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Floor Debate  
March 06, 2014

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[LB84 LB129 LB177 LB191A LB371A LB560 LB646 LB660 LB690 LB690A LB699  
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LB901A LB901 LB903 LB915 LB920A LB920 LB941 LB941A LB946 LB949 LB969  
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SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the thirty-eighth day of the One Hundred Third Legislature, Second Session. Our chaplain for today is Vicar Gina Metze of the Grace Evangelical Lutheran Church in West Point, Nebraska, Senator Brasch's district. Please rise.

VICAR METZE: (Prayer offered.)

SENATOR GLOOR: Thank you, Vicar Metze. I call to order the thirty-eighth 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 GLOOR: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections.

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

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

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

CLERK: LB191A by Senator Nordquist. (Read title.) [LB191A]

SENATOR GLOOR: Senator Nordquist, you're recognized to open on LB191A. [LB191A]

SENATOR NORDQUIST: Thank you, Mr. President and members. LB191A appropriates General Funds and cash funds to carry out the Nebraska Job Creation and Mainstreet Revitalization Act. This is the historic tax credit bill. It appropriates, as it is now, it would be \$154,000 of General Funds to the Historical Society and \$147,000 to

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the Department of Revenue. At some point, cash funds will, on the application fee, will come in, in future years to help offset the cost of operating this program. Both the Historical Society and the Department of Revenue both have significant operations in the administration of this. And with amendments that we are likely to adopt or propose at least on Select File, the cost in the first year may be pushed back even more. So I'd appreciate the advancement of LB191A today. Thank you. [LB191A]

SENATOR GLOOR: Thank you, Senator Nordquist. Are there senators wishing to speak? Seeing none, Senator Nordquist waives closing. The question is the advancement of LB191A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB191A]

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB191A. [LB191A]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB191A]

CLERK: Mr. President, Senator Bolz offers LB690A. (Read title.) [LB690A]

SENATOR GLOOR: Senator, you're recognized to open on LB690A. [LB690A]

SENATOR BOLZ: Thank you, Mr. President. This bill is the trailing A bill to LB690, which promotes home and community-based care for our aging population. There will be some adjustments on Select File to the fiscal note and a small amendment, but I appreciate your support of the trailing A bill for LB690. Thank you, Mr. President. [LB690A LB690]

SENATOR GLOOR: Thank you, Senator Bolz. Members, you've heard the opening on LB690A. Are there senators wishing to speak? Seeing none, Senator Bolz waives closing. The question is the advancement of LB690A to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? [LB690A]

SENATOR BOLZ: (Microphone malfunction) (Inaudible)...call of the house. [LB690A]

SENATOR GLOOR: 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. [LB690A]

CLERK: 28 ayes, 0 nays, Mr. President, to place the house under call. [LB690A]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Harr, Burke; Ashford; Janssen; Watermeier; Davis; and Carlson;

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please return to the Chamber and record your presence. Senators Harr and Davis, record your presence. Senator Bolz, all members are present, accounted for. How would you like to proceed? [LB690A]

SENATOR BOLZ: Machine vote. [LB690A]

SENATOR GLOOR: Thank you, Senator Bolz. Members, the question before us is the advancement. Senator Bolz, we've already done a machine vote. Your options are call-in or roll call. [LB690A]

SENATOR BOLZ: (Recorder malfunction.) [LB690A]

SENATOR GLOOR: Members, the question is the advancement of LB690A to E&R Initial. We're accepting call-in votes. [LB690A]

CLERK: Senator Lathrop voting yes. Senator Ashford voting yes. Senator Brasch voting no. Senator Avery voting yes. Senator Burke Harr voting yes. [LB690A]

SENATOR GLOOR: Record, Mr. Clerk. [LB690A]

CLERK: 25 ayes, 7 nays on the advancement of LB690A, Mr. President. [LB690A]

SENATOR GLOOR: The bill is advanced. Raise the call. Mr. Clerk. [LB690A]

CLERK: LB1016A by Senator Krist. (Read title.) [LB1016A]

SENATOR GLOOR: Senator Krist, you're recognized to open on your bill. [LB1016A]

SENATOR KRIST: Good morning, Mr. President. Thank you. And good morning, members of the Legislature. And good morning, Nebraska. LB1016A essentially, in its root, takes money, authorizes money for the purchase of the airplane by using a cash fund, the transfer of the cash fund by the Treasurer. This is exactly what the Appropriations Committee was ready to do last year and will continue to try to do the same, use the same process this year with LB1016A. I would bring to your attention a handout that you should have received. There were several questions that were asked on the floor during debate on LB1016, and to my word I'm answering those questions. Question one: Not buying an airplane does not mean a...by the way, I'm sorry. This is...I'm quoting an e-mail response from Director Mitchell on these questions. Question one: Not buying an airplane does not mean a reduction in manpower. We will have the Piper Cheyenne IIXL and the Piper Navajo, as well as needing a crew rental aircraft, so pilots are still needed. The Cheyenne, I would remind you, is the airplane that we are going to sell. Question two: We would be using proceeds to lower the transportation costs. That question was, when you sell the Cheyenne, because we're taking cash

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funds out and we're not applying any of the residual funds to anything, what are you going to do with the cash fund? Hopefully, you're going to return that into the preventative maintenance fund for the airplane, which indeed will lower the costs for state agencies. So he answers that question. And then most importantly, I guess most directly to answer Senator Davis' concern and Senator Chambers' concerns, question three: The statute referenced there provides that public officials and employees cannot use or authorize the use of state resources for personal or financial gain. The second statute provides that public officials, employees cannot use or authorize the use of public resources for the purpose of campaigning for or against the nomination or election of a candidate or the qualification, passage, or defeat of a ballot question. Please note, it is the responsibility of the using agency to ensure these flights are for a state business purpose. And I believe that if we wanted to expand on that in terms of the statute we should engage on that activity at a later date. With that, I would ask you for the advancement of LB1016A so it can be married up with LB1016. [LB1016A LB1016]

SENATOR GLOOR: Thank you, Senator Krist. We now move to floor debate. Senator Mello, you're recognized. [LB1016A]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. If you look at the green copy of LB1016A, there will probably be a change that we may have to do specifically with this particular A bill, depending upon how far and how long it kind of corresponds with the state budget, in part because, as Senator Krist mentioned on his opening remarks, the Appropriations Committee in last year's budget proposal used the Cash Reserve for a one-time transfer to pay for the purchase of a plane. This current bill has it just utilizing General Funds. In conversation with Senator Krist, I thought it would be best to kind of keep...since this was an issue that stemmed from the budget last year, which a majority of the members of the committee voted for, the committee overall voted for. And it felt like when we had the debate on the floor the overriding issue wasn't the use of the Cash Reserve. It was...the overriding issue was the determination of whether or not we needed to purchase a plane, lease a plane, or rent a plane, or have a plane at all. And so as this A bill will move along, the likelihood there will be an amendment that would, instead, transfer money from the Cash Reserve to the General Fund to pay for the purchase a plane if the body so chooses to move LB1016 and LB1016A to Final Reading and pass both bills. It's more a point of clarification, as Senator Krist mentioned, of trying to keep in line with what the Appropriations Committee in the budget proposal last year had with this specific budget item, of trying to keep, so to speak, in the same pathway in regards to how we financed the plane last year, was the request to try to keep and finance the plane moving forward in the same pattern, which would be utilizing a one-time transfer from the Cash Reserve since this is a one-time infrastructure purchase, not an ongoing expense that others have so chose that want to see the Cash Reserve used for. With that, thank you, Mr. President. [LB1016A LB1016]

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SENATOR GLOOR: Thank you, Senator Mello. (Doctor of the day introduced.)  
Continuing with discussion, Senator Chambers, you're recognized. [LB1016A]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask Senator Krist a question, if he will yield. [LB1016A]

SENATOR GLOOR: Senator Krist, would you yield? [LB1016A]

SENATOR KRIST: Yes. [LB1016A]

SENATOR CHAMBERS: Senator Krist, I'm through resisting this bill and this purchase, but the question that I have is with reference to the last item on the list you gave us. The individual said that a broker may be used to sell the current airplane and there would be a broker's fee. Is that fee based on a percentage of what the plane will sell for or is it negotiated? Just how is this broker's fee arrived at if you know? [LB1016A]

SENATOR KRIST: Yes, sir, I do, having been involved with the buying and selling of several airplanes. A broker's fee is always negotiated at the beginning of the deal. On very, very, very large airplanes it's usually a set fee. With this kind of airplane the exposure for selling it is going to be so important, so that would be up to Director Mitchell. In my conversation with him, I believe he will set a fee rather than a percentage. [LB1016A]

SENATOR CHAMBERS: Are there qualifications that a person must have before being a broker serving in this capacity? [LB1016A]

SENATOR KRIST: They are licensed and bonded, and they put a shingle on the wall usually that says that they're capable of doing that. Many of them are actually, in some capacity, lawyers or in the legal profession. [LB1016A]

SENATOR CHAMBERS: So my saying that I'm qualified and that I want the job wouldn't be enough to put me in a position to even negotiate for it? [LB1016A]

SENATOR KRIST: Senator Chambers, I think we would be foolish to...you would be foolish, not you personally, but we would be foolish to engage with anyone who doesn't...who's not recognized as a qualified broker. [LB1016A]

SENATOR CHAMBERS: And I accept that. And that would have been the response I would have given had somebody asked me the question that I just asked you. That's all that I have. Thank you, Mr. President. Thank you,... [LB1016A]

SENATOR KRIST: May I have the balance of your time, sir? [LB1016A]

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SENATOR CHAMBERS: Sure. [LB1016A]

SENATOR KRIST: I'll just use this...is there anybody else in the queue? [LB1016A]

SENATOR GLOOR: No, Senator Krist, there's no one in the queue if you choose to close. [LB1016A]

SENATOR KRIST: I would choose to close at this time and also just to make a few brief points. We've attached an E clause to this package. And very importantly, as I found out yesterday, for the record, I am not involved with negotiating the price of this airplane. I simply asked for a price that was in a bracket. The price that was given to you on the floor at \$3.6 million is the top end. It now will be up to Director Mitchell and the department and the executive branch to negotiate on the purchase price. I have it on good authority that that \$3.6 million is, indeed, the top and that there is a balance or that there is a point below that which we could purchase the airplane. I do not know that number. I will not be involved with negotiation of that number. But if the number and if the purchase price is negotiated before the 31st of March, with the sale of Beechcraft to Textron there is now an incentive in place. We'll receive two more years of warranty on the airplane. That's a total of seven years' warranty on a brand new airplane. Colleagues, that's huge because at the six-year point for this particular kind of airplane, there is an inspection due on the air frame and the landing gear that can be extremely expensive. So once again, if Director Mitchell and the executive branch is able to move forward with this and purchase prior to the 31st of March, there will be an additional two years on warranty, which means a total of seven years. So I ask you for a green vote on this and then on Select File here in a minute on LB1016. Thank you, Mr. President, and thank you, Senator Chambers. [LB1016A LB1016]

SENATOR GLOOR: Thank you, Senator Krist. Members, the question is the advancement of LB1016A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB1016A]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB1016A. [LB1016A]

SENATOR GLOOR: The bill is advanced. Mr. Clerk. [LB1016A]

CLERK: Mr. President, Select File. Senator Murante, I have no E&Rs. Senator Coash would move to amend with AM2098. (Legislative Journal page 702.) [LB920]

SENATOR GLOOR: Senator Coash, you're recognized to open on your amendment. [LB920]

SENATOR COASH: Thank you, Mr. President. Good morning, colleagues. Although

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AM2098 is a white copy amendment, it was done so because there were several places within the bill that needed some technical changes and cleanup, and I am going to go through those one by one for the record. In Section 2 we added the term "temporary guardianship" after "limited guardianship" to make sure that it was clear that we wanted to look at both temporary and limited guardianships. Sections 4 and 5 of the bill have been reordered. This is the creation of the office. Section 11, we added the types of guardianships to include full guardianships, limited guardianships, and temporary guardianships, again, being more specific about the kinds of guardianships we want to track and have reported on. And in Section 11 also we have added the requirement that the office report back the amount of fees charged and collected under this act. This came out of discussion during General File with Senator Nelson, and a floor amendment following this will further define that as well. And so I will close and open on the floor amendment. [LB920]

SENATOR GLOOR: Thank you, Senator Coash. [LB920]

CLERK: Excuse me, Mr. President. Senator Coash would move to amend his amendment, Mr. President, with FA239. (Legislative Journal page 768.) [LB920]

SENATOR GLOOR: Senator Coash, you're recognized to open on your floor amendment. [LB920]

SENATOR COASH: Thank you, Mr. President. Good morning again, colleagues. FA239 simply further defines the type of fees being collected under this act to include guardianship and conservatorship fees. Section 11, which this floor amendment amends, has to do with the report that the office will give to the Legislature so that we will know what types of guardianships are being provided; if there are fees being collected, as is already permissible under the law, how much. And I think this will give future Legislatures the ability to evaluate this program, and I would ask for your advancement of both FA239 and AM2098. Thank you, Mr. President. [LB920]

SENATOR GLOOR: Thank you, Senator Coash. Members, you've heard the openings on the amendments to LB920. We now move to discussion. Senator Nelson, you are recognized. [LB920]

SENATOR NELSON: Thank you, Mr. President, colleagues. I just want to stand in support of FA239 and I want to thank Senator Coash for indulging and understanding my viewpoint in this. I am in support of LB920 and the amendment. The thing I was concerned about is that there's cost involved with this and we're going to have the A bill, and I think it's important that the reports that come to us from the Public Guardian show what attempts and what amounts have been collected, not only from guardianships themselves but from conservatorships. Generally, there are not many fees collected from guardianships because oftentimes the people are elderly, there's not enough

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money there. However, there are cases where there are substantial amounts of money that a person under guardianship and conservatorship may have, and as long as there's sufficient money there to pay for their support under the watchful eye of the conservative, I think it's only fair that we be reimbursed, to the extent it's possible, for the fees that are incurred involved with the conservatorship. So I just simply think that we need to know what's coming in from the conservatorships, and it's also an incentive for the Public Guardian to make sure that that isn't just cash by the wayside, because it could be a fairly substantial amount. So again, I urge your support of the FA239. And thank you again, Senator Coash. [LB920]

SENATOR GLOOR: Thank you, Senator Nelson. Are there other senators wishing to be recognized? Seeing none, Senator Coash, you're recognized to close on your floor amendment. [LB920]

SENATOR COASH: Thank you, Mr. President. And thank you, Senator Nelson, for your support and your cooperation on this bill. And I would just briefly echo Senator Nelson's comments. There are cases where this office may be used and the person who needs it does have some assets. And under the current law there is the ability to collect reasonable fees for providing this service, and that will not change even if the Office of Public Guardianship is the mechanism to provide that service. And Senator Nelson is right. We need to know, for future legislators, future Legislatures need to know how those fees are being collected, if they are. And if you remember, under the committee amendment we established a cash fund so that there would be a place for these fees to be collected. And certainly this won't fund the office but it may offset some costs, which is appropriate. And I would appreciate your green vote on FA239. Thank you, Mr. President. [LB920]

SENATOR GLOOR: Thank you, Senator Coash. The question is, shall the amendment to the amendment to LB920 be adopted? All those in favor say aye. Excuse me. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB920]

CLERK: 30 ayes, 0 nays, Mr. President, on adoption of Senator Coash's amendment. [LB920]

SENATOR GLOOR: The amendment is adopted. We now return to discussion on the amendment to LB920. Seeing no one wishing to speak, Senator Coash waives. The question is, shall the amendment to LB920 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB920]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Coash's amendment. [LB920]

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SENATOR GLOOR: The amendment is adopted. [LB920]

CLERK: I have nothing further on the bill, Mr. President. [LB920]

SENATOR GLOOR: Senator Murante for a motion. [LB920]

SENATOR MURANTE: Mr. President, I move to advance LB920 to E&R for engrossing. [LB920]

SENATOR GLOOR: You've heard the motion. All those in favor say aye. All those opposed say nay. LB920 is advanced. [LB920]

CLERK: LB920A, Mr. President. Senator Murante, I have no amendments to the bill. [LB920A]

SENATOR GLOOR: Senator Murante for a motion. [LB920A]

SENATOR MURANTE: Mr. President, I move to advance LB920A to E&R for engrossing. [LB920A]

SENATOR GLOOR: You've heard the motion. Those in favor say aye. Those opposed say nay. LB920A is advanced. [LB920A]

CLERK: LB901, Senator, I have E&R amendments first of all. (ER143, Legislative Journal page 679.) [LB901]

SENATOR GLOOR: Senator Murante for a motion. [LB901]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB901]

SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. Those opposed say nay. The amendments are adopted. [LB901]

CLERK: Mr. President, Senator Bolz, I have AM2107, but I have a note you wish to withdraw? Mr. President, Senator Bolz would move to amend with AM2233. (Legislative Journal pages 768-770.) [LB901]

SENATOR GLOOR: Senator Bolz, you're recognized to open on your amendment to LB901. [LB901]

SENATOR BOLZ: Thank you, Mr. President. Good morning, colleagues. AM2233 is the body of a bill that was brought to the Health and Human Services Committee to establish the Mental Health First Aid Training Act. When individual Nebraskans begin to

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recognize mental health concerns, signs of depression when they are facing a crisis, they frequently reach out to friends, to family, to fellow church members, to teachers, and to peers. The Mental Health First Aid Training Act provides community members with the training they need to respond to those individuals who are hurting. Mental Health First Aid Training teaches people to identify, understand, and respond to individuals showing signs of mental illness or substance use disorder. While in a mental health crisis individuals need professional assistance; however, an immediate response is also necessary. So like physical first aid or CPR, mental health first aid provides the average person with the information and training they need to respond to concerns, like depression or signs of suicide, and they are also trained in their limitations so that they know when and how to lead that individual to professional assistance. The bill provides the behavioral health regions in every region of the state with access to the resources to train mental health first aid trainers. It's a train the trainer model, which allows those individuals to teach students, professionals, and others these skills. Let me briefly walk you through the specifics. First, instructors will be nationally approved and certified. Second, the training dollars will be accessed by the behavioral health regions statewide. They're expected to be used by 60 trainers and nearly 500 individuals to be trained. And finally, some trainers are already doing this work in the behavioral health regions to positive effect, including greater likelihood of individuals accessing professional help and decreased stigmatizing attitudes. On a final note, I would like to share that the testimony in the hearing was very compelling. One of the areas that touched me the most was hearing from individuals who provide services to veterans. Individuals returning back from Iraq and Afghanistan frequently struggle with mental health concerns, including posttraumatic stress disorder, and in particular there's value in providing folks who are crisis responders with information about PTSD and how to respond. On a more personal note, I'd like to share that this bill was inspired by the loss of three constituents in my district over the short period of time that I have been serving as a Nebraska state senator. One of the most difficult things to hear from an individual who has lost a loved one is, we knew something was wrong; we just didn't know what to do. And this bill provides an answer to individuals and helps them understand what to do. Just like cancer or any other physical health ailment, early intervention and treatment can literally save lives. So I ask for your support to AM2233. Thank you, Mr. President. [LB901]

SENATOR GLOOR: Thank you, Senator Bolz. Members, you've heard the opening on the amendment to LB901. We now move to floor debate. Senator Crawford, you're recognized. [LB901]

SENATOR CRAWFORD: Thank you, Mr. President. I rise in support of AM2233 and I would just say, as a member of the Health and Human Services Committee, this was one of my favorite bills. You just have some little pet bills that you like and this is one of them. And I think for several reasons it's very compelling. And one of those reasons is that we know, and we've talked on this floor before, about how important it's going to be,

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for having a healthy Nebraska, for everyone to be personally responsible and to change and engage in healthy behaviors and to help one another engage in healthy behaviors. And so this bill, this project really helps us help others to do that. And in addition, one of the compelling discussions during the hearing was a discussion about one of the regions is already doing something like this on a smaller scale and they talked about how effective it had been in school. So they had come into the school to help train peers in how to recognize when one of their peers may need more help and how to react to that situation. Also had a great discussion of this bill on one of our breakfasts with child advocates and they talked about how valuable this would be for teachers in the schools, that just having some additional tools for teachers to be able to recognize situations and some tools for coping in situations until help arrives was very valuable. As Senator Bolz already noted, we also had very compelling testimony about how valuable this would be in working with veterans who have returned, and their families, and including At Ease. Someone from At Ease came and talked about how valuable this would be, not only in helping with first responders and other people who are dealing with veterans but also how important this was in...would be for their work with military families and helping spouses and other people of military families recognize signs that indicated that they needed to get their loved one for more help. I would just like to read just a little bit from a letter of support that came from the Nebraska Association of Professional Veterans Advocates and it reads: Our military veterans have incurred behavioral health issues, such as posttraumatic stress disorder and traumatic brain injury, at an alarming rate. It is not uncommon for them to come home with these mental issues that stem from having served in a combat zone. These medical issues cannot be detected by simply looking at someone. It takes a trained eye to recognize the symptoms and realize when, as a first responder, you've encountered someone who may be suffering from a combat-related behavioral health issue. The simple idea of providing mental health first aid to those in crisis can prevent this escalation...can prevent the escalation of those in crisis and help avoid potentially dangerous situations. The proper handling of the situation benefits both the person in crisis and the first responder. And also I'd like to note we have had many discussions here about the challenges we have in mental health in terms of access to providers, so the more we can do to help on the prevention side the more we can do to help make sure we have a lot of laypeople trained to help talk to one another and help each other to seek help when necessary the better off we will be. And so I enthusiastically support AM2233. Thank you. [LB901]

SENATOR GLOOR: Thank you, Senator Crawford. Senator McGill, you're recognized. [LB901]

SENATOR MCGILL: Thank you, Mr. President. I just wanted to rise in support of Senator Bolz's efforts with this amendment to my bill, LB901. I think it's very complementary. I've already stated the case on how much of a work force shortage we have in mental health and I think this bill, while not training the cream of the crop best professionals in mental health, will help spread their skills a little farther by training more

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people within communities to know what to do when those initial cases pop up. I think it goes hand in hand with a couple of other pieces of legislation we have out there, including one that I'll be talking about soon on suicide awareness and prevention by training our folks in our schools to be better prepared for that and know what signs to look for. So, as I said, I stand in support of this amendment and hope we can get this advanced. Thank you, Mr. President. [LB901]

SENATOR GLOOR: Thank you, Senator McGill. Senator Dubas, you're recognized. [LB901]

SENATOR DUBAS: Thank you, Mr. President. Good morning, colleagues. I, too, stand in support of AM2233 and the underlying bill. I really especially want to pick up on the component that Senator Bolz mentioned about removing the stigma, and that is certainly what I have found since I've been working with foster children, behavioral health issues. Especially during safe haven it became quite clear. You know, comments that I heard or that were made directly to me, you know, these kids just need some good old-fashioned discipline, that's all they need, and that's what makes it hard for parents and family members to seek help because they take it very personally. They look at it as, I have failed my child, why am I a bad parent that my child is acting this way, when they truly do have a behavioral or a mental health issue that can be treated and that can be managed so that these children can lead, you know, healthy, productive lives and bring some sense of normalcy into their families. So by creating a program, a training program like this, I believe we'll start to build our network. We'll start to help people recognize that these truly are serious issues, that there is help out there available, it's not a reflection on them as parents, that there are things that can be made available to their families. And by building that network as, you know, I mentioned when I talked about this bill on General File, what our teachers are facing and how inadequate they are feeling and how frustrated they're feeling when they have children in their classrooms that they want to help but they just don't have the training to. And not that this training is going to allow them to actually treat the child, but it's certainly going to give them some foundation of where do I go from here, who do I reach out to, how can I be of assistance to this child and their family? So when I look at this amendment and look at what it intends to set up, what I see first and foremost is that building of networking statewide that will help to start to knock down these walls, start to remove that stigma of what mental health issues truly are in this state. It's easy for us to diagnose physical ailments and we can go to the doctor and we can get a pill or we can have surgery or we can do something to alleviate it. Mental health is a whole other ball game. We've made strides but we have such a long way to go when it comes to making sure that people understand the very real...that mental illness is truly an illness and that there are treatments out there, and you don't have to be ashamed and you don't have to hide. And if we can start to build that support network across the state where people can reach out to us, I think we will make improvements in this area of treatment. I'm being very optimistic by leaps and bounds. So I think this is a great amendment to a bill

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that's going to serve us as well, and I stand in strong support of AM2233. [LB901]

SENATOR GLOOR: Thank you, Senator Dubas. Chair recognizes Senator Hadley. [LB901]

SENATOR HADLEY: Mr. President, members of the body, would Senator Bolz yield to a question? [LB901]

SENATOR GLOOR: Senator Bolz, would you yield? [LB901]

SENATOR BOLZ: Certainly. [LB901]

SENATOR HADLEY: Senator Bolz, I notice that it has a fiscal note of \$100,000. Would you just take a minute or so and explain what the \$100,000 is going to be used for. [LB901]

SENATOR BOLZ: Of course. The money will flow to our eight behavioral health regions that serve communities across the state. The intention is to train 60 trainers and that is through nationally certified instructors with Mental Health First Aid USA. So this is high-quality instruction that will provide training to 60 individuals in the 8 behavioral health regions, and they're expected to reach approximately 500 people in the first year, community members, with the mental health first aid training, which is an eight-hour training, providing individuals with those basic skills. [LB901]

SENATOR HADLEY: Senator Bolz, is this basically different than the original fiscal note on the bill then? [LB901]

SENATOR BOLZ: The amendment clarifies the original intention of the bill, which was to provide grants to the eight behavioral health regions. There was a little bit of clarification that was necessary in order to be clear that the Department of Health and Human Services would not be required to add additional staff people to staff this project. Rather, they would simply need to provide grants to the eight behavioral health regions in order for those regions to do this work. They are already doing some pilot projects that have been very successful, and so this is a continuation of that work. [LB901]

SENATOR HADLEY: Thank you, Senator Bolz. I guess that answers my question, because I did have a concern on the original fiscal note, and I looked at Senator McGill's original bill. If you'll look at, we spend a lot of money for the overhead in these programs. I believe Senator McGill's original fiscal note on her bill is hiring a .4 or .5 FTE for this, a .15 FTE for this. And, you know, it...I realize that agencies in the government have a tendency to want to always hire more people when we ask them to do things, but when you have money going to overhead I question, is the money then using...being directly used on the problem? I realize that it takes some overhead to do

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them, but it's easy just to add overhead. So I would hope that on both of these bills that maybe we need to have a potential sunset so that we can have a report in four or five years as to exactly how these programs are working out and whether or not they're doing the things that we ask the departments and the university to do in these areas. Thank you, Senator Bolz. [LB901]

SENATOR GLOOR: Thank you, Senator Hadley and Senator Bolz. Are there other senators wishing to be recognized? Seeing none, Senator Bolz, you're recognized to close on your amendment to LB901. [LB901]

SENATOR BOLZ: Thank you, Mr. President. And thank you, Senator Hadley, for the opportunity to clarify the fiscal note. This bill does provide training directly to the behavioral health...funding directly to the behavioral health regions to directly train trainers and community members. And I appreciate the comments of all the individuals on the floor. I do believe that just like CPR and other kinds of first aid, this training has the potential to help community members help one another through crises and get the services and help that they need, whether they're facing depression, postpartum depression, posttraumatic stress disorder, or any other symptom or indication of mental illness. I appreciate your green vote on AM2233. Thank you, Mr. President. [LB901]

SENATOR GLOOR: Thank you, Senator Bolz. Members, the question before us is, shall the amendment to LB901 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB901]

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of Senator Bolz's amendment. [LB901]

SENATOR GLOOR: The amendment is adopted. [LB901]

CLERK: I have nothing further on the bill, Mr. President. [LB901]

SENATOR GLOOR: Senator Murante for a motion. [LB901]

SENATOR MURANTE: Mr. President, I move to advance LB901 to E&R for engrossing. [LB901]

SENATOR GLOOR: Members, you've heard the motion. All in favor say aye. All opposed say nay. LB901 is advanced. [LB901]

CLERK: Mr. President, LB901A. Senator, I have no E&Rs. Senator McGill would move to amend with AM2225. (Legislative Journal page 770.) [LB901A]

SENATOR GLOOR: Senator McGill, you're recognized to open on your amendment.

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[LB901A]

SENATOR MCGILL: Thank you, Mr. President. Members of the body, this is the amendment to the A bill that reflects the amendment we just put on to LB901, incorporating Senator Bolz's bill into mine, so that will increase the fiscal note by about \$100,000, which is what her bill calls for. It also just tweaks, I believe, tweaks the numbers that were in the original one in terms of mine, because there was a minor discrepancy between what BHECN at UNMC thought the costs would be and what our Fiscal Office thought. BHECN's was actually lower, and so our fiscal note reflects that. I ask for your support. [LB901A LB901]

SENATOR GLOOR: Thank you, Senator McGill. Members, you've heard the opening on the amendment to LB901A. Are there senators wishing to be recognized? Seeing none, Senator McGill, you're recognized to close. Senator McGill waives. The question is, shall the amendment to LB901A be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Senator McGill. [LB901A]

SENATOR MCGILL: Mr. President, I'm going to have to...well, let me see, hold on just a second. I'm thinking about what I'd like to do here. (Laugh) Ah, I don't stand for any reason. Thank you. [LB901A]

SENATOR GLOOR: Thank you, Senator McGill. Record, Mr. Clerk. [LB901A]

CLERK: 26 ayes, 0 nays on adoption of Senator McGill's amendment. [LB901A]

SENATOR GLOOR: The amendment is adopted. [LB901A]

CLERK: I have nothing further on the bill, Mr. President. [LB901A]

SENATOR GLOOR: Senator Murante for a motion. [LB901A]

SENATOR MURANTE: Mr. President, I move to advance LB901A to E&R for engrossing. [LB901A]

SENATOR GLOOR: Members, you've heard the motion. All in favor say aye. All opposed say nay. LB901A is advanced. Mr. Clerk. [LB901A]

CLERK: LB776, no E&Rs. Senator Hadley would move amend with AM2114. (Legislative Journal page 747.) [LB776]

SENATOR GLOOR: Senator Hadley, you're recognized to open on your amendment. [LB776]

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SENATOR HADLEY: Mr. President, members of the body, first I have a question for the President. How long do I have to open on my amendment? [LB776]

SENATOR GLOOR: Ten minutes, sir. [LB776]

SENATOR HADLEY: Okay. The amendment is on page 6, line 17, we're going to strike "14504" and insert "14504a." With that, I will close. [LB776]

SENATOR GLOOR: Thank you, Senator Hadley. Members, you've heard the opening on the amendment. Seeing no members wishing to speak, Senator Hadley, you're recognized to close. Senator Hadley waives closing. The question is, shall the amendment to LB776 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB776]

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of Senator Hadley's amendment. [LB776]

SENATOR GLOOR: The amendment is adopted. [LB776]

CLERK: I have nothing further on the bill. [LB776]

SENATOR GLOOR: Senator Murante for a motion. [LB776]

SENATOR MURANTE: Mr. President, I move to advance LB776 to E&R for engrossing. [LB776]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB776 is advanced. [LB776]

CLERK: Mr. President, Senator Murante, I have no amendments pending to LB844, Senator. [LB844]

SENATOR GLOOR: Senator Murante for a motion. [LB844]

SENATOR MURANTE: Mr. President, I move to advance LB844 to E&R for engrossing. [LB844]

SENATOR GLOOR: Members, you've heard the motion. All in favor say aye. All opposed say nay. LB844 is advanced. Mr. Clerk. [LB844]

CLERK: Mr. President, LB1016. I do have E&R amendments first of all, Senator. (ER146, Legislative Journal page 703.) [LB1016]

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SENATOR GLOOR: Senator Murante for a motion. [LB1016]

SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB1016]

SENATOR GLOOR: Members, you've heard the motion. All in favor say aye. Opposed say nay. The amendments are adopted. [LB1016]

CLERK: Senator Krist would move to amend with AM2150. (Legislative Journal page 725.) [LB1016]

SENATOR GLOOR: Senator Krist, you're recognized to open. [LB1016]

SENATOR KRIST: Thank you, Mr. President. Good morning again, members, and good morning, Nebraska. This is exactly what Senator Mello talked about in his caveats on the LB1016A bill. This enables the technical issue of moving the money from cash fund across. I ask you for your green vote. [LB1016 LB1016A]

SENATOR GLOOR: We now move to discussion. Are there senators wishing to be recognized? Seeing none, Senator Krist, you're recognized to close. Senator Krist waives. Members, the question before us is, shall the amendment to LB1016 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB1016]

CLERK: 27 ayes, 1 nay, Mr. President, on the adoption of Senator Krist's amendment. [LB1016]

SENATOR GLOOR: The amendment is adopted. [LB1016]

CLERK: I have nothing further on the bill, Mr. President. [LB1016]

SENATOR GLOOR: Senator Murante for a motion. [LB1016]

SENATOR MURANTE: Mr. President, I move to advance LB1016 to E&R for engrossing. [LB1016]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB1016 is advanced. Mr. Clerk. [LB1016]

CLERK: Mr. President, Senator, I have E&R amendments to LB699 first of all. (ER147, Legislative Journal page 704.) [LB699]

SENATOR GLOOR: Senator Murante for a motion. [LB699]

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SENATOR MURANTE: Mr. President, I move to adopt the E&R amendments. [LB699]

SENATOR GLOOR: Members, you've heard the motion. Those in favor say aye. All those opposed say nay. The amendments are adopted. [LB699]

CLERK: Senator Larson would move to amend with AM2162. (Legislative Journal page 749.) [LB699]

SENATOR GLOOR: Senator Larson, you're recognized to open on your amendment. [LB699]

SENATOR LARSON: Thank you, Mr. President. AM2162 would strike the word "currently" on page 2, line 5. This was brought to me as a concern of Senator Schumacher's. The way the amendment reads now, a doctor who is evaluating an individual for his exemption certificate would have to authorize that person "is not currently a danger to himself or herself or others." The way this is worded now implies that a person who has previously been considered a danger but is no longer would be eligible for doctor's authorization for this exemption certificate. Removing the word "currently" removes this implication and would allow a doctor to look beyond the individual's current state to consider whether or not this person should be eligible to gain the exemption certificate. Thank you, and I'd appreciate a green vote. [LB699]

SENATOR GLOOR: Thank you, Senator Larson. Members, you've heard the opening on the amendment to LB699. Are those other senators who wish to be heard? Seeing none, Senator Larson, you're recognized to close. Senator Larson waives. The question is, shall the amendment to LB699 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB699]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Larson's amendment. [LB699]

SENATOR GLOOR: The amendment is adopted. [LB699]

CLERK: Mr. President, Senator McGill would move to amend with AM2234. But pursuant to the offering of that amendment, Senator McGill would move to suspend Rule 7, Section 3(d), the germaneness rule, to permit consideration of AM2234. [LB699]

SENATOR GLOOR: Senator McGill, you're recognized to open on your question of germaneness. [LB699]

SENATOR MCGILL: Thank you, Mr. President, members of the body. AM2234 contains language from LB1035, a bill that advanced out of the Judiciary Committee that adds a measure of accountability to ensure that Nebraska is meeting an existing public safety

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obligation. I feel that this is an appropriate bill to amend my bill onto because both of them deal with firearms and who can and cannot have them. Again this, my bill, advanced out of Judiciary unanimously, and I'll get more into the details if we...if the body agrees to suspend germaneness. And I should note that the NRA and many other gun organizations are supportive of this amendment. Thank you, Mr. President. [LB699 LB1035]

SENATOR GLOOR: Thank you, Senator McGill. We now move to discussion on the question of germaneness. Senator Larson, you're recognized. [LB699]

SENATOR LARSON: Thank you, Mr. President. I rise in support of AM2234 and the suspension of the germaneness rule. As we all know, it's tough to get all our bills prioritized and heard on the floor of the Legislature. LB699 is a vehicle for AM2234, which is, as Senator McGill, supported by many firearm groups to help bring our current laws more up to date. And so, therefore, I will support the germaneness...suspending the rules on germaneness and AM2234. Thank you. [LB699]

SENATOR GLOOR: Are there other senators wishing to be recognized? Seeing none, Senator McGill waives closing. The question is a vote on the suspension of germaneness. This requires 30 votes. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB699]

CLERK: 30 ayes, 0 nays on the suspension of germaneness, Mr. President. [LB699]

SENATOR GLOOR: The motion is adopted. [LB699]

CLERK: Senator McGill would offer AM2234. (Legislative Journal page 758.) [LB699]

SENATOR GLOOR: Senator McGill, you're recognized to open on your amendment. [LB699]

SENATOR MCGILL: Thank you, Mr. President, members of the body. As I mentioned, AM2234 contains language from LB1035, if you'd like to look it up on the Chamber Viewer, a bill that advanced out of the Judiciary Committee. I introduced this bill in response to a concern discovered by the National Shooting Sports Federation (sic). Nebraska is required to share the records of persons who are unable to purchase firearms, because of disqualification or disability, with the National Instant Criminal Background Check System, or NICS. When someone attempts to purchase a handgun, the owner of the store, like Scheels, checks the NICS system to determine whether the individual is ineligible to purchase a firearm. Examples of why a person would not be allowed to would be someone having a mental disability, committed a crime of domestic violence or subject to a domestic protection or restraining order, or a fugitive from justice. The problem we've been facing, that was discovered last summer, was that

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Nebraska was not reporting its folks to the national system, so someone who has been flagged in Nebraska for having one of these disqualifications could go to Iowa or any other state and then purchase a gun there, since they weren't being flagged in the NICS system. Since last summer, the state agencies, the State Patrol and Health and Human Services, have come a long way in making sure that we are reporting properly to our federal government or to the NICS system. But because of this delay and because of a lot of back-and-forth--you're the one supposed to do it; no, you're supposed to be the one reporting this information--I was brought this bill, like I said, by the National Shooting Sports Foundation to make sure that moving forward this data is indeed being passed along to NICS. It asks that the State Patrol and Health and Human Services report to the Clerk of the Legislature every year with the data, the numbers, not the names of the people, but the data on how many names they're passing along to the system and etcetera to make sure that we have the oversight necessary here in the Legislature to make sure that this is indeed getting done from this point moving forward. Like I said, besides that organization, the NRA is also in support of this bill. And so I would ask for your green vote. Thank you, Mr. President. [LB699 LB1035]

SENATOR GLOOR: Thank you, Senator McGill. Members, you've heard the opening on the amendment. Are there senators wishing to be recognized? Seeing none, Senator McGill waives closing. The question is, shall the amendment to LB699 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB699]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator McGill's amendment. [LB699]

SENATOR GLOOR: The amendment is adopted. [LB699]

CLERK: I have nothing further on the bill, Mr. President. [LB699]

SENATOR GLOOR: Senator Murante for a motion. [LB699]

SENATOR MURANTE: Mr. President, I move to advance LB699 to E&R for engrossing. [LB699]

SENATOR GLOOR: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The bill is advanced. Mr. Clerk, some items for the record. [LB699]

CLERK: Thank you, Mr. President. New resolutions: Senator Kolowski offers LR472; Senator Hadley, LR473. Both those will be laid over at this time. Education Committee reports LB129 to General File, signed by Senator Sullivan as Chair. And I have a series of Education Committee confirmation reports also signed by Senator Sullivan. That's all

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that I have, Mr. President. Thank you. (Legislative Journal pages 771-773.) [LR472 LR473 LB129]

SENATOR GLOOR: Thank you, Mr. Clerk. Continuing with the agenda, General File, committee priority bills.

CLERK: Mr. President, LB1014 was a bill introduced by Senator Murante. (Read title.) Introduced on January 22 of this year, at that time referred to the Urban Affairs Committee. The bill was advanced to General File. I have no amendments pending to the bill at this time, Mr. President. [LB1014]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Murante, you're recognized to open on your bill. [LB1014]

SENATOR MURANTE: Thank you, Mr. President. Members, good morning. LB1014 is part of a series of bills which I introduced this year in an effort to make the election laws of Nebraska more accessible to the average person. It is part of a series of bills which have been introduced over a course of several decades which transitions the election of the leadership of the political subdivisions, particularly in the Omaha metropolitan area, from a method of at-large elections to a method of district-based elections. There are a few things that are unique about LB1014 which were not present in some of the other efforts that have been undertaken along these lines. First of all, LB1014 was advanced out of the Urban Affairs Committee unanimously and I'd like to thank Senator McGill for prioritizing this as an Urban Affairs priority. Second of all and what's very unique in the process of transitioning from at-large-based elections to district-based elections is that MUD supported this bill. Historically, when political subdivisions have been asked to make the transition from at-large-based elections to district-based elections, they've been forced, kicking and screaming, by this Legislature across the finish line. But ultimately, it was the right thing to do. And I'd like to thank the members of the MUD board and their representative, Mr. Kubat, for participating in this yearlong negotiation. Last year you may recall that I introduced LB646, which this Legislature passed and Governor Heineman signed, which pertains to OPPD and how that board of directors was elected. And we unanimously chose to transition from at-large to district-based elections, and the reasons were pretty clear. In the history of OPPD and MUD, never once has a minority ever been elected to either board. In the political subdivisions in the Omaha metropolitan area which have district-based elections, all of them have at least one person of color elected to the board and in many cases currently serving on the board. It's a problem. It's a problem of methodology and it is a problem that this Legislature has recognized and that we have corrected. And what's more is LB1014 will, as far as I'm concerned, represent the last bill of its kind on this subject matter, as this will be...MUD will be the last political subdivision to make the transition. Every other political subdivision in the city of Omaha, as far as I know, has district-based elections and has guaranteed equal representation for every constituent over which it represents.

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We have gone over the issues related to district-based elections. I won't belabor the point except to say that I thank the Urban Affairs Committee for their overwhelming support. I thank the representatives from MUD. This certainly is not an indictment on the individual directors themselves or how they have conducted themselves in office. I don't take any exception to any of the decisions that MUD has made. This isn't about that. This is about a method of elections for political subdivisions. It ought to be uniform. It ought to be standard. LB1014 is the right way to go. And I'd be happy to answer any questions you have. Thank you, Mr. President. [LB1014 LB646]

SENATOR GLOOR: Thank you, Senator Murante. Members, you've heard the opening on LB1014. We now move to floor discussion. Senator McGill, you're recognized. [LB1014]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I simply rise in support of Senator Murante and LB1014 and wanted to give just a tiny bit of legislative history. We saw a similar bill back in 2011 from Senator Council. It at that time came out of the committee unanimously as well but just got caught up in the session and we didn't end up getting to it as a legislative body. It was a good bill then; it's an even better bill now. I've had the pleasure of carrying similar legislation in the past which moved Lancaster County into this form of elections, into district elections. I think it's the right way to go and am completely supportive and don't imagine debate will go on too long here on this particular issue. But thank you for the time. [LB1014]

SENATOR GLOOR: Thank you, Senator McGill. Seeing no other senators wishing to speak, Senator Murante, you're recognized to close on the advancement of your bill. [LB1014]

SENATOR MURANTE: Yes, Senator McGill mentioned Senator Council, who deserved to be recognized. This idea was initially introduced by her when she was a member of this Legislature. It appears that it is poised to pass this time around and I think she also deserves a little recognition for advancing the ball on this topic. But with that, I will close and urge your support of LB1014. Thank you, Mr. President. [LB1014]

SENATOR GLOOR: Thank you, Senator Murante. The question is the advancement of LB1014 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB1014]

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB1014. [LB1014]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB1014]

CLERK: Mr. President, LB986, a bill offered by the Revenue Committee and signed by its members. (Read title.) Introduced on January 21 of this year, it was referred to the

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Revenue Committee. The bill was advanced to General File. I do have committee amendments, Mr. President. (AM2041, Legislative Journal page 609.) [LB986]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Hadley, you're recognized to open on LB986. [LB986]

SENATOR HADLEY: Mr. President, members of the body, LB986 deals with homestead exemption. I was doing some reading last night, and we spend a lot of time talking about national surveys and where we rank on particular items with other states. And we like to celebrate when we rank high, when we do good things. Nebraska is a great place to live. Nebraska is a great place to work, raise a family, make your home. But a survey that I looked at last night wasn't quite as good. It was Kiplinger's "Twelve Worst States to Retire In," and we made the list as number eight. So basically, 42 other states are considered, by this report, as better places for retirees to retire. We heard this consistently on the Tax Modernization Committee this past summer. We haven't done a good enough job of looking at our retirees and making Nebraska a fair place for people to retire. They've made their life here, family here, want to live here, and we want these people to stay here. We're going to bring you a package of different things that I think helps our retired families. We're going to bring a bill later that deals with Social Security. We're one of six or seven states that do not exempt any more than the federal law requires us to do. We're going to bring you a bill on...starting on looking at military retirement, something we need to do. And we have LB986, which deals with the homestead exemption. One of the keys to having people retire and stay in Nebraska is the ability for them to keep their home. I can think of nothing more heartrending than a person to lose their home based on their inability to pay the property taxes on the home. We've had the Homestead Exemption Act for a number of years. It is designed to help the lower income stay in their home. First of all, it works on the premise that the taxes are charged to each homeowner by the taxing authorities: the cities, the counties, the school districts, the NRDs, the ESUs, the community colleges. They do not pay for this. The state of Nebraska pays for it. We effectively reimburse those taxing entities for the amount of revenue that they would lose. So there's no cost to individual taxing. What LB986 does is recognize that it takes more money now for the elderly to live and takes more money to pay property taxes. So what the bill...it changes the income guidelines for the homestead exemption program, making them more generous and allowing people to receive some benefits at higher levels of income. As I said, this past year the Revenue Committee has heard a lot of complaints from the elderly about Nebraska's tax system. This bill and our income tax bill, which will come up later, are our ways of addressing these complaints. In this bill, people who do not have large amounts of retirement income will receive state-funded homestead exemptions, and those state-funded exemptions will phase out more slowly than they do under current law. We're trying to do away with the cliff effect, which means that you make one more dollar and you basically lose all the benefits you were getting. That is unfair. The committee felt that reducing the property tax burdens of elderly households would be an

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improvement to our state and local tax structure. I would note the cost of the state homestead exemption program decreased this past year, which I think says a little bit that people, as their incomes are going up, they're losing this exemption. The adoption of the committee amendments is very necessary, as the original bill as drafted did not increase the income guidelines using the indexing of income guidelines which is in the current law. After correcting this mistake in indexing the income guidelines, the bill should result in an increased commitment of about \$4.2 million to the homestead exemption program in future years. There are amendments and we will explain those as we go along. I, as Senator Murante thanked the Urban Affairs Committee, I believe it was, I want to thank the Revenue Committee, out of the generousness of their heart, that they made this a committee priority. It is a good bill. Cost is relatively small to help a significant number of elderly Nebraska. With that, I would close and be willing to open on the amendments. [LB986]

SENATOR GLOOR: Thank you, Senator Hadley. (Visitors introduced.) As the Clerk stated, there are amendments from the Revenue Committee. Senator Hadley, as Chair of that committee, you're recognized to open on the committee amendments. [LB986]

SENATOR HADLEY: Let's see, I believe the committee amendment is...okay, we have pulled AM1750? [LB986]

SENATOR GLOOR: We'll do that after we've adopted. [LB986]

SENATOR HADLEY: Afterwards, okay. The committee amendment, AM2041, as I suggested, we had...the original bill had the wrong data for the brackets. So what this does is correct the brackets is basically this amendment. [LB986]

SENATOR GLOOR: Thank you, Senator Hadley. Mr. Clerk. [LB986]

ASSISTANT CLERK: Mr. President, Senator Watermeier would move to amend the committee amendments with AM2060. (Legislative Journal page 665.) [LB986]

SENATOR GLOOR: Senator Watermeier, you're recognized to open on your amendment to the committee amendments. [LB986]

SENATOR WATERMEIER: Thank you, Mr. President, and good morning, Nebraska. I rise to introduce AM2060 which contains the contents of LB850, the bill I introduced to allow individuals who have a developmental disability as defined in Section 83-1205 to qualify for the homestead exemption. The definition of developmental disability is the same as used in the Developmental Disabilities Services Act. The application for exemption must include certification from the Department of Health and Human Services. Currently only persons over the ages of 65, qualified disabled individuals, and qualified totally disabled veterans and their widows are eligible for the Nebraska

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homestead exemption. The category for qualified disabled individuals is limited to persons with a permanent physical disability and loss of the ability to walk without regular use of a mechanical aid or prosthesis or persons with amputations of both arms above the elbow or permanent partial disability of both arms in excess of 75 percent. The current definition of disabled applies only to specified physical disabilities and does not include intellectual disabilities. I believe that persons with developmental disabilities who meet the income and valuation guidelines are also deserving of and should qualify for property tax relief. Statistics indicate that approximately one-third of noninstitutionalized persons ages 21 to 64 with cognitive disabilities in Nebraska were living below the poverty level. AM2060 would help reduce some of the financial barriers to individuals with developmental disabilities while acquiring housing or maintaining independent living. Furthermore, by living in their own home, rather than a group home or institution, not only does it allow them more independence, it also is much less expensive. As I understand, the Division of Developmental Disabilities for HHS has a process to determine eligibility for persons with developmental disabilities seeking services through their agency. However, the Department of HHS does not keep statistics on the number of persons with a developmental disability who own their own home. The Department of Revenue used data from the University of Colorado research study which cites the number of persons in Nebraska with developmental disabilities who live alone or with a roommate but does not appear to further define how many actually own their own home. The executive director of Region V Services conducted an electronic poll of providers of developmental disability services asking how many own their own home. Approximately 4,200 adults with developmental disabilities in the state of Nebraska currently receive specialized services. He received responses from providers who provide more than 90 percent of these services, including...indicating that 42 individuals own their own home. I realize that projections must be made when data is not collected; however, I believe that the number of persons that would be eligible for a homestead exemption under this amendment may be far fewer than the number used to determine the projected cost of the legislation. LB850 advanced from Revenue Committee on an 8-0 vote. No one testified against the bill. I ask for your favorable vote on this amendment and would be happy to answer any questions. [LB986 LB850]

SENATOR GLOOR: Thank you, Senator Watermeier. Members, you've heard the opening on the amendment to the committee amendment, the committee amendment, and LB986. We now move to floor debate. Senator Adams, you're recognized. [LB986]

SPEAKER ADAMS: Thank you, Mr. President. I wonder if Senator Hadley would yield to a question. [LB986]

SENATOR GLOOR: Senator Hadley, would you yield? [LB986]

SENATOR HADLEY: Yes, I would. [LB986]

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SPEAKER ADAMS: Senator, I'm going to make some observations and then I'll let you have the rest of my time to respond in any way that you want. And then if I'm...if my observations are not right, please correct it. First of all, this is property tax relief, is it not? [LB986]

SENATOR HADLEY: That's correct. [LB986]

SPEAKER ADAMS: And we're ratcheting up the eligibility income levels, so we're going to have more people that will be eligible for the homestead exemption. Is that correct? [LB986]

SENATOR HADLEY: That's correct. [LB986]

SPEAKER ADAMS: I don't have a problem with us doing this. I'm going to support this. But I want to make an observation that I've always been a little bit concerned about and that, Senator Hadley, is what I'd like you to respond to. In my time that I served on the Revenue Committee we talked about homestead exemption and we watched homestead exemption and it is a way of granting property tax relief and most probably where property tax relief is needed. But consider where our population is going and the bubble and how many people are going to fall into this category, eligible for this homestead exemption one of these days. And as that population bubble increases and these eligibility levels increase, one of my concerns that I think Legislatures in the future are going to have to consider: Are we shifting and how much are we shifting the residential property tax burden onto our younger homeowners? And that's always been a concern of mine and, well, Senator Hadley, I'm going to stop right there and let you respond if you'd like. I'll yield to you. [LB986]

SENATOR GLOOR: Two minutes 40 seconds, Senator Hadley. [LB986]

SENATOR HADLEY: Thank you, Senator Adams. I share that concern. If you remember, I stated it on the floor and I've stated it on the...in the committee. We have what we call the dependency ratio, and that is basically the ratio of people who are in the retirement age divided by the people who are working. And that ratio is about .47 now in Nebraska and it goes up to about .84 by 2030. So, Senator Adams, you are correct, we will have about 250,000 more people over age 65 in 2030. So this could grow. But my point, I guess, to answer, and the reason that I think this is important: Does that change the fact that some of these people may need help? I don't know what the statistics will show as the baby boomers come through. My gut reaction is that I think people now are probably paying more attention to retirement and more attention to funding retirement. As we go away from more defined benefit plans to defined contribution plans, I think people are becoming more concerned, so I think there might be a possibility that we might have a lower percentage using the homestead exemption because of the fact that they might be planning better for retirement. That's just an

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assumption on my part. I have not done any research on it. But I do...concerned about the way this...the bubble that will come. And that's something that...a legacy that we will leave to our future legislators to work out. Thank you, Mr. President. [LB986]

SENATOR GLOOR: Senator Hadley, you're next in the queue. [LB986]

SENATOR HADLEY: Yes. I just wanted to stand and say that I certainly support AM2060. I think this is a great bill. I know there is a concern about moving these citizens into their own homes and making it possible for them to lead the lives they want to lead, including home ownership. If there's something we can do to help that home ownership become possible, I certainly support it. With that, I would yield the rest of my time to Senator Watermeier if he wishes to use it. [LB986]

SENATOR GLOOR: Senator Watermeier, 4:22. [LB986]

SENATOR WATERMEIER: Thank you, Senator Hadley, and thank you, Mr. President. [LB986]

SENATOR GLOOR: Oh, I'm sorry, Senator Watermeier. Senator Hadley, you can't yield time yielded to you. I'm sorry. You were on your own time, Senator. My apologies, Senator Watermeier. Continue. [LB986]

SENATOR WATERMEIER: Thank you, Senator Hadley. I would just say this in closing, if there's no one else to speak in the queue, that this really wasn't an easy decision for me to pick this up for the same reasons that Senator Adams had spoke about. I am concerned about those very same things, about a shift, and we're going to have to face those whether it's 5 years or 25 years or 50 years. But to me this was an easy decision. Any time we can keep someone like a DD person out of an institution and in their own home, you can just see the pride swell up in them and they want to do better and they want to serve and it's just an easy decision for me. So I'd appreciate your vote on this amendment, AM2060. Thank you, Mr. President. [LB986]

SENATOR GLOOR: Thank you, Senator Watermeier. Senator Schumacher, you are next in the queue. [LB986]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. We're approaching that time in the session where we're going to have to sober up and look at the numbers, and the numbers are not happy numbers. Almost certainly, we're going to see, before we're through with our time in the Legislature and future Legislatures are through, increased pressures for increased state spending. The baby-boomer bubble, many of them have not saved enough. That may or may not be their own fault. They have not been able to get interest on their investment. That may or not...that was not their own fault. We see no ability or prospect that the federal government is going to bail

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us out of any jams that we get ourselves in and we see a younger population, an increasing number of which are having children that they are not emotionally or financially able to support without government safety nets--not a happy picture. And in that context we have to look at the revenue side because any revenue relief tax measure that we put through comes at the expense of an increasing burden on someone else. And the Tax Modernization Committee and the Revenue Committee anguished over this issue. We heard legitimate arguments from retirees, baby boomers approaching retirement that their tax burden, on property tax in particular, was too high--some thought it was too high on income tax, too--and request that we do something to help the retirees. And when you looked at the various proposals out there as to how you might exempt things from income tax, how you might adjust property taxes, how you might do this, that, or the other thing, the one haunting thing that came up was that all those shift burden to young, productive families who are trying to emotionally and financially support their children and it shifts burden there fairly dramatically. Those folks weren't before the committee. They were at their jobs. They had no association standing there saying, wait a minute, don't do this to us. So we anguished about this thing. We tried to balance the fairness issues. And this particular bill, LB986, stretches things about as far as common sense will let them be stretched to try to extend some aid to the folks who are retired and will be retiring while balancing that against the fact that we can't put more pressure on our young families, particularly those making between \$20,000 and \$120,000 a year. This is tax relief as best as it can be squeezed out of a system where we probably can't cut much for expenses and may actually look to have to increase expenses as those social safety nets are called more and more for by the elderly and also by the young children who are in a circumstance where they need a safety net. So these are not happy times, but I do think we need to underscore and stress that this is property tax relief and the system and the Revenue Committee and the Tax Modernization Committee did our best to try to come up with something that was about as far as you could go without reading a Kiplinger newsletter that says, Nebraska: the worst place for young families. [LB986]

SENATOR GLOOR: One minute. [LB986]

SENATOR SCHUMACHER: These are our challenges, these are the things that we're going to have to deal with, and ideology aside, we're just going to have to make the best we can, realizing that times are going to be tough and tougher as the baby boomers age and tougher as we struggle with the economic problems of a global economy. Thank you. [LB986]

SENATOR GLOOR: Thank you, Senator Schumacher. Members remaining in the queue: Davis, Bloomfield, and Kolowski. Senator Davis, you're recognized. [LB986]

SENATOR DAVIS: Thank you, Mr. President. Senator Schumacher stole a little bit of my thunder. I'll have to get even with him later on. But this is a very tough issue as to

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how in the world we're going to solve everyone's problems and make everyone happy. I just think it's really important to recognize that what we do here, especially in the nonequalized school districts, is a tax shift whether you like it or not. It's going to be a tax shift from some residential property to other people's residential property, to commercial property and to ag property. And attending all those Tax Mod Committee Meetings across the state, we heard property tax relief was an important thing, and this is one element of it. But let's think about just before we vote on this--and this probably needs to go through; I'm probably going to support it just as Senator Adams is--but let's just think about what we've got. We've got...we'll take a young teacher that moves to some small town in Nebraska and he or she starts out at the minimum and buys a house there and has two kids and has college debt and probably has a car payment and has a lot of expenses that go along with that and isn't making very much money, is going to fit into this category but isn't over 65 and doesn't have disabilities, has to have clothes to go to work, has to drive a lot to get to and from work. We've got retired people that have the car, it's already paid for, their kids are raised, and I think we need to think about these young families, what we're doing. If we want growth in Nebraska we need to incentivize these young people, too, in some way. And the other thing we're doing is shifting a lot of the cost here to agriculture. And at the ag breakfast this morning we heard from farmers and ag people who said, you know, we talked about property tax relief, that's all we've talked about in the Tax Modernization Committee meetings, where is it for agriculture? Agriculture pays the bills in this state, seems to always get short shrift because, you know, somebody might...well, we might move, we might move to Colorado, we might move to Florida if you don't give us breaks here. I think this program could grow into something that maybe we're going to have to readdress in a few years. As people my age start retiring you're going to see quite a significant increase in that. Revenues are still going to be needed to pay the bills at the schools, to pay for people who can't afford healthcare, and etcetera, etcetera. We're going to have to find revenue somewhere. Thank you, Mr. President. [LB986]

SENATOR GLOOR: Thank you, Senator Davis. Senator Bloomfield, you're recognized. [LB986]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, Senator Adams and Senator Hadley described this as property tax relief, and I guess to a degree it is, but it's a pretty thin line. The committee on taxes or whatever you...I don't have the official name on the end of my tongue, but Senator Hadley headed it up and went across the state, and all across the state they heard, property tax relief, property tax relief, ag land property tax relief, and I don't see this being ag land property tax relief. We are struggling to get young people into agriculture. At some point we are going to have to deal with property tax relief and this little carve-out is not the answer. I don't know. We seem like we have money to spend here but we don't have money for property tax relief. I'm having trouble dealing with that yet. I understand we have money to build new fountains inside the Capitol Building that we've gotten along just fine without for a long,

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long time, but we don't have any money to give back to the property taxpayers. I am just going to have a problem with that going forward. And I will go ahead and support this because it is a sliver of property tax relief, but it's nowhere near where we need to go. We need to quit spending money and let's give a little money back to the people that are paying property taxes. Thank you, Mr. President. [LB986]

SENATOR GLOOR: Thank you, Senator Bloomfield. Senator Kolowski, you're recognized. [LB986]

SENATOR KOLOWSKI: Thank you, Mr. President. Good morning, colleagues. I stand not in...for or against what we have on the board at the current time but as a point of reference I'd like to turn to something and put it in the record that we might take a look at in our own futures. I know it's going to be on my reading list in a very, very short time as I heard a review of this particular item in the last couple of days, and I think it behooves us all to have one of those reality checks that will have a great impact on our thinking, I believe. If you have your gadget and you go to something called the "Next America," type that in, and let it come up, and the book is called The Next America: Boomers, Millenials, and the Looming Generational Showdown, by Paul Taylor from the Pew Research Center. It's a demographic...it's a demographic overhaul of where our country is and the directions we're going and the numbers that are in each of those categories that are coming down. There will be tremendous impact and huge decisions that we're going to have to make, and this is only the beginning that we're hearing about. As Senator Schumacher talked about the paying the piper on all the requests that we're getting for tax relief and everything else, we've got a great deal to think about and we're not even touching the data that we need to begin to look at to get into this in great detail. So I just leave that as a point of reference and I thank you, Mr. President. [LB986]

SENATOR GLOOR: Thank you, Senator Kolowski. Senator Nelson, you're recognized. [LB986]

SENATOR NELSON: Thank you, Mr. President, members of the body. With regard to AM2041, would Senator Hadley respond to a question or two, please? [LB986]

SENATOR GLOOR: Senator Hadley, would you yield? [LB986]

SENATOR HADLEY: Yes, I will. [LB986]

SENATOR NELSON: Thank you, Senator Hadley. I'm looking here at the amendment where I guess the rates and the columns are corrected. When...on page 1 and 2, for 2014, calendar 2014, we're talking...there's a table for qualified married or closely related claimants and then also for qualified single. And then we move on to pages 4 and 5 and there are other tables there which are different. There, they drop the

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"qualified," and they just talk about married persons or single persons as...what's the difference there? Can you explain what the progression is and why these tables are set out as they are? [LB986]

SENATOR HADLEY: Your question then is... [LB986]

SENATOR NELSON: We're dealing again, on pages 4 and 5 at the very bottom, we're dealing again with 2014 and it seems to me...and then on page 5, again on calendar 2014, for married or closely related claimants and single claimants. What...when we go to pages 4 and 5, why the difference there? Why are we...what type of distinction are we making there? I can't put my finger on that. [LB986]

SENATOR HADLEY: Senator Nelson, I believe the distinction is basically three groups. One is the elderly, the normal retirees. The second deals with disabled, and the third deals with veterans who have the disability factored in, so that's the reason for three different groups. [LB986]

SENATOR NELSON: Oh, all right. I see that. Now that's a continuation of the exemptions for veterans and also the...Senator Watermeier's amendment for developmentally disabled persons. All right. I understand that. The other thing, if...I'd like to be clear on what household income is. Is that the gross income that the couple or the individual have to provide or is taxable income that's being exempted? [LB986]

SENATOR HADLEY: I believe it's the adjusted gross income that the couple would have, Senator Nelson, but I will look to be sure and get you the answer. [LB986]

SENATOR NELSON: Well, thank you very much. [LB986]

SENATOR HADLEY: AGI, I believe it's AGI. [LB986]

SENATOR NELSON: Yeah, yeah. And I know this involves the Department of Revenue, the determination, but where there is just hardly any income except Social Security income and, therefore, not taxable, I suppose there's some other way of determining, if there's no tax return filed, if they qualify for the exemption. [LB986]

SENATOR HADLEY: Right. [LB986]

SENATOR NELSON: Would that be correct? [LB986]

SENATOR HADLEY: That would be correct, sir. [LB986]

SENATOR NELSON: All right. Thank you, Senator Hadley. Thank you, Mr. President. [LB986]

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SENATOR GLOOR: Thank you, Senator Nelson and Senator Hadley. Senator Brasch, you're recognized. [LB986]

SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues. I do believe that AM2060 to AM2041 is a good move. I do support it, as well as AM2041 and also LB986. I stand in support of those. And to address the Speaker's comments about the young people and where we're moving tax burden, that is also valid, but I do stand in support of property tax relief on ag land value. I know the committee is meeting today, but in four years, at least three town hall meetings per year, if not more, these are working meetings where you ask your constituents, you know, what is the greatest tax burden? I heard exactly what the Tax Modernization Committee has said they have heard across the state where property tax is the number-one concern. And when you look at which tax has risen disproportionately compared to other taxes, this is a tax that has seen increases of 20 percent and above. We do want to help those retired individuals. Because they're retired it doesn't mean their expenses stop. You know, expenses continue, whether it's for propane, which now has become an extreme burden, to going to the grocery store, you know, those expenses increase. They are on limited incomes, many of them. That does address it. But let's not turn a blind eye to rural Nebraskans who are struggling. If we need to fix TEEOSA, let's work on TEEOSA. But as far as working order, let's start with who has seen the most increase, and it would be those people who pay not only a property tax increase through ag land assessed for income to personal property tax on top of that to income tax. There's a triple taxation factor that hopefully that is addressed, but this is good. We do need to help our military and our retired individuals. And with \$1.2 billion of people's tax dollars, let's look at how we can return money and to those who we have taken the most from. Retired individuals have paid taxes all life long. They have paid and they're being taxed on their retirement. This is a good bill in the right direction and the amendments. But let's not avoid a major duty that we have looking at what the Tax Modernization Committee wanted to do this year. Last year we froze most tax bills because we were...wanted to wait until the results of this study came about. We wanted to listen to Nebraskans. So if we are listening, let's show them that we meant what we said and we're going to take action necessary. Thank you very much, Senators and colleagues and Mr. President. [LB986]

SENATOR GLOOR: Thank you, Senator Brasch. Senator Hadley, you're recognized. [LB986]

SENATOR HADLEY: Mr. President, members of the body, I wanted to respond to some of the comments that have been made. First of all, Senator Nelson asked about paying income tax and such as that. Yes, there is an application that has to be filed yearly with the assessor and then it goes to the Revenue Department to verify income and such as that. So that...this is a system that comes about. We've had the discussion come into

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the property tax relief area. This is property tax relief for these individuals because the funds come out of the General Fund to replace the property taxes. When we talk about any tax relief this session I've heard from numerous groups basically talking about income tax relief, talking about property tax relief. We've had people who talk about exemptions from sales taxes. And the question I ask people and I'm going to consistently ask this body as we move forward on the tax debate...it's easy to be for tax relief. It's easy to be for property tax relief. It's easy to be for income tax relief. But I want to ask you the second question: What are you willing to cut? If you want relief, it's got to come out of the General Fund. Do you want to cut TEEOSA? Do you want to cut aid to schools? We consistently heard on the Tax Modernization Committee the state needs to fund more money in TEEOSA. Okay, you want to put more money in TEEOSA, there's two ways to do it: raise taxes at the state level or cut spending someplace else. Do you want to cut Health and Human Services? We could do that and give property tax relief or income tax relief. What do you want to cut? I know in the new budget Senator Mello has shared with me there's money in there for the waiting list. We could cut that out and give property tax relief. What I'm saying is that in order to get this tax relief if we want it, then you've got to be willing to stand up and not just give lip service to what you want to cut. We're going to have bills on prisons, prison reform. We don't have to do it. We could give property tax relief instead. Someday we might have a federal judge come in and tell us what we have to spend. So I guess my only point is, when people stand up and talk about wanting tax relief, I want tax relief, but I'm like the rest of you. When we get down into the weeds and try to determine what we're willing to cut in order to get it, it becomes much, much more difficult. It's not an easy task. I'm not going to get into the debate on this bill, whether we should be... [LB986]

SENATOR GLOOR: One minute. [LB986]

SENATOR HADLEY: ...decreasing ag land values. I'm not going to get into a debate on this bill whether we should be lowering income tax rates, increasing the brackets. But the time will come because we're going to have a bill, probably next week, where we start tackling some of the income tax concerns that are going to have far-reaching impacts for this body. The nice thing, in term limits we can all be gone and we can kick the can down the road to the next Legislature or two. But again, I just want to say, every time we talk about tax relief, think in the back of your mind what you feel where we are inefficient or where we are spending our money in the wrong places in the state of Nebraska. Thank you, Mr. President. [LB986]

SENATOR GLOOR: Thank you, Senator Hadley. Senator Johnson, you're recognized. [LB986]

SENATOR JOHNSON: Thank you, Mr. President. I just want to talk a little bit about the...I guess I might just call it the general philosophy of the homestead exemption, and I think I understand it pretty well. When I sat as mayor, I knew about those situations

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and...but I guess my question might be, are we...what people are we trying to target? And I know the answer, but maybe I better...Senator Hadley, would you yield to a question? [LB986]

SENATOR GLOOR: Senator Hadley, would you yield? [LB986]

SENATOR HADLEY: Yes, I would. [LB986]

SENATOR JOHNSON: The survey that you commented on about the top 12, bottom 12, we were number 8, do you know what wage brackets were surveyed in that? I'll explain why I asked the question. The higher wage earners probably saw property tax and other things high and probably have the ability to move to warmer climates or move away. People in the middle income bracket are, I think, maybe more home rooted and people in the lower income brackets, which this targets and I kind of support that, are...probably don't have the ability to move to a different climate maybe, as well. Do you know what groups and how that survey was conducted? [LB986]

SENATOR HADLEY: I'm sorry, Senator Johnson, I do not know. I could try and dig deeper into the data. But you are absolutely right. The movement for the people that this impacts, the movement could be out of their homes that they've lived in for years to apartments because they can't afford the property taxes. [LB986]

SENATOR JOHNSON: Yeah. I mean, I understand it. I was just curious because, you know, we're talking about other areas of exemptions and fit into different things. And now as we start...really get down the road of tax study, tax relief, we're going to have many...you know, a lot of questions on this. As a mayor I saw people that were moving into the community, into the city limits, and, you know, they've moved into pretty nice homes and they came from...a lot of them are coming from agriculture and retiring and I will admit the discussion this morning at the ag breakfast dealt with rural property taxes and they...some of them admitted that they created the problem by spending too much money on property that they wanted, maybe it fit them very well, and they've created their problem and they want some help. But I guess I'm just trying to figure out if this is really going to serve the people that are really going to retire and need to move to another state. I guess that's my main concern. That's all I'll comment at this time. Thank you. [LB986]

SENATOR GLOOR: Thank you, Senator Johnson and Senator Hadley. Senator Schumacher, you are recognized. [LB986]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. It's kind of fun to throw around big numbers like we're loaded with money and it's time to just stop collecting it or refund it. But let's think just a little bit. Of those big numbers that were thrown around earlier, there's a figure, about \$7 million, projected at some point soon,

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hopefully, to be in our rainy-day fund, and that number is not something that any of us here today dreamed up. It's a number that was settled on in a little soberer times when perhaps there wasn't quite as excruciating commotion about taxes and it's basically two months of expenses. Personally, I think that that's about 50 percent too low; we should have three months of expenses. But that number served us well. That, together with a big amount of money from the federal government, stopped us from bouncing checks a couple of years ago, and prudence would tell us that we are not through the global and even the national economic woes. We can say, ah, we passed through the Great Depression (sic--Recession) okay and now things are going to be booming and we're going to see 7 percent growth in personal income and whatever figures that people can dream up in the heyday. But caution tells us to look back to the period just before World War I, when there were dramatic parallels between the economic situation, what appeared to be stability then, and the situation that we have now. And then it was the murder of an archduke that set the whole thing absolutely crashing. Today it looks like we escaped similar situations that might have developed in Syria, might have developed in Bosnia, may still develop there. So we are on thin, thin ice. It would be totally insane of us to drop below what was set in a soberer time as a cash...as a rainy-day fund. And there is not hundreds of thousands or hundreds of millions of dollars laying around. We have some money that is in various dedicated purposes and Cash Reserves at different point and cash accounts. But that's one-time money that if you spend it you're going to have a problem funding already dedicated purposes. So let's sober up. There's not a lot of money to throw around. There's not a lot of magic that we can do in this body unless we want to be reasonably reckless, if there is such a thing as reasonable recklessness. So when we stretch our situation to pretend to tell the taxpayers that we can do magic, they will be disappointed because we can't. Even the deal with the property tax from 75 percent to 65 percent, there were some numbers floating around yesterday that if you extrapolate that, that would amount in at least counties in my area of the woods to about between \$300-500 in tax savings on a quarter section of land, \$2-3 an acre, hardly enough to fuel a combine for a few rounds. So there's no magic we can do, folks. We can do a lot of political rhetoric and we can pound on our chest and we can do a lot of ideological statements, but in the end we have a responsibility to fund those things which we say are important to fund, to maintain a strong Cash Reserve because the federal government is not going to bail us out the next time. [LB986]

SENATOR GLOOR: One minute. [LB986]

SENATOR SCHUMACHER: It'll be lucky if it can meet its own obligations to its own programs, let alone keep our military strong. And we've got this problem of our society with an aging population, along with an increasingly dependent children population, that we are not competently dealing with. So, you know, as part of this great waking up and hopefully waking up sober process that we're engaged in, we need to realize that there's no magic, there's only headaches, and we need to proceed down the course of prudence. Thank you. [LB986]

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SENATOR GLOOR: Thank you, Senator Schumacher. Seeing no senators remaining in the queue...excuse me. Senator Nelson, you are recognized. [LB986]

SENATOR NELSON: Thank you, Mr. President. Colleagues, I can't lose this opportunity. I of course support what we're doing in or have...will be putting out from the Appropriations Committee and the amount of money that we have left for the rainy-day fund, the Cash Reserve. So I support the comments by Senator Schumacher. I do just want to say for the record that he used a word, "moderately reckless." That's not a word that can be modified. It's sort of the same nature as "you're insane." You can't be moderately insane. You either are sane or insane. Thank you, Mr. Schumacher. Thank you, Mr. President. [LB986]

SENATOR GLOOR: Thank you, Senator Nelson. Now seeing no senators remaining in the queue, Senator Watermeier waives closing. The question is, shall the amendment to the committee amendment to LB986 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB986]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Watermeier's amendment. [LB986]

SENATOR GLOOR: The amendment is adopted. [LB986]

CLERK: Senator Hadley, I had AM1750 but I have a note you want to withdraw, Senator. [LB986]

SENATOR GLOOR: So ordered. [LB986]

CLERK: I have nothing further on the bill, Mr. President. [LB986]

SENATOR GLOOR: We now return to discussion on the committee amendment. Are there senators wishing to be recognized? Seeing none, Senator Hadley, you're recognized to close on the committee amendments. [LB986]

SENATOR HADLEY: Mr. President, again, AM2041 merely corrects the green copy because of an inadvertent error in putting some of the original figures into the green copy. I would ask for your green vote on this amendment. [LB986]

SENATOR GLOOR: Thank you, Senator Hadley. The question is, shall the committee amendments to LB986 be adopted? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB986]

CLERK: 34 ayes, 0 nays, Mr. President, on adoption of committee amendments.

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[LB986]

SENATOR GLOOR: The amendment is adopted. Discussion on the advancement of LB986 to E&R Initial. Seeing no one in the queue, Senator Hadley, you're recognized to close on LB986. [LB986]

SENATOR HADLEY: Again, just to refresh quickly, this adjusts the homestead exemption to allow more people to be able to take advantage of it. It allows...it makes it harder to have the cliff effect, the idea of earning one more dollar and losing all the benefits. It is a good bill. I think it will help us to retain the retirees that we want to have in Nebraska who have made their careers in Nebraska, who love Nebraska, and it's time to give something back to them. With that, I would ask for your green vote on LB986. [LB986]

SENATOR GLOOR: Thank you, Senator Hadley. The question is the advancement of LB986 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB986]

CLERK: 34 ayes, 0 nays on the advancement of LB986, Mr. President. [LB986]

SENATOR GLOOR: The bill advances. Continuing with General File, committee priority bills, Mr. Clerk. [LB986]

CLERK: Mr. President, LB974 is offered by Senator Mello. (Read title.) Introduced on January 17 of this year, referred to the Appropriations Committee, the bill was advanced to General File. There are committee amendments pending, Mr. President. (AM2025, Legislative Journal page 609.) [LB974]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Mello, you're recognized to open. [LB974]

SENATOR MELLO: Thank you, Mr. President. Members of the Legislature, in the aftermath of the child welfare privatization, one of the recommendations that came out of the Health and Human Services Committee LR37 report and a related performance audit on child welfare reform was the adoption of performance-based budgeting requirements for the Division of Children and Family Services. LB974 would expand these requirements to three additional divisions within the Department of Health and Human Services: the Division of Behavioral Health; the Division of Medicaid and Long-Term Care; and the Division of Developmental Disabilities. The bill would also extend requirements on the Division of Children and Family Services for an additional biennial budget cycle. Under LB974 the Department of Health and Human Services would be required to develop a strategic plan for these divisions as part of their appropriations process for each of the next two budget cycles. In these plans the

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department shall identify the main purpose of each budget program, develop key goals for measuring progress and meeting those purposes, and develop benchmarks and time frames for meeting those goals. Each September, following the adoption of the biennial budget, each division would submit a report to the Appropriations Committee and the Health and Human Services Committee regarding their progress towards meeting the key goals identified in their strategic plan and would appear at a joint hearing of the committees to present their report. As some members of the body may recall, I introduced legislation in 2011 that would have required all state agencies, not just the Department of Health and Human Services, to move towards a performance-based budgeting model. While LB974 represents an expansion of performance-based budgeting, recent audits by State Auditor Foley have convinced me that these additional divisions should face greater level of scrutiny than what our current budget process provides, and the bill is a responsible next step to help the Legislature get a better handle on the budget for the largest state agency in Nebraska state government. LB974 received no opposition testimony at the public hearing and was advanced by the committee on a 9-0 vote. I'd urge the body to advance LB974 to Select File. Thank you, Mr. President. [LB974]

SENATOR GLOOR: Thank you, Senator Mello. (Visitors introduced.) As the Clerk stated, there are amendments from the Appropriations Committee. Senator Mello, as Chair of that committee, you're recognized to open on the committee amendments. [LB974]

SENATOR MELLO: Thank you, Mr. President. Members of the Legislature, AM2025, which is the committee amendment, incorporates the provisions of three additional bills that were heard by the Appropriations Committee. While most bills that are referred and adopted by the Appropriations Committee are incorporated into one of the budget bills, each of these bills are statutory changes which cannot be made part of the overall state budget. The first bill, LB837, was brought by the Legislative Performance Audit Committee and would prohibit agencies with seven or fewer full-time employees from conducting their own expenditure preaudits. The bill was introduced in response to problems identified in a Legislative Audit Committee report on the Abstractors Board of Examiners. The second bill, LB969, was brought by Senator Sullivan and would increase the cap on the growth of...growth in the special education appropriation from 5 percent to 10 percent for future budget years. The third bill, LB1023, was introduced by myself and updates statutory references for two budgetary reports prepared by the Department of Administrative Services, the comprehensive annual financial report and the annual budgetary report. The comprehensive annual financial report is the primary means by which the state's financial activities are reported to the Legislature, while the purpose of the annual budgetary report is to show compliance with the Legislature's appropriation mandates at the program level, as well as provide additional information on expenditures over the past fiscal years. Under current statute each of these reports must be submitted at least 20 days prior to the commencement of each regular

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legislative session and the bill would also provide a copy of the reports to be filed with the Legislative Fiscal analyst. As with LB974, none of the bills in AM2025 received opposition testimony at the hearing and the amendment was adopted by the committee with a 9-0 vote. I'd urge the body to adopt AM2025. Thank you, Mr. President. [LB974 LB837 LB969 LB1023]

SENATOR GLOOR: Thank you, Senator Mello. Members, you have heard the opening on LB974 and the committee amendment. We now move to floor debate. Senator Harms, you're recognized. [LB974]

SENATOR HARMS: Thank you, Mr. President. Colleagues, I rise in support of the amendment and of the underlying bill. In the Performance Audit Committee we have had some concerns for a long time in regard to Health and Human Services in regard to trying to just determine what their goals are, what their benchmarks are, what their metrics are going to be used for, just to evaluate them. And when it comes into the Appropriations Committee, we've struggled a great deal about trying to get identified ways that we could measure each year. So every time they come in for a two-year budget, we've discovered it was very hard to tell whether or not we've accomplished what we've asked for them to accomplish and whether or not there was a clear path here. So the planning process and the strategic planning process and the creation of goals and benchmarks and metrics for measurement is critical for us. And if we're going to get a handle on these kinds of issues, what we're doing here through the Appropriations Committee is pretty important for us. Tomorrow we'll be talking about another aspect that will be on General File which will be LR444. It's going to talk about similar sorts of things, about goals and metrics and benchmarks. This is all important and I think as you look across the nation today you'll see more states moving towards performance measurements, wanting to determine whether or not we should...could continue to fund these particular agencies at the rate that we're funding them, particularly when we don't have any idea whether they're accomplishing what they've set out to do. More importantly, a lot of agencies do not even have the strategic planning process put together or the goals put together, and they don't know themselves whether they're accomplishing the task. So this is a start in the right direction and I support both this amendment and this underlying bill. Thank you, Mr. President. [LB974 LR444]

SENATOR GLOOR: Thank you, Senator Harms. Are there other senators wishing to be recognized? Seeing none, Senator Mello, you're recognized to close on the committee amendments. [LB974]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. As I mentioned, the committee amendment incorporates three bills that were heard in front of the committee that had no opposition testimony: the bill Senator Harms mentioned in regards...the Legislative Performance Audit bill dealing with preaudits, a bill by Senator

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Sullivan that increases the cap for future budget years that can be appropriated for special education from 5 percent to 10 percent, as well as a cleanup bill that I introduced that changes definitions or the titles of certain reports, budgetary reports that are to be issued to the Legislature, as well as ensuring the Legislative Fiscal analyst receives a copy of it, as well, in statute. With that I'd urge the body to adopt AM2025. Thank you, Mr. President. [LB974]

SENATOR GLOOR: Thank you, Senator Mello. Members, the question is, shall the committee amendments to LB974 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB974]

CLERK: 28 ayes, 0 nays on adoption of committee amendments. [LB974]

SENATOR GLOOR: The amendment is adopted. Discussion continues on the advancement of LB974. Seeing no one interested in speaking, Senator Mello, you're recognized to close on the advancement of LB974. [LB974]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. With the adoption of the committee amendment, that incorporates three bills the committee heard into the underlying bill, LB974, which moves the state forward in regards to performance-based budgeting. It extends a pilot project that we initially created for the child welfare...after the child welfare privatization effort in the Children and Family Services Division. It expands that to other three major divisions within the Department of Health and Human Services, provides more accountability and oversight and transparency in regard to the state's largest state agency, and will help provide the Legislature more information and more tools to evaluate future appropriations. With that I'd urge the body to move LB974 to Select File. Thank you, Mr. President. [LB974]

SENATOR GLOOR: Thank you, Senator Mello. Members, the question is the advancement of LB974 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB974]

CLERK: 33 ayes, 0 nays on the advancement of LB974. [LB974]

SENATOR GLOOR: The bill advances. Continuing with the agenda. [LB974]

CLERK: Mr. President, LB768 is a bill introduced by Senator Schilz. (Read title.) Introduced on January 9 of this year, referred to the Agriculture Committee for public hearing, advanced to General File. There are committee amendments pending. (AM1945, Legislative Journal page 589.) [LB768]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Schilz, you are recognized to open on LB768. [LB768]

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SENATOR SCHILZ: Thank you, Mr. President, and, members of the body, good morning. LB768 is introduced to respond to two issues raised in the attestation report of the State Auditor for Nebraska Brand Committee issued on September 11 of last year and to bring certain fee provisions of the Nebraska brand law in line with legislative intent and current practice. First, the Auditor noted a conflict in the statutory authority in 54-1,120 and 54-1,121.01 for the amount of fees collected in the registered feedlot and registered dairy programs. The Nebraska brand law provides an alternative means for feedlots and dairies inside the brand area to comply with the mandatory brand inspection. In lieu of physical brand inspection performed by a brand inspector to each incidence of cattle entering or exiting a feedlot, the brand law provides a voluntary registered feedlot and dairy program whereby participants follow a recordkeeping regimen and are subject to periodic audit. The brand law has provided for an annual registered feedlot inspection fee calculated as a fee per 1,000-head capacity to correspond to the per-head inspection fee in 54-1,108. LB441, enacted in 2005, increased the statutory maximum per-head inspection in that section from 65 cents per head to 75 cents per head. Subsequent to enactment, the Brand Committee by rule increased the inspection fee to 70 cents per head beginning November 1, 2006. For the period beginning November 1, 2007, through the present, the Brand Committee has charged the current statutory maximum of 75 cents per head. Simultaneously, with these per-head inspection fee increases, the Brand Committee set the registered feedlot and dairy fees at \$700 per 1,000 head and then \$750 per 1,000 head. While the registered feedlot and dairy fees currently charged are consistent with legislative intent and industry expectations, as well as statutory direction that the fee be set per 1,000-head capacity to correspond with the per-head inspection fee, current law contains a statutory cap of \$650 per 1,000 head; in other words, when we increased the statutory maximum inspection fee in 2005, we should have inserted a harmonizing increase in the cap in the registered feedlot and dairy program. Secondly, the Auditor requested the authority for charges collected by the Brand Committee for brand inspections performed outside the brand area specifically for inspections performed in conjunction with investigations into violations of Nebraska brand law. While the brand inspection is only mandatory in portions of the state, brand inspection service is available upon request statewide. Brand inspection is rarely performed outside the brand area, but on occasion inspections may be ordered by the court in civil or criminal proceedings or might be requested by the livestock lenders and investors. The bulk of inspectors outside the brand area occur in conjunction with the Brand Committee following up on movements of cattle out of the brand area without inspection. In such cases the committee has forgone prosecution if the violator agrees to inspection and the inspection does not find theft. It has been the practice of the committee to collect the actual cost for inspections outside the brand area, including mileage and inspector time. The normal inspection fee of 75 cents per head would not typically cover the cost to the committee. To avoid non-brand-area producers being subsidized by brand area producers in supporting the inspection program it has been generally understood that

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the cost of inspection when inspectors travel outside the brand area would be actual costs. In the case of inspections performed in conjunction with a criminal prosecution, non-brand-area charges as calculated and made explicit by LB768 is consistent with charges that have been ordered paid to the Brand Committee by the courts. In both cases the current practice is in line with long-held understandings. LB768 would essentially insert express statutory authority for the fee policies that have been followed by the Brand Committee. Specifically, the bill amends 54-1,108 of the Nebraska brand law to provide that inspections provided outside the brand area the Brand Committee shall collect, in addition to the normal per-head inspection fee, mileage and inspector time. While the audit of the Brand Committee only spoke to inspections performed as part of an investigation, LB768 would apply the formula for any brand inspection performed outside the brand area. Additionally, the bill simply deletes the statutory cap found in the registered feedlot and dairy sections, leaving the instruction that the fee per 1,000 head be set to correspond to the fee...to the per-head inspection fee. And with that I move for the advancement of LB768. Thank you very much, Mr. President. [LB768]

SENATOR GLOOR: Thank you, Senator Schilz. (Visitors introduced.) As the Clerk stated, there are amendments from the Agriculture Committee. Senator Schilz, as Chair of that committee, you're recognized to open on the committee amendments. [LB768]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. The committee amendment makes one additional revision in the calculation of the annual registration fees in the registered feedlot and registered dairy program. AM1945 replaces the current statutory direction that the fee be determined as amount per 1,000 head, or a portion thereof, feedlot or dairy capacity, essentially the maximum number of animals that could be accommodated by the facility at any one time. The committee amendment would provide that the fee would be based on the feedlot or dairy capacity only for calculating the fee for new applicants for registration. For subsequent years the fee would be based on annual average inventory based on the number of animals actually present. Again, this has been a practice utilized for some time and the committee amendment would bring the statute in line. This means that calculating the fee is familiar with the industry and would have some advantages. Average inventory at a feedlot or dairy is seldom at capacity and, from figures supplied by the Brand Committee, has averaged about 85 percent of capacity, thus, it allows the fee to more accurately be based upon the number of animals actually handled or under management of the operation. Secondly, the average annual inventory is easily determined in routine inspection and auditing of records of cattle placements and movements kept by operations participating in the registered programs. The current method based on capacity can be somewhat inaccurate as residents may not always record expansions of capacity. The committee amendments also attach the provisions of LB846, introduced by Senator Davis. LB846 creates a brand inspection area defined as the counties adjacent to the mandatory brand inspection area as defined by Sections

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54-1,109. While brand inspection is not required in the service area, the bill makes the following distinctions with respect to the brand inspection service area: 54-1,108 is amended to provide that brand inspection within the brand inspection service area shall be performed at the same terms as inspection performed within the brand inspection area. 54-415 of the estray law is amended to provide that the duty for disposition of estray livestock is assumed by the Brand Committee in brand inspection service areas. Currently this duty is assigned to the Brand Committee when estrays are taken up within the brand area but is assigned to the county sheriff outside the brand area. The Brand Committee performs the function of acting as a third-party verifier of ownership of livestock involved in transactions or when moving out of the brand area through physical inspection. The inspection serves the dual role of deterrence and detection of theft and issuing of brand inspection certificates that serve as documentation of transfers of ownership. Brand inspection is mandatory upon certain movements of livestock within or out of the brand area or upon transfer of ownership originating within the brand area. Brand inspection within the brand area is currently performed as the statutory defined fee currently capped at 75 cents per head and a travel surcharge. Outside the brand area, brand inspection may be requested by anyone anywhere in the state although, as is made explicit by the underlying bill, the requestor pays the Brand Committee for its actual expenses, including mileage and the time of the inspector. The creation of the brand inspection service area does not, repeat, does not expand the boundaries of the mandatory brand inspection. Brand inspection would merely be a service available when voluntarily requested by a person within the brand inspection service area at the same terms that are charged within the brand area--only the 75 cents per head. Additionally, the Brand Committee would assume responsibility for estrays taken up within the service area counties as they currently do under Section 54-415 within the brand area. We have found that the mandatory brand inspection area continues to generally lie at the point that the cultivated areas of eastern third of the state, with its higher concentration of feeding transition, to the grazing area regions of the western part of the state. There is no formula for determining where that line should be. It has always been determined politically and generally reflects those areas of the state where brand inspection has historically been more valued and utilized. However, the committee amendments create the service area recognizing that the boundary is imperfect and that there are likely to be producers near the brand line that would like to have access to brand inspection if reasonably available. While brand inspection is mandatory within the brand area, brand inspection is sometimes performed outside of the brand area. Brand inspection is sometimes ordered by the court where ownership of cattle is essential to the disposition of civil or criminal cases. Lenders or investors may have an interest in verifying the ownership of livestock. The most prominent occasions of where the inspection is performed outside the brand area are associated with investigations by the Brand Committee of possible violations of the brand law. Although the availability of brand inspection provided only upon request in the brand inspection service counties will not replicate the theft deterrence and detention function that universally mandatory inspection achieves, it does enable buyers and sellers and

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lenders in the service area to access brand inspection where the verification of ownership would be helpful or desirable. The service area also in effect provides a means of testing the demand for brand inspection in areas adjacent to the brand area without imposing where it is not valued. The bill also amends 54-172 which defines the element of a bill of sale. 54-1116 is a portion of the brand law that applies statewide that requires any seller of livestock provide a bill of sale to the purchaser. LB846 amends Section 54-172 to require that the bill of sale include a notation of the amount of federal beef checkoff collected and remitted pursuant to the federal beef promotion and research order when the seller is a collecting person pursuant to 7 CFR 1260.311. The division of the state into areas where brand inspection is mandatory has raised the question of disparities in the collection of the federal beef checkoff. Under 9 (sic--7) CFR 1260.311 of the federal beef promotion order, persons selling cattle are collecting persons for purposes of collecting the checkoff except that the duty is assigned to the brand inspectors in the brand inspection area of Nebraska and other states. Producers have complained that, especially for private treaty sales, the collection of federal checkoff may be avoided in the nonbrand area. And I will leave further explanations to questions. The provision that a bill of sale include a notation of the federal beef checkoff collected serves as a reminder of the checkoff obligation and documentation that verifies that the seller deducted the checkoff for the protection of the purchaser. I would point out that a number of sources, including the Nebraska Beef Council and the Nebraska Cattlemen, already have available and promote the use of bill-of-sale templates that have this feature. I will end my explanation there and invite Senator Davis to comment on the bill. Both LB768 and LB846 were heard by the committee on February 11, and you can see by the committee statement that LB768 had a number of proponents, including the Brand Committee, and from these groups representing cattle producers in the state who testified in support of LB846, as well. The bill was advanced unanimously by the committee except for one member absent and not voting. I would ask adoption of the committee amendment and the advancement of LB768. Thank you, Mr. President. [LB768 LB846]

SENATOR GLOOR: Thank you, Senator Schilz. Mr. Clerk for an amendment. [LB768]

CLERK: Mr. President, Senator Larson would move to amend the committee amendments with AM2219. (Legislative Journal pages 774-775.) [LB768]

SENATOR GLOOR: Senator Larson, you're recognized to open on your amendment to the committee amendment. [LB768]

SENATOR LARSON: Thank you, Mr. President. AM2219 will allow registered feedlot owners the ability to collect a refund for the excess fees paid since November 1, 2006. This amendment is being brought in response to the Auditor's report released in September. The report showed a conflict in statute that resulted in the Brand Committee overcharging registered feedlots. The Brand Committee was assessing the feedlots a

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fee at the rate of 75 cents charged when inspecting individual heads of cattle, resulting in the feedlots being assessed at a \$750 fee per 1,000 head of cattle. However, there is a provision in another statute that caps registered feedlots' fees at \$650 at a maximum. The apparent conflict in statute is being addressed by LB768, but this amendment will allow the affected feedlot owners to get a refund on any excess fees they were charged since the practice started occurring in 2006. The amendment lays out the procedure by which the feedlot owners can claim a refund and permits the Brand Committee to assess the refund either as a payment to the feedlot or credit against fees due in the upcoming year. Members, this is...the fact that it took an Auditor's report eight years later for the Brand Committee to catch something of this nature is ludicrous. The fact that the head of that Brand Committee could not within seven years realize that there is an issue with the statutes which he is supposed to enforce in the state of Nebraska is shameful. If they had come back the next year and said, the Legislature overlooked this, please change it, I then can understand. There is a problem at the top of the Nebraska Brand Committee. It is wrong that these business owners across the state of Nebraska that help...who have helped make Nebraska the number-one beef state in the nation were overcharged for seven years by statute. We as a state were taxing them wrongly for seven years. I cannot express that enough. This is a question of fairness, of what is right and wrong with state government, and I would hope that we can talk about not only why the Brand Committee neglected to change this or come to the Ag Committee before seven years to change this. It's...are the Brand Committee members and their executive director specifically not reading the statutes that they're supposed to enforce? Are they going to claim negligence? If they claim negligence, should they be the executive director of the Brand Committee? These businesses offer jobs in rural Nebraska and, as I said, have helped make this the number-one beef state in the nation. And the committee that is there to regulate them and to regulate cattle have punished them outside their authority to do so for the past seven years, and I truly believe that they are due the money that was taken from them wrongly. Again, wouldn't have near as a problem with it if they'd come in 2007 and said, the Legislature overlooked this, but instead it took an Auditor's report seven years later to say what they're doing is wrong and the statutes need to come in line. Again, there is a problem at the top of that Brand Committee that needs to change for whatever reason, and I think he's been there the whole time. I can double-check with Senator Schilz on that. But it's wrong what's happening and AM2219 starts to fix that wrong injustice that has been done to business owners in the state of Nebraska. Thank you, colleagues. [LB768]

SENATOR GLOOR: Thank you, Senator Larson. Members, you've heard the opening on the amendment to the committee amendment and LB768. We now move to floor discussion. Senator Davis, you're recognized. [LB768]

SENATOR DAVIS: Thank you, Mr. President. I rise in opposition to the amendment and I wonder if Senator Schilz would yield to a few questions. [LB768]

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SENATOR GLOOR: Senator Schilz? [LB768]

SENATOR SCHILZ: Yes, I will. [LB768]

SENATOR DAVIS: Senator Schilz, can you tell us when you were first made aware of this problem with the...the variation between the registered feedlot fees and the other fees? [LB768]

SENATOR SCHILZ: Well, my first indication of that was when it was reported to me that the Auditor had found that in his report. [LB768]

SENATOR DAVIS: And isn't it also true that the Brand Committee was not charging a fee based on capacity rather than on...can you elaborate a little bit on that point of capacity versus number of animals in the lot? [LB768]

SENATOR SCHILZ: Sure, yeah. And how it had worked for as long as I know and having been in the feedlot business myself, as long as I can remember they had charged according to occupation of the feedlot which, as I said in my opening, ran about 85 percent of capacity. And what they would do is take an average occupation and charge that out over the year and that's the way it had been done the whole time I was in the feedlot industry. [LB768]

SENATOR DAVIS: So what you're saying is that brand...that registered feedlots were paying about 15 percent less than what statute called for them to do. Is that correct? [LB768]

SENATOR SCHILZ: That's correct, yes. [LB768]

SENATOR DAVIS: And when did that become...when were...you became aware of that? [LB768]

SENATOR SCHILZ: Once again, when the Auditor's report came out that said it was supposed to be capacity rather than occupation. [LB768]

SENATOR DAVIS: And have you ever visited with Mr. Stanec about that particular issue? [LB768]

SENATOR SCHILZ: Only in the sense of when we introduced the bills and talked about how to fix the differences in the law itself. [LB768]

SENATOR DAVIS: So Mr. Stanec said, well, we have traditionally always assessed it on the number of animals in the lot rather than one-time capacity. Is that correct? [LB768]

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SENATOR SCHILZ: That's correct, yes, as far as I know. Now they do...what they did say, I believe, and I will check just to make sure, but I did think that they said on new facilities they would take capacity because they didn't have any numbers of occupation there. And so...and when you had the hearing, was there any opposition to harmonizing the fees by feedlots? [LB768]

SENATOR SCHILZ: No. And in fact, I think there wasn't any opposition. I don't think the feedlots were too worried about it. [LB768]

SENATOR DAVIS: So you think the feedlots recognized that while the intent of the Legislature at one time was to harmonize the fees, actually, it was an error that took place in Bill Drafters which resulted in the variation. Is that correct? [LB768]

SENATOR SCHILZ: You could surmise that, yeah. [LB768]

SENATOR DAVIS: And the feedlots understand that, just as well as they also understand that they've been paying less than what statute told them to do because the Brand Committee didn't feel that was a fair assessment. [LB768]

SENATOR SCHILZ: And I don't know how to characterize it. All I know is that when the Brand Committee sent the bill for 75 cents, I take it that nobody over those six or seven years complained. [LB768]

SENATOR DAVIS: Thank you, Senator Schilz. And I think the point here is we're trying to harmonize statutes, make those amenable across the line with both registered feedlots and the open-country sales. So the amendment basically drives a wedge back into that discussion. I understand what Senator Larson is doing here, but I would say what's good for the goose is good for the gander. If we're going to go that way, then we need to go back and be sure that we re-collect from the feedlots for the 15 percent that they apparently have not been paying over the last many, many years. This is a bad amendment, colleagues, and I would urge you to oppose it but advance the bill. There are a lot of good intentions that have come into the bill. The expanded area came about through a couple of hearings we had this summer when we had some people who have indicated that they had an interest in having some brand inspection... [LB768]

SENATOR GLOOR: One minute. [LB768]

SENATOR DAVIS: ...in counties--thank you, Mr. President--in counties that are adjacent to the brand area. And a particular example of that is an individual who might live in one of those counties and is going to ship some livestock into a state which does...which requires brand inspection for those cattle to move into that state. So currently what they would have to do is load those animals up on a truck, drive them to a location within the

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brand area, have them unloaded, have them inspected, and then they can go on to the state with the brand documents. So this would permit the brand inspection process to take place at the home, which is a relief in terms of stress on the livestock, saves the seller and the buyer money, and it's a good bill. I just am opposed to AM2219 and urge you to cast a red light on that and to move the bill forward. Thank you. [LB768]

SENATOR GLOOR: Thank you, Senator Davis. (Visitors introduced.) Senators in the queue: Bloomfield, Larson, and Schumacher. Senator Bloomfield, you're recognized. [LB768]

SENATOR BLOOMFIELD: Thank you, Mr. President. I'd like to ask Senator Larson a couple questions if he'd yield. [LB768]

SENATOR GLOOR: Senator Larson, would you yield? [LB768]

SENATOR LARSON: Yes. [LB768]

SENATOR BLOOMFIELD: Thank you, Senator Larson. How many dollars are you talking about refunding here? [LB768]

SENATOR LARSON: Rough estimates--and, you know, I was going to ask Senator Schilz this question next because Senator Davis brought it up--but we've heard and with this amendment it could be anywhere upwards to \$500,000. [LB768]

SENATOR BLOOMFIELD: Okay. And what process would we have to go through to allow that to happen and what would that cost the state? [LB768]

SENATOR LARSON: Essentially, it'd just be the Brand Committee, and the Brand Committee essentially will send out claim forms to all the registered feedlots that were registered between 2006 and today and that feedlot would have to then submit a claim to get a refund, and then back to the Brand Committee. The Brand Committee would review it and at that point, if they approve it, would either refund them the money that's due back or credit them against the next year coming forward. [LB768]

SENATOR BLOOMFIELD: Thank you. And how many feedlots are...would you guess we're dealing with here that... [LB768]

SENATOR LARSON: I'm not sure how many registered feedlots are in the state within the Brand Committee. I think that would be a better question for Senator Schilz. [LB768]

SENATOR BLOOMFIELD: Okay. Colleagues, I voted LB768 out of committee. But when we come to AM2219 I'm inclined to think that's a sleeping dog we maybe ought to let lay. I will probably be a red vote on AM2219 but I will be supporting LB768. Thank

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you, Mr. President. [LB768]

SENATOR GLOOR: Thank you, Senator Bloomfield. Senator Larson, you're recognized. [LB768]

SENATOR LARSON: Will Senator Schilz yield? [LB768]

SENATOR GLOOR: Senator Schilz, would you yield? [LB768]

SENATOR SCHILZ: Yes. [LB768]

SENATOR LARSON: Senator Davis talked about the inventory versus capacity. If a feedlot is operating at, let's say, 100,000 head and is only running at 90 percent capacity, right now, as the Brand Committee has been operating, they were charging them 75 cents a head at their inventory, correct? [LB768]

SENATOR SCHILZ: Yes. [LB768]

SENATOR LARSON: Which was again state statute, correct? [LB768]

SENATOR SCHILZ: It was...as written it would be...yes. [LB768]

SENATOR LARSON: Current state...yes. So they were charging them 75 cents at, let's say, 90,000 head or 95,000 head, either one. If they had been charging them 65 cents, which they were supposed to be charging them, at 100,000 head, that feedlot is still overpaying, correct? [LB768]

SENATOR SCHILZ: Not doing the math, I...you've got to understand my math is not my best subject. But I'll take your word for it. [LB768]

SENATOR LARSON: And when you average that out over seven years, colleagues, and there are a lot of feedlots that are operating at 90-95 percent capacity, they still overpaid even though the Brand Committee, again, not only were they neglecting that they were only supposed to be charging them 65 cents due to statute, they were charging them at capacity...they were charging them at inventory over capacity. It goes back to the leadership in the Brand Committee and how dysfunctional it is. Not only were they regarding one state law in which it should be 65 cents, they were disregarding a second state law that said they were supposed to be charging the feedlots at capacity instead of inventory. Senator Davis stands and says that he's...he doesn't support this, he supports the negligence of what the Brand Committee has been doing the past six years, that they shouldn't have to refund that money. He brings up a point, they were charging at inventory and not capacity, which was wrong by state statute. We have a state agency that we are supposed to oversee and we are helping

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them. Now I know a lot of members in this body from Omaha, Lincoln, see this as three rural senators that take up two-thirds of the state's area in terms of district size, which is true, battling each other. But the question comes again in terms of what is right: What was the right thing to do? Was it right that the Brand Committee has been doing this for the last six years, charging at inventory over capacity? That's a question we have to ask ourselves. Was it right for the executive director of the Brand Committee to just interpret the laws however he pleased because it fit him? This is a member of state government, collects a state paycheck, that has been doing things wrongly,... [LB768]

SENATOR GLOOR: One minute. [LB768]

SENATOR LARSON: ...yet we continue to change laws because he's been doing it wrong for so long we have to come into compliance to how he's doing it. That's what LB768 does. And I'm not necessarily opposed to charging on inventory versus capacity, not opposed to moving it from 75...you know, the...moving what the registered feedlots pay to \$750. Whether it was an oversight by the Legislature in 2006 or not, that's fine. My issue was...is you had an executive director that's supposed to understand the statutes, that's supposed to know the statutes, that's supposed to enforce the statutes to farmers and ranchers across the state of Nebraska and neglected to possibly even read what he was supposed to be doing because he did it wrong for so long. [LB768]

SENATOR GLOOR: Time, Senator. [LB768]

SENATOR LARSON: Thank you. [LB768]

SENATOR GLOOR: Senator Schumacher, you are recognized. [LB768]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Normally there is a statute of limitations on something that a thing sat around so long they're just too old to deal with. Senator Larson, will you yield to a question? [LB768]

SENATOR GLOOR: Senator Larson, would you yield? [LB768]

SENATOR LARSON: Yes. [LB768]

SENATOR SCHUMACHER: Thank you, Senator Larson. This looks like it goes back or tries to go back eight years. Are you aware of anything else where there's a mistake been made or an overpayment of a tax that the claim in this state goes back as far as eight years? [LB768]

SENATOR LARSON: I'm not aware of that, no. [LB768]

SENATOR SCHUMACHER: So this would be a historic event if we say eight years

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instead of, say, the usual three on taxes? [LB768]

SENATOR LARSON: It could be, yes, Senator Schumacher. [LB768]

SENATOR SCHUMACHER: So what is the time limit now for somebody who, let's say, wrote a check out to the Brand Committee and made a mistake and they made it out for a hundred dollars too much, what's the statute of limitations now that they can go back and say, oops, a mistake was made, give me a refund? [LB768]

SENATOR LARSON: I'm not, honestly, sure on what the statute of limitations is with the Brand Committee; probably two or three years like most things. [LB768]

SENATOR SCHUMACHER: Okay. And calling your attention to page 1, line 14, the language says that the amount of the refund is the amount of registration fees that would have been paid during the period. What if they would have been paid but weren't paid, they still get a refund for it? [LB768]

SENATOR LARSON: It's a great question. And I don't necessarily have the answer for it right now. [LB768]

SENATOR SCHUMACHER: So that's...that language is probably not quite correct. You probably mean that "were paid." [LB768]

SENATOR LARSON: True. [LB768]

SENATOR SCHUMACHER: Okay. Thank you, Mr. President. [LB768]

SENATOR GLOOR: Thank you, Senator Schumacher and Senator Larson. Mr. Clerk, for the record. [LB768]

CLERK: Mr. President, name add: Senator Coash to LB660; Senator Cook to LB1014. (Legislative Journal page 775.) [LB660 LB1014]

Senator Karpisek would move to recess the body until 1:30.

SENATOR GLOOR: Members, you've heard the motion to recess until 1:30. Those in favor say aye. Those opposed say nay. We stand recessed.

RECESS

SENATOR KRIST PRESIDING

SENATOR KRIST: Good afternoon, ladies and gentlemen, and welcome to the George

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W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Roll call.

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Mr. Clerk, please record.

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

SENATOR GLOOR: Thank you, Mr. Clerk. Do you have any items for the record?

CLERK: I have one, Mr. President. I have a new resolution, LR474 by Senator Kolowski. That will be laid over at this time. That's all. (Legislative Journal page 776.) [LR474]

SENATOR GLOOR: Thank you, Mr. Clerk. We'll proceed to the first item on this afternoon's agenda. [LB768]

CLERK: Mr. President, pending is Senator Larson's amendment to the committee amendments to LB768. [LB768]

SENATOR GLOOR: We return to floor debate. Senators in the queue wishing to speak: Senator Schilz and Senator Larson. Senator Schilz, you're recognized. [LB768]

SENATOR SCHILZ: Thank you, Mr. President. And as Senator Larson had asked...had asked a question on how that...how much money would be sitting out there and available to some of these feedlots if it were deemed that they had actually paid an inappropriate amount. And as we sit here and we looked at it and the Agriculture staff did...Rick Leonard did some work for me and added this up and stuff. And what we found out is because of the mistake that the Brand Committee was making by charging the 75 cents outside the statute, if that is deemed a mistake, and because of charging on inventory rather than capacity, it would have looked like overall, and this isn't for every yard, but overall the state actually collected less overall than what they could have. So overall the state didn't affect anybody adversely. Now there could be some there individually that maybe got charged more than what they should have, but I don't know those instances. I don't know where they are. I don't know if there are any. But I just wanted to make that clear so everybody understood where we're at. Thank you, Mr. President. [LB768]

SENATOR GLOOR: Thank you, Senator Schilz. Senator Larson, you're recognized. [LB768]

SENATOR LARSON: Thank you, Mr. President. Will Senator Schilz yield? [LB768]

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SENATOR GLOOR: Senator Schilz, would you yield? [LB768]

SENATOR SCHILZ: Yes. [LB768]

SENATOR LARSON: Thank you, Senator Schilz. Now I understand and I ran those numbers as well. There are...as a whole, charging at inventory over capacity they did collect less than they would have if they had been charging where they were supposed to, had the executive director known what he was supposed to be doing, but there are some feedlots...that's all the feedlots all across the state. That's not saying that there were no feedlots that were overcharged, correct? [LB768]

SENATOR SCHILZ: Right now as we're...when we talk about those feedlots all over the state, the ones that are involved in the voluntary accreditation program, I think there's about a hundred of those, and so I would guess...and I don't know this for a fact, but I would guess that there could be some that may have been affected by this. [LB768]

SENATOR LARSON: So again, I think that the important thing to colleagues here is, yes, overall there...you know, some feedlots that might be operating...when I run the numbers and do the math, if a feedlot is only operating at 75 percent of capacity, then the wrong way that our current executive director was doing it, those feedlots actually...probably saved money, but those feedlots, essentially operating, when I run the numbers, anywhere between 90 and 100 percent of capacity were paying...anything under 90 percent is roughly...they were...the Brand Committee was losing money. Anything over 90 percent...essentially the Brand Committee was overcharging those feedlots. Does that sound close roughly with mathematical numbers? [LB768]

SENATOR SCHILZ: That's entirely possible. [LB768]

SENATOR LARSON: So, colleagues, it comes back to the fact that what Senator Schilz, and maybe the opponents to this, are trying to say is two wrongs make a right. Yes, they were overcharging them, but at the same time they weren't charging them on the right thing they were supposed to be charging them on. So because the Brand Committee messed up twice, it's really okay. It doesn't change the fact that the feedlots that were operating at a higher capacity...or closer to their capacity I should say, their inventory is closer to their capacity, they are still being overcharged and that's an issue. It's an issue when a state agency and their executive director cannot follow the laws that we have set for them. It's shameful. Now again, as I said this morning, if the executive director had come back the year after...he has been there the entire time, the year after and said, hey, the Legislature overlooked this, please fix it. So he either decided to ignore it and not have us come back and fix it, or he didn't read the statutes that he is supposed to be enforcing and let it continue on. Now, Senator Schumacher brought up some good points. And we haven't ever looked back eight years. And I'm not sure that's

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the right thing to do. There will be an amendment on Select File from me bringing it within the statute of limitations to make sure that this wrong is fixed. I will find out what those statutes of limitation are. [LB768]

SENATOR GLOOR: One minute. [LB768]

SENATOR LARSON: And we will have a vote on whether or not we as a body believe that it is right or wrong for state agencies to either willfully neglect the laws that we set in front of them and take away money from taxpayers across the state of Nebraska, or if we're going to reward that and say, go ahead, we're really not paying attention. So with that I'll withdraw AM2219. [LB768]

SENATOR GLOOR: Thank you, Senator Larson. Senator Hansen, you're recognized. [LB768]

SENATOR HANSEN: Thank you, Mr. President. [LB768]

SENATOR GLOOR: I'm sorry, Senator Hansen. Senator Larson, did you withdraw the amendment? [LB768]

SENATOR LARSON: Yes. [LB768]

SENATOR GLOOR: So ordered. [LB768]

SENATOR HANSEN: Thank you, Mr. President. If I said the things I was going to say, I guess I'll save those to Select File too. But I do want to make one comment right now about the makeup of the Nebraska Brand Committee. It was formed in 1940 after a lot of debate and what we can do about cattle theft. The line was drawn in...on the...go down the interstate, it's between Buffalo and Hall County, basically north and south of that line. My grandfather was in the Legislature when this was started. He was out of the Legislature when the bill finally passed in 1940, but there's always been a question about that line. And I think part of this is about that line. But the makeup of the board of the Nebraska Brand Committee is made up of five people: four producers of any type, you know, cow/calf or yearling operations, whatever; and then one that represents all the feedlots. I served on that board for six years and then gave it up when I was elected to the Legislature. Secretary of State was a member of that board then too. Secretary of State was a lawyer. I think that we had...we've had plenty of fault to be passed around, but I think willful neglect may be just a bit too much. The director of the Nebraska Brand Committee is not a lawyer. He reads the book; he knows what the book says. He overlooked it; the Ag Committee staff overlooked it; I overlooked it and there's plenty of blame to go around. But when you talk about the leadership of the Nebraska Brand Committee and say that that's at fault, you're not talking about the people that are serving voluntarily on that committee. Those five people are all volunteers. They might

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buy them lunch when they get together, but that's about it. They come down a long ways from Alliance to Lincoln to testify on bills and they do that on their own dime, that's for sure. But when we talk about capacity in the feedlots and that charge that was overcharged, and these guys are going to save...any way they can save a dollar they will, or in this case a nickel. They're going to do it. Now on the other hand, when we retain cattle and go to one of these registered feedlots, we pay that brand inspection fee. Those cattle, 100 head, 200, 400 head go into that feedlot as capacity, but they don't pay anything on them. So I think the look back, especially of trying to look back eight years, is going to be extremely difficult. And they're going to have to open up their books pretty wide to get some of those refunds back. If they're due refunds, if this body votes to do that, so be it. But I think it's a dog chasing his tail. Thank you. [LB768]

SENATOR GLOOR: Thank you, Senator Hansen. The Chair recognizes Senator Bloomfield. [LB768]

SENATOR BLOOMFIELD: Thank you, Mr. President. Would Senator Larson yield to a question, please? Senator Larson. [LB768]

SENATOR GLOOR: Senator Larson, would you yield for a question, please? [LB768]

SENATOR LARSON: Yes. [LB768]

SENATOR BLOOMFIELD: Thank you, Senator Larson. And thank you for pulling the amendment. I know you promised to bring it back later, modified. Would it be your intent at that time to also go back and collect from the people that were undercharged? [LB768]

SENATOR LARSON: The amendment will just go to those that were overcharged. The Brand Committee can probably go back if they want currently. [LB768]

SENATOR BLOOMFIELD: That doesn't seem quite right. But, again, colleagues, when that amendment, if it comes back, comes back, look at it carefully. We're opening up a can of worms there that would better be left shut. Thank you, Mr. President. [LB768]

SENATOR GLOOR: Thank you, Senator Bloomfield. Senator Johnson, you're recognized. [LB768]

SENATOR JOHNSON: Thank you, Mr. President. I had my light on, of course, before the amendment was pulled. And I don't look at it as two wrongs make a right. I serve on the Ag Committee and went to the hearings, the two of them in the state, and I know there's some real divides in the state on branding. I guess my concern with the amendment, and even maybe another amendment coming, is...maybe identifying who owes what and looking at it and analyzing, but I agree with Senator Bloomfield, we

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probably need to look at both sides. But I think maybe the real target here is the credibility of the Brand Commission (sic--Committee). And I think if there needs to be more oversight or if there needs to be something done, I would hope not charges filed, or if there needs to be something like that, I think there's a better vehicle to do it than to try and attach it to this bill. I think it's an attempt to correct a wrong, but I think it's in the wrong place as far as how we put together legislation. Thank you, Mr. President.  
[LB768]

SENATOR GLOOR: Thank you, Senator Johnson. Senator Davis, you're recognized.  
[LB768]

SENATOR DAVIS: Thank you, Mr. President. I appreciate Senator Larson pulling the amendment. Just have a few more comments to make that it seems to me it's unfortunate when people bring their personal issues to the floor. Part of the billing question, which we have been discussing this morning, was the average inventory versus the capacity. And I attended the last Brand Committee meeting and I think that has been the custom for over 50 years. Sometime in the '50s or early '60s, the first year they assess it one way, then they moved on to another. Well, that's in statute. Well, I would ask the body to think about it. Does every committee...does every chair of every committee and every government appointee go through and read the statute that refers to their authority every year? I wonder if they do that. I'm not trying to apologize for what Mr. Stanec did and how it was done. I understand how it came to be. The discussion that took place when they last raised the fee was that it would be raised and people didn't reread the statute and that's what happened. Nebraska Cattlemen have been at the meetings, independent cattlemen have been at the meetings, people are well aware that this issue had come up and nobody has come along and said, we'd like to have our money back. We haven't even heard that once. Nobody in the committee, when the committee took testimony on this bill in hearing, came and said, give us our money back. So this has come to the floor now and to me it's just unfortunate. This issue needs to be put aside and buried. We've resolved it. People had their opportunity to talk about it. I think the feeders are comfortable. I think the Brand Committee is comfortable; they're on a new path. So I think we need to move the bill forward. It's a good bill. The aspect of adding the service area will be beneficial to ranchers and farmers; may help the Brand Committee with a little revenue, who knows. It will also help us track the beef checkoff which has been one of the big concerns through the years was how it was being collected east of the line where brand inspectors collect it west and on the east it's basically a voluntary thing. We need to move the bill and I would urge the body to do that. Thank you. [LB768]

SENATOR GLOOR: Thank you, Senator Davis. There are no senators remaining in the queue. Senator Schilz, you're recognized to close on the committee amendments.  
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SENATOR SCHILZ: Thank you, Mr. President and members of the body. I think...I think just real quickly and shortly I, too, want to thank Senator Larson for pulling the amendment. I know his feelings are...he wants to make sure the people understand that we need to do things right as these agencies and stuff, I get that. But let's get back to the bills. The bills get us in the right place that we need to be. It changes the law so that it's consistent, so that we can charge the 75 cents that's been being charged and not be crossways with the law. The second thing that it does is that it moves that so that we can use inventory instead of capacity. And that makes sense too. Everybody is familiar with that; everybody knows how that system works and they're comfortable with that. And then the third thing that the amendment does is it adds in Senator Davis' LB846 and the Brand Service Inspection Area. And basically with that, the counties that are right adjacent to the brand area would be able to provide those services...or the Brand Committee would be able to provide those services to those folks in those areas. And that's basically what the amendment does. And with that I would close and get your support on AM1945. Thank you very much, Mr. President. [LB768 LB846]

SENATOR GLOOR: Thank you, Senator Schilz. The question is: Shall the committee amendments to LB768 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB768]

CLERK: 29 ayes, 0 nays on adoption of committee amendments. [LB768]

SENATOR GLOOR: The amendment is adopted. We move with discussion for the advancement of LB768 to E&R Initial. Seeing no one in the queue, Senator Schilz, you're recognized to close on the advancement of LB768. [LB768]

SENATOR SCHILZ: Thank you, Mr. President. And I won't go over what the bill does. I did that a little bit ago. I'd just like to say thank you to everybody that was involved in this, and there were a lot of people that put a lot of time in going to interim studies, talking about this, getting things around, and doing everything, so all those people, you know who you are, I'd like to thank you for that. I'd like to thank Senator Davis, even Senator Larson, he was a part of that process that we went through here. And so this bill really will work to get things the way they need to be and we can move forward understanding that the Auditor's concerns have been answered and fixed and we can move forward without this problem in the future. Thank you very much. [LB768]

SENATOR GLOOR: Thank you, Senator Schilz. The question is the advancement of LB768 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB768]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB768. [LB768]

SENATOR GLOOR: The bill advances. Continuing with General File, Mello division, Mr.

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Clerk. [LB768]

CLERK: LB854, Mr. President, a bill by Senator Krist relates to long-term care. (Read title.) Introduced on January 13 of this year; referred to Health and Human Services; advanced to General File. I have no amendments to the bill at this time, Mr. President. [LB854]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Krist, you're recognized to open on LB854. [LB854]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, members of the Legislature, and good afternoon, Nebraska. Today I would like to bring you LB854. If you'll notice on the green copy, which has not been amended, it was introduced by and cosponsored by every member of the Health and Human Services Committee. I would refer you also, for background, to the committee statement, all seven of us voted out of committee. There were no opponents and no neutral testimony. I have passed out to you a letter that was sent to Kerry Winterer on behalf of what they call the health core...on behalf of the healthcare professionals whose services are included in the proposed Medicaid Managed Long Term Services and Supports project, MLTSS. I'm going to keep this introduction short and sweet, I hope, and answer any questions that you have. The reason for this bill is to insist that the Department of Health and Human Services slow down, take their time, take more public input from the healthcare professionals, and when we move into managed care for this group of critically ill or perpetually cared-for individuals we would do that with the input of those healthcare professionals who are in this area of expertise. Managed healthcare is on its way; it has arrived, depending upon your perspective. It saves money. It manages an individual's care better. It is a critical part of what will become home healthcare in the model itself. However, when you're looking at long-term illnesses, and in the case of a...what we call a retirement home, assistance living facility, it doesn't work so well now and it needs to be tweaked. This will just ask the department to take their time and take more public input from the healthcare professionals before we go forward. DHHS had at one point planned on putting an RFP on the street, or request for proposal, and putting the contract in as early as this year. This bill is asking them to delay that process and, again, to do it correctly; take a deep breath. If we're going to go this way, make sure it's thought out correctly and make sure there is public input. I'd be happy to answer any questions you might have on the subject. Thank you, Mr. President. [LB854]

SENATOR GLOOR: Thank you, Senator Krist. Members, you've heard the opening on LB854. Are there senators wishing to speak? Senator Bloomfield, you're recognized. [LB854]

SENATOR BLOOMFIELD: Thank you, Mr. President. Senator Krist, would you yield for a question, please? [LB854]

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SENATOR GLOOR: Senator Krist, would you yield? [LB854]

SENATOR KRIST: Yes, sir. [LB854]

SENATOR BLOOMFIELD: Thank you, Senator Krist. In your closing (sic) you said that this asked the committee to slow down; does it ask them or does it, in fact, tell them? [LB854]

SENATOR KRIST: It, in fact, tells the Department of Health and Human Services to slow down and not put an RFP on the street until they get public input in 2017. [LB854]

SENATOR BLOOMFIELD: Okay, thank you. [LB854]

SENATOR KRIST: Yes, sir. [LB854]

SENATOR GLOOR: Thank you, Senator Bloomfield and Senator Krist. Are there other senators wishing to be recognized? Seeing none, Senator Krist, you're recognized to close on the advancement of LB854. [LB854]

SENATOR KRIST: I would be remiss if I didn't thank my committee Chair and the committee itself for prioritizing this bill. It's the right move and it's the right thing for our population in Nebraska that this would adversely affect and I ask you for your green vote. Thank you. [LB854]

SENATOR GLOOR: Members, you've heard the closing on LB854. The question is the advancement of LB854 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB854]

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB854. [LB854]

SENATOR GLOOR: The bill advances. Items for the record, Mr. Clerk. [LB854]

CLERK: Thank you, Mr. President. LB84 is reported by the Transportation Committee to General File with committee amendments attached. The Business and Labor Committee reports LB949 and LB997 to General File. All three bills signed by their respective Chairs. That's all that I have, Mr. President. Thank you. (Legislative Journal pages 777-783.) [LB84 LB949 LB997]

SENATOR GLOOR: Thank you, Mr. Clerk. Continuing with General File, LB941. [LB941]

CLERK: LB941, a bill by Senator Schilz relates to agriculture. (Read title.) Bill was

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introduced January 16; referred to the Agriculture Committee. The bill was advanced to General File. There are committee amendments pending, Mr. President. (AM2023, Legislative Journal page 621.) [LB941]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Schilz, you're recognized to open on LB941. [LB941]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. LB941 would provide for a Nebraska dairy growth study. The bill assigns a duty to the Department of Agriculture to provide a study to the Legislature that addresses a number of elements including descriptions of existing dairy production and processing; the marketing opportunities for expanded milk production in Nebraska; comparisons of milk production and processing trends; and efforts to recruit dairies and stimulate investment in milk production and processing between Nebraska and surrounding states. The report would include any recommendations of the director regarding actions to stimulate milk production in the markets. The report is to be submitted on or before November 15, 2014, and the bill inserts legislative intent that the Agriculture Committee receive the report in a public hearing. Nebraska has seen a long-term, steady attrition in the number of dairies and dairy animals in the state of Nebraska. Although total milk production has been more stable, there is a concern that the loss of dairy producers and stagnant milk production is a key factor in decisions by some processing to abandon processing facilities in Nebraska. The most recent example was the closure of the LePrino Foods cheese plant in Ravenna last summer. LePrino's closure took 170 jobs with it that were transferred to LePrino facilities in Colorado. Milk producers in the Ravenna area now face higher transportation costs to reach processing markets reducing their competitiveness. Nebraska's remaining processing facilities may be highly dependent on imported milk and expanded local production would likely help secure continued commitment to maintaining facilities in Nebraska. While some milk processing markets in Nebraska have declined, there have been some growth in producer processing whereby the milk producer also processes their own production and supplies to direct retail and wholesale markets. There's been increasing interest in milk directly marketed in local systems and retail interest in procuring local milk products. States surrounding Nebraska have been very aggressive in recruiting dairies wishing to relocate from areas of the country, particularly California where urban pressures have imposed restrictions on dairy operations. There was a very telling report last year by the UNL Extension Service entitled "U.S. Livestock Industry Trends and Nebraska's Role" that examined trends in the major livestock sectors comparing Nebraska both nationally and in our regional grouping. Here are some disturbing data from that report. Since January 1, 2003, Nebraska's dairy herd has fallen from 66,000 head to 55,000 head, a drop of 16.7 percent, while dairy herds in the U.S. and surrounding states grew by 3.6 percent in that same period, including increases of 37,000 head in Colorado, Kansas had 20,000 head increase, and South Dakota, 8,000 head increase. Over the past decade, Nebraska has fallen to 27th in milk production rankings and our share our national production has

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declined. Over the past decade, increasing productivity has enabled Nebraska raw milk production to grow by 5 percent despite declining dairy numbers. However, nationally milk production has grown 17 percent and milk production in the states surrounding Nebraska has grown 22 percent. I have felt that we have ignored our state's dairy industry for far too long. We need to better understand the factors underlying the competitiveness of dairy production and processing in Nebraska; to look at where other states have had success in stimulating expanded dairy production; and to examine means to stimulate new markets and entrepreneurship in our state's dairy industry. I envision that the report will provide important baseline data. A portion of the project will be gathering of information and data that is already available, but a portion of the project will be in identifying the capacity for expanded production and where market opportunities lie, including securing milk supplies for our remaining processing facilities. This past summer the Ag Committee visited West Point and toured West Point Dairy Products which makes butter and other products. One of the questions asked was whether the plant could utilize additional local production, and the enthusiastic response was that the plant could easily take double the milk it takes in from the local milk shed and perhaps even triple. What I intend is that the report presented by the department will be a starting point. As the bill states, the Ag Committee will receive the report in a public hearing where the public can present its critique and offer additional input. We would follow up the hearing by bringing together the state's leaders in dairy production and policy to develop additional recommendations and strategies to position Nebraska's dairy industry for growth. There is a \$32,000 fiscal note to this bill. It is anticipated the department will contract with the university to produce the underlying data called for. I believe that this...as an investment worth making. I believe this industry is too important and the potential economic upsides to a robust and progressive dairy industry too necessary that we need as a Legislature quality information to better understand both the challenges and opportunity for dairy production in Nebraska. I will point out that the bill will have no General Fund impact. The bill authorizes an expenditure from the Cash Fund reserves and the Commercial Feed Administrative Fund to underwrite the cost. I believe this project has direct and natural nexus to the interest of commercial feed producers whose fees support that cash fund. LB941 advanced from the committee with a unanimous 8-0 vote and I appreciate the committee joining me in demonstrating a strong commitment to our dairy industry. And I would ask for the body's support of LB941. Thank you, Mr. President. [LB941]

SENATOR KRIST PRESIDING

SENATOR KRIST: Thank you, Senator Schilz. As the Clerk stated, there are amendments from the Ag Committee. Senator Schilz, as the Chair, you're recognized to open on your committee amendments. [LB941]

SENATOR SCHILZ: Thank you, Mr. President. Once again, the committee amendment, AM2023, strikes subdivisions 2 and 3 of subsection...or I should say, ii and iii of

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subsection 1(d) in order to avoid the report conclusions of economic viability of processing facilities that may rely on proprietary information. This is a portion of the report that would identify available or potential markets for any expanded milk production. The amendment clarifies that it is a goal of the report to determine the capacity of Nebraska processing facilities to utilize greater in-state production as an element of the assessment of markets for expanded production. The amendment also provides that the report shall also examine marketing opportunities in self-processing and direct marketing as an additional element of the market assessment portion of the report. While some milk processing markets in Nebraska have declined, there has been some growth in producer processing whereby the milk producer also processes their own production and supplies to direct retail and wholesale markets. There's been increasing interest in milk directly marketed in local systems and retail interest in procuring local milk products. While I envision this to be included in the report's assessment of potential marketing outlets, the committee amendment makes this purpose explicit. Finally, the amendment provides that any recommendations of the Director of Ag for actions to promote growth in dairy production are limited to state-level actions. As introduced, the bill provided that the report include the director's recommendations for actions by state and local governments. The committee amendment is intended to remove any perception that a goal of this report is to be used as a basis to weaken the local planning and zoning authorities. And with that I would ask for your adoption of AM2023 and advancement of the underlying bill, LB941. Thank you, Mr. President. [LB941]

SENATOR KRIST: Thank you, Senator Schilz. You've heard the opening on LB941 and the amendment, AM2023 from the Agriculture Committee. Those wishing to speak: Senator Johnson, you are recognized. [LB941]

SENATOR JOHNSON: Thank you, Mr. President. I want to comment on the song that probably most of you have heard, it's in the musical Oklahoma; talks about the farmer and the cowman should be friends. It also talks about the cows and the plows. I think we have an example here. We've worked a little bit with the beef industry and the cattle feeder, the corn production, we've produced ethanol, it's helped the corn producer and it's helped the beef industry. I think that's where that has worked together. I think we're trying and we're struggling a little bit with having that very good, strong connection in the pork industry. We need to work on that. But I think this is definitely a bill that will mend that fence and bring more value to that \$4 corn. When you...the best way to add value to grain is to process it, and process it in this sense, process it through dairy. Milk is an essential for us. We have production facilities that we believe can handle that. A dairy brings not only economic value to the person that produces the grain, but it also...when I was involved in management we worked to bring in a dairy from California that had 5,000 head of milking cows. When that came to the area, it helped out those people that were growing dairy-quality alfalfa; helped those people that had feedlots...small feedlots that were sitting empty and they put their dry cows and they put their calves into some

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of those beef feedlots and it added some revenue for them. It helped out in the distribution of the waste from the dairy plant to go on for fertilizer. So there's just a lot of positives in what we're doing here. So I definitely support AM2023 and ask for your green light on LB941. Thank you. [LB941]

SENATOR KRIST: Thank you, Senator Johnson. Senator Wightman, you are recognized. [LB941]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. In my district we have two...we had two, we have one now, large dairy industries. One is a large plant...a dairy located just north of Miller, Nebraska, in Buffalo County. And we had a large cheese factory in Ravenna. And the cheese factory closed. I'm not exactly sure how long ago it was, but about a year ago; could be a little longer than that. And as a result, the dairy industry north of Miller is going to see major problems, I think, in selling their product. So I do think it's very important that we make efforts to determine what could be done to increase the dairy industry again in the state of Nebraska. And I think, as Senator Johnson said, this will also assist in corn production and other products that are used in feeding dairy animals. So I do strongly support AM2023 and LB941. Thank you, Mr. President. [LB941]

SENATOR KRIST: Thank you, Senator Wightman. Seeing no one else wishing to speak, Senator Schilz, you're recognized to close on the committee amendments. [LB941]

SENATOR SCHILZ: I'll just waive that close on the whole thing. [LB941]

SENATOR KRIST: Yes, sir. The question is: Shall the committee amendments to LB941 be adopted? All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB941]

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB941]

SENATOR KRIST: The amendments are adopted. Seeing no one else wishing to speak, Senator Schilz, you're recognized to close on LB941. [LB941]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Thank you for the vote on the amendment. It really is crucial to the state of Nebraska and to the livestock industry that we help to do whatever we can as a state to make it possible for more dairies, more dairy animals, and more processors to be able to come into our state. And most of what that means is that, probably, we just need to get out of the way. A lot of times what happens is we get caught up in the regulations and everything like that and it tends to slow down what we need to have happen. We've heard all morning

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this morning people talk about how do we get real property tax relief. How do we get real tax relief out there into our rural areas where people are paying a large amount of property tax? And my answer has always been from the first day I decided to run, the best tax cut that we can provide our citizens is through growth, because through growth we don't have to shift taxes anywhere and we don't have to make those tough decisions of where to cut. It is essential that we have growth in our rural areas to stem the tide of population decline. I don't know if anybody has paid attention, but jobs in the dairy industry aren't minimum wage jobs. They pay very well. And there's a lot of different jobs within that industry that most people don't understand goes on. Those jobs bring people back to our rural communities. Those jobs bring people into our schools. Those jobs lower everyone's taxes around them. So when we talk about what are we doing to alleviate taxes in the state of Nebraska, well, there's two ways to look at that. And one way should be that we always look at ourselves and make sure that we're not spending more than we have. And the second thing is, we should always be looking towards growth to make sure that we broaden the opportunities for those out there that want to help lower the taxes of everybody else through growth. And so when people ask you what are we doing for these things? I think we can tell them, look, there's short-term goals; there's medium-term goals; and then there's long-term goals. And we should be working on all three of those. I look at this study as a first step in one of those medium to long-term goals of helping to reduce taxes through growth. And I hope that everyone else will step aboard with me and move this forward and do more things like this that will help growth in our state. Thank you very much, Mr. President. [LB941]

SENATOR KRIST: Thank you, Senator Schilz. Question is the advancement of LB941 to E&R Initial. All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB941]

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB941. [LB941]

SENATOR KRIST: LB941 advances. Next item. [LB941]

CLERK: LB941A by Senator Schilz appropriates funds to implement the provisions of LB941. [LB941A]

SENATOR KRIST: Welcome back again, Senator Schilz, you're recognized. [LB941A]

SENATOR SCHILZ: Thank you, Mr. President. This won't take long. LB941A would expand one time the authorized appropriation from the Commercial Feed Administrative Cash Fund by \$32,000 during the fiscal year 2014-15 for underwriting the cost of the study and the underlying bill. Expenditure for purposes of the report is inserted into the statutory provision creating the cash fund in the underlying bill and the A bill corresponds with that. The use of this amount of the cash fund for the purposes of the bill is well within the resources available. As the fiscal note indicates, the fund has

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adequate resources to fund the report and associated costs and would have a minimal impact on the current cash flow in this fund. We have consulted with the representatives of entities that pay the commercial feed fees who have not objected to the use of these funds as efforts to expand the livestock industry, have a direct benefit and nexus to the interstates...to the interests of those fee payers. And with that I would appreciate the advancement of LB941A. Thank you. [LB941A]

SENATOR KRIST: Seeing no one wishing to speak, Senator Schilz, you're recognized to close on LB941A. Senator Schilz waives closing. The question is the advancement of LB941A to E&R Initial. All those in favor, aye; opposed, nay. Please record, Mr. Clerk. [LB941A]

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB941A. [LB941A]

SENATOR KRIST: LB941A advances. Next item. [LB941A]

CLERK: LB560, a bill by Senator Mello. (Read title.) Introduced on January 23 of last year, referred to the Business and Labor Committee. The bill was advanced to General File. There are committee amendments. (AM1958, Legislative Journal page 599.) [LB560]

SENATOR KRIST: Good afternoon, Senator Mello. You're recognized. [LB560]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. Wage theft or the systematic nonpayment or underpayment of wages is a problem affecting millions of workers across the country and in Nebraska. Recent studies have even suggested over 60 percent of low-wage workers suffer from some type of wage violation on a weekly basis. While much of the academic research on wage theft has focused on major urban areas like Chicago and New York and Los Angeles, working families in lower wage sectors can far too easily fall victim to wage theft in Nebraska. A report issued last year entitled "Where Wage Theft is Legal," examined the existing wage theft laws in all 50 states and found that Nebraska ranked amongst the bottom ten of states for providing statutory protection against wage theft. The green copy of LB560, by making a series of small changes to our existing wage statutes, sought to provide employees in Nebraska with greater protections against wage theft as well as additional methods for enforcing existing laws. With much of the original bill replaced by the committee amendment, the key remaining provision in LB560 is allowing the enforcement of the Nebraska Wage Payment and Collection Act by the Nebraska Department of Labor. Currently the act only provides for enforcement through the filing of a civil action. While attorney fees are available for individuals who make successful court claims, since most wage theft cases involve low-wage workers, there is little incentive for attorneys to take cases under the act. This lack of enforcement power by the Department of Labor was also the subject of a similar bill introduced by Senator

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Smith last session. I want to thank and commend Senator Smith for helping bring this issue to light today. In the fiscal note, the Department of Labor indicated that they receive more than 33,000 contacts each year related to the Wage Payment and Collection Act. In fact, the department testified at the hearing that when they receive a complaint under the Wage Payment and Collection Act the only actions that they can take are either to inform the complainant of their right to file suit or, in roughly 4 percent of the calls they receive, provide limited wage enforcement up to the state's minimum wage. Over the interim my office worked with the opponents of LB560, the Nebraska Chamber of Commerce and the Nebraska Federation of Independent Businesses, to carefully craft the language of the enforcement provisions in the committee amendment of LB560. Under the revised language in the committee amendment the Department of Labor would have the authority to investigate a potential violation of the act and assess administrative penalties on the employers. This language, which both the Chamber of Commerce and NFIB have now taken a neutral position on, is modeled off the process in the Contractor Registration Act, and includes the ability of an employer to appeal the citation or penalty through the state's Administrative Procedures Act. Of course, as you look through the fiscal note on LB560, I realize and recognize that there is a fiscal note that we can't ignore, and the fiscal note is to provide funding for an additional labor law inspectors in the Nebraska Department of Labor. Over the interim my office evaluated and explored every potential avenue in regards to eliminating or reducing the fiscal impact by looking at various language changes from the green copy of the bill. Unfortunately, there is no possible way to provide the Department of Labor the authority to enforce the act without generating a fiscal note. I do, however, think that it's good money well spent. Unscrupulous employers who engage in wage theft are not just harming their workers but they're also harming Nebraska's economy by depressing consumer spending, and they're often impacting our state budget by failing to pay state taxes on the wages that are currently being stolen from workers. LB560 was advanced by the Business and Labor Committee on a 7-0 vote, and I'd like to thank Senator Lathrop and the Business and Labor Committee for making the bill a committee priority this year. I'd urge the body to advance LB560 to Select File with the adoption of the committee amendment. Thank you, Mr. President. [LB560]

SENATOR KRIST: Thank you, Senator Mello. As the Clerk stated, there are amendments from the Business and Labor Committee. Senator Lathrop, as the Chair, you're recognized to open on those amendments. [LB560]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good afternoon. AM1958 is a white copy amendment that combines portions of LB903 into LB560, and addresses concerns from the Chamber and the Nebraska Federation of Independent Businesses. The specific portions of LB560 that caused concerns were (1) keeping of the records for five years, (2) retaliation provisions, (3) the criminal penalties, and (4) Department of Labor subpoena powers. AM1958 removes the portions of LB560 pertaining to keeping of the records, retaliation, and the criminal penalties. The

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investigatory and subpoena language is amended to add that the information sought must be relevant and reasonable in scope. The criminal penalty is replaced with a civil penalty that is similar to the penalties provided for under the Contractor Registration Act. The fine is \$500 for the first offense and \$5,000 for subsequent offenses. Employers can contest the citation. Both the Chamber and the NFIB have agreed to the amended language. LB903 requires employers to provide a wage statement on each payday detailing the employer's identity, the hours worked, the wages earned, and the deductions made. Employees exempt under the Fair Labor Standards Act, which is mainly salaried employees, are not subject to LB903's requirements unless the employer has an established policy of paying the exempt employees overtime on an hourly basis. Under current law, the Wage Payment and Collection Act only requires a pay statement within ten days after an employee's written request. LB903 is intended to protect hourly paid employers...or pardon me, hourly paid workers from discrepancies in hours worked and the rate of pay. Regularly provided pay statements ensure proper compensation and timely resolution of payroll errors. AM1958 addresses the concerns brought by the university and the Department of Administrative Services. It was unclear whether the term "deliver," as used in the bill to describe how the employer must provide the statements, included a method that both entities employ in providing earning statements. Both provide access to statements by way of the Internet, which is perfectly acceptable. So AM1958 adds "or make available," to accommodate this concern. This change takes care of the fiscal note, as both the university and DAS have agreed to the amendment. Additionally, AM1958 specifies that if an employer provides access to the statement at its normal place of business, it must do so for all shifts. The committee unanimously supported AM1958, and I ask you to approve the committee amendment. Thank you. [LB560 LB903]

SENATOR KRIST Thank you, Senator Lathrop. You've heard the opening on LB560 and the committee amendment AM1958. Those wishing to speak, Senator Smith, Schumacher, and Lathrop. Senator Smith, you are recognized. [LB560]

SENATOR SMITH: Thank you, Mr. President, and good afternoon, colleagues. I do want to commend Senator Mello for bringing forward this bill in his attempt to address an issue that is out there that is prevalent, and I appreciate his efforts to give me credit for his legislation. However, I'm not going to be able to accept all of the credit. The bill that he refers to that I introduced in the Business and Labor Committee last year was a bit different, and I wanted to just take a few minutes to point out what I was attempting to address with my bill and the bill that Senator Mello did reference. In the end here, however, I'm not...I do appreciate also the amendment that Senator Lathrop's committee has brought forward. I believe that it helps to address some of my concerns with the underlying bill LB560, and I will have some questions later on, just to make certain that I have some answers to some of my concerns with the amendment and the piece of legislation. But last year I introduced LB177 in front of the Business and Labor Committee, and I started out my testimony saying that since drafting and preparing the

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legislation, new information had come to my attention that I felt warranted amending the bill as it was currently written--the bill that I had introduced before the committee. I went on to say that as a business owner myself I'm well aware of an employer's legal obligation to pay wages owed within a certain period of time after employment is terminated; and under law, payment is due at the next regular payday or within two weeks of the end of employment. Being among the vast number of honest and fair employers, I was not aware at that time, however, that there is very little recourse for an employee should an employer not abide by the provisions of the law. This issue came to my attention when investigative reporter Mike McKnight called me regarding several former employees at a Papillion area business who had not been paid hundreds of dollars in back wages. When he asked me what could be done, my research revealed that the only course of action that these individuals could take would be to file suit in a court of law. To me this seemed unnecessary and a costly burden for somebody to have to go through to get what rightfully belongs to them. Specific to unpaid wages, there is absolutely no enforcement provision for this regulation set forth in Nebraska's Wage Payment Act. States that have similar wage payment laws vary in the degree of how they are enforced, but all of the surrounding states do provide for some level of enforcement by state labor or work force departments. Nebraska did not at that time, and again I appreciate this discussion taking place today. But then I concluded by saying that the latter provision of my bill was simply too expansive from what I was attempting to accomplish with the intent, which is failure to pay wages that are due. So again I'm not opposed to where we're going with this bill, but some of the concerns I have deal with...and I'm going to start with Section 2, and this is of the committee amendment, so would Senator Lathrop yield to a couple questions? [LB560 LB177]

SENATOR KRIST: Senator Lathrop, will you yield? [LB560]

SENATOR LATHROP: Yes, I'd be happy to. [LB560]

SENATOR SMITH: Okay, Senator Lathrop, on the first page in Section 2, with respect...that Section 2 is with respect to a complaint that is actually filed. Is that correct? So "The Commissioner of Labor shall have the authority to subpoena." [LB560]

SENATOR KRIST: One minute. [LB560]

SENATOR SMITH: Is that after they have been given notice of a complaint? [LB560]

SENATOR LATHROP: I would expect so because I don't...I think this is initiated by a complaint, and that leads the Commissioner to investigate. [LB560]

SENATOR SMITH: And I'm not...and again, I'm not challenging you on this, I'm just trying to get clarification. Should that be narrowed to when it involves a complaint as opposed to just general authority to subpoena records? [LB560]

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SENATOR LATHROP: You are on the amendment. You said Section 2, and I'm looking at the section. Do you mean paragraph 2 or are you on Section 2? [LB560]

SENATOR SMITH: Section 2. It's line 8. [LB560]

SENATOR LATHROP: Line 8, pardon me. "The Commissioner of Labor shall have the authority to subpoena." Okay, I see your question and now your concern, and your question is should they do that only when it has been precipitated by a complaint initially. [LB560]

SENATOR SMITH: Correct. So, for example, at the end of that sentence to add something like "with respect to a complaint..." [LB560]

SENATOR KRIST: Time, Senators. [LB560]

SENATOR SMITH: Thank you. [LB560]

SENATOR KRIST: Senator Schumacher, you are recognized. [LB560]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. On many occasions in the past 30 years I've helped small businessmen set up their businesses. And almost immediately after they become the proud owners of a corporation or an LLC, they are besieged with letters from the state of Nebraska telling them about all the regulations they've got to do. And it doesn't take many days after that until they say, why the heck have I ever done this? I just wanted to go into business, I just wanted to be an honest businessperson, and now the state is all over me requiring all kinds of forms, all kinds of regulations, all kinds of submissions, and it isn't worth it. And we can have all the economic incentive programs in the world and all of little schools trying to tell people to be entrepreneurs in the world, and when they hit the real world they hit a maze of paperwork; it will do little good. I can see in large operations why you might want to have a piece of legislation like this. But let's look at the little governments; let's look at the little operations where this is the case. The person works less than 40 hours a week; the person gets paid at least minimum wage--in most cases a lot more if they're worth anything; and they get their check every week, and nobody complains or wants anything more. Life is good and at least you're moving along and you're making payroll. And now what happens? Oh, well, even though you don't pay by...keep track of time, you just pay them for 40 hours a week and you kind of do what most people do in a small business situation; if they're sick they don't show up and you pay them anyway, particularly if they're a good employee. Now they've to keep hour records, and hour records for a long time. Now they've got to go out and invest in a time clock or something, or maybe have a bookkeeper hired to keep track of what time somebody came in and what time they went out for break and what time they came

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back from lunch, because we're supposed to keep track in here of the hours worked. What? This can't be good for the average small guy, the small employer who has had no complaints from his employee or her employee. What are we doing this for? I'm trying to pencil out, and I hope I have time to do it, some floor amendments to at least exempt out the little businessperson who's got two or three employees, who doesn't have any complaints against him, who's honest, who's paying minimum wage at least 40 hours a week and whose workers don't work more than 40 hours a week. At some point needless regulation has got to stop, and this is a perfect example. In those particular cases where you've got a big business operation and they're all set up and they're all doing their time-clocking and their forms and they got computers set up and bookkeepers--fine. But I think we have in most of our towns, in most of our small governments, and most of our farmers who may hire a worker or two, an informal system that works and nobody is complaining. And to do this is simply counterproductive to free enterprise at the level which it's most important to most of our small communities. And I hope to...I hope there's some discussion here that consumes five or ten minutes so I can work on a floor amendment so that we can debate the particular issue and a little exemption or a little slack for small businesspeople. And if that doesn't work, then we'll look at dividing the question, because there's several questions that are lying in here. But hopefully we can reach some common sense that applies to the small businessperson... [LB560]

SENATOR KRIST: One minute. [LB560]

SENATOR SCHUMACHER: ...who is struggling enough with all the forms and all the government baby-sitting that is unnecessary in the vast majority of the cases. Thank you. [LB560]

SENATOR KRIST: Thank you, Senator Schumacher. Those still wishing to speak: Senator Lathrop, Smith, Bloomfield, and Murante. Senator Lathrop, you are recognized. [LB560]

SENATOR LATHROP: Thank you, Mr. President and colleagues. This will be a fun debate because Senator Schumacher just made it sound like there's an assault on business. Let me start by telling you, I started a business with my brother, just the two of us. I've done payroll. I've gotten the books out. This was before it was automated and before I had an accountant do this. You get the books out, right? And you figure out what you're going to pay the secretary. And we have the hours worked and a rate of pay, and then we got some deductions, don't we? Federal taxes, state taxes, FICA. Then we deduct for health insurance if they're contributing. Disability premiums. Maybe if they're a route person, they have some arrangement regarding returns that they have to have credited, if they're a salesperson and they're working on a commission. You see, this is not an assault on business. The businesses are already doing the calculation, aren't they? When I get paid or when anybody gets paid, somebody has

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done the calculation about how do you go from gross pay to net pay, and all this is saying is share that calculation with the employee. Now Senator Schumacher, my good friend Senator Schumacher, wants to say, what about the business that has the same guy that works 40 hours every week, makes \$10 an hour, nothing changes; why should that guy have to do it? Well, I would say the answer to that is, it should be real easy because nothing changes from one week to the next. But for a lot of employees, understand a couple of things. One is they need to know how you arrived at the net pay. And, you know, when we were sitting in Business and Labor this year, we have a Conrad bill that came to us. I had no idea this was happening. There are people now who work and then the employer gives them a debit card when they start and they stick the money straight into their account. They don't even know how much it is. They don't, not only...they don't know how much it is and they don't know how the employer got to it. So this is what we're trying to do with the bill. Okay? And it doesn't matter if you're three. If you have three people in your business, you probably need to do it more because you're more likely to have somebody who's working 32 hours one week and 37 the next. And by the way, it doesn't require a time clock. This calculation is being done by the employer every pay period. We're just sharing that information with the guy that did the work so he knows how the boss got to his net pay. Let me share some thoughts with you about this, okay? Hours worked, the rate of pay. Now an employee could probably calculate that themselves except that some of these folks work overtime, and it's not the same amount from week to week. And some of them work late at night and so they get a shift differential. Did the boss put that in my pay or not? Now why wouldn't he...you know, if you're in business you're not going to pay an invoice unless somebody itemizes it for you. Why shouldn't the employee be entitled to an itemization of his hours worked and how the boss got to it? And then here's the other thing. There's a bunch of deductions in there, a bunch of deductions: taxes, health insurance, disability insurance. If you get paid by the piece--I don't see Senator McCoy here, but he probably pays his roofers by the piece or by the square. How do you know if you have as many squares...you think you put down more squares on a roof than the boss does. Well, when are you going to reconcile that, right? When are you going to reconcile that? All we're saying is the boss is doing the calculation and I don't care if that guy has one employee or 2,500 employees, he's doing the calculation every pay period. All we're asking in this bill is that he share that information. He can deliver it by Internet. [LB560]

SENATOR KRIST: One minute. [LB560]

SENATOR LATHROP: He can give you a password so you can go on their Web site and find it, if you want. He doesn't have to come up with a scrap of paper or put a time clock in the place, because how he got to that number is not what this bill is about. It's about sharing how he got to the number. And then the employee can come in and go, you know what, boss, I put more time in than you have; or that was during the shift differential, I should be paid a shift differential. This is a very, very simple bill--a very, very simple bill. Every employer is calculating net pay and an employee should be

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entitled to receive it just the same as a businessman is going to want to see an itemized invoice before he pays a bill. I don't pay bills when somebody sends me here's your balance due, Lathrop. You say: Itemize it for me; tell me how many pens and pencils and how many tablets and how much paper and ink we bought at Staples, and then I'll pay the bill. [LB560]

SENATOR KRIST: Time, Senator. [LB560]

SENATOR LATHROP: Thank you. [LB560]

SENATOR KRIST: Thank you, Senator Lathrop. Senator Smith, you're recognized. [LB560]

SENATOR SMITH: Thank you, Mr. President. And I agree with Senator Lathrop, this is a good discussion to have because again what motivated me to bring LB177 to his committee last year was a recognition that sometimes there are employers out there that do not treat their employees well and do not pay them the wages that are due them. And then what Senator Schumacher is making comment to, and I know he's working on his amendment, but what he's making reference to is on the small business side. A large business, and a small proprietorship--I would say someone with one or two or three employees--probably can get by with doing this fairly easily, as well as a large employer. What the real problem that comes in are the small businesses that are in that no man's land. They have to accommodate some of the stiff regulations but they are not given much latitude whenever they do make inadvertent errors and they try to make good on those errors. And so when I'm looking at this bill, I'm just seeing that it sets up some of our good employers that are creating jobs in this state, and it's setting them up for failure and it's setting them up for penalties and it's setting them up for the frustrations where they throw up their hands, like Senator Schumacher said, and say, why am I even in business anymore with these stiff regulations that are upon me? I mean, they want desperately to take care of their employees and provide good jobs and good wages. But these heavyhanded regulations are just a tremendous burden to them. And so what we want to do is find common ground here. We do want to protect the well-being of the employees and protect them from bad employers. But we also need to protect our small businesses from the types of regulations that do set in motion a determination of whether they even remain in business, whether someone wants to become an entrepreneur in this country or in this state, and they want to take on these risks that they take on every day. So let's find...let's strike a balance here. My original bill addressed making certain that employers pay wages that are due. What this does is it opens it up a bit more to where there could be additional complaints filed against an employer without the employer having the ability to address them first on their own with the employee. It brings in the Commissioner of Labor into a situation that may not need to occur. And so that...I'm going to go back to some of my Q&A here. I see Senator Lathrop walked away from the microphone, so let me just continue here and just say I

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believe that there's a place to address paying wages when they are due. I'm not certain that we need to be this expansive in the statute changes and I would be very interested in seeing what Senator Schumacher is working on in terms of exempting small businesses from some of the penalties that could be imposed upon them should they make an inadvertent error. Again I think we need to make certain we get the wages due employees, but let's not be overly burden...let's not overly burden small businesses. I think the threat of penalty, what if there's an error with a small business? What if there's a disgruntled employee that wants to file a complaint? [LB560 LB177]

SENATOR KRIST: One minute. [LB560]

SENATOR SMITH: Those are some of the things I want to see how we can address that and protect the employer as well as protecting the employee. So I'm going to conclude with my comments. I'll back on the mike again in a moment. [LB560]

SENATOR KRIST: Thank you, Senator Smith. Senator Bloomfield, you are recognized. [LB560]

SENATOR BLOOMFIELD: Thank you, Mr. President. Would Senator Lathrop yield for a question or two? [LB560]

SENATOR KRIST: Senator Lathrop, will you yield? [LB560]

SENATOR LATHROP: I'd be happy to. [LB560]

SENATOR BLOOMFIELD: Thank you, Senator Lathrop. As I was reading the intent of the bill here, it says, "Requires employees (sic--employers) who fall under the Nebraska Fair Employment Practice Act..."--or employers, not employees. Who all does that...if I hire somebody to build a mile of fence and tell him I'll give him \$500 to do that, do I fall under that act? [LB560]

SENATOR LATHROP: No. You're not...you haven't even created an employer-employee relationship. You have an independent contractor relationship. [LB560]

SENATOR BLOOMFIELD: Okay. If I hire somebody to haul a load of corn for me, same thing? [LB560]

SENATOR LATHROP: Same thing. Now if you put him on and you say, be here every day; I've got...I'll put you on as a employee and I'll have whatever tasks I assign to you, you know, week in and week out; then they become an employee and then...and I'm not sure if ag is exempt. So with that caveat, once they're an employee then they would be. But there's a difference between an independent contractor, Senator Bloomfield, and an

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employee. An independent contractor does...you know, it's the guy that comes over and fixes your fence or the guy that comes over and takes care of your plumbing. But the guy that you have there day in and day out, whom you control and who you can tell what to do and you have an agreement that you will pay him on some regular basis, like either by the piece or by the hour, that person then becomes an employee. [LB560]

SENATOR BLOOMFIELD: Okay. And if I just have the one guy come over and I need some help haying, will you come over and I'll give you ten bucks an hour for three weeks. [LB560]

SENATOR LATHROP: I expect that person would be an independent contractor as well. They're not there...they're there to help you accomplish a task and not to serve at your will. [LB560]

SENATOR BLOOMFIELD: But he is serving at my will if I'm paying him ten bucks an hour or whatever to help for that three weeks while I'm putting up hay. [LB560]

SENATOR LATHROP: I still think that's an independent contractor. [LB560]

SENATOR BLOOMFIELD: Okay. [LB560]

SENATOR LATHROP: And we have a ten-point test in the law and I can't give you every one of the elements of a ten-point test, but the fact that he is free to go work for somebody else and he's not committed himself to you for a long term but he's there to accomplish a purpose, whether it's painting your house or putting up your hay, that's an independent contractor. [LB560]

SENATOR BLOOMFIELD: Okay, that's...I wanted that on the record and I wanted to give Senator Schumacher... [LB560]

SENATOR LATHROP: Sure. [LB560]

SENATOR BLOOMFIELD: ...a little time, and I hope we did that. Thank you. Thank you, Mr. President. [LB560]

SENATOR KRIST: Thank you, Senator Bloomfield and Senator Lathrop. Senator Murante, you are recognized. [LB560]

SENATOR MURANTE: Thank you, Mr. President. Members, good afternoon. In light of the fact that my dear friend and colleague Senator Schumacher would like some time to draft his amendment, I have reviewed in greater detail the bill and the committee amendment which is being proposed by Senator Mello. I thought it might be somewhat helpful to at least get the perspective of someone who has to prepare these statements.

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I think I generally agree with what Senator Lathrop has to say. In my experience, the information that is being asked to be provided is not particularly burdensome. It is something that is, at least in our instance, is readily available. And I've contacted back but it seems like we already provide all of this information to begin with. But like a lot of regulations, as you might imagine, we are in a position right now of being able to absorb additional costs of regulations which are imposed by the State Legislature and other entities. But I'm keenly aware that not all businesses are in that situation and the business in which I work, which was started by my grandparents in 1965, could not have dealt with the level of regulations which are imposed upon small businesses today. Would Senator Mello yield to a question? [LB560]

SENATOR KRIST: Senator Mello, will you yield? [LB560]

SENATOR MELLO: Absolutely. [LB560]

SENATOR MURANTE: Thank you, Senator Mello. What I'm curious about is--I'm reading your amendment, pages 2 and 3--with the burden that is being asked to be placed upon employers, is it correct to say that this is a burden which applies across the board and it's information that has to be provided to employees whether they want it or not? [LB560]

SENATOR MELLO: Senator Murante, I think if I wasn't clear I'll be very crystal clear. The committee amendment deals with my original LB560 component is purely on page 1 of the committee amendment which deals essentially...parts of...early parts of page 2 which deals with the department's ability to actually enforce the current Wage (Payment) and Collection Act, as well as issuing a citation process instead of a civil or criminal penalty. So the components that are talking about pay stubs and everything else, that is Senator Lathrop's bill that is added to the second part of the committee amendment. [LB560]

SENATOR MURANTE: Thank you, Senator Mello. Would Senator Lathrop...looks like he's predisposed, so maybe I'll just continue talking with you, Senator Mello, as Senator Lathrop continues talking about whatever it is he's talking about. So do you think you're familiar enough to...with what Senator Lathrop is proposing to be able to answer that line of questioning? [LB560]

SENATOR MELLO: You know, I think that in general right now I think Senator Lathrop's portion of the committee amendment further expands what was done over the last few years as part of this act which requires businesses essentially to have...to give employees some kind of wage stub, whether...and I think the way Senator Lathrop has worked out in regards to what the original opposition may have been with his bill, which is allowing them to do it in a variety of different ways in the sense of mail or electronically. Since it's not really mine, since it's not really my bill, I don't feel it's

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probably my responsibility as much to go into the details of how he negotiated that. I think the general issue that Senator Schumacher had raised though in regards to this being...I think it's a little hyperbole to say this is an overregulation of business because, frankly, we already do some kind of this already. And I think... [LB560]

SENATOR KRIST: One minute. [LB560]

SENATOR MELLO: ...Senator Smith's concerns that he raised, I guess I don't quite understand Senator Smith's concerns because my portion of the bill simply allows the department to enforce the current act that's already on the books which I think should raise enough concerns for this body that we've had a state law for a number of years where the Department of Labor has been unable to actually enforce the act. So trying to...I know I'm trying to get some time here so they can work out the...Senator Lathrop and Schumacher can work out their negotiation. I'm a little concerned I think in regards to where Senator Smith's comments are going because my compromise was negotiated with the business community. So if they thought that this was an outlandish thing, they wouldn't have been okay with it. [LB560]

SENATOR KRIST: Time, Senators. Thank you, Senator Murante and Senator Mello. Senator Carlson, you are recognized. [LB560]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. This is an interesting discussion. And I appreciate Senator Mello, where he's coming from, Senator Smith, whom I know very well, where he's coming from, and Senator Schumacher, where he's coming from. And it comes up that I hope that we're all against unnecessary regulations that really end up being nothing more than a nuisance. I don't think that's what this is about, but that's what we want to guard against. Now we all should have a goal. We want to attain that goal. And so in business you hire somebody. You pay them because they help you reach your goal. You have expenses. You manage those expenses in small business or in big business. And after expenses, including what you pay your employee or employees, you hope there's a profit. Now profit for you as a business owner should allow for a good salary for you, a fair wage for your employees, and a reasonable profit for you after expenses, and this should be able to be accomplished without extra stress on the employer. And carrying on and expanding commerce for the employer should eventually be a positive experience. In most cases this does not come easy. It doesn't come until there has been a long time in working hard for a goal. And I'm saying this because, not in this body, but we have a lot of people that make our laws that tell us how we're supposed to conduct ourselves and how we're to conduct our businesses and they don't have a clue what conducting business is about. They've never been in it; they don't have the experience; they don't know what happens. Now I don't think this bill is a violation of putting something in place that's a nuisance and it's unreasonable, and I say that because I listen to Senator Mello, I listen to Senator Lathrop, I listen to Senator Schumacher, and I listen to Senator

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Smith. Unfortunately, I don't see Senator Smith. So I see Senator Lathrop. I'd like to address him if he would yield. [LB560]

SENATOR LATHROP: I'd be happy to. [LB560]

SENATOR CARLSON: Senator Lathrop, if an employer is doing things the right way, the way they should, does the passage of this bill add anything extra to their daily routine? [LB560]

SENATOR LATHROP: I wouldn't think so. Here's the...if I can, just real quickly, my piece of this was the pay stub. The other portion of the bill was a Mello bill. I'm happy to try to answer portions that deal with the wage theft, but the part about the pay stub, they're already doing the calculation. Everybody that gets paid has somebody doing a calculation of what their net pay should be, so I cannot imagine how it is adding anything more to their stress or difficulties running a business. [LB560]

SENATOR CARLSON: Okay. Thank you, Senator Lathrop. Would Senator Mello yield to a question? [LB560]

SENATOR KRIST: Senator Mello, will you yield? [LB560]

SENATOR MELLO: Absolutely. [LB560]

SENATOR CARLSON: Senator Mello, the part that requires an employer to pay an employee who has worked, if somebody is doing that, and most do, does the passage of this bill... [LB560]

SENATOR KRIST: One minute. [LB560]

SENATOR CARLSON: ...add any kind of stress or extra regulation that's unreasonable to that employer? [LB560]

SENATOR MELLO: Absolutely not. [LB560]

SENATOR CARLSON: Okay. I don't think it does either. Senator Smith, would he yield? [LB560]

SENATOR SMITH: Yes, I will. [LB560]

SENATOR KRIST: Senator Smith, will you yield? [LB560]

SENATOR CARLSON: How many seconds? [LB560]

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SENATOR SMITH: Yes. [LB560]

SENATOR KRIST: 41. [LB560]

SENATOR CARLSON: Okay. Senator Smith, I think from what you said that you also believe that an employer who is doing things right and paying his employees for work completed that this bill doesn't add any unreasonable stress. Would that be correct? [LB560]

SENATOR SMITH: That's correct. [LB560]

SENATOR CARLSON: Okay. Thank you very much. That's what we ought to be doing here. [LB560]

SENATOR KRIST: Thank you, Senator Carlson, Senator Lathrop, and Senator Smith. Senator Mello, you are recognized. [LB560]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature, and I...under Senator Murante and myself's Q&A a little bit I tried to address a little bit of where I wanted to go, and it was more just, I think, to try to provide a little bit more context in regards to Senator Smith's comments on the floor in regards to what really is LB560--as amended, what it will it do? As I mentioned in my floor statements, right now the current Wage Payment and Collection Act is not enforceable according to what we heard from the Department of Labor at the actual bill hearing. So what we do in the committee amendment is that we give the department the ability through their complaint process because, as Senator Smith asked Senator Lathrop earlier, how does this happen, why are we giving them, the department, the authority to investigate a complaint, because right now they do have the investigatory power right now to investigate a complaint but they don't have the subpoena power to be able to do that. And as you look at the language that was crafted in conjunction with major business groups to strike a balance and a compromise on this language, you can see that in Section 2 that there has to be a complaint. They can't use subpoena power in regards to a wage theft case if there's not a complaint. So hopefully that answers Senator Smith's first question, which is the Department of Labor just can't go start asking for records. There has to be a complaint filed. They have to investigate it. Then after they investigate it, then they can start to do more extensive research, if needed, through a subpoena. That's the first item. The second item is the citation. Senator Smith's bill he introduced and my bill both had criminal penalties. When an unscrupulous employer doesn't pay their employee, both of our bills had originally had a criminal penalty. That was obviously something the business community felt very nervous about of making it a criminal penalty for an employer not to pay their employee. But they acknowledged, yes, there needs to be some kind of repercussion when an employer does not keep in good faith with their employee. And so the process that we came to a compromise and

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agreement on was what you see in Section 3 of the committee amendment which mimics the Contractor Registration Act which allows the department when they find an employer guilty of not complying with the Wage Payment Collection Act that they can issue a citation. The first citation can be a fine up to no more than \$500. The second citation or more can be a fine up to \$5,000. But the other aspect, it gives the employer the ability to appeal that citation. So it's not the heavy hand of government trying to intrude on what businesses or small businesses are doing. It's saying if you're an unscrupulous employer who is not paying your employees and we have a complaint against you that we investigate and find that you're guilty of not paying your employees, we can issue you a citation to pay your employees and pay a fine. The only other option, colleagues, under current law is a lawsuit, which if you would talk to a small business, whether they're...have three employees or a business that has 50 employees, having a citation process laid out in this committee amendment is a much more manageable process instead of trying to go to court. The reason why is the employer still has the ability to appeal to the Department of Labor. So hopefully that clears up I think maybe some confusion and misunderstanding of what this actually does. But more importantly, I get a little...I get concerned when I hear colleagues start to use a little bit more hyperbole in regards to overregulation of businesses, the overregulation and government's heavy hand. Colleagues, this is an existing law. Employers have to pay their employees or they get taken to court. We're providing another venue so that the employer doesn't get taken to court but still gives the employee the ability... [LB560]

SENATOR KRIST: One minute. [LB560]

SENATOR MELLO: ...to get the wages that they're paid because while all of us in this body have probably the utmost respect for small businesses and small business owners, there are more employees than business owners in Nebraska, there are more Nebraskans working for an employer than there are employers. And so that employee-employer relationship is important in making sure, as Senator Carlson aptly described, this doesn't affect the good employers. If they're doing their job, paying their employees, following the laws, this has no impact on them. And for anyone to try to make claim otherwise are grasping for straws. This goes after employers who are not paying their employees, and I'm waiting to find out how it...how this makes it more difficult for people who are following the law. How does it do that? At least the reality is Section 2, Section 3 enforces the current law. [LB560]

SENATOR KRIST: Time, Senator. [LB560]

SENATOR MELLO: Thank you, Mr. President. [LB560]

SENATOR KRIST: Thank you, Senator Mello. Mr. Clerk for an amendment. [LB560]

CLERK: Mr. President, Senator Schumacher would move to amend the committee

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amendments with FA240. (Legislative Journal page 784.) [LB560]

SENATOR KRIST: Senator Schumacher, you are recognized. [LB560]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. When I first looked at this a few minutes ago, I thought to myself, how does it affect the small guy out there, small businesswoman, businessman who is just in business to make a living and as a necessary consequence has to employ a couple people? Well, Senator Lathrop is correct. A lot of this is done in the normal course of things but not all of it. The normal course of things you say, look, you're going to work up to 40 hours a week, I'm going to pay you X amount of dollars a week gross pay, and that amount is more than minimum wage, of course, and you're going to get a check each Friday or every other Friday--pretty simple. And they get a check, and most of the time in the memo of the check you can fairly easily and simply put in there gross pay minus your withholdings and your state and your IRS and your FICA and net pay and that equals the check, simple enough, no extra bookkeeping, no extra anything. Where this thing lights me up a bit and why I proposed the amendment to at least address one of the issues that jumped out of the bill is the case where the employer pays for 40 hours a week but does not keep track of whether or not the guy comes in an hour or two late or takes an extra 15 or 20 minutes off for lunch or leaves an hour early because the kid has got a basketball game or a football game and they've got to drive to it, just pays him the 40 hours a week, doesn't have a time clock. They know they come to work at 8:00, go home...work at 5:00 and get an hour off for lunch and that's life. Okay. This requires them to keep track of the hours for years. The hours are irrelevant. They're getting paid the minimum wage. Everybody is happy; nobody is complaining. And yet we now have got to have some mechanism for recording the hours. Okay. That's where the additional bookkeeping, the additional headaches, recordkeeping, and probably screw-ups will come in, because people are not in the business of trying to do anything other than the productive thing that yields a profit for their business and pays their payroll. And so this amendment that I'm proposing is reasonably simple and it says that you don't have to write out the hours and report what the hours the employee worked on that pay stub. In cases where the employee does not work more than 40 hours and where the employee is paid a fixed gross amount each week which computes to be at least 40 hours times the minimum wage, it takes the additional burden out of this. The rest of it, I agree with Senator Lathrop, is probably being done anyway. But what probably is not being done in the great bulk of small businesses is monitoring the employee's minutes at work, and most of them do not have a fancy time clock. Most of them will notice if the employee comes in religiously 45 minutes late, and then there's reckoning to be had, but they surely don't notice if they come in 10 minutes late and they should not be required under law to keep track of time if they meet these very simple requirements. They're paid for 40 hours and that 40 hours...they don't work more than 40 hours and that 40 hours amounts to at least minimum wage. When they do that, the government should keep their nose out of the recordkeeping and at the end of the year the employee does get

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their same W-2 form. That already has information, chances are, stored in a book or on a computer, but it's the recordkeeping, perpetual recordkeeping, and nitpicking on hours that this bill requires for an employer to remain honest and law abiding that I find objectionable. And so I would urge the body to accept FA240 and where those employees that do not work more than 40 hours a week and are paid at least 40 times minimum wage on their paycheck that the hours don't have to be kept track of. The rest of this part of the bill I'm fine with. Thank you. [LB560]

SENATOR KRIST: Thank you, Senator Schumacher. You've heard the opening to FA240 to AM1958. Those wishing to speak: Senator Lathrop, Kintner, Smith, and Bloomfield. (Visitors introduced.) Senator Lathrop, you are recognized. [LB560]

SENATOR LATHROP: Thank you, Mr. President and colleagues. You know, one of the best skills a trial lawyer can have is to try to make something seem so ungodly unreasonable--oh, the heavy burden of regulation. Senator Schumacher, an accomplished trial lawyer himself: Oh, the heavy weight, the heavy weight, god, we've got to amend this bill, save these poor small businessmen. Guys, they are doing this calculation anyway. No one has to get a time clock. You don't have to do any more bookkeeping because you're already doing it. You're already doing it. They came up with your net pay somehow; just tell me how you did it. You know, I was looking around while I was waiting for my turn to talk. I was looking around the Chamber and I thought, what do people in here do for a living? And then I spotted an insurance guy, two of them, and I thought, these guys work on commission. And I'm going to make one up instead of trying to single out one of my colleagues, but let's say that I work for State Farm. I open up my small business and now I'm going to sell life, health, auto, whatever they sell, homeowner's, and I'm going to work on a commission. Now there isn't anybody in here, no small businessmen in their right mind is going to open up their mail and see a check in there for \$2,500 from State Farm and go, that's fine, I guess that's what I earned this week. No. You're going to say, tell me how you calculated the commissions. I have an idea of what I sold. Right? I have an idea of what I sold and you have an idea of what I sold. Let's make sure it's the same thing. And so when this hypothetical agent gets this check, it's going to come with an itemization, right? The employee is entitled to the same thing, and it's being done already. Share the information and here's why. If you work on a piecemeal and you get your paycheck and you say, well, gosh, you shorted me, I put...I did 2,500 widgets and you only gave me credit for 2,000, you sit down with the boss and he goes, no, no, no, no, no, no, no, you didn't, let me show you how. It gets done. Bam--problem solved. But there are a lot of people who are paid in a more complex way than our hypothetical person my friend Senator Schumacher is talking about, the guy that works for minimum wage 40 hours a week. Now let me talk about his amendment just for a second. The amendment isn't aimed at small employers; it's aimed at small employees, right? This isn't...he doesn't set a criteria for the number of employees you have and say, if you only have a couple of employees you don't have to do this. He says, if you've got some guy that doesn't

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make an awful lot you don't have to tell him anything. I would submit to you that that's the guy that probably needs to know the most because he's the guy who's trying to get by on a few hours less than 40, something around minimum wage or less. You know, when we look at this bill, I don't know how to make it more simple. We're not burdening business. I've started one. I started my law practice, my brother and me and a secretary. I did this stuff. And now my...now I'm fortunate enough to be involved in a business that probably has 30 or 40 employees now. We do this stuff. We calculate people's pay before payday. Just tell them what it is so that they can talk to you about it. Why is it important? Because there's a lot of things that come out of pay; there's a lot of things that go into figuring out what your gross pay is. Now if you work on a commission,... [LB560]

SENATOR KRIST: One minute. [LB560]

SENATOR LATHROP: ...if you work on piecemeal, if you get bonuses for productivity, you ought to know the gross number and then you ought to know what gets deducted, and that's all this piece of LB560 does that I've offered. Right? It's just a pay stub. And interestingly, when I started my first job at a grocery store making \$1.85, everybody got pay stubs. Where the pay stubs have become a problem, when people want to do the direct deposit or they want to do the debit card, which is an interesting subject in itself, because now we're not getting a paycheck. Some money just shows up in our account. That's...this is sort of the evolution of direct deposit. These people need a pay stub. That's all it is. And we're not burdening business. They're already doing the calculation and no one has to buy a time clock that doesn't have one and no one has to change their practices. Just tell me how you got to my net pay. [LB560]

SENATOR KRIST: Time, Senator. [LB560]

SENATOR LATHROP: Thank you. [LB560]

SENATOR KRIST: Thank you, Senator Lathrop. Senator Kintner, you're recognized. [LB560]

SENATOR KINTNER: Well, thank you, Mr. President. And you know, I've been listening here with great interest and I really enjoy listening to Senator Lathrop speak. He takes complicated things. On a number of different times I've listened to him he's taken complicated issues and bore them down into something that is easy to understand. And I just talked to him off mike. And, Senator Lathrop, I do have a question for you. Can you yield to a question? [LB560]

SENATOR KRIST: Senator Lathrop, will you yield? [LB560]

SENATOR LATHROP: Yes. [LB560]

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SENATOR KINTNER: If you're working for somebody, you're hourly, you're piecemeal, and they short you, right now, what should you do? [LB560]

SENATOR LATHROP: Ask for an audience with the bookkeeper. That's all. You just go in and you say, you know what, you got me down for 38 hours, I think I worked 42. It's that simple as long as you know you've been shorted. [LB560]

SENATOR KINTNER: And you know what, I've been in that exact same situation. You go talk to your boss or you go talk to HR or the owner or the payroll or whoever it is and they take care of it. If they don't take care of it, if they...if you're sure that they've got it wrong, that you worked 55 hours and they say you worked 45 hours, then what happens? [LB560]

SENATOR LATHROP: Then you talk about it. We have a process for bringing a claim, and that really is what Senator Mello is talking about. When you systematically short somebody pay, now we'll be able to go to the commissioner. Right now, that working stiff has to go find a lawyer or run down to small claims court and bring a suit over five hours a week times however many weeks they've been gypped and bring their claim. [LB560]

SENATOR KINTNER: Well, if it was systematic, that means it's going on. Wouldn't you have just left and gone to a fair employer that doesn't lie, cheat, or steal? [LB560]

SENATOR LATHROP: I don't know the circumstances. But if it's been systematic, you're probably gone and saying, wow, this guy paid me \$4 an hour when he was supposed to pay me \$7.35. But you've got to know what they're paying you and how you get to the net pay. Otherwise, it's a mystery. Everything between gross pay and net pay becomes a mystery. How do I know what was my gross pay and what are my deductions? [LB560]

SENATOR KINTNER: Thank you, Senator Lathrop. You know, I think that if somebody is shorting you a commission, I mean, you'll go right to them and try to sort it out. And if you don't hear something you like, you might walk away from it. But if it happens a couple more times or maybe one more time I would think you'd go seek employment elsewhere. I don't...you know, I just don't think you're at the mercy of some bad, mean employer. I think if they're just not playing fair with you, you just walk out the door. And if you're an employer, I'm not sure what advantage it is to take advantage of your employee. Long term, you have to have more employees. You've got...if the guy is going to quit, you've got to hire someone else. If you get somebody trained and he's a good employee, you'll want to take care of him. And I've seen employers, you know, in my past that have just said, hey, okay, if you say that's what it is, or, we'll split the difference, or they always seem to work it out, at least they have in my experience. And

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I'm just not seeing instances of a big, mean employer systematically and in a dishonest way taking advantage of an employee. I just don't see how that's ever to his benefit. A happy employee is a productive employee. An employee that's well taken care of is the kind of employee that you want to have. You know, I've seen employers who just treat their employees like family. [LB560]

SENATOR KRIST: One minute. [LB560]

SENATOR KINTNER: And they'll loan them money. They'll give them money up front. They'll front them a little money ahead of the payday to take care of their employees. They'll give them all kinds of time off for sick children and stuff and the government doesn't have to be involved. I just think this problem for the most part takes care of itself. And I'm not saying that the whole bill is terrible or anything, but I think overall I think the problem takes care of itself. Bad employers don't have very many employees. They leave and they go somewhere where they're treated well. Thank you, Mr. President. [LB560]

SENATOR KRIST: Thank you, Senator Kintner. Senator Bloomfield, you are recognized. [LB560]

SENATOR BLOOMFIELD: Thank you, Mr. President. I'd like to ask Senator Lathrop a question. [LB560]

SENATOR KRIST: Senator Lathrop, will you yield? [LB560]

SENATOR LATHROP: Yes. [LB560]

SENATOR BLOOMFIELD: You mentioned that Senator Schumacher's...thank you, by the way, for yielding. You mentioned that Senator Schumacher's amendment didn't address the number of employees. Would you be willing to accept amendment to your amendment? [LB560]

SENATOR LATHROP: No, because I don't think it matters whether I work for somebody that has one guy there or somebody that has 2,500. I think the problem probably isn't with the smallest guy perhaps but I don't know because we can't sit here and imagine all of the different businesses out there. But if somebody is not...the calculation is being done whether there's one employee or 2,500. [LB560]

SENATOR BLOOMFIELD: Okay. Thank you. So mostly your complaint about his amendment was rhetoric. [LB560]

SENATOR LATHROP: Pretty much. [LB560]

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SENATOR BLOOMFIELD: Thank you. And I have a question for Senator Schumacher, too, if he would yield. [LB560]

SENATOR KRIST: Senator Schumacher, will you yield? [LB560]

SENATOR SCHUMACHER: Yes, I will. [LB560]

SENATOR BLOOMFIELD: Senator Schumacher, as I read your amendment, and again, I may or may not understand it correctly, but it looks to me like if somebody is working 20 hours a week you're insisting that they be paid for 40 hours at minimum wage. Am I reading that wrong? [LB560]

SENATOR SCHUMACHER: Kind of, Senator. If they are...this creates a safe harbor for the guy...the...what I think is a standard situation. They work 40 hours a week; they get paid at least minimum wage based on 40 hours a week. Then we don't have to worry about keeping track of hours--that's all this thing does--and reporting hours. If, however, they work 20 hours a week, then they would...the number of hours under this time frame and under this proposed bill would still have to be reported to them so they know how they were computing your paycheck. But the standard situation out there that...where the guy is paid for 40 hours a week and he works 40 hours a week or at least is paid for that, may work less, they don't have to keep a separate record of time which never really enters into the compensation calculation because they're always paid for 40 even though they work 36. And it gets rid of having to keep track of minutes. In fact, it protects the little guy because you have employers starting looking, saying, you know, I really kept track really close here and this guy has only been working 38.5 hours a week, I think I'm going to dock his paycheck, where they never docked it before. And so it may actually hurt the employee who has been there for a few years and who slacks a little bit on an hour and 15 minutes off for lunch and nobody ever cares about it. That may all of a sudden become a factor if they've got to keep track of hours and plug that into the computer. Most employers, small employers, would just as soon pay for an even 40 and be done with it rather than have to keep records for the government to snoop through. So in the case of an employee who works 20 hours a week, under this amendment, as under the bill, they would have to be told the number of hours that their salary was computed on. But the standard, 40-hour situation is what this creates a safe harbor for. [LB560]

SENATOR BLOOMFIELD: Okay. So the 20 an hour...20 hour a week, part-time worker, you've got to keep track of his hours. [LB560]

SENATOR SCHUMACHER: Yeah, I find... [LB560]

SENATOR BLOOMFIELD: (Inaudible)...40 hours you don't have to. That seems a little strange to me. But if that's what it is, I'd be inclined to vote against the amendment.

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Thank you, Senator Schumacher. [LB560]

SENATOR KRIST: Thank you, Senator... [LB560]

SENATOR BLOOMFIELD: Mr. President, I'd yield the rest of my time to Senator Murante. [LB560]

SENATOR KRIST: Senator Murante, 1:22. [LB560]

SENATOR MURANTE: Thank you, Mr. President, members. Based on Senator Lathrop's last floor speech, I do think there is a...what I think the most practical impact of this bill is going to be. First of all, I'm not a believer that most businesses, large or small, are in the business of being bad actors, of treating their employees unfairly. In my observation,... [LB560]

SENATOR KRIST: One minute. [LB560]

SENATOR MURANTE: ...for the most part, when businesses behave like that they don't stay in business for very long. But what this bill will do is that, in my experience anyway, when an employee comes to an employer saying that there's something wrong with their paycheck, that is a sign that something went wrong. It is an indication that something along the way didn't happen correctly. And our...and it happens all the time. Usually, it means an employee didn't clock in, didn't clock out, something like that. But it's also a red flag that there is something wrong with the system that they have or that something...in most cases in businesses, like mine, where you have a computer system where people clock in and clock out, if employees come to you and say they didn't get paid enough, and that happens time and time again, that is a red flag saying there's something wrong with your system. [LB560]

SENATOR KRIST: Time, Senator. [LB560]

SENATOR MURANTE: Thank you, Mr. President. [LB560]

SENATOR KRIST: Thank you, Senator Murante. Senator Smith, you are recognized. [LB560]

SENATOR SMITH: Thank you, Mr. President and colleagues. This has been a really interesting discussion and I'm wanting to hear a little bit more about Senator Schumacher's amendment. I agree with him 100 percent that we want to minimize the burden on small business. And I don't want someone to misunderstand any comments I've made and I'm certainly...and I'm speaking for Senator Schumacher and I believe he's the same type of employer. There's no one that cares more for employees than those that create the jobs and the small businesspeople. Now we talk about large

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business, small business, but the small business folks, they are perhaps the most dependent upon having good employees and they want to pull out all the stops to take good care of them, provide them good wages, good benefits, and there are some burdensome regulations that get handed down that do get in the way of those employers being able to create the jobs and take care of their employees. So I just want to make certain that I go on the record as recognizing the small businesses in this state that create the jobs and to thank them for their efforts in creating those jobs. And for those small businesspeople that want to live the American dream, live the Nebraskan dream, and they take the risk and sometimes they have sleepless nights to make certain that they make payroll, we want to recognize that and not to dismiss them as you're doing...trying to withhold wages that are otherwise due to employees. We don't want to create greater burdens on these businesses. It is a disincentive for these businesses to want to start from scratch or to expand. So we don't want to create a disincentive out there for small businesses. And there is a higher cost of penalties or legal services. These penalties that we're talking about or legal services that a business has to take upon themselves, it does drive up the cost of doing business and it does have the effect of driving down wages, which is an unintended consequence. If a business's largest expenditure is payroll, that's one of the first places that they're going to have to look to cut. They don't...they're not able to give the raises that they otherwise would give. They...and then ultimately it affects jobs. It creates a downward effect on job creation. So we don't want to see those unintended consequences, and I think that's what Senator Schumacher is working towards with his amendment. And I will stand in support of his amendment, but I do want to have some further conversation with him off of mike. But it seems, colleagues, that it's perfectly acceptable to add regulation and whenever someone points out that this is added regulation that burdens business we simply say, so what if the employer has to pay for more attorney fees to protect themselves. Well, Senator Murante, wouldn't it be great if we created legislation that just said they just need to buy more pizzas? Or how about buy more garage doors? How about put on more roofs? It seems that it's acceptable to create regulations that in turn feeds the legal industry at the expense of small business. And let's not have that happen. [LB560]

SENATOR KRIST: One minute. [LB560]

SENATOR SMITH: Thank you, Mr. President. [LB560]

SENATOR KRIST: Thank you, Senator Smith. Senator Crawford, you are recognized. [LB560]

SENATOR CRAWFORD: Thank you, Mr. President. I rise in support of the bill and the Business and Labor amendment. And I've had some discussion and I appreciate the efforts of Senator Mello and Senator Lathrop and Senator Smith's concern also about making sure that we're protecting the employees and also that we're being attentive to

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regulation cost for businesses. So I appreciate Senator Schumacher raising the concern about what about these small businesses that don't have a time clock but it's just an understanding that, you know, you work 40 hours and I'm paying you for 40 hours but, you know, if you leave five minutes early I'm not making a big deal about that. And it might happen to be, you know, you might happen to work 41 this week and 39 the next week but overall you work 40 hours and I pay you 40 hours. And so I had some discussions of the mike and I just want, for the record, to clarify for the record and for all of our understandings what that means in this bill and why FA240 is not necessary to protect those small businesses that may have this kind of informal arrangement. So I would ask if Senator Lathrop would yield to questions, please. [LB560]

SENATOR LATHROP: Sure. [LB560]

SENATOR KRIST: Senator Lathrop, will you yield? [LB560]

SENATOR LATHROP: I'd be happy to. [LB560]

SENATOR CRAWFORD: Senator Lathrop, so you probably heard the scenario we were talking about. I am an employer and I have an understanding with my employee that they work 40 hours and I pay them for 40 hours but we don't write that down anywhere, we don't have a time clock. I just know that you're a good, faithful employee and I keep an eye on you but I know you pretty much work 40 hours, and so I am going to pay you for 40 hours. So my pay for you is calculated on 40 hours and I give you a...your pay stub or your check. Maybe I don't have a pay stub. I just give you a check and in the memo line of the check I write, "40 hours," and then I write any other deductions I've made and I give that to you. Am I complying with the law? [LB560]

SENATOR LATHROP: Yes. [LB560]

SENATOR CRAWFORD: So there is no provisions in the law that provide a tool for some big hand of government to come in and make sure that my employee actually worked 40 hours? [LB560]

SENATOR LATHROP: No. [LB560]

SENATOR CRAWFORD: And so let's...so I am covered. We do not need FA240 to safeguard the businesses that have that kind of arrangement with their employee. You work 40 hours, I pay you 40 hours. Is that correct? [LB560]

SENATOR LATHROP: True. [LB560]

SENATOR CRAWFORD: So let's say...but now I'm also, you know, worried about somebody who might get...you know, want to make sure that we're not being too casual

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with that and make sure we're still protecting employees. So let's say I have that arrangement with the grocer I work for and for the most part we've been fine. I've been working 40-ish hours and they pay me each week 40 hours, and then all of a sudden they start asking me to stay after and that happens somewhat regularly and I still am getting my check and it has "40 hours" written on it. So in that case, then that...I could go talk to the employer and say, you know what, we have this 40-hour arrangement, I've been noticing you've been asking me to stay a little more than 40 hours and I think we should talk about it. Is that a reasonable consequence that might happen from this law? [LB560]

SENATOR LATHROP: Well, yeah, I think it is, because now you can see if you're being compensated for...there are many, many employers, probably most law firms, okay, since I'm most familiar with that, that probably have that arrangement with their staff, which is you're going to work 40, you come in at 8:00, you leave at 5:00, you get an hour for lunch, you do that five days a week. And does somebody leave at a quarter of 12:00 once in a while to go pick their kids up or they come back 15 minutes late... [LB560]

SENATOR KRIST: One minute. [LB560]

SENATOR LATHROP: ...or they stay 15 minutes longer? This doesn't change that. You get paid for 40 and if somebody is abusing that, then you can sit down with them and say, wait a minute now, we've gone well past that, let's iron it out. [LB560]

SENATOR CRAWFORD: Thank you. So I stand in opposition to FA240. I'm very sympathetic to the concern that Senator Schumacher raises, so I did want to have it on the record that this law is allowing for there to be that kind of a 40-hour agreement and you're paid on 40 hours and it does not add any additional recording requirements in terms of hours. Thank you. [LB560]

SENATOR KRIST: Thank you, Senator Crawford and Senator Lathrop. Senator Kintner, you're recognized. [LB560]

SENATOR KINTNER: Thank you, Mr. President. I want to kind of continue on the same path I was on before about, you know, what do you do when you think you've been wronged, you haven't been paid what you're owed? And I think you walk. You go to an employer that's going to treat you right. And that employer that treated you wrong is going to finally figure out eventually that if he keeps treating employees wrong he's not going to have any employees and they're going to be unhappy and they're not going to be productive. I'd like to see if Senator...Senator Smith, will you submit to a question or yield to a question? [LB560]

SENATOR KRIST: Senator Smith, will you yield? [LB560]

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SENATOR SMITH: Yes, I will. [LB560]

SENATOR KINTNER: Senator Smith, if you have an employee that's...you have a dispute with an employee over pay, how do you handle that? [LB560]

SENATOR SMITH: We don't have disputes, Senator, but hypothetically, if we were to have disputes, I think we would start out by trying to resolve it fairly with the employee because, again, they're our greatest asset in our company. We want to make certain they stay happy and, you know,... [LB560]

SENATOR KINTNER: What's the cost to you if an employee leaves or if the cost to you...second...part B is if he stays but he's an unhappy employee. [LB560]

SENATOR SMITH: Well, there's certainly a cost of retraining and hiring, going out and recruiting a new employee, training that employee. It's certainly...to me, it's more expensive to hire a new employee than to retain an employee. [LB560]

SENATOR KINTNER: So you would rather do what it takes to come to a meeting of the minds with an employee rather than have him unhappy and possibly leave. Is that correct? [LB560]

SENATOR SMITH: That's absolutely correct and I think that is what any good employer would say. [LB560]

SENATOR KINTNER: Thank you, Senator Smith. Will Senator Murante yield to a question? [LB560]

SENATOR KRIST: Senator Murante, will you yield? [LB560]

SENATOR MURANTE: Yes. [LB560]

SENATOR KINTNER: I'm making the rounds here with our entrepreneurs. We talked a little bit off mike about the employee-employer relationship. And talk to me about the employer versus the employee. Do you need them more than they need you or do they need you more than you need them? [LB560]

SENATOR MURANTE: I would say we definitely both need each other. I mean, it...they need us to be a successful business that can provide them a salary and we need them; otherwise, the customers won't come. I think by all accounts there is a shortage in the work force in Nebraska. When I talk to fellow business owners there is a general acceptance that it's...that it is at times difficult to find people who want to work in the industry. But I can tell you also we're in a little bit of a unique situation in that we have

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one of the lowest turnover rates in the restaurant industry. We have people who have been there for 10, 15, 20 years plus, so it's a little bit of a unique example. [LB560]

SENATOR KINTNER: So obviously, you find it advantageous to treat your employees fairly, to treat them well, and ensure that they feel like they're wanted and important. [LB560]

SENATOR MURANTE: Yes. [LB560]

SENATOR KINTNER: Thank you very much. I really, you know, I had to listen to this. I didn't...this wasn't on my radar, but I think this is very instructive. You know, if we're going to have a free-market capitalist system, which we have a semi-free-market capitalist system right now, in my opinion, I think that we need to be able to have some freedom... [LB560]

SENATOR KRIST: One minute. [LB560]

SENATOR KINTNER: ...for an employee to sell his services and an employer to pay for those services and for them to come to a meeting of the minds in terms of a lot of these employment issues. I know we do a 40-hour work week, which is good, and overtime and time and a half and some work breaks. But overall you are in a contract, either written or verbal, with an employer about the work conditions. And you know, I think it's handled best usually at that level. And when you're not happy with an employer and the way he's treating you, it sure makes a lot more sense to just walk out the door and go find an employer that will treat you well. Thank you, Mr. President. [LB560]

SENATOR KRIST: Thank you, Senator Kintner. Senator Mello, you are recognized. [LB560]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I'll have to respectfully disagree I think with a little bit of what I was just hearing on the floor from my colleague Senator Kintner in the sense that LB560 and the component of the bill that I have on this amendment is not judging Senator Smith's or Senator Murante's business management. The concept of the bill that was introduced is that there are low-wage workers, Senator Kintner, who aren't treated well by their employers. And it's something that when you don't make a lot of money as a wage, the only option that you have to try to get paid when you're owed money is to go to court where those court fees actually are going to cost more than what you would get paid if you were able to get those wages from your employer. Now I'm not trying to debate the economic theory of the early 20th century in regards to whether or not the concepts in the book The Jungle are still apparent today in our modern economy. But please be careful in the sense of trying to draw what the purpose of this bill is, which is going after unscrupulous employers. No one said Senator Murante or Senator Smith in their businesses that they run outside the

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Legislature are unscrupulous. But for us not to acknowledge that there are employers that aren't paying their employees is disavowing what the Department of Labor said at the public hearing where they said they get 33,000 contacts a year regarding employees not getting paid by their employers. So I'm willing to stand with those 33,000 people in Nebraska who are calling our Department of Labor saying, I'm not getting paid, I want some redress one way or another, my employer-employee relationship is not what it sounds like that others have, and I'm owed back wages and I want to be paid. So in Section 2 and 3 of the committee amendment we address that. I know that Senator Schumacher is trying to do...what I think he's trying to do is provide some flexibility to smaller businesses. But I guess I'm not understanding completely his example or his parameters because I don't know any business, I've never heard of an employee contact me that has this kind of unique relationship where they work a certain number of hours and there's no time card, there's no documentation, they just get paid a flat amount of money, and that's their relationship and it's an ongoing thing where there's no documentation. I mean, even those who are salaried employees or exempt employees have some kind of document, legal document, that shows here is what you'll be paid per month, per pay period, and you may work 80 hours, you may work 10 hours, but here is what you're paid. I mean, everyone gets some kind of legal document for legal purposes in case they have to go to court. And so I know what Senator Schumacher is trying to do; I just don't know if it's being done in the floor amendment the way it's drafted and the way I'm understanding it. I'm confused a little bit. So I'm willing to hear him out a little bit more, but I'm just concerned that there is this conversation starting that this is not a problem because this is a problem. In the food and the restaurant industry, this is a huge problem. This is a huge problem in the construction industry. Employees are working and not being paid and they have no redress except to try to take their employer to small claims court and it would cost more to get a lawyer in that process than what they would actually be paid. So I know that in talking with other senators who have concerns, they're not as concerned about my portion of the amendment as they are I think with Senator Lathrop's. But I think Senator Lathrop's underlying amendment is trying to address what seems to be a standard practice of businesses. They've got to operate under a variety of state and federal laws when it comes to that employer-employee relationship and providing an employee a time card or a wage statement is something that this Legislature has actively worked on for the last six years. So I don't see where Senator Lathrop is taking us is too far out of left field. [LB560]

SENATOR KRIST: One minute. [LB560]

SENATOR MELLO: It's not overregulation; it's something that businesses, good businesses now are doing already. They're already doing this. It's those unscrupulous businesses that are trying to skirt laws, that are not trying to pay their employees, that are trying to break tax laws. There are employers that do that. Why? Because there is well-documented evidence from the Department of Labor. That's why they have 33,000

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contacts a year of employees not being paid. It's not a number I'm making up, colleagues; it's in the fiscal note from the Department of Labor. So let's just be careful when we try to minimize this issue because Senator Smith had a constituent approach him on it that's not from Omaha, not from out west. It's from a relatively moderate-income community of La Vista, Papillion. So let's just be careful when we start to move in a hyper...using hyperbole when we're trying to make arguments on certain economic theories and certain regulatory theories. Thank you, Mr. President. [LB560]

SENATOR KRIST: Thank you, Senator Mello. Senator Ashford, you are recognized. [LB560]

SENATOR ASHFORD: Thanks, Mr. President. I...let me try to fully understand if I can what the opposition to this is. And I might just relate to you my thoughts on why I thought this was an important bill in committee. We have had a Wage Payment Act in Nebraska for as long as I've practiced law, which is a long time, and those cases, those wage payment cases are a pain. They're a pain for businesses because they have to hire a lawyer. They're treble damages if you lose. Maybe I'm in a...maybe I'm off base here, Senator Schumacher. He's always...with some trepidation start talking about the law. And I've been involved in several of these. You file, go to trial sometimes in the district court, which is the higher court, if you have a claim that's larger than \$10,000. They're litigated over a period of time. If you're the employer and you lose you pay treble damages. It's a real cumbersome system. So make no mistake about it, if we were to actually be...if we were trying to overregulate business or continue a practice that in my view overregulates business, it's the old Wage Payment Act. This is...the reason I voted for this is because it is a clear and a concise way of telling an employer what records they should be keeping or the nature of the records that they should be keeping so that if there is a claim filed they can produce these records and avoid any penalty or certainly treble damages paid...it's...it may be the only civil action, and there may be others, Senator Schumacher may correct me, the only civil action I know of where the plaintiff's lawyer can get treble damages or the...I'm sorry. The employee can get treble damages which inflates the attorney fee because usually the attorney takes these cases on a third. So this is taking what is a labor standard basically, in my view anyway and why I voted for it, taking a labor standard which basically says you should tell your employees the basis upon which they're being paid and put it in an administrative process. It is not overregulation. It is taking these disputes out of the court system, putting them in an administrative setting where...and my guess is most of these things are going to get worked out. They're going to get worked out. So a lot of...when we do these kinds of reforms, government is already in the deal. We already regulate wage and hour, labor conditions, child labor, all of these various...we have chapter upon chapter in our statutes that deal with labor and with working and that sort of thing. And so what we're doing here is not overregulating. What we're doing here is making clear and making, quite frankly, in my view, more efficient, clear to the employee, clear to the employer. It's not overregulating anybody. I fail to see, and I

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guess...my good friend Senator Smith or somebody else explain to me how this is worse or less efficient or more regulation than a system where you could find yourself in court in a civil lawsuit and potentially have to pay treble damages and, trust me, it happens. It happens. So I don't think this should be really a debate about this bill is suggesting that employers are unscrupulous or aren't paying. There's already a remedy for that and that remedy is a civil lawsuit with treble damages. So this...let's not take this to the moon. It's not that significant in my view that we would... [LB560]

SENATOR KRIST: One minute. [LB560]

SENATOR ASHFORD: ...talk about the horrible of horrors of businesses not doing a good job for their employees. I don't think that's what this is about at all. I think it's making a clear and concise codification of a way to...stop that, Senator Schumacher. He's just laughing. I...you know, you've got to tell me where I'm wrong on the Wage Payment Act. That's...I've got to...I mean, I'm just anticipating the tutorial on that. But in any event, I think this is an appropriate way to deal with these kinds of issues and, therefore, I would urge that we advance the bill without the floor amendment. Thank you. [LB560]

SENATOR KRIST: Thank you, Senator Ashford. Those still wishing to speak: Senators Smith, Lathrop, Bloomfield, and Johnson. Senator Smith, you are recognized. [LB560]

SENATOR SMITH: Thank you, Mr. President. And, colleagues, you know, I think we're all a bit confused as to where our positions are and what the...what we believe is the opposing side, what their intentions are with their amendments, and I think we're kind of talking past each other a bit. You know, Senator Mello was on the mike just a little bit ago and I don't think he and I could agree more that we do need to protect the well-being of employees. So the beginning of this amendment does that, and I'm perfectly fine with AM1958. But the other side of that coin is the employer, and particularly the small employer that some of these changes that are at the beginning of the bottom of page 2 and on to page 3 dealing with what additional requirements are needed of them in reporting, those things could be seen as burdensome to business and that's what Senator Schumacher is attempting to address. What he's attempting to address in his FA240 does nothing to take away from the points that Senator Mello was making in that we need to protect employees in that they receive wages that are due them. That remains in place. That's not what Senator Schumacher's floor amendment is trying to take away. His is trying to balance...have it strike a balance between that and what the burdens on small business are. So I'm going to support AM1958 with or without Senator Schumacher's floor amendment. But I do believe his floor amendment makes more sense and that it strikes a better balance. So hopefully that clarified for Senator Mello where...my earlier comments. And then later on there will be a floor amendment that I hope we will be able to get to of mine that I have had some conversation off mike and I do believe makes good sense and that if we're able to get to

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that I would ask for your support at that time. Thank you, Mr. President. [LB560]

SENATOR KRIST: Thank you, Senator Smith. Senator Lathrop, you are recognized. [LB560]

SENATOR LATHROP: Thank you, Mr. President. I just want to talk about a couple of things I've heard since I was last at the mike. Senator Kintner of course said that an employee should be able to strike a bargain, the employer...this is an at-will state, right? You can...you're employed at will unless you have a contract...and that they ought to be able to bargain, they ought to get the benefit of their bargain. This is about whether they know if they're getting the benefit of their bargain. It's that simple. I want to talk to you about why I think this would be good for employers, and I hope you'll pay attention to this because let's say that an employer, maybe through oversight or deliberately, underpays somebody by 50 cents an hour, okay? Never gives the guy a pay stub, and the employee looks at it and says, well, I guess that's right, here's my net pay, it's about two-thirds of what I think I should have grossed, so it's in the ball park, I don't know, that's fine. They never have a chance...he never...the employee never has the chance to say, well, the guy shorted me 50 cents an hour, and go in and talk to him about it. Here's the problem. Here's the problem and why employers should embrace the idea of the employee getting a pay stub, and that is they can resolve it when it is one misunderstanding. But here's what can happen. If that employee never gets a pay stub, right, he's trusting the employer, he's thinking everything is cool, he never talks to the employer about getting shorted 50 cents an hour, and now he's three years down the road, okay, and he walks in one day and says, well, jeez, you shorted me 50 cents an hour, or, let me look at my pay stub, or, let's talk about my pay, and he finds out he's been shorted 50 cents an hour for three years. Now guess what he can do. He can go find himself a lawyer. And you know what he's going to get for that? He's going to get three times that 50 cents an hour for three years plus attorney fees, all for something that could have been resolved with one misunderstanding the very first time. He realized he'd been shorted in the first paycheck, right? That's...this isn't burdensome to an employer. The employer is already making the calculation. Share the information. Let it get resolved when it's a misunderstanding and not when it becomes three years' worth of back pay, which under Nebraska law and the Wage Payment Act you can get treble damages and attorney fees. And by the way, if you do it to a whole bunch of people, it becomes a class action, a class action that could have been resolved just by looking at the pay stub and going, boss, you owe me 50 cents an hour for last paycheck. We're not...you know, a lot of this, this started out as protection for the employee. I still believe it's good for employees. But it's also good for employers so it doesn't turn into...one misunderstanding doesn't turn into a practice that turns into a Wage Payment Collection lawsuit with treble damages and attorney fees or a class action lawsuit if it's done to a number of people. This really is common sense and I suspect that if I asked people in here, any of you get a pay stub that doesn't have an itemization of your pay and your deductions, no one would raise their hand. Hell, I do and I'm a partner in a law firm.

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They itemize my pay. They show me where all the money went before I get my little bit. It's common sense and it avoids a misunderstanding. Now if some guy cheats you out of a couple of weeks' worth of pay and you realize the guy hasn't been honest with you and he won't make it right, the employee, instead of waiting three years,... [LB560]

SENATOR KRIST: One minute. [LB560]

SENATOR LATHROP: ...quits, he goes down to small claims court, and he collects his \$100. This is good for employers. It's good for employees. It avoids misunderstandings and it diminishes litigation. I'll tell you, for a paycheck or two, there is no lawyer that's going to take that. That's a fight down in small claims court. We're not trying to make business for lawyers here. It's not about that. It's trying to avoid the misunderstanding and really it is the mirror image of the employer who would not accept someone who is paying the employer for their services without an itemization. That's not a burden apparently. You know, if you're getting paid for construction work and they itemize it out for you, you're going to want to know, yeah, this is an itemization of what I'm paying you for. It's in the contract and you can compare the two and it's not a burden when the employer is getting an itemization from another employer. It's just when we're trying to take care of an employee. [LB560]

SENATOR KRIST: Time, Senator. [LB560]

SENATOR LATHROP: Thank you. [LB560]

SENATOR KRIST: Thank you, Senator Lathrop. Senator Bloomfield, you're recognized. [LB560]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I still have a little question on FA240, but Senator Schumacher and I have worked out an amendment that I'll introduce later to take care of that employee that's under 40 hours a week. But to this whole bill, to Senator Lathrop, again, you know, we're putting the burden all on the employer here. And Senator Lathrop keeps telling us it's not a burden, but I think the employee bears a little responsibility too. If you've worked for this guy for three or four years and he's not giving you a slip, you ought to be in there talking to him. You know, you don't wait for two or three years and see if, by golly, I can collect three times this now if I take it in there. I think there should be some burden on the employee here, too, to...instead of do everything on the employer. I am going to support FA240 as it stands now. Thank you, Mr. President. [LB560]

SENATOR KRIST: Thank you, Senator Bloomfield. Items for the record, Mr. Clerk? [LB560]

CLERK: Thank you, Mr. President, very quickly. Revenue Committee reports LB1043 to

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General File. Urban Affairs reports LB915 to General File with amendments. Enrollment and Review reports LB371A as correctly engrossed. Enrollment and Review also reports LB884, LB814, LB814A, LB867, LB1001, LB191A, LB690A, LB1016A to Select File, some having Enrollment and Review amendments. Senator Avery would like to print an amendment to LB946, as would Senator Murante. That's all that I have, Mr. President. Thank you. (Legislative Journal pages 784-788.) [LB1043 LB915 LB371A LB884 LB814 LB814A LB867 LB1001 LB191A LB690A LB1016A LB946]

SENATOR KRIST: Thank you, Mr. Clerk. Senator Johnson, you are recognized. [LB560]

SENATOR JOHNSON: Thank you, Mr. President. I'm going to go back and give a little bit of a history lesson. Senator Mello said, well, surely nobody just has a blank amount that they pay somebody over a 40-hour period or anything like that. Well, we used to get a check every two...twice a month when I first started in 1962 and it was always the same amount. We were not under wage and hour laws at that time. What I was told was...and I was a part of the office so I was working writing out those checks. We didn't make any stubs for them because it wasn't necessary. What we were told was: The store hours are 7:30 to 6:00 every day, 7:30 to noon on Saturday, the office closed one hour early each day, and here's what you're going to get paid. And that went until...and I'm not sure of the year when wage and hour plan came in and then we had to start keeping track of all that. We had to calculate. So I think we go rid of most of what maybe FA240 talks about, but evidently there's still some businesses out there that can still get by with that. But then it gets complicated when you've got overtime and then you've got somebody that gets overtime and it's averaged out over a two-week period. Sometimes it's overtime based on this week and next week you might only get 39 hours but you still get some overtime pay, so it gets complicated. Then you've got commissions to figure in. I don't know how you can do it without creating a stub. One thing we did within the business was we added at the bottom of that stub the true value of that job. We were maybe paying \$10 an hour. We'll use that as an example. But we put in there the cost of the company's share of FICA, the company's share of your employee...the employer contribution to your health plan, and all those other things that...what the costs are to the company. And then we came up with a dollar value of what that job is as they might look someplace else. So that was just something that we did in kind of a...to maintain our employees. But I'm assuming there's something out there that FA240 will cover and need to cover. But, I mean, I totally support the concept we're at right now. Our employees did look at those checks every week because our system was pretty complicated and, believe me, they would usually come to us every week, every two weeks, whenever they got the paycheck. When I started out I was taking the old manual timecard and having to add up the cards myself, and I made a few errors--I know that. But they were always willing to come in and talk about it. But I think this gives us, definitely the employee, some protection. Just some comments. Thank you. [LB560]

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SENATOR KRIST: Thank you, Senator Johnson. Seeing no one else in the queue, Senator Schumacher, you are recognized to close on your floor amendment. [LB560]

SENATOR SCHUMACHER: Thank you, Mr. Chairman, members of the body. For a five-minute opening, we sure talked a lot. I'm not sure if that was protesting too much or what the deal was. I do want to respond to Senator Crawford. I think she made a good-faith effort to try to see what really would happen, what's required. And I believe the law that is written requires an employer to give you a statement for the number of hours worked on every paycheck. The law starting on page 2 says the employer shall deliver to each employee a wage statement showing, at a minimum, the identity of the employer, the hours the employee worked, the wages earned by the employee, and the deductions made. Okay. It doesn't say the hours that you agree they might work, the hours worked. In order to do that you've got to have a special effort to keep track of the hours worked, which normally means a time clock, which most little employers don't have, or some other mechanism of taking time and recording it. All this little amendment does is says that if you pay somebody based on 40 hours a week and his check is for 40 hours a week and it's at least the minimum wage, you don't have to keep track of the hours worked and report those. What could be simpler than that? It saves bookkeeping on the part of the little business. They're agreeing to pay you for 40 hours, they've paid you 40 hours, and life goes on. You don't have to give them a statement of the hours actually worked, don't have to keep track of them, don't have to be subject to lawsuits or complaints to the Department of Labor that they miscomputed your number of hours worked because it doesn't make any difference. They're paying you for 40 hours. And, yes, there are employers that do that. And chances are a lot of them are 10:00 at night on a Friday night trying to figure up the paychecks and they don't need to have to go back through time records if they're paying you for 40 hours anyway. This is a simple amendment. It does not hurt the underlying purposes of the bill. In fact, it may protect small employees because an employer who may find out that his employees really are only working 38.5 hours may dock them the hour and a half and there's not been one thing on the floor said in the whole however many minutes or nearly an hour I suppose now that we've been on this that would indicate that this harms in any way, in any shape, the purpose of this bill, not heard one argument. We've heard a lot of other arguments, a lot of defensive motions. But at the same time, this does not hurt the bill. It says you don't have to keep track of it under the circumstances that you're paying minimum wage and it's for not over 40 hours a week. You can just pay them for the 40. And the law requires otherwise, without exception, that you report the hours a week. And that's all it is and it's an opportunity for the body to say, let's keep paperwork simple for small businesspeople when there's no sense under the sun why we should make it any more complicated than need be. So I would encourage everyone to vote for FA240 and save a little headache for the little businessman. Thank you. [LB560]

SENATOR KRIST: Thank you, Senator Schumacher. You've heard the closing on

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FA240. The question is, shall the FA240 to the committee amendment be adopted? All those in favor vote aye; opposed, nay. Have all those voted that wish to? Senator Schumacher, for what reason do you rise? [LB560]

SENATOR SCHUMACHER: I ask for a call of the house. [LB560]

SENATOR KRIST: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB560]

CLERK: 23 ayes, 0 nays, Mr. President, to place the house under call. [LB560]

SENATOR KRIST: The house is under call. Senators, please record your presence. Those unexcused senators outside of the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Wightman, Senator McGill, Senator Dubas, Senator Ashford, Senator Chambers, Senator Bolz, please return to the Chamber. The house is under call. Senator Ashford, Senator Chambers, please return to the Chamber. The house is under call. Senator Schumacher, all members are accounted for. How would you like to proceed? [LB560]

SENATOR SCHUMACHER: (Inaudible.) [LB560]

SENATOR KRIST: I'm sorry. Could you say that on the mike again one more time? [LB560]

SENATOR SCHUMACHER: Roll call, reverse order. [LB560]

SENATOR KRIST: Thank you, Senator. There has been a call for a roll call, reverse order, Mr. Clerk. [LB560]

CLERK: (Roll call vote taken, Legislative Journal pages 788-89.) 16 ayes, 18 nays on the amendment. [LB560]

SENATOR KRIST: The floor amendment fails. Please raise the call. Mr. Clerk for an amendment. [LB560]

CLERK: Mr. President, Senator Smith would move to amend, FA241. (Legislative Journal page 789.) [LB560]

SENATOR KRIST: Senator Smith, you are recognized to open on your floor amendment. [LB560]

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SENATOR SMITH: Thank you, Mr. President. A very simple amendment that I'm asking for, the FA241, if you look in the AM1958...and by the way I've had some conversation, colleagues, those of you that are still on the floor, I've had some conversation with Senator Mello and Senator Lathrop and I believe that they both are in agreement that this is just a cleanup measure. They have...Senator Lathrop has thoughtfully and correctly identified exempt employees. Those are the salaried employees that should be exempt from the provisions of the detailed wage statement, and I think that's correct the way he's handle that on page 3. However, there is a trigger just a little bit farther down on line 6 where it basically says that if that exempt employee is simply given a bonus, then they fall back under the requirements that target, the same as the wage-earning employees. So I think it was Senator Lathrop's intent, I believe it was his intent not to use just a simple bonus as a trigger point. And so what I'm asking is that the bonus is put after the "or," so we're saying that unless the employer has...and this is for an exempt employee, unless employer has established a policy or a practice of paying to or on behalf of exempt employees overtime or a bonus or payment based on hours worked. And that's the simple change that I'm asking for in this amendment. I believe everyone is in agreement to it. I hope that they are. And I'm going to ask Senator Lathrop if he would yield to a question. [LB560]

SENATOR KRIST: Senator Lathrop, will you yield? [LB560]

SENATOR LATHROP: Yes, I will. [LB560]

SENATOR SMITH: Senator Lathrop, what I spoke of in my opening, is that your understanding, as well, that it was not intended that just a simple bonus would be used as a trigger point but that it would be tied to hours worked, like any other type of payment? [LB560]

SENATOR LATHROP: That's true. [LB560]

SENATOR SMITH: Okay. So would you say that you would be in agreement with that floor amendment? [LB560]

SENATOR LATHROP: I do have my light on and I was going to say and I'll say it on your time if you like, I'm happy to accept this amendment. I think it does take care of a consideration that Senator Smith has raised. And with that, I'd probably waive my time. [LB560]

SENATOR SMITH: Okay. [LB560]

SENATOR LATHROP: I appreciate the thoughtful approach you've taken to trying to improve the bill, Senator Smith. [LB560]

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SENATOR SMITH: Thank you, Senator Lathrop. I appreciate it. Thank you, Mr. President. [LB560]

SENATOR KRIST: Thank you, Senator Smith and Senator Lathrop. Seeing no one else in the queue, Senator Smith, you are recognized to close on your floor amendment. Senator Smith waives the opportunity to close. The question is the FA241 to AM1958. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB560]

CLERK: 31 ayes, 0 nays, Mr. President, on adoption of Senator Smith's amendment to the committee amendments. [LB560]

SENATOR KRIST: The amendment is adopted. [LB560]

CLERK: I have nothing further on the committee amendments, Mr. President. [LB560]

SENATOR KRIST: Senator Lathrop, you are recognized to close on the committee amendments. [LB560]

SENATOR LATHROP: Thank you, Mr. President and colleagues, a good discussion. I think it was a fair consideration that we be given an opportunity to explain what this bill does and what it doesn't do, what...the protection it affords an employee and, frankly, the protection it affords an employer, probably reduces litigation with both the underlying bill and the amendment. I appreciate Senator Smith's amendment and the change. It's a good bill. And getting back to the back to the basic, two things: they're already making the calculation, just show the employee; and the second thing is let's catch it when it's a misunderstanding and not when it becomes an expensive problem for an employer. And with that I would encourage the adoption of AM1958. [LB560]

SENATOR KRIST: You heard the closing on AM1958. The question is, shall the committee amendments to LB560 be adopted? All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB560]

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB560]

SENATOR KRIST: Committee amendments are adopted. Senator Mello, you're recognized to close on your bill. [LB560]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. With the adoption of AM1958, which becomes the underlying bill as we heard on floor debate today, it incorporates compromised and negotiated components of my original LB560, which is Section 2 and 3 of the bill, as well as components of Senator Lathrop's, I

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believe, LB903, which deals with the wage statement that's now been incorporated into LB560. As Senator Lathrop mentioned, we feel that there was adequate debate today in regards to what this bill is trying to do. It's two bills into one. I understand that now. But the reality is if there are overarching concerns, this is something that obviously we can continue to discuss between General and Select. But I think the under...the premise of the bill is to try to address those unscrupulous employers that we know are not following the law. And I think everyone in this body understands that of course there are employers and businesses that are following the law, that are paying their employees, that are following the existing state labor laws, and this bill does not impact them. This bill goes after those who are not following the law, those who are trying to skirt our tax code, those who are trying to make a quick buck at the expense of low-wage workers because they know they can bypass a system that makes the low-wage worker have to go to court to get their back wages. We start to address that process in a moderate, pragmatic fashion under LB560. I'd urge the body to move LB560 to Select File. Thank you, Mr. President. [LB560 LB903]

SENATOR KRIST: Thank you, Senator Mello. You've heard the closing on LB560. The question is, shall LB560 advance to E&R Initial? All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB560]

CLERK: 28 ayes, 4 nays, Mr. President, on the advancement of LB560. [LB560]

SENATOR KRIST: Thank you. Senator Mello, for what purpose do you rise?

SENATOR MELLO: Mr. President, a point of personal privilege.

SENATOR KRIST: Go ahead.

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. As we end today, I wanted to give everyone a quick briefing in regards to the status of the state budget, in part because tomorrow, due to an unfortunate family funeral, I'll be unable to be here for a good chunk of the morning where normally I would do a point of personal privilege tomorrow morning to talk about the state budget and when we will start that process. Tomorrow we will introduce the budget bills to the Clerk, which starts the budget process, as well as the Fiscal Office will distribute the budget books that every senator receives when the budget gets turned in for us to start the debate process. That will give everyone the weekend to review the budget book. By all means, feel free to contact me or call me over the weekend if you have questions. As tradition, we will have a budget briefing Monday morning at 9:00 in Room 1525. We will go over the General Fund financial status, the highlights of the Appropriations Committee recommendation, as well as take general Q&A from members and/or staff in regards to components of the budget that we can try to provide more detailed information. In conversations with the Speaker, it's his intent that we will start budget debate Monday at

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1:30 and we'll go until the budget is moved off of General File. Unlike last year, this year there are only three budget bills, a bill regarding the Cash Reserve, the mainline budget bill, and a cash funds bill that is an accompanying component of the mainline budget. With that, if you have any questions, feel free to contact myself, feel free to contact other members of the committee. They will try to help us in any way they can. Also, feel free to contact the Legislative Fiscal Office tomorrow after you receive your budget books. With that, look forward to talking with members more about the budget tomorrow, later afternoon, as well as early next week. Thank you, Mr. President.

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Thank you, Senator Mello. Members, while the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR451 and LR452. Mr. Clerk. [LR451 LR452]

CLERK: Mr. President, a priority motion. Senator Schilz would move to adjourn the body until Friday morning, March 7, at 9:00 a.m.

SPEAKER ADAMS: Members, you have heard the motion to adjourn. All in favor indicate with aye. Opposed? We are adjourned.