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Floor Debate
January 14, 2014

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SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifth day of the One Hundred Third Legislature, Second Session. Our chaplain for today is Senator Coash. Please rise.

SENATOR COASH: (Prayer offered.)

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

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

SPEAKER ADAMS: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SPEAKER ADAMS: Any messages, reports, or announcements?

CLERK: I have hearing notice from the Transportation Committee that's signed by Senator Dubas as Chair. That's all that I have. (Legislative Journal page 205.)

SPEAKER ADAMS: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR394. (Doctor of the day introduced.) (Legislative Journal page 205.) [LR394]

SENATOR COASH PRESIDING

SENATOR COASH: We will begin with the first item on the agenda, LB174. Mr. Clerk. [LB174]

CLERK: Mr. President, LB174, a bill by Senator Mello. (Read title.) The bill was introduced on January 14 of last year, returned to Transportation and Telecommunications, advanced to General File. The bill was discussed yesterday. At this time, Mr. President, I have no amendments pending to the bill. [LB174]

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SENATOR COASH: Thank you, Mr. Clerk. Senator Mello, would you give us a brief summary of LB174? [LB174]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. A quick recap of LB174. After a two-year process of working with opponents originally of the bill that would increase a fine for manure spill after a truck has dropped off its load of cattle and/or livestock, the fine would increase under LB174 from \$100 to a mandatory minimum of \$250 with the proposed legislation. As part of the conversation that we had yesterday with a few senators who raised issues and concerns, LB174 is supported by the industry in which it would be increasing the fine on. The trucking industry, they have realized through a number of years working with the packing industry and other heavy industry users in the south Omaha area, that there has been a number of processes, a number of proposals, ideas, and nongovernmental entity regulations and/or fines that have been partaken in by community groups and businesses to try to cut down the number of manure spills in the south Omaha area. Everyone came to an agreement that LB174 was the last option available to try to disincentivize a trucker in regards to spilling their manure as they're leaving the packing district. One last component is an update and there was a letter that was sent around yesterday, I sent regarding a number of groups and industries educating the trucking industry in regards to this issue. One issue that I know a colleague brought up in regards to why this is or is not happening is, the main issue is the intentional, I would say, leaving open, or the intentional operator error of closing a trap on a semi-truck. That has been an ongoing issue in regards to the truck designs that have increased and have gotten better over a number of years. But the reality is there are some truck drivers who simply choose to leave the trap of their truck open, and they are the ones who are leaving their manure as they're leaving the area. As the trucking industry would say, it's 99 percent of drivers who are coming into the area and leaving are doing the responsible thing of ensuring their truck trap is closed, thus manure is not coming out of their truck. It is those bad actors who are continually coming and going leaving their truck trap open for them then to spill manure as they're leaving the Omaha area and other parts of the state, no doubt. But LB174 only affects a fine increase within the city of the metropolitan class, and with that, I'd urge the body to adopt LB174. Thank you, Mr. President. [LB174]

SENATOR COASH: Thank you, Senator Mello. Members, you've heard the opening of LB174. The floor is now open for debate. Senator Schumacher, you are recognized. [LB174]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. We're now on day two of cow manure and perhaps it would be better if we figured out a way to move on a little bit. Here's how the present system of these kind of fines works. And I figured, it was yesterday, and I checked with the Supreme Court Office this morning and it pretty much is the way it is. The Legislature sets a range of possible penalties for the judges to do. In this case, it's a Class IV misdemeanor range one hundred bucks to five

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hundred bucks. Okay? What if somebody wants to go in, as they do as almost is the case and not have to go and appear before the judge and take time off work, they want to go in and pay the ticket. What is it? Is it one hundred bucks or is it five hundred bucks? Who makes that decision when they walk up to the clerk and say, I just want to pay the ticket. Well, that decision, when they just want to pay the ticket, don't want to appear before the judge, is set by a panel of judges. Kind of an informal operation. No specific rules. It's all within the realm of the judiciary, and that judge says, okay, let's go down this list of possible offenses and let's peg this particular offense at one hundred bucks. We have a range of one hundred bucks to five hundred, let's peg this one at one hundred. And they have got the authority to do this state...have a statewide fine or a specific county-by-county fine, if that is appropriate. It is in the realm and discretion of the judiciary to do it. So we've got this penalty of one hundred bucks to five hundred bucks. It would seem...and they did address this particular statute as well as hundreds of others, and they pegged this one as one hundred bucks statewide. It would seem to me that the proper place to say, look at Douglas County has got a unique problem, it should be a \$250 waiver in Douglas County, would be to ask these judges. That's why we pay them the big bucks and let them wear the black robes. So I would suggest, unless we have a deep passion to try this rural-urban divide today, or to talk about how much manure is really manure and a health hazard, and whose street it's on and whether it smells like money or not, that we simply move this bill on to Select File, see if these county judges will set the fine within the range of discretion, supposedly not a very long process, at \$250 for Douglas County, and if they do, problem solved. If they don't, then we can come back and talk about the intricacies of mammal excretion all we want. Thank you, Mr. President. [LB174]

SENATOR COASH: Thank you, Senator Schumacher. Senator Larson, you are recognized. [LB174]

SENATOR LARSON: Thank you, Mr. President and I appreciate Senator Schumacher's comments. I'm not sure I can go along with just the moving it along. Part of this...I had the opportunity to talk a rather large trucker that lives in between Omaha and Sioux City, about equal distance from both and he sent me a text message this morning and then I had the opportunity to call him and talk to him. And he asked me what my feelings on this bill were and I said that I didn't necessarily agree with it. He told me a few things that I found interesting, and some of them confirmed what we were discussing yesterday. I think we hear a lot about the bad actors and there's very few of these bad actors that are doing this. And you hear Senator Schumacher talk about, you know, leave a little bit of discretion to the judges and maybe that's something that we can move forward on, but the one thing that he really said was, why are we increasing the fine \$150? Because there could be, he goes, you know, sometimes something might come out a little bit but my guys don't drop the traps, but that's not necessarily saying that something doesn't come out every once in a while. Why are we upping the fine \$150 on everybody? And I think that's something that we have to ask ourselves. It is

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\$150 and I think Senator Schilz spoke yesterday, a lot of these guys are small businessmen, independent truckers, and that \$150 or \$250 might be all they make on that load. And it just seems a little ridiculous that we're bumping the fine up to that extent. And the second thing that, you know, we heard about...I'm not going to say that bumping up the fine will put an end to the packing industry in Omaha. As Senator Schilz said yesterday, it's got a great tradition. But he does live...this guy lives in-between Omaha, Sioux City, close enough to Schuyler, they won't come to Omaha and they have a lot of cattle. And that's something that, you know, we need as many processing plants in the state as we can to ensure production. And it would just be shame that, you know...and, you know, he knows a lot of other people that they're right by Wisner. We've all, we've driven 275 up from Omaha to O'Neill, which I do quite often, you always smell that money going by Wisner. And that could be a lot of cattle that don't find their way to Omaha and he made that awful clear yesterday, so...or this morning. So, I think we just need to be cautious and I just don't think that...it's a little excessive to bump the fine from \$100 to \$250 and maybe we can come up with some judges' discretion for those bad actors, the multiple offenders, or something like that. But I just think it's necessary to go from \$100 to \$250. Thank you, Mr. President. [LB174]

SENATOR COASH: Thank you, Senator Larson. Senator Christensen, you're recognized. [LB174]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Mello answer a couple of questions? [LB174]

SENATOR COASH: Senator Mello, will you yield? [LB174]

SENATOR MELLO: Of course. [LB174]

SENATOR CHRISTENSEN: Senator, I guess I'm trying to get my hands around how often this is occurring and how big and how bad the spills are. Do you have any information on how this is determined and what justifies this? [LB174]

SENATOR MELLO: Well, as I mentioned in my opening testimony yesterday as well as the committee hearing when I introduced the bill last year in 2012, there was 42 documented manure spills on roadways in just the south Omaha area itself. And that was between a 14-month period of August 2009 and October 2010. In the last six months of 2012, there were 25 documented instances. On average there's about 30 or so documented spills a year in the general south Omaha meat-packing district, so to speak. And that is documented just by the city of Omaha. As we were just discussing off the mike, the State Patrol who monitors the state highways doesn't record specific manure spillage when they issue a citation, which is part of the issue I have with Senator Schumacher's suggestion, which is LB174 creates a specific fine for a specific spillage, not simply any spillage which is currently what is being done under general

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statute, which means that anyone who would spill grain, rocks, baled hay, manure, they would all be under that \$100 fine minimum, which there's no designation under statute that allows for a specific manure spill fine. [LB174]

SENATOR CHRISTENSEN: Senator, I guess do you believe that raising the fine will stop this and if so, why? [LB174]

SENATOR MELLO: I think in our conversations with the trucking industry, who represents truckers in Nebraska, who have been adamantly looking for solutions to deal with this felt that there is an incentive for truck drivers now not to be responsible and let their traps be open by simply getting rid of their waste because truck washes cost more than the \$100 fine. And that's been an ongoing conversation we've had in the sense of, if people simply want to open their traps and let the manure out, they take a risk of whether or not a State Patrolman is there to catch them or not. But the reality is even if they tried to go get a truck washed, which the trucking industry contacted us last night and said the former facility that's still there, it's just not under operation at 36th and L, has been moved to 27th Street, which is still in the south Omaha area, that it's just...it's an incentive for them not to go get their truck washed if it's cheaper for them to take a risk and open up the traps, go, and if they get caught, they don't, you know, they pay \$100 fine in comparison to the \$150 to \$175 it costs to get a truck wash. [LB174]

SENATOR CHRISTENSEN: So is it cheaper to get it washed elsewhere, is that the reason they're going to do it, because they're going to have to wash it sooner or later. So, I'm trying to figure out why they wouldn't do it there. [LB174]

SENATOR MELLO: You know, I can't tell you exactly the cost, Senator Christensen, of every truck wash, and I would say the greater metropolitan area, of what they charge. All I can give you is the anecdotal answers and information that the industry has provided over a number of years, which is, it's cheaper to get a truck washed than it is to pay a \$100 fine. And that's been...that has come from the industry themselves and so I'm going to have to take them at their word when they say, their drivers are saying, it's a much better deal for us simply to take the risk and if we spill, we spill, instead of going to clean out our trucks. [LB174]

SENATOR CHRISTENSEN: Can you tell me how many bays are at the truck wash place and how many trucks are going through? Is it just physicality that they cannot get that many trucks washed so a certain percent have to go on or they're going to wait all day? [LB174]

SENATOR MELLO: Well, I think, for some reason or another, there's the small contingent of senators who feel that this issue of truck washing and availability is the reason why. A majority of trucks who come in... [LB174]

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SENATOR COASH: One minute. [LB174]

SENATOR MELLO: ...don't have the load even after dropping off cattle that would necessitate them to always get a truck wash. It's those bad actors that know they have a truck full of manure as they're leaving the area that say, I'm going to take the risk and hope I, one, decide I'm going to shut my trap and make sure that it's closed and I won't have any spillage, or they say, I'm going to open up my trap and maybe I'll have some spillage. We'll have to wait and see what happens. It's an overwhelmingly very, very small number of people who ultimately are taking that risk day in and day out and that's why the trucking industry says, we've got to go after these bad actors. [LB174]

SENATOR CHRISTENSEN: Well, I guess the thing that I'm looking at is, if you have 150 trucks a day going through a facility, we're having 25 to 30 documented spills a year, which is a very small percentage. And what I come back and think, being in the ag industry, I see that when you have extremely bad weather as I just... [LB174]

SENATOR COASH: Time, Senators. Time. Thank you, Senator Christensen and Senator Mello. Those still wishing to speak: Senators Lathrop, Schilz, Brasch and Christensen. Senator Lathrop, you are recognized. [LB174]

SENATOR LATHROP: Thank you very much, Mr. President and colleagues. I hope you'll accept my apology for interrupting the manure discussion to make a few comments about the Ombudsman's Office. Yesterday, our Governor accused the Ombudsman's Office of a variety of things, including being soft on crime. And I want to talk about that office and there's a number of people that have not had an experience with the Ombudsman's Office. Maybe you don't know what they do. Maybe you think they're an extension of some organization with a political agenda and so I thought I'd take a minute to talk to you about that organization because those remarks could not have been more misplaced, more unfair as a criticism. The Ombudsman's Office is actually an extension of this body. It is an extension of the Legislature itself. We have the Ombudsman's Office to investigate the conditions in a variety of settings. They look at mental institutions, they look at the conditions at places like the Beatrice State Developmental Center. They're charged with looking at the conditions in county jails and the state corrections system. And they also investigate, and we establish the Office of the Inspector General within the Ombudsman's Office to investigate all of the problems that have developed in the last several years in child welfare. That office is not there to...and has not in my experience engaged in politics. They're not there to give a political perspective. They're there to investigate. And they have investigated a very, very serious problem with the Department of Corrections. The fact that they issue a report that identifies those problems does not make that office political nor soft on crime. The problems with Corrections, colleagues, will not be solved by longer sentences and by taking away good time. Those may legitimately be on the table. You may have a legitimate point of view if you believe that we need to take away good time and I don't

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know where I'm at on it. That's not the point. When you incarcerate, there is science behind incarceration and we're going to talk about it this year. There is science behind incarceration. And if you want to put people away and think that we're done with them, and that we have solved the problem because we've punished them, you are wrong. You're not with the science. The science is that if you provide some measure of rehabilitation, if you treat the mentally ill that we are now incarcerating instead of treating at the regional centers that we closed, then you will lower the rate of recidivism. And when you want to talk about public safety, it means more to put those people on the right path before they are released than it does to keep them longer. So when we talk about...this is not a criticism of my colleague, Senator Lautenbaugh, talking about good time is fair. I think the people want us to talk about good time and perhaps change good time. But understand, that's not the only thing. We have people that need mental healthcare in the prisons and that's not happening. And to say Marshall Lux is soft on crime is stupid. It is stupid. We send the Ombudsman's Office to the correctional facilities, to the regional facilities... [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR LATHROP: ...out to where the community-based care is substandard for children and the developmentally disabled. They are our eyes and they are our ears and when they give us a report, we should take note. We should take note. We will discuss corrections, we will discuss what it means that Nikko Jenkins got out and caused, or allegedly caused these horrible murders and what needs to change. But don't think the answer is simply good time, and that anybody else who has another idea, or who finds the faults in the system is somehow soft on crime, or being political, because that is nonsense. Thank you. [LB174]

SENATOR COASH: Thank you, Senator Lathrop. Senator Schilz, you are recognized. [LB174]

SENATOR SCHILZ: Thank you, Mr. President and members of the body, good morning. I know yesterday we talked a lot about this bill, talked a lot about what it was. And I think...you know, I understand Senator Mello and south Omaha have an issue and a problem. I always try to look for ways to solve that without having to pass new legislation. And that's where I come from. And I mean, in the end when the conversation turns to the way it did, get to spend a lot of time on it, I guess. So I would just ask Senator Mello and everybody else to just take a step back. I know it's been there for a long time. I know it's an issue, but I would rather not pass a bill that raises the fine this much. So, that's where we're at. I don't want to waste a whole bunch more time. So, thank you. [LB174]

SENATOR COASH: Thank you, Senator Schilz. Senator Brasch, you're recognized. [LB174]

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SENATOR BRASCH: Thank you, Mr. Speaker. Good morning, colleagues. This has been discussed in committee. I was the person on the committee that...I was present, not voting, because I had hoped and I thought I understood that there were going to be efforts made and not mandated fines. Since yesterday I have made three to four calls with area truckers that are hauling cattle. I know them very well. They've all said, give us a place to empty our chutes if we need to. The truck wash, they were...I just called this morning. They knew of none on 22nd Street. They'd sure like to know more about it and no one has notified them that there is one on 22nd. And they said that our kids live in Omaha. We're not trying to do something there. You know, that's where we send our kids to college. You know, we take our cattle there. There's no, you know, animosity. We're not doing this, you know, out of spite. We'd like a solution. And they said if we're looking for a solution on problems, they said, what about outside those ball games. It's ankle deep in hotdog wrappers and things and I don't see somebody running around fining them for littering, that it's a part of the economy. We want people to feel welcome at the ball games, you know. And the feeling that they are being, you know, more and more penalized for something that is just a reality of the trade, of the business, of the cattle business. I do hope that we continue like through the Nebraska Cattlemen, through Farm Bureau, through greater understanding that there is a solution that can be made to alleviate the situation. Manure and the urine is very hard on the trailers. They love to wash them out. They wait in line hours to get them washed out. Most of them end up going to Council Bluffs. I've had, you know, many occasions where, you know, I'll get a call and they're still in line at the truck wash. The one in Westpoint was just closed because DEQ would like them to make some significant modifications to the truck wash and they are currently rebuilding. So, there are fewer and fewer truck washes available per my constituents reports. And they're saying, you know, tell the urban senators that in all respect, they want a place to wash their trucks and not to have to empty their traps, you know, in the city. So, respectfully, I do not support LB174, but I do support having options created, nonlegislatively, to help our cattle industry and the ag economy of this state. Thank you, colleagues. [LB174]

SENATOR COASH: Thank you, Senator Brasch. Senator Christensen, you are recognized. [LB174]

SENATOR CHRISTENSEN: Thank you, Mr. Chairman. I just put a little percentages on to this. We are talking about a very small thing. Okay. If you take 300 days a year, 150 trucks, we're talking 45,000 trucks a year. If you use 40 instances a year, that .00088 of a percent. If you use 70 instances a year, it's .00155. We aren't even getting much more than one or two-tenths of a percent reported spillages for the amount of trucks going through. If you use 365 days a year, which I think is closer to what the packing plants run, they take very few days off, at least in my area, at 150, you're now 54,750 trucks. And at 40...you're looking at...you're still, you know, just very, very small numbers. And so, either we have very, very few small bad actors, or this is not being reported very

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often, because one of my questions before, I was wondering, is this getting double reported? How is the reports being counted, but I don't think it can be double reporting. It is just such a small percentage when we're looking at a tenth of a percent, two-tenths of a percent, spillage. And I'll come back to my final comment and I'll quit. If you think about the number of stormy days or bad weather when these cattle are going to be carrying extra water on them and mud on them, and that comes off in the trailers to spill, or you go to the extreme hot days that they're hauled and the higher shrink where they lose more water weight and put it on that truck, that's a very small amount of spillages, a very small amount of problems. I don't understand the issue. I'm not sure how I'm going to vote because the raise isn't a lot either, but I'm not sure it's going to reduce any number of spillages, which I think the intent of the bill is, because we can't even get 1 percent of the loads having problems. Thank you. [LB174]

SENATOR COASH: Thank you, Senator Christensen. Senator Dubas, you're recognized. [LB174]

SENATOR DUBAS: Thank you, Mr. President. Good morning, colleagues. I guess I'd just like to share some perspective wearing two different hats. First, I'll share as a member of the Transportation and Telecommunications Committee and now as the Chair of that committee what's happened with this bill. And I was on that committee when Senator Mello brought his first bill and I opposed it. I told him I had issues. You know, he had the larger minimum fine in there. I said, you know, your bill is raising some questions and concerns, not only just in the Omaha area but across the state. You know, let's go back and work with those stakeholders, all the people involved, and see what you can come back with. And that's exactly what he did. He came back last year. I was Chair of the committee. He was able to bring everybody in that was involved with this from the trucking industry, the Farm Bureau, the Cattlemen, people had a comfort level. We were addressing the concerns for Omaha without having this major devastating impact on the cattle industry in Nebraska. Now as a farmer and a cattle producer. We are at least three generations removed from the farm these days. We have fewer and fewer people who have a connection to what it takes to bring that steak or that hamburger to their table. My husband and I were involved with a direct marketing business for a lot of years where we actually brought our meat products to the Farmer's Market in Lincoln. It was a great opportunity for us to educate our consumers about what it takes to raise that product in a manner that's tasty for them, and safe for the environment. We had a lot of opportunities to educate our consumers. But we also recognize the fact that because there's that loss of connection, we have to work even harder as farmers and ranchers to do a better job of public relations with our consumers because we don't always have the best impression out there with our consumers. And when we have issues like the one that Senator Mello is trying to address where we have spills on the streets, where it's causing accidents, it's bringing concerns to a large metropolitan area where we don't have a lot of connections and understanding of agriculture, that just makes our work as ag producers harder to make sure that people

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have an understanding of what it takes to raise those animals. This bill, in my mind, is a small token of recognizing what the concerns are of the urban population, helping them recognize that we recognize as producers, as truck drivers, as haulers, that we have a responsibility and stepping up to follow through on that responsibility. I would really like to thank the Farm Bureau, the Cattlemen, the trucking industry for all coming together, taking all of the concerns that were brought and raised about the original bill and working on it. I'm proud to be a cattle producer and I want to do whatever I can to help people understand why agriculture is so important to the state of Nebraska. And I'll never hesitate to stand up and represent a business that I'm very proud to be a part of. The letter that Senator Mello handed out yesterday, I think speaks volumes to bringing all of those different interest groups together to try to find solutions. They have put this letter out to cattle owners and drivers helping them understand that we do want to help you with this issue. I think the last letter...the last two sentences, in particular, says it all. [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR DUBAS: Thank you. It says, together, together we can work to prevent this problem, respond to public health and safety concerns, plus continue to make Omaha a place known for its beef. Thank you for being a part of this solution. So they are reaching out. They're saying, what can we do together to address this concern. You know, I think what Senator Mello is trying to do, the \$250 fine, again, what it costs for a truck wash versus the \$100 fine. You know, if they want to take the risk and pay the \$100 fine, they're actually going to save some money. This is just...and when you look at the actual packing plants who are saying, we charge more. We fine them more if they spill in our facility. So here's a business who will actually charge more to these truckers if there's a problem. So, I'm just not seeing this as the real serious problem that some are raising on the floor, and I hope that we can continue together to get out there and promote agriculture. [LB174]

SENATOR COASH: Time, Senator. [LB174]

SENATOR DUBAS: Thank you. [LB174]

SENATOR COASH: Thank you, Senator Dubas. Senator Conrad, you are recognized. [LB174]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. And a Happy New Year to all. I think this is my first time on the mike in the course of our new session. I rise in support of LB174 and to provide a different point of view to some of the commentary that's been injected into the record yesterday and today. These kind of simplistic divisions about urban versus rural perspectives are not helpful. There's nothing wrong with Senator Mello, or any senator for that matter, working to address a

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legitimate issue that has been identified in their community and to address it in a narrow way. If you actually read a copy of the bill you can see how narrowly focused this legislation is. And Senator Christensen and others can try and minimize the numbers, but let me tell you this. One is too many. When it's your front lawn that's covered in urine and feces and blood, one is too many. When your children are playing in the front yard, one is too many. Additionally, there are public health issues that have been identified by people with very different political perspectives when it comes to spilling blood, urine, and feces on the streets of Omaha. There's a legitimate public health issue there. To say otherwise is inaccurate. And I think that Senator Lathrop also started an important dialogue this morning that furthers this issue of division. Unfortunately, we're seeing and hearing a lot of division very early this session trying to gin up rhetoric, whether it's directed towards the poor and the vulnerable, to gin up rhetoric that's directed to an urban-rural split. To read in the paper, our Governor saying that if you're working in a thoughtful manner on prison reform, public safety and corrections, and you have a different point of view, you're standing with criminals. That's ridiculous. That's abhorrent and it's unhelpful to the debate. We have serious public policy issues to deal with this session. And pointing fingers and calling names has never solved a problem, whether it's at your kitchen table, in your committee room, or on the floor of the Legislature. I urge the Governor to rethink that dangerous rhetoric as he prepares to join us and address us at the State of the Union tomorrow. And I urge all senators to speak up and to stand up for the good work of the Ombudsman's Office which provides critical oversight and accountability to our state government. They have been a critical partner in the disastrous child welfare privatization. They have been a critical partner in the disastrous situation with our developmental disability system. They are a critical partner as we move forward to address correctional reform. Thank you, Mr. President. [LB174]

SENATOR COASH: Thank you, Senator Conrad. Senator Larson, you are recognized. [LB174]

SENATOR LARSON: Thank you, Mr. President and I just wanted to comment quickly on Senator Christensen's comments. And I hadn't run the numbers and those were interesting. If he did his math right, I didn't double-check it, but I'm assuming he did. If it really is between .1 percent and .2 percent of all the trucks that are going through there that have those documented spills and is it worth it? I know, Senator Dubas talks about, you know, this is a token gesture to show that we do care, we are working towards becoming better, but I bring back to the conversation that I had earlier today with an individual that does haul into Omaha and lives in the proximity that it will be easier for him at that point. I don't know, he never mentioned if he had gotten a fine or not, but he said he doesn't drop his gates, that it's not even worth the risk. So is this token gesture? And we can't assume how many trucks they might or they might not lose or if they will lose any, or whatnot, but there is that risk. And is this token gesture worth a continue decline to the south Omaha packing industry? And like I said, I feel that the fine increases too much. I think it's unnecessary, especially for .1 or .2 percent of all the

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trucks that are going have documentation of possible spillage. So, it just seems a little unnecessary and overkill that we're dealing with it for that low percentage. I understand Senator Conrad's comment is, one is too many and can respect that, but we do have to be a deliberate body and be careful with what our penalties, and what penalties we're assessing to the citizens in Nebraska, especially for those that, you know, it could be an accident. And we've talked a lot about there are bad actors and there are some out there, but that doesn't mean that, you know, everyone needs to be punished, and I'd urge my colleagues not to vote for LB174. Thank you, Mr. President. [LB174]

SENATOR COASH: Thank you, Senator Larson. Senator Chambers, you are recognized. [LB174]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I really appreciate what Senator Dubas said. I would have made those statements in a much harsher fashion and maybe the message would have gotten lost in the method by which I delivered it. But apparently unknown to my rural colleagues, there's not a high opinion of agriculture among city people. First of all, they think there's cruelty and brutality in confinement feeding, in the way animals are handled in general. The feeding of various chemicals and antibiotics to animals, which can have a negative impact on human beings, and the rural people don't seem to care about that. Then when we talk about a neighborhood where there are people rearing their children and their families, we hear jokes about this manure being fertilizer that you put on your front yard. Well, the people in the neighborhood I'm talking about don't put cattle manure, out of a truck, in their front yards and they don't want it on their streets. When you ridicule, belittle, and diminish, and almost dismiss the humanity of the people that we're talking about, you don't help your cause at all. I'd like to ask Senator Larson a question or two on the bill. [LB174]

SENATOR COASH: Senator Larson, will you yield? [LB174]

SENATOR CHAMBERS: Senator Larson, did you hear discussion yesterday about a \$500 fee or fine that these packing companies will charge if this spillage occurs on their property? Did you hear that discussion? [LB174]

SENATOR LARSON: I heard that discussion, yes. [LB174]

SENATOR CHAMBERS: Do you believe that is true or do you think the ones who said that were lying? [LB174]

SENATOR LARSON: If they have the information from the packing company, I think it's probably true. [LB174]

SENATOR CHAMBERS: Did you talk to this fellow, who lives wherever you said he

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lives, about that particular thing? Did you ask him? [LB174]

SENATOR LARSON: I did not talk to him about that issue specifically, no, Senator. [LB174]

SENATOR CHAMBERS: Did he bring it up on his own? [LB174]

SENATOR LARSON: The packing...the \$500 on the packing? [LB174]

SENATOR CHAMBERS: Yes. [LB174]

SENATOR LARSON: That...no, we didn't discuss the \$500 at the packing plant at all. We just discussed the bill in general and the \$250 fine. [LB174]

SENATOR CHAMBERS: That would be twice as much as the proposed fine in this bill. Isn't that correct? [LB174]

SENATOR LARSON: Yes, Senator Chambers. [LB174]

SENATOR CHAMBERS: Thank you. Members of the Legislature, there are people who watch what we do here and I've gotten calls asking me, what's wrong with those people? And they mention one person in particular who said that a fine like this would shut down the packing plants and drive those businesses out of Omaha. That's the kind of thing we hear from these rural people. Then I sit on the Ag Committee and listen to how many things the rural people bring to that committee and that they want the Legislature to do for the rural areas. Then they stand up here and jest. Look, if I take out after somebody, I'm not going to make fun of people's children. I'm not going to mock those parents who are trying to provide a wholesome living environment for those children, but I will take out after those who mock and think those things are not important when the people involved are not white, or if they're not in the rural area. That is obnoxious. There going to come up some rural issues. These rural people are the ones who always want to stand up here and say, let's not talk about a rural-urban divide. This bill is innocuous. Look that up in the dictionary if you don't know what it means. And for all these people making their statements, I'm going to get a transcript and utilize their words. I saw where some of the rural people want the urban people to assume some of the costs... [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR CHAMBERS: ...of water that they are pulling up out of the ground to use. They ought to be charged for the water they use and that would take care of the costs. And if you can't afford the water, don't do it. But that's not their approach and they know it and I know it. They forget how long I've been here. And people like Senator Hansen

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may think people in here are stupid and don't understand. People like Senator Larson may think there are people who don't take offense when an entire group of people are ridiculed. They reckon without me. Senator Dubas is trying to tell you all something. And you ought to listen to her. Anybody who is going to be punished by the law, if you ask that person is going to say, I don't think the law should punish me. You think these truckers who are committing these violations of the law are going to tell you, yeah, I think I should pay a higher fine. Do you think that? [LB174]

SENATOR COASH: Time, Senator. [LB174]

SENATOR CHAMBERS: Thank you, Mr. President. [LB174]

SENATOR COASH: Thank you, Senator Chambers. Senator Karpisek, you are recognized. [LB174]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I don't know...I'm going to try to bump elbows with Senator Chambers later today and find out if I'm an rural or an urban senator and see what he thinks, because I go all the way down to the Kansas border, but also come up into Lancaster County, and I have a hog processing plant in my district near Crete. So I can't wait to...I don't know which one I am either. I think much like Senator Dubas, I can see both sides of this issue. I also had a meat market. I did not slaughter so I didn't have these trucks coming in. But my point on this, and I think I do know what Senator Chambers said by innocuous bill. Is this the bill to really, the hill to die on? A fine that is raised \$100. Senator Christensen said, let's not go after everyone. Well, going after everyone, this isn't. It's going after people who spill. A speed limit doesn't go after everyone, it goes after people who speed. If you're not speeding, you don't get a ticket. If you're not dumping, you don't get a ticket. Maybe...maybe, on the way up today, I thought about, if you're caught doing this intentionally. I just don't think that it's worth this kind of fight for \$100 more fine or \$150. I realize I don't like the thought of raising these fines, but they're doing it. And if they're doing it knowingly, that's even worse. Some things are the cost of doing business. And I guarantee you if I had someone intentionally opening up their dumps in front of my house, I'd be very upset. I wouldn't come here to try to change something. I'd chase them down and drag them through it, or try to. I'd send Senator Chambers first, as I always like to do, and I'd play cleanup. But is this really the bill, the hill we're going to die on? I do consider myself a rural senator. And there are many issues with water coming up, many issues in the rural part of the state, many issues in the urban. I think it was last year on the OPS bill, I said that I don't feel right sticking my nose into the OPS business. Senator Chambers chastised me and said, well, you're a state senator, it's time that you have to do that. And believe it or not, I remembered what Senator Chambers said. I usually do. And he was right. They saw something that they didn't like and they tried to do something about it. I voted against it, but at least I did vote one way or another on that. I don't think that this bill is going to melt down the cattle industry, the

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trucking industry, or any other industry. I'm not crazy about it. I don't like to increase fines on a lot of things, some I do. But I think it's causing more of a problem within this body about a lot of important things that we need to and that we're going to need to work together on. [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR KARPISEK: So is a \$150 fine, as Senator Christensen talked about the numbers here, how many times do people even get caught at this? Obviously, not very many because it's still happening. So how many times is this fine really going to matter? And is this the hill you want to die on? It's not mine. Thank you, Mr. President. [LB174]

SENATOR COASH: Thank you, Senator Karpisek. Senator Brasch, you are recognized. [LB174]

SENATOR BRASCH: Thank you, Mr. Speaker. As I'm reviewing the transcript of the hearing, Duane Brooks from the South Omaha Environmental Task Force testified about his organization--it's over 40 years old--from the business leaders, from the packing industry, and he continues. And he acknowledges about problems that they face. The problems he listed is problems such as rodents, strong odors, and manure spills on the street. Manure spills on the street are what brought us together and these problems need to be stopped because of the negative impact they have on our community and image of our city. With a lot of cooperation, we have greatly reduced these problems. Now it's rare to get a rodent complaint and the odors and the manure spills have been vastly diminished. And as I said the spills from cattle haulers are down, yet despite this combined effort they still remain a daily occurrence partly due to the volume of trucks entering our area. Now, I'm wondering if Senator Mello would yield to a question, please. [LB174]

SENATOR COASH: Senator Mello, will you yield? [LB174]

SENATOR MELLO: Yes. [LB174]

SENATOR BRASCH: Senator Mello, after we adjourned yesterday I came to visit with you and your legislative aide, is that correct? [LB174]

SENATOR MELLO: Yes, we spoke on the floor at the end of the day. [LB174]

SENATOR BRASCH: Okay. And also one of the questions I had brought up was the fact that perhaps the particular road could be problematic. Is that correct? [LB174]

SENATOR MELLO: That was a concern you raised, yes. [LB174]

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SENATOR BRASCH: And what was your response? [LB174]

SENATOR MELLO: The reality is is that's a Department of Roads issue in regards to the...to state highway interchanges that we're not trying to change with this bill, but the reality is is that could be a possibility in regards to a truck driver driving too fast around an interchange coming and/or going. [LB174]

SENATOR BRASCH: So you and your legislative aide both acknowledged the road itself could be a problem, correct? [LB174]

SENATOR MELLO: It could be a problem for drivers who do not slow down and take the corner at the appropriate speed level, which is what the Department of Roads has consistently said for a number of years. [LB174]

SENATOR BRASCH: Could various traffic controls be in place, a flashing light, one of the lighted marquees, some sort of warning, have any of those actions taken place or been requested of the Department of Roads? [LB174]

SENATOR MELLO: Senator Brasch, I...I'll do my best. I don't know if you've been to this intersections off Q Street, off Highway 75 or L Street, there is a stoplight, that currently the L Street bridge is under construction right now but trucks do have to come to a complete stop as they're entering into the meat packing district with a light there. There's also a traffic light as they try to leave the meat packing district to get back on to Highway 75. So understanding there are two separate stops, coming and going, I'd have to defer anything more than any other flashing lights or any other kind of road...any kind of speed reduction measures to the Department of Roads. [LB174]

SENATOR BRASCH: And my understanding is that a loaded truck basically is not the primary problem but it's the unloaded trucks that have been. And one more question, if you'll yield to a question, Senator Mello, please. [LB174]

SENATOR MELLO: Yes. [LB174]

SENATOR BRASCH: The area, I would like to go there. [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR BRASCH: This weekend I will make an effort, but is it a residential area that the trucks must take? [LB174]

SENATOR MELLO: There's probably multiple areas they could try to take but the reality is is, I would argue, 99 percent of them take Highway 75 and take the L Street exit coming in to south Omaha, which as you try to leave that area, it is a mixed use in

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heavy industry and residential area both coming into the area, and it's mostly a residential area with one of the packing houses and then a mixed use area for the other two packing houses as you come into the district. [LB174]

SENATOR BRASCH: And I'm curious if the residential areas were there due to...after the roadway was there or people started becoming employed by the packing plant. But that seems that it would be a very convenient location for a community to be closer to work. Is it...how much would you say is residential of that area? What percentage? [LB174]

SENATOR COASH: Time, Senators. Time, Senators. [LB174]

SENATOR BRASCH: Thank you. [LB174]

SENATOR COASH: Thank you, Senator Brasch and Senator Mello. Senator Chambers, you're recognized. [LB174]

SENATOR CHAMBERS: You said me? [LB174]

SENATOR COASH: Senator Chambers. [LB174]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, Senator Karpisek tried to reason with everybody here. And for "Parson" Carlson, the "Bible" could have been quoted, come, let us reason together. That's what's being attempted. If I have rational, reasonable people with which to deal and contest with if necessary, that's the approach I will take. But when they come full-bore, like they have done, they mandate a response. I'm not going to whine somewhere else about the idiotic statements made on the floor and not call them what they are. The Governor made horrendous statements and accusations against the Ombudsman. Now, I don't use this kind of language, but I'm going to use it today to show you what kind of person you've got in your Governor. He went to Washington, D.C., where I guess he thought nobody would hear him. He hates, and has made it clear, the Humane Society of the United States. And he said...he boasted about having been in the military to an academy and he was a ranger. And here's what he said: If they come to Nebraska, we'll kick their ass. And he didn't know somebody was there who reported it. That's the word he used, "ass." Now he disagreed with me on what I say about good time. Why didn't he say, he'll kick my ass. I'm little like him. I'm older than he is, but I'm not small like him, attacking somebody in the vicious, lying way that he did. Now, suppose a youngster said to the teacher, "kiss my ass." And she said, I'm going to send you to the principal. He said, that's what the Governor said. He talks about examples. He talks about the public safety. Senator Kintner, I haven't even heard say that publicly. Maybe he has. I've heard some other things that I think were not up to snuff, but that's what the Governor said. He's an ass kicker. I wish Senator Carlson was here. "Parson," as you know, I'm

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not a Christian. I don't pretend to be a religious man of any stripe. The Governor is a Christian. The Governor is the leader of this state and by not being a Christian, I don't use Christian language. I'd like to ask you a question, if you will be so kind as to response. Is the comment, "I'll kick their ass," appropriate language for a Christian to use? Is that Christian language in your opinion? [LB174]

SENATOR CARLSON: I don't believe it is. [LB174]

SENATOR CHAMBERS: It is? [LB174]

SENATOR CARLSON: I don't believe it is. [LB174]

SENATOR CHAMBERS: Oh, oh, thank you Senator Carlson. (Laughter) He doesn't think it's...then I defamed a lot of Christians then because I'll take Senator Carlson's word for it. That is not the kind of language that a Christian would use. And if the Christian just lost his control, he's not going to use it publicly, he's not going to use it boastfully, and he's not going to use it as though it'll make him bigger in stature than he is. I don't wear platform shoes. I don't do anything like that. As Popeye said, "I yam what I yam, and that's all that I yam." But I won't take low to any man. [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR CHAMBERS: I don't care how big he is, and if he threatens me, the more he threatens me, the more he begins to look like Tom Thumb. Words are not going to intimidate me. There's going to have to be some action and it's going to have to occur more than once because I believe in being relentless and I never give up. Now if he kills me, that ends the game. But maybe that's what he'd have to do. At any rate, what has been happening here has poisoned the well of the Legislature. I'd have one more time to speak, right, Mr. President? [LB174]

SENATOR COASH: Thank you, Senator Chambers. Senator Ashford, you're recognized. [LB174]

SENATOR ASHFORD: Thank you, Mr. President. I wanted...just talk a bit about the issue of...that has been raised in this discussion. Earlier, I was having a discussion with Mike Kenney who is the new director of the Department of Corrections designate and we had a good discussion. What...as Chair of the committee, Judiciary Committee, I feel compelled to talk about how important it is as a Legislature that we remain civil to each other and that we remain civil within all the agencies of government, the executive branch, the Judiciary and the Legislature. We rely on...we work only part of the year. We're not one of those Legislatures that works all year long, except for maybe a few of us that are in this room that work every day down here in the Legislature, but we rely on certain groups and individuals to provide us with information so that we can make good

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policy, so that we can protect the interests of all the people of the state of Nebraska so that we do not make decisions based on knee-jerk reactions, based on polemics, but based on evidence and truth. And that's how we all live our lives in my estimation and the colleagues that I've had here over 16 years, if I've heard it once, I've heard it a million times: Give us the information so that we can make the right decision. Now, several months ago when prior to the incident that has so charged this state with interest in the prison issue, the Judiciary Committee made a decision that we needed to take a hard look at the prison system of our state. We had spent in this Legislature, commendably have spent years thinking about juveniles and thinking about juvenile justice and HHS and trying to get information, trying to understand why we had failed in our juvenile justice system, to try to better represent the people of the state of Nebraska in an effective manner. And it came time because of the work of this Legislature with the passage of LB561 when we discovered that juveniles were slipping through the cracks and they were ending up in the adult system. Eleven, twelve, thirteen hundred of them sitting down there in the adult system from across the state of Nebraska. And that piqued our interest in the Judiciary Committee and we decided at the end of the session that we would commit our...my last year here and not the last year of everybody...everyone on the committee, but my last year--Senator Lathrop's last year--that we would commit our--Senator McGill's last year and others--that we would commit ourselves to better understanding our prison system. And what could we do to make our prison system better? Marshall Lux receives complaints from many agencies and on many topics. He receives complaints, and many of you do too, letters from inmates in the Nebraska penal system, in the corrections, from the Corrections Department. Marshall Lux and his team reviews every single one of those. Why does he do that? Why do we even care? Why do we care about someone who has committed a violent crime and is in the Nebraska Department of...why would we care about them? They should just be locked up and that's the kind of rhetoric we should use. [LB174 LB561]

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SENATOR GLOOR: One minute. [LB174]

SENATOR ASHFORD: We care because we're people in this room who do care. We care about those who are the lowliest of us all who have had the most dysfunction, the worst kinds of lives. We care about them because it elevates us. It elevates all the people of our state because we care about the least of us, whether they're juveniles, whether they're adults, they're in trouble, we care about them. And we rely on one man and his group and that's Marshall Lux to do a job. The comments made about Marshall Lux are wrong. The comments made about Marshall Lux and his group are wrong. Marshall Lux, when he issued his report, said at the very first part of it, he said, you know, I am not an apologist for Mr. Jenkins, for example. I don't excuse his acts, but I'm going to tell you what I have found in the prison system. [LB174]

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SENATOR GLOOR: Time, Senator. [LB174]

SENATOR ASHFORD: Thank you. [LB174]

SENATOR GLOOR: Thank you, Senator Ashford. Senator Chambers, you're recognized and this is your third time, Senator. [LB174]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, Mr. Lux and his staff--and I have a lot of interaction with them--have an extremely difficult job, which they perform extremely well. The Governor is in his last term of office. And here's what I would say about him. You all have heard the term "streaming." I don't mean in the high tech fashion, but where somebody from another time and time in another realm will talk to a person who still is alive. And Shakespeare streamed something to me. He had been watching that little short fellow over there, that little fellow, the Governor. And I don't make fun of the way people look. I tell you first, I'm short like him, but I'm not little like him. It said, Shakespeare asked me: "Hearest thou yon Governor yakking, me thinketh, me heareth a lame duck quacking." That's all that lame duck is doing. Quacking, quacking, quacking. While he was Governor and thought he could run again, a lot of this crazy stuff he's bringing up now, he didn't. He thinks that the senators who were terrified of him, yet are fearful. You don't have to fear him anymore. And he's making up with noise what he lacks in intellectual capability. If I take out after one of you, I'm going to deal with the words you said and then I'm going to cut them down and tell you why I disagree. Let him get his staff together and take the report apart. Let him show that lies were told, let him show that the facts are not valid, let him show that the state has adequately funded the prisons. They haven't, and the female prison is even worse than that of the males. Senator Bolz and others who have tried to do things to help the men in prison have heard me object because I said, it tends to overlook the women. These are human beings and that fellow, Jesus, talked about you didn't come to see me when I was in prison. Old Paul, the imposter, said, remember the prisoner as imprisoned with him. I'm sure that guy over there goes to church. For what? He makes a mockery of it. And the Attorney General and that big fellow who is from the Legislature, Senator Lautenbaugh, they should have been ashamed of themselves to stand with somebody saying the kind of things that the Governor said. Their silence gives consent. I view Senator Lautenbaugh differently after what happened with that performance by the Governor. And I don't know that my lack of esteem for the Attorney General, in a professional sense, could be any worse or lower because of his tricking the Supreme Court into issuing a death warrant when the execution couldn't be carried out and he knew it. He thinks that I've forgotten that I'm going to file an ethics complaint against him for that. And I will start with what a judge said about his tactic. Deceive the courts, deceive the attorney...the county attorney, and he does. His office needs to be dealt with because of what he did, but a postconviction action isn't the means by which to do it. But the judge found fault with it. And these are the kind of guys who are saying

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harsher punishments. Senator Lautenbaugh's drunk driving was so bad that the attorney for the city raised it to call it "aggravated" drunk driving... [LB174]

SENATOR GLOOR: One minute. [LB174]

SENATOR CHAMBERS: ...because it was close to three times the amount of liquor that's legally available. He wants to play that game, let him be an example of what he's talking about. Let him be a stellar citizen. He wants to punish other people more harshly, he was very arrogant and pontificating when he said...and I filed a grievance against him. The Counsel for Discipline is not going to do anything to me because he knows that the Counsel for Discipline has said that every drunk driving lawyer does not commit an ethical violation on the first offense drunk driving. When you're drunk driving, your lawyer, you don't commit an ethical violation and that's why I have a bill to address that. You haven't heard me talk about harsher punishments for people because there are enough others who do that. There has to be the one who advocates mercy, not exoneration. [LB174]

SENATOR GLOOR: Time, Senator. [LB174]

SENATOR CHAMBERS: Thank you, Mr. President. [LB174]

SENATOR GLOOR: Thank you, Senator Chambers. Senators remaining in the queue: Davis, Ashford, and Kintner. Senator Davis, you're recognized. [LB174]

SENATOR DAVIS: Thank you, Mr. President. I just wanted to touch base on LB174 a little bit more as a rural senator. Living 360 miles from here, going home on the interstate often, very rarely do we ever see any kind of spill of this type. Living on a ranch where we have a set of scales and corrals and have had them there for 50 years, only one time did that ever happen on my property, at which point the driver asked me if he could release the effluent and I said yes, go ahead. And he did so on the highway, which I regretted. I wanted him to do that on my own personal property as a favor to him. But my point in this discussion is, this is really not a common occurrence across the state. And if it's happening in Omaha and there are chronic offenders, a raise in the fine may be an appropriate solution to it and it may be solve the problem. And if there are motorcycle people driving up and down that route and one of those people hits a slick spot, reacts, and gets injured, how is the Legislature going to feel about that, injured or killed. Because we've had a lot of hyperbole about we're shutting down the packing industry and we're destroying the trucking industry, that's not what the intent of the bills is. And you guys all know that darn good and well. The bill is designed to address a specific problem. It's a minor issue. We need to move on. We need to take a vote and get on with our business because we're wasting valuable time that we're going to need at the end of the session. I support Senator Mello's bill and, colleagues, I urge you to vote for it. [LB174]

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SENATOR GLOOR: Thank you, Senator Davis. Senator Ashford, you're recognized. [LB174]

SENATOR ASHFORD: Let me take this opportunity again to underline the work that has been done by the Ombudsman's Office, but also to say this: When we started this effort and when it became clear in August that this was going to be a highlighted issue, I charged my two new legal counsel, who had never worked in the Nebraska Legislature one day, the first day I said, we need to do something to keep our state safer, because our state is not safe. Our state is not safe because the policies and the programs in place in the Nebraska Department of Corrections are not adequate to protect the public. People get out of prison every day without any help, without any supervision. We ask Marshall Lux many times because we couldn't dialogue with the executive branch in any meaningful way. I had a conversation with Mike Kenney today, the first conversation that I've been able to have with Mike Kenney, the new designated director, and I was impressed by him. But let me tell you, this committee, this Judiciary Committee which has been an incredible group that I've worked with through all these years, stood up and said: Let's get to the bottom of this problem. Let's try to understand why the state of Nebraska is not safer than it should be today. It is our greatest responsibility as a body to ensure that our citizens are protected from unreasonable intrusions into their lives. It is our number one responsibility. It is more important than cutting taxes, by far--by far. What I would ask all of us to do and I don't have to ask my colleagues in this body, because we are on this track. We know we have to fix this, and we know we will. But I would ask--and I've never had to do this in my 16 years--the executive branch to ratchet down the level of debate here, to ratchet down to the facts, and get to the bottom of this problem, and let's get it fixed. And we should start today in that effort. I'm not going to leave...I've got what, three months left here? I'm not leaving here. If it takes midnight every night, I will stand here until we fix this problem. And making it into a political diatribe embarrassing the one group, the Ombudsman's Office that has provided us with information, not only on the Nikko Jenkins case, but on the entire Corrections Department. Day after day reporting on what's going on, helping us better understand where the gaps are. Not to be soft on crime for heavens sakes. I mean the easiest thing for an inmate to do is to sit in prison and do nothing. That's soft. The easiest thing to do as an inmate is to sit there and do nothing. Just sit there. Five years, seven years, ten years. Walk out of prison. Maybe he or she will reenter because they've committed a crime. Who knows? That's being easy on crime. We're not going to be easy on crime. We're not going to be easy. We're going to be tougher. [LB174]

SENATOR GLOOR: One minute. [LB174]

SENATOR ASHFORD: We're going to be tougher. We're going to say to that Department of Corrections, we expect those inmates to get programming, we expect them to get mental health treatment, we expect them to come out of the system as

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better people, not worst people. We expect them to come back into their communities, and thank goodness we have the Ombudsman's Office who is no more soft on crime than Genghis Khan. He and his office wants fairness, he wants equality, and he wants a safer Nebraska, and that's what we want. And I would ask the executive branch to please join us in finding real solutions to this problem. We have a huge responsibility, a massive responsibility to the people of the state of Nebraska, in my view. Thank you, Mr. President. [LB174]

SENATOR GLOOR: Thank you, Senator Ashford. The Chair recognizes Senator Kintner. [LB174]

SENATOR KINTNER: Well, thank you, Mr. President. And I think this is politics at its finest here. This is what people expect us to be doing, talking about all kind of issues. But Senator Chambers was saying something I was interested in and he ran out of time, so I would like to yield the rest of my time to Senator Chambers. [LB174]

SENATOR GLOOR: Four minutes forty seconds, Senator Chambers. [LB174]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. And what Senator Kintner did is, what do they call, nonpartisanship at its best. Thank you, Senator Kintner. Members of the Legislature, I'm trying to be very reserved in the way I present what I'm saying today because others have spoken in a different way on this issue. Senator Dubas, Senator Karpisek, Senator Davis, this is not the kind of issue that should have led to what it is we're doing here today. It seems that there are certain people of the rural persuasion who want to pick a fight and want to see if there are those who will rise to the bait. I will. If they want the fight, they've made it clear. Senator Schilz, Senator Larson, Senator Hansen, if that's what they want, they've got it and it's a waste. But here's what I was saying when my time ran out the last time: There has to be mercy in every system, every system where there's punishment, every system on the face of the earth. I don't care how supposedly democratic it is, how supposedly autocratic it is, how supposedly monarchical it is, or any other type of governing system, there is a provision where mercy can be extended, where clemency can be granted. This notion of punish, punish, punish is what people say who in their own life have had some very bad things that they've done and haven't gotten caught at and they want to project onto other people the kind of punishment they themselves are entitled to. The fact that I am so willing to speak for people whom nobody else thinks should even be accorded humanity only indicates that I think and believe, it's my conviction, no matter what a person has done, he or she never loses that fundamental human dignity that attaches to everything born of a man and a woman. The Nebraska Supreme Court in striking down execution by the electric chair said words to the effect: Even as we punish the most horrible crime we cannot ourselves stoop to the level that was manifested by that crime; even as we punish we cannot inflict torture, even if the crime being punished was one of torture. There have to be people in the society who are above that.

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Fortunately, I don't have any religion that makes me try to carry out the twisted will of a disordered god who loves to punish and hurt people; who loves to kill children; who loves to cause miscarriages; who loves to see people impoverished; who loves to see people standing outside the hospital unable to get in and take advantage of the healing arts there... [LB174]

SENATOR GLOOR: One minute. [LB174]

SENATOR CHAMBERS: ...because those who have plenty of opportunity to make it possible withhold that opportunity. I'm not in the group at all. There's somebody else who casts those kind of judgements if they are to be cast. I look around me and I see the nature of the beings around me. I see their failings. I see their weaknesses. And I will always come to the aid of those who are being ganged up on, who are being mistreated by those who are strong, those who are powerful. They're the ones who need help. I don't need to speak for Warren Buffett. I don't need to speak for the Governor. I don't need to speak for Senator McCoy. They've got everything they need. In fact, they've got so much of what they need, with the exception of Warren Buffett, they don't give consideration to anybody else. Warren Buffett has given billions of dollars... [LB174]

SENATOR GLOOR: Time, Senator. [LB174]

SENATOR CHAMBERS: Thank you, Mr. President. [LB174]

SENATOR GLOOR: Thank you, Senator Chambers and Senator Kintner. The Chair recognizes Senator Nordquist. [LB174]

SENATOR NORDQUIST: I yield my time to Senator Chambers. [LB174]

SENATOR GLOOR: Four minutes fifty-seven seconds, Senator Chambers. [LB174]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Nordquist. Warren Buffett has given tremendous amounts of money. He's even placed it in the hands of other people because they are experienced in making the best utilization of that money. And here we are and because we're where we are, I condemn so much when we don't behave as we should. And you know why I say that? We are a debating society but we can go beyond wishing and hoping and thinking and praying. We can do things. We can alleviate the devastating impacts of poverty. There are some people on this floor, Senator McCoy and Senator Janssen, both of whom are running for Governor, there are things we can do to help people and we won't. We take pride in saying, no, they're not going to get anything from me. If I have got an Olympic-sized swimming pool, Senator Janssen, full of fresh, drinkable water, and a poor man is dying of thirst, I won't give him a cup of water. He should get a swimming pool like I've got.

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Senator McCoy, you could tell him about the poor man who can't get his wife the kind of treatment she needs of a medical nature. He says, well, she shouldn't have gotten sick. That's how you take care of that. She shouldn't get sick. Then you say, well, what about poor people in general? They shouldn't be poor. But here they're doing everything they can to get everything they can and they're so hardhearted and unyielding. You know why I say that on the floor? Unlike the Governor, I'm not going to be flanked by people who are virtual nitwits and say a lot to a camera. I'm going to say it in the presence of those about whom I'm speaking, and they're in a position to respond to me in any way they choose. Now I'm just using words. But some people have trouble confining their reaction to words to merely words. So that's the point when I say, well, choose your weapons, respond any way you want to, but when you come you better bring something along. And we shouldn't even have to have these kind of comments on the floor of this Legislature. But for all these years I've come down here I've seen and heard hypocrites stand up on this floor say, we're going to salute the flag, talk about liberty and justice for all, and then sit here and mistreat people and misuse the power that they have, insult entire groups of people, saying they put manure in their front yard, because they're so accustomed to looking down their nose at other people. You all have no idea how strongly I wish you believed in Jesus, Senator Bloomfield, Senator Watermeier, all the rest of you who come in here and pray, because I notice now senators are the ones doing the praying. The "Bible" says, the fervent prayer of a righteous man availeth much--of a righteous man. That's why you all don't have your prayers answered, because you're not righteous. [LB174]

SENATOR GLOOR: One minute. [LB174]

SENATOR CHAMBERS: You're tongue ought to turn to a piece of coal when you're up there praying. To whom are you praying? What do you believe? What kind of place is this? And what kind of people are we as members of this Legislature who have so much power to do good and refuse to do it for no good reason? Senator Brasch wants to tell people I've got a heart just because I like little children and I'll help children. You don't have to have a heart for that. Jack the Ripper never killed a child. If the power was not here to do good I wouldn't condemn us for not doing it. But not only is the power here, we took an oath. I won't swear but I'll affirm that I'm going to do the job I promised to do. [LB174]

SENATOR GLOOR: Time, Senator. [LB174]

SENATOR CHAMBERS: Thank you, Mr. President. [LB174]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Watermeier, you're recognized. [LB174]

SENATOR WATERMEIER: Thank you, Mr. President. Good morning, Nebraska. I'm still

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supporting of LB174, Senator Mello's bill. And I pulled out my notes from the committee hearing because I do serve on Transportation and I haven't really changed my mind on this at all. I have several trucks on the road at all times. I'm subject to fines. I'm subject to legal issues with law enforcement. But I also think that being on the road is still a privilege, whether it's a business or it's your personal business or your personal use. And so I keep coming back to the fact that raising the fine from \$100 to \$250 is not unreasonable and I also think that it's still going to be...it's not enough incentive to not dump it on the city street when they can still dump it and get fined \$500 inside of the packing plant. So it may not be enough even as Senator Chambers had an amendment yesterday. But I just wanted to rise in support of the bill, explain my position on the Transportation, and I will get my support behind this bill. I just think it's justified. Thank you, Mr. President. [LB174]

SENATOR GLOOR: Thank you, Senator Watermeier. Senator Conrad, you are recognized. [LB174]

SENATOR CONRAD: I'm happy to yield my time to Senator Chambers if he so desires. [LB174]

SENATOR GLOOR: Thank you, Senator Conrad. Four minutes fifty seconds, Senator. [LB174]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Conrad. I understand that not every person from the rural area, Senator Watermeier, is going to be against this bill. The thing that got me into the mood that I was in was the trifling way people who don't like this bill were attacking and disregarding and demeaning people who suffer under what these careless truckers may be doing. But when they said what they said I had to respond. Now to touch briefly on this idea of prisons. To show how stupid and simpleminded the Governor is, if Nikko Jenkins had stayed in solitary confinement for 30 years and served every second of it, the only thing that would happen when he got out is that he'd be worse than he was when he got out this time. How long he served had nothing to do with what he did. I am especially resentful because before I even got back into the Legislature I was contacted by members of his family and friends who convinced me that this man had very, very serious mental problems. And when a man cuts himself deeply on his own face and requires multiple stitches that's not playacting. Maybe the Governor thinks it is. When a person will bang his head against a concrete wall--I don't mean where you just kind of touch it but where you injure yourself to the point where you need medical attention--that is not playacting. So I contacted then-Director of Corrections, Bob Houston, and the Ombudsman's Office. I was not in office then because of term limits. The Ombudsman's Office began their investigation as they do and they always talk to the prison officials first. They don't take as fact anything presented. They come with inquiries. It was established, not just through the Ombudsman, that this man had serious problems. When he was being held

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in Douglas County Correctional Center pending transfer down or into the state's custody, his mental condition was recognized and he was being treated for it. His mental condition was diagnosed and he was being treated for it. And this Governor says he should get the death penalty without even knowing the man's mental state, whether he's culpable under the law. But he's quacking. So when the judge signed the order to send him down to what they call the "big house," he made specific reference to the man's mental condition and said he needs mental health treatment. And the state officials ignored it. What did they do? They got their quack psychiatrist, this guy called Scott Moore--he's an employee of the state--to say, no, he doesn't have a psychotic problem, he's just antisocial, it's behavioral. Well, the place they put people like that is in the hole. He spent the majority of his time in isolation. Psychiatrists, writers, even in the dark ages had talked about the devastating effect on the human mind of extended periods of isolation and denial of any contact with other people, and that's what they did to him with all of the evidence that the man was mentally ill. [LB174]

SENATOR GLOOR: One minute. [LB174]

SENATOR CHAMBERS: But Bob Houston gave me the impression they were addressing his mental illness, which they were not, and that's why I was so angry with him and the system. I had indicated that if they cannot adequately address his mental problems while he is there, they should seek a civil commitment so he won't be released into our community where he would have been released and could do harm to himself and especially others. All that was ignored. Mine was not after the fact. Mine was a good period of time before he got out and Bob Houston ignored it. The Governor knows that. Then he says when we're concerned about the mentally ill we're soft on crime. What he did as Governor in letting the prison system go to pot is criminal. He knew... [LB174]

SENATOR COASH PRESIDING

SENATOR COASH: Time, Senator. [LB174]

SENATOR CHAMBERS: Thank you, Mr. President. [LB174]

SENATOR COASH: Thank you, Senator Chambers. Senator Karpisek, you are recognized. [LB174]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I'd like to...Senator Watermeier tried to steer the conversation back to the bill, and that's my intent, and try to move on to another bill. This is the first bill. When I talked about this not being the hill that I care to die on, I have a lot of other hills that I will. And I don't want anybody to think that I'm cowering or just wanting to give in because I'm not at all. But there are a lot more important issues that we have to face. We've gotten so far off

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subject on this bill. We tend to get upset usually with one member that doesn't maybe always talk about the bill but I don't know how many others have stood up today and were off talking about the jails. Let's stay on this bill. Let's get it done. Again, I don't think that this bill rises to the amount of time we've put in, the adversity that has happened, the bad feelings that are already going around, the threats I hear. It's going to be a long, long session and we know that, but I never thought we'd get hung up on the first bill on something like this. We are going to need to work together for anything to get done. Maybe you don't want anything to get done. It's my last year here, at least for a while if I decide to come back and have more fun. I did want to report that Senator Chambers did give me an elbow bump, by the way, so I guess that I am kind of a...I don't know. I guess I'm okay. I don't know if I'm rural or urban still. Anyway, I'm going to vote for this bill, move on to the next bill. I'm sure that Senator Avery would like us to get there. Let's please work together. Decide what's worth the fight and what's not. Senator Kintner said this is politics at its best. Sorry, Senator Kintner, I just could not disagree with you more. I don't think people watching think that this is a good waste...(laugh) waste...a good use of time--Freudian slip. I don't think that it is. It is my opinion, only my opinion. We're here for a short amount of time this year and I'd better be quiet or I'm wasting my own time. Thank you, Mr. President. [LB174]

SENATOR COASH: Thank you, Senator Karpisek. Senator Smith, you are recognized. [LB174]

SENATOR SMITH: Thank you, Mr. President, and good morning, colleagues. I'm going to be very brief. I appreciate Senator Karpisek's comments and I think Senator Schumacher started out with the right tone at the beginning of this discussion. And there's really no need to create an urban-rural divide over this issue. I do sit on the Transportation and Telecommunications Committee. This is, I believe, a reasonable and a measured approach. I'm very familiar with that area of Omaha where this issue is an issue. And it's a densely populated area and I believe that the uncontrolled spillage is a safety and a health concern there. I'm a small business owner and I understand the plight of small businesses and oppressive regulations. I do not believe that this is an unreasonable change to the current statute. I do support LB174. And I'm just curious from Senator Schumacher, his interest in this has nothing to do with transmutation of elements, I take it. And with that, thank you, Mr. President. [LB174]

SENATOR COASH: Thank you, Senator Smith. Seeing no other lights on, Senator Mello, you're recognized to close on the advancement of LB174. [LB174]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. Quite a debate on the first bill of the legislative session, I'd say. I appreciate Senator Smith's closing remarks there knowing that this bill came out of a committee that was made up of urban and rural senators, came out of the committee with no votes in opposition, and the bill itself came in with support from the industry that actually wants to see the fine

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increase to help deal with a significant problem facing a portion of the state that has to deal with the aftermaths of manure spills both in their neighborhoods as well as on state highways. Something that I probably didn't mention enough during the floor debate on some of the unique questions I got from colleagues was, what happens after this spill happens? The state has to actually clean up the spills. It costs taxpayer money to clean up these spills when a rogue agent or bad actor decides to break the law. And so that's something that I think we should be very cognizant of in regards to the fiscal impact that the Department of Roads has to deal with every time there is a spill on a state highway. I should have mentioned that probably earlier in the sense of how that has an impact of why this is important not just to the city of Omaha and south Omaha but the state as a whole. Without rehashing, I guess, some of the, I would say, statements that I felt were a little off base this morning from a couple members, I welcome everyone to come down to south Omaha and take a tour of some of the packing district areas. I don't know if Senator Brasch or Senator Larson has spent considerable amounts of times with some of the packers in my district the way I have. You're more than welcome to come down, take a tour, spend time and see what people in the area go through and see how that relationship between business, government, and neighborhoods all interact in regards to how the South Omaha Environmental Task Force tries to bring people to the table to solve problems that face our community. But the problem I do have is for a senator who may not have spent as much time in an area of the state make statements that make them sound like they're experts in regards to that area of the state. It would be the equivalent of I or any other urban senator went to a cattle ranch to try to tell a cattle rancher, here's how you inseminate a bull. The reality is you can't inseminate a bull. That's the joke. But the reality is if urban senators would come to rural parts of the state and start telling them this is how it's going to be, this is the way it's supposed to be, there would be people who would be a little, I think, upset and probably a little offended with that. The reality is this is an issue that has plagued a portion of the city of Omaha for a number of years but it's gotten better. It's gotten better because business, government, and the local community members have come together to try to improve, one, the community in regards to how it deals with the packing industry. The packers get a lot of credit for that. They've tried to be proactive. Why? Because they don't want to see neighbors and taxpayers come after them and give them bad, negative press in Omaha or anywhere else around the state. So they want to try to be a good partner. They want to be a good neighbor. That's the reason why the trucking industry realized that this is causing their industry a significant problem. An anecdotal story from one trucker who says they may take their cattle to Sioux City instead of south Omaha, as far as I know from the packers I've talked to over the last six years, they have more than enough cattle coming into south Omaha on a regular basis. They can't get enough of it so ultimately they send people...have to send people to other places. So one anecdotal story doesn't convince me that this...once again, the hyperbole that this is going to just be detrimental to the south Omaha economy. As I mentioned, if that's the issue we can talk more about what would be detrimental when we discuss the sewer separation project in that bill that will be coming in front of the Revenue Committee that tries to help

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deal with the largest unfunded federal mandate in the history of the state. We can talk about that at a later point. But my concern is we have a lot of issues in front of us, colleagues,... [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR MELLO: ...that affect all of the state. And when you see an urban-rural divide on something that, frankly, I would argue is a noncontroversial issue because the industry who it affects came in support and said, please, you can fine us more to help deal with problem actors in our industry, I'm concerned. We have to deal with education challenges for urban and rural Nebraska, water challenges for urban and rural Nebraska, property tax issues for urban and rural Nebraska, and the last thing we need is some kind of artificially created divide on a fine bill that increases a fine on a bad trucker for \$150. I appreciate the work of the Transportation Committee, Senator Dubas and all the members of that committee, of working with me and the interested partners over the last couple of years. I'd urge the body to move and adopt LB174. Thank you, Mr. President. [LB174]

SENATOR COASH: Thank you, Senator Mello. Members, you've heard the closing to LB174. The question for the body is, shall LB174 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB174]

CLERK: 37 ayes, 4 nays, Mr. President, on the advancement of LB174. [LB174]

SENATOR COASH: LB174 does advance. Items, Mr. Clerk? [LB174]

CLERK: Thank you, Mr. President. Hearing notices from the Banking, Commerce and Insurance Committee, the Urban Affairs Committee, and the Education Committee, all signed by their respective Chairpersons. Mr. President, a new resolution, LR399, is offered by Senator Wightman and others. That will be laid over. But I have a communication from the Speaker directing that LR399 be re-sent to Reference Committee. I also have a hearing notice from Judiciary Committee. New bills, Mr. President. (Read LB871-881 by title for the first time.) That's all that I have, Mr. President. (Legislative Journal pages 206-210.) [LR399 LB871 LB872 LB873 LB874 LB875 LB876 LB877 LB878 LB879 LB880 LB881]

SENATOR HOWARD PRESIDING

SENATOR HOWARD: Thank you, Mr. Clerk. We will proceed to General File, LB446. [LB446]

CLERK: LB446 is a bill by Senator Avery. (Read title.) [LB446]

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SENATOR HOWARD: Senator Avery, you are recognized to open on LB446. [LB446]

SENATOR AVERY: Thank you, Madam President. Good morning, colleagues. LB446 with the committee amendment, AM196, that you'll hear about from the Chair of Transportation amends the Motor Vehicle Certificate of Title Act in order to define what is meant by a flood-branded vehicle, and that definition would read as follows: Such a vehicle is one that has, quote, sustained flood damage resulting from being submerged in water to the point that the rising water has reached above the floorboard into the passenger compartment and has damaged electrical, computerized, or mechanical components. It specifically excludes vehicles from this definition that have been inspected by an insurance claim representative or a mechanic who indicates that there is no electrical, computerized, or mechanical water damage or any electrical, computerized, or mechanical components damaged by water have been replaced adequately. So what is the problem we're trying to fix here? Flood-damaged cars are often sold at insurance auctions. Then they, the buyers, clean up the vehicles, dry them out. They Clorox clean the insides to do away with mold and mildew. They look good and they might actually look brand-new. But the working parts are damaged and just waiting to break down. In fact, most, or at least many, vehicles today are built with the computers under the front seats of the vehicle. What happens is that unscrupulous car sellers take flood-damaged cars from out of state, retitle them in Nebraska which has no requirement to flood brand the title, and simply resell them with a title that does not mention flood damage. This is the problem we're trying to fix. I initially introduced this bill to put Nebraska car buyers and sellers on heightened notice about flood-damaged vehicles in the marketplace, and I did so following reports from upwards...from news reports after hurricane Sandy on the East Coast that reported that upwards of 250,000 hurricane-damaged vehicles were headed for resale on the used car market across the Midwest. In fact, well over 1 million hurricane-damaged vehicles have made it back onto the used car market following hurricanes in recent years. Now that doesn't mean, of course, that they all wound up here in Nebraska, but we believe a certain...a considerable number did. Vehicles, like homes and buildings, suffer the long-lasting damage left behind from water and literally rot from the inside out. The lasting effects of water damage can be very catastrophic, particularly to metal. Corrosion can cause severe electrical and mechanical problems, including damage to air bags, power steering, power brake failures. Engines can get "hydrolock" where the engine blows water instead of air through the engine's cylinders. It is often very easy to clean up these vehicles in a cosmetic way and the damage from flooding is obscured or hidden. They wipe it down with Clorox. They put in some air fresheners. Sometimes they'll add new seats. However, many car manufacturers now are putting very, very vital components under the seats, under the dashboard. Even a modest amount of water damage which is not disclosed on the title can cause an unsuspecting buyer to incur huge amounts of repairs down the road. This new language would make Nebraska one of the most aggressively flood-branded states and protect Nebraska's consumers. It's

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the industry standard terminology that we're using here and it has been endorsed by the Nebraska New Car and Truck Dealers Association. As always, of course, consumers should pay attention to the principle of caveat emptor, which means buyer beware, look under the hood, smell the seats, look for warped door panels, look for water lines in the motor and under the hood and other places. But we need to do more in Nebraska to put Nebraska car buyers and sellers on notice that even modest flooding should be unacceptable to pass on as a clean title in this state. This bill then seeks to provide consumers with a measure of protection from unscrupulous car sellers who may try to dump flood-damaged cars on an unsuspecting buyer in this state. I urge you to support LB446 and the committee amendment to follow. Thank you, Mr. President. [LB446]

SENATOR HOWARD: Thank you, Senator Avery. As the Clerk stated, there are amendments from the Transportation Committee. Senator Dubas, as Chair of the committee, you are recognized to open on the amendments. (AM196, Legislative Journal page 451.) [LB446]

SENATOR DUBAS: Thank you, Madam President. First of all I'd like to thank Senator Avery for all of his work on this bill. This certainly is a consumer protection bill and he did a great deal of work and I think we have it in a fashion that hopefully the full body will support. AM196 is...when the Department of Motor Vehicles looked at the bill, the original bill put this language in the section of statutes dealing with new titles. The department felt that the fact that it was a salvaged title that this legislation would better fit in the area of statute that deals with salvaged titles. So it moves it to a different area of statute and then the amendment also further defines what flood damage means to just set further criteria in place to help meet that definition of what a salvaged title is. So it's pretty simple and straightforward. I hope the body will adopt AM196 and ultimately LB446. Thank you. [LB446]

SENATOR HOWARD: Thank you, Senator Dubas. Members, you've heard the opening to LB446 and the committee amendments. The floor is now open for debate. Senator Chambers, you are recognized. Senator Chambers, you are recognized. [LB446]

SENATOR CHAMBERS: Thank you, Madam President, members of the Legislature. Madam President, this is a delightful moment for me. I'm very happy to see you in the chair and I'm not being patronizing. And the reason I couldn't: because I see, I think, somebody sitting beside you who...oh, okay. I'd like to ask Senator Avery a question if I may. [LB446]

SENATOR HOWARD: Senator Avery, will you yield? [LB446]

SENATOR AVERY: Yes, I will. [LB446]

SENATOR CHAMBERS: Senator Avery, what does this have to do with Game and

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Parks? Level with me now. [LB446]

SENATOR AVERY: Not a thing. [LB446]

SENATOR CHAMBERS: Not a thing? [LB446]

SENATOR AVERY: Not a thing. [LB446]

SENATOR CHAMBERS: From what I've heard, this is one of the best bills that Senator Avery has brought, and he has brought good bills before. This goes right to the heart of a very serious problem that people who are going to make purchases are facing. This is not undue governmental intervention. This is what the government ought to do when there is a widespread problem which the citizens lack the ability to resolve themselves. It's up to the government in tending to the public welfare to step in and provide new guards for their future security in purchasing these vehicles. I'd like to ask Senator Avery another question. [LB446]

SENATOR HOWARD: Senator Avery, will you yield? [LB446]

SENATOR AVERY: Yes, I will. [LB446]

SENATOR CHAMBERS: Senator Avery, in view of this very good bill that you've brought, the integrity that it shows by your having brought it, how in the world can a man, a good man like you, get in cahoots with an untrustworthy outfit like Game and Parks? How can you do that? [LB446]

SENATOR AVERY: I guess I must have a character flaw. (Laughter) [LB446]

SENATOR CHAMBERS: Thank you, Senator Avery. I wasn't expecting that response. Senator Avery does not have a character flaw. This bill and the work that has been done with the committee I really think is one that we ought to adopt. And it's too bad that such a thing is necessary. The need for it shows that an entire industry can be built on deception, fraud, and misleading the public. This gives us a wonderful opportunity and except that I don't just add my name to bills, this is one that I would like to have cosponsored. Thank you, Madam President. [LB446]

SENATOR HOWARD: Thank you, Senator Chambers. Senator Wallman, you are recognized. [LB446]

SENATOR WALLMAN: Thank you, Madam President. And I, too, have seen used cars go up and down the highway from flood areas and, in fact, I bought a car once that was in a flood. I had pretty good luck. But salvaged title, it's...then you deal with the courthouse with the value. So but I still think this is a good first step trying to get ahold

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of this problem. Thank you, Madam President. [LB446]

SENATOR HOWARD: Thank you, Senator Wallman. Senator Harms, you are recognized. [LB446]

SENATOR HARMS: Thank you, Mr. President...Miss...Madam President. I apologize for that. I rise in support of LB446 and the amendment, AM196. I will tell you that in my previous world in the community colleges, the automotive programs who will receive a lot of these flooded cars...and so they get new cars every year coming in that have been damaged or flooded and so that students have the opportunity to work on these cars and go through them and repair them and rebuild, you know, the electronic side of it. To my amazement, I've gone up and looked at those cars and it's amazing how you can clean them up. But when you talk to the instructor they will tell you, as this car warms up and you put a few miles on this car it will not, in fact, run, and you may very well be stranded and in a position that you cannot afford to be in. So I'm glad to see this particular piece of legislation. I think this is a good bill. I think it's an important bill. I will also tell you that we have experience in our own family of purchasing of an automobile and one of the western Nebraska storms come whipping through, broke out all of the windows of the car. And so it doesn't have to just be flooded. You just get water into some of that electronic after the windows are broken out and it runs down through the dashboard. It gets into the computers. It is an issue. It is a problem. And most insurance companies today will tell you that they'll just...will not want to have those cars repaired because they will tell you up front that you will have problems in the future. So this is a good bill, hope that you'll support it, and I would ask you to vote green for this bill. Thank you. [LB446]

SENATOR HOWARD: Thank you, Senator Harms. Senator Seiler, you are recognized. [LB446]

SENATOR SEILER: Thank you, Miss...Madam President. Members, I'd like to ask Senator Dubas a question. [LB446]

SENATOR HOWARD: Senator Dubas, will you yield? [LB446]

SENATOR DUBAS: Yes, I will. [LB446]

SENATOR SEILER: I, too, am in favor of this bill. But I have some question about the language in your amendment on paragraph (c), line 10, where you say the inspection "by an insurance claim representative." Doesn't that claim representative have an invested interest in getting the most out of the money and may hedge just a little bit on his analysis? [LB446]

SENATOR DUBAS: You're asking if the insurance agent is going to look out for the

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insurance company more than the car or the... [LB446]

SENATOR SEILER: Right. [LB446]

SENATOR DUBAS: ...or the consumer? [LB446]

SENATOR SEILER: And that's the only question. I have no problem with a vehicle repairperson doing an inspection and...but I have a little bit of a problem for the general public relying on a self-influenced person. [LB446]

SENATOR DUBAS: You know, the insurance agent is typically someone who is involved in this issue. They're looking at the car if they're paying for it or what have you and are involved with salvaged titles, so this was language that we worked on with the department. So I'm making an assumption here but I will follow up to make sure that I am giving you the correct information as to why they are involved with that, and that may be something Senator Avery could help us with as well. So let me do some follow-up and I'll get back to you. [LB446]

SENATOR SEILER: I have nothing further. Thank you. [LB446]

SENATOR HOWARD: Thank you, Senator Seiler and Senator Dubas. Senator Kolowski, you are recognized. [LB446]

SENATOR KOLOWSKI: Thank you, Madam President. I also support Senator Avery's bill. I think it's an excellent safeguard for our public and I commend him on that. I wanted to share with fellow senators another aspect of looking at flood-damaged situations that happened to our family. And I don't know if anyone else had calls to their own family or concerns about their own vehicles. But when the damage incurred on the East Coast in the New York area in the last major flooding that took place, a number of people, myself included, were contacted trying to...from major dealers trying to buy my used car because they had such a rush for resale value on the East Coast with all the damage to the vehicles there and they were offering great discounts on new cars when they were doing that. I don't know if anyone else had that happen but there is a market for...an input into the market from ourselves in the Midwest and other locations when there is terrible damage that incurred either in New Orleans or on the East Coast from the damaged floods. So I just share that with you as another sideline. Thank you. [LB446]

SENATOR HOWARD: Thank you, Senator Kolowski. Senator Avery, you are recognized. [LB446]

SENATOR AVERY: Thank you, Madam Chair. I just wanted to respond to Senator Seiler's question. Insurance inspectors are bound by law if they inspect a vehicle that

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has significant damage. In the state of Nebraska, significant damage is 75 percent of the value of the automobile. It has to be given a salvaged title. In the instances where flood damage is involved, the insurance claim adjuster must follow the law in that state. The problem is, in Nebraska, we don't have a category or a law that specifies or requires that flood-damaged vehicles be branded as flood damaged and we need to do that. In the case of mechanics, mechanics can certify that these are not flood-damaged vehicles and, therefore, do not need that designation. That's what the amendment was seeking to do was to allow those experts, like claims adjusters and mechanics, to look the vehicle over. If they certify them as not qualifying for a salvaged title, then that's good enough for us. Am I right about that, Senator? She's nodding. Thank you. [LB446]

SENATOR HOWARD: Thank you, Senator Avery. Seeing no other members in the queue, Senator Dubas, you are recognized to close on the committee amendments. [LB446]

SENATOR DUBAS: I would just urge the body's support for this amendment and the underlying bill. Thank you. [LB446]

SENATOR HOWARD: Thank you, Senator Dubas. The question is, shall the committee amendments to LB446 be adopted? All those in favor vote aye; all those opposed vote nay. Has everyone voted who wishes to? Record, Mr. Clerk. [LB446]

CLERK: 37 ayes, 0 nays, Madam President, on the adoption of committee amendments. [LB446]

SENATOR HOWARD: The committee amendments are adopted. Senator Avery, you are welcome to close on LB446. [LB446]

SENATOR AVERY: Thank you, Madam President. I would just point out in closing that 31 states already have some form of flood-branded titling. It is an important consumer protection measure that we're proposing here and I urge your support. Thank you, Mr. President. [LB446]

SENATOR HOWARD: Thank you, Senator Avery. The question is the advancement of LB446 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB446]

CLERK: 40 ayes, 0 nays, Madam President, on the advancement of LB446. [LB446]

SENATOR HOWARD: The bill advances. Mr. Clerk, we will proceed to General File, LR29CA. [LB446 LR29CA]

CLERK: Madam President, LR29CA is offered by Speaker Adams. It's a proposed

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constitutional amendment to Article VIII, Section 12, of the Nebraska Constitution. Resolution was introduced in January of 2013, referred to the Urban Affairs Committee for public hearing, advanced to General File. There are Urban Affairs Committee amendments pending. (AM273, Legislative Journal page 462, First Session, 2013.) [LR29CA]

SENATOR HOWARD: Thank you, Mr. Clerk. Speaker Adams, you are recognized to open on LR29CA. [LR29CA]

SPEAKER ADAMS: Thank you, Madam President. Members, in my former life, besides being a schoolteacher, I was a mayor for ten years and we did a lot of TIF projects. And I will tell you that as a result of that, and I have a very parochial view, the way that the community that I lived in used it, it was very effective at doing what I believe TIF was meant to do. Since coming to the Legislature I have been concerned that, anecdotally, that TIF has gotten off course. Not everywhere, it's like so many of the things we do here at the Legislature, there's always somebody that does an end run or attempts to. And I have said to my former colleagues in the League of Municipalities, former mayors, and to league officials for the time that I've been here: You need to take a careful look at this and maybe consider doing some reining in on it before it's lost altogether. What this constitutional amendment language intends to do in my opinion, maybe it doesn't go far enough, but in my opinion it does attempt to rein in and refocus. Now if you notice quite simply what it does if the voters so decide, it would eliminate the language "blighted and substandard" and would replace it with "property in need of rehabilitation and redevelopment." Blighted and substandard, in my time as a mayor probably spent as much time with citizens who found their properties inside of a redevelopment area explaining to them why it was blighted and substandard when in reality it wasn't. And how many times they had to say to a property owner, look, we know your property is not blighted and substandard, it's the one across the street, but you're inside of this development area, hence, you got the designation. It was offensive to property owners. Now eventually, frankly, I think we reached a point in York where most property owners began to understand better and they lived with it. But I still think it can be offensive. Secondly, my concern is that cities in this state and maybe us as members begin to focus our attention a little bit more on what TIF was originally meant to do--rehabilitation and redevelopment. But for--something needs to be done and you can't get it done "but for." When we had our fire in downtown York, hard in a rural community to get anyone to start up any retail in that space but for some TIF assistance, storefront revitalization, "but for." I can't stand here and tell you today that if we move this language, it gets put on the ballot, and the voters agree with it that TIF in every case will be used the way it was intended to be used. I think this is a step in the right direction to clarify, to refocus. There is a committee amendment forthcoming. Originally in this legislation there was intended to be an extension of the TIF term. I've never felt comfortable with that and, therefore, I am very supportive of the committee amendment that is coming forward. And with that, Madam President, I'll conclude. [LR29CA]

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SENATOR HOWARD: Thank you, Mr. Speaker. As the Clerk stated, there are amendments from the Urban Affairs Committee. Senator McGill, as Chair of the committee, you are recognized to open on the amendments. [LR29CA]

SENATOR MCGILL: Thank you, Madam President. As Speaker Adams just said, this is a pretty simple committee amendment. It keeps the bond repayment period at 15 years instead of the 20 that was in the original bill. Even before consensus was built around this amendment the committee had misgivings about this original provision in the bill and chose to amend it out. So I would certainly ask for your support on this amendment. Thank you, Madam President. [LR29CA]

SENATOR HOWARD: Thank you, Senator McGill. Members, you've heard the opening on LR29CA. The floor is open for debate. Senator Hadley, you are recognized. [LR29CA]

SENATOR HADLEY: Madam President, members of the body, I stand in full support of LR29CA. That last year wasn't easy to say but I have a new pair of glasses now so I can read the board, so this is a wonderful time for me at this point in time. Being a former councilman and a mayor, it was hard to talk to citizens about substandard and blighted. You know, there is a negative connotation that really goes with those terms. And we did some projects involving streets and sidewalks that were really needed in certain areas and it just had a connotation to the neighborhood that was not good. It was not good. We also had the problem of determining why a certain area that certainly, to a lot of people looking at it, didn't look like it was substandard or blighted. You know, those are pretty derogatory terms. So I fully stand behind this constitutional amendment and the amendment that was brought by the Urban Affairs Committee. I think this does clean up the language. Secondly, I really do support keeping it at 15 years. If you use present-value tables and such as that, I actually went out and looked at the differences between 15 and 20 years on this and it really doesn't make a whole lot of difference if you use present-value tables between 15 and 20 years. So I would appreciate your green vote on the amendment and this constitutional amendment. Thank you, Madam President. [LR29CA]

SENATOR HOWARD: Thank you, Senator Hadley. Senator Mello, you are recognized. [LR29CA]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I stand in full support of the underlying resolution, LR29CA, as well as the committee amendment. I introduced this similar bill back in 2012 in which we had extensive conversation about the possibility of changing it from 15 to 20 years and, in part due to a short session, we were unable to find some compromise on that. But I appreciate the leadership of the Speaker of reintroducing this constitutional amendment and working with the Urban

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Affairs Committee and the League of Municipalities to do exactly what Senator Hadley just mentioned. The issue of blighted and substandard has caused, I think, a considerable amount of heartburn, at least in the Omaha area, over the recent number of years in regards to specific projects that would be classified under the Community Development Law and would get termed as "blighted and substandard." One particular project, the TD Ameritrade building, had caused such an uproar in Omaha that they had one of the largest TIF hearings within the city planning and city council over a specific project in recent history. What the Speaker has put in front of us, and ultimately the amendment that takes it from 20 to 15 years that comes from the Urban Affairs Committee, clarifies that language for the purposes of redevelopment and rehabilitation. That, I feel, is something that would help ease taxpayers' concern and residential homeowners' concerns in regards to when their property is within a needed community development area for them to be able to be classified as rehabilitation and redevelopment instead of a property being called blighted and substandard. More than anything else it may be a mind-set and a thought process that you live in a blighted neighborhood or a substandard neighborhood which is, I think, really the crux of what this constitutional amendment is trying to go after. Now as the Speaker also mentioned, there is no doubt going to be legislation introduced. If not this year there's always legislation introduced on TIF, and I've introduced a number of bills over the last few years that make changes to that community development statute. What this doesn't do though is go after that. This purely changes the definition in the constitution from "blighted and substandard" to "rehabilitation and redevelopment." It's an issue that has gone through, I think, a considerable amount of debate within the League of Municipalities and their members across the state. I think it's good public policy for us to change this. It benefits communities, homeowners, and ultimately it still allows the TIF law to move forward at that 15 years. With that I'd urge the body to adopt both the committee amendment and the underlying constitutional amendment. Thank you, Mr. President. [LR29CA]

SENATOR HOWARD: Thank you, Senator Mello. Members in the queue include Krist, Adams, Johnson, Crawford, Nordquist, Senator Burke Harr, and Nelson. Senator Krist, you are recognized. [LR29CA]

SENATOR KRIST: Thank you, Madam President. Good morning, colleagues, and good morning, Nebraska. One of the nicest things that happened to me in 2009 and being appointed to the Legislature was also resting in the Urban Affairs Committee. I've treasured my time there and become acquainted, very familiar with TIF and both the pros and cons. I applaud Senator Adams for bringing it forward. The Speaker gives good guidance here as he does most of the time. And for the Urban Affairs Committee amendment, it really restructures, I think, in terms of chronology the risk factors that are involved that some people would not necessarily understand getting into the TIF program early on because what you're doing is giving away a tax base and you have to be very careful when you do that. I think though that if you want a great example of how

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TIF can affect a community and particularly the words "blighted," take a look around the 78th to the 82nd and Cass to Western area which is affected by the TIF issue at the Crossroads. Property values came down pretty substantially. People sold out property at less and what it affected there was a group of homeowners that were not necessarily spring chickens and they intended on living in those properties probably through their retirement. But it became an issue after the "blighted" tag was placed on their homes. It is a psychological factor as well as a financial reality. With that I would encourage you to support AM273 and LR29CA. And if you need further guidance information to give to your own constituents about the TIF issue, please contact our Urban Affairs Committee membership or our legal counsel and we'd be happy to supply that information. Thank you. [LR29CA]

SENATOR HOWARD: Thank you, Senator Krist. Speaker Adams, you are recognized. [LR29CA]

SPEAKER ADAMS: Thank you, Madam President. Members, as I've already indicated, I am in support of the committee amendment but I did want to add something. I don't know how prior bodies arrived at the 15 years but I would tell you that if you look at the history of TIF and TIF projects that have been done across the state, most of them don't go 15 years. They don't go 15 years. And if you've got a city that's handling TIF correctly, they're weighing every project and they've got to be saying to themselves, this is tax base that's not going to the other taxing entities yet so we don't want to string this out any longer than we have to. There could be made an argument, all right? Let me paint a scenario for you. Let's...I'm going to use a small rural community. You've got a rural community that might TIF a downtown area. Maybe they TIF an area that's two blocks wide and six blocks long of their downtown and they're capturing the TIF off of it and they intend to use the captured TIF to rebuild 100-year-old-plus water and sewer lines and build sidewalks and rebuild sidewalks and they're going to have to market those bonds. That 20-year period becomes a better thing in the market. But weighing those projects--which are very, very few in number in this state--up against all the TIF projects that are two-year, that are five-year, that are eight-year, and the fact that you're a moving...you are not moving tax base away from the other entities, you're just keeping that increment from getting to those new entities, you balance one against the other, I think we're better off staying at 15 years than going to 20 for those few isolated cases. Hence, I would, as I've said several times, support the committee amendment. Thank you, Madam President. [LR29CA]

SENATOR HOWARD: Thank you, Mr. Speaker. Senator Johnson, you are recognized. [LR29CA]

SENATOR JOHNSON: Thank you, Madam President. You might wonder if there's an old mayors' gray-hair society because all three of us that have spoken on behalf of the mayors association, which there is not one directly, are all in support of this. And I can

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speaking also from a personal experience. Situations that I've been involved with, when you say "blighted," it's a negative and...but when I...would now be able to go and talk to those same people and say and ask them the question, do you feel there's an area here where things could be rebuilt, redeveloped, improved, and look at it from that perspective, it becomes a positive forum. So I believe this is a good move. I looked at it last year as a true freshman coming in, talked with Senator McGill about this bill, and found out it was already being introduced, and so I did not move forward with it. I would also comment on the amendment, the 15-year, and it is the limit. It's not the standard; it is the limit. I would say that in the community where I was mayor we probably looked at seven to ten years in a lot of cases understanding the tax situation and the ability of those taxes to move to other entities. So I am in total support of the amendment and support of LR29CA. Thank you. [LR29CA]

SENATOR HOWARD: Thank you, Senator Johnson. Senator Crawford, you are recognized. [LR29CA]

SENATOR CRAWFORD: Thank you, Madam President. I stand in support of LR29CA and AM273 and I want to thank Speaker Adams for bringing this bill to our body. I heard quite a bit from the city of Bellevue, from the mayor, the city council, and others involved in economic development in Bellevue about how important the TIF tool is and how important this shift in language would be. And I concur with Speaker Adams that changing the language also helps us to clarify the real purpose of this tool. I would also speak from personal experience. I was running for office when the letters went out to people in Olde Towne Bellevue indicating that the area, you know, would be designated blighted and substandard. There was all kinds of fear among homeowners as you were going door to door about what does this mean. Some homeowners wondered if they had done something wrong. You know, why it was their house blighted and substandard? It caused all kinds of fears and concerns among homeowners about what that designation meant and just those words, "blighted and substandard," really fed into that confusion and concern and made it much more difficult to bring everybody on board in terms of being behind this important redevelopment of the Olde Towne Bellevue area. Thank you, Madam President. [LR29CA]

SENATOR HOWARD: Thank you, Senator Crawford. Senator Nordquist, you are recognized. [LR29CA]

SENATOR NORDQUIST: Thank you, Madam President and members. I'm inclined to support LR29CA with the amendment but I certainly have a concern. And I think maybe it was Senator Mello or someone mentioned the Old Mill designation as blighted and substandard and the concern about those terms. Well, I think equally as concerning in Omaha was just the designation itself let alone the terms "blighted and substandard." And I want to make sure that by making this change we are not somehow expanding the scope of what can be...what TIF can be applied to here. You know, in ten years

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when Village Pointe in west Omaha needs a face-lift, is that an area in need of rehabilitation and redevelopment? So I just want to make sure. And I asked Senator McGill, I gave her a heads-up, and if there's time left, Speaker Adams, if he has anything to add, can, but if Senator McGill would just clarify where this new language came from and help address my concerns that it will not expand the reach. [LR29CA]

SENATOR HOWARD: Senator McGill, will you yield? [LR29CA]

SENATOR MCGILL: I will. The language came from various parts of the Community Development Act (sic--Law) and current definitions. What we're looking to do is simply replace the words and not change...if you go to Chapter 18-2103 that's where we define right now "substandard" and "blighted" and just during this debate it's been very helpful for me to look at this. So we'd be taking the definitions of "substandard" and "blighted" and just moving those over to the "rehabilitation" and "redevelopment." That is not...this bill is not in any way, shape, or form intended to broaden the ability to use TIF. In fact, you know, in some of the cases you're talking about, as I read through these definitions currently in statute it does make me scratch my head and think, yeah, those were not appropriate, they did not fit these definitions, therefore, they would not fit these new definitions either. [LR29CA]

SENATOR NORDQUIST: Great. Thank you, Madam Chair. I don't know if...oh, Speaker Adams, I don't know if you have anything to add to that, Speaker Adams, but I'd yield you the remainder of my time. [LR29CA]

SENATOR HOWARD: Speaker Adams, you have 2 minutes and 53 seconds. [LR29CA]

SPEAKER ADAMS: Thank you. I think the Chair of the committee has explained it. What we're really doing is simply taking that...what could be, as I've said before, interpreted as abusive language of blighted and substandard and using the redevelopment, rehabilitation. And frankly, it would be my hope even though we haven't really changed definition, I would hope that plus the record of our conversation here on the floor will make clear to cities: When you're using TIF, you be careful how you're using it and remember what its intent was. It was rehabilitation and redevelopment. [LR29CA]

SENATOR HOWARD: Thank you, Speaker Adams, Senator Nordquist, and Senator McGill. Senator Burke Harr, you are recognized. [LR29CA]

SENATOR HARR: Thank you, Madam President. I stand in support of the amendment. I do have some concerns with the underlying constitutional amendment. The last conversation helped clear it a little bit. Would Senator McGill yield to a question though? [LR29CA]

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SENATOR HOWARD: Senator McGill, will you yield? [LR29CA]

SENATOR MCGILL: I do. [LR29CA]

SENATOR HARR: Thank you, Senator. Is this more form over substance? And what I mean by that is: Are we having the same definitions, we're just changing what it is? [LR29CA]

SENATOR MCGILL: That is the intention. We will need further legislation to physically go into the other parts of statute and change the wording. But, yes, it's about the form over substantial change. [LR29CA]

SENATOR HARR: And so this was...and I have some in my district. I think I actually live in blighted and substandard by the definitions that currently exist. And I know when this happened there were a lot of people who were upset when Fairacres Road was put on that. But I guess my question is, is it a bad thing that some people are offended by the terms "substandard" and "blighted?" [LR29CA]

SENATOR MCGILL: Oh, is that a question for me? [LR29CA]

SENATOR HARR: Yeah. [LR29CA]

SENATOR MCGILL: It can be when this is the only tool for cities to use to really help incentivize businesses in their areas. I mean it's been interesting for me even. I would encourage everyone to go to Chapter 18-2103 and read the full definitions. I know if people saw these full definitions, especially of "substandard," it would cause concern to feel that...have that word associated with it. [LR29CA]

SENATOR HARR: Have you any evidence that it's affected market value of the land possibly? [LR29CA]

SENATOR MCGILL: I do not have any evidence of that. [LR29CA]

SENATOR HARR: Okay. All right. Thank you. I guess, again, this seems to be more form over substance. Is it called the Affordable Care Act? Is it called Obamacare? Is it called "Obamneycare?" It doesn't really change the result and that's what we're doing here. This doesn't change the results. All we're doing is changing vocabulary. We seem to be playing with our constitution a lot and I have a little bit of a worry that we make constitutional amendments a little too easily. And I'm not sure if this rises to the level of a need for a constitutional amendment if there's no real change. So I'm going to sit here and listen a little bit more. I'm very undecided. But if all we're doing is change in vocabulary, I'm not sure if it's worthy of a constitutional amendment. Thank you. [LR29CA]

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SENATOR HOWARD: Thank you, Senator Harr and Senator McGill. Senator Nelson, you are recognized. [LR29CA]

SENATOR NELSON: Thank you, Madam President, members of the body. I rise in support of this bill but I have some questions along the same as Senator Burke Harr and I wonder if Senator McGill would yield to some questions. [LR29CA]

SENATOR HOWARD: Senator McGill, will you yield? [LR29CA]

SENATOR MCGILL: I will. [LR29CA]

SENATOR NELSON: Senator Harr--thank you, Senator--raised an interesting question. It was just running through my mind. Why is it that we need to do a constitutional amendment here and put it on the ballot? Is there not some other way that we can just revise this language? [LR29CA]

SENATOR MCGILL: No. The language "substandard and blighted" is in our constitution which is why those cities have to use it, use that particular language, when selling their TIF projects. [LR29CA]

SENATOR NELSON: Well, it's in the constitution I guess because it authorizes this sort of act and sort of financing. But when we're talking about semantic terms, does it require that we have to change the constitution when it could be done... [LR29CA]

SENATOR MCGILL: Yeah, I mean, right now that's how it's designated. [LR29CA]

SENATOR NELSON: ...administratively? [LR29CA]

SENATOR MCGILL: Yeah. [LR29CA]

SENATOR NELSON: All right, well, maybe it's using a sledgehammer where we could use some other route. [LR29CA]

SENATOR MCGILL: It certainly would be nice if we didn't have to go into the constitution to change this but I'm under the understanding that there's no way around it. [LR29CA]

SENATOR NELSON: All right. All right. I note that there was an opponent, Coby Mach, of LIBA. Do you recall, was his opposition to the 15 or the...? [LR29CA]

SENATOR MCGILL: It was. His opposition was to changing it to 20 years. I have not heard from LIBA since then about their stance on this particular bill, but that was their opposition. [LR29CA]

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SENATOR NELSON: All right. Thank you. Thank you, Senator. Senator Krist has already mentioned the area of 72nd and Cass and Dodge, Crossroads, which is in my area. And several years ago a good part of Fairacres, one of the most expensive areas formerly in Omaha, was given the designation "substandard and blighted." Finally they changed those lines and I'm not sure that the area that they confined that to falls under that classification of it either. My experience most recently was out in the Old Mill area where TD Ameritrade was putting up its building. If you're familiar with Omaha, Interstate 680 goes north and then it intersects with West Dodge and there in that quadrant, that southwest quadrant, is where Old Mill is and TD Ameritrade. But on the far south corner at 114th and Pacific there is a very nice subdivision and they were included in that designation, very upset about it, very vocal, had a long hearing or neighborhood meeting, still didn't convince a lot of people. It went through. My only comment is I think we do the best we can but I think even rehabilitation or development would have upset those. So I don't think we're solving the problem altogether but I think probably it's a really good move forward in an effort to allay the fears of some people even though I think that they may not think that their suburban property, the property that they have a major investment in, should come under that designation because of the fact that they're afraid it might lower their property values. But I do support the bill and I think this (recorder malfunction)...Madam President. [LR29CA]

SENATOR HOWARD: Thank you, Senator Nelson. Senator Dubas, you are recognized. [LR29CA]

SENATOR DUBAS: Thank you, Madam President. The same day that Senator Adams introduced his constitutional amendment I had a bill before the Urban Affairs Committee dealing with TIF as well, and to say that it received less than an enthusiastic response would be an understatement. But...and I introduced the bill not because I don't believe in the good work that TIF does, just because I had some concerns about possibly some of the abuses going on with TIF. And perhaps we needed to look at a way to create a formula or a way of putting TIF in place that would have less of a detrimental impact, especially on state aid to education. So I just want to take this...I support the amendment. I think the amendment has...is doing...is improving the constitutional amendment so I will support that amendment. But in the research that I did as I was looking into TIF, you know, the Legislature went into a great deal of detail when they were stating the intent language for what TIF was meant to do, and that language very clearly stated that it should be in the public interest to help municipalities where areas have deteriorated to the point of making them economically and socially undesirable for development. The prevention and elimination of blight is a matter of state policy and public interest. The "blighted and substandard" determination is based upon lack of sufficient economic activity, public and private infrastructure, job growth, wage levels, population growth, low- and moderate-income housing, business expansion, and new construction. So again they were...the Legislature at that time was very clear to outline

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what are the parameters that should surround the decision on TIF. And Senator Adams and I have had many discussions about this, if we have maybe wandered away from some of that original intent. As I worked with individuals who brought some concerns to my attention, especially school districts who are looking at the impact of perhaps cities who they felt maybe were going a little bit too far with TIF projects and the impact on state aid and their budgets, again, many of these school administrators and board members weren't real eager to come forward and say, we don't support TIF, because they do see the benefits of economic activity and they see down the road how those benefits will come back to them. But in the short term their concern was how does this impact state aid to education, and ultimately their budgets and taxpayer dollars. So I think a lot of what we're looking for is how do we strike that balance. TIF is a great tool to use for economic development and helping our communities get some of the more troublesome areas of their communities up to speed and attract new businesses and new people to the community but at the same time not take it to such an extreme that it is having a negative impact on other government subdivisions. I have communities in my district who have used TIF and they can show me project after project of successful projects that have helped their local economy. But I also have communities who really try to limit their use of TIF, believe the communities and the businesses themselves should step up and work on that economic development. So again, there's views on both sides of this issue. Where do we find that balance? The tipping balance from a positive to a negative is a pretty fine line. Does it erode the tax base or does it simply delay financially realizing the growth that would have probably happened on its own? As I looked at the number of projects that were TIFed from 1996 to 2011--... [LR29CA]

SENATOR HOWARD: One minute. [LR29CA]

SENATOR DUBAS: ...thank you--it appears that there has been significant growth. So it is being used and I think, again, it's being used for the most part in a very effective manner but just wanted to bring those points into the discussion. And I think Senator Adams made this point in his last comments: We need to make sure that communities are using this with that intent, are using it to help grow their communities and not to such a degree that it is making it more difficult for other government subdivisions to do their work. Thank you. [LR29CA]

SENATOR HOWARD: Thank you, Senator Dubas. Senator Scheer, you are recognized. [LR29CA]

SENATOR SCHEER: Thank you for the first time, Madam President. I rise to support both the bill and the underlying amendment. TIF has worked very well in a lot of communities but I think the conversation has took sort of a side turn as we look at the expandability. These words don't expand it and I think we need to look at the original TIF bill. You can't automatically expand it. No one can automatically receive TIF. Any time a project receives tax increment financing it has to go through some governmental

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body, either a city council or county commissioners or some type of governmental body that approves that as a TIF project. So it is the local officials that are given the responsibility to determine if these projects qualify or not. They are held responsible by their local electorate and if we think those parameters are too wide then we need to change those. But changing semantics to help ease the fears and concerns of local residents that as they draw lines for different projects that may include some residential areas that they may...that term may be detrimental to their property values, I think this does help. They are pretty harsh terms and I think originally they were meant to be because most projects probably were in more decrepit areas of communities or counties that were underutilized or just not utilized at all. They are now using this in some areas for renovation of areas within a community and you will have homes and other businesses within those districts that don't like that terminology because they believe they have kept their projects up, their homes up. And so I think to that extent it does help the process. This is not expanding it. We still have the same governmental officials that have to approve any TIF project that comes forward. We are not changing that. It is form over substance. We're trying to relieve the fears of those that have property within those geographic boundaries because you have to have a boundary at some point in time to determine what is or is not included. So I think this does go a long ways. I would urge your support for both the amendment from the committee as well as the Speaker's bill. Thank you. [LR29CA]

SENATOR HOWARD: Thank you, Senator Scheer. Senator Chambers, you are recognized. Senator Chambers, you are recognized. [LR29CA]

SENATOR CHAMBERS: Thank you. Madam President, members of the Legislature, I had to get some words in because of the direction this is going. I have been opposed to this kind of methodology and these kind of tools because they're never used in the areas where development is really needed. The only break of any kind that is put on this horse running away, or this wagon running away, are the terms "blighted" and "substandard." When you take those words out of the constitution, it's not a matter of form, it's a matter of substance. I was here when that language was adopted. I was here when the Legislature was defining "blighted" and "substandard." And I told them how they would manipulate those words to kowtow to those who had the wherewithal to develop land without using TIF. Naturally, I didn't have the votes. The only restriction or guideline that you can find in the constitution are the words "blighted" and "substandard." What you would do better and be more honest in doing is repeal that whole provision in the constitution and just let the developers do what they can persuade a political subdivision to allow them to do. Don't allow the city to define an area as "blighted" and "substandard" when it doesn't fit that definition of what those words mean. That's how you handle that. But if with this provision of the constitution, and we're being told there are definitions in statute, they still get around it. A statute can be changed by the Legislature. The same ones who are bringing this effort to get these words out of the constitution can easily get a legislature to define whatever they want

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defined anyway they want to, and "blighted" and "substandard" is no longer even in the equation. The type of land, the type of area that is embraced in the term "blighted and substandard" is not going to be developed if you take the language that's being put here--in need of...whatever it says. That area called mid-Omaha, or whatever, that used to be where Mutual of Omaha was, they got all these palatial buildings now. There is nothing to prevent people in that area in two or three years from saying we fit the definition in the constitution and we're in need of redevelopment and we want to use TIF to do it and they got enough money to buy everybody in Omaha ten times over in their watch pocket. And they will get what they want. The constitution is a restriction on what the Legislature can do. The U.S. Constitution is a grant of authority and, theoretically, the government at the national level can do nothing other than what is granted. It's the opposite way with the Legislature. It can do anything which it is not restricted from doing by its constitution. The state constitution is a restriction on the authority of the Legislature and the only protection that poor people have is in those words "blighted" and "substandard." I know that the Speaker is bringing this bill. But I don't trust the League of Municipalities. I don't trust city councils. I don't trust county boards. [LR29CA]

SENATOR HOWARD: One minute. [LR29CA]

SENATOR CHAMBERS: They are easily moved and manipulated and they're moved and manipulated on issues that are less serious than TIF. Those words need to stay in the constitution. I listened to the discussion and I don't think people have a clear awareness of what this is about. I was here when this stuff was being done. And I was fighting against the blighting of the area where I lived. I've always lived in an area that could be called blighted and substandard, always. And I see how that area can be artificially reduced in value. The banks and lending institutions can draw a line on it and not make loans available and that also depresses the value of the property. Then if the city wants to do some developing, they automatically reduce the value of the property and they can take it by eminent domain at that reduced value which they artificially created and manipulated. And we speak about it; we complain about it; and they laugh at us. [LR29CA]

SENATOR HOWARD: Time. Mr. Clerk, items for the record? [LR29CA]

CLERK: I do, Madam President, thank you. A new resolution, LR400, offered by Senator Dubas and others. Pursuant to that offering, communications from the Speaker directing that LR400 be re-sent to Reference for referral to standing committee. Senator Christensen would like to withdraw LB830, that will be laid over. New bills: (Read LB882-887 by title for the first time.) In addition, Mr. President, reminder Reference will meet upon recess; Reference will meet upon recess. Series of name add: Senator McCoy to LB857; Senator Nordquist to LB359; Senator McCoy to LB832; Senator Pirsch to LB96; Senators Dubas, Schumacher, Bloomfield, Scheer to LR393CA; Senator Garrett to LR393CA; Senator Mello to LR399; Senators Mello and Smith to

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LB811. (Legislative Journal pages 211-214.) [LR400 LB830 LB882 LB883 LB884 LB885 LB886 LB887 LB857 LB359 LB832 LB96 LR393CA LR399 LB811]

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

SENATOR HOWARD: Members, you've heard the priority motion. All those in favor say aye. We are recessed.

RECESS

SENATOR COASH PRESIDING

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

ASSISTANT CLERK: There's a quorum present, Mr. President.

SENATOR COASH: Thank you, Mr. Clerk. Any items for the record?

ASSISTANT CLERK: One item: the Reference Report from the Executive Board regarding the reference of LB821-870, plus LR395CA and LR397CA. That's all that I have at this time. (Legislative Journal pages 214-215.)

SENATOR COASH: Thank you, Mr. Clerk. We will continue on the agenda with LR29CA and the underlying committee amendment. Senator Chambers, you are recognized. [LR29CA]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I wish somebody other than the Speaker had brought this bill. I like the Speaker. I like his style. However, I'm not here to like or be liked, so I've got to speak against this proposal. When this idea of allowing TIF to be used to develop blighted and substandard property, the notion was based on the idea that there was certain areas and locations which no developer would sink money into to develop. So a sweetener had to be put in the pot. This proposal made it to the ballot with the expectation that these areas hitherto, undeveloped, would now be developed. The Legislature was allowed to define terms by law. They defined "blighted" and "substandard" property in a way that I strongly disagreed with. And I'm going to see if I can find the transcript, it may be two or three inches thick, and I battled them, but they won anyway. The only thing that puts a limitation on using this method of financing development are the words "blighted" and "substandard." If you take those words out of the constitution, you may as well repeal the rest of that proposal, that proposition, and just let these developers use

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TIF financing whenever they want to, under any circumstances whatsoever. There would be nothing to put a brake on runaway misuse of this method of financing. It does not comport with good constitutional law to say that you're going to get an understanding of what this proposal means by going to an existing statute. A statute can be changed. You do not want the constitution changed by means of a statute. I don't think it makes any sense to talk about what's in an existing statute and saying that language will be taken over and used here or there or wherever. This is not good prudent legislation. And I know the League of Municipalities probably want it...wants it, developers want it. But it takes property off the tax rolls that ought to be there. It would allow this method of financing to be used by those who do not need it. There is no needs-based prerequisite to the use of this type of funding. All you have to do is look at those new words... [LR29CA]

SENATOR COASH: One minute. [LR29CA]

SENATOR CHAMBERS: ...in need of redevelopment, or whatever they are, and then you define that by a statute. In the same way that you could get this Legislature to put something as idiotic in the constitution as protecting hunting, trapping, and fishing, you can get the Legislature to misdefine substandard and other terms to benefit powerful special interest groups in the same way that the Legislature would pass that notorious, infamous LB775 which was a corporate giveaway. You can persuade a legislature to define these terms anyway you chose, so you've got to put the restriction in the constitution. And this would not only be a hole in the dike, this would be removal of the dike. Thank you, Mr. President. [LR29CA]

SENATOR COASH: Thank you, Senator Chambers. Senator Adams, you are recognized. [LR29CA]

SPEAKER ADAMS: Thank you, Mr. President. Would Senator Chambers yield, please, to a question? [LR29CA]

SENATOR COASH: Senator Chambers, will you yield? [LR29CA]

SENATOR CHAMBERS: Yeeees. [LR29CA]

SPEAKER ADAMS: (Laugh) Senator, as I listened intently to what you're saying, I think I heard what I expected to hear, but I'm going to clarify so that...that I better understand. Is your concern...is one of your concerns, maybe not the only one, but is one of your concerns that this language will expand the use of TIF beyond where it was originally intended, as you remember it institutionally, or that it...it's not being used the way you think it ought to be used. [LR29CA]

SENATOR CHAMBERS: Yes. [LR29CA]

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SPEAKER ADAMS: You know, one of the...one of the reasons that...and I pointed this out in my opening, but aside from that, let me reiterate and maybe be more specific that I brought this was a concern that it ought to be used for redevelopment and not development. And hence, it seemed to me, Senator, that by changing that terminology we were restricting the use to redevelopment versus the blighted and substandard which appeared to me to open the door...more than appeared to be we have some cases where it has opened the door, probably, beyond what the original intent was. And if Senator Chambers would like to respond to that, if he's willing, I'll yield him time. [LR29CA]

SENATOR CHAMBERS: Senator, if such a thing happened, there should be a way to address it other than by removing this language. Why would you have to remove "blighted and substandard" in order to put this language "in need of rehabilitation or redevelopment?" If you left the language here: portion of a designated blighted and substandard area in need of rehabilitation and redevelopment; you have defined the type of area that is to be covered. And you also then, with this modifying language, indicate that it is rehabilitation or redevelopment that is anticipated to occur in this blighted and substandard area. In other words, you can satisfy what you're trying to do and allay my concerns. Leave the language as it is and just add "in need of rehabilitation or redevelopment." [LR29CA]

SPEAKER ADAMS: Mr. Chair, may I respond to the senator? All right. So that I understand what you're suggesting is that by keeping the "blighted and substandard" language there, that, more clearly to you, identifies those places where it's supposed to be used and the new language, adding that, rather than replacing, adding that further restricts the use of TIF which is my intention. [LR29CA]

SENATOR CHAMBERS: I should think that it would. But even if you don't get what you want exactly in that fashion, I would have what I think needs to be there. And then when we drop down here to talk about something about according to law, you could then do some statutory defining without removing what I consider the truly limiting factor. The main purpose of this constitutional provision as it exists now was to focus on the type of land or area to be dealt with by TIF. [LR29CA]

SENATOR COASH: One minute. [LR29CA]

SENATOR CHAMBERS: If you took that away, then you really have no basis for the rest of this in the constitution, in my opinion. [LR29CA]

SPEAKER ADAMS: Thank you, Mr. President. [LR29CA]

SENATOR COASH: Thank you, Speaker Adams and Senator Chambers. Senator

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Karpisek, you are recognized. [LR29CA]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I'm on Urban Affairs and I will...this was my first year there, so it was very new for me. And I would have to say that I'm not a huge TIF fan. Because I feel that it has been used in situations that, maybe, by that definition didn't fit. Some of the things that I think were used were not really blighted, but they did need some help. I understand Senator Chambers' thoughts on this. And I have to say that I agree to a point and I think that that's part of Senator Adams' point, too, is let's make sure this is being used, what it is supposed to be used for. And I guess I felt when I voted this out of committee that it did tighten it up. I guess if nothing else, I'm taking a little time for the Speaker and Senator Chambers to talk about what's going to happen. But I do, absolutely, think sometimes TIF has been used where it shouldn't have been. You look at it either...from two different ways...I think it's a good program; I think it's been misused at times. I do also think that this will, hopefully, tighten it up. When I first moved over to that committee and this came up, Senator McGill had to kind of get me up to speed quickly on what we were really dealing with here. And there were parts of the bill that we took out about extending the years. I didn't care for that part. I think it puts a municipality or a city in too much of a bind to take something out of production for that long for tax purposes. So I guess in the end, I voted for it. I'm not saying that I love TIF. I think it's a great tool when it's used properly. And I think this constitutional amendment, with the amendment, can help us do that. Thank you, Mr. President. [LR29CA]

SENATOR COASH: Thank you, Senator Karpisek. Seeing no other members wishing to speak, Senator McGill...Senator Adams, you are recognized. [LR29CA]

SPEAKER ADAMS: Thank you, Mr. President. As we're discussing this and getting deeper into it, it may be of value that we consider how TIF is being used, or maybe more importantly, and maybe this is the school teacher in me, maybe we need to educate as to what TIF is to begin with. Let me give you a hypothetical: We're down in the Haymarket, older urban area; could be the same thing in York, Nebraska, just on a smaller rural scale. And you want to get people to spruce up their storefronts and they're on the bubble the way it is because retail is not that great. And you want to incentivize that activity. TIF is a method for doing that, of taking an old building facade and making it look better. In the current language, it's got to be for a public benefit. Right? So that doesn't mean that the store owner can come in and make application for TIF money and say, I'm going to put new carpet in the store. No, there's no public benefit to that. I want to put a new facade up, all right. I want to put in a sprinkler system that complies with state Fire Marshal. Well, there's public benefit to that because you're protecting the buildings next door when you do that as well. So there's public benefit. Now, but for, TIF projects aren't supposed to happen unless there's a public benefit and it wouldn't happen but for TIF. I remember we had an incident in York where we had a person come in on a TIF project and everybody knew him and everybody knew that he could

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afford, so what are we doing this for? Because we had an area that was in definite need of fixing up and there was no incentive to do it and it was incentivized. It was redevelopment. Fixing up something that existed and made it better. And it didn't matter what his income was. The question was, was he going to do it without the assistance? Now that's the gray area that every community that's ever done a TIF project has to wrestle with. Will Mr. and Mrs. "S" go ahead with this deal if we don't TIF it? You just...you don't know. Most importantly, you've got to realize, is this what we want to see happen in town and is there public benefit to this? And if we don't do it, what are the chances that it will happen? It doesn't mean going to a cornfield, in my opinion. It means redevelopment and rehabilitation of what's there and you're trying to get it done where otherwise you can't. Maybe it's not actually building a building or fixing one up; maybe it's tearing it down because the owner who's an absentee owner living X number of states away has got a piece of property that's in bad, bad shape and they don't want to do anything with it. TIF may become the incentive for doing that or may actually help the city in getting that building removed. Now what I'm describing for you, and Senator Chambers may say that's not how it was supposed to be used, or, in his opinion, doesn't believe that's the way it's supposed to be used, that's my interpretation of how TIF is supposed to be used. Hence in light of that, the language "redevelop and rehabilitation" narrowed the scope of it again in my mind. And I would yield time to Senator Chambers if he wants to respond to any of that. [LR29CA]

SENATOR COASH: Senator Chambers, 1 minute 35 seconds. [LR29CA]

SENATOR CHAMBERS: Thank you, Mr. Speaker. Members of the Legislature, the fact that we can have differing interpretations right now indicates that this is not really a simple issue that we're dealing with. If everybody who is going to take advantage of some kind of tax incentive or break were an angel, an informed angel at that, we wouldn't need laws. When laws are put in place, somebody is going to try... [LR29CA]

SENATOR COASH: One minute. [LR29CA]

SENATOR CHAMBERS: ...in order to make it work to his or her advantage to the greatest extent to massage the language to accomplish that if reading the language as it's printed will not achieve that end. And as a result, political interests and political considerations enter into the problem and help create it. And that's why we're going through this right now. Maybe what those who want this bill are doing is very desirable, but the way they're doing it is what I disagree with. Thank you, Mr. President. [LR29CA]

SENATOR COASH: Thank you, Senator Chambers. Senator Burke Harr, you are recognized. [LR29CA]

SENATOR HARR: Thank you, Mr. President. I'm not sure what the purpose of this legislation is, or this constitutional amendment. Originally I thought it was because

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people didn't agree with the language, "blighted and substandard." It offended their better senses and so we went with a different word. If the idea here is to tighten the language, it shouldn't be either/or, but "and." An area that is blighted and substandard and that we are looking to rehabilitate or redevelop. That seems to satisfy both parties. We're tightening the definition of TIF. The whole purpose behind TIF and where it came and how it started is an interesting story. It was started because you had a bunch of factories and eighteenth century buildings that were dilapidated and those are expensive to tear down and/or to rehabilitate. It is much cheaper and much easier to build in a cornfield; just a matter of economics. So we had to create an economic program to incent individuals to reinvest in the inner city. That was the purpose behind it. So if I'm looking to build a new factory and I have a choice of rehabilitating a downtown or inner city or a cornfield, I'm going to do the inner city because I have this tax incentive. That's how it was sold to the voters. That's what its purpose was. Now I can't imagine, but I hear there is more of cornfields being TIFed. That is an abomination of the law. But, if the purpose is to tighten this, then we need to do "and." And as far as public purpose, I think it needs to be defined what that is. So what it is, is a cost that if the developer didn't do it, the city would be responsible. So as Speaker Adams said, if you had to tear down a building because it was dilapidated and that the developer does it, that's a bonus to the city and so therefore it's a public use. Maybe it's rebuilding a sidewalk. Maybe it's redoing an entrance into...if it's a shopping center, traffic lanes. Maybe it's doing some work outside; it's art, but it has to be something that would normally be a public duty that is being taken on. So it can't be for personal gain. TD Ameritrade was talked about quite a bit today, a give away to them is what it is being portrayed as. The fact of the matter, that was used to build new roadways and Old Mill; it was used to build a bridge of a creek; it was used for public benefit. Now you may agree or disagree with it, but that's what it was. And you may disagree with the area being blighted and substandard. But there are definitions. And so I'm not sure if we're looking to turn around and change the underlying definitions or not. But it sure makes it...what we're doing is studying a guidepost of what we think qualifies for TIF and then future legislators can come through and change that definition. Well, if we want to tighten that definition and we believe there is abuse, again it goes back to...it's not either/or, but "and." So, with that I'd yield the rest of my time to Senator Chambers. [LR29CA]

SENATOR COASH: Senator Chambers, 1 minute 38 seconds. [LR29CA]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Harr. And I know we are being repetitive, but the nature of the issue requires that. Reading what we're talking about, it begins on line 8 on page 1: For the purpose of rehabilitating, acquiring, or redeveloping substandard and blighted property...when you add this new language, "in need of rehabilitation or redeveloping", you're saying... [LR29CA]

SENATOR COASH: One minute. [LR29CA]

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SENATOR CHAMBERS: ...what the first part of that sentence says: for the purpose of rehabilitating, acquiring, or redeveloping. It's as though people will not accept that, so you say: this property is...we want to rehabilitate and develop this property in order to rehabilitate and redevelop it in a redevelopment project as determined by law. It starts by saying the purpose is to redevelop and rehabilitate. The language that's underlined is: rehabilitation or redevelopment. Well, you already have redeveloping and rehabilitating in the first part of the sentence. [LR29CA]

SENATOR COASH: Time, Senator. [LR29CA]

SENATOR CHAMBERS: Thank you. [LR29CA]

SENATOR COASH: Thank you, Senator Chambers. Senator Nelson, you are recognized. [LR29CA]

SENATOR NELSON: Thank you, Mr. Speaker and members of the body. I really appreciated Speaker Adams taking us over the meaning of TIF and how it worked. And I think two cases of point in Omaha we've talked about the Old Mill and the streets and the bridge. But you take a look at Crossroads at 72nd and Dodge. It certainly comes under the term of "in need of rehabilitation or redevelopment." What was once the center there of that area has deteriorated now to the point where there are just two or three tenants, plus a successful Target store and another store on the other end. And in my mind I feel pretty certain, even though it's down the road two or three years, without TIF financing that is not going to be redeveloped. I think that Nebraska Crossing was also done with TIF financing. I think it's by the same person, Mr. Krejci, who probably...I don't know, he's a wealthy man, but as the Speaker said, that's immaterial. So here we are. I guess I would ask the Speaker a question here when we're talking about the wording if the Speaker will yield. [LR29CA]

SENATOR COASH: Senator Adams, will you yield? [LR29CA]

SPEAKER ADAMS: Yes, I will. [LR29CA]

SENATOR NELSON: After getting the change in wording there, where it says: "in need of rehabilitation or redevelopment, in a redevelopment project as determined by law," what was your experience in York? What do we mean by "determined by law?" Is that the city council or...what do you go by to decide if it's in need of rehabilitation or redevelopment? [LR29CA]

SPEAKER ADAMS: Well, thank you, Senator, and if I use too much of your time, you just throw something at me. Application would come in and we had a redevelopment authority, as prescribed by statute, which could be a separate entity, or it could actually

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be the city council itself, ultimately, you do...you have an outside group come in that are supposed to be the authorities on reviewing the area to see if complies with what the statute says...what the statute defines; in this case, "blighted and substandard" as. And they come in with a recommendation: yes, it does; no, it doesn't; and then the city council, ultimately, has to approve the project. [LR29CA]

SENATOR NELSON: All right. Thank you. In light of what Senator Chambers said about it, it's just restating things here. The thing I note about here is that even though it starts with the purpose of rehabilitating, acquiring, or redeveloping, then it goes on to say: in need of rehabilitation and development. So I think you have to have that in there. I mean, you can say what you're attempting to do here, but it has to be a need and that's according to law. So it would seem to me...I mean, we get back to the point that whether you say "substandard and blighted" property, which is offensive to some people, and substitute "need of rehabilitation or development", that's immaterial. I think we have the wording in statute already. Again, I come back, I think it's just a matter of semantics and that you're still going to have to go through the same procedure to determine if it is in need of rehabilitation or development. So those would be my comments. And I still stand in favor of the bill. Thank you, Mr. Speaker...Mr. President. [LR29CA]

SENATOR COASH: Thank you, Senator Nelson. You are next in the queue as well. Senator Nelson waives. Seeing no other...seeing no other members wishing to speak, Senator McGill, you're recognized to close on AM273. [LR29CA]

SENATOR MCGILL: Thank you, Mr. President. This, again, is the simple amendment that struck the language in the original constitutional amendment that would change the term of the bonds to 20 years and we wanted to keep it at the 15 that it currently is. I think this is a pretty uncontroversial amendment. So I ask for your support. Thank you, Mr. President. [LR29CA]

SENATOR COASH: Thank you, Senator McGill. Members, you've heard the closing to the committee amendment to LR29CA. The question for the body is shall AM273 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LR29CA]

ASSISTANT CLERK: 37 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LR29CA]

SENATOR COASH: The committee amendment is adopted. You have an item, Mr. Clerk. [LR29CA]

ASSISTANT CLERK: Mr. President, next item, Senator Schumacher would offer FA160. (Legislative Journal page 216.) [LR29CA]

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SENATOR COASH: Senator Schumacher, you are recognized to open on FA160.
[LR29CA]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Senator Chambers has brought into focus the essential essence of this proposed amendment to the state constitution. And, seems to me, has accurately described the history of this measure. You have a bad area of, maybe, asbestos, old factories, abandoned homes, whatever, that nobody wants to stick any money into, nobody wants to develop. It's blight, it's substandard, nobody wants to do it; it's just too expensive to take the asbestos out, to do whatever you need to do in order to make it work. It's easier to go out to the subdevelopments. And therefore, what do we do? We come up with this unique idea, and from reading the statutes that implement it written by some pretty sophisticated bankers and politicians, that's called tax increment financing. And we say, look it, if you take over this territory, what we will do, in a very complicated way, but simply stated, is we will let you keep the property taxes on the increase in value for 15 years to apply towards your debt and your development cost--tax increment financing--TIF. Okay? And, hopefully, that will get you off dead center and instead of building in some other area, you will build in this area according to a plan that we think is a nice community development plan, and, in fact, there's such an animal on the books called community development that the Legislature in the past has passed. Well, what has happened is that the thing does serve as an incentive for developers; nobody wants to pay taxes, they'd just as soon keep their taxes or get them back really quick. And there's been pressure at the city level, and if you fight city hall, it costs you money, so the pressure, usually, is effective pressure for cities to go and declare something to be blighted and substandard in order so they can say to a Walmart store or a new hardware store that comes in, or a big developer who wants to put up a skyscraper or a big office building. Hey, we will do you a favor, we will knock away your taxes on this proposition in the sake of economic development. Now we're going to wink and we're going to nod and we're going to say it is blighted and substandard, but what we're really doing is giving you a tax break to come in and do it. And for 15 years the other property taxpayers in the locality can foot the bill of your sewer and your police protection, fire protection, because we want you to invest here rather than invest in the town down the road. So we'll do that favor for you and we will call it blighted and substandard and this whole neat process will work for us. Well, the city of Hastings, apparently, pushed the envelop just a little bit too far and they declared a cornfield to be blighted. And the Supreme Court said: no, no, no, it isn't blighted; it's corn, can't do it. So there was a limit put on it. Okay? In addition to language change that would make people feel better because they wouldn't want their property to be called blighted, this, actually, takes out that restriction and puts in rehabilitation or development. And in that case, a corn is already a developed piece of property. It used to be a prairie where a buffalo roamed. Now it's wrong side up, wrong side up, the old history book used to say, and it's a cornfield. So it's been developed once; it can be redeveloped into something. And we can argue and differ as to whether or not that's happened. And, in fact, there's pressure

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even in the city of Omaha that we heard to try to do things to get rid of people's property taxes so that they build nice things. So what this amendment does is attempts to bring this all into focus and it says, let's cut away the facade; instead of trying to say, well, it's got to be in need of rehabilitation or redevelopment, something we don't know what it really is and can argue and differ and have court cases about and probably really means whatever we want it to mean. And instead of saying substandard and blighted is a condition for this tax break, let's just take all that out. And let's say that for purposes of rehabilitating, acquiring, or redeveloping property in a redevelopment project, or any economic development project the city or village can make this tax deal and let you keep your taxes for 15 years to apply toward the development of your project in a statutory way in which there is some redevelopment board and things like that you got to go through. But in essence, it says it's okay to do what everybody's been wanting to do anyway and that's authorize the city councils to give away tax money so that they can bring new businesses in. Economic development is just fine, you've got this authority. Now if this particular amendment does not meet your taste, then we'd better tune in into what Senator Chambers is saying. And saying, whoa, this goes way too far; we're not into this thing this far. And we're really not into expanding this a whole lot. Let's go back to something that is fairly restricted and it had better be just an ugly piece of property that we need fixed that will never be fixed unless we do this. So that's the essence of this amendment. It says, let's do what cities, apparently, want to do anyway, have been doing, winking and eyeing and...wink an eye and trying to make it all happen using this particular authority. Let's look this animal right in the eye and either bless it or knock it upside the head. And, hey, maybe it's a great economic development tool. Apparently, they think it's successful and, apparently, it has worked, otherwise it wouldn't be so popular and so highly defended by cities. But is it right? Is it good tax policy for us to do these favors, to give these incentives? And this is going to spill over into other things that we're going to have this year because we're going to be talking about the Advantage Act; we're going to be talking about wise tax policy to throw out credits and bonuses and everything else in order to get investment to be made and things to be done that otherwise wouldn't be done. So to a certain extent, this discussion is pretty essential to this session which is going to be obsessed with taxes. And it's pretty essentially to developing a philosophy of just how far should government go in trying to shape business behavior? And if it is successful in shaping business behavior, is it a good or bad thing? Have we created an economic anomaly or have we done public good? And so I would, basically, urge consideration at this point, of this particular amendment that says, hey, it's okay for cities to forgive property taxes for up to 15 years on a piece of property that is consistent with its economic development plan. And let's see where this discussion takes us. Thank you, Mr. Chairman. [LR29CA]

SENATOR COASH: Thank you, Senator Schumacher. Members, you've heard the opening of FA160. The floor is now open for debate. Senator Krist, you are recognized. [LR29CA]

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SENATOR KRIST: I don't...good afternoon, Nebraska and colleagues. Senator Schumacher, very thoughtful amendment and I have to disagree. I don't support it. I believe that the nature of the CA that came out of Urban (Affairs Committee) and the original amendment that we put onto it were both thoughtful and should be preserved. I often will go back and take a look to see...because we've all heard the discussion about those laws that were made back when, in years past, where you couldn't enter the town without having a person with a light or a torch before you...because they didn't have headlights back then in front of the carriage, and some of those laws are on the books and some of the language that was used for those laws prevailed over years and years and years and hadn't been changed and they're useless. They're there because somebody decided that that was the word that they were going to use. Now with respect to these words, I went back and looked in a law dictionary and I can't find "blighted." I went back to the Oxford English Dictionary and, interestingly enough, Senator Schumacher made reference to the Supreme Court decision in which Hastings went just a little bit too far and blighted a cornfield. Let me read you something...and again from the Oxford English Dictionary: Blight: a word unknown origin which entered the literature apparently from the speech of farmers or gardeners in the seventeenth century, thereabouts. Literary men were at first doubtful as to its proper spelling, but seems to have thought of it as plant blight, specifically the blight on corn. So, appropriately, maybe blighting a cornfield may have been a more appropriate use of the word. I had to look into...again, there's no reference in the dictionary in the lawbooks about blighted. So let's talk about substandard. Substandard, really, has little definition in the law dictionary. But in the...again, the Oxford (English) Dictionary: of a quality or size less than which is normally or officially regarded as standard. It's pretty arbitrary, I believe. Who is the authority that is considering this to be normal or officially regarded as standard? So those two terms that we're hanging our hat on and the discussion that we have had, two English words with meaning in today's English language, I don't believe mean as much as the two words that we are substituting in terms of what Senator Adams is proposing. And I would ask you to take a look, the dictionaries are back here at the Red Coat's desk, take a look at the definition of "blighted" and "substandard" and you tell me that those are more precise than the terms that we're offering here. It is probably a dialogue that I would like to have with the folks who, like Senator Chambers, were having that same dialogue, and I've ordered the transcript for that day, hopefully this gets past the point where we'll be able to talk about this on Select, but I want to see that transcript because I want to find out how they came to the choice of those two words. I want to read the discussion that went on that presented "blighted" and "substandard" as the best choice. Then I'd like you to talk to any real estate... [LR29CA]

SENATOR COASH: One minute. [LR29CA]

SENATOR KRIST: ...thank you, Chair; then I'd like you to talk to any real estate developer or look at the real facts that have happened in some of our towns, townships, metropolitan class, all over the state, about the unintended consequences of calling

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something blighted and the interpretation of those people that had to live with that word "blighted" as it was referenced to their property, their possession, their investment.
Thank you. [LR29CA]

SENATOR COASH: Thank you, Senator Krist. Senator Adams, you are recognized.
[LR29CA]

SPEAKER ADAMS: Thank you, Mr. President. Members, though I, with shy smile, said to Senator Schumacher, all right, if you're going to do that, makes for good discussion, I most certainly would not support what he's advocating. And he knows why. But let me make it very clear to you. My intention with LR29CA is to narrow the use of TIF, not to open it up. Now I understand what he's saying. Let's call it what it is. But I'll give you a good argument for not calling it what it is--tax base, tax base, tax base. Now, I'm going to give you an example, I'm not going to name the community, but I'm going to give you an example: you have a rapidly growing suburban community and they've got a cornfield and they have a downtown, and it's an old downtown, in need of redevelopment. And the city council decides to go out into a cornfield, but there's paved streets all around it, Senator Schumacher. They decide to go out into a cornfield and TIF it for 200 lots for new housing. First question is, would the housing have happened but for TIF? Bet it would have; you got a fast-growing community. Went into an area that certainly was not in need of redevelopment. And oh, by the way, filled those lots in a relatively short period of time, but yet there is still a 15-year clock ticking and most of the houses that went in those lots had kids that went into the school and the school district is saying: um, what do we do? Thanks for bringing the families in, but now it has become a burden on the school. I don't think that's what TIF was meant to be used for. And sure, maybe I should invite those people in my office and let them justify what they did, but I'm not going to. I don't think that's how it is supposed to be used. And, Senator Schumacher, I think...and you know this, what you're doing is opening the door, we ought to just pass simple legislation that says to cities, you know, take your tax base and do whatever you want with it, because that's, in essence, what's going to happen. And I will give you this, and to some degree, it is what is happening; hence, redevelopment, rehabilitate. Thank you, Mr. President. [LR29CA]

SENATOR COASH: Thank you, Senator Adams. Senator Chambers, you are recognized. [LR29CA]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, what Senator Schumacher is doing is making us come face-to-face with the way things are. What I'm looking at is the way they were supposed to be. What Senator...I don't know whether to say "Speaker" or "Senator", so interchangeably, Senator Adams is saying is that we can make it the way it was supposed to be by making this change. And I think if you make the change Senator Adams is talking about, you wind up with what Senator Schumacher is saying ought to be done in a more direct and straightforward manner. If

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in the old days I were a highwayman, I'd come up and I'd put the pistol on you and I'd say: give me your money. And I'm looking around to make sure the sheriff is not there. That's the way the original bill was to work. You can operate within these parameters and you're all right. What has been done, and what Senator Schumacher is saying, is that the highwayman is now authorized by law to come up and say give me your money and now that's legal. It makes the robber into an honest person. It makes the thief into an honest person. The law, as written now, was designed to address a specific problem that existed at the time and it was not going to be addressed any other way because decades had gone by and these areas deteriorated more and more and more and nobody who had the means to develop wanted to spend any money for it so it continued to deteriorate. The profit motive is how you stimulate people who love money to spend their money. And this tax increment financing came into being and a constitutional provision was adopted by the public who were led to believe that in your areas where you have this blighted, substandard property, and these are terms that the law understands, people in real estate understand them, they are familiar and they don't really need definition except in certain technical instances for certain technical purposes. But aside from that, this method of financing was to deal with that substandard, blighted property and that's why those terms were used because that was the nature of the problem. What Senator Adams' amendment would do is take away the requirement that the property be blighted and substandard. Now you can ignore that. And you don't have to do anything there. You might find some more desirable area that you want to redevelop and it's been there a long time. The houses were firmly built, well constructed, they were stick houses, as they're called and the kind I used to help build when I worked construction. And I've done a lot of things in my lifetime, and I was doing that when I was in the eighth grade in the summertime. I knew how to mix mortar. [LR29CA]

SENATOR COASH: One minute. [LR29CA]

SENATOR CHAMBERS: I knew how to carry hod. I knew how to break those decorative stones or cut them that are used in building the outside chimneys for fireplaces. All of those things can be taught and I did them all and I only made a \$1.63 an hour. But that was money to somebody in school. And to show you all...because my time is running out, what a good kid I was, every nickel I ever made in my life while I was at home I gave to my mother, every nickel, every penny. When I first went in the Army, I won't tell you how little we made a month, but it was...I don't think I made a hundred dollars a month, maybe I did, but I sent those checks to my mother. That's just the way I did. So it may have been natural for me to get in the Legislature and say: I'm willing to find a way to help develop these areas that need developing. Thank you, Mr. President. [LR29CA]

SENATOR COASH: Thank you, Senator Chambers. Senator McGill, you are recognized. [LR29CA]

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SENATOR MCGILL: Thank you, Mr. President, members of the body. We've seen a variety of constitutional amendments on TIF come through the Urban Affairs Committee. Last year we dealt with the military, what to do with old military bases that are near the outskirts of town. And so we've had the opportunity to hear a great deal of testimony. And we were always very grateful when former Senator Dave Landis comes in and gives us a deep education on his experience with TIF as a very seasoned legislator and his perspectives on it as time have changed. And I know he was in support of removing "blighted and substandard" language. But he also talked to the issue that Senator Schumacher is bringing to us today and how it's being used as an economic development tool in many ways. Senator Landis certainly talked about how important it is to try to keep the intent to be on community development or community redevelopment and that the initial intention of the language was designed at, in his words, ghettos and slums. But he also acknowledged that that hasn't happened, the focus on those areas hasn't happened, even with the substandard and blighted language. And then he took our committee on a historical trip to talk about the heart of what's really at TIF, since we're open to this larger discussion about TIF right now, I thought I'd throw this into the discussion. And he talked about how at the heart of TIF is really our constitutional provision for a uniform and proportionate taxation system. So this is something that our state still has in our constitution going back 125 years that most states don't have anymore. And so states can do a lot more individually when it comes to economic development and property tax relief to different companies and businesses and economic development. But our constitution only allows for a few exceptions when it comes to property taxes and making sure that they're not being used for businesses in this broad sense and in more creative ways and those deal with agricultural valuation, green belt provision, historic preservation, and then TIF. And, you know, many of our discussions in Urban Affairs have led to the rural economic development issue. And we see a lot of our cities and villages coming to us trying to use TIF on their...in ways that really are not in line with the original intention. And it's because they don't have another tool to incentivize businesses to come, maybe, a few miles...five miles outside of their location. There is not that tool because of this other constitutional provision. And, certainly, Senator Landis nor myself would argue, per se, in favor of changing that other provision, but it is something that has, certainly, led us to have very few options when it comes to economic development. This is something we have to continue to think about and try to figure out how we do help areas that are TIFing cornfields right now because that's the only tool they have for economic development. It is a bigger issue. It's not what we were here to discuss on LR29CA. And so I do not support this floor amendment. But I did want to give a little bit of that perspective and education on where TIF comes from, why this is our tool, because I know our committee has been blessed with Senator Landis coming to us on many occasions and I know he would give us quite the spiel if he were here today. But, with that I thank you for your time. [LR29CA]

SENATOR COASH: Thank you, Senator McGill. Senator Chambers, you are

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recognized. [LR29CA]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm still in the Legislature; I still have a voice. And I know what I say doesn't carry very much weight in terms of what things mean. But I pay attention to English and I read court cases, not all of them, but I think I have a pretty good grasp of what words mean. And I have a very good grasp of what motivates grasping people. I know that city councils comprise, basically, weak, malleable people. Legislatures have people who are weak and malleable. That's why ConAgra could come in here with Kay Orr as the Governor and say, if you don't give me everything I want, you give me a break on my jet planes, on my computers, on everything I've got, we will come in here and take everything that ConAgra has in Nebraska and set it down somewhere else. And I ridicule them. They were established. They were too deep rooted. They were not going to do that, because, first of all, they didn't have any place else to set it. Those are the arguments that prevail and you've been giving away the store to these big corporations ever since. And the reason I sometimes seem to get off the subject is because I want to stir your pure minds to make you think. You will let what are called these big box stores qualify for the tax giveaways. And when they don't pay their taxes, somebody else does. And while you are helping these big box stores, you hear little businesses come in here crying about the tax burden they have and you know what they're being compelled to do? Pay taxes to give a tax break to the big stores that are running them out of business, but that issue is never raised in here by anybody except me because I'm the only one who thinks. You are making these little business subsidize those who are running them out of business. And you call yourselves conservatives. You call yourselves concerned about the small business person. And when I tried, session after session, to fashion those giveaways to help the small rural towns, you know who fought me the most? And you can look in the record, but you're not going to do it. And at some point I'm going to remember to tell you why I drafted my mountain lion bill to seem like I'm repealing provisions of law that allow people to protect themselves from these animals. I won't do it right now. But it's based on this notion of people being lazy and they're not going to read transcripts. They're not going to think about the dynamics and working parts of these programs that they put in place. And it's easy to portray me as a hater of capitalism, anti-law enforcement, easy on crime, supporting the criminals, because that is accepted and my arguments are not listened to in Nebraska; but they're written about in other parts of the country and in other parts of the world and I keep articles and I can prove it. But as Senator Gloor had said at one point, people are not going to read all that if I give it to them anyway. And Jesus said, you won't believe what I'm talking about if one came back from the dead and told you. So to prove his point, he died and came back from the dead and told them, they said--I don't believe you. He said, see there. That's the way I feel; the voice of one crying in the wilderness, except that I'm not going to eat any grasshoppers and wild honey. That's a perfect prescription for a laxative by the way. But at any rate... [LR29CA]

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SENATOR COASH: One minute. [LR29CA]

SENATOR CHAMBERS: ...what is being attempted now is to give these developers what they want. They have the wherewithal to develop. They'll go to a city council and say, declare that blighted and substandard, and the city council will do it. So you ask me if they're going to do that anyway, why not change the law to recommend what they're doing? Well, you have people who are going to embezzle; you're going to have politicians who are going to steal campaign funds; so why don't you just pass a law saying it's alright to steal campaign funds and embezzle? No, you still build that wall. You try to make the society better than what it is. Perfection is not going to be achieved. It's something which is aspirational and you try, through what you do, to bring that about. [LR29CA]

SENATOR COASH: Time, Senator. Thank you, Senator Chambers. Senator Schumacher, you're recognized. [LR29CA]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I think we're having a fruitful discussion of policy here. And it seems to be that the general thought is that rather than expanding the notion of these tax favors to incent a business to come into a community, and that has been practice. You want to go to a city and you want to...particularly if you're a large, out-of-state developer or box store or whatever, one of the things you deal with is whether or not they'll give you a new sewer system and pave some roads out to you and, of course, whether or not they'll help you pay your taxes. And the fact that this tool is available and the developer might go down the street to the next city if you don't as a practical matter it's become a bit of an easy thing to say--what the heck. We can help you out; we'll say that you're blighted and substandard and we will do everything we can in our power to get you here because we don't know how to organize our money ourselves and you're big and smart and out of state and you'll come in and do it for us. And so it's been happening. There's been a fluke here or there where it hasn't happened where it was taken way too far and applied to a cornfield, but that's what's been happening. And if we are uncomfortable with that, and when that does happen, the school district loses out on the taxes, the NRD loses out on the taxes, the community college loses out on the taxes, everybody puts their shoulder to the wheel to help the beneficiary. And sometime that beneficiary has a local town competitor that's been there paying taxes for 30 years and does not get any benefit. But that policy decision is being made at city councils across this state. We're going to do this. And what's the reason to say no? Well right now the words are, hey, in order to do it, you've got to find the area substandard and blighted. Who's going to contest it? Who's going to file a lawsuit and fight a big store and the city council all the way to the Supreme Court to see whether or not it is indeed blighted and substandard? So it's happening. This particular floor amendment says, okay, it's happening, must be what's right. And the corrective language "in need of rehabilitation or redevelopment" isn't restrictive, at least I don't think it can be read as restrictive because it means to develop

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again. And even a ranch where there's nothing ever been except cows has been developed as a ranch. So virtually everything, and with the political force the way they are and the money forces and the cost of litigation, virtually everything can be redeveloped. And this, I think, doesn't accomplish the objective if the objective is to restrict to blighted and substandard. Senator Chambers, would you yield to a question? [LR29CA]

SENATOR COASH: Senator Chambers, will you yield? [LR29CA]

SENATOR CHAMBERS: Happily. [LR29CA]

SENATOR SCHUMACHER: Senator Chambers, knowing that "blighted" and "substandard" has been kind of stretched to the limit and virtually everything goes, what better words might we want to insert into here? [LR29CA]

SENATOR CHAMBERS: It's like I often say about the constitution and laws that are supposed to benefit, protect, or grant rights to people in my station, and I say they don't do that. But I also add: it ain't much, but it's all we've got. So as long as the words are there we can try to find a court or some judges who will be fair enough to read those words and act on them and see that they achieve their purpose. So in many instances it is not the wording in the law, it is the failure to implement those words... [LR29CA]

SENATOR COASH: One minute. [LR29CA]

SENATOR CHAMBERS: ...as they exist. I can't think of better words than those, to be quite frank, in view of the existing problem at the time when this amendment was put in place. [LR29CA]

SENATOR SCHUMACHER: But, Senator Chambers, we know those words in many areas aren't working. They're being read very expansively and in spite of a Supreme Court decision they're just being blown over because it happens. [LR29CA]

SENATOR CHAMBERS: Well, people...the one who do it know that in most instances nobody will take them into court because the one hand is washing the other. You'll have to have a situation where somebody or some organization is willing to take the whole thing to court. And instead of adding a new hand to scratch an itch, just take the whole infested body and put it in a tub of hot soapy water and wash it. We are nibbling now, but I think we're going to make it easier for these crooks to do what they're doing by legitimatizing it and making it legal. [LR29CA]

SENATOR SCHUMACHER: So while we've come this far with it...with a bill, is there any better word? [LR29CA]

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SENATOR COASH: Time, Senators. Senator Chambers, you are recognized. [LR29CA]

SENATOR CHAMBERS: I would like to continue, Mr. President, the discussion that I am having with "Professor" Schumacher; and I don't use that term in any disparaging way. Senator Schumacher, would you yield to a question or two? [LR29CA]

SENATOR COASH: Senator Schumacher? [LR29CA]

SENATOR SCHUMACHER: I sure will, Senator Chambers. [LR29CA]

SENATOR CHAMBERS: Do you recall where we were in our discussion so you can phrase that question to me again? [LR29CA]

SENATOR SCHUMACHER: I think where we were was...so we know that these words are not working now, and in order to make them work would take a lawsuit, and that lawsuit, in order to be energized, would have to be funded by big money, somebody would have to have motivation to do it. It's easier just to roll over and say, well, that's a city council. You know, what can you do? You can't fight city hall. To make it clear that we mean a really bad situation that's out of the ordinary that needs to be worked on like you relate these words "substandard" and "blighted" were originally meant to be interpreted as...can we send that message...not us in the message, I guess, because this is a constitutional amendment. Can the voters, if they agree that this has gotten too far out of hand, are there words we could give them to put into their constitution that would do the job better? [LR29CA]

SENATOR CHAMBERS: This is going to sound facetious. Leave everything just as it is. But after the words "blighted and substandard" add or insert "and we mean exactly that." (Laughter) That's the only thing I can think of. Because now people are pretending they don't know what it means. I don't think that any of this maneuvering that's being done, especially the new language they're talking about now, is going to help at all. It expands it and takes away practically every limitation. So rather than take their language, it would be more honest to do what you're doing. Just say we're now kicking the traces and everything and anything goes and anybody who wants to develop, but they're going to have to be new people, something like that, we will give you 15 years where you don't have to pay sales tax...I meant pay property tax. And here's the point that Senator Adams was making that I think my colleagues missed, he said this development had all these houses, families came in, and the children came and they were a burden on the schools. But he didn't connect the last dot. He didn't mean they're burdened because there were too many children in schools; he meant that for 15 years the property taxes that support these schools where your children are attending will not be paid. That's where the burden came in and that's where the burden can be exacerbated with the language they're bringing now. You don't even have to pretend that you're developing property or land that wouldn't ordinarily be developed. All you

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have to do is show that it's in need of rehabilitation and redevelopment as determined by law. And that's talking about legislation. And the Legislature, supine as it is, will give these big businesses anything they want, just as they're giving them every imaginable tax break now under LB775 and Tax Advantage and all these other things that they've put together to give it to businessmen. So all you're doing, I think, Senator, the way I look at it, Senator Schumacher, I'm talking about now, is saying we have dishonest people and we're going to make honest people by them...out of them by defining what hitherto was illicit as now be licit. We're saying, you're no longer outside of the law because we're now expanding the law to include what you're doing and now everybody's happy, except some of those "grumbletonians" like (Senator) Chambers. [LR29CA]

SENATOR COASH: One minute. [LR29CA]

SENATOR CHAMBERS: Oh that's right, this is my time. Members of the Legislature, I know you're not going to heed what I'm saying. I'm primarily saying it for the record, just as I've done on so many occasions. And then when this thing goes to a vote of the people, maybe they will understand what is being done. But since this does not explain what tax increment financing is, doesn't even mention it, they're not going to be aware of what's going on here. And those who promote it, which will be the chamber of commerce and all these little cities and others, will be telling what a great tool it is; it's going to bring people in here who will develop. But they're not going to tell them, oh and by the way, they won't pay any taxes for 15 years, but you're going to pay taxes for the streets, for the fire protection, for the police, for the street lights, for everything that taxes go to pay for, they are not going to pay, you're now going to pay. You're going to have a bigger tax burden than you had before. [LR29CA]

SENATOR COASH: Time, Senator. [LR29CA]

SENATOR CHAMBERS: And they're going to have none. Thank you, Mr. President. [LR29CA]

SENATOR COASH: Thank you, Senator Chambers. Senator Bloomfield, you're recognized. [LR29CA]

SENATOR BLOOMFIELD: Thank you, Mr. President. I would just like to yield my time to Senator Schumacher if he would like to use it. [LR29CA]

SENATOR COASH: Senator Schumacher, you've been yielded 5 minutes. [LR29CA]

SENATOR SCHUMACHER: Thank you, Senator Bloomfield. I think what I heard Senator Chambers said is that Senator Adams' amendment is almost as bad as mine. Senator Chambers, will you yield to a question? [LR29CA]

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SENATOR CHAMBERS: Yes, I will. [LR29CA]

SENATOR COASH: Senator Chambers. [LR29CA]

SENATOR SCHUMACHER: Senator Chambers, was that an accurate summary?
[LR29CA]

SENATOR CHAMBERS: Here's the way I would say it: that Senator Adams is finessing an issue which you are bluntly putting out there front and center. But in other words, I don't see that much difference between them, except yours is more straightforward in saying what his would achieve. [LR29CA]

SENATOR SCHUMACHER: Thank you, Senator Chambers. So we're dealing with an issue that is a...front and center here now, do we want economic development facilitated by an ability in the cities to, basically, within the most loose of guidelines, permit the cities through their city councils to forgive taxes for up to 15 years in exchange and as an incentive for people to move businesses into the city area? Are we content that that's a good policy? If that is a good policy, if it is a way to grow cities, if it's a way to empower city councils to spend someone else's money, then FA160 is a great tool. And it is a very direct tool to accomplish what otherwise would be a fight over the definition of words which are very expandable in their very nature. If, however, we're starting to have a stomach ache about this whole process, if we believe that this maybe isn't a good economic development tool, and you'll hear a multitude of people say it's an excellent economic development tool, but if it is a bad one, if this is an unjust way, if there are better ways to facilitate economic development, then the words we have now, which apparently are stretched beyond the limit already, are adequate, and, maybe, we want to even flip the coin and go the other direction and see if we can find more restricted ways to say "and we really mean blighted and substandard" and not just an economic development tool. It's a chance that we have to think about that policy and about tax equity. Is this a good tool? Do we like this notion? If it is, let's bless it. Let's encourage it. If it isn't, then let's restrict it. But right now, particularly with Senator Adams' proposal, and even with the practical application of "substandard and blighted", as it's turned out to be used, as a matter of practice, what we have is much more approaching what is proposed in FA160 than what was originally thought to be the case when the words "substandard and blighted" were dreamt up and this idea of trying to encourage people to invest in really bad areas and redevelop them was first concocted. So we've kind of...getting things into focus here. And it will be a focus, I think, that's going to carry over to some of our other discussions with regards to tax incentives and how effective they were and whether would be a development in a cornfield or...
[LR29CA]

SENATOR COASH: One minute. [LR29CA]

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SENATOR SCHUMACHER: ...with a new box store anyway. This is the role of the Legislature to make that policy decision. And in this particular case, to make a recommendation one way or the other to our voters who may, when they pass this legislation of "substandard and blighted", been thinking of something substantially different than the way it's being applied to simply mean a tax incentive granted by a city in order to bring in economic development. FA160 puts the issue out there. We now have a spectrum of things to consider. Thank you, Mr. President. [LR29CA]

SENATOR COASH: Thank you, Senator Schumacher. Seeing no other lights on, Senator Schumacher, you're recognized to close on FA160. [LR29CA]

SENATOR SCHUMACHER: At this time I withdraw FA160. [LR29CA]

SENATOR COASH: FA160 is withdrawn. We return to discussion on LR29CA. Seeing no other...Mr. Clerk, you have a motion. [LR29CA]

ASSISTANT CLERK: Mr. President, Senator Chambers would move to indefinitely postpone LR29CA that would lay the bill over, unless the introducer indicates he wishes to take it up. [LR29CA]

SENATOR COASH: Senator Adams. [LR29CA]

SPEAKER ADAMS: Yes, Mr. President. I would intend to carry on. [LR29CA]

SENATOR COASH: Senator Adams will take it up. Senator Chambers, you are recognized to open on your motion. [LR29CA]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I will say at the outstart that I'm going to withdraw that motion, but I need the opportunity to speak and I'm not going to ask people to give me time. And if I need to offer other motions, I will, but it's for the purpose of creating a record. Here's...I don't want to beg. But will you all please listen to what I'm going to say now? I see my seatmate, "Professor" Schumacher not listening. I see the chairperson of the committee not listening. I begged, and you won't listen, that's why I don't beg around here, but here's what I want to say. If we have constitutional language which we have and that language is being circumvented by these various entities, don't change the constitution, change their conduct and we do that by modifying the statutes to correct their misuse and misapplication. We need a statutory change, not the constitution. How many times do I have to tell you, it's your constitution, not mine. Why do you have so little regard for it? This is the organic or fundamental law of this state on which all other laws are based and you are so casually going to change the constitution because you have some people out there misapplying a statute. The statute is not the constitution. We modify

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statutes to address evils as they come into existence. And when we become aware of an evil, our obligation is not to buck it to the public and say: will you all change the constitution? And it might work and it might not. No, we are representatives; we are to inform ourselves by gathering the facts. Then when we gather those facts, we are to act in accord with them to carry out what is in the best interest of the people who sent us here. We are operating pursuant to a public trust that has been reposed in us. We are obliged by that oath, my affirmation. I don't need to invoke a supernatural being who will send me to heaven if I'm good and send me to hell if I'm bad. I don't need that to get me to deliver on my word. My word binds me more than any oath. But nevertheless the oath is administered so that there's a point in time that can be specified where you promise to do thus and so and if you don't do it, then there are consequences that come into play. We enact laws. A law is a law only if the lawgiver or lawmaker has the coercive power to compel obedience. If the one issuing something cannot coerce obedience, it is not a law. It's a statement; it's an expression. It might be good advice, but it is not a law. You must have the power to coerce obedience. And before we can coerce obedience under the Constitution of the United States and that of the state of Nebraska we must construct a law which is so clear that those who are affected know what they're allowed to do under the law, what they're not allowed to do, and if they do that which is not allowed, they will be punished. If the law could mean "A" just as much as it could mean "B", it is too vague, it is too indefinite because nobody can know for certain what he or she is allowed to do or disallowed from doing and that law is struck down by the constitution. We must give the public adequate notice. The statutes that have been enacted that relate to TIF were believed by some people who supported them that adequate notice would be given of what the intent of the Legislature was. And we've heard much discussion about how that intent is very easily being circumvented, except in one case where the Supreme Court said: if you people who deal with agriculture don't know that a cornfield is not blighted and substandard, then let the court bring something to your attention, dumbbells, except they don't say that, but they find a very discrete way of getting across that message. Why, oh why, will you not simply amend the statute instead of befouling and tinkering with the constitution? When I was here, Senator Garrett, the NRA had tried to get the Legislature in an agricultural state to put into the constitution that the right to hunt, fish, and trap would always be there. At that time, there was a provision in the constitution related to the legal use of guns and it said they could be used for, among other things, hunting. Hunting is already recognized by the constitution. Senator Pirsch, who is now running for auditor, brought some cockamamy, nonsensical proposal to put into this constitution which I had fought off for at least three times protecting trapping, hunting, and fishing. And the people in this Legislature voted to put it on the ballot. And the people voted for it. And now the constitution is cluttered and befouled. But they couldn't do it while I was here. A number of things they couldn't do while I was here, so they waited till I was gone; then they did it. Now I have to waste time trying to clean up trash. And when I try to plead with my colleagues to behave like responsible legislators, you give me the back of the hand and a cold shoulder. But I'm going to say it again and again and again, every single problem that has been

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mentioned here today by those who support this proposed change to the constitution, can be addressed by modifying the statutes to deal with those problems that exist. If you were going to put together a complex program, everybody knows that you're not going to get everything correct the first time around, then this comprehensive piece of legislation. You make it clear when you're presenting it that as difficulties arise we will make adjustments; we will add here; we will subtract there and we'll do what's necessary to make it do what we said it's supposed to do. You have language in the constitution now. Statutes were enacted pursuant to that language. Programs were allowed to take place by various political subdivisions supposedly in compliance with those statutes which we're carrying out the principle articulated in the constitution. It turns out that for whatever reason those statutes were not being followed in the way intended. The constitutional provision was being circumvented so you are saying then change the constitution; I say, no. Follow the lead of the court. When an issue is brought and if a constitutional question is raised, the court will say at the outset: We decide nothing more than is necessary to resolve this issue. Therefore, these matters 2, 3, 4, 5, through 15 are not essential to solve or settle the issue presented to us so we make no determination on those issues. On the one issue we are looking at, it is not necessary to get to the constitutional aspect of it. It can be resolved on the basis... [LR29CA]

SENATOR COASH: One minute. [LR29CA]

SENATOR CHAMBERS: ...of statutory construction or interpretation. So they will interpret a statute and leave the constitution out of it altogether. The first thing this Legislature does is say: We will amend the constitution. The Legislature didn't say it, the League of Municipalities said it because they've got something they want done because there are certain big-shot special interest groups who want that done and I'm trying to stop it. [LR29CA]

SENATOR COASH: Thank you, Senator Chambers. Members, you've heard the opening to the motion to indefinitely postpone LR29CA. Per Rule 6, Senator Adams, you have five minutes to reply. [LR29CA]

SPEAKER ADAMS: Thank you, Mr. President. Members, I certainly do respect Senator Chambers argument. But I still think, I still believe there is some value in narrowing this terminology and using that important prefix "re"; we're going to redevelop; we're going to rehabilitate and to me that refocuses the intent of TIF. I believe there is value to TIF if used properly. Like all the things we do in this Legislature that we give authority to cities and schools and counties, NRDs, and everybody else. And certainly there is going to be some abuse along the line. My intention is to try to get out ahead of some of that abuse by narrowing it, by saying redevelopment. Because I...Senator Chambers would know better than I, he was here. But I've always believed that that was the intent of the use of TIF, it was to redevelop and to redefine. Thank you, Mr. President. [LR29CA]

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SENATOR COASH: Thank you, Senator Adams. Senator Schumacher, you are recognized. [LR29CA]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. As Senator Chambers does point out that if we do feel there are abuses going on and that this is being used as an economic development tool rather than a tool to rid our communities of blighted and substandard property, we can go in and start working on the legislation that has developed over the last several years that have permitted that. That may be easier said than done. Because we have now instituted a culture where if you want to expand a business, the first place you go is to the place that can give you a tax break. And then have structured a situation where that place, when you first approach them, is between a rock and a hard place. It can say no and wonder if you'll come anyway, or it can say yes and decrease its tax base. And that's a tough choice to have to make. If we look, and we propose to the voters and give our blessing to them to substitute the words "rehabilitation" or "redevelopment" in replacement of "substandard and blighted" really, do we really expect that to be read in any other way than basically condoning what has been going on so far and, basically, giving a work-around to the Supreme Court's ruling that "blighted and substandard" had some residual meaning in a restrictive nature. What is our policy on this? I think, honestly, if you read the words "rehabilitation" or "redevelopment" it's awfully close to the expansive amendment I'd offered earlier today and just saying economic development. I should probably clarify something that Senator McGill did point out and I said forgive property taxes. It's not that simple. You go through a whole procedure in which they pay the property taxes and they're cycled around to the economic benefit of the developer. So what goes out one hand comes around the other in a convoluted, long process, the bottom line of which is the property taxes that they would pay on the increase in value from something worth near nothing to something worth quite a lot ends up back in the developer's pocket. And if you want to read 20 pages of very interesting bedtime reading you can read the Community Development Law which shows you the exact route that that money flows. In the end, at least I think where I'm coming out on this, is that we leave the constitution alone and we engage in the very hot and lobbied and money-ridden thing of trying to restrict in our statutes what maybe is being felt and maybe not; we haven't had that hearing yet; as being an abuse of the TIF system which has had ripple effects on our educational financing, which has had ripple effects on the situation where you have one competitor in town who has...is getting no benefit from the property taxes, at least back into his own pocket, and the new guy on the block that was enticed in because somebody on a city council said: I want to show that I'm for economic development, we have a new box store here. That guy is getting the benefit. And if we now want to address those inequities. And maybe we don't. Maybe things are just fine the way they are. But whatever, I think, passing this amendment... [LR29CA]

SENATOR COASH: One minute. [LR29CA]

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SENATOR SCHUMACHER: ...or proposing this amendment, what we're doing is really loosening the parameters up and saying go ahead and just use this as an economic development tool, it's a good thing. For that reason, I believe I'm going to support Senator Chambers' indefinitely postpone motion. [LR29CA]

SENATOR COASH: Thank you, Senator Schumacher. Senator Chambers, you're recognized. [LR29CA]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, and I'm talking to the record. But there are people who watch our deliberations and I want them to know that I take very seriously what we're doing and what I'm doing. When we as a Legislature are acting, things are what we say they are. Things are what we say they are. That's why we say for purposes of this act such and such a word means. Well, if it meant what the dictionary says, you wouldn't have to say that. If it meant what a court construction of that word means, you wouldn't have to say it. This becomes what's known as a term of art. It does not have the meaning that it has in common parlance. It doesn't have the meaning that if it were found in other parts of the statute. It has the meaning we're giving it for purposes of this act. And the Legislature can do that. We give words meaning. It could be something like this, if you pay attention, you'll see the logic of it. If I wrote it without punctuating it, you wouldn't get it. That that is, is. That that is not, is not. That that is not is not that that is. And that that is is not that that is not. It's very logical. It's saying a thing is what it is, and it's not what it's not. Let me give you an idea of how the Legislature defines things. In the Nebraska Control Substance Act you find this language: Marijuana shall mean all parts of the plant of the genus cannabis, whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds, but shall not include...if it included the whole plant you just say the plant. But it shall not...marijuana shall not include the mature stalks of such plant, hashish, tetrahydrocannabinols extracted or isolated from the plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, or the sterilized seed of such plant. The stalk is a part of the marijuana plant. But the Legislature in defining marijuana excludes that. This is not a botanical definition. This is a legislative definition. And it allows certain things to be done with certain parts of that plant which would not be allowed to be done with other parts of that plant. We say what things are. And it's been discussed here repeatedly the types of circumventions of the law that have been attempted. Since we know what they are, as Senator Schumacher pointed out, if we use different language in the constitution, they'll just use their own way of circumventing that as they did the original language. So leave the constitution alone and say... [LR29CA]

SENATOR COASH: One minute. [LR29CA]

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SENATOR CHAMBERS: ...these practices shall not be funded by way of TIF; or you can try to list all of those that are. But you don't need to change the constitution. Why don't you understand that? Why don't you respect your constitution? Forget the municipalities. And for once, forget the big shots. You swore to defend the constitution and uphold it. And now you're disparaging it; you're giving it short shrift. I really think this bill...this proposal should be killed. But I promised to withdraw the motion so when...after I get a chance to speak and give my closing, I will withdraw it. [LR29CA]

SENATOR COASH: Time, Senator. [LR29CA]

SENATOR CHAMBERS: But my intent is to try to stop this misuse and... [LR29CA]

SENATOR COASH: Time, Senator. [LR29CA]

SENATOR CHAMBERS: ...abuse of the constitution. Thank you, Mr. President. [LR29CA]

SENATOR COASH: Senator Chambers, you're recognized. [LR29CA]

SENATOR CHAMBERS: Members of the Legislature, I shall go ahead and be repetitive. If you went to a church like I went to, you knew what the preacher was going to say every Sunday. You always knew, the sermons were always the same. If you go to the Catholic church, you're going to hear the same thing over and over. Let me tell you what I used to listen on the radio when I went to Creighton and then I'd go back to Creighton, which was a Jesuit school, and I'd ask them, why do you all say that? You think that Jesus or Mary can't understand you the first time you say it? Here's what they'd say: Hail Mary, full of grace, blessed art thou amongst women, blessed is the fruit of thy womb, Jesus. Holy Mary, Mother of God, pray for us sinners, now and at the hour of our death. Amen. Hail Mary, full of grace, blessed art thou amongst women, and they say it over and over; I don't know how many times they said it. But they repeated it and repeated it. And people went along with it. Well maybe repetition is the means by which I can penetrate your minds and get you to understand that I'm not telling you to do something that's going to enhance me in any way. I'm trying to persuade you to do something that will honor your constitution. It is your constitution. Why should it mean more to me than it means to you? Why should I protect it more than you're interested in protecting it? Because as a white person, you never had anybody to pass a law and say you can eat in a restaurant if you want to eat there; that you can take your children to this hospital for treatment if your child is sick; that you can ride a city bus if you need to. That even in interstate commerce you can get a room in a hotel. You know what Colonel Sanders did? He was a real guy; he's the one who Kentucky Fried Chicken is named after. He had a chauffeur and he really liked the guy so they pulled up to this big hotel in Alabama and they both went in. And Colonel Sanders said: I want two rooms. And Colonel Sanders told this. He said...the guy at the desk said: well, sir, you can get a

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room, but he can't; he can't stay here. And Colonel Sanders said: do you know who I am? He said: you're...he didn't call him Colonel Sanders, called him by his first name and Sanders. He said, right. And do you know who this is? And to show the mores of the South, the guy said: no sir, I don't know who that is. He said, that's my son. Oh I'm sorry, I'm sorry, Mr. Sanders; we'll certainly give you two rooms. See a white man could have a black son. That's the way things were done. And when I tell you all things, you don't know why I get so upset, do you? I have plenty of reasons to be upset. Your constitution ain't much. But it's all that people like me have got. And if the integrity of that document is destroyed, if that aura about it is blown away, then I don't even have that. So I have got to try to uphold the integrity and dignity of a document which does not even protect me and my people. That's what I have to do. I have to figure out how the wind is blowing, whether it's blowing straight or whether it's whirling. They don't even tell you to do that. I say, why do I have to do that? They say, well, Chambers, if you want to register to vote, you got to tell me how that wind is blowing. [LR29CA]

SENATOR COASH: One minute. [LR29CA]

SENATOR CHAMBERS: So what I have to do, I look...I say, oh, I say, okay, I'm going to tell you how the wind is blowing and I'm going to tell you how I'm going to do it then you can tell me if I have to do it or not. See those leaves out there? If I see them whirling in circular pirouettes, I know that the wind is whirling. On the other hand, if I see them dancing a fast fox trot linearly, then I know the wind is a straight wind. That's how I can tell you which way the wind is blowing. Now you want to come out here with me and look at those leaves and I tell you which way the wind is blowing. Well, boy, and I'm old enough to be his grandfather, I suppose you can vote then, go ahead. You all don't understand what it means to have people attempt to strip you of your dignity, your humanity, and your personhood. That's who you're listening to who is trying to explain to you the value of respecting your constitution. [LR29CA]

SENATOR COASH: Time, Senator. [LR29CA]

SENATOR CHAMBERS: Thank you, Mr. President. [LR29CA]

SENATOR COASH: Thank you, Senator Chambers. Seeing no other members wishing to speak, Senator Chambers, you're recognized to close on your motion. [LR29CA]

SENATOR CHAMBERS: And upon my closing I will pull that motion, but I said I wanted it to have the opportunity to talk. And I may put up another one if I think necessary. Those people in Congress talk about nothing. I talk about something when the issue is grave as this one is. We're the ones who are the keepers of the flame. We're the examples of the upholding of the law and the constitution. And yet it means no more to us...now I don't want to tear up this whole...I could tear this and impress everybody with how strong I am, but I want to keep my little pad because I need it. So let me just take

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one sheet. It means as little (tearing a sheet of paper) as this. You tear it up just as surely and with as little effort and thought as I tore up that piece of paper. Then if you don't want to litter, you throw it in a wastebasket. That's what's being done. The constitution is constantly being attacked and savaged. Not by terrorists; they don't have to. If they read American history, they know Americans don't respect their constitution. They don't even know what's in it. They don't know what a constitution is for. If you don't need to tamper with the constitution, don't do it. A statute or a complex of statutes will be the thing or things that we are trying to deal with. People understand these words in the constitution. I presume they understand the words in the statute. But they avoid them. What I wish you would do is not advance this bill. I wish I hadn't said I'd pull my motion, but the promise being made must be kept. So I'm going to pull it. But I hope that you will not vote to advance this proposition. I have tried in every way I know how to persuade you not to do this thing to your constitution when a statute would be far more effective. You don't even know what the implications are if you adopt the language that Senator Adams is asking you to adopt. You don't even know what the implications are. You don't know what the result will be. It's not clear. But one thing is certain, you'll be able to do a lot more pursuant to this type of funding than you can with the constitution as it is now. If you want to open it up, be honest. Senator Schumacher had said he would pull his amendment too, which he did. And constitutional amendment proposals, they don't have to go to the Governor for signing. We just vote them three times and if you give it 30 votes, then that's it. [LR29CA]

SENATOR COASH: One minute. [LR29CA]

SENATOR CHAMBERS: Thirty votes. Something like 30 pieces of silver where you betray the constitution. I don't think that ought to be done. It is very difficult for me to pull that motion, but I will continue struggling against this unnecessary action. If you all can honestly tell yourself that you know the implications and ramifications of the language that Senator Adams is presenting to you and you know that and in good conscious you can vote for it, then you vote. But if you don't know, why do it? You don't have to do that. [LR29CA]

SENATOR COASH: Time, Senator. [LR29CA]

SENATOR CHAMBERS: Thank you, Mr. President, and I withdraw that motion. [LR29CA]

SENATOR COASH: Motion is withdrawn. We return to discussion on LR29CA. Senator Schumacher, you are recognized. [LR29CA]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Several years ago, the Legislature put a measure before the people on the initiative petition process. And it looked innocuous enough. I remember voting for it when it hit the ballot

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box. And that proposition was: should the amount of signatures necessary for an initiative petition be based on the number of electors or the number of registered voters. Electors, it turns out in a highly complicated way, are the number of the people who voted for the Governor in the last election. With 50 percent voter turnout, that meant about half of the registered voters. Okay? Now, faced with that proposition at the ballot box, it almost looked like all we were doing is modernizing language to say "registered voters", because how could that mean any different than "electors?" Sounds the same to me; sounds the same to a lot of people. Well, that issue got up to the Supreme Court and much to everyone's surprise, the Supreme Court said, excuse me, you're wrong. Registered voters means registered voters; electors means people in the last gubernatorial election who voted. Sorry, Jack, but the number of signatures necessary for an initiative petition has just doubled. Okay? I understand Senator Murante has got a proposal that might go a long way in correcting that, but that's what happens when the Legislature puts something before the voters in a constitutional amendment. Can any of you in your mind know what the Supreme Court is going to interpret this particular change of language as meaning? Senator Adams guesstimates that it might interpret it in a more restrictive fashion than what we have now. I'm guesstimating that it could interpret in a more expansive fashion than we have now. And each of you are probably guesstimating in your own head what you think the court is going to guesstimate. But none of us know. And if our voters come to us with a straight face in November, if we put this on the ballot, and ask us, is this going to make this thing of TIF easier; is it going to make it harder? How can we look them in the eyes with a straight face and give them a straight answer? I don't know. Kind of like rolling dice; it might be one, it might be the other. You know, life is fun. So when we vote on this thing, I would encourage all of us to say: what are we asking the voters to vote on? Restrictive or expansive? You know, I'd grant one thing, it probably is not nice to call somebody's property blighted, but that's not what this is all about. This is about money. And are we going to permit this practice or are we going to restrict it? Irregardless of whether or not we individually feel it's a good or bad practice. We should be able to tell the voters what the result of their vote is and not have it spun by some high-priced political ad agency who says, ah, this is what's going to happen. Because the money will have the ability to spin it and buy those ads and the non-money, well, they won't. So I think that's a question we got to ask. Is this language the language we want to propose to the voters and what does it mean? More or less of this? We owe the voters that explanation. And all the talk we say here won't mean anything because it's what goes on with the judges across the hall that has the ultimate thing. And so we're kind of guesstimating how they're going to guesstimate what the voters might have thought. So I think at this particular point, unless we can get more clarity in real words instead of just intentions, this amendment should not be put before the people because we don't know what we're putting before them. Thank you. [LR29CA]

SENATOR COASH: Thank you, Senator Schumacher. Seeing no other members wishing to speak, Senator Adams, you're recognized to close on the advancement of

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LR29CA. [LR29CA]

SPEAKER ADAMS: Thank you, Mr. President. Members, if you have been paying attention to what I consider to be a lively debate and conversation on this issue, hopefully you have come away with a little better understand of TIF, if you didn't have one. And within that understanding you realize that there are some awfully good TIF projects out there and there may be some that have gone awry. And that possibly they have gone awry because cities have lost focus of what the Legislature's intent is with TIF. And, of course, there's always going to be those that wouldn't matter what our intent was, if there's an angle, they're going to work it. As you already know, the amendment takes it back to the 15 years, and I don't think we ought to go any beyond that and most certainly we're not here. What you have in front of you then is really nothing more than taking out the language that Senator Chambers has argued vehemently against doing and that's the "blighted and substandard" and his arguments are legitimate and worthy of consideration. And I will continue to think about that between now and Select if you choose to move this to Select File and we replace it with "rehabilitation" and "redevelopment" which I think is supposed to be the focus of TIF. Thank you, Mr. President. I will yield a moment to Senator Chambers. [LR29CA]

SENATOR COASH: Senator Chambers, you've been yielded time. [LR29CA]

SENATOR CHAMBERS: What did you say? There's no time left? [LR29CA]

SENATOR COASH: Senator Chambers, you have 3 minutes. [LR29CA]

SENATOR CHAMBERS: It will not take that long. Members of the Legislature, this has been, I think, a productive discussion. And because of the nature of the issue, I am not going to try to stop this bill from advancing. I will not vote "no", but I cannot bring myself to vote "yes." So if you want to give the Speaker the opportunity to continue working on the bill, that is something that I think you could do in good conscious, unless you have as much opposition to it as I do. I'm not going to vote "no", but I simply can't vote "yes." And I do not begrudge anybody for how they vote or whatever. Thank you, Mr. President. [LR29CA]

SENATOR COASH: Thank you, Senator Chambers and Senator Adams. Members, you've heard the closing to the advancement of LR29CA. The question for the body is, shall LR29CA advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LR29CA]

ASSISTANT CLERK: 31 ayes, 0 nays on the advancement of the resolution, Mr. President. [LR29CA]

SENATOR COASH: LR29CA does advance. You have items, Mr. Clerk. [LR29CA]

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ASSISTANT CLERK: Mr. President, I do. Series of new bills: (Read LB888-897 by title for the first time.) In addition, Mr. President, I have a notice of committee hearing from Health and Human Services Committee, that will be inserted into the Journal. That's all that I have at this time. (Legislative Journal pages 216-218.) [LB888 LB889 LB890 LB891 LB892 LB893 LB894 LB895 LB896 LB897]

SENATOR COASH: Thank you, Mr. Clerk. We'll proceed to the next item on the agenda, LB33. Mr. Clerk. [LB33]

ASSISTANT CLERK: LB33 was introduced by Senator Hadley. (Read title.) The bill was read for the first time on January 10 of last year; it was referred to the Committee on Revenue. That committee reports the bill to General File with committee amendments. (AM271, Legislative Journal page 462, First Session, 2013.) [LB33]

SENATOR COASH: Thank you, Mr. Clerk. Senator Hadley, you're recognized to open on LB33. [LB33]

SENATOR HADLEY: Mr. President, members of the body, citizens of Nebraska, LB33 is the Revenue Department's annual legislation which will help simplify tax administration. Specifically, LB33 authorizes a pilot project to examine the potential benefits of issuing levies to financial institutions electronically. Secondly, it repeals the individual income tax return checkoff for contributions to the Campaign Finance Limitation Cash Fund. Third, allows taxpayers to voluntarily extend the statute of limitations for longer payment plans to avoid the filing of a lien. And lastly, authorize the imposition of a penalty for filing a late tobacco products tax return. Taking them in order: authorization of an e-levy pilot project. The e-levy pilot project is simply a way for the Department of Revenue so they can utilize technology to reduce costs associated with the current practice of processing and mailing levies to financial institution. Over the past several years, the Revenue Committee and the Legislature has supported efforts by the department to encourage taxpayers and tax preparers to e-file. This effort has leveraged technology to improve processing of tax returns, reduce errors, and get taxpayers their tax refunds quicker. In addition, this effort has allowed the department to reduce annual printing and mailing costs, while also allowing the department to eliminate 150 temporary staff previously hired each year to process those returns. The department has also taken steps to improve collection of delinquent taxes through the automation of many of our debt-collection efforts. While significant process has been made, additional efficiencies can certainly be achieved through collaboration with the private sector. The e-levy pilot project is an extension of these efforts. To be clear, an e-levy system would not change any rights a taxpayer has to contest a tax liability or a lien filing. Rather, it merely changes the way the department can more efficiently communicate with financial institutions. The "repeal the campaign finance checkoff" is now moot; we passed LB79 last year that took this out, so this is no longer needed in

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this bill. The third is to allow lien extension agreements for payment agreements. LB33 would allow the department to record a lien up to one year after the expiration of a payment agreement between the department and a taxpayer. As background, current law provides a 3-year statutory lien that begins when a tax liability becomes due. The department can formally record a lien anytime within this 3-year period. The department frequently executes payment agreements with taxpayers to satisfy delinquent tax liabilities. As you know, recorded liens can have a serious and negative impact on a taxpayer's credit rating. So the department tries to avoid recording a lien if possible. However, the department does occasionally run into situations where a taxpayer is unable to pay off tax delinquency within the current 3-year statutory lien period, and as a result, the department must record a lien against the taxpayer to protect the state's interest in cases where the agreed upon payment agreement extends past the current 3-year statutory lien period. LB33 ensures that the department doesn't have to record a lien against a taxpayer when the taxpayer has entered into a payment agreement. Again, the taxpayer is under no obligation to sign a payment agreement. Lastly, LB33 also establishes a 25 percent penalty for filing a late return under the other tobacco-products program. Today, a taxpayer that fails to file a return by the due date is only responsible for interest on the tax due. In contrast, the cigarette tax program includes a 25 percent penalty for late filing. LB33 ensures that late filings are treated the same for both programs. This bill was reported out of committee on an 8 to 0 vote. Thank you, Mr. President. [LB33]

SENATOR COASH: Thank you, Senator Hadley. As the Clerk has stated, there are amendments from the Revenue Committee. Senator Hadley, you're recognized to open on the committee amendment. [LB33]

SENATOR HADLEY: Yes, the amendment is AM271. And basically, the original green copy had both real and personal property; you cannot levy against real property in a financial institution, so we've taken out the term "real." We have a reporting requirement that the Department of Revenue will send to the Governor, the Clerk of the Legislature, and the Revenue Committee a report by 2015 on the pilot project. And also cleans up some language dealing with the time period and change of "maybe" to "is." With that I would encourage adoption of AM271 and the underlying bill, LB33. [LB33]

SENATOR COASH: Thank you, Senator Hadley. Members, you've heard the opening to LB33 and the committee amendment. The floor is now open for discussion. Senator Nelson, you are recognized. [LB33]

SENATOR NELSON: Thank you, Mr. President, members of the body. I have a question on Section 1 of LB33 if Senator Hadley will yield. [LB33]

SENATOR COASH: Senator Hadley, will you yield? [LB33]

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SENATOR HADLEY: Yes, I certainly would. [LB33]

SENATOR NELSON: Thank you, Senator Hadley. I'm just reading the first line that the Tax Commissioner may enter into an agreement with one or more financial institutions to levy upon real and personal property; what finance...are we talking about banks there? [LB33]

SENATOR HADLEY: Yes, yes, Senator Nelson. We worked with the Nebraska...the NBA, the Nebraska Bankers Association, and in setting up banks that would be interested in doing this pilot project and setting up the guidelines for confidentiality and the handling of the information. [LB33]

SENATOR NELSON: Well, why does this need to be done? Why can't the Department of Revenue do it by itself, could you explain that? [LB33]

SENATOR HADLEY: I think the idea is...it is a pilot project and we were just looking to try to get the bankers to, basically, buy into the pilot project and to see how this might work in different size of banks and what kind of problems might come up before we put a full-fledged program in effect. [LB33]

SENATOR NELSON: So the state of Nebraska just assigns its lien to the bank that they contract with and they work it that way; it's an assignment and then the bank levies and collects? [LB33]

SENATOR HADLEY: Senator Nelson, my understanding, this in no way changes the lien process. All we're doing is electronically transmitting the information to the bank that we currently send by U.S. mail; that we're using the same lien process and everything else, but instead of sending hardcopy, we're going to do it electronically and send it to them. [LB33]

SENATOR NELSON: Well, whether you send hardcopy or electronically, I'm just...I'm kind of...take me through a little bit what the bank does then. Do they employ legal counsel to levy, if you know? [LB33]

SENATOR HADLEY: Well, I would guess, Senator Nelson, they would do...it's whether it...whether it comes electronically or comes by mail, they'll use the same process once they receive it that they normally do. So they're not changing their processes. All we're doing is sending it to them by electronic process rather than sending to it by U.S. mail. And again, it can speed up the process, you know, the items that we have in the Revenue Department are electronic so it's just to try and streamline the process and see if we can't get some efficiencies that way. [LB33]

SENATOR NELSON: It's a pilot project, so it hasn't been done before, do I understand

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that? [LB33]

SENATOR HADLEY: That's my understanding. [LB33]

SENATOR NELSON: Okay. And it's done under the precepts of the Uniform State Tax Lien Registration and Enforcement Act. I mean, that sets this up. [LB33]

SENATOR HADLEY: Yes. [LB33]

SENATOR NELSON: All right. Okay. Well, thank you for that clarification, Senator. Thank you, Mr. President. [LB33]

SENATOR COASH: Thank you, Senator Nelson and Senator Hadley. Seeing no other members wishing to speak, Senator Hadley, you're recognized to close on the committee amendment. [LB33]

SENATOR HADLEY: On the amendment I would certainly appreciate a green vote on the amendment. It is necessary to make sure the bill is appropriate. Thank you, Mr. President. [LB33]

SENATOR COASH: Thank you, Senator Hadley. Members, you've heard the closing to the committee amendment, AM271. The question for the body is, shall AM271 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB33]

ASSISTANT CLERK: 29 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB33]

SENATOR COASH: The committee amendment is adopted. Returning to discussion on the underlying bill, LB33. Senator Chambers, you are recognized. [LB33]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'd like to ask Senator Hadley a question. [LB33]

SENATOR COASH: Senator Hadley, will you yield? [LB33]

SENATOR HADLEY: Yes, I will. [LB33]

SENATOR CHAMBERS: Senator Hadley, I see two provisions in your committee amendment that I like for grammatical reasons. You drop the two words "maybe" and substitute "is." That's the kind of editing or amending, I think, that is of value. It might seem of no consequence, but it does give a more direct statement of what we're trying to do. To whom do I owe appreciation for that type of an amendment? [LB33]

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SENATOR HADLEY: I believe that...the Department of Revenue helped us with that amendment to be sure that we went...from...the correct wording. [LB33]

SENATOR CHAMBERS: Okay. Well, I hate I have to give them credit for anything (laugh), but nevertheless, see, I don't have a substantive anything to say and I didn't want to make it seem that way. But these are the kind of amendments that catch my attention and I wish we did more of this. And I will give whoever is due that the credit. But since you're the Chairperson and you approved of this, I'm going to give the credit to you for bringing it to us if you'll accept that. Do you accept that? [LB33]

SENATOR HADLEY: I will certainly accept it, sir. [LB33]

SENATOR CHAMBERS: And you know what that means? [LB33]

SENATOR HADLEY: What's that? [LB33]

SENATOR CHAMBERS: You owe me. [LB33]

SENATOR HADLEY: I understand that. I certainly understand that. [LB33]

SENATOR COASH: Thank you, Senator Chambers. Seeing no other members wishing to speak, Senator Hadley, you're recognized to close. [LB33]

SENATOR HADLEY: Again, this is the department bill. It's to, basically, streamline the process. It is taxpayer friendly. I would ask for your green vote. [LB33]

SENATOR COASH: Members, you heard the closing to LB33. The question for the body is, shall LB33 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB33]

ASSISTANT CLERK: 35 ayes, 0 nays on the advancement of the bill, Mr. President. [LB33]

SENATOR COASH: LB33 does advance. Next item, Mr. Clerk. [LB33]

ASSISTANT CLERK: Next bill, Mr. President, is LB56, introduced by Senator Larson. (Read title.) The bill was read for the first time January 10 of last year; referred to the Government, Military and Veterans Affairs Committee. That committee placed the bill on General File with committee amendments. (AM226, Legislative Journal page 472, First Session, 2013.) [LB56]

SENATOR COASH: Senator Larson, you're recognized to open on LB56. [LB56]

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SENATOR LARSON: Thank you, Mr. President. And my opening will address the amendment, specifically, since the amendment does become the bill. LB56, as amended, would require nominees of a political party who file for a county officer position to automatically advance to the general election if the number of candidates who filed for the county officer position does not exceed the number of candidates a party can nominate for that position. Those candidates would be able to bypass the primary altogether and would be automatically placed on the general election ballot. For example, in a race for county treasurer, if only one Republican filed for the position, that Republican would automatically advance to the general election without appearing on the Republican primary ballot. However, if two Republicans filed for the county treasurer position, a primary would be held to determine the Republican party's general election candidate for that office. The same process would apply to Democrat candidates, Green Party candidates, etcetera. As long as the number of nominees who filed for a particular office is the same as the number of candidates a party can nominate for that office, those individuals will not have to go through the primary. This bill, as amended, also takes into consideration those positions elected at large. If there are five county board of commissioner positions open, and five Democrats file for those positions, those five Democrats will automatically advance to the general election. If six democrats file for the five county commissioner positions, there would be a primary to determine who will be the five Democrat general election candidates. The intent of this bill is to streamline the election process for county officer positions and to lower the overall cost associated with these elections. County election commissioners receive a budget from their county to run officer elections. The money the counties give to the election commissioners to print ballots and run these elections is money taken away from other areas of the county's budget. In the hearing of this bill, the election commissioner from Sarpy County indicated that there would be a significant cost-saving opportunities to Sarpy County as some of the county officer positions bypass the party primaries. With the cost of elections increasing combined with the diminishing county budgets, LB56 would help alleviate some of the costs counties face with their officer elections. Thank you for your consideration and I'll welcome any questions. [LB56]

SENATOR COASH: Thank you, Senator Larson. As the Clerk has stated, there is an amendment from the Government Committee. Senator Avery, you're recognized to open on the committee amendment. [LB56]

SENATOR AVERY: Thank you, Mr. President. This amendment was clearly discussed by Senator Larson. So as not to be repetitive, I will not go over all of the points about that amendment. He described it adequately. I would point out that the committee amendment is drafted to take into account situations in county boards where some are elected at large and some are elected by ward. The amendment also takes into account that officials are elected on a partisan basis. And I would, additionally, point out that this is not uncommon in this state. We currently have a number of offices that have

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automatic advancement: NRDs, public power districts, reclamation districts, community colleges, airport authorities, and many others. So this is something that...except for one thing, it is not a radical idea. I guess it's not a radical idea even with this other one thing and that is that this will not permit write-in candidates. So with that I would urge you to support this. It passed the committee on a vote of 7 to 1 with 1 member absent. Thank you. [LB56]

SENATOR COASH: Thank you, Senator Avery. Members, you've heard the opening to LB56 and the committee amendment. The floor is now open for discussion. Senator Lautenbaugh, you are recognized. [LB56]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I do rise in support of both the amendment and the underlying bill. This is a reasonable...well, more than reasonable concept in that it is designed just to simply save the county's money in running elections. And a lot of times we don't stop to think that this is a cost to the counties to run the elections and program the ballots. And every race that is not on the ballot in the general saves inches on the ballot and if you save enough, you can eliminate a whole second ballot page in some counties and that is a substantial savings for the county. So the programming costs that go into programming elections these days with the optical scanners we use can also be significant. And anything we can do to simplify an election by removing things that really decide nothing at the primary level when there is no opposition would simply be a cost saving for the county. I think that's the spirit in which this is brought. I think it makes good sense, especially with the tight budgets facing smaller counties. I don't think we saw a downside to this in committee. And I would urge approval of the amendment and the underlying bill. Thank you, Mr. President. [LB56]

SENATOR COASH: Thank you, Senator Lautenbaugh. Senator Hadley, you're recognized. [LB56]

SENATOR HADLEY: Senator Larson, would you yield to a question? [LB56]

SENATOR COASH: Senator Larson, will you yield? [LB56]

SENATOR LARSON: Yes, Senator Hadley. [LB56]

SENATOR HADLEY: Senator Avery mentioned: does this eliminate the chance for any write-in candidates? [LB56]

SENATOR LARSON: In the primary. [LB56]

SENATOR HADLEY: In the primary, so... [LB56]

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SENATOR LARSON: Yeah, in the primary it would. It's my understanding that they'd still be able to be able to wage a write-in campaign in the general election. [LB56]

SENATOR HADLEY: In the general, but it would do away with write-ins in the...can you think of any circumstances where you would really want a write-in in the primary? [LB56]

SENATOR LARSON: Not off the top of my head, Senator Hadley. [LB56]

SENATOR HADLEY: Okay. [LB56]

SENATOR LARSON: I'm sure if I really... [LB56]

SENATOR HADLEY: I'm trying to think if, you know, somebody passed away a week before the election or... [LB56]

SENATOR LARSON: I think we do have...at that point...I know in Holt County, and I might be a little off base, but I know in Holt County something similar to that kind of happened with our county assessors and they were able to petition on to the ballot before the general election. So I think not being able...I mean, we might miss the write-in in that primary, but I think...this doesn't change the opportunity for county officials to petition onto the ballot at a later point if there is a death or somebody leaves the office or something of that nature. [LB56]

SENATOR HADLEY: Okay. Thank you, Senator Larson. [LB56]

SENATOR COASH: Thank you, Senator Hadley. Senator Chambers, you're recognized. [LB56]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'd like to ask Senator Avery a question or two just for my understanding. [LB56]

SENATOR COASH: Senator Avery, will you yield? [LB56]

SENATOR AVERY: Yes, I will. [LB56]

SENATOR CHAMBERS: Senator Avery, do these types of provisions apply only where county officials would be concerned? [LB56]

SENATOR AVERY: Yes, it does only apply to county officials. [LB56]

SENATOR CHAMBERS: This bill does, but there is no other provision with reference to any city or any other political subdivision, and certainly not the Legislature where this

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would apply, is that correct? [LB56]

SENATOR AVERY: There are some automatic advancement in cities of the third or fourth class school districts. But as far as I know, this would not affect any city elections. [LB56]

SENATOR CHAMBERS: Thank you. And what you had indicated about the write-in situation removed or resolved the other question that I would have asked. And as I told Senator Larson earlier, this is a bill that even I can't find any fault with. But it would be good, if possible, and it couldn't be done on this bill, I hadn't even thought about something like this for Nebraska, but I've heard in other states where in certain elections if there would be more than...let's say that any number of people are running in the primary. If somebody got more than 50 percent of the vote, then that would be the election. I don't even know if that ought to be though as I think about it. But I just thought I'd put that out there. I'd like to ask Senator Kolowski a question because he's looking at me. (Laughter) [LB56]

SENATOR COASH: Senator Kolowski, will you yield? [LB56]

SENATOR KOLOWSKI: Yes. Thank you. [LB56]

SENATOR CHAMBERS: Senator Kolowski, had you heard of a situation like the kind I just described where if you get more than 50 percent of the vote, then you are elected? [LB56]

SENATOR KOLOWSKI: In a primary, Senator? [LB56]

SENATOR CHAMBERS: Uh-huh. [LB56]

SENATOR KOLOWSKI: I don't...I don't have much of an experience on that... [LB56]

SENATOR CHAMBERS: Okay. [LB56]

SENATOR KOLOWSKI: ...or memory on that so I can't help you. [LB56]

SENATOR CHAMBERS: And I'm not sure. The reason I bring it up, if you get more than 50 percent in the general, obviously, you're elected. [LB56]

SENATOR KOLOWSKI: True. [LB56]

SENATOR CHAMBERS: Okay. I was just wondering about the...that's all that I would ask you. Thank you. [LB56]

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SENATOR KOLOWSKI: But not in a primary? [LB56]

SENATOR CHAMBERS: I'm not sure. That's why I asked you, because you know everything. [LB56]

SENATOR KOLOWSKI: Oh! [LB56]

SENATOR CHAMBERS: (Laughter) That's all I have. Thank you. [LB56]

SENATOR KOLOWSKI: You've reminded me not to keep looking at you. Thank you. (Laughter) [LB56]

SENATOR COASH: Thank you, Senator Chambers and Senator Kolowski. Senator Bloomfield, you're recognized. [LB56]

SENATOR BLOOMFIELD: Thank you, Mr. President. I opposed this idea in committee. I was the lone nay vote on this and it was in no small part to the write-in possibility. We recently went through an election in Wayne County for county commissioner where the write-in won the election in the primary. That would not have been possible under this proposal. I firmly believe that we need to put everyone's name out there who is interested in serving, even if he is unopposed in the primary; let people see his name on that ballot so that they know who is going to be running in the general. Sometimes in these small county races, that name doesn't get out until election day. Let the people know who they're going to be looking at in the general election. I opposed this in committee. I will continue to oppose it here. I'm not going to spend a lot of time on it, just give it a little thought. Thank you. [LB56]

SENATOR COASH: Thank you, Senator Bloomfield. Senator Mello, you're recognized. [LB56]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Senator Hadley, I think, started to ask the question that I was going to ask and then Senator Bloomfield just got up and kind of echoed what I wanted to find a little bit more out from Senator Avery. But first, would Senator Larson yield to a question? [LB56]

SENATOR COASH: Senator Larson, will you yield? [LB56]

SENATOR LARSON: Yes. [LB56]

SENATOR MELLO: Senator Larson, did a specific county or individual or group bring you this bill? [LB56]

SENATOR LARSON: The concept was brought to me by a few commissioners in Knox

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County, actually. And the original bill, actually, had automatic election...if there's only two Republicans and no Democrats, then both Republicans would move forward. But talking through with the Government Committee, we realized that that might have not have been the most practical way to go about things, because then you'd have two Republicans in that general election. So we decided to just pare it down to the number...just pare it down to the political parties. So if there's only Republican, he moves; if there's one Democrat, he moves, if nobody is running against them. But, yes, it did come from a constituent. [LB56]

SENATOR MELLO: Your...just so I...your original concept was kind of like an open primary concept where...that if there were two candidates and they were just the two top vote getters, even if they were the same party, they would have moved forward? Is that... [LB56]

SENATOR LARSON: It wasn't even a top two candidates. It was...again, I brought up for my constituent, it was if just two Republicans filed, it wouldn't...there wouldn't even be...it was the same concept as it would have been a automatic election. They wouldn't have even appeared on the ballot. That just both Republicans would have went on to the general, and if no Democrat...but if a Democrat had filed, then the Democrat would go and the two Republicans would be...it was complicated and I was happy to see that the Government Committee and Senator Avery cleaned it up and pared it back, actually. [LB56]

SENATOR MELLO: Who did come in support of the bill? [LB56]

SENATOR LARSON: Myself, and I think Wayne Bena of Sarpy County Election Commission. [LB56]

SENATOR MELLO: Okay. And I guess it's just more for clarification, because, Senator Avery, it may be directed to him. Would Senator Avery yield to a question? [LB56]

SENATOR COASH: Senator Avery, will you yield? [LB56]

SENATOR AVERY: I will. [LB56]

SENATOR MELLO: Senator Bloomfield just raised, I think, the bigger question I had and I tried to grab you off the mike a little bit to ask you is what happens in circumstances then where there's a malfeasance of a current elected official at a county level who is running for reelection on a partisan ballot and there's no possibility for someone of that same political party to challenge them in a write-in if we adopt this bill? Would they simply...would all they have is their ability is to challenge a write-in in the general election which...which could, ultimately, change the outcome of the election? [LB56]

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SENATOR AVERY: First of all, it becomes a campaign issue. And I think a candidate, probably, have a hard time surviving that. Secondly, this automatic advancement only applies to the primary. They'd still have the general election. Did that answer your question? [LB56]

SENATOR MELLO: I think so. I understand...I mean, the issue is more in a sense of someone is found; and, maybe, if Senator Lautenbaugh or someone else can jump in, if a current elected official is found guilty of a crime while they're in office, for an example, running for reelection, you take the ability away in the primary with LB56 from someone from their own political party to run against them as a write-in, they would only then have the general election, if they so choose to, to run against them, correct? [LB56]

SENATOR AVERY: Right. [LB56]

SENATOR MELLO: Thank you, Senator Avery. I'm not a...I wouldn't say I'm opposed to the bill. I just...Senator Bloomfield raised the issue that I tried to grab and get some information from Senator Avery which is, there are...could be circumstances when a county-elected official, an incumbent, is found guilty of committing a crime while in office. That doesn't automatically mean they lose... [LB56]

SENATOR COASH: One minute. [LB56]

SENATOR MELLO: ...their ability to run for reelection if they've been found guilty of a crime while in office. And if it's during a primary election, as Senator Bloomfield just mentioned a circumstance that happened in his district, that individual then would not...would move through the primary election regardless. There would not be an ability for a Republican or a Democrat, either one, to be able to run against them in a write-in campaign in the primary, they would have to wait until the general election which, arguably, could change the dynamic of an election in the sense of someone from that political party trying to challenge that incumbent. I raise that as a general...that was some questions I had and may be able to talk more with Senator Avery off the mike, but I just raise that an issue. It's not so much something that I'm willing to die on the sword for today, but I appreciate Senator Bloomfield's comments, because that was essentially the question I had, which this does limit a person's ability to run against an incumbent, regardless of political party, and there could be circumstances where people may want to get rid of that incumbent because they committed a crime or infraction while in office so they wouldn't be able to do that. [LB56]

SENATOR COASH: Time, Senator. [LB56]

SENATOR MELLO: Thank you, Mr. President. [LB56]

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SENATOR COASH: Thank you, Senator Mello. Senator Johnson, you're recognized. [LB56]

SENATOR JOHNSON: Thank you, Mr. Chairman. I'd ask Senator Avery if he would yield to a question. [LB56]

SENATOR COASH: Senator Avery, will you yield? [LB56]

SENATOR AVERY: Yes, I will. [LB56]

SENATOR JOHNSON: Again, going back to the write-in, at what point can a write-in candidate be certified or be on a ballot? [LB56]

SENATOR AVERY: Well, under this circumstance as outlined in this bill, they would not be able to run as a write-in in the primary, but they could run as a write-in in the general. [LB56]

SENATOR JOHNSON: So if they...so they would not even be considered as a eligible write-in on the primary? To me, that's a little bit of a disadvantage if they've already been certified, but they still could not be on the ballot at a primary. My feeling might be that if they are certified before the primary, then maybe...and the same party, both of those names should be on the...on a primary ballot. [LB56]

SENATOR AVERY: Well, if they meet the specifications of the language in the law that we're proposing here, they would bypass the primary election altogether, that's automatic advancement. So the only opportunity then to mount a write-in candidacy would be in the general election. [LB56]

SENATOR JOHNSON: Okay. So, really...okay, I think you answered the question. I still have some concerns about the availability of the write-in candidate to get a fair shot to be on ballots. Thank you. [LB56]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thank you, Senator Johnson and Senator Avery. Senator Ken Haar, you're recognized. [LB56]

SENATOR HAAR: Mr. President, members of the body, I will...I rise in opposition to the bill, not from the technical kind of standpoint that's just been talked about, but I'm a true believer that primaries and general elections benefit the public. As most of us know, you have to get out there and go door to door and meet people and talk to people, and there are way too many cases anymore where people have no idea who they're voting for when they go to the polls. And I...so on this basis I believe that even though it might

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save money to do it this way, I think it serves the public to have campaigns in the primary and also in the general elections. Thank you very much. [LB56]

SENATOR GLOOR: Thank you, Senator Haar. Senator Bloomfield, you are recognized. [LB56]

SENATOR BLOOMFIELD: Thank you, Mr. President. To Senator Johnson's question how does it affect a write-in in the primary, there is no primary to be affected. It's an over and done deal if nobody else signs up, and that is not a good thing. And to Senator Avery's comment that it would be a campaign issue, there's also no campaign. There's no candidate. Your name is not on the ballot. No one's name is on the ballot. It's not discussed. It quietly passes to the general election with no input from the public, and that's not a good thing. Thank you. [LB56]

SENATOR GLOOR: Thank you, Senator Bloomfield. Senators in the queue: Avery, Chambers, Murante, Larson, Schumacher. Senator Avery, you're recognized. [LB56]

SENATOR AVERY: Thank you, Mr. President. I just would point out that what we are proposing here is not a new idea. Automatic advancement has existed in Nebraska for a long time. And I was listening, some of those I would like to...and the NRDs are among the public power districts, community college, airport authority. I'd like to clarify a response I made to Senator Chambers when he asked me about cities. And I mentioned cities of the third and fourth class, school districts, but it also allows for first- or second-class cities and cities with city managers. So it doesn't include all cities but it does include some and more than what I listed. But this...there is some conversation going on off the mike that might assuage some of your concerns about the write-in candidacy at the primary level. And whatever we come up with I would ask you to approve this on General File and let us work on that between now and Select. But it would involve setting up a mechanism where write-in candidates would be able to declare themselves a write-in candidate by a date certain and begin to collect support in the primary season itself, not have to wait until the general election. With that, I will end by asking you to support this amendment which is in fact the bill and let us move on to other things. Thank you, Mr. President. [LB56]

SENATOR GLOOR: Thank you, Senator Avery. Senator Chambers, you're recognized. [LB56]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm constantly asking my colleagues to listen. I listened to Senator Bloomfield. I listen to Senator Mello. And I always mix up which Haar it is or "Car" or it rhymes. But at any rate, this is an issue that may not be quite as simple as I thought it was when I first listened to it. There is such a thing as momentum. The only time I ever campaigned for this office was the first time around so people would know that I was running. Then after

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that people ran against me and I still didn't campaign because my feeling at that time, people knew what I stood for even the first time I ran. But I wanted to run to show them I was serious and that I was going to do whatever was necessary to show that. But after I was once elected, I told people when they were asking me why I would not run or was I going to that people knew what I was about. If they like it they'll vote for me; if they don't they'll vote for somebody else. And that's what elections are about. And that's what I've always done. Even this last time when I wound up getting involved. I had suggested that I would start a campaign committee and I would do what campaigners do as though I had never been in office. Then my pridefulness took over and I said I'm not going to do that. I did not form a campaign committee. I did not campaign. When people would send me what they called donations, I would send them a courteous thank and return their money. There were some people, though, who were so insistent their hearts would have been broken if I didn't accept it. So I would accept what I sent and I told them that after the election was over whatever I had on hand I was going to give to a no-kill animal shelter. In this instance, it's Hearts United for Animals down in Auburn, Nebraska. And that's what I did. But in thinking about a situation where people do run, by the way, I ran as a write-in in one because I was on the ballot for another office running against Bob Kerrey for the U.S. Senate and you can't be on the ballot for two offices at the same time. So I told people those who want to vote for me for U.S. Senate, do it on the ballot because that's where I am; those who want me for the Legislature, write my name in for the Legislature. I don't know if...oh, they probably could have voted for me for both of them. But at any rate, I won the legislative office again. But when it comes to campaigning, I think there should...there is such a thing as momentum there too. And a person had gotten enough signatures to be on the ballot as a write-in, it's not the same to just move to the general without being on the ballot for the primary because the people who may have signed your petition and may have found out that you should have had enough signatures but you didn't appear on the ballot, maybe you did something wrong and maybe that's why you didn't get on the ballot. And they start asking, well, why isn't so-and-so on the ballot. We know John...not John, I got to think of a name that doesn't fit anybody here or somebody who wouldn't be offended. We know Ernie the Thief is not on the ballot because he can't be there because he committed a crime. But what they might not realize, it's not the kind of crime that would automatically disqualify me. So then my name appears on the general election ballot, and a person who did the write-in may have his or her name there. But there wasn't the opportunity for people to know that you had qualified to be on the ballot and you can start then campaigning as a candidate who has met all of the... [LB56]

SENATOR GLOOR: One minute. [LB56]

SENATOR CHAMBERS: ...requirements, and you're not like somebody who is just coming out of the woods for the first time on the general election. At first, I had even stated to Senator Larson that this is a bill that I didn't even analyze because it was so clearly appropriate, and I said that when I spoke the first time. But as I listened to others

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of you and, Senator Johnson, I listen to you too, I forgot to throw you in the hopper because Senator Johnson is a man of few words. That's why I probably ought to remember more that he spoke when he does speak. But at any rate, I'm not sure exactly how I feel about this bill now. I can see a reason to say that if somebody qualified as a write-in, he or she had done the work to get those signatures. And...or, you know, have the people when the ballot came out in the primary... [LB56]

SENATOR GLOOR: Time, Senator. Thank you, Senator Chambers. Senator Murante, you're recognized. [LB56]

SENATOR MURANTE: Thank you, Mr. President and members. I rise in support of the committee amendment and of LB56. I think it's a fairly measured approach that simply makes county government conform with a number of other political subdivisions. It's not a radical thought Senator Larson has proposed. I'd probably address two of the concerns raised by my colleagues. First to Senator Ken Haar's concern, and I absolutely believe in building strong election processes. I've introduced a couple of bills this year to make our elections in Nebraska matter more. But what we're talking about here is when there's only one choice on the ballot. I'm not even sure that fits the technical definition of what an election is. If you don't have a choice in who's going to win, it's sort of...and the outcome is predetermined, I'm not sure that fits the definition of an election and I'm not sure that anyone in the public is going to clamor for the right to state an opinion when at the end of the day the election is predetermined. And I can always count on thoughtful consideration from Senator Mello when it comes to these sorts of matters. I would probably put into proper context that although it is theoretically possible that at some point in an election process a candidate for office becomes repugnant for whatever reason to the electorate as a whole. What we're really talking about here is a period of time that roughly extends from March 1, which is the filing deadline, through the end of April, which is the deadline to appear as a write-in candidate. So that is a fairly narrow window of time for a candidate to go from beloved to the point of running unopposed to thoroughly repugnant and needing drastic measures to get the person off the ballot. Now it's possible, we in Gretna had a situation within the last 15 years where a candidate received the nomination, committed some...did some things after he received the nomination and there really wasn't anything we could do about it. And at some point in time we just have to accept that that's sort of the process. It's not a perfect process but it's a process that works the overwhelming majority of times. And I think this is reasonable. I'll yield the rest of my time to Senator Lautenbaugh. [LB56]

SENATOR GLOOR: Two minutes thirty-five seconds, Senator Lautenbaugh. [LB56]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Thank you, Senator Murante. I used to be an election commissioner who had Day 5 in the pool. In any event, we've had some discussions off the mike as Senator Avery alluded to. I would be happy to do

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that thing that some of us are loathe to do, which is work between General and Select to develop a mechanism to address at least the write-in concern whereby if it was the case that someone was running unopposed so that under the provisions of this bill they would automatically advance and not appear on the ballot. There would be a time frame during which a person could declare to be a write-in, say maybe April 1, assuming that would not screw up the programming and printing deadlines. If that could work and they could still be a write-in. And then the person would still appear on the ballot and it would still be a write-in. Hopefully that would address the concern. That seems like a reasonable compromise. I don't know if it would work. And then it would not address your concerns, and then you could be...feel free to dislike the bill I guess. But I think it's a reasonable way to address the write-in concern if that's helpful, and I would urge you to support this. And I would pledge to try to work on such an amendment before it comes back on Select if that gets us past the issue today. Thank you. [LB56]

SENATOR GLOOR: Thank you, Senator Lautenbaugh and Senator Murante. Senator Schumacher, you're recognized. [LB56]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Would Senator Larson yield to a question? [LB56]

SENATOR GLOOR: Senator Larson, would you yield? [LB56]

SENATOR LARSON: Yes. [LB56]

SENATOR SCHUMACHER: Senator Larson, how do you envision this interacting with the campaign reporting laws if there is not a primary election because you're the only one filed? Will this have any impact on those? [LB56]

SENATOR LARSON: I don't think so. From...I haven't looked explicitly how it is, but it's my understanding that campaign reporting laws will be...would still just be strictly based on you're a candidate for office because they would still be candidates for office. They just wouldn't be on the ballot. So if they've gone over the \$5,000, I think is what the NADC is, they'd still have to follow the same campaign finance laws that everybody else has to file for. They just have the automatic advancement. [LB56]

SENATOR SCHUMACHER: So although they weren't raising money, weren't on the ballot, their office wasn't even on the ballot, they wouldn't have...they would still have to do the 10-day report and the 30-day report just like if they were pretending there was other candidates. [LB56]

SENATOR LARSON: I would assume so. This hasn't changed any of the campaign finance stuff. [LB56]

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SENATOR SCHUMACHER: Thank you, Senator. [LB56]

SENATOR LARSON: Well, if they haven't raised the \$5,000, then no county...no official has to do that if they don't have a committee, essentially if they haven't raised enough to get their committee. You get what I'm saying? [LB56]

SENATOR SCHUMACHER: I think I do. Thank you, Senator Larson. I have nothing else. Thank you, Mr. Chairman. [LB56]

SENATOR GLOOR: Thank you, Senator Schumacher and Senator Larson. Senator Mello, you're recognized. [LB56]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. And in part this is to give a little reassurance in regards to what Senator Lautenbaugh already just discussed, which is Senator Larson, Avery, Lautenbaugh, myself had discussed the possibility of looking at a proposal between General and Select that would allow individuals who choose to do a write-in to give them a small window of time to be able to launch a certified write-in, so to speak, to give them still the ability in the primary to do that. And if they were...tried to do that after a certain period of time, instead the default position would be the...what is LB56 after it's amended by the committee. So I think Senator Larson, Lautenbaugh, Avery, myself all pledged we'd work on this between General and Select to give people still some ability to do that. I'd urge the body to adopt AM226 to LB56 and move it to Select for now. Thank you, Mr. President. [LB56]

SENATOR GLOOR: Thank you, Senator Mello. The Chair recognizes Senator Chambers. [LB56]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, if at this late hour anybody is listening to me, they would have caught what I caught after I stopped. I confuse being a petition candidate with being a write-in candidate. You don't collect signatures in the primary. What you do is go and on the ballot there's a place for you to...for people to write your name in. Now if you have told people you intend to be a write-in candidate, you have no way of knowing that somebody else is not going to also run so that there will be a chance for them to vote for you on the primary ballot. It could pan out that during the primary if the only one whose name appears is this individual who is the incumbent and you have a write-in, you conceivably could get more votes than that incumbent. And when you get to the final, both of you advance but now you have the momentum and the people who supported you have not done so in vain. The petition would come in if you were not allowed to have the write-in at the primary. You then would have to petition to get on the final. And the people you had asked to write you in could ask you what's going on. You ask me to support you by writing you in. I come to the ballot and nobody is on the ballot for that office. Do you know what's going on? Then you explain it. And maybe some of the people who would have written you in

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at the primary are not interested in signing a petition or whatever. But the issue is not even the way I had presented it the way I first spoke. You do not have to collect petitions to get on the ballot in the primary. A thousand people can qualify to get on the ballot in the primary. And then the top two or however many would go to the final would be selected from the top vote getters. But if there's only one person whose name would appear, that should not take away the right of somebody else to challenge that individual by way of a write-in, especially if that person conducting the write-in is more popular to the public and would get more votes. That does not mean the more votes automatically elects the person. They both go to the final, but it's a situation where the write-in candidate is the leader. And that does mean something. Some people who may not have been interested at all in writing you in, once it comes out that so-and-so conducted a write-in and got more votes, then on the ballot people might come and vote for that person. So now I don't think I'll support the bill. As I did with Senator Adams, I'm not going to vote against it because I understand what is being attempted and I will not stand in the way at this point. But I will not be able to vote for it as I told Senator Larson that I would. And that's because I listen not only to those who spoke, but I had to correct the way I misspoke. Thank you, Mr. President. [LB56]

SENATOR GLOOR: Thank you, Senator Chambers. Senators in the queue: Kolowski, Bloomfield, and Campbell. Senator Kolowski. [LB56]

SENATOR KOLOWSKI: Thank you, Mr. President. I want to thank Senator Chambers for his comment on momentum. And I think another aspect of the write-in vote that we need to look at is what Senator Bloomfield is talking about, and that's advertising. That's campaign dollars you don't have to spend having your name on a ballot that lets you come before the public and have an opportunity to be seen in different ways without spending your own cash, your own campaign money on that. And I think the possibility of working this out as Senator Lautenbaugh, Mello, Larson, and Avery have talked about. There's a chance that I would trust that they would get that solved. But I want to thank Senator Bloomfield for that, the comment that he made about the write-in aspect and I'm concerned about that from that perspective. That would leave people out and cut them off, and I also have my doubts about this bill at this current time. Thank you. [LB56]

SENATOR GLOOR: Thank you, Senator Kolowski. Senator Bloomfield, you're recognized. [LB56]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, we're worried about getting the write-in on the ballot. There will be no ballot to get the write-in on. Someone running for commissioner, if he is the only one that is announced, there will be no one there. The position will not appear on the ballot. You will have zero opportunity to write in Lassie, Ronald McDonald, or anyone else you want to because, and I'm going to use this name because he used it, Ernie the Thief is the only one that announced that he is

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running. His name is not on the ballot for you to oppose. There is no opportunity to oppose the sole candidate when you find out you no longer love and adore him. Let us get this name on the ballot. We're talking about two inches of paper on a paper ballot, a process we're already doing in the electronic ballot. We are now moving to confuse the issue by we're going to work on it between now and Select with a whole new process. What have we done? What are we doing? Be very, very careful what we do here. We are eliminating a step that we should not eliminate. Again, I have already spent more time on this than I intended to. I feel very strongly that my position is correct. And I think I just used my third time. Thank you, Mr. President. [LB56]

SENATOR GLOOR: Thank you, Senator Bloomfield, and you were correct. It was your third time. Senator Campbell, you're recognized. [LB56]

SENATOR CAMPBELL: Thank you, Mr. President. I have a question of Senator Avery if he would agree to a question. [LB56]

SENATOR GLOOR: Senator Avery, would you yield? [LB56]

SENATOR AVERY: Yes, I will. [LB56]

SENATOR CAMPBELL: Senator Avery, in your recollection of the current campaign and election laws, is there a threshold for the number of write-ins? [LB56]

SENATOR AVERY: I do not think so. I believe what we're talking about here is the opportunity for a write-in in the election. It would not occur at the primary, of course, but the opportunity could be made available for the general. And the single candidate that Senator Bloomfield was talking about would not appear on the primary ballot but would appear on the general ballot. [LB56]

SENATOR CAMPBELL: Thank you, Senator Avery. Colleagues, Senator Lautenbaugh has talked about trying to work between General, and Select, and I certainly will vote to support the amendment and the bill to go forward and give them time to do that. But I would like them to look because I do believe there is a percentage that you need to have for a write-in to be considered on a ballot. And I'll tell you why. Because in one of my county board races a gentleman got either 8 votes or 12 write-in votes and it was his poker club that decided to write his name in. And at that point he was an official candidate. And we had...and we obviously then ran in the general. I believe the Legislature, and Senator Chambers has a great memory, but during the time I think Senator LaVon Crosby carried a bill in which there had to be a certain percentage of a write-in. So if an amendment is put forward to deal with the write-in, I would certainly hope that they would look at the election laws because you want to assure that the candidate who steps forward on a write-in has more than just eight votes. Thank you, Mr. President. [LB56]

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SENATOR GLOOR: Thank you, Senator Campbell. Senator Kolowski, you're recognized. [LB56]

SENATOR KOLOWSKI: Thank you, Mr. President. I'd like to give the remaining part of my time to Senator Chambers, please. [LB56]

SENATOR GLOOR: Senator Chambers, 4 minutes 55 seconds. [LB56]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Kolowski. This again demonstrates that when we will talk about an issue, then other matters come to the fore that need to be hashed out. I confess that it was a very simple, straightforward proposition to me at first until I paid attention to what people were saying. Here's something else. If you give the person the opportunity to be a write-in and that person gets a certain number of write-in votes, then that person's name appears on the ballot just by virtue of having gotten some write-in votes. If the one person who's the incumbent advances to the final, the only way that person who wanted to be a write-in can get on is to circulate petitions. That person is being required to do something that wouldn't be required had there been a primary. I don't think any of these other offices that were mentioned to us function as a county board does. A city manager is an administrator. The city manager does not enact any resolutions or whatever you call the action that a county board takes. I don't think the city manager levies any tax amounts. And when you have people on public power district boards, those boards cannot be equated to what is being done by somebody on a county board. So the more I look at this, I see the county board as being a different type of entity from these others in the first place. But, secondly, looking at the implications of not having the opportunity to have your name written in at the primary puts that person to extra effort and deprives him or her of the benefit of having participated in that process, having had support generated, and the supporters appear at the polls to cast their ballot in the way that is allowed. To take all that away to save whatever few nickels are going to be saved by not having the names appear, the one name plus the write-in opportunity is not worth saving when it harms the process in the way that it will, which has become my opinion. I do not think this is a good bill. I think that it does not advance the purposes of an election. And for Senator Murante's benefit, I've heard many times the statement made this is an uncontested election. Why don't we do it for the Legislature? I don't know that there's anything in the law that would prohibit the Legislature from saying the same thing about the Legislature as is being said for the county board. Maybe there is something there. But it shows even on that score some of us...let me not make it plural, let me say myself, I do not know enough about the election laws to venture into those other areas other than to raise questions. But sufficient questions of substance have been raised for me not to be able to support this bill. However, as I stated, I will not vote against it... [LB56]

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SENATOR GLOOR: One minute. [LB56]

SENATOR CHAMBERS: ...on General but I will not vote for it. Thank you, Mr. President. Thank you, Senator Kolowski. [LB56]

SENATOR GLOOR: Thank you, Senator Chambers. Are there additional senators wishing to be heard? Seeing none, Senator Avery, you're recognized to close on your committee amendments. [LB56]

SENATOR AVERY: Thank you, Mr. President, and thank all of my colleagues for their lively involvement in this debate. I am going to ask you to advance this to Select File with the promise that the committee staff and interested senators who have expressed their concerns off the mike will get together between now and Select File to see if we can work out a mechanism whereby the write-in issue can be resolved. With that, I would as you to vote yes on this amendment, AM226, and then yes on the bill, LB56. Thank you, Mr. President. [LB56]

SENATOR GLOOR: Thank you, Senator Avery. Members, the question before us is, shall the committee amendments to LB56 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB56]

CLERK: 27 ayes, 4 nays, Mr. President, on the adoption of committee amendments. [LB56]

SENATOR GLOOR: The amendment is adopted. Discussion now continues on the advancement of LB56 to E&R Initial. Mr. Clerk for a new motion. [LB56]

CLERK: Mr. President, Senator Bloomfield would move to indefinitely postpone LB56. Senator Larson, you have the option to take the motion up or lay the bill over at this time. [LB56]

SENATOR LARSON: I'll take it up. [LB56]

SENATOR GLOOR: Senator Bloomfield, you're recognized to open on your motion to indefinitely postpone. [LB56]

SENATOR BLOOMFIELD: Colleagues, I said I wasn't going to take a lot of time on this. I still don't intend to. I would like this to come to a vote nearly instantaneously. I believe we're looking at a bad idea here. We are instituting a mechanism between now and Select if we go that route that is going to in my mind create more problems than it solves. I would like to see this bill come next year when we have more time, when we are not facing an immediate election cycle, and when we can sit down and talk about at that point in time how we should do this. I don't believe we should spend a lot of time on

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this this year. It's not going to affect this year I don't believe. And I think we ought to do this at another time. And I just as soon we take the vote to IPP right now so we know where we're at and at least move on one way or the other, win or lose. Thank you. [LB56]

SENATOR GLOOR: Thank you, Senator Bloomfield. Senator Larson, you have five minutes in response. [LB56]

SENATOR LARSON: Thank you, Mr. President and colleagues. I can respect Senator Bloomfield. I do think LB56 is a good bill and one that can benefit the counties. And as you've heard from Senator Mello and Senator Lautenbaugh and Senator Avery, we are confident that something can be done between now and Select to alleviate the concerns that Senator Johnson and Senator Chambers had relating to write-ins and to see if something can be done to ensure that if there is a drastic case in which a county officer commits a malfeasance that they can still get on that write-in ballot. So we'll be working with that between now and Select. This is...and I think Senator Campbell brought up an excellent point as well, and I think she's right. Right now, you have to have a certain percentage of write-in votes to even move forward into the general election. I think she was on par with that, and that's something that we'll take into account as well. But this is a bill that does...we're talking about unopposed county officials. I think all of us have gone to the polls in our primary elections, and this year we're in a presidential year. I know the county that I live in, there will be five or six offices at the very least in which all county officials and nobody will be running against them. This saves ballot space. This saves inches on the ballot, meaning those county commissioners don't have to pay for those inches. And it saves a lot of ballots from going to the back page, which is another 4 or 5 cents a ballot. So we can talk about, you know, as minimal of a cost savings that it is. I remember we also...I've heard a lot of senators in here talk about when we cut aid to county, cities, and NRDs my first year down here, ways to help the counties. Small piece but it helps. So I'd urge the body to vote against Senator Bloomfield's IPP motion and advance LB56 after that. Thank you. [LB56]

SENATOR GLOOR: Thank you, Senator Larson. Members, the question before us is, shall LB56 be indefinitely postponed? Those in favor vote aye; those opposed vote...sorry, Senator Bloomfield, would you like to close? [LB56]

SENATOR BLOOMFIELD: Thank you, Mr. President. My closing will be very brief. If you file for an office, your name should appear on the ballot. It's that easy. It's that neat and clean. We're talking about saving two inches of paper or a couple of strokes of the keyboard. Let's stay with what we know works. Thank you. [LB56]

SENATOR GLOOR: Thank you, Senator Bloomfield. Members, the question before us is, shall LB56 be indefinitely postponed? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB56]

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CLERK: 3 ayes, 24 nays, Mr. President, on the motion to indefinitely postpone. [LB56]

SENATOR GLOOR: The motion fails. [LB56]

CLERK: I have nothing further on the bill, Mr. President. [LB56]

SENATOR GLOOR: We return to the discussion on the advancement of LB56 to E&R Initial. Seeing no one willing to speak...wishing to speak, Senator Larson, (laughter) you are recognized to close on the advancement of the bill. [LB56]

SENATOR LARSON: Thank you, Mr. President. I'll be short. As I said, I do believe this is a good bill and one that has a benefit to all 93 counties across the state of Nebraska. I'd appreciate your green vote moving forward, and I look forward to working with Senator Lautenbaugh, Mello, and Avery between now and then to alleviate some of those write-in concerns that some people had. So thank you, Mr. President. [LB56]

SENATOR LARSON: Thank you, Senator Larson. The question before us is the advancement of LB56 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB56]

CLERK: 28 ayes, 5 nays, Mr. President, to advance LB56. [LB56]

SENATOR GLOOR: The bill advances. Mr. Clerk, items for the record. [LB56]

CLERK: Mr. President, new bills. (Read LB898-901 by title for the first time.) New resolutions: LR401, Senator McGill; LR402, Senator Larson; LR403, Senator Larson. All those will be laid over. I do have a name add, Mr. President: Senators Lathrop, Cook, and Howard to LB807; Senator Harms to LB689; Senator Harms to LB690; Senator Conrad, Ken Haar, Cook, McGill, Wallman to LB887; and Senator Janssen to LB300. (Also a hearing notice from the Education Committee.) (Legislative Journal pages 219-221.) [LB898 LB899 LB900 LB901 LR401 LR402 LR403 LB807 LB689 LB690 LB887 LB300]

Mr. President, priority motion. Speaker Adams would move to adjourn the body until Wednesday morning, January 15 at 9:00 a.m.

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