people who have the desire to become totally independent and provide entirely for themselves, those are the things that we need to pursue. And I appreciate your yielding to me and I'll appreciate whatever information you can give me as we move forward, because I really think this is the right step in the right direction, helping people help themselves. [LB359]

SENATOR COOK: Yes, sir. Thank you very much. [LB359]

SENATOR CARLSON: Thank you. [LB359]

SENATOR KRIST: Thank you, Senator Carlson and Senator Cook. Mr. Clerk. [LB359]

CLERK: Mr. President, Senator Kolowski would move to amend the bill with AM2030. (Legislative Journal page 720.) [LB359]

SENATOR KRIST: Good morning, Senator Kolowski. You are recognized. [LB359]

SENATOR KOLOWSKI: Good morning, Mr. President and colleagues. AM2030 is the result of my bill LB732 which streamlines and clarifies requirements for dealing with educational funds across public benefit programs and ensures that no young person

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and low-income family will be penalized by pursuing higher education or saving for their children's higher education. LB732 advanced out of the Health and Human Services Committee unanimously and has no fiscal note. The committee amended the bill to remove the Medical Assistance Act as the assets and exemptions outlined in the bill are already exempt under Medicaid as the result of the Affordable Care Act. AM2030 includes the committee amendment. Additionally, I've passed out a hard copy of our college savings interim study report we completed with the Retirement Committee this past summer. I would encourage you to read through it as it paints a detailed picture of college savings and financial literacy in Nebraska and in the United States. The premise of this amendment and all the work completed up to this point is that if students save for college, no matter how small the amount may be, then they are more likely to go to college. And the earlier they start to save, the earlier they get on track to go to college. We need to make sure that we are removing barriers that keep our students and families from saving. AM2030 removes one barrier, so I urge you to adopt this amendment. Thank you very much. [LB359 LB732]

SENATOR KRIST: Thank you, Senator Kolowski. Seeing no one wishing to speak, Senator Kolowski, you're recognized to close on your amendment. Senator Kolowski waives closing. The question is the adoption of AM2030 to LB359. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB359]

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of Senator Kolowski's amendment. [LB359]

SENATOR KRIST: The amendment is adopted. [LB359]

CLERK: Senator, I have nothing further on the bill. [LB359]

SENATOR KRIST: Senator Murante for a motion. [LB359]

SENATOR MURANTE: Mr. President, I move to advance LB359 to E&R for engrossing. [LB359]

SENATOR KRIST: You have heard the motion. All those in favor, aye. Opposed, nay. It is adopted...I'm sorry, it is advanced. [LB359]

CLERK: LB359A, Mr. President. Senator, I have E&R amendments, first of all. (ER120, Legislative Journal page 335.) [LB359A]

SENATOR KRIST: Senator Murante for a motion. [LB359A]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB359A]

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SENATOR KRIST: You heard the motion. All those in favor, aye. Opposed, nay. They are adopted. [LB359A]

CLERK: Senator Cook would move to amend with AM2074. (Legislative Journal page 653.) [LB359A]

SENATOR KRIST: Senator Cook, you are recognized. [LB359A]

SENATOR COOK: Thank you, Mr. President, and good morning again, colleagues. AM2074 to LB359A represents the change in the fiscal note to which I made reference in my opening remarks on the substantive bill. The original fiscal note reflected a fiscal impact in FY 2013-14, roughly \$428,000, and in FY '14-15, \$772,000. With this amendment, AM2074, the initial fiscal impact for '13-14 is reduced to \$361,000 approximately, and in '14-15 is \$788,000 approximately. I urge you to adopt this amendment. As I mentioned, there was an error in interpretation between General and Select, and this amendment reflects the changes to the substantive bill. Thank you, Mr. President. [LB359A]

SENATOR KRIST: Thank you, Senator Cook. Seeing no one wishing to speak, Senator Cook, you're recognized to close on your amendment. [LB359A]

SENATOR COOK: I would again urge you to adopt AM2074 in support of the substantive bill. And for Senator Carlson and anyone else who might be interested, I did locate some more background material that offers specific examples of Nebraska families. If they'd like that I'd be happy to share it with them as well. Thank you, Mr. President. [LB359A]

SENATOR KRIST: Thank you, Senator Cook. The question is the adoption of AM2074 to LB359A. All those in favor, aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB359A]

CLERK: 25 ayes, 0 nays on adoption of Senator Cook's amendment. [LB359A]

SENATOR KRIST: The amendment is adopted. [LB359A]

CLERK: I have nothing further on the bill, Mr. President. [LB359A]

SENATOR KRIST: Senator Murante for a motion. [LB359A]

SENATOR MURANTE: Mr. President, I move to advance LB359A to E&R for engrossing. [LB359A]

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SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. It is advanced. [LB359A]

CLERK: Mr. President, LB144. Senator, I have no Enrollment and Review amendments, but Senator Brasch would move to amend with AM2087. (Legislative Journal page 686.) [LB144]

SENATOR KRIST: Senator Brasch, you're recognized. [LB144]

SENATOR BRASCH: Thank you, Mr. President, and good morning, members of the Legislature. I'll be very brief in my introduction of AM2087 to LB144. As was discussed in length on the floor in late January, LB144 provides for the write-in candidacy of a candidate for a county, city, village, or school district office who was defeated in a tiebreaker in a primary election. LB144 provides a method for them to move forward to the general election. Upon introducing LB144, Senator Scheer and Senator Davis raised important points during our discussion on the floor that it leaves, unnecessarily, offices out, such as the NRD board members and community college board members. After meeting with Senators Scheer and Davis, we agreed that an amendment incorporated these positions would be needed and be indeed feasible and reasonable. Therefore, I introduced LB144 with amendment AM2087 which includes candidates for an office described in Sections 32-512 to 32-550 of Nebraska's Revised Statutes. This language replaces the narrower county, city, village, or school district office language and incorporates 39 specific elected positions. We worked with Neal Erickson from the Secretary of State's Office and the drafting office on this amendment to make sure that the language was clear, referring to those specific subsections of chapter 32 of the statutes, and it removes the subjectivity in interpreting this new law. Because LB144 references Sections 32-1122 which simply outlines how tied votes are broken, I will briefly describe how AM2087 plays into this reference. Without the amendment, LB144 allows defeated primary candidates for county, city, village, and school district offices to pursue candidacy as write-ins during the general election. This refers to Section 1 of 32-1122. The offices outlined in this subsection are canvassed by county canvassing boards. You may notice that some of the offices that are added under AM2087 are canvassed by the Board of State Canvassers. However, subsection (3) of 32-1122 covers these offices and, therefore, should be no issues with the new language. You will notice that the language of AM2087 is simple because it really is a simple amendment that adds electoral offices not governed by Nebraska's Constitution; a couple of those examples, of which are Governor and Secretary of State. I would like to thank Senator Scheer and Davis for their thoughtful insight of this bill and their willingness to work with me on the amendment. Thank you as well to the other senators who also offered their valuable discussion during the progress of LB144. As a final note, I would like to emphasize the fact that the bill allows a chance to be replaced by the choice of the voters instead of by lot and that it is a crucial aspect of democracy. I urge you to support AM2087 and the underlying bill. Thank you, Mr. President, and thank you, colleagues.

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[LB144]

SENATOR KRIST: Thank you, Senator Brasch. Seeing no one wishing to speak, Senator Brasch, you're recognized to close on your amendment. Senator Brasch waives closing. The question is the adoption of AM2087 to LB144. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB144]

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of Senator Brasch's amendment. [LB144]

SENATOR KRIST: The amendment is adopted. [LB144]

CLERK: I have nothing further on the bill, Senator Murante. [LB144]

SENATOR KRIST: Senator Murante for a motion. [LB144]

SENATOR MURANTE: I move to advance LB144 to E&R for engrossing. [LB144]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. The bill advances. [LB144]

CLERK: Mr. President, before we proceed with the next bill, Appropriations will meet in Room 2022 at 10:00. Appropriations in Room 2022 at 10:00 a.m.

Senator, with respect to LB259, I have no E&Rs. Senator Karpisek would move to amend with AM631. (Legislative Journal page 706, First Session, 2013.) [LB259]

SENATOR KRIST: Good morning, Senator Karpisek. You're recognized. [LB259]

SENATOR KARPISEK: Good morning, Mr. Chair and members of the body. AM631, I worked with Senator Schumacher and he brought to my attention some concerns that he had with the structure of the bill in the way that it was drafted. This amendment clarifies who is a keno writer and differentiates them from employees who are actually conducting the keno game because the keno operators and others directly responsible for selecting the numbers should and would still need to be licensed. If there's any questions on that, it's just saying the person who actually runs the game still needs to be licensed; the person who would take the money for the keno game would not. Thank you, Mr. President. [LB259]

SENATOR KRIST: Thank you, Senator Karpisek. Seeing no one wishing to speak, Senator Karpisek, you're recognized to close. Senator Karpisek waives closing. The question is the adoption of AM631 to LB259. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB259]

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CLERK: 25 ayes, 0 nays on adoption of Senator Karpisek's amendment. [LB259]

SENATOR KRIST: The amendment is adopted. [LB259]

CLERK: I have nothing further on the bill, Mr. President. [LB259]

SENATOR KRIST: Senator Murante for a motion. [LB259]

SENATOR MURANTE: Mr. President, I move to advance LB259 to E&R for engrossing. [LB259]

SENATOR KRIST: You have heard the motion. All those in favor, aye. Opposed, nay. It advances. [LB259]

CLERK: Mr. President, with respect to the next bill, LB546, I do have E&R amendments, Senator. (ER149, Legislative Journal page 708.) [LB546]

SENATOR KRIST: Senator Murante for a motion. [LB546]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB546]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. It advances. I'm sorry, they are adopted. [LB546]

CLERK: I have nothing further on the bill, Mr. President. [LB546]

SENATOR KRIST: Senator Murante for a motion. [LB546]

SENATOR MURANTE: Mr. President, I move to advance LB546 to E&R for engrossing. [LB546]

SENATOR KRIST: You've heard the motion to advance. All those in favor, aye. Opposed, nay. It advances. [LB546]

CLERK: Mr. President, the next bill I have is LB983. E&R amendments, first of all, Senator. (ER139, Legislative Journal page 635.) [LB983]

SENATOR KRIST: Senator Murante for a motion. [LB983]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB983]

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay.

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They're adopted. [LB983]

CLERK: Mr. President, Senator Dubas would move to amend the bill with AM1984. (Legislative Journal page 662.) [LB983]

SENATOR KRIST: Senator Dubas, please return to the Chamber. And, Senator Dubas, you are recognized to open on AM1984. [LB983]

SENATOR DUBAS: Thank you, Mr. President. This amendment makes no changes to LB983. It's just there were more technical corrections that needed to be made than could be made in a typical E&R amendment. So it's just...it is making changes...it's correcting dates, statute references, doing a little reorganizing to make the...hopefully make the statutes clearer. So as I said, it makes absolutely no changes to the underlying bill LB983. They are all just technical changes that were more than an E&R amendment could handle. Thank you. [LB983]

SENATOR KRIST: Seeing no one wishing to speak, you're recognized to close. Senator Dubas waives closing. The question is the adoption of AM1984 to LB983. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB983]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Dubas' amendment. [LB983]

SENATOR KRIST: It is adopted. [LB983]

CLERK: I have nothing further on the bill, Mr. President. [LB983]

SENATOR KRIST: Senator Murante for a...excuse me. Stand by one second. Senator Lathrop, you are recognized. [LB983]

SENATOR LATHROP: Good morning, colleagues. I just want to make one thing clear before we move this bill. This is the bill where we're changing a bunch of roads laws to accommodate federal funding. And I know that there's a number of people in here who have expressed a problem with taking federal dollars, and I thought maybe this would be a good time to have a discussion if you have a concern. I support this bill. I think that sometimes federal government has good policy. My understanding is that about half our roads dollars come from the federal government. It is actually pretty important that we move this. Just understand that this is federal dollars. We are changing state law to accommodate federal dollars. And with that, I would encourage your support of LB983. Thank you. [LB983]

SENATOR KRIST: Thank you, Senator Lathrop. And now Senator Murante for a motion. [LB983]

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SENATOR MURANTE: Mr. President, I move to advance LB983 to E&R for engrossing. [LB983]

SENATOR KRIST: You have heard the motion. All those in favor, aye. Opposed, nay. The bill advances. [LB983]

CLERK: LB983A. Senator, I have no amendments to the bill. [LB983A]

SENATOR KRIST: Senator Murante for a motion. [LB983A]

SENATOR MURANTE: Mr. President, I move to advance LB983A to E&R for engrossing. [LB983A]

SENATOR KRIST: You have heard the motion. All those in favor, aye. Opposed, nay. It advances. [LB983A]

CLERK: LB661. Senator, I do have Enrollment and Review amendments. (ER140, Legislative Journal page 662.) [LB661]

SENATOR KRIST: Senator Murante for a motion. [LB661]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB661]

SENATOR KRIST: You've heard the motion. All those in favor, aye. One more time. All those in favor, aye. Opposed, nay. Advanced. [LB661]

CLERK: I have nothing further on the bill, Senator. [LB661]

SENATOR KRIST: Senator Murante for a motion. [LB661]

SENATOR MURANTE: Mr. President, I move to advance LB661 to E&R for engrossing. [LB661]

SENATOR KRIST: All those in favor, aye. Opposed, nay. The bill advances. [LB661]

CLERK: LB661A. Senator, I have no amendments to the bill. [LB661A]

SENATOR KRIST: Senator Murante for a motion. [LB661A]

SENATOR MURANTE: Mr. President, I move to advance LB661A to E&R for engrossing. [LB661A]

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SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. It advances. [LB661A]

CLERK: Mr. President, an announcement if I might. Judiciary will have an Executive Session at 10:00 underneath the north balcony. Judiciary, 10:00, north balcony.

SENATOR KRIST: Thank you, Mr. Clerk.

CLERK: Mr. President, LB438. I have Enrollment and Review amendments, first of all, Senator. (ER136, Legislative Journal page 545.) [LB438]

SENATOR KRIST: Senator Murante for a motion. [LB438]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB438]

SENATOR KRIST: You have heard the motion. All those in favor, aye. Opposed, nay. They're adopted. [LB438]

CLERK: Senator Adams would move to amend with AM1934. (Legislative Journal page 627.) [LB438]

SENATOR KRIST: Speaker Adams, you are recognized. [LB438]

SPEAKER ADAMS: Thank you, Mr. President. Members, as a lead-in to this amendment let me remind you what the bill does. This bill gives to the State Board of Education and the Commissioner of Education the statutory authority to intervene when schools are not at the level they need to be at. That's what this bill does. Remember, we spent a lot of time and I think it was generally productive time on General File talking about where we want schools to be at in terms of their performance. Well, that's the essence of this bill. During that debate, I heard more than one senator say we need to do more; we need to give the state board even more authority to respond. In light of that, I bring this amendment. Now I want you to understand that there may be still people on the floor that say even this amendment doesn't go far enough. I'm trying to strike what I perceive to be a very delicate balance in this amendment between giving the state board and the commissioner the authority and the flexibility to get into schools that are not up to speed and get them turned around, and yet not going at it with a chain saw. I know that in some cases maybe it's going to take a chain saw. What this amendment does, very simply, and the key to it is subsection (c) where it says that we're in essence giving to the Commissioner of Education and the state board if there is a school that is not performing and they are consistently not performing, there could be, and I quote, an alternative administrative structure, an alternative administrative structure. If we've identified, if the state board has identified a school that is persistently low-performing by the matrix they determine to put together, and they've worked with

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the school and the school isn't getting turned around. And believe me, I think I know schools well enough. When you approach them and you tell them you're not up to speed, most of them are going to try to do something about it. There will be some that want to do something about it and they just don't know what to do. And then there are going to be others that are going to step back and say, oh, this is a bunch of bureaucratic fluff; nobody is going to mess with us, nobody is going to touch us; we're going to do business as usual, we don't care what the state board does. At that point, at that point, the state board and the Commissioner of Education need to have the flexibility to intervene and do something. That language in this amendment, "an alternative administrative structure," gives to the commissioner and the state board the latitude if necessary and changes aren't being made to significantly intervene in the structure of that school and get them turned around. That's the essence of the amendment. It's designed to give the commissioner a little more clout, a little more of a hammer, that's the term that I heard used on the floor during General File. But the amendment I hope also tries to strike a balance between letting schools improve when they know they're on the list and forcing them to get something done, not just idly let it go by year after year after year. Thank you, Mr. President. [LB438]

SENATOR KRIST: Thank you, Speaker Adams. Senator Lautenbaugh, you are recognized. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. As you'll recall, some of you, from General File, I did speak quite a bit on this bill, and Select File won't be very much different. And we did have some meetings in the interim between General and Select File as well. And I did give voice to some of the concerns that Senator Adams just discussed, and I think I did use the term "hammer" in regard to what the department would have at its disposal. And I understand I guess the motivations of everyone involved here, and we all want better outcomes from our schools. I don't think that's deniable. But they're just...I feel an impatience and I think others do, too, from the conversations we've had; and then there are those who deal with this day in, day out, year in, year out, while senators come and go. And the fear I had was that I didn't want to be out-waited. I didn't want anyone to be out-waited, and those who are here after we're gone can carry on business as usual. Because as I indicated on General File, I don't think business as usual is acceptable anymore and it shouldn't have been acceptable for as long as it has been. And we dealt with arguments about local control in our discussions, saying we can't do too much; we can't come tell the school boards to do too much because we're all in favor of local control. But I hope all of you are cognizant of the fact, and I know Senator Cook is because she raised it in our discussions on one of my bills in Education Committee, the state spends an astronomical sum on education. Some say not enough, some say enough, but by any measure, an astronomical sum for a state the size of Nebraska. And we send that to the local school districts to be spent. And I think we're entitled to expect certain things, and I think we're entitled to demand certain things when we see performance not being met,

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especially when we can identify certain parts of my district that are traditionally underserved and neglected year in, year out. And it doesn't matter why that has historically been the case. What matters is that it's ongoing and, by some measures, getting worse. Think on that: by some measures getting worse. And so I'm not sympathetic to the local control argument as an excuse for not giving our State Department of Education the tools it needs to come into districts that are underperforming, and schools in this particular instance that are underperforming, and saying, hey, you've got to get your act together. That's part of the point of No Child Left Behind. And keep in mind, this bill is relevant to that and part of a process I believe Speaker Adams indicated about possibly getting a waiver of some strictures under No Child Left Behind. Well, that's fine but that's not local control either,... [LB438]

SENATOR KRIST: One minute. [LB438]

SENATOR LAUTENBAUGH: ...so we shouldn't be overly troubled that this isn't necessarily either. But the tool that the State Department of Education has now is to decriminalize I think is the term, I kept saying decertify but it's decriminalize a whole school district, which is never going to happen. They're never going to come in and say, look, you just can't be a school district anymore, you're doing such a horrible job. But one thing we did suggest is that there have been schools that have gotten so bad, in my district in particular, that the proper remedy was probably to hit the reset button and have someone come in and say, look, all of these kids would be better off somewhere else nearby and this building should just close. Everyone would be money ahead and these kids would have a better future if they were not in this building with this particular collection of staffers anymore. [LB438]

SENATOR KRIST: Time, Senator. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB438]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Senator Kolowski, you're recognized. [LB438]

SENATOR KOLOWSKI: Thank you, Mr. President. I stand in support of AM1934 as well as LB438. I think we're at that point again. Time to time again I've said the same thing and I'll keep saying it: The importance of local control with state accountability is what we're talking about here. We can't just have half of that formula, half of those words, because it's incomplete. So having the idea that we know we have standards, we must meet those standards. And when you don't meet those standards, we're going to have some help from the State Department of Education to help you get to the level of acceptability in our state as far as the standards we have. It is a very important concept and I thank Senator Adams for bringing this forward, and I'll give the rest of my time to Senator Adams if he wants it. [LB438]

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SENATOR KRIST: Speaker Adams, you're yielded 3:58. And Senator Adams waives. Senator Lautenbaugh, you are recognized. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President. So as I was indicating, I'm not troubled by the fact that this might be an intrusion upon our normal bias in favor of local control. And we're not...this is not creating a system where I think the old saying used to be in France, the Secretary of Education could look at his watch and know at 11:00 everyone was reading Livy throughout France. That's not what we're talking about here. But with this amendment, part of the intervention can lead to the establishment of alternate administrative structures. And we got to talking about what that meant. And I think that probably does get to the point of the authority to say we're dissolving the administration of this building which is tantamount to dissolving the school. And we had a discussion about approaches to this and the relationship between the Department of Education and the local districts. And there was a concern voiced that, well, we can't be the black hats always. And that's part of the fundamental disagreement that you've heard on the mike because my response was, well, are you the black hats ever? Now that's not a fair criticism because you have to have the tools to be the black hat, to be the enforcer, in order to ever play that role. And this bill is the first attempt in reality of giving any kind of ability for the State Department of Education to do that. Now here's the rub. Does it do enough and can we count on them to do it? This amendment is an attempt by the Speaker to take into account concerns we voiced on General File, some of us, and it is a good-faith attempt to do just that. Where we're making the record here and voicing our concerns, and I'm not using the royal "we"--I think there's others who will probably be saying the same thing, they're just in an Exec Session right now--is that we have to be able to trust people who are not in the Legislature to actually follow through. It's one thing to give a department discretion to do it; it's another to count on them to actually be the enforcers and do it. And it says something about the education world. I mean, as I've argued before, no one goes into teaching to make money. That's a horrible plan. You go into it for other reasons entirely, I would say fairly altruistic reasons. And the people that populate the education world tend to, a wise man said, sugarcoat things because they tend to, I would argue, be generally nice people. And nice people dealing with nice people have a hard time saying you're doing a bad job and you need to change. But sometimes someone needs to be told you're doing a bad job and you need to change. But in the peculiar world of education, we're dealing with people that are there kind of largely for altruistic reasons, certainly at the classroom level, and it's very difficult to go tell nice people who aren't making a lot of money you're doing a bad job and you need to change. [LB438]

SENATOR KRIST: One minute. [LB438]

SENATOR LAUTENBAUGH: But if you sugarcoat things enough, I told a story about a school sending a letter home to a parent and the letter was bad news, but it had been

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put through the, I don't want to say politically correct, but through the modern age translator so many times that the letter read like good news. And you needed a translator and you really needed to think on it to realize, oh, shoot, that means my kid has to go to summer school. But it sounded like he won the lottery. We have a very hard time having a hard, clear, blunt discussion about education, and particularly education failure. This world doesn't lend itself to that. The education world doesn't lend itself to blunt discussions of failure. But just as surely as we have success stories, and it would be great to stand here and talk about them at the mike, we have to talk about the failures here because that's what we need to address. [LB438]

SENATOR KRIST: Time, Senator. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB438]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Senator Wallman, you are recognized. [LB438]

SENATOR WALLMAN: Thank you, Mr. President, members of the Legislature. This brought to mind some of the sayings when I went to school years ago: Reading and writing and arithmetic taught to the tune of a hickory stick. And, folks, we do not grade our administrators. If we have troubled schools, why don't we grade our administrators? Assess them as well. If our schools are doing poor, who's at the head of the ship? The school boards...I used to grade our superintendents. I did the assessment forms. I filled them out because I thought it was important to know how he felt about what we're supposed to doing. So this is a sledgehammer; I think another administrative sledgehammer. And, you know, folks, you can lead cattle a lot easier than you can chase them. Thank you, Mr. President. [LB438]

SENATOR KRIST: Thank you, Senator Wallman. Senator Schilz, you're recognized. [LB438]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. I would just like to yield my time to Senator Lautenbaugh. [LB438]

SENATOR KRIST: Senator Lautenbaugh, you're yielded 4:50. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President, and thank you, Senator Schilz. And, Senator Wallman, I understand that what you're saying, but I'm not sure we have a sledge yet. And more to the point what I was getting at earlier was I don't know that we have anyone willing to swing it. But you did touch on something in another topic we discussed as far as grading teachers, administrators, and the schools themselves, and there's an element of that coming as well and we discussed that with the department as far as what do you need to know to put out something that the parents can rely upon?

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And it's my understanding the department is in the process of gathering data and that data-gathering process will be ongoing into next spring. And at that point they will have enough data to know how many categories for grades they can meaningfully divide the data into. But they cautioned it might not be A through F. It might be something more complex than that. And that is a cause for concern also because I do have a bill and one of the components of that says set up an A through F grading session, this percent based upon this, this percent based upon this, this percent based upon this, because that's something understandable. And we got into a discussion of, well, what does it mean to brand schools an F or brand a school a failing school. And we were told, well, we really shouldn't brand a school a failing school because we have to remember that building is full of teachers and administrators and it's hurtful to people's feelings to brand a school a failing school. Well, I do want to be clear. If we are confident in the measures, and that's a big if, but if we are confident in the measures and we know the school is failing, I think we have a paramount obligation to let parents know that the school is failing because those parents won't stand for it, I hope. And that's how change really comes is when parents get involved. But one of the other phenomenon in the education world that isn't unique to education, we talked about nice people not wanting to give bad news to other nice people, we also have a tendency, and this again is not unique to the education world, is to try to, I don't want to say obfuscate but certainly in the district I'm familiar with there was a tendency to ignore issues until pressure from the outside became overwhelming. And that's just large organizations. That's not education. But I think we have an absolute obligation not to trust the Department of Education but to make sure the Department of Education is letting parents know what schools are making the grade and which ones are not making the grade. Because if parents believe their neighborhood school is somehow not making the grade, I hope they're going to want to know why, or if not we pretty much live in a failed society. But right now it's kind of hard to know that information. And busy parents tend to assume things are going well until they're told otherwise. But there's nothing more effective than an engaged populous and engaged parents in bringing about good results. [LB438]

SENATOR KRIST: One minute. [LB438]

SENATOR LAUTENBAUGH: They make sure their kids do homework and they make sure the schools are providing a good education. But they have to be engaged, and part of that I think is letting parents know in an understandable way how the schools are doing. So I hear the concern that they want to get the data gathered so they know how many categories of ranking, but I hope it doesn't become so complex and I think we have an obligation to make sure it doesn't become so complicated that it becomes impenetrable and useless. People understand A through F. I'm not sure...there are ways to classify things so that people have no idea what you're saying. I probably have been guilty of that here at the mike myself some are thinking. And I think we need to avoid that and we need to make sure that the department avoids that, because we need to put information out there that is both reliable and clear. [LB438]

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SENATOR KRIST: Time, Senator. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB438]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Senator Bloomfield, you are recognized. [LB438]

SENATOR BLOOMFIELD: Thank you, Mr. President. I'd yield my time to Senator Lautenbaugh. [LB438]

SENATOR KRIST: Senator Lautenbaugh, 4:55. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Thank you, Senator Bloomfield. It's really part and parcel of what we do in a lot of ways. I mean, we still tell parents how the kids are doing. We report the grades of the kids. In recent years, we passed a bill that reported the grades of pre-K daycare-type entities. We wanted parents to know the grades of those types of entities. But we've recoiled to date from really providing a grading system for our schools, and I think that's crucially important. And again the response was we want to get it right, which is commendable as long as that doesn't become a long-term excuse for never actually doing it. But also it's really bad when you brand a school failing because that hurts the feelings of the teachers and the administrators there. You have to remember it's a building made up of people. That is surely true and surely lamentable. But that's also taking your eye off the prize and forgetting what the point of the schools is. The point of a school is to educate children. It's not a self-esteem project for the teachers and the administrators. It's not to provide a job for the teachers and the administrators. It is to turn out children that have a future. And if it is failing in that responsibility, then we have to let parents know clearly that's the case. And that has to be our paramount concern. And if disclosing that has a negative effect on a building or the self-esteem of the people that work therein, again, that's lamentable, that's a by-product of disclosure. But I think that's something we have to be willing to countenance. That's something we have to be willing to put up with because the other choice is to allow to go on what goes on all too often in my district. I don't think parents have a very good idea of what goes on in the schools and what quality of work the schools are actually doing. And that's not good either. That's not good at all. We have a process set forth in a bill that I have this year that sets forth that transference of teachers from building to building must be approved by the transferring and the transferee principals. That's one thing that might lead to ending what was colorfully described as the dance of the lemons where if a teacher isn't doing a good job, you just keep shuffling that person along until either they decide to go elsewhere or retirement is finally available. That's not a proper solution. Because again the schools don't exist to provide jobs for teachers. The schools exist to educate kids. And too often I think we let...all too often some may lose sight of that. I think we need to also, as was suggested

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by Senator Wallman, be mindful of the role of administrators, principals and administrators above and below them, because schools need leadership. And that is veering back around to the good in this amendment is that it talks about administrative change and leadership change. [LB438]

SENATOR KRIST: One minute. [LB438]

SENATOR LAUTENBAUGH: Because one thing we learned in that timely piece about Wasmer out in Grand Island is that that principal is a rock star it seems and is doing wonderful things out there. I wish we could clone her and spread her throughout the state, although she may not work everywhere. I mean, it may be something unique about her fit for that building and that community that I'm unaware of. But what she's doing is amazing and she's the leader of that building and she's retiring. So where do you find another leader like that? I know in my district there's a problem with benefits. You have to be there awhile before your family gets benefits. So it's very difficult to bring a principal from outside to recruit from elsewhere because the benefits don't match very well for someone with a family. [LB438]

SENATOR KRIST: Time, Senator. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB438]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Senator Sullivan, you are recognized. And still in the queue: Senator Nordquist, Lautenbaugh, Larson, and Adams. Senator Sullivan. [LB438]

SENATOR SULLIVAN: Thank you, Mr. President, and good morning, colleagues. I stand in strong support of LB438 and the underlying amendment, particularly the underlying amendment, because I think that it gives yet another tool to this whole process that I want us to be reminded of that is relatively new for Nebraska in terms of developing a system of accountability for our public schools. Certainly that is one of the watchwords across educational communities nationwide. We've started the process with our statewide testing and the assessments that give us a good read on how the students are doing with those tests. But that is only a part of this whole accountability process. Now, with LB438, we are giving tools to the Department of Education then to ask the question, what do we do when we find that some schools are low-performing? How do we intervene? What do we do to help those schools move up and scale up? Remember that this is a new process. We don't know exactly what it's going to look like. Certainly under LB438 we identify a small number of low-performing schools. Does that mean the department forgets about all the other 245 school districts? Certainly not. They're concerned about all of them. But with LB438 we look at a small number of priority schools. We identify an intervention team that will come into those schools, and then they will help the school district develop a progress plan. Now where do you

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suppose those priority schools are going to be located? We have no idea, because the Department of Education is going to develop some benchmarks, some indicators, some measurements. And are they, Senator Lautenbaugh, going to be slow in doing that? No. But it's going to be a methodical process because they want to develop appropriate indicators, appropriate measurements so that they don't just tell a school: You're failing, you're doing a bad job. Well, how are we doing a bad job and how can you help us do a better job? So that does need to be a thoughtful and somewhat methodical process of doing that. The progress plan that this intervention team will identify: What's that going to look like? Well, I'm quite sure that that will be dependent upon what kind of a district we're looking at. Is it one district that has one elementary and one high school under one roof? Or is it a district, a large urban district that has multiple buildings and they're going to focus on one building? That could very well be the case. But we don't know that and that's one thing the Department of Education, through their measurement system and their indicators, and then working with this intervention team and the progress plan will develop. I think, and I sense that there is strong, strong commitment from the Department of Education to move strongly into this area. And again I will tell you this is new territory for them as well. Moving into, not only just a regulatory agency that, yes, has this hammer that, okay, they never use it, they never remove accreditation, but one in terms of where they look at their problem areas and then try to identify what the problems are and developed the support systems to deal with them. This discussion makes it sound like we have a broken system, and we don't. I am so very proud of our educational system in this state. And, yes, we refer to the article that was published recently about Wasmer Elementary in Grand Island and I applaud them and that principal and I thank her for that good work. I went to Lexington Public Schools this December... [LB438]

SENATOR KRIST: One minute. [LB438]

SENATOR SULLIVAN: ...and saw what they're doing with the dual language programs and how that just allows their reading scores of those little children to skyrocket. I've also heard that in OPS we have, probably, at least three or four buildings, elementary buildings there who have as high a degree of poverty as Wasmer Elementary and are achieving as high a result as Wasmer. So let's not forget the good things that we are doing in this state. LB438 helps us address those that are not performing, but gives the department tools to help them improve. Thank you, Mr. President. [LB438]

SENATOR KRIST: Thank you, Senator Sullivan. Senator Nordquist, you are recognized. [LB438]

SENATOR NORDQUIST: Thank you, Mr. President and members. Certainly want to thank Speaker Adams and Senator Sullivan for the work that they've put in on this legislation to this point. It certainly is a step in the right direction. I think we maybe need to go, you know, a little further and maybe that will come in future legislatures. But I

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would like to, at least, talk about what I think should be included in those future steps. And I went back to a bill from, it must have been 2012, LB1124, it was introduced by Senator Council, but Senator Ashford, Mello, Burke Harr and I spent a lot of time with a number of meetings before the session that year putting this package together. And it relates to the same issue of how we intervene in priority schools. But we added a little more definition to what the intervention would look like. And we actually had a number of meetings with Matt Blomstedt, at that point when he was at the ESU Coordinating Commission, because we thought that that might be an appropriate spot to have these intervention teams. And we broke it down into actually three intervention teams because of the unique nature of...well, the uniqueness that each of those teams would bring and the expertise that each of these teams would bring. You would have a student intervention team that would focus on the needs of the students and the families, that would have a good understanding of the social determinants of education, that would be able to look at physical and mental health challenges and nutrition challenges that some of our school districts and some of the students who come to our school buildings see and look at what supports are available already in the school, in the community, and how those can be integrated. You know, not everyone has expertise in that area and having a one-size-fits-all team, you know, to look at that and then we also include an instructional support team that would look at the curriculum, at professional development, at the leadership in the building. Those probably take different levels of expertise to understand and to have a thorough understanding of how all those pieces integrate. And then a core team which just looked at more of the basic functions of a school like safety and discipline and behavioral norms and schedules and things like that. That was one approach. But I think it serves us well in this discuss to at least use as a basis to talk about in that, you know, these issues are far more complex than is laid out in this bill, at least defined in this bill. Now I know that the department may be able...does have discretion to address some of these issues with the one team that's identified here. But we do not...we're not providing very much clarity in that area, and I think as the policymaking branch of this state government we certainly have the right and probably the responsibility to provide as much clarity as we see fit. I certainly know that all school districts and all school buildings in our state are not the same. Obviously, Omaha is not the same as a lot of the districts in the Panhandle, but there are common characteristics of school buildings that I think would allow us to include some pieces that the department needs to look at through their intervention team. And I would say one of those off the top, certainly for elementary schools, is some sort of a kindergarten readiness assessment. Not, obviously, to keep kids out, but to see where they're at coming in the door. If there's one thing that Senator Lautenbaugh and I can agree on, and he's talked about it a lot, and I certainly have read the research, the importance of third-grade reading to future academic success is the pivot point, that is the point where, you know, fourth grade, apparently 50 percent of the curriculum in fourth grade, you need to have a third-grade reading level... [LB438]

SENATOR KRIST: One minute. [LB438]

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SENATOR NORDQUIST: ...to comprehend. So if we don't know where kids are when they're coming in the door and we are not constantly, you know, monitoring that over those first three years, we wait until our third-grade assessment, you know, it's too late, the game has already been played for a lot of kids. And the kindergarten assessment, I think, is something that a number of districts have adopted on their own, but I think should be a focus of this. And how do we even assess the success of an elementary school if we don't know where their kids are that are coming in the door? If half...you know, you can take a building where half of the kids are coming in not on level coming in kindergarten with the skills that they need and the district may be taking them up to 75 percent, but we may call that a failing school; where a district that comes with kids coming in at 80 percent and doesn't move them at all, we call them a great success. [LB438]

SENATOR KRIST: Time, Senator. [LB438]

SENATOR NORDQUIST: Thank you. [LB438]

SENATOR KRIST: Thank you, Senator Nordquist. Colleagues, the cookies are being distributed in honor of the birth of George Peter Pirsch born March 3, at 6:31, weighed 8 pounds 1 ounce. Congratulations. Returning to debate, those still wishing to speak: Senator Larson, Adams, Lautenbaugh, Mello, and Nordquist. Senator Larson, you are recognized. [LB438]

SENATOR LARSON: I'll yield my time to Senator Lautenbaugh. [LB438]

SENATOR KRIST: Senator Lautenbaugh, you have 4:55. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. Senator Nordquist's comments reminded me of another provision that we discussed that's part of my LB952...sorry, LB7...no, LB952. That's how you know you introduced too many bills when you can't remember the numbers of your own bills. But LB952, which became known as the third-grade reading bill. And it was dismissed by a lot of people right out of the gate saying, well, it's just unfair to have one test and if the kid does poorly you just sit him there for another year and see if he does better. Well, that's not what the bill proposed at all. What the bill proposed is a lot of what Senator Nordquist was just talking about, that you assess children at kindergarten, first, second, third grade and try to pick up on any reading deficiency that exists, and immediately address it, by the way, with intensive intervention at each of those grade levels to make sure that by the third-grade level that child is reading at a third-grade level. Now there were exceptions, obviously, for special needs and other issues, but, in general, the goal was to have all children reading at a third-grade level with the possibility of retention in third grade if those four years of intervention didn't work. And it was not easy. There

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was mandatory summer school; there was mandatory parental buy-in; there was a lot in there before retention took place because no one was interested in just holding third-graders back in third grade, it wasn't meant to be punitive. But it was meant to acknowledge that if a child isn't reading by then, the child continues to fall behind in all the other grades thereafter when they start to use reading to learn everything else and that was the point of it. And we've had discussions about that and possibly as an element to this bill, and the concern was...or the response from outside of the Legislature was, well, a lot of the districts are doing some of this. Well, in my estimation, that isn't really good enough to say that a lot of them are doing some of this. If we know what works, even leaving aside the retention element, which some said, well, that's very difficult on a child to be retained, and I don't doubt that that's the case, but if we know what works, we should probably be telling all the districts to do all of it. Now certainly there are issue that said some of the intervention had to be by master teachers which we don't have enough to do all the intervention that was warranted currently. I mean, there were details to be worked out, but again, the goal is the same as what Senator Nordquist was giving voice to: assessing these kids early on, finding out if they're behind grade level in reading and bringing them up to grade level. And that's something that everyone wants and everyone recognizes the importance of and it's still something to do. And the question becomes is it something we mandate from Lincoln for all districts to do or is it good enough to say, well, some districts are doing some of this, why don't we trust them to do it. And the answer in my mind is, well, some aren't so we shouldn't trust them all to do it if we know it works. I wonder if Senator Adams would yield to a question. I wonder if Senator Adams would yield. [LB952 LB438]

SENATOR KRIST: I'm sorry. Senator Adams, will you yield? [LB438]

SPEAKER ADAMS: Yes. [LB438]

SENATOR LAUTENBAUGH: Senator Adams, in the amendment there is reference to a alternate administrative structure, but what does that mean in your mind? [LB438]

SPEAKER ADAMS: Senator Lautenbaugh, that's a good question. And given that it's my amendment, I'll give you my opinion and I can give you nobody else's. But when I see the language "alternative administration" the first thing we know we have an elected school board, we can't do anything about that, that's up to voters. But superintendent down. If you had a school that was persistently low-performing and you've worked with them, and they don't come around or they don't want to come around or they don't recognize they have a problem and they're ignoring it, it may be that the State Board of Education through its intervention teams says, you've got to have a new principal in this building. You have to have different instructors in this building; you have to have...we want you to go more days in the year in this building. [LB438]

SENATOR KRIST: Time, Senators. And Senator Adams, you are next in the queue, so

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you can continue. [LB438]

SPEAKER ADAMS: Thank you, Mr. President. I'm going to quickly try to finish the answer and then go on to some other things. And from that level, Senator Lautenbaugh, I personally see it if it got bad enough it moves right on up the line. We're literally...if it were that offensive enough, maybe even a superintendent has to be changed out because they're not getting the job done. I see this amendment and this particular clause in the amendment giving the state board and the commissioner a tremendous amount of latitude to virtually restructure a school, everything below that school board. Members, now I'm going to digress onto my own time, and not that you want to hear this, but maybe it helps you to understand the purpose of LB438. When No Child Left Behind came into place, there were a whole lot of teachers in this state, probably in this country, that were in denial. I can only use myself as a personal example in the classroom. Like so many things in education, I kept saying to myself, this will go away, this will go away. I headed up the social studies department, and I'm not particularly proud to say that I would bring staff in and I would tell them, work on other things that are more important because this will go away, this will go away. Well, it did not. Good, bad, too many tests, not enough tests, right tests, wrong tests, it's here. And you know what, not just as a senator now but as a former classroom teacher, I'm telling you that if nothing else came out of No Child Left Behind, this did. Schools today are accepting of accountability. I'm not saying they like it, but they are accepting of accountability. I've said all along that as long as accountability was fair, schools would in time be accepting of it. I think we're there. I remember traveling with the Governor and former Commissioner Breed to 12 or 13 different schools across the state just as a sample of schools that are totally committed, they understand the standards, they understand accountability, and they are directing instruction where it ought to be. And there's good things happening; and it's happening all over the state, Senator Sullivan is right. In 2007, my first year here in the Legislature, we had to change the way that the assessment was going and that was painful. And I will tell you that, generally, schools have gotten over it. Senator Nordquist brought up a bill...discussed a bill that he brought up and Senator Council brought up. I remember it. And quite honestly, there was a lot of valuable stuff in it, but I also had a bill that year, LB870, and I kind of asked them, that group at that time, to step down because I thought LB870 went a ways towards getting to where they wanted to go, but it had a better fit. And in LB870, we added more to our assessment system besides just a reading test, a math test, a writing test; an improvement model, graduation rates, other things to look at, all headed in the direction of saying if you're going to hold me accountable, make sure that the measurements you use are fair. We are fairer today. Perfect? Never. It won't happen. Now we've collected data. Do we have enough? No, we don't. The data that we need in this state needs to be more individual... [LB438]

SENATOR KRIST: One minute. [LB438]

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SPEAKER ADAMS: ...student driven rather than just aggregate school or school district driven. But teachers have become more accustomed to being held accountable, using data; they're not afraid of it. It has been an evolution, a maturity process; maybe not fast enough, maybe not radical enough for some, but it's been process. LB438 is the next step in the process. Now that you have the data, you've got to decide what you're going to do with it. And schools must be held accountable. Not just assess them, but hold them accountable. They understand that as long as it's a fair mechanism and I believe this is. Thank you, Mr. President. [LB438]

SENATOR KRIST: Thank you, Speaker Adams. Senator Lautenbaugh, you're recognized and this is your third time. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I wonder if Senator Adams would yield. [LB438]

SENATOR KRIST: Senator Adams, will you yield? [LB438]

SPEAKER ADAMS: Yes, I will. [LB438]

SENATOR LAUTENBAUGH: Senator Adams, just to be clear on the record, what is the accountability for these schools? How are they accountable? [LB438]

SPEAKER ADAMS: Currently? [LB438]

SENATOR LAUTENBAUGH: Yes, and then under this bill. [LB438]

SPEAKER ADAMS: Well, currently we have the State Report Card and every person in this room, every parent in their district can look and see on the State Report Card how their school is faring under what we call AYP, yearly progress. And much of that has been directed up to this point by No Child Left Behind. That is also the data that we send to the federal Department of Ed and use. And when a school is ranked now on that report card, it is based on...primarily, based on the reading data that's...that...on the statewide assessment, on the math assessment. Now that's...the accountability really, Senator Lautenbaugh, is nothing other than the public pressure, the constituent pressure, the parent pressure when they look at that report card and that they see that their school isn't doing well. If you don't mind, I have the time, I'll give you another example, I'm going to use my own school. There was at one point they looked at their reading scores in the 11th grade and saw that they weren't very good and they looked down Highway 34 at Seward's and saw that they were doing much better and it caused them to conference with Seward and say, what are you doing? And then the York scores came up. That's a large degree how it ought to work. But what you're asking about is accountability. Really, there's two things. There's the pressure that results right now from that report card that's published and schools wanting to do better and the

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state board could take away a district's right to exist, a district, not a building--a district. And you said it earlier, and you're right, and that's why I brought this bill, the State Board of Education is not going to take away a school district. They're not going to do it. I mean, we could start right over here with OPS and go right across the state all the way to Sioux County, take your pick. So I'm going to pull some numbers out of the air. So OPS has 90 or 100 buildings, 10 of which are low performing. Do we shut down a whole district? No, we do not. Let's go out to Sioux County, the smallest school district we have in the state, 85 students, kindergarten through 12th grade. If, if--and I don't know this--if they're not performing well, do we shut down that school district? Where are they going? The next school may be a 100, 150 miles away. The state board is not going to close the school down. So we have got to give them the authority to intervene and do something. That's accountability as I see it. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. Speaker. And that is what you see coming with this bill is the authority to intervene? [LB438]

SPEAKER ADAMS: Yes, right now they really don't have the authority. [LB438]

SENATOR LAUTENBAUGH: Okay. Thank you again, Mr. Speaker. I shouldn't have thanked you before I asked the follow-up question there. Folks, make no mistake, we are struggling to step forward and the Speaker was being sincere when he said not radical enough for some and not fast enough for some and that's always the question. We got into a discussion on General File, why go from five to three, shall we maybe go back between General and Select, we discussed from three to five. I asked the question, if you could do five, can you do ten? Because I think we all can see that there's probably going to be...the number I was using on General File was, I think, was from 80 to 130, probably 90 to 100 schools that are probably in this category. [LB438]

PRESIDENT HEIDEMANN PRESIDING

PRESIDENT HEIDEMANN: One minute. [LB438]

SENATOR LAUTENBAUGH: So...and what will happen is, they will intervene in three and it's a five-year process. Now schools may drop out earlier if they improve better, and so it will be a rolling three, if that's what stays as the number. So if one school of the three improves during that five-year time, they will be able to add another one. So they will always be up to three, unless we change it to five or some other number. But understand, and this is new, as Senator Sullivan pointed out, so we're asking them to start up and go intervene in schools and see how it goes. I understand they don't want to start with 100 schools, and the cost of that would be astronomical, probably. [LB438]

PRESIDENT HEIDEMANN: Time. [LB438]

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SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB438]

PRESIDENT HEIDEMANN: Thank you, Senator Lautenbaugh. Senator Mello, you are up next and recognized. [LB438]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I rise in support of AM1934 after spending some time with Senator Lautenbaugh and Senator Sullivan and the Speaker in regards to looking at options to provide the Department of Education, I would say, and using the layman's term of providing them a hammer to deal with school districts, with schools that fall in this priority status. If you look at the amendment, AM1934, the most, probably, critical component, I think, of the amendment is subsection (c) that lists out an alternative administrative structure. That gives the Department of Education, under this bill, the ability to come to a school district, and if necessary, they don't meet the ongoing benchmarks that's needed for progress, the Department of Education can come forward and they can close down a school. They can come into a district, to a specific school and completely change the administrative leadership. This, essentially, was part of that hammer that we had discussed on General File of wanting to make sure the department had the ability to come forward in dealing with priority schools to ensure that if a school was not improving to the level that both the Legislature and their intervention team expected them to meet that there would be drastic action. Because if a school is labeled a priority school, there needs to be drastic action; there needs to be a significant intervention. And I think with what Senator Adams talked about on General File and a little bit on Select File, this is a fairly big step forward in regards to having the Department of Education have the authority and ability to come forward into a school district, into a specific school, and insert itself. And I think for more legislative intent purposes, we need the department to do that and they will have to come into school districts and they will have to set off alarm bells, because there are some schools where alarm bells will need to be set off both in the sense of engaging parents, both in respects to setting alarm bells off for the administrative leadership for that school, as well as the school board and the school district leadership. So I think AM1934, colleagues, has a fairly big impact. Now granted, it's a little broad and it doesn't spell out specifically what all the department can do for the sake of flexibility purposes to give the department that ability to do so. But it does provide the department, I would say, a fairly aggressive accountability component to go into these schools. And if there's no other option available, after all interventions have been undertaken, the only last option available is to close down the school and start over. And that power and authority is given to the department with this amendment. Senator Nordquist raised an issue that I personally would like to see be spelled out more in this piece of legislation which is dealing with the kindergarten readiness assessment. The reality is, is schools that are labeled as priority schools, we need to be able to know what are the social and emotional statuses and development stages of children as they're coming in to a priority school; of where they are at in their development stage as they're entering kindergarten in regards to whether or not they're meeting standards for

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literacy purposes and/or their general development purposes. [LB438]

PRESIDENT HEIDEMANN: One minute. [LB438]

SENATOR MELLO: I know that's not spelled out specifically in the amendment or the bill, but in speaking with the department, that is a significant component that Senator Nordquist, Senator Harr, myself, Ashford, and former Senator Council brought forward in LB1124 a couple of years ago; that that's a critical component as you look at priority schools, primarily priority elementary schools, where we can do an assessment of how these children are coming into our school districts. Where are they at in regards to their development, and where are they at in regards to their literacy? It's, hopefully, that the department will consider moving forward with kindergarten readiness assessments with these targeted priority schools under LB438. That would be my hope; that would be my intent. While it's not spelled out specifically, that's an option available to them. And it's my hope that they will take advantage of that flexibility in this amendment to start to move towards that when they go and evaluate priority schools with the passage of LB438. With that I want to thank Speaker Adams, Senator Sullivan... [LB438]

PRESIDENT HEIDEMANN: Time. [LB438]

SENATOR MELLO: Thank you, Mr. President. [LB438]

PRESIDENT HEIDEMANN: Thank you, Senator Mello. Senator Nordquist, you're up and recognized. [LB438]

SENATOR NORDQUIST: Thank you, Mr. President and members. I just want to finish up on the comments that I was making before about, you know, even though all the districts and buildings in our state aren't the same, there certainly are common themes and one of them was what I talked about, and Senator Mello just chimed in on, and that is if we're labeling an elementary school a priority school, I think that's a tough assessment to make if we don't know where the kids are when they're coming in the door in elementary school, maybe the definition goes through sixth grade or maybe fourth grade. I know some districts, I know in OPS there's a school that's through fifth grade that's considered an elementary. But, essentially, if we don't know where they're at until third grade, we're losing at least half of the impact that that building has with no way of assessing it. So I think we need to find a way to include...require a kindergarten assessment. It maybe doesn't have to be the full comprehensive assessment. There are multiple...and I have a spreadsheet that Munroe-Meyer Institute put together on all the positives and negatives on the different kindergarten assessments that are out there and the cost of them and the scope of them. And some of them require long-term observations while others look are just more of a simple vocabulary skills assessment which, if we're trying to get to reading, that that might be the sufficient assessment that would be needed for these schools. But I do think that's a critical component. I would

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also bet dollars to doughnuts that every one of the schools that's get identified as a priority school, whether it's in Omaha or somewhere else in our state, is going to have gaps in nonacademic areas whether it be kids aren't get proper nutrition, aren't getting a proper physical in behavioral health services, you know, they're going home to turbulent environments, there's high mobility. If...and we don't spell it out in the bill to require this, if we don't look at that, we are missing a huge part of this assessment. I hope NDE would include that. I would like to...you know, I wish we could define it in the bill; maybe that's something we can do at a later time, but it is such a critical part. And if we just focus on changing leadership position and changing...maybe changing the teaching workforce that can certainly have a huge impact, but I think we're missing out on something that affects so many kids and that's what comes up when I talk to educators in my district that kids are coming in hungry, kids are coming in with pretty significant behavioral health challenges. And I know in my community if we had a school listed as a priority school, you know, one of the five priority schools in the state and there was an assessment that said, here are the gaps that need to be filled, I think we would have community resources step in instantly into those gaps. But if we don't identify them, and I don't know why we don't just require them to be identified, we are going to miss the boat on that. So, I do think Speaker Adams and Senator Sullivan have done great work so far on this; these are just a few concerns that I have that maybe either yet this year or maybe in the future we can address. Thank you. [LB438]

PRESIDENT HEIDEMANN: Thank you, Senator Nordquist. Senator Nelson, you are recognized. [LB438]

SENATOR NELSON: Thank you, Mr. President and members of the body. I've been listening carefully to the extent that I've been able to be here, and with reference to AM1934, I do have a question or two of Speaker Adams. [LB438]

PRESIDENT HEIDEMANN: Speaker Adams, will you yield? [LB438]

SPEAKER ADAMS: Yes, I will. [LB438]

SENATOR NELSON: Thank you, Mr. Speaker. It would seem to me with your amendment, AM1934, that, basically, it's just an expansion, (a)(b) covered what you had previously, but now we've added an alternative administrative structure, would that be correct? [LB438]

SPEAKER ADAMS: That's correct. [LB438]

SENATOR NELSON: And this is what you characterized as trying to go halfway and meet some of the demands that we go even further, and as Senator Mello said, probably put a hammer of some sort in place. [LB438]

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SPEAKER ADAMS: Yes. [LB438]

SENATOR NELSON: Okay. As you know, I represent both...the district OPS and Westside and so I'm concerned about the larger school districts. We're talking about three priority schools. And suppose one of those was in the Omaha Public School District. The team that goes in, are they working primarily with the administration of that school? Or do they go through the superintendent of the entire district? How does this work? [LB438]

SPEAKER ADAMS: The way I would envision it, and I may be wrong but I don't think so, the way I would envision it, if there is one particular building within a large district like that, the intervention team is working in that building. Therein lies the problem, there's where the resolution has to be found. [LB438]

SENATOR NELSON: All right, and if it becomes apparent after five years that, as you say, alternative administration structure is warranted, then who do they approach about that? [LB438]

SPEAKER ADAMS: Well, then the state board has the authority and they may...I would assume that they would, first of all, go to the superintendent and the school board and say, here's our recommendation. Now if you're not going to follow the recommendation, we're going to say, based on this amendment, it's going to happen; you're going to put a new principal in that building. [LB438]

SENATOR NELSON: Now I heard you say superintendent and school board. Are they dealing with our school board up there or with the superintendent of the school? [LB438]

SPEAKER ADAMS: Well, I think it...it would certainly start with the superintendent. [LB438]

SENATOR NELSON: Start with the superintendent. [LB438]

SPEAKER ADAMS: Sure. [LB438]

SENATOR NELSON: And then it would be through his administration there that he would determine the extent of the structural changes that need to be made whether it was the entire staff of the school...I mean the teachers, or just the principal for instance, something of that sort. [LB438]

SPEAKER ADAMS: I would think the intervention team and the state board and the commissioner would work with the superintendent in implementing what the state board believes is the appropriate changes. Of course, if the superintendent, I can't imagine this, but if the superintendent says absolutely not, we've put the authority in the state

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board to say, this is what's going to happen. [LB438]

SENATOR NELSON: All right. And here we come to the hammer then, this is going to happen or else. What can they do? Is it a loss of certification for the whole district or...or a particular school? [LB438]

SPEAKER ADAMS: Well, right now there is no authority to take certification away or of a particular building, it's a district. And again, that's not going to happen. What this language does is allow the school board to go into that particular school building and make the changes... [LB438]

SENATOR NELSON: All right. [LB438]

SPEAKER ADAMS: ...whether the superintendent agreed with the changes or not. [LB438]

SENATOR NELSON: All right. And if...not that it's ever going to happen, but I'm just thinking in terms of how you envisioned...if there is a standoff, I mean, the board of education, state board has got the final authority, but I still was...would like a little better understanding of what measures they can take to enforce what they want to happen as far as... [LB438]

SPEAKER ADAMS: I don't know that there is anything, Senator, that's defined in the legislation that would say they can do A, B, C, or D.... [LB438]

PRESIDENT HEIDEMANN: One minute. [LB438]

SPEAKER ADAMS: ...outside of removing the existing administration from that building. [LB438]

SENATOR NELSON: All right. Thank you, Speaker Adams. On the basis of what I've heard, I'm standing in support of AM1934 and LB438. Thank you, Mr. President. [LB438]

PRESIDENT HEIDEMANN: Thank you, Senator Nelson. Senator Kolowski, you are up and recognized. [LB438]

SENATOR KOLOWSKI: Thank you, Mr. President. I want to thank Senator Adams for the bills before us again, and again, pledge my complete support to those. I want to thank Senator Lautenbaugh for his questions and the discussion we've had on this topic. I think it's of extreme importance to all of us, and all those who have chimed in on this thus far. When we're looking at school improvement, and having spent most of my career looking at reform efforts and putting things in place, I think it's important that we

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look back at a couple of things that do exist in our country because you're asking questions about, what are the standards and where are they coming from? How do we meet these? How are we being judged? And I went to my gadget here and looked at my computer going back to the National Blue Ribbon Schools of Excellence Program that began in 1982, the '82-83 school years. And having been part of the first high school in the state of Nebraska at Millard South as an assistant principal at that time being recognized as the first National Blue Ribbon School of Excellence in the state of Nebraska, I have a long history with that. Repeated that in 2001 with Millard West High School. And I'm very proud to say in the Millard District, we looked at those as standards. Before we had No Child Left Behind, which was going to cause failure of all of our schools at the end result if it was fully enacted. And we have to remember that within the historical time period of No Child Left Behind coming into play and the things that we struggled with. Although, Senator Adams is correct, it did raise our accountability issues and we tried to meet those the best we could. In the Millard schools where I was fortunate enough to participate for 38 years, the attitude we had toward any of these standards was we were simply going to meet or exceed those standards and that was our goal and we set out to do that on a yearly basis. From the National Blue Ribbon School Program you also have the National Teacher Board Certification Program. You want to look at what the highest accreditation or levels of accomplishment that you could have as an individual teacher, look at that particular program, the National Board Certification Program. Within the secondary school principals organization, you have the Breaking Ranks Program which is all about school reform. It's now K-12, not just secondary school oriented. All about the rigor, the relevance, and the relationships that we have within schools and the targeted area is improved student performance. Everything that we do should be aimed at that target of improved school performance. So I put those before you just as examples of the things that are out there that we've had history on and right up to the present day of having National Blue Ribbon Schools of Excellence being recognized in our state and having many states make significant changes by enacting in their schools some of the very basic premises of the Breaking Ranks Program, as one program to put before you that has national note and significance in this way. Again, I thank Senator Adams, Senator Lautenbaugh for this discussion and I'll give the rest of my time to Senator Lautenbaugh if he would like it. [LB438]

PRESIDENT HEIDEMANN: Senator Lautenbaugh, 1 minute 10 seconds. [LB438]

SENATOR LAUTENBAUGH: Thank you, Senator Kolowski, but I will waive. Thank you. [LB438]

PRESIDENT HEIDEMANN: Thank you. Is anyone else wishing to speak on AM1934? Seeing none, Senator Adams to close. [LB438]

SPEAKER ADAMS: Thank you, Mr. President. Members, this is the next step. It's the

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next step in evaluating schools and getting them turned around. And what this amendment does is to give to the state board and the commissioner some flexibility and some additional authority to intervene and get things turned around. Thank you, Mr. President. [LB438]

PRESIDENT HEIDEMANN: The question is, shall AM1934 be amendment to LB438? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to vote? Record, Mr. Clerk. [LB438]

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of the amendment. [LB438]

PRESIDENT HEIDEMANN: The amendment is adopted. [LB438]

CLERK: I have nothing further on the bill, Mr. President. [LB438]

PRESIDENT HEIDEMANN: Senator Murante for a motion. [LB438]

SENATOR MURANTE: Mr. President, I move to advance LB438 to E&R for engrossing. [LB438]

PRESIDENT HEIDEMANN: You've heard the motion. All those in favor say aye. All opposed say nay. LB438 is advanced. [LB438]

CLERK: Mr. President, with respect to LB438A, Senator, I have no amendments to the bill. [LB438A]

PRESIDENT HEIDEMANN: Senator Murante for a motion. [LB438A]

SENATOR MURANTE: Mr. President, I move to advance LB438A to E&R for engrossing. [LB438A]

PRESIDENT HEIDEMANN: You've heard the motion. All those in favor say aye. All opposed say nay. It is advanced. [LB438A]

CLERK: Mr. President, LB740; Senator, I have no amendments to the bill. [LB740]

PRESIDENT HEIDEMANN: Senator Murante for a motion. [LB740]

SENATOR MURANTE: Mr. President, I move to advance LB740 to E&R for engrossing. [LB740]

PRESIDENT HEIDEMANN: You've heard the motion. All those in favor say aye. All opposed say nay. It is advanced. While the Legislature is in session and capable of

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transacting business, I propose to sign and do hereby sign LR446, LR447, LR448, LR449 and LR450. Mr. Clerk. [LB740 LR446 LR447 LR448 LR449 LR450]

CLERK: Mr. President, a few items before we proceed. Government Committee, chaired by Senator Avery, reports LB935 to General File with amendments. Senator Seiler offers a new resolution, LR469, that will be laid over. And Senator Hadley would like to enter an amendment to LB776. (Legislative Journal pages 746-747.) [LB935 LR469 LB776]

Mr. President, the next legislation is LR41CA. Senator, I have Enrollment and Review amendments first of all. (ER27, Legislative Journal page 716, First Session, 2013.) [LR41CA]

PRESIDENT HEIDEMANN: Senator Murante, for a motion. [LR41CA]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LR41CA]

PRESIDENT HEIDEMANN: Members, you've heard the motion. All those in favor say aye. All opposed say nay. They are adopted. [LR41CA]

CLERK: Mr. President, the first amendment this morning: Senator McCoy, I have AM494 with a note, Senator, you would like to withdraw AM494 and offer as a substitute AM2215. (Legislative Journal page 747.) [LR41CA]

PRESIDENT HEIDEMANN: Without objections, so ordered. [LR41CA]

CLERK: Senator, AM2215. [LR41CA]

PRESIDENT HEIDEMANN: Senator McCoy, you are recognized to open on your amendment. [LR41CA]

SENATOR McCOY: Thank you, Mr. President. Members, I bring to you AM2215 this morning which would seek to do a couple of what I believe to be very important changes to this constitutional amendment if it is to advance. And let me be very clear, it should come as no surprise that I am not in favor of this constitutional amendment. I wasn't when we took it up on General File, as many of you would recall last year, and I'm not now. However, I think this amendment makes a couple of very important changes to the underlying constitutional amendment that ought to be very clear if this is to go to the vote of the people at the general election this November. You'll see in the first change would strike the new matter which is, in case you're not looking at it, the live or replayed new language that was added to LR41CA with the E&R amendment that was just voted on. And in addition, it would insert "or on instant racing terminals." And the same would be repeated in lines 23 and 24 and the same language "instant racing terminals added."

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I tell you why I think this is very important, because I think we have two issues at hand here. One is a new form of gambling, of wagering, if you will; that's instant racing terminals. The second is what I've said all along, and as have others, that I don't believe this is pari-mutuel wagering. So I think it's important, and what this amendment does is to separate these two. It's to leave the language as it is currently in our constitution for what has already been voted on by the people of Nebraska, and that's pari-mutuel wagering on horse racing, live horse racing, or simulcast racing within a licensed racetrack enclosure. But it clearly outlines what we're talking about here is a new form of gambling, a new form of expanded gambling as in instant racing terminals because that's what this is. I would direct your attention to a couple of things that have been brought up over the years, as I'm sure many others will probably behind me in this discussion, or may, and that is a number of times, a number of times over the years, including the states of Kentucky, the state of Wyoming, the state of Maryland, and a number of other states. This has been deemed under a great number of Attorney General's Opinions and now a number of court decisions to not be pari-mutuel wagering. In 2010, Senator Fulton and I requested an Attorney General's Opinion from our Attorney General on this issue, at that point it was LB1102, not a constitutional amendment. And I think a couple of things were very clear and why...and are important to read into the record this morning and are salient points, I think, of why I bring to you this amendment. From page 8 of that Attorney General's Opinion: We believe our Supreme Court would also likely conclude that IRTs, instant racing terminals, are impermissible electronic gambling devices within the prohibition against games of chance and not a form of pari-mutuel wagering on horse races. In our view, the Nebraska Supreme Court, like the Wyoming court, citing an earlier Wyoming Supreme Court Opinion stating this was not pari-mutuel wagering, would be inclined to view IRTs as slot machines that attempt to mimic traditional pari-mutuel wagering. I would say very simply this morning, why are we here talking about a constitutional amendment if it is...if there is not, at the very least, even among the proponents of this issue, some question as to whether or not this is expanded gambling not authorized currently under our state constitution. Otherwise, if it's pari-mutuel wagering, that's already permissible under our constitution and you could very simply proceed with LB590, that we had last year, or any other piece of legislation that could have been introduced this session and we would very simply talk about the promulgation of rules for instant racing terminals. If this is not, members, expanded gambling that is not pari-mutuel wagering, why are we talking about a constitutional amendment and putting this to the vote of the people? And even if we are putting this to the vote of the people, the good people of Nebraska ought to know that there are two issues at hand. One, is instant racing terminals, never before used in our state. Two, is this is not pari-mutuel wagering. And I would challenge, as I have at many junctures along the way, to have proponents of this issue outline why they think this is pari-mutuel wagering, because it very simply is not. There isn't one Attorney General's Opinion; there isn't one court decision that says that it is. That's why I bring this amendment to you this morning because I think we've got to divide the two questions here. One, is we leave in place what is already allowed in our constitution,

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going all the way back to 1935 and 1988 when the people of Nebraska voted on simulcasting; and a new expanded form of gambling, what we're talking about under LR41CA and that is instant racing terminals using something that is not pari-mutuel wagering. And in which case, if that truly is what we want the people of Nebraska to vote on this November, then we ought to say that, because I would argue if LR41CA is advanced without AM2215, we're not actually asking the people of Nebraska what we should be asking them to vote on. It's a big issue, I believe, because there have been many people on this floor that have said, well, I'm not for expanded gambling. I've said it when I ran; I've said it to those who are involved in this issue on both sides, I'm not for expanded gambling, but I'm for this because this is pari-mutuel wagering. Where's the proof of that? Where's the proof of that? It's not. You don't have to take my word for it, you can take our Attorney General's word for it. You can take the Attorney General's word for it in Maryland, the Supreme Court in Wyoming, and most recently, the Supreme Court in Kentucky, because let's not forget, members, this is a continual percolating issue in the state of Kentucky. In a few moments I'll have a handout that you'll have on your desk that's from three days ago, a story from Kentucky, it's actually from a Cincinnati newspaper covering the Kentucky racing issue and the fact that a supreme court back in February handed this back down to the Franklin Circuit Court saying they didn't allow enough discovery on whether or not this was pari-mutuel wagering, which isn't allowed in Kentucky. Meanwhile, these instant racing terminals have been installed in two different tracks...pardon me, three different tracks in Kentucky since 2011. This is a burgeoning court and legal issue and I would humbly submit that we are setting ourselves up to spend taxpayer dollars defending this in court if this advances and the people vote on this. I think it would be immediately challenged in court. Not the least of which, we also, let's not forget, would have to come back and pass enabling legislation. [LR41CA LB590]

PRESIDENT HEIDEMANN: One minute. [LR41CA]

SENATOR McCOY: There may or may not be a number of here to deal with that enabling legislation, but all the things I just mentioned would be part of that discussion. I remain very firmly against expanded gambling and that's how I see LR41CA. I am adamantly opposed to it. But if it is to advance, it ought to be with some commonsense items attached to it and I see that as AM2215. Thank you, Mr. President. [LR41CA]

PRESIDENT HEIDEMANN: Thank you, Senator McCoy. Senator Chambers, you are recognized. [LR41CA]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I will probably...I will perhaps support anything anybody offers on this bill because I'm opposed to it. I have amendments which are not designed to make it better, but they're designed to make it more honest. This is the kind of thing that undermines and loosens the moral fabric of a society. I'm not talking about anything pertaining to religion. When I

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say "moral" I just mean those things which are good, uplifting, and helpful to a society whatever a person's belief or nonbelief in supernatural matters might be. Gambling is addictive. I have collected, since the last time we talked on this pernicious issue, articles from around the country, within this state and Iowa, of people who had responsible positions and they were positions of trust. Using that position of trust, these individuals had stolen money, varying amounts, some in the millions of dollars, and underneath all of those that I'd collected was gambling. People took this money to casinos. What is being asked here today is that a form of casino gambling, without calling it that, be introduced into this state so that those people who steal money and gamble won't take it to Iowa, but will gamble it away in Nebraska. There are arguments that will be given, I imagine, if the approach is taken this time that was taken last time to show that we're not talking about a slot machine. That's exactly what this is. Senator McCoy had mentioned that there is a handout he will offer and I have one based on what was sent to me by a person who is opposed to this proposed constitutional amendment. And the headline is something like the legislators in Idaho were duped when they accepted machines of this kind because when time came to implement the law, the machines that came were not the kind of machines they thought were coming. They had been misled. Gambling is rife with dishonesty; it's rife with misleading; it's rife with misrepresentation; it's rife with lying. And the word I'm using is r-i-f-e, although r-i-p-e might fit, but rife is the word that I mean. I'm unapologetic in my total opposition to gambling. There are some people who might feel that if an individual is so weak that he or she will take money that should be used to pay utilities, buy food, pay other bills, if they're so weak as to use that for gambling, what difference does that make to lawmakers? Lawmakers are interested in trying to get money. And to get money they are willing to exploit the weaknesses of people. On the one hand, they will pontificate about the need to uplift society... [LR41CA]

PRESIDENT HEIDEMANN: One minute. [LR41CA]

SENATOR CHAMBERS: ...to offer opportunities to people to improve their knowledge and understanding, then they'll offer something that goes against all of that by undermining a person by exploiting a well-known weakness in the society. So I'm prepared, as I'm sure the introducer of this proposal is, to...and by that I meant the amendment, although I'm basically talking about the underlying constitutional provision, to speak as long as we can under the rules on this measure. I want to kill it. I don't think it ought to be presented and put on the ballot. And I don't know how many people would stand up after supporting something like this and tell their constituents how proud they are of having put something out there that will take advantage of the weaknesses of people and just disregard... [LR41CA]

PRESIDENT HEIDEMANN: Time. [LR41CA]

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

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PRESIDENT HEIDEMANN: Thank you, Senator Chambers. In the queue we have Senators Avery, Harms, Brasch, McCoy and Chambers. Senator Avery, you are recognized. [LR41CA]

SENATOR AVERY: Thank you, Mr. President. Those of you who have been around here for a while know that I have a consistent record of opposing bills that come before this body that seek to expand gambling. In my opinion, the underlying objective of this measure is the ultimate goal of expanding gambling. Why do I think that? Because we've been down this path before. The objective from the beginning was to introduce additional gambling opportunities within a currently existing form of gambling. Several years ago, I forget how many times we debated this now, but I made the point...the first time I took the microphone to oppose expanded gambling in the state of Nebraska, I made the point that I was not opposed to expanding gambling because of some moral objection. I do, however, have a concern about the social pathologies that are associated with expanded gambling, but mostly my concern was with the economics. I've said this before, bear with me because I'm going to say it again, and I'll probably say it several times before this debate is over. I go to the writings of Nobel Laureate Paul Samuelson, who argued in his famous textbook, Economics, that gambling produces a net negative economic activity. Why is that? Because gambling does not produce a new product that can be sold at a markup, a profit. Gambling does not add value to an existing product. In fact, gambling is a sterile transfer of money, generally from people who don't have it to people who do. That does not lead to economic development, and it creates all kinds of pathologies that the state of Nebraska does not need. Research has shown a number of important things, and I want to talk about some of those. But first, let me say this research is research that was not funded by gambling interests, nor was it funded by antigambling interests. I am very suspicious of data presented by the gambling industry and I'm extremely concerned as well about data presented by the antigambling forces because they have a particular point that they want to advance. The research though that matters the most is the research that is objective, based upon empirical fact; that is fact based on factual observation, real life observations. Here is what some of that research shows: 30 percent of the American population does not even gamble at all, most gamble rarely; a minority of 10 percent accounts for two-thirds to four-fifths of all wagering; 30 percent to 50 percent of revenues come from problem and pathological gamblers. Now listen to that, 30 percent to 50 percent of revenues in gambling come from people who already suffer from problem gambling or pathological gambling. [LR41CA]

PRESIDENT HEIDEMANN: One minute. [LR41CA]

SENATOR AVERY: Slot machines or electronic gaming devices are the most damaging and the most quickly addicting form of gambling. And that's why the gambling industry wants these video slots in the horse racing venues. They want a shorter time to reach

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the ultimate goal which is a payoff or a nonpayoff. The problem with horse racing for most addicted gamblers is that it takes about 20 minutes to 30 minutes to get your bet registered...or placed and to get the horse race completed so you can get your winnings if you have a winnings; so, at least, you know the outcome. There's something else in this research that's important. The shorter time to reach addiction for those who get hooked on video gambling is real. It's about one year versus three and a half years for nonvideo gambling addiction. [LR41CA]

PRESIDENT HEIDEMANN: Time. [LR41CA]

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

PRESIDENT HEIDEMANN: Senator Harms, you are up and recognized. Sorry about that. [LR41CA]

SENATOR HARMS: That's fine, thank you. Thank you, Mr. President and colleagues. I rise in opposition to LR41CA. Last year, I stood before you and said, you know, maybe it's time that we just take this to the public, to the second house. Since then I have given more thought to that, and to be honest with you, I think it's an expensive project that we'd have to go through. It takes a lot of money to actually do this. And to be very, very frank with you, the voters already have voted twice in regard to expanding gambling. And that's exactly what we're doing. And the last vote they said 61 percent of the Nebraskans said they do not want to expand gambling. And so after reviewing that, I've pretty much changed my views about this. And the other side of this is, colleagues, this is a dying industry. It's a dead industry. It has no hope. And it brings a lot of issues for families which we've heard and we'll hear more about that later on. But it is a dead-end industry and I don't know why we want to continue to support this. I mean all over the country horse racing has disappeared; governors have taken stands against why do we want to continue to put money into something like this. We know what the impact is to a family. We know how it destroys families. We know what it does to children and family abuse and children abuse. It carries through. It fits well with harming the public. I've always been opposed to gambling and I'll continue to always be opposed to gambling. And I've read a lot of information, looked at a lot of research which I'll share with you at a later date...today, a later time...about what it actually does, what the impacts of it is to the general public; how it destroys the general public and the amount of taxes that we have to put into help people who are addicted to gambling. It's like being an alcoholic. You will battle that for the rest of your life. You'll never get rid of that issue; you'll always have that urge to want to gamble. It's like taking that last drink and go by a bar, it's a tremendous battle, if not, you'll want to go in and have that drink again. And you know once you touch it, you're right back where you are. It's the same thing with gambling. Once you start again, the whole thing starts to reappear. So colleagues, give this a great deal of thought. This is not where Nebraska wants to be. And if the proponents of this are interested, truly, in seeing this happen, then they should petition. They have

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another source to do this; they ought to petition it and let the public then make their decision. But their argument is the same thing, it's too expensive. Yet they want to ride off of our coat strings here to try to get this through. I would just tell you, it's not the place Nebraska should be. We don't want to go there. And the other thing that's kind of interesting is that the number of teenagers that are getting addicted to gambling; kids as young as 10 years old have their own bookies in this great state. And as they go on and continue, it gets more difficult. It leads from that point to other issues that that child and that teenager that becomes an adult, in many cases, simply will not be able to survive well in this world. So I would just ask you, give this a great deal of thought. I oppose it. I hope you will oppose it. Thank you, Mr. President. [LR41CA]

PRESIDENT HEIDEMANN: Thank you, Senator Harms. Senator Brasch, you are recognized. [LR41CA]

SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues. I do rise in support of AM2215, introduced by Senator McCoy. And I still stand opposed to LR41CA. We have debated this time and time again on the floor. And when speaking casually with some of the senators that supported this bill, they had told me they're trying to help horsemen, the horsemen. And I believe we can help the horsemen, but not by replacing their horses with mechanical devices that look like, act like, and function as a slot machine. When they had brought a mechanical horse-racing device into the Capitol last year or the year before, and several of us did go take a look at what this looked like, I had a constituent with me visiting at that point and they looked at it and they verified, looks like a slot machine. If we want to help our horsemen, what we need to do is attend live racing and then you can help. The gates are going down, not just in Nebraska, but the gate admission is going down all across the country. When I acted as the marketing director for the Nebraska State Fair back in the '90s, it was a huge problem then that horse racing was not the industry that once paid for the gates, not only to the races, but also the gates for fair admission. We need to look at how we solve a problem, but not by creating a larger problem. Twenty years ago I worked for a state tax commissioner...25 years ago, and Commissioner Harrington used to call Las Vegas the town of "lost wages." And speaking with senators from Nevada at a conference recently, one had indicated that gambling is fine because Nebraskans can go there, lose their money, and come back and we take care of their needs; that we will be the person and the people that remedy their lack of money for rent and the lack of money for education, lack of money to help take care of their families. That's not the Nebraska way. We have stood firm against expanded gambling and knowing that hard work, saving, and common sense will help us achieve our goals. I also wanted to remind senators here that there are many problems that are created with individuals who have lost much. And these aren't just the individuals who have nothing to begin with, but there are very prominent individuals and individuals of great responsibility who have also suffered gravely from this addiction. And the handout that Senator McCoy sent around the floor shows you that even Kentucky is not in favor of historical horse

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racing if you read through that. And they are the state of rolling hills, green grasses, and beautiful creatures. One of the things that I enjoy on my farm is being able to look out the window, look across the pastures, the neighbor has beautiful horses running and I don't look out the window to see historic horse racing, but live creatures,... [LR41CA]

PRESIDENT HEIDEMANN: One minute. [LR41CA]

SENATOR BRASCH: ...the sport in it, and not necessarily the chance to win. The chance is greater you're going to lose. The house wins almost every time. And so I do want you to think carefully on how you are going to impact the future of our state, its integrity, and its way to earn a living and its success moving forward. Thank you, senators, for your consideration and supporting AM2215 moving forward. [LR41CA]

PRESIDENT HEIDEMANN: Thank you, Senator Brasch. Senator McCoy, you are recognized. [LR41CA]

SENATOR MCCOY: Thank you, Mr. President. I do want to talk about the two handouts now that I believe everyone has, I mentioned in my open on this amendment, one of them was just from a few days ago, March 1, to be exact, of this year, in an article from Cincinnati.com, the newspaper. Senator Brasch just alluded to it. And I talked about it, how instant racing terminals have been in place in Kentucky in a number of tracks since 2011. And lo and behold, it's not enough, it's not enough. Imagine that, the slippery slope that we've talked about for years, since before I was in this body. The Churchill Downs chief operating officer is quoted in this story saying that they're really not interested in these instant racing terminals. They'd rather just have slot machines. No surprise there. The other handout is actually the Kentucky Attorney General, Jack Conway's Opinion from back in 2010, before these instant racing terminals were installed in a number of tracks in Kentucky. I reference the ongoing legal battle on this issue in Kentucky, and you can read through this Attorney General's Opinion and see why, for some of the exact same reasons that I articulated in my opening. These, time and time again, these machines, we've got a sample of one down in Legislative Research, I believe it was, we've dealt with this issue so many times in my time in the Legislature, it feels like Groundhog Day. I don't recall whether it was last year or the year before that we had this machine down there. I might remind members, some of whom I don't recall whether you were here or not, they actually had to spend some time reprogramming that machine before we could even look at it as members because it had been a slot machine before they brought it here. And they freely admitted that. I handed out at the time a picture, I believe we e-mailed it out, a YouTube video that you can all watch that shows how these machines operate at one of these race tracks in Kentucky. Now you watch that and tell me if you don't think it's a slot machine. And I know Senator Lautenbaugh, time and time again, has said you can program these to look like a '57 Buick if you want, and that may be correct. But human nature is what human nature is. And there are many, many people, unfortunately, that struggle with the

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addiction of gambling and it is an addiction, or it can be for some people. And as I said before, and I'm going to say until I'm blue in the face, no matter how many people vote "yes" on this amendment, if we are going to do the solemn task of sending a constitutional amendment to the people of Nebraska, it better say accurately what we're asking the people of Nebraska to vote on. And I don't think as LR41CA is currently constituted it does that. It's an insult to the people of Nebraska to ask them to vote on something that isn't what we're even really intending to do. [LR41CA]

PRESIDENT HEIDEMANN: One minute. [LR41CA]

SENATOR McCOY: This is a new expanded form of gambling. And as I said, I will challenge the proponents to give me some proof otherwise, because I don't buy it. Thank you, Mr. President. [LR41CA]

PRESIDENT HEIDEMANN: Thank you, Senator McCoy. Senator Chambers, you are recognized. [LR41CA]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I am practical, I'm pragmatic, I'm realistic. What I'm interested in is denying the gambling industry 33 votes from the members of this body. There have been occasions already in the session when certain moral principles and notions were touched on. There will be more such instances as the session moves on. Like Senator Avery, my position has nothing to do with religion. It has nothing to do with these notions of right and wrong in the sense of going to heaven or going to hell. I know people who have been ruined by gambling and who...I was surprised that they even gambled. But one such incident involved a family who called me and pointed out that a member of that family had a warrant, and the warrant was for writing bad checks. And you know what the bad checks were written for? To support a gambling habit. And a lot of times families are unaware of how devastating a gambling addiction can be until it strikes a member of the family, then all of a sudden they wonder how they missed it. Gamblers are often like dope users and people who do other things that are considered outside the realm of what their family would approve of, so they try to hide and conceal it, but it takes hold of them to such an extent that they will eventually do something that exposes their problem. Then the family is embarrassed. People wonder, how did we miss this? And all of those other things. When we have evidence of all types of how devastating any addiction can be...I will not take the time to present handouts giving statistics, although it's good to have them in the record and some people will give them, but there is something else I'm going to talk about and that's pointing out the mistake of 33 people on this floor voting for cloture. And the appeal is always made: Well, just give me a vote for cloture and don't vote for the proposition. When it comes to gambling, when you vote for cloture, you're voting for the proposition. The public would, perhaps, vote to legalize prostitution if you put it on the ballot. There are some things the Legislature, during the time that I've been here, has refused to even submit to the public for a vote. The

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argument was that there are certain responsibilities that are to be assumed by us as representatives, those who set an example. And we should not try to buck that responsibility to others and say, well, they chose to do it. If we are going to not look at the types of things that are hurtful to society and assume the responsibility to keep those things from even being presented, then we should let food sellers put anything they want to in a food product and not have to mention it. [LR41CA]

PRESIDENT HEIDEMANN: One minute. [LR41CA]

SENATOR CHAMBERS: There should not be any requirement that water be clean. Let every person look after himself, herself, and their family. But we know that is not the case. There was a very shameful incident where a bunch of senators were given a trip to Las Vegas by the gambling interests. And when they went and had the cover pulled off, they gave every kind of rationalization, outright lies, about what was entailed. But they just couldn't resist what had been offered by the gambling interests. Thank you, Mr. President. [LR41CA]

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Senator Bloomfield, you're recognized. [LR41CA]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I am opposed to LR41CA. I, however, am not necessarily opposed to all forms of expanded gambling in the state of Nebraska. I have tried to make that clear over my years here. If we could get a bill, a resolution to go out to the people that was clear and honest, I would support letting the people vote on it again. LR41CA is not that resolution. We had a chance at it this year and never even took a vote on it in committee. So I can't go where LR41CA is wanting to take us. Don't bring me a slot machine and tell me it's a horse. I'm not the brightest guy in the room, but I can tell the difference between a horse and a slot machine. And I would yield the remainder of my time to Senator Chambers. [LR41CA]

PRESIDENT HEIDEMANN: Senator Chambers, 3 minutes and 48 seconds. [LR41CA]

SENATOR CHAMBERS: Thank you, Senator Bloomfield. Thank you, Mr. President. And I concur with what Senator Bloomfield said. I don't know much about animals; I love animals, but I do know the...and don't know much about machines, but I know the difference between the two. And this is some of the misrepresentation that the gambling interests will stoop to. And before we're through, you're going to see education held up as a reason to go for gambling. After all the talk and criticism of efforts to make schools responsible, then because you're such rubes and suckers, if you let this expanded gambling go, then it will go to education. It will go to reduce property taxes, because you're viewed by the gambling interests as sheer stupid people. And I'm...the only reason I know it, because I was shown an amendment that Senator Lautenbaugh is going to offer and he shouldn't have done all that yakety-yakking about education to

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give the impression that he had so much concern about the children and then he's going to use education as a front for expanded gambling. As Senator McCoy pointed out, if this were not an expansion of gambling, why do you need a constitutional amendment? Do you see how dumb he thinks you all are? If it's not expanded gambling and the type of gambling envisioned is already allowed, offer a statute. It only takes 25 votes to pass a statute. It takes 30 votes to put a proposition on the ballot for voting. He feels you can't even count; and he's talking about education. I am very upset about this type of thing and I'm not going to apologize about anything that I say. I've seen ruined lives. He'll talk about what happens in his district, but it has no impact on him and his conduct. Maybe he's never seen the ravages of a gambling addiction. But to show what can happen even to young people, how about the texting, the games that they play with the computers; all kind of psychologists, teaches, parents, and others are saying their time is taken sitting in front of that machine. They don't exercise, they don't leave the house, they don't study, they are hooked. And it happens to adults too. [LR41CA]

PRESIDENT HEIDEMANN: One minute. [LR41CA]

SENATOR CHAMBERS: They've even talked about symptoms similar to withdrawal from drugs when people who spend a lot of time playing the games on the computer are denied the right or the opportunity to play those games; studies have been undertaken. And when we know that something is hurtful to the society, why are we on the one hand going to talk about the leadership that is to be provided; then on the other hand, the leadership leads the people out of the wilderness into the swamp. That's what's being attempted here. I'm just going to see that we talk long enough...or I'll do it alone, to require Senator Lautenbaugh to call for a cloture vote. And we'll see if there are 33 people who will go with him down the primrose path. There may be. But you'll have that opportunity because I will not. [LR41CA]

PRESIDENT HEIDEMANN: Time. [LR41CA]

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

PRESIDENT HEIDEMANN: Thank you, Senator Chambers. Senator Lautenbaugh, you are recognized. [LR41CA]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. To be clear, yes, I will ask for a cloture vote. It will be, I anticipate, about 4:30 today. I'll be here for that. To also be clear, I have an appointment at 1:30 so I'll be gone for a while, so I wanted to speak now so it didn't appear I was just missing. And to be clear, this will take a tone as it already is about how this is some sort of personal thing and how I think you're stupid. But why don't you ask yourself, who really thinks you're stupid here? Because you're told that these are just slot machines, but then you're handed a handout by one of the opponents who says, see, the people in Kentucky would prefer slot

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machines to these. Well, gee, those people in Kentucky must be misinformed because we've been told for years these are just slot machines. Well, how can it be then that the people of Kentucky would prefer slot machines to these things if they're one in the same? I guess they're just misinformed down there, the people who have actual experience with these machines. Or it's at least possible that there's not going to be what you would call an informed debate on this. And words don't really mean much of anything at all because some people just have their minds made up. You were told these were slot machines because they could be programmed as such. And, yes, a computer can be pretty much programmed as anything. It could operate as a slot machine; it could operate by the pari-mutuel method as a historic horse racing machine. And again, the point of a constitutional amendment is that our constitution authorizes races wherever run to take into account simulcasting, but it isn't clear whenever run to account for races that have happened in the past. So that's why we're doing a constitutional amendment, because the opponents have argued that the statutes...the bills that we proposed were unconstitutional. And they know this, but they're trying to say that somehow that's not the case today; all the while, accusing me of misleading you or insulting your intelligence. So there will be a protracted discussion this afternoon. It won't be terribly enlightening. It will be personal. It'll try to goad people into responding, but I'm not going to do that. But I would ask you to read the handouts. On the one hand, there's an Attorney General in Kentucky saying that under their regs something isn't pari-mutuel and you're supposed to believe that the regs in Kentucky are exactly the same as in Nebraska's constitution somehow, and we all know that. I don't know that Senator McCoy knows that, but you're all supposed to know that. And there it's important what those words mean, absolutely precise. But then in McCoy's other handout, well, the gentleman who would rather have slot machines instead of historic horse racing machines, well, he just must be misinformed because everybody knows these are just slot machines, so how can there be a choice between the two? Unless what I've been saying for years is the truth and that these machines play historic horse races and you bet on them based upon the racing form and take your chance. We have a tradition of horse racing in this state. And problem gambling associated therewith is almost nil. But the jobs are real; you've seen the people. They've come here to support these bills and this resolution in the past. I know those are real and that's why I support this... [LR41CA]

PRESIDENT HEIDEMANN: One minute. [LR41CA]

SENATOR LAUTENBAUGH: ...and nothing else. And you can argue, as some do, that this is expanded gambling because it's a different way of betting on horse racing. I had one of the opponents argue that, well, if it increases revenue, it's expanded gambling. Well, then a successful advertising campaign would be expanded gambling for the track, or a new form of lottery which seems to come out every year without any sort of problem, would be expanded gambling, which we don't seem to care about at all, even though it's the biggest sucker bet in the world. So that's why I bring this, because it

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saves jobs and I understand it and it's not slot machines and it's important for the tracks that we do have. Thank you, Mr. President. [LR41CA]

PRESIDENT HEIDEMANN: Thank you, Senator Lautenbaugh. Mr. Clerk for items.

CLERK: Mr. President, Retirement Systems Committee reports LB759 and LB1042 to General File with amendments. The Executive Board reports LR444 back to the Legislature for further consideration. New resolution: Senator Coash offers LR470, that will be laid over. Senator Karpisek would like to print an amendment to LB1027; Senator Larson to LB699. Senator Kintner would like to add his name to LB1057 as cointroducer. (Legislative Journal pages 748-749.) [LB759 LB1042 LR444 LR470 LB1027 LB699 LB1057]

And a priority motion. Senator Kolowski would move to recess the body until 1:30 p.m.

PRESIDENT HEIDEMANN: Members, you've heard the motion to recess until 1:30. All those in favor say aye. All opposed say nay. We are in recess until 1:30 this afternoon.

RECESS

SENATOR KRIST PRESIDING

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

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

SENATOR KRIST: Thank you. Do you have any items for the record?

CLERK: I do, Mr. President. Thank you. A series of gubernatorial appointments will be referred to Reference. The Agriculture Committee, chaired by Senator Schilz, reports LB1080 as indefinitely postponed. New A bill, LB941A, by Senator Schilz. (Read by title for first time.) In addition, Mr. President, the Executive Board reports LB609, LB763, LB871, LB909, LB917, and LB975 as indefinitely postponed. That's all that I have, Mr. President. (Legislative Journal pages 749-750.) [LB1080 LB941A LB609 LB763 LB871 LB909 LB917 LB975]

SENATOR KRIST: Thank you, Mr. Clerk. We'll now proceed to the first item on this afternoon's agenda.

CLERK: Mr. President, back to consideration of LR41CA. When the body recessed, Senator McCoy had pending AM2215. [LR41CA]

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SENATOR KRIST: Senator McCoy, would you like to just briefly go through that, or do you just want to jump into it? [LR41CA]

SENATOR McCOY: I will just briefly, Mr. President, if I may. [LR41CA]

SENATOR KRIST: You are recognized. [LR41CA]

SENATOR McCOY: Thank you, Mr. President. Once again, members, just to summarize what AM2215 does to LR41CA, is it very simply says if we are going to send this to the people of Nebraska at the general election this November, that we understand what the issue is at hand. One is that we would leave Article III, Section 24 of our constitution as it is today with the striking and leaving alone of the original matter, and that we would say that this does authorize horse racing on instant racing terminals, but it does not confuse the issue as to what is or what is not considered pari-mutuel wagering, since I believe that is of grave concern at this point. Thank you, Mr. President. [LR41CA]

SENATOR KRIST: Thank you, Senator McCoy, for the refresher. Senator Harms, you are recognized. [LR41CA]

SENATOR HARMS: Thank you very much, Mr. President. On February 12, 2014, in the Appropriations Committee, we had a hearing on Agency 16, which is the Revenue Committee (sic--Department), and Jerry Bauerkemper who is the chair of the...or the interim director of the Problem Gambling Program. Now in 2013 we moved this program from the Health and Human Services...Department of Health and Human Services to the Revenue Committee (sic--Department) so that we could get a little bit better focus on what was really happening in that area. And one of the questions that was asked to him during this hearing was the database that they're looking for, because they've only been in existence...or they actually then made that transfer about...it's only been in existence under the new structure about six months. So we asked him about the data and what he was collecting and what he found kind of alarming. And let me just read this to you, this is directly from him, and I quote, "I think what you're finding is more and more people are exposed to faster and faster games, and so we're reaching the number. In Nebraska, it has been fairly insulated for many years. But with the advent of things like on-line gambling, casinos, lottery, bingo, and keno all over now, we have and we are maximizing our addiction potential. And I know that's kind of flippant, but what we're talking about is people are more aware and taking greater risks at earlier ages." This is what I want you to pay attention to. And talking about people, he indicated that, "And some of the data that we have coming from some of the research in Nebraska is that 50 percent,"--50 percent of the children or the kids--"start under the age of 10, long before they drink, before they smoke, before they have sex, and even cuss. And so we are putting our youth at risk." That's an amazing comment, colleagues, that children that

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are 10 or younger, and 50 percent of those kids are getting hooked into gambling. And then he goes on and talks a little bit about the fact that we don't send a very good message to our kids and our 10-year-olds when they start this process of gambling. Later on in the testimony, he...Senator Nelson asked a particular question that dealt with the age and young people, and I'd like to again read and quote from him. "Oh, yeah, they're too young (sic--young too). I mean, we have college students that have spent their loans; we have high school students that have high school bookies,"--I want to repeat that: We have high school students who have bookies--"that they're in debt with their bookies. I remember my daughter, the first time I said to her, she came home and she says...as we were driving, she says, well, there's the drug dealer for our school. And I said, who's the gambling dealer? And she came back home the next day and says, I know who it is." He just looked at her and figured out, well, she's not there yet. The point is that we have young children getting hooked into the gambling aspect of this. And colleagues, this is not healthy, and I think that as this particular agency or organization of the revenue agency gets better established, and the research is greater, you're going to have really good, hard numbers about truly what's happening in the gambling world with young people; what's happening to Nebraska in general. A lot of these young people have a great amount of debt, which is surprising to me; and what they've had to do is they've had to open more adolescent counseling. They have to use counselors to get involved and trying to work the families through, taking care of the debt that these young kids owe their bookies in high school. I don't think this is anything to be very proud of in Nebraska, and I think we have to be... [LR41CA]

SENATOR KRIST: One minute. [LR41CA]

SENATOR HARMS: Excuse me, Mr. President? Mr. President? [LR41CA]

_____: One minute. [LR41CA]

SENATOR HARMS: One minute. [LR41CA]

SENATOR KRIST: (Bell) I'm sorry. That was just a one-minute call. [LR41CA]

SENATOR HARMS: Okay. Thank you very much. I appreciate that. I think it's something we have... [LR41CA]

SENATOR KRIST: And I'm sorry for the bell. [LR41CA]

SENATOR HARMS: That's okay. I think we have to pay attention to this, colleagues. This is something that I think is extremely serious and we've just begun to see the issue. This ties to the underage drinking problem that we have in Nebraska. More youth are involved in alcohol. It ties into gambling. I don't think you can ignore this kind of data. And I will tell you, in the future you will have greater data like this that will give you a

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better handle on truly what's happening in this great state. Thank you, Mr. President.
[LR41CA]

SENATOR KRIST: Thank you, Senator Harms. I'm sorry for the interruptions. Those still wishing to speak: Senator Chambers and Senator Johnson. Senator Chambers, you are recognized. [LR41CA]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, what is being said now is mostly for the record, because I think my colleagues, by and large, may have made up their mind how they'll vote on this, so I'm going to say again, he should not get...there should not be 33 votes for cloture on this bill. I'm going to repeat this also. When a cloture vote is taken and it fails, the debate does not resume. The debate does not continue. That means the issue is over. The bill will be off the agenda. Last time around, there were some people who voted for cloture who said they were not for the bill, and that has happened on other bills also. In this instance, because of the nature of this bill, this proposal, anybody not in favor of the bill certainly should not vote for cloture. A vote for cloture, in effect, is a vote for the bill. That allows it to continue. And if it does continue it will be debated again on Final Reading, where it must get, first, 33 votes for cloture; then 30 votes to pass it. This bill is not going to save horse racing in Nebraska. Nothing is. It's over for horse racing. In Iowa, Council Bluffs, I guess, I think that's where it is, they had dog racing and they managed to put casino-type gambling devices in this place where people would sit to watch the dogs, and there were more people in there than those in the stands watching the dogs, because they chose to do the other kind of gambling. That was not saving the dog tracks, and an attempt was going to be made in the Legislature to just wipe out the dog racing. The bill apparently, the last that I read some time ago, did not get anywhere because those people who were in the dog industry did not want that to be done. Live racing is not something that catches the fancy of people anymore. Race tracks have become the means by which casino-type gambling could find its way into a state. When there is casino-type gambling at a race track, it is clear that the running of the horses is not what draws people to that location. I had touched on earlier the addictive quality of the work that is done by these people at these games that they play on the computer; and everybody seems to be aware of how texting has taken hold of people in this country. So it is not very difficult if a person has an inclination to be addicted to something for that addiction to take hold. One of the biggest ironies, and it points out what I call the hypocrisy of those gambling interests in this state and those who support it, at the same time that gambling is approved there is a token wave of the cap toward compulsive gamblers. Some money will be put aside to help those people whom it is just about a cinch are going to get hooked and become compulsive. They are really not able to control that urge. [LR41CA]

SENATOR KRIST: One minute. [LR41CA]

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SENATOR CHAMBERS: And this is the type person who uses money, which ought to go for other things, for gambling. We are on an amendment right now that Senator McCoy has offered. People who want to vote for that amendment are trying to do what Senator McCoy has suggested; at least make this proposal tell the public what it is they're voting on. I have an article, maybe two, they came from the Internet, that I intend to read during the afternoon. Whether anybody pays attention is of no moment to me. We are just marking time until we get to 4:45. But I will suggest that there might be such a strong feeling against this gambling proposal that if it moves, then an effort must be immediately undertaken to slow down the process. [LR41CA]

SENATOR KRIST: Time, Senator. [LR41CA]

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

SENATOR KRIST: Senator Johnson, you are recognized. [LR41CA]

SENATOR JOHNSON: Thank you, Mr. President. Last year, on February 11, 2013, in the General Affairs Committee, we voted to move this to the floor. I voted in favor of that at the time, and my thinking at that time was, let's let the people decide. At that time I was very green. I would say probably if it was painted green, the green paint wasn't even dry. And I've always stressed I think we need a vote on things here, and as the process went along last year I really feel strong about that. So I'm not sure that this is something that should go to the voters. We discussed this at length in '13. We are discussing at length today, and I think the public will be totally confused as to where we're at on it. I supported it somewhat last year because I looked at horse racing as a business and not so much as expanded gambling. But in light of the discussion we've had today and the items that are in AM2215, I do believe it is expanded gambling and I am opposed to that. We're betting on historic races. Another way of saying that, and I'm sure some of these races were several years ago; I'll bet we're betting on dead horses now. To make a statement, I guess, let's stop betting or beating...excuse me, let's stop beating a dead horse to death. The new issues that have been brought to my attention now would be I will not vote for LR41CA as I have explained this. Last year, I talked about voting for cloture and not for the bill, because I felt we needed to vote for the bill. But I understand, and Senator Chambers has explained this very well, a vote for or not voting for cloture is, in effect, voting your position on the bill, even though I might have voted against some of them last year. So this kind of clears up the past. Again I will not support LR41CA. Thank you, Mr. President. [LR41CA]

SENATOR KRIST: Thank you, Senator Johnson. Senator Karpisek, you're recognized. [LR41CA]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I think a lot of what Senator Johnson is just talking about of what changed his mind is a lot of things

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that aren't quite right either. We talk about what it is or what it isn't, then try to confuse people. If we really think the voters of the state are going to be confused--and we don't want to give them a vote? I don't think that's right. We talk about being transparent, letting people vote. Some of us are running for things, but we don't want to let people vote. Doesn't seem right to me. The horse racing industry is not dead. We're not beating a dead horse. I had some...asked people to go out to the new satellite structure a few weeks ago to see what's going out there with simulcast. Senator Johnson was invited; didn't come. Maybe he would have seen what's going on out there. It's doing well. I went there a couple Saturdays and couldn't find a place to park, but I found one and I went in and I had a good time, and I didn't waste all my money and I'm not destitute and I'm not on welfare today. Maybe tomorrow. Let's quit trying to cloud this issue, be up front and honest, and talk about what it is. It is pari-mutuel wagering. This should go to a vote of the people. We do so many things to protect the people in here. I had my full-blown casinos bill. I probably could have got it out to the floor. But we waste enough time in here on things that don't matter, I thought I wouldn't bring anything that really is going to take up time again and probably not pass because of the same nonsense that we hear time and time and time again on gambling. Gambling...you know, we're so far off. We're talking about kids and bookies. What in the world does that have to do with historic horse racing? Nothing. We've got illegal betting going on out there on football and basketball games, millions of dollars. Millions of dollars going to Iowa and Kansas, and we just let that go because we're the good life; but yet we get in here and we want to argue about tax relief and not doing things because we can't afford it. I know that this is going to be a long haul. I had just heard enough. I tried to sit down. I'll try to stay sat down, but I probably won't. Vote for or against the bill. It is what it is. It is historic horse racing. You pick them just like you do at the race track. I don't think it's expanded gambling. It's nothing new. Senator McCoy talked about that they had to reprogram that machine because it was a slot machine. [LR41CA]

SENATOR KRIST: One minute. [LR41CA]

SENATOR KARPISEK: I do not remember that, Senator McCoy; but it sounds good. Let's vote on this one way or another. Whether you like it or not, let's vote on it. Let's try to stay within the bounds of what it is. If you don't like it, don't vote for it. I get it. There's a couple people in here that I respect very much, and we disagree on this issue. It's okay. Thank you, Mr. President. [LR41CA]

SENATOR KRIST: Thank you, Senator Karpisek. Those still wishing to speak: Senators Johnson, Harms, Brasch, Wallman, McCoy, and Schumacher. Senator Johnson, you are recognized. [LR41CA]

SENATOR JOHNSON: Thank you. I'll just follow up a little bit on Senator Karpisek's comments, a couple of them. There was a field trip recently that the committee took. I chose not to attend it. I don't go to a bar just to go have some drinks and try to get an

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education. I went to the Horsemen's Park last summer. I was invited there for lunch. It was a lobbying group. And I left there with mixed emotions. I could see that it's a lively place. I see that simulcasting is alive. I don't remember what day of the week it was, but I know it was a weekday, and I know there's people in that area that probably work night jobs or don't work...their work assignments do not include over the noon hour or the afternoon maybe. But I was totally surprised with the total number of people that were looking at the machines and betting on simulcasting...simulcast racing. To me that's an ongoing industry. I think we have that. But again I will say, I look at it now with what we're trying to do with historic racing and dead horses, that it is expanded gambling. That's my only comment at this time. Thank you, Mr. President. [LR41CA]

SENATOR KRIST: Thank you, Senator Johnson. Senator Harms, you are recognized. This is your third time. [LR41CA]

SENATOR HARMS: Thank you, Mr. President and colleagues. I want to talk a little bit about what this actually does. LR41CA would allow unlimited slot machines in four horse tracks throughout Nebraska, and it will also open up the state to Indian casinos. That's where we're headed. And do you know this...do you know what gambling does and what horse racing does and everything we're talking about? We're talking about abuse. We're talking about bankruptcy. We're talking about crime. We're talking about divorce. We're talking about embezzlement. Let's look at each one of those comments. Abuse: Two years after the slot machines were introduced in Deadwood, South Dakota, reports of child abuse rose 42 percent. Two years after slot machines were introduced in Deadwood, 42 percent. Domestic violence and assaults increased by 80 percent. So don't tell me that it doesn't have an impact on our society. It does have an impact. It does have an impact on the people who live in this great state. Bankruptcy: After slots were introduced in Iowa, bankruptcy filings jumped 34 percent. Thirty-four percent of the people in Iowa filed bankruptcy. Don't tell me that this does not have an impact on society. Don't tell me that a child that's 10 years old doesn't get hooked into this stuff and carries through. If you allow it to continue, he'll become an adult addicted to the very things that I'm talking about. Crime: In a survey of 400 Gamblers Anonymous members, 50 percent admitted stealing to finance their gambling addiction. Stealing so they could gamble. That's says a great deal about where we are, colleagues. Divorce: When a spouse becomes addicted, the rent goes unpaid, the car probably is being repossessed, and there's abuse with the children and the families. I don't know how you feel about that, but I feel...I don't feel good about what this does. You can say all this about bringing money in and helping us with the income, it all goes to Iowa. Well, have we talked about how much it costs us to help the families; to help the families that are being abused, bankruptcy that takes place, what it costs the state to treat people? No, we haven't talked about that. Embezzlement: Embezzlement is high when you get hooked into gambling. In my own community I have seen people who have embezzled because of...to pay for their gambling debts. So it does have an impact, colleagues. It has an impact on abuse, bankruptcy, crime, divorce, and embezzlements. You think we

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could learn something from this, what's happening in the world of gambling. So colleagues, I would tell you, no matter what you hear, this does have a negative impact on our society. And if you think it doesn't, I'm sorry, because all the data and all the research that we've looked at over the last eight years, those of us who have been opponents to this particular issue, it's pretty clear. Whether it's horse racing, whether it's casinos, whatever it might be, if you're hooked into it, what a tragedy that is. It's just like being an alcoholic. You will battle it for the rest of your lives. And the sad thing about it is, your families will be drug through this, your children will be drug through this. So I would just simply ask that you give this a thought, and I would tell you that we should defeat LR41CA. Thank you, Mr. President. [LR41CA]

SENATOR KRIST: Thank you, Senator Harms. Senator Brasch, you are recognized. [LR41CA]

SENATOR BRASCH: Thank you, Mr. President, and good afternoon, colleagues. Again it is very important that we look at Nebraska as the good life, the great state, the builders. When you look around the motifs of the historic Capitol here, we see the coming of the cattlemen, you know, the different entities that helped build this state, just right above our heads; that they were people who had strong beliefs and a direction. And we have built on that year after year. And when you look at what the casinos can do and slot machines, the damages, the people and the families that have suffered from them, that I believe as good people of this state we do take that into consideration. It's a shame that the horsemen believe that by bringing in historical races, old races, prior races, and putting them on a mechanical device, a slot machine-like device, that that is going to build on their integrity of their industry. You know, horses are magnificent creatures. They are beautiful. They have been with our soldiers over the years. They have helped us plow our fields over the years. And to be able to take their great strength and say it's okay to just watch them on a mechanical device because people aren't coming to the horse races, and it's okay to tell people that we don't need to see, you know, the horses running live through the gates anymore, that this industry will take care of a purse and help provide competition, doesn't seem like the right thing to do. We need to remember that our place in history has been of pioneers, of being the unique state with a Unicameral, of being unique with public power offered here. We have stood strong in many ways and we have learned to grow our economy. We have learned to grow our tax base through economic development. We have learned to provide for our families through many means. We have built a lot of new hospitals, institutions, cancer research. We're a nation's leader in many ways. And to say that we need this, I don't think we need expanded gambling. We have gambling now but we do not need to open it up into further problems. Colleagues, I think that when you look at the bottom line here, the added expense that it will bring, the things that it will not provide for our state and the future, as you see in Nevada, many of their casinos have slowed down. It's a global economy that's suffering out there. Senator Schumacher speaks often about the crumbling, the global tsunami that's coming here with our economy, and we should be

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recognizing that event. And speaking with a former classmate of mine who had started a career in the high dollar gambling rooms in Nevada, they've cut them back to half time. They don't get the benefits. They're getting less and less hours. She would love to come back and live in Nebraska but she's afraid of going upside down on her property. So gambling is not a benefit. [LR41CA]

SENATOR KRIST: One minute. [LR41CA]

SENATOR BRASCH: Gambling is a huge chance that we are playing with the future, the future of our children and of our citizens of all age groups. So please do not support LR41CA and do support AM2215. Thank you, Mr. President, and thank you, colleagues. [LR41CA]

SENATOR KRIST: Thank you, Senator Brasch. Senator Wallman, you are recognized. [LR41CA]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. I hear talk about bookies to children. Folks, that's illegal. That's just illegal. So this isn't about bookies. This is about race tracks or expanded whatever you want to call it. So let's stay on focus here. Some of these things are just plain illegal. We have Internet gambling. We have all these things, and does this cause trouble more than what we have today? We have no way or knowing. But we do know if you go to a horse track once in a while, you see animals run and you have these nice little machines called simulcast racing and also you have this antique horse racing on machines. And are the machines too fast, are they too slow? That's for somebody else to figure out besides me. But I think it would be a good thing to put on here: no debit or credit cards. Thank you, Mr. President. [LR41CA]

SENATOR KRIST: Thank you, Senator Wallman. Senator McCoy, you are recognized, and this is your last time besides closing. [LR41CA]

SENATOR McCOY: Thank you, Mr. President. I'd like to draw your attention, and I don't want to steal Senator Chambers' thunder, although he has a lot of thunder to give. I don't think I am since his light isn't on. But I want to talk about the handout that he just gave us, which is very interesting reading. I, previous to this afternoon, hadn't see this from the state of Idaho. And I'm fortunate in that over the years I've had the opportunity to get to know quite a number of House and Senate members in the state of Idaho. And this article from an Idaho statesman is very interesting. You know, I think one of the things we pride ourselves on in Nebraska is that we think a little bit sometimes before we jump, maybe a little more than some states do. I'd like to hope that that's no different on this issue. And with that in mind, would Senator Karpisek yield, please? [LR41CA]

SENATOR KRIST: Senator Karpisek, will you yield? [LR41CA]

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SENATOR KARPISEK: Yes, I will. [LR41CA]

SENATOR McCOY: Well, thank you, Senator. And I appreciate your comments on the microphone a few minutes ago, and I had a couple of questions for you if I may. [LR41CA]

SENATOR KARPISEK: Sure. [LR41CA]

SENATOR McCOY: As the Chair of the General Affairs Committee, you had mentioned earlier that you believed that this was for sure, I think, and I don't want to put words in your mouth. I'm paraphrasing. But you had indicated to some effect that you thought this was certainly pari-mutuel wagering. [LR41CA]

SENATOR KARPISEK: I did and I do. [LR41CA]

SENATOR McCOY: Can you help me understand how you...I don't...I genuinely want to not be skeptical just to be skeptical, but I have genuine reservations, which is why we have, I have, AM2215 before the body. Why do you believe this is pari-mutuel wagering, especially in light of the fact that there is so many legal minds, and neither you or I has a Juris Doctor, I don't think, at the last time I checked. [LR41CA]

SENATOR KARPISEK: No, not close. [LR41CA]

SENATOR McCOY: How is it that you feel this confident this is pari-mutuel wagering? [LR41CA]

SENATOR KARPISEK: By looking at other states and what racing commissions have done or said. It employs all the same things as a live horse race. You have the odds, you don't know the outcome. It employs all the same things as a live horse race, so I don't know how it cannot be. [LR41CA]

SENATOR McCOY: But doesn't pari-mutuel wagering, Senator Karpisek, by its very nature, use other bettors who are betting on the same race, therefore that is going to contribute to your winnings, if you win; in the case of instant racing, you're the only one who is betting on this race. So how is that the same? You, by nature, have to use a seed pool or a minus pool in order to pay out winnings. How is that the same? [LR41CA]

SENATOR KARPISEK: I will be honest, I have to check back, because I might misspeak, but I thought that these terminals were hooked together, realizing that they're not all done at the same time. And I'll be honest, I have to check on how that works again. [LR41CA]

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SENATOR McCOY: So it's your feeling there may be others who are betting on the same race at the same time? [LR41CA]

SENATOR KARPISEK: Possibly. [LR41CA]

SENATOR McCOY: Well, that's not my understanding from all the reading that I did. Maybe I missed something. I don't think I did. [LR41CA]

SENATOR KARPISEK: And again, I may be wrong, Senator McCoy. I have to check. I don't...I'm not trying to say that I know. [LR41CA]

SENATOR McCOY: Oh, and I don't think that you are, Senator Karpisek, and I don't want to put you on the spot by asking you that question. I just think that in any sort of a commonsense classic definition this doesn't seem to me, and certainly there have been many attorneys general and a number of courts that have said this is not pari-mutuel wagering for the reasons I just outlined. [LR41CA]

SENATOR KRIST: One minute. [LR41CA]

SENATOR McCOY: What amount of confidence are we sending if we were to send this forward to the people of Nebraska, are we sending this forward under the guise of what, that this is pari-mutuel wagering; especially when we have an Attorney General's Opinion, Senator Karpisek, that it's not? [LR41CA]

SENATOR KARPISEK: And that is an opinion, Senator McCoy. And I agree with you, I have to do some checking back on that and I will get back to you. Okay? [LR41CA]

SENATOR McCOY: Thank you, Senator Karpisek. I appreciate it. [LR41CA]

SENATOR KARPISEK: Thank you, Senator McCoy. [LR41CA]

SENATOR KRIST: Thank you, Senator McCoy and Senator Karpisek. Senator Schumacher, you are recognized. [LR41CA]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. I'm not going to get involved in debating the material issues or the substantive issues of the economics of gambling. That debate would be very, very interesting, and it would be very educational for the body were the proper bill before us and we discussing putting essentially the Legislature's authority to authorize gambling on the ballot. But this bill does not rise to that level and it's not worthy of the type of intellectual horsepower that would have to be applied in order to put to rest many of the arguments that we've heard. But I will point out that this is an upside-down world and another one of those situations

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where the green and the red button should be turned around. Here's what's going to happen should this hit the ballot. It has happened with every limited nature gaming measure in recent times where there are a specific narrow group of beneficiaries and a couple or few out-of-state companies who stand to make a bundle. And what happens is the people will not give it more than 40 percent of the vote, period. This measure, if we advance it, will not get 40 percent of the vote. Okay? Now at the same time, every reasonable poll out there including an extrapolation of the 2004 results in which 47 percent voted for the petition proposal, 36 percent for the legislative proposal, clearly integrating those numbers together you have well over 50 percent of the people wanting to see some type of casino gaming in Nebraska. That's substantiated by recent polling which shows that number in the neighborhood of 57 percent of the people will vote yes. Now this goes to the ballot; it gets 40 percent of the vote; and what do we hear for the next ten years? Nebraskans don't want casino gaming; every time they vote on it, they vote it down. All right? So if you're really for the idea of letting Nebraskans vote on casino gaming, then this is a bad idea to vote for this one, because you're just fueling the anti casino gaming vote fire. On the other hand, if you are for...against casino gaming in the state, then put this out there. You're going to give yourself fuel and energy and things to talk about and rant and rave about on this floor for the next ten years. This measure on the ballot will not get 40 percent of the vote. It is limited in nature, special beneficiaries, goofy proposal. I unfortunately have a track in my district and we'll probably have to support it. Thank you. [LR41CA]

SENATOR KRIST: Thank you, Senator Schumacher. Senator Karpisek, you are recognized. [LR41CA]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I found out some quick answers for Senator McCoy. The AG of Kentucky has ruled that it is pari-mutuel racing, so there you go. Our Racing Commissioner has opined that it is pari-mutuel racing. As far as the pari-mutuel betting, it all goes into a pool. Whoever would hit a trifecta, a winning race first, would get the money out of that pool. So it might not be that you are betting on the same race at the same time, but you're all putting money in the pool, betting that you will hit that first. We get into the definition of pari-mutuel and it depends, I think, on who is looking at that definition. We hear a lot of different people tell us their definition, that are all smart people, and they all see it differently. I do feel that it is pari-mutuel. No disrespect to the Attorney General, but I feel it is an opinion and we do a lot of things in here that are opinions. A lot of different things have ended up in court, not to say that I think this should go to court; but as Senator McCoy said, it probably would end up in court. We've done a lot of those things in my eight years here that have ended up in court, even when Senator Conrad has told us over and over that it's going to end up in court, and it does. I just think that we should be able to put this out to the voters to try to help horse racing. They are trying. They're not dead yet. I often just have to get a little chuckle out of when we say it's dead, let it go. We have a lot of different ways that we try to help, especially greater Nebraska. We

Transcript Prepared By the Clerk of the Legislature
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don't just give up. There's other urban parts of the state that are in trouble and need help. We don't just let them go. Well, maybe we do; I try not to personally. I do think that this is a way to help the horse racing industry. I do not think that it is expanded gambling. I had a bill that was expanded gambling. Again I didn't bring it out here. I didn't even have the committee vote on it to get it out here because some of them have to rerun, and the people that are opposed to gambling would go after them with all their force to not get them reelected, and I don't think that's fair. That's why I didn't bring that bill. Plus I figured we wouldn't get it out of here either because we might be just a little bit scared that the voters of Nebraska would actually approve it. I don't know why we don't want to put it out to the voters. I do agree with Senator McCoy that it should be worded right. To tell you the truth, I don't know that it isn't. I'm listening to that on the amendment. But we are obviously in a filibuster. We'll go to whatever time we have to. I think it's...it is, it's a good thing to try to do for the horse racing industry. Senator Harms is right: gambling, it affects people. [LR41CA]

SENATOR KRIST: One minute. [LR41CA]

SENATOR KARPISEK: So does smoking, alcohol, illegal drugs, riding motorcycles, driving in cars, tanning beds. There are a lot of things that affect people in their lives. People lose money all sorts of ways, and I know Senator Chambers talked about people who embezzled to gamble. It's unfortunate. There are also people who embezzle to buy drugs, to buy...do all sorts of things. It's not only gambling. I think we're losing a great part of our state and income because we won't even let the people talk or vote. Thank you, Mr. President. [LR41CA]

SENATOR KRIST: Thank you, Senator Karpisek. Senator Bloomfield, you're recognized. [LR41CA]

SENATOR BLOOMFIELD: Thank you, Mr. President. I'd like to ask Senator Karpisek a question, please. [LR41CA]

SENATOR KRIST: Senator Karpisek, will you yield? [LR41CA]

SENATOR KARPISEK: Yes, I will. [LR41CA]

SENATOR BLOOMFIELD: Senator Karpisek, you just said that you didn't bring, I believe the number is LR416CA to a vote in our committee because you didn't want to aggravate the people; that you didn't think we could get it out, and if we did that the...it maybe wouldn't pass? I'm paraphrasing again here. But if the people of Nebraska are so in love with the idea of expanded gambling, I would have thought they would have passed that so quick that...if we got it out of here. [LR41CA LR416CA]

SENATOR KARPISEK: Well, that's...I think it would have a great chance out among the

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people. I don't think it had a good chance here on the floor of the Legislature. [LR41CA]

SENATOR BLOOMFIELD: Well, as you recall, that's one that I said I could probably get behind, and it... [LR41CA]

SENATOR KARPISEK: It was, but I don't think...the sticking part, between you and I, I think would have hurt the bill. [LR41CA]

SENATOR BLOOMFIELD: It galls me just a little that that didn't happen, that we didn't get a chance at it even, but. [LR41CA]

SENATOR KARPISEK: Well, it galls me too, Senator Bloomfield. [LR41CA]

SENATOR BLOOMFIELD: Okay. That's good to know. I'd yield the rest of my time to Senator Chambers. [LR41CA]

SENATOR KRIST: Senator Chambers, 3:45. [LR41CA]

SENATOR CHAMBERS: Thank you, Senator Bloomfield. Thank you, Mr. President. And Senator Karpisek did indicate when he was talking that he didn't know for sure whether people on the committee might vote for his bill because they had to run--meaning, for office. Well, as Senator Bloomfield pointed out, if gambling is such a good thing, they would advertise the fact when they were running that they voted to put a gambling bill out. But if you have to hide the fact that you're in favor of gambling, it indicates that you're not being completely forthcoming. What I intend to do is try to peel 17 votes away from the attempt of those who are carrying water for the gambling industry to get this thing to move forward. If you vote against cloture, you're voting against further consideration of this bill, this session. If cloture is voted, then the bill will have to get at least 25 votes to move. I would presume that if it got 33 votes for cloture, among those 33 would be at least 25 who would vote to move it forward, and we'll just do this again on Final Reading whenever it might come up. And there might be some delays before we get to that to ensure that we may not get to it, or that there is a price to pay. And here's why I say that unapologetically: This talk of letting the public vote for it is another way of saying we are not going to assume our responsibility. We could say that on every bill that comes before this body which is controversial: Let us give it to the public; let them vote. This is not a democracy. A democracy is where the populace actually votes on the issues and actually make the decision. Representatives are sent here and the representatives are supposed to get information and use their best judgment. But we know from being here that lobbyists, special interest groups, put the pressure and the squeeze on these senators and they go that direction; and some when they get out of here want to find a job or some way to keep making money, so they cheese up to the right special interest groups now and then they get their payoff when they're out of the Legislature. [LR41CA]

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SENATOR KRIST: One minute. [LR41CA]

SENATOR CHAMBERS: That is not unusual, it's not unheard of; it's just not spoken about. But sometimes you can look at the issues that a senator suddenly takes interest in as he or she approaches the end of his or her term, trying to build a nest into which to settle. And I especially thank Senator Bloomfield because I'd spoken the number of times I'm allowed on this. I will support Senator McCoy's amendment. Thank you, Mr. President. [LR41CA]

SENATOR KRIST: Thank you, Senator Chambers. Mr. Clerk. [LR41CA]

CLERK: Mr. President, the Health and Human Services Committee will have an Executive Session in Room 2022 at 2:30; Health Committee, 2:30 in Room 2022. Agriculture Committee reports LB1008 to General File. That's offered by Senator Schilz. Senator Ken Haar, LB965A. (Read title for first time.) And a Reference report with respect to gubernatorial appointments. That's all that I have, Mr. President. Thank you. (Legislative Journal page 751.) [LB1008 LB965A]

SENATOR COASH PRESIDING

SENATOR COASH: Thank you, Mr. Clerk. Senator Christensen, you are recognized. [LR41CA]

SENATOR CHRISTENSEN: Thank you, Mr. President. I never know where to start I guess. You know, I don't know if any of you were here last year and went down and looked at these machines. It was really eye-opening. You know, they can dial their time in but it can be as low as a 15-second clip. That's not really watching a horse race. It's set up to turn dollars. It's set up to make you want to spend money fast. We wouldn't allow that to be done in keno. That's been brought here several times to shorten the time on keno because we don't want people turning their money as fast as they can. And what is the odds of winning? Think about gambling. Who makes money on it? Every owner that operates it, the industry that owns it, and the amount of payoff goes to very few people. So if you think about this, and I know a lot of you always wonder why we don't help the poor. This is certainly not one of them because I've sat in them businesses before and I've sat there and had a meal and watch, especially in my home communities. I know who has more wealth than others and it's not the ones with a lot of money doing it; it's the ones that's going for broke. So this is another one of them that I've got to question why we're doing this. I sit there and wonder why we want to put people in that position. Yes, some people have the money; they can go out and pay it. It's just like a night's entertainment. If they lose 100 bucks, 200 bucks, it doesn't make any difference. But there's most of the people I see playing that I know are the ones that don't have that money to spend. And I can't sit here and vote for this, to even go to the

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people to vote, because I don't want to put the people in the position that (1) can't afford it, (2) can't control themselves if they're not winning; and I don't think it's the direction we should go. The state will win dollars out of it, you're exactly right. Will it solve the state's issues? No. Will this solve the person's issue that actually wins? I don't have the statistics in front of me. I've read them before but there's a lot of people that win a lottery are broke in 3-10 years. It didn't do them any good. It raised their standard of living, made them a lot of new friends they didn't know they had until their money was gone. It didn't do them any good. To me it's a voluntary tax rate when people gamble. My tax rate is zero. I hate taxes. I'd rather cut taxes. But when you gamble, you have chose a new tax rate. [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR CHRISTENSEN: You are...thank you, Mr. President. You are voluntarily spending money that you don't have to. So I encourage people not to allow this to go forward. I don't think it's what we want to do, set up people in the position they don't need to be. I have people that work with me, from my area, that like to go do a little gambling. Yes, there is people that drive out of state for it. But the ones from my area that do it, they can afford it. But I also know those that can't afford it, that don't drive out; they'll still go play the different lotteries we have. And you ever look at the odds of winning one of them? It's not a wise way to spend money. They better save that money and take care of their family. [LR41CA]

SENATOR COASH: Time, Senator. [LR41CA]

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

SENATOR COASH: Thank you, Senator Christensen. Senator Bloomfield, you're recognized. [LR41CA]

SENATOR BLOOMFIELD: Thank you, Mr. President. I'd yield my time to Senator Chambers. [LR41CA]

SENATOR COASH: Senator Chambers, 5 minutes. [LR41CA]

SENATOR CHAMBERS: Thank you, Senator Bloomfield, and thank you, Mr. President. Senator Christensen touched on something and the term that could have been used is the pot of gold at the end of the rainbow. One of the reasons that people who don't have much in the way of means will gamble is to make that big score. They play and they lose and they play again trying to win, and they lose and lose and lose. And people who have studied gambling know that this is the way that it goes, and it's what the gambling industry counts on. And we as a Legislature should not facilitate that. If you have a religious opposition to gambling, let it come to the fore now. Politics makes strange

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bedfellows they say. I don't care what your reason for being against this pernicious proposal is, we should all unite and stop it. You don't have to vote no on cloture. A nonvote is just as good. He has to get 33 affirmative votes, and there should not be that many people in this Legislature with the reason we have for being here in the first place, who would give a vote to move this sham. People use the term pari-mutuel. First of all, mutuel is spelled, this one, m-u-t-u-e-l, not a-l. The p-a-r-i is based on the fact that it was originated in Paris. What would be done...and I don't care what other definition people may give, a county attorney or an attorney general, it's true that all of the people who are going to bet on the race will make their bet and all of the money goes into the pot. The track takes its money off the top. The track is never going to lose because the track does not play with its own money. It provides the place where the suckers can come and bet against each other. So as bets are placed, if a lot of money goes on a certain horse then the odds change, because that is the nature of this kind of activity. But when a person wins, that person wins from the others who are playing, not from the track. The track will always win and the house will always win. But individuals say I can beat that, knowing deep down inside that they cannot. I doubt that there is a single person who buys a lottery ticket and expects to win that huge amount of money. They will say generally, well, it's just a dollar or whatever the amount is that you pay, and I'd give that away; this gives me something to enjoy. The more people who put money on the lottery reduce the odds, your chance of winning, because there are more people that you are playing against. So when they talk about pari-mutuel betting, there was no contemplation of machines or bets on horse races that had already occurred. You don't know whether or not these machines are fixed anyway. When you look at how the stock market can be played by people who get insider trading... [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR CHAMBERS: ...there is such a thing as cornering the market if, in what is considered the legitimate realm of entrepreneurship, there can be cheating. You know there's going to be cheating in an industry based on cheating, based on lying, based on misrepresentation, based on exploiting people's weaknesses. And how in the world a Legislature could agree to send something like that out there to the public boggles my mind. Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator Chambers. Senator Carlson, you are recognized. [LR41CA]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I'm sitting by and observing this process today and rather enjoying it. It is an interesting process, LR41CA. And a lot of things that we do in this body is really about granting freedom or taking it away, and that becomes an interesting process. And I'm thinking back at some things that, in the time that I've been in the Legislature, that we've made decisions on. I think back to the debate we had on smoke-free Nebraska, and there was

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a legitimate argument during that debate that that's a freedom issue; we can't be telling people where they can smoke and where they can't smoke. And yet as a body we made a decision. And I guess that I'm really thankful today that I can walk into a restaurant to eat and I don't have to smell smoke. But it took away somebody's freedom. The repeal of the helmet law: boy, we had a lively discussion on that. That's about taking away somebody's freedom. We have a difference of opinion. Some of us voted not to repeal it. Others voted to repeal it. It's still there. Tanning beds: We have a difference of opinion there and I think that the final result on tanning beds was a sensible decision but it has to do with freedom. It has to do with directing somebody's life and taking away their ability to make a decision yes or no. Legalizing marijuana: There's probably some people in this body that think that ought to happen. Not me. I don't want to give somebody that freedom and I'm not ashamed to say so. Casino gambling: People in here, some think that would be a great thing for the state of Nebraska. Others think it's not. But we make a lot of decisions on a lot of issues and it really gets down to, are we going to give people all the freedom, or are we going to make the decision to take it away from them because somehow it's best for them and best for society? So here we are on historic horse racing, and some think that we should allow it; it would be good for the state; it would be good economically. I don't agree that it would be good economically, but that's an argument that we can have. But, you know, life is really about balance and it's a balance between freedom of choice and sometimes what's best for society. So this is an interesting discussion. I don't think it's a bad discussion. I don't think it's a wasted discussion. And I love freedom but I'm not for LR41CA. Thank you. [LR41CA]

SENATOR COASH: Thank you, Senator Carlson. Senator Karpisek, you are recognized and this is your third time. [LR41CA]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. First of all, I want to try to maybe clear some things up that Senator McCoy listens to me too much. I do want to say that I said that the AG of Kentucky has ruled that this is pari-mutuel wagering. I have an article out of a magazine that says that Kentucky's Attorney General has said that it is pari-mutuel wagering, but that ruling has been challenged. To be honest, I don't know what number that is or anything, so I will say I have it in print. He has it in print that they didn't. So I just want to make sure that neither one...we say neither one of us is trying to pull one past you. We both have it in print. The other thing Senator McCoy thought that I said that our AG said, racing, this would be pari-mutuel. If I did say that, and I don't think I did but if I did I apologize. What I meant to say, that it was our Racing Commissioner has said that it is pari-mutuel wagering. Out of that same magazine article, "Generally speaking, pari-mutuel wagering requires bets to be pooled with the losing wagers paying the winning payouts,"--as Senator Chambers said--"minus deductions for the operator, purses, and taxes. Pari-mutuel also requires the player to choose a wager: win, place, or show, for example. With a slot machine, the winning numbers are randomly generated by a computer and no decision is made

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except to pull the lever. Instant Racing fits the pari-mutuel definition in several ways. First, the money is all pooled through the payout and it is more like a Pick 6 pool than an individual race where odds are determined by how much money is bet on each horse. With a Pick 6, the winning pot keeps growing until someone hits the winning combination. So it is with Instant Racing. Every historic race in the system has its own pool for each wagering choice--win, place, or show, exacta, or trifecta, for example. If you bet \$1 to win on a race, your wager goes into the win pool for that race. If you lose, the pool grows by \$1. If you win, you get the payout of all the other losing bets." Senator Chambers said this may be fixed. I don't know how a historic horse race could be fixed. Slot machines maybe. Keno maybe. I don't know how a horse race that was filmed could be fixed. He's right, they do take money off the top. First, I shook my head and Senator Seiler straightened me out. They do take money off the top for operations: taxes, purses, obviously. But then that money goes between the people who are there. Again, Senator McCoy and I may disagree on what pari-mutuel is, if this is. I think there's more definitions and I remember that argument from a year or two ago that there is not one definition of pari-mutuel but this is a definition of it. I think that this can help the horse industry. Again, I don't know how it's...this is a lot different than simulcast. You have all the odds in front of you. You pick your horses and the race goes. I know we have heard some talk about... [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR KARPISEK: ...it going faster. It can do that. I don't know that there couldn't be an amendment to not let it do that. We talk about money, being able to bet faster. But there is still no maximum that you can bet on this stuff. You could put \$10,000 on one horse to win. So speeding it up, having more races, faster, I suppose you could spend more money. But most of these are \$1 win tickets. When I go I bet a \$1 win ticket. But you can spend a lot more. I hope I cleared anything up. If I misled anyone, I did not intend to. And I would ask that you vote for a cloture vote. Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator Karpisek. Senator Christensen, you are recognized. Senator Brasch, you are recognized. [LR41CA]

SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues, for your attention to the seriousness that LR41CA could bring to Nebraska and Nebraskans. It's very timely to have this bill today. As I was going to my gadget, as Senator Chambers would call it, I typed in the word "gambling." There's gambling addiction. It lists several gambling issues and problems that you could find instantly on the Internet. But what caught my eye is that March is National Problem Gambling Awareness Month. And this week, March 3-9, is the Problem Gambling Awareness Week as well. It estimates that 8-10 people are affected by loved ones who have gambling addictions and that gambling addictions affect 6 million to 8 million Americans each year. And on this Web

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site anyone can look on information about gambling and what does gambling do. It has a...it gives a deterioration of work performance, a deterioration of problems in concentration. Addicted gamblers are missing deadlines and important activities. Addicted gamblers are frequently borrowing money. They gamble to escape boredom, pain, or loneliness. When they gamble they are lying to loved ones about gambling, and gamblers often gamble in an attempt to win back lost money. Who is at risk for a gambling problem? And we mentioned this earlier: Problem gambling does not discriminate based on age, gender, religion, social status, or education. Anyone can develop a gambling problem. Gambling problems may develop with any form of gambling activity according to this Web site here. Groups at high risk of gambling addictions include seniors, adolescents, college students, athletes, and veterans. There's a lot we need to know and that we must be aware of when we expand gambling and gaming in our state. We put protections in for a reason. Gambling is designed not for winners but it's designed for losers. More people lose at gambling than win. That is the purpose of the institutions. That is going to be the purpose of a historic horse racing machine. It's not so people can walk out with their pockets full. People walk out with their pockets empty more often. And that is the intent, that those filled pockets will go to the horsemen. It will go in an attempt to bring back an industry where the gate admission and the gambling on live racing is not paying its way currently. I see it problematic. Senator Karpisek mentioned that the times he stopped for pari-mutuel racing and other times, that there is attendance there. The parking lot is full at the tracks. That's the way gambling or horse racing...that's the difference there. That is live horse racing. [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR BRASCH: Again on LR41CA, that is something that we should not move forward to and expanding our gambling, and support Senator McCoy's AM2215. Thank you, Mr. President, and thank you, colleagues. [LR41CA]

SENATOR COASH: Thank you, Senator Brasch. Senator Lathrop, you're recognized. [LR41CA]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good afternoon. I am generally in support of LR41CA, and maybe I want to give you a perspective from Omaha if I may. I know that only a few of us in the body actually are from the Omaha area, and a lot of you are from places that are some distance away, and you probably maybe have never had occasion to go over to Council Bluffs to one of the casinos. And I have to say, I'm so bad at gambling I've never even got close to interested in it. But from time to time I do go across the river to meet friends over there or go to one of the casinos where they have dinner, or something like that, or an event. And so I have been over there a few times...or a concert, which I did last year. And when you go to...there are three casinos over in Council Bluffs, and I'm not talking about being enticed by the,

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you know, the fact that they're rehabbing Council Bluffs with the proceeds or some portion of the proceeds from the casinos over there. But when you go over there and you drive in the parking lot, it's all Omaha people. The parking lots, you don't have to guess; you can see their license plates. They're filled with people from Omaha or from Nebraska. So as I look at this, do I appreciate the evils of gambling? Yes, I do. And you open the paper. Once a week there's somebody getting incarcerated for embezzlement. That's happening without this bill, by the way, because they're all going over to Council Bluffs. They're going across to Council Bluffs to three casinos over there and they're taking all of their Nebraska money and going across the river and spending it there. And I look at this bill...honestly, I look at this bill as an opportunity to intercept some of those cars, to intercept some of those people and to have them stay in the state, if that's the pastime they choose to engage in. And I really would invite you at some point, if you're in Council Bluffs, drive through one of these parking lots. You'd be astonished. There's a reason they're on the border with Nebraska, because all the people from Nebraska are just going across the river and doing all the gambling they want, every imaginable variety. So do we turn our back on that? Do we ignore it and say we're not going to save the horse industry, which we could do? We could certainly help. We want these people to go over to Council Bluffs and not stop at Horsemen's Park or a place like that where they might stay in Nebraska, where Nebraska might have some benefit; where, by the way, it might help the horse industry, which I do care about. I get the concerns that have been expressed by...ably expressed by those people who oppose this bill. And you don't have to go very far back, all the way back to the helmet bill, to appreciate that I don't mind helping people avoid the consequences of some bad decisions. But in this case, it's happening. It's happening. And all this is, is an attempt to intercept these people on their way to Council Bluffs, where they're all going, and maybe have a few of them stop in Nebraska and engage in... [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR LATHROP: ...the very same activity, for the most part, in Nebraska instead of Council Bluffs. And hopefully we can help these people who raise hay, the farriers, the people who raise the horses in Nebraska, and help an industry. So with that I would encourage your support of LR41CA. Thank you. [LR41CA]

SENATOR COASH: Thank you, Senator Lathrop. Senator Christensen, you're recognized. [LR41CA]

SENATOR CHRISTENSEN: Thank you, Mr. President. And I'll quickly address Senator Lathrop. On his concern was Omaha compared to Council Bluffs, but the whole state doesn't have a casino just across the border. So if you bring it in and put them in different locations, it is going to create more people doing it. I'd like to yield my time to Senator McCoy. [LR41CA]

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SENATOR COASH: Senator McCoy, 4 minutes 40 seconds. [LR41CA]

SENATOR McCOY: Thank you, Mr. President, and thank you, Senator Chambers. Would Senator Karpisek yield, please? [LR41CA]

SENATOR COASH: Senator Karpisek, will you yield? [LR41CA]

SENATOR KARPISEK: Yes, I will. [LR41CA]

SENATOR McCOY: Thank you, Senator. I want to explore something you mentioned in your last time on the microphone. I think you talked about it...I think it was somewhat of a protracted answer, and that's not your fault, to a question I asked you earlier about how this is or is not the pari-mutuel wagering. And you started and the end of your comments to talk about "a"...this is "a" pari-mutuel method. Well, Senator Karpisek, I would draw your attention to the fact that in the green copy of LR41CA, the new language that was originally proposed talked about this being a pari-mutuel method. However, I'm sure you're probably aware of the E&R amendment, ER27, which put into place what we voted on after the cloture motion on General File, didn't say that. Do you know what it said, Senator Karpisek? [LR41CA]

SENATOR KARPISEK: I think it said "the," if I recall. [LR41CA]

SENATOR McCOY: That's correct. It did say "the." That's what was voted on this morning with the E&R amendment. It was also what was voted on with AM581, I believe it was, at the end of General File. I think it's very significant. I think that's very significant, Senator, is it not? Because if we're going to say it's the pari-mutuel method, I think that's very clearly what's stated in the constitution. And I think that's where we run afoul, in my mind, of whether or not this is "the" pari-mutuel method. Does that concern you at all? [LR41CA]

SENATOR KARPISEK: I think that's where we do...the argument as I recall back from maybe last year, Senator McCoy, no, it doesn't concern me because I think that this is pari-mutuel wagering. [LR41CA]

SENATOR McCOY: But if the pari-mutuel method is what is currently constituted with either simulcast or live horse racing, if that is the pari-mutuel method as defined by the Nebraska Constitution, Article III, Section 24, how does this what is proposed under LR41CA--they don't even look the same--how can it be the pari-mutuel method? [LR41CA]

SENATOR KARPISEK: Again, it all goes into a pool and whoever wins first gets that money. [LR41CA]

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SENATOR McCOY: But that's not the same as if you or I, hypothetically, were to go to Fonner Park or one of our other race tracks in Nebraska and we were to bet on an individual race, it's for, be it simulcast, the simulcast facility and bet on a race, where you or I are betting on the same race, that is not...it's not the same process, is it? [LR41CA]

SENATOR KARPISEK: Well, let me read this to you again, Senator McCoy, out of here. Every historic race in the system has its own pool for each wagering choice. So although you may not be watching it at the same time as we...say we are doing it together, we may not be betting on it at the same time, but we are betting on the same race. [LR41CA]

SENATOR McCOY: Well, how could that be if you have, by some accounts, 100,000 races in storage... [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR McCOY: ...or by some accounts, 200,000 races, how could that be mathematically, Senator Karpisek? How could you or I be betting on the same race at the same time? [LR41CA]

SENATOR KARPISEK: Well, it wouldn't be at the same time. It could be, but it's the same race, it's stored. If I bet race two right now and I lose, it goes into that pool. You bet race two later today and win, then you'll get my money. None of this is betting against the house, we're still betting against each other. [LR41CA]

SENATOR McCOY: But that's not the same...that's not the same method by which we have. It could also be you bet on race two, and ten years from now, I bet on race two. [LR41CA]

SENATOR KARPISEK: But in between there, someone will probably win that money out of that small pool. [LR41CA]

SENATOR McCOY: Well, I...I know our time is running short. Thank you, Senator Karpisek. I go back to the fact that we are...we are, unless we at the very least adopt AM2215, in my mind, we aren't asking the people of Nebraska to vote on something very clear at all. Thank you. [LR41CA]

SENATOR COASH: Time, Senators. Thank you, Senator McCoy and Senator Karpisek. (Visitors introduced.) Senator Gloor, you are recognized. [LR41CA]

SENATOR GLOOR: Thank you, Mr. President, and good afternoon, members. I have in all the previous years I've been here, and we've had an opportunity to talk about ways

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to save thoroughbred racing, been supportive of that, and it's not a surprise since Fonner Park resides within my legislative district. I don't do it blindly, I don't do it just because Fonner Park is within my district, but I have gone to Fonner Park for a number of years. I don't have a booth. Certainly since I've been in the Legislature that would be pretty much a waste of dollars since I can't be there that often, but I will tell you in those times that I have gone and what I have related in the past, that it has been an enjoyable experience, one that family members attend. Our own State Patrol sets up educational booths. Fund-raisers are held for other community events and Fonner is very generous to the community from the winnings that it takes and supports a variety of good community interests. I would not be supportive of slot machines being placed in Fonner Park, but I am supportive of historic racing because they are actual races that have been run. And I won't continue to plow ground that has already been plowed by other senators, but I will say this. In its heyday, I can remember, and this goes back into the '60s and '70s and early '80s, buses of individuals would pull into Grand Island for weekends. Buses from places like Kansas City, Missouri, filled with people who would stay in motels and go to the races and have what appeared to be a great weekend at the races at Fonner Park. And then casino gaming came about in contiguous states around us, and slowly but surely the buses didn't come full of individuals anymore. Now those buses come to town empty, pick up people from central Nebraska and take them to other states for gaming, South Dakota and Iowa specifically. So those dollars that used to come into our state for gaming now go outside of our state for gaming. This is one way to, hopefully, stem some of that outflow of dollars. And I'm not blind to the fact that we deal with issues around addictive disorders, whether it has to do with gaming or otherwise. The institution that I operated had an addictive disorders program. The number one problem we had with addictive disorders was alcohol, and we did take care of gambling addictions. But the gateway drug for most of the other disorders, at least this is what my counselors told me time and time again, even hard-core drugs, was alcohol, which lowered inhibitions, disrupted people's ability to think clearly and the way they should in making decisions. Alcohol was the main problem, still is. Still is, I'm guessing even a gateway to gambling problems, and we're not talking about prohibition on alcohol. You can buy alcohol wherever you want to. The way you deal with an addictive disorder is an intense counseling and get that individual to come to grips with it. It's not removing every liquor store in town or in the state or in the nation, for that matter. We're talking time and time again here about a prohibition on gaming as if this will make a difference. And it's not the answer. It is, this bill, LR41CA, is one of the answers... [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR GLOOR: Thank you, Mr. President...to provide some degree of relief for an industry that has a long, storied, and very positive history in this state with people from other states who still talk to me about Nebraska and remember Ak-Sar-Ben race track, which used to be one of the premier tracks in the nation. Casino gaming has, in fact,

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undercut all of thoroughbred racing, but it still has an attachment to the ag industry, it still has an attachment to those things that make us an ag state, and I think is still worth the passage of LR41CA to let Nebraskans make themselves known on this important issue. Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator Gloor. Senator Avery, you are recognized. [LR41CA]

SENATOR AVERY: Thank you, Mr. President. I'm going to suggest something that hasn't been talked about yet and that is that gaming machines of the sort that we're talking about here today could actually harm racing tracks. Now we've been told by the proponents of this resolution that what we're trying to do is save live horse racing. It is very likely that the opposite might occur. And why is that? Well, because racing revenue declines because of the increased competition for racing dollars. Many states have experienced this. Placing machines in the track venue puts competition in the house. Competition for the race dollar is not...without these video slots, competition for the race dollar doesn't exist. All the gambling is put on horses. So we need to think about this. Machines don't bring more money to the tracks. Machine bettors are not necessarily horse bettors. Machines in track venues mostly divert the attention from the horses rather than create more interest in racing. Actually this illustrates the point that I really want to make and that is that horse racing's problem is more of a customer problem than it is a revenue problem. The industry has been in decline for at least a decade. Horse racing attendance is down 30 percent and I'm not talking about just the Midwest, but this is nationally. Horse racing wagering is down 37 percent. So what's happening is that horse racing is losing its fan base at a rate of about 4 percent a year. And we're being asked to expand gambling into new forms of gambling in our state in order to rescue this dying industry. The projected decline in fan base is expected in the next ten years to be about 64 percent. That is huge. So the conclusion here is that racing is simply not attracting new fans, and it is certainly not attracting the fan base they need, which is a young fan base. Instead, young people are going to places where they can get immediate results, that is the immediate kick or rush from betting, and that is not at a race track. Now what will likely happen if this is approved, you'll have the video slots in the racing venues and your young people that go, they'll be at the video slots. They aren't going to be betting on the horses. The horses aren't going to benefit very much. I came across an interesting piece of information just a few minutes ago and that is that if you look at states that have continued to put money into horse racing to try to subsidize it, to try to keep it viable, the fan base continues to decline even in those states where they're pumping millions of dollars into subsidies. Now I have a little time. [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR AVERY: How much time do I have, Mr. President? [LR41CA]

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SENATOR COASH: One minute. [LR41CA]

SENATOR AVERY: One minute. It goes fast. I was going to talk about cost benefit, the cost benefits of this kind of activity. Let me just say that if you're looking for a really bad economic set of policies, this is it because using conservative cost benefit estimates, the cost to benefits are greater than three to one. That's for every dollar you gain in horse racing or video slots, you lose three. It costs you three dollars for every dollar you make. That's not a good bargain. Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator Avery. Senator Christensen, you're recognized. This is your third time. [LR41CA]

SENATOR CHRISTENSEN: Thank you. Mr. President, this time I'd like to yield my time to Senator Chambers. [LR41CA]

SENATOR COASH: Senator Chambers, 5 minutes. [LR41CA]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Christensen. Members of the Legislature, Senator Avery pointed out, and I don't know if Senator Gloor was listening, that this bill is not going to help live racing. It's not going to sell any wheat or grain or give a job to anybody tending those make-believe horses in the make-believe races shown on the machine. Horse racing is dead. Senator Gloor knows that but where he lives, I think, might have a bearing and I can understand that. But I live in Omaha and I have no interest in seeing a casino or a casino-type gambling in the city where I live, because I also have people that I see who gamble and they're not even people that I know. People think that I can work miracles. They call me because they're in trouble with the law, there's a warrant for them. They're going to lose their job because they're gambling. I don't have the answer but they think that I have one and people go to the devil when they have no other place to go. But on this...and I have to touch on something that the "Parson" said. He said every bill either grants a freedom or takes away a freedom. That's not really true. There are things in-between, such as wantonness and license. When it comes to smoking, you're not taking freedom from the smoker who wants to blow smoke where other people are who don't want to smell it, you're taking away from that person the license to deprive other people of their freedom. So there is more to the legislating we do than granting or taking away freedom. And some things are wanton. That is what gambling does. I didn't hear everything my colleague, Senator Lathrop said, but it seemed to me he was suggesting that there ought to be a sieve or a net in Omaha to catch some of the fish before they got across the river to Council Bluffs to gamble. I don't see it as a good thing, a moral thing, an uplifting thing of societal value to say, have the person exploited in Omaha rather than Council Bluffs. They're going to become a compulsive gambler anyway, so let Omaha gain the benefit of the money that person is going to lose in the process of becoming compulsive. As far as not allowing people to ride a motorcycle without wearing a helmet,

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without being in violation of the law, that is not taking away the freedom of people to ride motorcycles without a helmet. You put it in a greater context, the greatest good for the greatest number. And because somebody who might be injured more severely riding without a helmet puts a burden on everybody else and others suffer rather than just that individual, you are doing a societal good by restricting certain types of activity. Now if that person wants to build a track on his or her own property, ride a motorcycle without a helmet all he or she wants to, but when you're on the public streets, there are certain things in the way of restrictions that can be put in place to even protect the person from himself or herself. What I intend to do after we vote on Senator McCoy's motion, his amendment, is offer some of my own, if I get to them. But I'll begin to touch on some of the cases involving people, one of them that you all know. [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR CHAMBERS: One, you served with. One, I knew when she was a little girl and you all are aware of that story. People expressed regret at what befell Senator Council due to her gambling. But those are just words, they don't mean anything because the very ones expressing regret for her are the ones pushing to make it possible for more people to fall into the same plight she fell into. And that's where I'm different from some people. I do have an obligation and I use that example or that maxim, I am my brother, I am my sister's keeper. If I see a person, he's going to jump off a bridge and I can stop the person, I would do it. Police officers do it all the time when they are in a position to do it and they have an obligation to do so. Every person has that obligation to protect... [LR41CA]

SENATOR COASH: Time, Senator. [LR41CA]

SENATOR CHAMBERS: ...a person from hurting himself or herself, even if that person chooses to do so. [LR41CA]

SENATOR COASH: Time, Senator. [LR41CA]

SENATOR CHAMBERS: Time for what? I understand. Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator Chambers. Seeing no members wishing to speak, Senator McCoy, you're recognized to close on AM2215. [LR41CA]

SENATOR McCOY: Thank you, Mr. President. Well, we've had a pretty robust discussion, I believe, on AM2215 and there aren't too many of us as I glance around the Chamber that are engaged in this, so I would imagine that I will require a call of the house here in a moment. But I won't belabor the point other than to say that as I've said when I opened on this this morning. I think AM2215 is necessary if we truly are going to

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send this to the people of Nebraska so that it is fully understood what it is that we're asking the very intelligent people of Nebraska to vote on. This is a big issue. I...you know, I don't want to use metaphors and cliches, but I will on this one. I think there is a very real possibility as has happened in many, many other states that the camel's nose under the tent becomes the entire camel, as someone mentioned to me this morning and...that with this issue. Because once you start with this, where do you stop? That's why I handed out the story from Kentucky about Churchill Downs saying, well, you know, we're really not interested in instant racing terminals, we're more interested in an even more clear-cut slot machine form of wagering at Churchill Downs. The reason that is apparent to them, that's because they actually own casinos in addition to Churchill Downs, the same corporate entity. So they do have some amount of experience with casinos and the various kinds of slot machines. I don't really think AM2215 is all that complicated. Now there are clearly 49 of us and I may be one of a minority that thinks it is a worthwhile amendment and that may be the case. But as Senator Chambers said, there are other amendments behind this one. But this is a serious amendment because I think it is very important that we make a clear distinction between what is currently allowed under the constitution of our great state of Nebraska and what we're asking the people of Nebraska to vote on. Senator Karpisek and I have had a great deal of conversation this afternoon back and forth over about "a" pari-mutuel method or "the" pari-mutuel. The pari-mutuel method is what is in LR41CA as it stands today. I don't believe that that represents that this, these instant racing terminals, represent a pari-mutuel method of wagering or the pari-mutuel method of wagering, either one. That's why I offer AM2215. And with that, Mr. President, I would close and ask for a call of the house. Thank you. [LR41CA]

SENATOR COASH: Thank you, Senator McCoy. There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LR41CA]

CLERK: 22 ayes, 0 nays to place the house under call. [LR41CA]

SENATOR COASH: The house is under call. Senators, please record your presence. Unexcused senators outside the Chamber, please return to the Chamber and record your presence. Unauthorized personnel please leave the floor. The house is under call. Senators Wightman, McGill, Burke Harr, Kintner, Pirsch, Larson, Wallman, Bolz, Watermeier, Davis, and Garrett, please return to the Chamber and record your presence. Senator Mello, please check in. Senators Burke Harr and Davis, please return to the Chamber and record your presence. Senator Kintner, please return to the Chamber and record your presence. Senator McCoy, all members are accounted for. How would you like to proceed? [LR41CA]

SENATOR McCOY: Just a record board vote, please. [LR41CA]

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SENATOR COASH: Members, you've heard the closing to AM2215. The question for the body is, shall AM2215 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LR41CA]

CLERK: (Record vote read, Legislative Journal page 751-752.) 16 ayes, 16 nays, Mr. President, on the amendment. [LR41CA]

SENATOR COASH: AM2215 is not adopted. Raise the call. Next item, Mr. Clerk. [LR41CA]

CLERK: Mr. President, may I read a couple of things real quick? [LR41CA]

SENATOR COASH: Items, Mr. Clerk. [LR41CA]

CLERK: Thank you. Hearing notice from Business and Labor Committee signed by Senator Lathrop and Agriculture reports LB696 as indefinitely postponed. (Legislative Journal page 752.) [LB696]

Mr. President, with respect to LR41CA, Senator McCoy, I now have AM497, Senator. [LR41CA]

SENATOR COASH: Senator McCoy, you're recognized to open on your amendment. [LR41CA]

SENATOR McCOY: I would wish to withdraw that amendment, Mr. President. [LR41CA]

SENATOR COASH: Without objection, the amendment is withdrawn. Next item, Mr. Clerk. [LR41CA]

CLERK: Senator McCoy, I now have AM496. [LR41CA]

SENATOR COASH: Senator McCoy, you're recognized to open on your amendment. [LR41CA]

SENATOR McCOY: I also would like to withdraw this amendment as well, Mr. President. [LR41CA]

SENATOR COASH: Without objection, the amendment is withdrawn. Next item, Mr. Clerk. [LR41CA]

CLERK: Mr. President, the next amendment I have is FA22 from Senator Lautenbaugh. (Legislative Journal page 652, First Session, 2013.) [LR41CA]

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SENATOR COASH: Is there a member of the body is authorized to carry this amendment on Senator Lautenbaugh's behalf? Senator Karpisek, you are recognized to open. [LR41CA]

SENATOR KARPISEK: Mr. President, I would wish to withdraw that amendment. [LR41CA]

SENATOR COASH: Senator Karpisek, you're unable to withdraw that amendment. We'll put it to the bottom of the pile and go to the next amendment. Mr. Clerk, next item. [LR41CA]

CLERK: All right. Mr. President, then Senator Chambers, I now have a series of amendments that you filed on General File, Senator. And I have a note you want to withdraw those. Is that right? Okay, thank you. [LR41CA]

SENATOR COASH: Those amendments are withdrawn. Next item, Mr. Clerk. [LR41CA]

CLERK: Senator Chambers, I now have what we're calling FA228, Senator. (Legislative Journal page 753.) [LR41CA]

SENATOR COASH: Senator Chambers, you're recognized to open on your amendment. [LR41CA]

SENATOR CHAMBERS: Mr. President, members of the Legislature, these are message amendments. And I'm going to read what the amendment would do. It goes to the E&R amendment. On page 1, line 21, you will see that sentence begins with the word "The." This amendment would strike "The" and this would become the beginning of that sentence. It's new language. Because it is the economic policy and goal of this state to encourage and promote the creation and growth of business enterprises of all types and varieties, including robust, entrepreneurial creativity in the realm of providing services to compulsive gamblers, the Legislature continues is authorized to do this that it talks about to establish a lottery and so forth. Gambling creates compulsive gamblers. There are people who make money counseling compulsive gamblers. Since those who support this legislation are going to increase and make more available more ways to gamble, it can be concluded that more compulsive gamblers will be generated since it is felt that being a counselor or one who treats compulsive gamblers for that which they are compulsive about, is a legitimate activity, it ought to be recognized and stated along with the language in this constitution that's going to create the gamblers, that the work of the compulsive gambling counselors is of value. That's the amendment. Now I have an article I'm going to read and I'm going to do some reading today to put some things in the record. This article is dated. The day of the week was Tuesday, September 24, 2013, page 5 (b). Headline. Council agrees to law license suspension. Before I read this article, I knew Senator Council when she was a little girl. She would come in the

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barbershop and she would listen to the conversations. And in the barbershop where I worked, anybody could come there. There was nothing said that was inappropriate to be spoken in the politest of company. We specialized, along with other types of haircuts, cutting the hair of children. And we wanted nothing to be said which if was repeated by a child could in any way be considered inappropriate. So even when there were only adults present, there would be some very contentious arguments and discussions, humor, and even some risque statements. When the children came in, when the women came in, everything changed as if somebody flipped a switch. So she even said in her later years when she got into politics how many things she learned by sitting in that barbershop. She went on to school, she got a law degree. Because of legislation I had gotten that required the election of school board members by districts, she was able to win a seat on the school board. At one point she served a term as president of the school board. I didn't stop with the school board. I was able to get legislation to require the election of city councilmembers by district and she got a seat on the city council. She ran twice for mayor and did very well. When I was term limited out of the Legislature, she ran for and won a seat in this place. She had a gambling problem. I didn't know the extent of it. There was a point where she self-barred herself from the casinos in Iowa. She wasn't able to resist that problem and she went to a casino, was recognized and was ticketed, and because of her public life it made the newspapers. I wrote a letter to one of the television stations and sent it to other news outlets about how wrong they were to jump on her with both feet in the way that they did because even their productions had programs based on gambling, poker games, horse races, all of it. So they were exploiting a situation. I came to her aid. I didn't know the extent of her gambling problem. When she got in the Legislature, her term, as is everybody's term, was for four years. There are 48 months...48 months in four years. For 30 of those 48 months, Senator Council was illegally withdrawing money from her campaign funds. For more than half of her career in the Legislature, she was violating the law, because she was violating the law by taking that money, going to the casino in Kansas, and gambling it away. People need to understand that the casino gambling was legal. It wasn't the gambling that was criminal. The gambling was what she spent that money for, the taking of that money and spending it for a purpose that was illegitimate under the campaign laws was what brought her afoul of the law. When people do wrong and they have no intention of ceasing, they will try to cover it up. She, like every politician, was required to file various campaign statements and she falsified a half dozen of them. Because of the law when you falsify one of those statements, that is a Class IV felony. There is what you can call an affirmation or certification at the end of the statement where you affirm or state or assert that what is in that statement is true and so forth; if you falsify that, that is also a felony. She committed multiple felonies. Because the Attorney General and others wanted her to be in a position, they thought she could beat me when I ran for the office again. I never campaign. Even before this came out, the primary occurred and I won the primary and did not campaign. The people in my district knew what I was about. They didn't know what she had been doing. The Attorney General, rather than charging her under the campaign law for numerous illegal

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withdrawals, for a half dozen felonious false filings, took an unrelated statute and charged her with misdemeanor, misrepresentation or falsifying a public record. She pleaded guilty, two misdemeanors. She was charged by the judge with less than the maximum fine because they were trying to salvage her as a viable candidate. When I first heard what had happened to her, the first comment I made was what I had mentioned here earlier that I had known her and all of those kind of things, but pointed out... [LR41CA]

SENATOR COASH: One minute. [LR41CA]

SENATOR CHAMBERS: ...that if a gambling habit or addiction could bring down somebody with all that Brenda Council had going for her, then it was something that could bring down anybody. That is one example, and I have others I'll give. But if that example is not enough to show people like Senator Lathrop and Senator Gloor, and some of these others who are going to support more gambling, then I don't think anything can persuade them. So I'm not going to try to change their mind. I hope there are enough people that we can scrape away from voting for cloture to end the life of this proposition that's before us right now. Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator Chambers. Members, you've heard the opening to FA228. The amendment is now open for debate. Senator Bloomfield, you are recognized. [LR41CA]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I find it interesting that Senator Lathrop mentioned the helmet bill. He wants to stop people from going to Iowa to gamble, yet it seems we're perfectly willing to let people go to Iowa to ride their motorcycles. People do leave the state. They do spend money in other states, Kansas and Iowa, in particular, to avoid riding with their helmets on in Nebraska. Not necessarily because they want to ride around without a helmet on, simply they don't like being told that they cannot. That debate, I know, has been had. I lost that, but let's not pretend that we're trying to do a great service by keeping people from going elsewhere to spend money when we literally chase them out of our state ourselves. I continue my opposition to LR41CA, not because I'm opposed to a little expanded gambling, but because of the guise that has been brought to us by or in. Let's not try to fool the people of Nebraska by telling them these slot machines are horse racing. It's pretty obvious, it is not. Thank you, Mr. President. [LR41CA]

SENATOR COASH: Thank you, Senator Bloomfield. Senator Chambers, you're recognized. [LR41CA]

SENATOR CHAMBERS: Mr. President, I will pull that pending amendment and all the others that I have up there at this time. [LR41CA]

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SENATOR COASH: FA228 is withdrawn. Mr. Clerk. [LR41CA]

CLERK: And Senator, all of the others too, did I understand you correctly? [LR41CA]

SENATOR CHAMBERS: Yes. [LR41CA]

CLERK: Mr. President, in that case, I then have...the only pending amendment I have to Select File is by Senator Lautenbaugh, the one that we passed over earlier. Other than that, I have nothing further pending to the bill. [LR41CA]

SENATOR COASH: Senator Karpisek, are you willing to open on this amendment? [LR41CA]

SENATOR KARPISEK: Yes, I am. [LR41CA]

SENATOR COASH: Senator Karpisek, you're recognized to open. [LR41CA]

SENATOR KARPISEK: Thank you, Mr. President. I apologize. I did... [LR41CA]

SENATOR COASH: FA22, you're recognized to open. [LR41CA]

SENATOR KARPISEK: ...I did not see that further down on my gadget earlier. FA22 was how we started drafting where the money would go to. On this, where the money would come in and where it would go to. Senator McCoy and I talked about this a little bit and we did say that it did not quite get to where it wanted to be, so I think what Senator Lautenbaugh did was put it on for Final Reading. I was planning on doing that on Final Reading, but I guess now that we will not. So with that, Mr. President, I will close on the opening. Thank you. [LR41CA]

SENATOR COASH: Members, you've heard the opening to FA22. The floor is now open for debate. Seeing no members wishing to speak, Senator Karpisek, you're recognized to close. Senator Karpisek waives. Senator Karpisek, would you like to close? [LR41CA]

SENATOR KARPISEK: I would. I'm sorry, Mr. President, I would just ask that this amendment not be accepted. There is another amendment that Senator Lautenbaugh would like to bring on Final Reading. Thank you. [LR41CA]

SENATOR COASH: Thank you, Senator Karpisek. Members, you've heard the closing to FA22. The question before the body is, shall FA22 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LR41CA]

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CLERK: 0 ayes, 17 nays, Mr. President, on the amendment. [LR41CA]

SENATOR COASH: FA22 is not adopted. [LR41CA]

CLERK: I have nothing further pending on the bill at this time, Mr. President. [LR41CA]

SENATOR COASH: Senator McGill for a motion. [LR41CA]

SENATOR MCGILL: Mr. President, I move LR41CA to E&R for engrossing. [LR41CA]

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. There has been a request for a machine vote. The question before the body is, shall LR41CA advance to E&R for engrossing? All those in favor vote aye. All those opposed vote nay. Senator Karpisek, for what purpose do you rise? [LR41CA]

SENATOR KARPISEK: I would like to request a call of the house, please, Mr. President. [LR41CA]

SENATOR COASH: There has been a request for a call of the house. The question before the body is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LR41CA]

CLERK: 29 ayes, 0 nays, Mr. President, to place the house under call. [LR41CA]

SENATOR COASH: The house is under call. Senators, please return to the Chamber and record your presence. Those unexcused senators outside the Chamber, please return and record your presence. Unexcused personnel, please leave the floor. The house is under call. Senator McCoy, please check in. Senators Lathrop, Watermeier, Nelson, and Davis, please return to the Chamber and record your presence. Senator Nelson, please return to the Chamber and record your presence. Senator Lautenbaugh, please check in. Senator Nelson, please return to the Chamber and record your presence. The house is under call. Senator Nelson, please return to the Chamber and record your presence. Senator Karpisek, how would you like to proceed? [LR41CA]

SENATOR KARPISEK: Mr. President, I would like to proceed with a roll call vote in reverse order, please. [LR41CA]

SENATOR COASH: Mr. Clerk, there has been a request for a roll call vote in reverse order. Please read the roll. [LR41CA]

CLERK: (Roll call vote taken, Legislative Journal pages 753-754.) 25 ayes, 18 nays, Mr. President, on the advancement. [LR41CA]

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SENATOR COASH: LR41CA does advance. Raise the call. Next item, Mr. Clerk.
[LR41CA]

CLERK: Mr. President, LB752 is on General File. It's a bill by Senator Lathrop. (Read title.) The bill was introduced on January 9 of this year, referred to the Judiciary Committee. The bill was advanced to General File. I do not have committee amendments. I do have other amendments, Mr. President. [LB752]

SENATOR COASH: Thank you, Mr. Clerk. Senator Lathrop, you're recognized to open on LB752. [LB752]

SENATOR LATHROP: Thank you, Mr. President and colleagues, good afternoon. Today, I introduce LB752. LB752 would raise the penalty up one class for an assault on an emergency responder. I believe the bill is necessary. Well, let me start with some background. We have carved out certain classes of individuals for additional protection under our assault statutes. Those currently include state corrections employees, people from the Department of Health and a healthcare professional. You'll remember two years ago we made an amendment to the assault statutes to allow for an increased penalty for assaulting a healthcare provider and they joined the list of others who have enjoyed this additional protection. Why is it necessary and why do I believe it's appropriate that we increase the penalty for assaults on an emergency responder? We have had in Omaha, for example, or as one example, a firefighter or a paramedic who was shot while trying to provide emergency services. And the question ultimately for you to answer today, and I think you'll answer with an affirmative vote on the bill is, what is it about this class of individuals that requires additional protection? Okay. And I would submit to you that the emergency responder belongs in that classification. The people who we have given this additional protection to are folks who are particularly vulnerable in their position. Right? So you have an individual that works with Health and Human Services. They get in a car, they go into sometimes difficult neighborhoods, into someone's home to talk to them about Health and Human Services type issues. Right? And they are particularly vulnerable, so we make this additional protection. Same thing with the healthcare provider. I remember this because it was only two years ago that we added this additional protection. The idea behind providing this additional protection for a healthcare provider was that they run to the patient. Right? They go to the patient, they are not expecting a fight. It isn't their job to wrestle people or to fight with people. It's their job to go and be in close proximity, unarmed, unprepared, and provide care. And that's exactly where the firefighter and the paramedic is in the rationale for why we would include them in the additional protection supported under the assault statutes which LB752 would provide. Those people who provide care on an emergent basis and particularly the paramedics and the firefighters that provide ambulance service and so forth, they come in to circumstances on an emergent basis. They arrive at a patient, they expect to be disabled or unable to do...they need medical care, right? And you approach them, generally you're open. You're in close proximity like a healthcare

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provider and then you're assaulted and it is becoming more and more prevalent. I believe LB752 is responsive to the experience the paramedics have with assaults, and I believe that's a fair rationale and the basis for your support of LB752. I'd be happy to answer any questions and I look forward to a spirited debate with my colleague from the Judiciary Committee. And with that, I'd ask your support of LB752. Thank you. [LB752]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thank you, Senator Lathrop. Mr. Clerk, for an amendment. [LB752]

CLERK: Mr. President, first amendment I have to the bill is Senator Chambers. I have FA204, Senator. (Legislative Journal page 735.) [LB752]

SENATOR GLOOR: Senator Chambers, you're recognized to open on your amendment. [LB752]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, and this bill will go to cloture. I have never...there might have been one time that I supported granting some kind of special status to people and those were workers in hospitals in areas where people who had the inclination on occasion to lash out at anybody who was within range. And that seemed to me to be justifiable and I reluctantly may have supported it. I'm not sure. But what is happening now is that Senator Lathrop and other people who go along with his view feel that the general law related to assaults is not good enough for special categories of people, so they should be elevated above everybody else. Their safety means more than anybody else's and there are some people who are placed in greater hazard than the ones he and others have chosen to select and make them better off than the rest of us. A law which is a criminal law especially, should not be shot through with exceptions where you either elevate everybody else, a few above everybody else, or you reduce everybody else in value when compared to those favored individuals. So what I have done so far and I may have 24 or 25 amendments that I'll offer that I've printed so far, is to pick out others who are in danger and endangered. And the first amendment would add bank tellers. If a robbery is committed in a bank, who is the person approached? Who is the person who may have a pistol or some other weapon drawn on him or her? The bank teller. There was a bank...an attempted bank robbery in a city in Nebraska and some people were killed. So when these people whom Senator Lathrop and others want to make worthy of more protection than everybody else took their job, they knew that there were risks involved. There was a shooting. A gun discharged inside an emergency vehicle and you know how that gun wound up being in there? Because the cop who searched the woman did not search her adequately to find the weapon. So because of the failure of a police officer, and a gun was discharged, Senator Lathrop wants to come in with this kind of another exception. The law should apply to everybody. The law of assault applies, and it should. I would like to ask Senator Harr, the former county attorney Harr,

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a question or two if he will yield.

SENATOR GLOOR: Senator Harr, would you yield? [LB752]

SENATOR HARR: I will. Deputy County Attorney. [LB752]

SENATOR CHAMBERS: Will you yield? [LB752]

SENATOR HARR: Yes, of course I will, yes. [LB752]

SENATOR CHAMBERS: Senator Harr, does the county attorney...I'm sorry, I had said county attorney. Deputy county attorney, I stand corrected. Does the county attorney have the authority to exercise prosecutorial discretion in terms of the charge filed or even whether a charge will be filed? [LB752]

SENATOR HARR: Yes. [LB752]

SENATOR CHAMBERS: Is that county attorney in a position to reach plea agreements where the charge filed can be reduced to a lesser offense if the person cops a plea? [LB752]

SENATOR HARR: Yes. [LB752]

SENATOR CHAMBERS: Do you favor this idea of turning the law that deals with assaults into a niche, n-i-c-h-e, law where you carve out little niches for selected people in selected professions and give them a coverage that is not given to others? [LB752]

SENATOR HARR: Yes, and my light is on and I will explain why I do in this situation. I am with you on a large portion of this, though. [LB752]

SENATOR CHAMBERS: Very good. That's all that I will ask Senator Harr, but I'm going to continue. I'm going to take every one of these amendments, or all the amendments we'll take before we reach cloture. And if I'm repetitive, I don't even care. I actually resent this being done to the law. I don't resent Senator Lathrop. People talk to him whom he respects and he thinks that they are entitled to special and favored treatment. And he can do that. Anybody can do it. Then we talk about all these harsh punishments, minimum sentences that others will bring about, but if we have a selected group of special people, then all those general statements go out the window. These bills are the kind that I've always opposed. There should be uniformity in the law. We require uniformity in taxing laws, but here this kind of specializing of the law, customizing of the law, is inappropriate. And in every one of these instances, the people are in a position to provoke ordinary citizens and who suffers? Not the provoker, the provokee. And the person provoked will never have his or her word taken over one of these special people,

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people created by a superior God in whose image they were made. And since everybody else is made in the image of a lesser God, they are entitled to lesser protection. I don't know if Senator Lathrop is naive, but I will tell you this. The majority of people who commit crimes don't know what the penalty is, and I'll bet I could go around this floor and mention crimes by name and some of us who work in that area all the time down here couldn't tell you what the penalty is for it. We might say a felony or a misdemeanor, but the people who commit crimes, unless they're professional criminals, won't know what the penalty is. I don't think the penalty for any crime deters the ordinary person. Maybe an educated person or a white collar criminal would total up the possible cost and determine whether or not to take the risk. But to write these kind of laws such as we have here, and it's being...the general law is being distorted even further, it is a mistake. If you mention a state correctional employee, if a person tends the grounds and is a correctional employee, then that person is covered. Thought does not go into these things. So I'm going to offer the amendments. I'm going to talk about each one of them and frankly, I don't care if nobody is in the Chamber except me. This is one of those crusades that I'm on, and it's to try to maintain the integrity of the law. I come from a group of people who have often seen the law twisted, manipulated to favor others. There was a young white girl who was driving a car, committed a traffic violation, a person was killed, and the judge said she will not even be put on probation because we all make mistakes. But I know of cases where black people were driving cars and a person was killed,..., [LB752]

SENATOR GLOOR: One minute. [LB752]

SENATOR CHAMBERS: ...and at least one of them, I know, is in the penitentiary right now. So don't tell me the law is fair even when it's not written in a way that's unfair, when it's not written in a way that shows favoritism. This that Senator Lathrop is trying to do, is starting a long line of this. As a matter of fact, the representatives of the bankers came to offer the amendment which is my first one. Thank you, Mr. President. [LB752]

SENATOR GLOOR: Thank you, Senator Chambers. Members, you've heard the opening on the amendment to LB752. Senators wishing to speak: Burke Harr, Lathrop, Schumacher, Chambers. Senator Harr, you're recognized. [LB752]

SENATOR HARR: Thank you, Mr. President and members of the body. LB752 is a good bill. I think it's time we have a good conversation. I'm kind of excited for the amendment Senator Chambers put on this bill because it is worthy of a conversation is, how do we choose? What criteria do we choose in looking at...or what policy in determining who gets special protection and who doesn't get this special protection? So let me explain to you why I think LB752 is a good bill and why I do think our firefighters and EMT deserve special protection. And it goes back to a saying that became very popular after 9/11 and it's that, they go in when others run out. And so these are individuals who constantly put others before themselves. So they go into dangerous

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situations. They don't wait for police. They don't wait to check people. Their number one priority is to help; health and well-being of the person they're serving. We don't want a delay because you may have two male paramedics and the victim is a female, and so what we have to do is we have to wait until a female paramedic or firefighter or police officer shows up to frisk this individual. We want that EMT and firefighter to go in immediately and to start taking care of that individual who is sick, who is having a heart attack, who is having a drug overdose, whatever it may be, a psychotic episode. This was brought about because of a situation in Omaha. And if you had done a regular frisk of this woman, which by the way in this case had been done, you wouldn't have found the gun. It would have taken an extraordinary search to find the gun. It was not in her waistband. And so, we don't want our firefighters and EMT to have to go to such extremes. We want them to know if they go in there, we have their back. We will look out for them. So, while I understand the concerns of Senator Chambers, and I do think they're valid concerns, and there is an issue of are we opening Pandora's box? It's a valid concern and I think we have to be very careful about when and where we do. But these are public servants. These are people by their very definition put others ahead of us. And so for that reason, I would ask you to advance LB752, turn down Senator Chambers' many amendments. I understand why he's doing it. And finally, I'd like to say "hello" to my daughters. Thanks. Bye. [LB752]

SENATOR GLOOR: Thank you, Senator Harr. Senator Harr, I believe you have a son also. (Laughter) Senator Lathrop, you're recognized. [LB752]

SENATOR LATHROP: Thank you, Mr. President. I want to maybe talk philosophically about LB752 because the question is, should we be carving out enhancements for different groups? And understand that we're not doing this because we like firefighters. We're not doing it because the firefighters deserve more respect than the bank teller or the person that mows the lawn or whatever other amendments you're going to see today. We do this, I believe, because this is a group that's particularly vulnerable. And I brought this up when I introduced the bill in Judiciary Committee. My office is located at 107th and Pacific and when you look out the window of my office there's an apartment complex, the Regency apartment complex, which I think, and I hope if you're watching on TV from the apartment complex you won't be offended, but there's a number of elderly people that live in this apartment complex. And so the ambulance and the firefighters are called to this place...I'll bet once a week I look out my window and see these guys and they're not very far away from my back window, so I see what happens when they take an emergency call. And they roll off the truck and they fill both hands with equipment and then they run into a circumstance they've been called to. It's not family. It's not somebody they know. They don't know who that person is. They might know a little bit about their condition. They might be told that they're injured or having a heart attack, but they roll in there without question because that's their job and they got both hands full of equipment. And they're going to save somebody's life. It's an emergency. And so what makes this different than other occupations isn't our respect

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for the firefighters, and we certainly owe them our respect, this bill isn't about the fact that we respect them, it's about the fact that they are vulnerable. They walk in, hands full of equipment, and they lean over somebody. Or they're in the back of an ambulance. Think about that one. They're in the back of the ambulance with nowhere to escape to. If somebody starts a fight, pulls a knife, which happened I think in North Platte in the last year, pulls a gun which happened in Omaha, they can't get away. They can't get away. Will it make a difference? And Senator Chambers is right. Generally, I think an awful lot of people don't know what crime...what punishments are, and I'm not sure that a lot of people think about it before they commit one. But we want them to know that this class is going to cost you more. You better think twice before you assault a firefighter or a paramedic who is there to help you because the penalty is going to be worse. And that's not a bad message for us to send as policymakers and we do not pass LB752 because we like fire guys, we pass it because fire guys, like the other folks who are in this class of protected individuals, are particularly vulnerable, like the nurse who leans over a patient in the emergency room. Like the social worker that goes to a house and is assaulted when she can't get out of there. Those are the reasons people belong in this class and if we go through and try to determine who belongs and who doesn't belong, think about their particular vulnerability, their inability to escape, and the fact that they are in close proximity running to the aid of someone and that's, I think, why this class deserves the particular special protection and why I think you should support LB752. Bank tellers, that's kind of a dangerous job, or it can be. There's no question about it, but they're not in close proximity, they're not defenseless in the same sense that a firefighter or a medical person would be, and I think that's why I would not support FA204. Thank you. [LB752]

SENATOR GLOOR: Thank you, Senator Lathrop. Senator Schumacher, you're recognized. [LB752]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. This particular bill and the series of amendments that Senator Chambers has should serve as reason for us to pause and focus and deliberate on this entire idea of trying to create special classifications for different classifications of people. You've heard of the slippery slope. Well, we're about halfway down the slippery slope with this one and we're sliding. Our laws and our criminal laws up to 1977 were a mishmash collected over a hundred or so years, developed from the basic crimes of the common law. And in 1977 there was a major revision to the criminal law which simplified it, which put out classifications of crime, classifications of punishment, which also allowed prosecutors broad discretion and judges broad discretion in sentencing. Okay. They made up a thing called first-degree assault, which involved the possibility of...or not possibility, the reality of somebody suffering a serious injury and put a sentence of one to 50 years on that. Likewise, a little lesser grade of assault with a sentence of 20 years, called a Class III felony. There was a Class IV felony that was involved also, different levels of activity of harm to a person, different levels of punishment. A Class III assault, for example, that

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was a misdemeanor. That was a minor injury or good old-fashioned brawl. But at any rate, it was reasonably simple, reasonably logical. Then legislatures decide to get involved in the picture and we set up parole good times to soften the impact of what the judges do and interfere there. We fortunately have not messed too much with the discretion of the county attorneys in filing because they can look at a situation and pretty much make a judgment as to which class of assault to file and whether to file it in a lesser class as an attempted assault. But then we start saying, well, gee, what about a policeman? Should we make it just a little bit different for them? Okay. Once you say that, then are you not being fair to the fireman? And once you say that, are you not being fair to the paramedics? And once you say that, well, what about the court personnel who got to come in contact with these people when they report for court? Aren't they in danger too? And you say, yes, to that. And quite honestly, our banking system is as critical as our court system and those tellers are on the front line of the banking system. Should we say yes to that? And what we've gradually done is taken a clean thing, easy to understand where the judges and the county attorneys had the discretion and had the latitude to do what was right based upon the particulars of the offense rather than the character or rather the nature of the people of the victim, and we've now begun to create special classifications. And it's very, very difficult to say where it stops. We've heard many of the arguments so far as to why that person in the past got a special classification, and another person and another person, and undoubtedly if we continue down this road, we're going to have an entire litany of people depending on the political circumstances how much money they have in their political action funds and everything else, are asking for special classifications, all of which were in the context... [LB752]

SENATOR GLOOR: One minute. [LB752]

SENATOR SCHUMACHER: ...of the original 1977 proposition unnecessary, because it was taken care of. If a police officer were assaulted, you could almost...with a first-degree assault, you can almost bet the county attorney was going to throw the book at him, there would be very little plea bargaining, and the judge would have no mercy, and the prison would carry out the sentence that was imposed by the judge without tinkering with good time laws by the Legislature. Now we're going down this thing. I don't know how we turn this around. Sure would seem unfair to these folks that are favored in this bill to not give them a special deal when we've given out special deals in the past. Maybe the only way to fix it is get rid of all the special deals and go back to where we were in 1977 and actually make the criminal justice system apply equally before the law. Thank you. [LB752]

SENATOR GLOOR: Thank you, Senator Schumacher. Mr. Clerk, for some items. [LB752]

CLERK: Very quickly, Mr. President, before we proceed. A confirmation report from

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Transportation. Judiciary reports LB1035 to General File; LB694, General File with amendments; LB893, General File with amendments. Health reports LB853 to General File with amendments. Amendments to be printed: Senator McGill to LB699; Senator Lautenbaugh to LR41CA; Senator Chambers, LR41CA. That's all that I have, Mr. President. Thank you. (Legislative Journal pages 754-760.) [LB1035 LB694 LB893 LB853 LB699 LR41CA]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Chambers, you are next and last in the queue if you choose to close. [LB752]

SENATOR CHAMBERS: Oh, no, I don't choose to close. I'm going to be here. I was in my office when the Speaker was mentioning that we would stay a certain amount of time and he said beyond 6:00 or beyond 8:00 and nobody wants to do that, and in my office, just...it reflexively, I put up my hand up and said, oh, I do. He said nobody wants to stay until 11:59. I do. And with some of these bad bills, the process must be slowed down. Senator Lathrop is not going to be here anymore. I still have to be here and deal with the bad policies that are put in place by people who don't have to be here and deal with the consequences. How much more vulnerable could a bank teller be than standing where I am on this side of the desk, and the person who is going to do harm is on the other side of the desk and puts a pistol in my nose and says, give me the money. Senator Lathrop says, I can escape because I'm a bank teller, and I got a gun in my nose. Where am I going to go? Flash Gordon is a figment of a comic book creator's imagination. Nobody can outrun a bullet. How about the school bus driver, belted into the seat? Where can he or she go? Every rationale he gave applies to every one of these that I'm talking about. I'm not going to interrogate Senator Lathrop, but I want to ask him a few questions, if he will yield. [LB752]

SENATOR GLOOR: Senator Lathrop, will you yield? [LB752]

SENATOR LATHROP: Yes, I will. [LB752]

SENATOR CHAMBERS: Senator Lathrop, and I know the answer to these questions, but it's for the sake of the record. [LB752]

SENATOR LATHROP: Okay. [LB752]

SENATOR CHAMBERS: Is every one of these people, you looked out of your window and saw doing this work, an employee who is paid for what he or she is doing? [LB752]

SENATOR LATHROP: Well, the ones I'm looking at are because I'm in the city of Omaha. There would be a lot of volunteer fire guys that that wouldn't necessarily be true. [LB752]

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SENATOR CHAMBERS: That's why I said the ones that you watched. [LB752]

SENATOR LATHROP: Yes. Yes, sir. [LB752]

SENATOR CHAMBERS: Do they know the nature of the work and the activities they will be required to engage in, in order to carry out the agreement they made when they took that employment? [LB752]

SENATOR LATHROP: I'm sure they do. [LB752]

SENATOR CHAMBERS: And that's all I will ask you. Thank you. Not one of these people was drafted. They take competitive examinations and in the Omaha Police Department and Fire Department, there are people who even been helped by relatives they had to get these cush jobs. Not every firefighter is risking his or her life every time they go to answer a call. Not everybody who goes to the old folks home to take them in an ambulance is risking something in the way of harm from one of these old people. That is not a basis for saying, put them in a special category. They were not drafted. They want those jobs. They're paid to do those jobs. Every time I hear somebody say something like Senator Lathrop about a special group of people who are paid, I think about when this...some of the older people in here might be aware of a National Football League referee named Red Cashion. I don't know how to spell his last name, but he'd say things. He had a gravelly voice, "first downwwwn." Very dramatic. So when he was retiring, he was being questioned about his work and how it was to be a referee, and make all those difficult decisions, and some of them were disliked not only by the player who might have been flagged... [LB752]

SENATOR GLOOR: One minute. [LB752]

SENATOR CHAMBERS: ...or the team for which he played, but the fans would boo and then he'd be criticized by sports commentators. You know what Red Cashion said? I get paid to do that. That's his job. He is paid. These people do what they do voluntarily. And they are not entitled to any special consideration. And that woman who was put in the back of that vehicle was searched by a female cop. So we're going to be told, well, you'd have to undergo an extraordinary search. Then isn't something wrong with the training that these cops get in how to conduct the search? So when there are deficiencies in the training, we're going to say, change the law, change the law for the cops, for the employee of the Corrections Department, for the employee of HHS. It doesn't say whether the person who is working for HHS is driving a car... [LB752]

SENATOR GLOOR: Senator Chambers. [LB752]

SENATOR CHAMBERS: ...or cutting the grass. [LB752]

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SENATOR GLOOR: Senator Chambers. Time, Senator. [LB752]

SENATOR CHAMBERS: Or janitor, not in any danger. Oh, did you say time? [LB752]

SENATOR GLOOR: Yes, Senator, but you're next in the queue. You are now on your next five minutes. [LB752]

SENATOR CHAMBERS: Thank you. Thank you. Members of the Legislature, as usual, "Professor," as I refer to Senator Schumacher, calmly laid it out for you. And I was here when the law was a hodgepodge, and I was here when the rewriting of the criminal law was done. And I know what the rationale was. It used to be that a felony was whatever kept you in the penitentiary for longer than a year. If you were sentenced for more than a year, that was how you determined whether it was a felony. Instead of having that kind of instability and uncertainty, certain crimes were given the name "felony," the name "misdemeanor," and there were classifications or subdivisions within those types of crimes. I was not here when all of this craziness got into the statute, but those who were here now want to carry it on. And as they leave, they want to take a parting shot. The one who drafted this, Senator Lathrop, came to my office because he knew I would be opposed to it. And he wanted me to look at how he drafted it. And I said for what you're trying to do, your drafting is good but I'm opposed to it. He said, well, I know you're opposed to it, but he wanted me to look at it. They know where I am. They know that I respect the law and that's what I call my position being, respect for the law. We created the law and we don't respect it. We create exceptions for those we favor. We show favoritism. Lift that blindfold on the statue of justice off one eye so that she can see who it is standing before her and who is entitled to special treatment. And Senator Burke Harr saying the things he said when he served as a county attorney...deputy county attorney, he knows about the discretion of a county attorney. He knows they make deals. He knows they accept plea bargains. He knows there are people who get favored treatment even from the county attorney. So why do we have to change the law and put it into the law? Tell the world, the law means what it says until some senator sees a selected group that ought to be given exceptional treatment. How is somebody going to know what the punishment for a crime is? They don't know. You all don't know. And everything is after the fact. This will not prevent anybody from doing anything. If somebody is of a mind to fight back against a cop, that person is not going to say, well, if I hit him in his mouth, then that's what's going to happen here. Or if I just slap him, it's this. Or if I swing and miss, it's the other. That is not the real world. And sometimes lawyers can deal in the realm of the speculative so much that they lose touch with what is really going on. I'd venture to say you could find some of the people who are given the special protection who would not say that they need it, or that they're asking for it, but the Legislature, supine, compliant, will do it. Well, I will fall out with whichever ones of you I have to fall out with to try to maintain what I see as the integrity of the law. And you know when the law has integrity? When it is indeed blind, when it does not take note of a person's status. [LB752]

Transcript Prepared By the Clerk of the Legislature
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SENATOR GLOOR: One minute. [LB752]

SENATOR CHAMBERS: But the conduct, we criminalize conduct, and that criminalization should apply to whomever commits the conduct and don't say, but the conduct somehow becomes different if a person is wearing a uniform, if a person has both hands full of lifesaving equipment. How about the lifeguard at a swimming pool where somebody gets angry and wants to pull the lifeguard underwater and drown him or her? How is that person going to get away? Well, they're not organized. They don't come down here to us, but these people do. And the Legislature responds and it's my job to stand alone, if necessary, and say, this far will you come and no farther if I can stop you. And if I can't stop you, I'm going to make you work hard to destroy the integrity of the law. And that's what this is about. I didn't just develop this attitude today. [LB752]

SENATOR GLOOR: Time, Senator. [LB752]

SENATOR CHAMBERS: Thank you, Mr. President. [LB752]

SENATOR GLOOR: Thank you, Senator Chambers. Mr. Clerk for a motion. [LB752]

CLERK: Mr. President, a few items. Enrollment and Review reports LB132 to Select File; LB728 to Select File. I have a new resolution, Senator Bolz, LR471. That will be laid over. Senator Karpisek would like to add his name to LR41CA as coinstructor. (Legislative Journal pages 760-764.) [LB132 LB728 LR471 LR41CA]

And Mr. President, Senator Nelson would move to adjourn the body until Thursday morning, March 6, at 9:00 a.m.

SENATOR GLOOR: Members, you've heard the motion to adjourn until 9:00 a.m. tomorrow morning. Those in favor say aye. Those opposed say nay. We stand adjourned.