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Floor Debate
April 01, 2014

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SENATOR COASH PRESIDING

SENATOR COASH: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-third day of the One Hundred Third Legislature, Second Session. Our chaplain for today is Pastor Shawn Linnell of the Trinity Lutheran Church in Senator Brasch's district. Please rise.

PASTOR LINNELL: (Prayer offered.)

SENATOR COASH: Thank you. I call to order the fifty-third day of the One Hundred Third Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

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

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

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

CLERK: Mr. President, Senator Chambers would move to withdraw LR463. [LR463]

SENATOR COASH: Senator Chambers, you are recognized to open on your motion. Mr. Clerk, we will move on to the next item on the agenda. [LR463]

CLERK: Mr. President, Senator Mello offers LB559A. (Read title.) [LB559A]

SENATOR COASH: Senator Mello, you're recognized to open on LB559A. [LB559A]

SENATOR MELLO: Thank you, Mr. President. Members of the Legislature, LB559A is the A bill for the underlying bill which the body advanced to Select File last week. With

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the adoption of the amendments on General File, the cost to establish a short-time compensation plan would be paid using federal Reed Act funds. So there would be no General Fund impact. I'd urge the body to advance LB559A to Select File. Thank you, Mr. President. [LB559A]

SENATOR COASH: Thank you, Senator Mello. Members, you've heard the opening to LB559A. Floor is now open. Senator Gloor, you are recognized. [LB559A]

SENATOR GLOOR: What am I recognized for? [LB559A]

SENATOR COASH: Senator Gloor waives. Members, the question for the body is, shall LB559A advance? All those in favor vote aye; all those opposed vote nay. Members, we are going to reset the board and revote on this motion. Please stand by. Thank you, Mr. Clerk. Members, the motion...the question for the body is, shall LB559A advance? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB559A]

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB559A. [LB559A]

SENATOR COASH: LB559A does advance. (Doctor of the day introduced.) Mr. Clerk, we will move on to the next item on the agenda. [LB559A]

CLERK: Mr. President, the next motion is to override LB905, certain line-item reductions in the bill. The Appropriations Committee offered its motion yesterday. It can be found on page 1295 of the Legislative Journal. [LB905]

SENATOR COASH: Thank you, Mr. Clerk. Senator Mello, you are recognized to open on your motion. [LB905]

SENATOR MELLO: Thank you, Mr. President. Members of the Legislature, the motion you have in front of you to override the Governor's vetoes on LB905 incorporates a number of overrides on the Governor's line-item vetoes in the mainline budget bill. Pursuant to Rule 6, Section 14, the Appropriations Committee met yesterday to review each of the vetoed items and recommend whether any or all of the vetoes should be overridden. The motion contains a number of items in the mainline budget which the committee has recommended to be overridden. In cases where multiple items are part of the same budget program, the Legislature has the only...has the option only to override all items in that program or none of them. Items that have been recommended for override by the Appropriations Committee are listed in the order they appear in the budget bill and, also, you should have received a handout that has my signature on it from the Fiscal Office that goes through each of the items that were vetoed and whether or not they were overridden. First, the motion would override the vetoes of funds to bring the state of Nebraska back into compliance with its obligations under the Midwest

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Interstate Passenger Rail Compact. Significant debate on this item took place on both General and Select File. Second, the motion would override the veto of items in multiple budget programs within the Supreme Court, including reclassification of probation officer positions, salary increases for county court and probation employees, and it continues the appropriation for juvenile justice reform as part of LB561 from last session. Third, the motion would override the veto of additional staffing for the Auditor of Public Accounts. In 2013, funding from the Auditor's proposed budget was vetoed and was not overridden, but the Legislature passed LR384, indicating its intent to restore the funding through the deficit appropriations process. Without this funding the Auditor's Office would need to reduce staffing by at least four auditor positions. The motion would also override the veto of funding for the creation of a new vehicle title registration system in the Department of Motor Vehicles. While much of this appropriation is included in LB906, a portion of the cash funds would be appropriated to the department in fiscal years 2014-2015, to begin identifying the replacement system, associated costs, and financing options. The motion would also override the veto of increased funding for Nebraska Advocacy Services in the Department of Health and Human Services. This increased funding would help maintain operations for citizen advocacy programs in Kearney, North Platte, Grand Island, Lincoln, and Omaha. The motion would also override the partial veto of funding to address the backlog of deferred maintenance projects in our state park system. Based upon correspondence that the Appropriations Committee received from the Game and Parks Commission, the full amount of the appropriation is necessary to undertake priority projects within the system, including the needed upgrades to Ponca State Park and the Arbor Lodge State Historical Park. The motion would also override the veto appropriations to begin the replacement of the State Capitol Building HVAC--heating, ventilation, air conditioning--system and construct courtyard fountains and renovations in the State Capitol courtyards. While the appropriation in LB905 for these two projects are separate, the cash fund transfer to the Nebraska Capitol Construction Fund in LB130 are for both projects. The motion would also override the veto of increased funding for the Job Training Cash Fund. The motion would also override the veto of increased funding for the Job Training Cash Fund. Because the existing balance in the fund is committed to qualified projects, additional funding is required to allow the Department of Economic Development the flexibility to offer job-training grants to companies seeking to locate or expand operations in our state. The motion would also override the veto of multiple budget items in the Department of Education, including staffing for the Early Childhood Grant program, a student achievement coordinator, license renewal for on-line education data warehouse, an IT Academy pilot project. Because all of these items are part of the same budget program, the Legislature has only the option to override all the items in that program or none of them. The motion would also override the veto of increased aid for the Civil Air Patrol. This aid would provide additional cash funding for operational and training missions, as well as utility expenses for the Civil Air Patrol's headquarters at Camp Ashland. The motion would also override the veto of the reallocation of contingency funds for behavioral health aid. In the 2013 budget,

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behavioral health aid was reduced by \$15 million due to potential savings due to the provisions of the Affordable Care Act. At the time, \$10 million of those potential savings were set aside in the event that the ACA did not result in the expected savings during fiscal years 2014-2015. Behavioral health providers have indicated that it's likely the \$10 million in projected savings will not be...will not result in fiscal years '14-15, so the reallocation of the funds is necessary to hold our behavioral health providers and our behavioral health system whole. The motion would also override the veto of additional rate increases for developmental disability providers and funding for a State Ward Permanency Pilot Project for state wards with developmental disabilities. Because these items are both included in the same budget program, the Legislature has an option only to override both items in this program or neither of them. The motion would also override the veto of funding for the Coordinating Commission for Postsecondary Education to hire a new executive director and for payout of the current director's accrued paid leave balance. Finally, the motion would also override the veto of funding for a new data collection system and support staffing at the Commission on Problem Gambling. Because these items are both included in the same budget program, the Legislature has the option only to override both items in this program or neither of them. At the end of the day, the items that...which were vetoed by the Governor represent a small percentage of the overall state budget. The items included in the Appropriations Committee override motion are those which the committee feels represents important priorities of both the committee and the Legislature as a whole over the three rounds of debate of our budget. Colleagues, I want to end a little bit of the first motion-to-override dialogue on the opening of once again thanking the committee, thanking the Fiscal staff in regards to their hard work over the weekend and yesterday of compiling all of the veto overrides, the background, the detailed information. As I mentioned before, this has been an honor and a privilege to work with this committee, this...with four senior members leaving, I feel very comfortable in regards to what proposal we put forward to this body today to consider on these override motions. As a point of clarification, as I know there are some motions that have been filed, I've not been able to read them and the senators who put them forward haven't approached me on them. There is a couple items I want to bring to everyone's attention that should provide, I think, a more global picture of what we have in front of us. There's a letter that the members should have seen that I passed out, one that was dated January 17, 2014, to Senator Campbell and myself from our behavioral health regions giving a historical perspective of what's happened over the last year in respects to what the Appropriations Committee did last year in regards to the ACA Contingency Fund as it relates to behavioral health. Colleagues, I use a quote that I say on a regular basis where I make at least five mistakes a day and it's my hope that every day I don't make the same five mistakes the next day. And I'll be the first to tell the entire Legislature and the public at large that I feel I may have made a mistake last year of encouraging the committee to do this ACA Contingency Fund in regards to trying to move forward behavioral health reform in lights of the Affordable Care Act. We took in consideration what we thought may be savings due to the Affordable Care Act as it relates to behavioral health by setting up this

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contingency fund because we believed and thought that if these savings weren't there, that we set up a safeguard so that the behavioral health regions could approach the administration and request these funds so that we would not harm our behavioral health system. Unfortunately, I--and, I think, the Appropriations Committee--made a mistake in that process because, obviously, in light of the Governor's veto, they have a disregard in regards to what impact they will have on our behavioral health system. And it's a little disappointing knowing all of the issues that have been raised over challenges in behavioral health primarily as it impacts low-income Nebraskans and those leaving our corrections and probation system that we would even contemplate trying to cut \$10 million from the already-fragile behavioral health system. Hopefully, this letter provides this body and the public at large enough background and feedback of why we cannot... [LB905 LB561 LR384 LB906 LB130]

SENATOR COASH: One minute. [LB905]

SENATOR MELLO: ...cannot sustain the Governor's veto on that \$10 million veto of behavioral health funding. The other main letter that you should have received from me is a letter from the court system, the Probation Office, specifically, on why we need to give the \$7.4 million deficit appropriation for juvenile justice reform. Colleagues, the Supreme Court is our third branch of government. They did their analysis on juvenile justice, as you can read this memo from the court system, on why they need this funding. Our Legislative Fiscal Office also reviewed this proposal, reviewed this request, and came to the same conclusion--that this is something that is necessary for us to make sure that the courts won't come back a year later with a broken juvenile justice system for 2015. Colleagues, I trust our third branch of government, the court system, and our Fiscal Office over the executive branch on this particular request that says we have to provide this \$7.4 million because the courts have spent the \$19.7 million out of the \$19.9 million we provided last year. [LB905]

SENATOR COASH: Time, Senator. [LB905]

SENATOR MELLO: Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Mello. Members, the muffins being handed out today are in celebration of Senator Lathrop's birthday. Happy birthday, Senator Lathrop. (Visitors introduced.) Mr. Clerk, you have an amendment? [LB905]

CLERK: Mr. President, Senator McCoy would move to amend the Appropriations Committee motion by striking Section 44 from that motion. (FA313, Legislative Journal page 1309.) [LB905]

SENATOR COASH: Senator McCoy, you are recognized to open on your motion. [LB905]

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SENATOR McCOY: Thank you, Mr. President and members. This particular motion here is for the Capitol fountains. I want to talk about that this morning because of where we are in the process and where we are going forward. I feel pretty strongly about this issue, strongly enough I talked about it early, in earlier rounds of the debate. And this, among other decisions that were made first by the Appropriations Committee and then by the body at large, were reasons why I voted no on the budget bills. If you go back and look at news accounts and transcripts, you'll find that a member, at least one member, but a member of the Appropriations Committee that ultimately ended up voting for this, Senator Conrad, said she thought this was more of a want than a need for these fountains. However beautiful they may be to have in our courtyards, I think it's a mistake to spend \$2.5 million out of the Cash Reserve for these fountains. We've talked about it before, but I think it bears more discussion this morning, it necessitates more discussion this morning. The fact that when this building, this Capitol...it's owned by the people of Nebraska; it was paid for by the people of Nebraska. It was a pay-as-you-go project, something that's been a hallmark of our state. And in the heart of the Depression, as this building was being paid chunk by chunk, stone by stone, year by year, it was decided by previous Legislatures that the fountains were a want, not a need. We needed a Capitol. The fountains, while part of the design, were not something that was necessary going forward and, therefore, the money was never appropriated to construct them. And in all the years and decades since, in all the years and the decades since, no previous Legislature that I'm aware of has even got to this point of talking about using taxpayer dollars to pay for these fountains. And we've had some great years, we've had some lean years in our state since that time, both in agriculture and outside of agriculture. But today, where we are--and I'm going to say this until the very last second of this session and beyond, because I fought for it and I've lost and we've won some and we've lost some--we are not doing enough for tax relief for Nebraskans. And the Nebraskans that I talk to, by and large, the vast majority of them, are incensed and offended that we would talk about funding these fountains before we would do more for tax relief. I just think that that's not...if you were to go ask the vast majority of Nebraskans, which would you prefer, fountains in the courtyards that, unless you come inside our beautiful Capitol, you cannot see because they are in the...would be in the four courtyards, or would you prefer to have more money in property tax relief, which I've fought for...Senator Hadley brought the amendment. And I've introduced legislation, among others who did. And as a member of the Revenue Committee, that's pretty much all we talked about all session. But would you rather have this in the Property Tax Credit Relief Fund or in some other form? And some people will say, well, it's just \$2.5 million, Beau. Really? \$2.5 million? Well, it's \$2.5 million here and \$2.5 million there. And I will tell you, that makes a big difference to Nebraskans and to Nebraska families and to small businesses. That...let's not forget fund the operations of our state government. I will not dispute that it would be wonderful at some point--and I wish it would have been constructed at some point along the way--to have these fountains in these courtyards. But it is an extra, in my mind, not a need. All of us live on budgets. My family does. I

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imagine your family does too. The vast majority of Nebraska families do. The vast majority of Nebraska businesses live on budgets. You have to, to survive in today's climate. And there comes a time, as all of us know in budgets, when you make decisions based upon what's needed or what's wanted--a vacation, an extra meal out, or that unexpected expense that comes along, a vehicle repair, the garbage disposal dies. Whatever the case may be, we've all faced those situations. We have the money to do more with tax relief, with property tax relief. We can and we should. This is a \$2.5 million expenditure, in my mind, that ought to be ranked in a priority list near the very bottom, long after tax relief and a whole host of other worthwhile priorities. That's why I offer up this floor amendment this morning. I think it's worthy of more discussion; it's why Governor Heineman line-item vetoed it out of LB905. That's why, all along the process, I've had an issue with this particular portion of our budget. I applaud the Appropriations Committee for their hard work. I really do. That's...this is not to disparage that or to in some way say that Senator Mello or any member of the Appropriations Committee didn't do their due diligence. They have worked very hard and are to be commended for their hard work--and I do. But the purpose of this body is to have discussion and debate on the largest issue that we face, our constitutional obligation, our first-and-foremost constitutional obligation, and that is to balance the budget and to, hopefully, do it in a way that the vast majority of the people of this great state support what we're doing. I don't think they do with this item, and I think it's ill advised if we don't take this out. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator McCoy. (Visitors introduced.) Members, you've heard the opening to the Appropriations Committee motion and the amendment to that motion. The floor is now open for discussion. Those senators wishing to speak: Senators Harms, Krist, Nordquist, Ashford, Avery, and others. Senator Harms, you're recognized. [LB905]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in opposition to this amendment. I've been in the...on the Appropriations Committee for my eighth year and, I will tell you, I don't think there's been a year that this discussion hasn't come up, trying to finish and find a way to finish this facility. I think it's important for us to finish this facility. I think it's important for us to complete what the dreams were of the people who put this together. I'm not so sure that the majority of the people in Nebraska object to this. I've had discussion with a number of people who are in favor of this and are pleased that at least the Appropriations Committee was willing to stand up and say, we would like to see this done and we'd like to see this completed. I think that's important. But beyond this particular issue, I think it's important to have the debate. I think this is your budget. It's not our Appropriations' budget. You, as a...as our colleagues, have the opportunity to decide what you think is important, whether you want to keep this in or remove it. I support it. Now let me talk just in general about this overall, about this budget. Colleagues, this is a great budget. In a short session I cannot remember in the last eight years all of the large items that have come before this Appropriations

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Committee that's come onto this floor in regard to finding a solution to move this great state forward. What we have in this budget is the beginning of addressing the issues that have been put aside for so long in this great state and in this Capitol Building and for the public to begin to move us forward. And I hope you'll keep that in mind because I think, to be honest with you, this puts us on the pathway to do some great things in the future. This budget is important to us, and we've given a great deal of thought to this. I also want to tell you that we have a great Fiscal staff, and I want to take this opportunity to thank their hard work and their efforts in helping us walk through the pathway of building this budget. This has not been an easy task. In a short session you don't have enough time to really want to accomplish what you've set out to accomplish. But I think we've done some marvelous things in this budget. Regardless of where...what you feel about this particular issue, this is a point of debate. It is important to keep this budget together; it is important to make sure that we are meeting the needs of this state. This is an opportunity to have the debate. This is the opportunity to decide what you want. But, just remember, when you look back at this overall budget, you'll have to determine what role you want to play in moving this great state forward. We have a lot of big issues in here. The Governor has vetoed a lot of those that are important to this state. So I want you to understand, this is the first time I just...I'm going to talk. I've got other things, I'm going to come back and will walk you down through the items that I think are critical to what happens to this state. And some of this data you could even find support in our Planning Committee documents that indicate what's happening to this great state. And we have to get ahead of some of these particular issues. So, colleagues, I would ask that no matter how you feel about this, make your decision. I support it. I think it's important to complete it. But keep in mind what's in this budget; keep in mind the importance of completing this budget and these vetoes intact. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Harms. Senator Krist, you're recognized. [LB905]

SENATOR KRIST: Good morning, Mr. President and members of the Legislature; and good morning, Nebraska. I'm going to talk just a little bit this morning about process. And every one of the 49 of us have an opportunity to slice away with a scalpel and talk about the individual issues. I would hope that, just as Senator McCoy has presented the fountains, that we try to stick to the topic as much as possible, move through these items, get us an up-or-down vote, as Senator Harms said, have the debate, and continue to move forward. But I don't...I think there are some generic comments that are valid early on in the debate. And one of those that I would make is that I believe the Appropriations Committee has done a...has done yeoman's work pulling this all together in the short session. I know that members of the committee also have some concerns about the total package and, again, we'll have that debate. What I think we need to be careful of, though, is...when Senator McCoy introduced LB405 and LB406--I think those are the correct numbers; the Revenue Committee Chair is shaking is head correctly--on

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behalf of the Governor last year, what we heard was, at least from the Governor: I have been all over this great state, and there is great support for LB405 and LB406. Now we know that not to be true--not that Senator Heineman would have or Governor Heineman would have ever misconstrued the truth. But we know that not to be the truth because the testimony that came in, in the public hearings, did not support those allegations. So if we stand up at the mike and we say, I've been all over this great state and I know people don't support it, I think that's doing an injustice to this debate. The other thing I think it's important to understand about this budget is that everyone will have a vote and you will live or die by that vote, meaning, you will either come to favor or not favor with your constituents. So hopefully, we've all listened to our constituents and we know where their priorities lie. The last thing I'll say about the process is this: If Senator McCoy intends to remove the funding for the fountains, I would remind this body: These are cash funds; this is our rainy-day fund that we are tapping into. It cannot and should not be put towards tax relief of any kind because it is not sustainable. What I have learned more than anything else in this body is, sustainability of a budget does not mean relying on your savings. And to Senator McCoy's point, I don't rely on my savings for sustaining...my savings to sustain the purchase of a new vehicle, the purchase of things that are not required for my family. And I would hope that this state would not do the same. So I appreciate Senator McCoy's efforts here in saving \$2.5 million. And a reminder: That would stay in our cash funds; it would not be sustainable in terms of tax credits. And I think that's, in essence, a flaw in how the Governor has surgically stricken some of these items in the budget. I would yield the balance of my time to Senator Mello. [LB905 LB405 LB406]

SENATOR COASH: Senator Mello, 1:20. [LB905]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. And thank you, Senator Krist, for, essentially, saying what I was going to say. You know, the Nebraskans I talk to are incensed that our Legislature would consider exactly what Senator Krist just said: using our savings account for tax changes that doesn't benefit all Nebraskans. [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR MELLO: They are incensed that we would travel down such an irresponsible fiscal path to utilize one-time money from our Cash Reserve for any ongoing tax changes, because that, colleagues, is...sets us apart from all the other states in the country. And that's why we were one of the best states, if not the best state, to weather the recession. Now in...specifically to this item, I've got my light on. I don't think I have enough time, and I'm going to yield some time back to Senator Nelson when I come back up. But I mentioned and discussed this on General File. The Capitol belongs to the people; the courtyards belong to the people. We've passed bills this year to buy items from the Cash Reserve that doesn't belong to the people, that are utilized by one

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person. And those who are opposing this at their full throttle were very silent on that issue. So let's be careful when we try to demagogue one issue in the budget that seems so easy because, as I said before,... [LB905]

SENATOR COASH: Time, Senator. [LB905]

SENATOR MELLO: ...not all state priorities, colleagues, fit on a bumper sticker. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Mello. Senator Nordquist, you're recognized. [LB905]

SENATOR NORDQUIST: Thank you, Mr. President and members. I stand in support of the committee override motion and will oppose attempts to strike individual components out of that, even though Senator Nelson full well knows that I was not a vote in support of the fountains in the Appropriations Committee. But none of us get our way around here completely, and the budget is always a package of a priority of the Appropriations Committee and the Legislature as a whole. And pulling individual pieces, while they're easy, as Senator Mello just said, to demagogue, it would be impossible to get a budget passed if there wasn't compromise in this legislative body. Senator McCoy said the Nebraskans he talked to said this is ridiculous. The Nebraskans I talked to think that us purchasing a new airplane was ridiculous. And I find it laughable, even very hypocritical, that the Governor would sign the airplane on Friday, dump it out with the news trash so that nobody knew it was signed until his press conference the next day, and then stand up at that press conference and chastise us about spending. A budget is about priorities. The spending of the state is about priorities. And the Governor, by signing that bill and vetoing the items he did, showed where his priorities were. He was saying that a new airplane is more important than years of deferred maintenance at our Game and Parks. He said that it's more important than making sure we have DD providers who are getting paid a fair rate that his own administration did the rate methodology study on, said, this is what they need to get paid. Well, a new airplane is more important than that too. It's even more important than replacing your heating...our heating and air conditioning system in this Capitol. As Senator McCoy rightfully said, there is a difference between needs and wants. The Nebraskans I talked to certainly think that an airplane, a full-time, brand-new airplane for the state, should be a want. There is private-sector charters out there and leases available for the Governor to get to where he needs to be. We often hear: Government should run more like a business. How many Nebraska businesses have their own airplane? Very, very few. So I think it's very laughable that this dynamic of him chastising us about spending right after signing the bill to make that purchase. When we talk about needs and wants, no one wants to replace their heating and air conditioner. Nobody goes and says, that is something I want to spend money on. But, quite frankly, that is an absolute need, and it's something that we need to get started on. It's going to be a decade-long project. And unlike the

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heating system in our home, it's probably not something where you can call Getzschman Heating or One Hour Heating and Air Conditioner and have them come out and throw in a new furnace in a day or two. We need to replace the system so it's there for the Capitol. I also find it very hypocritical that the Governor is lecturing us on property taxes. You know how much he put into his budget for property tax relief this year? Nothing. He says it's a top priority for him--nothing. He said that before session. He didn't put a dollar in for property tax relief. For two years he's been going around the state, first with LB405 and LB406, saying, we need to cut income taxes for the top bracket. He made it very clear; he supported that bill in the Revenue Committee this year to cut the top income bracket. But now, at the eleventh hour: Boy, we really need property tax relief, even though I didn't put any in my budget to fund it. The Legislature led on property tax relief. We said it's going to be a priority in our budget. [LB905 LB405 LB406]

SENATOR COASH: One minute. [LB905]

SENATOR NORDQUIST: We put Senator Davis' bill in our budget. And it's an amount that certainly is sustainable going forward, and we...certainly, everyone in here supports that...supports increasing the property tax relief credit, but we're going to do it in a responsible way that allows us also to take care of our needs, like a heating and air system and deferred maintenance at our Game and Parks that, right now, many of these deferred maintenance issues are ADA issues that prevent people with disabilities from enjoying our great parks in Nebraska. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Nordquist. Senator Ashford, you are recognized. [LB905]

SENATOR ASHFORD: Thank you, Mr. President. I just want to make a couple of points. And I want to echo what Senator Harms said about the Fiscal Office. I, I'm sure, will not have another opportunity in my years in the Legislature to thank the Fiscal Office publicly for their efforts. I had the opportunity to serve on the Appropriations Committee for six years when I was here before, and I always like to tell the story about Joslyn Castle and Jerry Warner allowing me \$75,000 to buy Joslyn Castle in Omaha at a time that Brenda...I think Brenda Council was president of the school board at that time. So we can work wonders with \$75,000. I've got a whole castle in Omaha. But (laughter)...and I know some of these guys remember that, actually, and I thought it was...and my good friends in the body today say, Brad, what did you sell for...you know, what did you give up for \$75,000 for Joslyn Castle? And I can't recall specifically, but I'm sure it was probably a lot. But anyway, I...so I do want to thank the Fiscal Office, every single member of that office, for their really incredible dedication to what we do in this body. And, also, I would like to reflect a bit on, you know, on the process. And certainly, when we put a budget to...what is interesting about what we do here and what some other states do but, clearly, what the federal government doesn't do, is they're not able

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to do what we do, which is, essentially, get together and get the budget in balance here, or even getting it near balance in other institutions of government. It's an amazing feat. There's always going to be something that we don't like in the budget. That's why it's a budget. It's a coming together of interests. You know, clearly, the arts and the humanities reflected in the appropriations for Joslyn Castle are a priority to our state. When we did the turnback financing bill initially, we made sure that we were going to...we would set aside money from the Qwest Center to communities throughout the state, the sales tax dollars that could have gone into the General Fund but that were sent across the state for projects in local communities that would attract visitors to those communities. And I don't know how many of those projects we have out there now. But there are, I'm sure, more than 30 projects that are funded in part by Qwest Center money and now by the Lincoln Arena money and the Ralston Arena money that is going to support the arts and the humanities. Senator Nelson, I'd like...my third point, I think, is I want to commend Senator Nelson. Not only does Senator Nelson hold the seat I held for eight years, which is certainly an accomplishment, but the...secondarily, his devotion to the arts and to the issues revolving around the arts is very commendable, because it is not always easy to convince the public that we ought to put money into the arts or the humanities. But the arts and the humanities in our state are so important, all the great authors and architects that make up the history of our state and give us a sense of place and presence. Senator Nelson understands that, coming from rural Nebraska, living in Omaha, practicing law there for a number of years. [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR ASHFORD: He mentioned 40 years before. I really commend him for that. And then, finally, I'd like to say that I am the second senior member of the Legislature, and I have not been able to open my windows since I came here eight years ago. And I'm still...I'm okay with it. I am okay with it. And the fact that the paint is falling from my ceiling onto me, I'm okay with that too. So, you know, it would have been nice to have a little extra money for my office, but we didn't get it. But we now have an opportunity to do the fountains. I think it's a part of our heritage in this state to rally around the humanities and the arts and to, in this case, to be able to re-create, in 2014, a vision for our State Capitol that started in the Depression or prior to the Depression. I think it's a building...I can't even...and we all have the same experience... [LB905]

SENATOR COASH: Time, Senator. [LB905]

SENATOR ASHFORD: ...when we walk into this body every day. So I would urge that we reject this motion. Thank you. [LB905]

SENATOR COASH: Thank you, Senator Ashford. Senator Wallman, you're recognized. [LB905]

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SENATOR WALLMAN: Thank you, Mr. President. Good morning, members of the body. I, too, am against this motion. And I find it almost laughable. You can...we can afford a plane. It isn't just the cost of the plane, folks; it's a pilot, copilot, insurance, hangar fees, you name it. That's all in the cost. That isn't in the cost we got in the budget. That's an ongoing cost. The fountain thing is a one-cost thing we should do. Good...progressive societies pay attention to the arts--paintings, buildings and, also, finish off the project here in this Capitol. Should this be done? Absolutely. And there's other things. You know, we should be looking at other things as well we can cut. And I'm not hearing anything about the airplane. And I watched very closely how people voted last night as well. And they can't afford to help the poor, but we can help the rich--been going on in here too much. Ever since I've been here: tax breaks; tax incentives; freebies; angel investments. We go right down the line. And I voted for all these. Should I have voted for some of them? It's hard to find out. We've got a bill trying to find out if this actually paid us back or paid somebody that shouldn't, maybe, have got the money. So I think this is a good idea, and I'm against this amendment. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Wallman. Senator Avery, you're recognized. [LB905]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. I'm going to vote against this amendment, and I'm going to do so for a couple of reasons. First is my respect for the committee process and my respect for the work that the Appropriations Committee has put into this budget. I never had a desire to serve on that committee, and I admire those who are willing to put in the long hours dealing with charts and numbers, making some people happy and some people not so happy. It's a tough job, but it does certainly facilitate the work of this body. If we did not have committees to divide the labor and to allow for people to get on those committees and serve until they develop some expertise so that they can be of assistance to us when we go to them and we need to have some information on, what are you doing here, and, what are you doing there, and what is the best way to go on this one or that proposal. They are a vital resource, just as every committee member in this body is a vital resource to the rest of us in providing us with information that we cannot have because we are not enmeshed in those issues as are those committee members. So I appreciate that kind of work and the way that we divide labor in this body, and I respect the work of all of the committees. So I'm going to vote against FA313 in part for that reason but, secondly, my respect also for the early work on this and planning on this beautiful building we have here. The fountains remain as the last major piece of work on this building to be completed in the original...from the original design. I think it's a worthy, not if especially expensive, way to honor the past, honor Goodhue and others who worked on this building, and honor our history. We are approaching our sesquicentennial, our 150th anniversary, and it's appropriate that we finish this building in time for that celebration in 2017. And if we don't do it now, I'm afraid we'll miss the opportunity and we never will do it. So that's another reason I'm going to support it. I also have an interest in another part of this

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LB906 override proposal from the committee and that is, of course, the Game and Parks part of it. First, I do appreciate the Governor's support for assisting Game and Parks in eliminating the huge backlog of deferred maintenance projects. They have \$43 million in deferred maintenance; \$13 million of that is for ADA-compliance projects. This needs to be done. In his veto message, the Governor cut \$7.5 million from the Appropriations Committee recommendation. And I read this very carefully. In his message, he simply stated that it was not necessary. And with all due respect to the Governor, I'm not sure that his ability to evaluate the needs of Game and Parks is superior to the ability of Game and Parks to evaluate their needs. I've had many, many conversations with the people in Game and Parks, and they think the \$43 million... [LB905 LB906]

SENATOR COASH: One minute. [LB905]

SENATOR AVERY: ...estimate that they had put on their needs here is a modest estimate. It's not exaggerated. It's not including unnecessary projects. So I'm...I respectfully disagree with the Governor that this is unnecessary, and I'm asking that you support the committee recommendation and that this \$7.5 million be restored. We get this done, and Game and Parks can get some catchup on the deferred maintenance, then you won't have to revisit this in subsequent years. So I'm asking that we reject FA313 and that we proceed to approve the committee's recommendations. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Avery. Senator Mello, you're recognized. [LB905]

SENATOR MELLO: Thank you, Mr. President. Members of the Legislature, I'll yield my time to Senator Nelson. [LB905]

SENATOR COASH: Senator Nelson, 5:00, and you are next in the queue. [LB905]

SENATOR NELSON: Thank you. Thank you, Mr. President and members of the body. First of all, I want to extend my thanks to Senator Ashford for his kind remarks. It's kind of ironic that less than a week ago I was at the Governor's Arts Awards up in La Vista and was presented a nice painting by the Governor himself. And then, of course, we have this. And I have to say, first of all, that I rise strongly opposed to FA313 from Senator McCoy. I think...as you know, the Legislature has many priorities this session, from property tax relief to prison reform to Game and Parks funding and many others. We do all of this work right here in this building, the State Capitol. And, colleagues, we take care of this building, this edifice which reflects the great spirit and the dynamics of the people of this great state of Nebraska. We recently completed a renovation of the Capitol exterior at a cost of more than \$57 million. Now we're beginning a much-needed HVAC renovation which has an expected total cost of more than \$70 million and will

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take about seven or eight years. We need to get started on that. Over the years we have completed a number of buildings' design elements with public dollars, including 20 murals that hang in the Great Hall, the Rotunda, and the Memorial Chamber on the 14th floor. The courtyard fountains are a part of architect Bertram Goodhue's original design, and they are the only unfinished element in the premises. And they would be completed in time, as Senator Avery has said, for Nebraska's celebration of its 150 anniversary of this state. I think I received three e-mails from constituents--and maybe they weren't constituents--that were not in favor of spending \$2.5 million. They wanted that to go for tax relief. Well, as you've heard, this is a one-time appropriation out of the cash fund. And if we don't spend it at this time, first of all, it'll go back to the cash fund and, probably, we never again will have the opportunity to do what we can do at this time. Colleagues, we have the money to do it at this time. The Governor said that it was not a priority in 1932. Well, it wasn't a priority because it was in the middle of the Depression. And I...my recollection is that they had, perhaps, \$300,000 left and there were a lot of things that they weren't able to complete that they would have liked to have done and, in fact, the murals and the fountains. But for the Governor to say that we've done without this now for 80 years and we don't need the fountains now, I disagree with that. I think this is the time. I want to talk a little bit about the cost: \$2.5 million. According to the Department of Revenue, there were 930,082 individual tax returns filed by the citizens of the state of Nebraska--this was back in 2011; I don't have the most current figures--930,000 individual tax returns that were filed. I'm not taking into consideration that they might have been jointly filed. That would make the figures even better. [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR NELSON: You divide \$2.5 million by 930,000, you come up with \$2.86 per person. That's what it will cost all of those individual taxpayers who filed returns to do the Capitol fountains: \$625,000 the first year; \$1.25 million the next year; and \$625,000 to complete it. Two dollars and 68 cents over a three-year period is less than \$1 per person. Colleagues, we can afford to do this at this time. I know that tax relief, tax credits are important, but that has to come from another source, not here. The Capitol Building is a state treasure. It belongs to our people. [LB905]

SENATOR COASH: Time, Senator. You may continue on your own time. [LB905]

SENATOR NELSON: There will always be an excuse to delay the fountains. Thank you, Mr. Speaker. [LB905]

SENATOR COASH: Senator Nelson, you may continue. [LB905]

SENATOR NELSON: All right. Let me continue then and say that it simply is not appropriate in my mind to fund the fountains with private, corporate dollars. We've tried that and it doesn't work. It would almost certainly come with the condition that the

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people or the corporations or whatever that help fund that or come...would want to be recognized in some sort, and that's not appropriate. I think probably that I have covered everything that I need to cover at this time and, if necessary, I'll speak again. I thank you, Senator Mello, for giving me the time to do this, and the additional time. I can say this with regard to funding for the arts: You may not think in terms of fountains as being part of arts, but, in fact, they are. They are contributing and enhancing this building just as the murals have. I think I've described them for you before. They're cast bronze. They're a low fountain. They're a bubbling fountain, and they would be in the center of each courtyard. Bertram Goodhue had them as part of his original design. I don't know if you've gone along the south corridor for the southeast courtyard. There's a statue there of Hartley Burr Alexander, who was a professor at the University of Nebraska. And he was the one that came up with many of the inscriptions that we have all over the Capitol and the statuary. And I think it is fitting that he would be commemorated by that statue there in the hallway. And it's part of art, those statues. I like to walk, and I think you do, along those corridors and see the images of the people who have made an important contribution, often in the arts, here in the state of Nebraska. Hartley Burr Alexander looks out on a bare courtyard. It's almost devoid of grass, no landscaping whatsoever, no fountains. It's my belief and my hope that you will vote against this floor amendment here so that we can go ahead and begin the construction, the planning of...those fountains will, because they're cast in bronze and protected, they will last another 80 years, certainly as long as this Capitol will, in light of all the work that we've done and will continue to do on this Capitol. Up at the awards ceremony for the arts, I think, 15 or 16 people approached and expressed real appreciation for the fountain bill, for the completion of the Capitol. Those people and the things that they like to see that beautify, that give us vision, that give us relaxation, I think, are important. They have use. And I would have to agree with the previous speaker who said there are a lot of people who think that we should complete this work and complete the Capitol. And with that, I, once again, urge you to vote red on FA313. Thank you, Mr. Speaker. [LB905]

SENATOR COASH: Thank you, Senator Nelson. (Visitors introduced.) Returning to discussion, those members still wishing to speak: Senators Christensen, Wightman, Kintner, Gloor, McCoy, and others. Senator Christensen, you are recognized. [LB905]

SENATOR CHRISTENSEN: Thank you, Mr. President. I support FA313. I don't know about you, but I voted against it the first time around. I didn't think it was necessary. I can say, I have not had one constituent say they'd like to have it. And when you look at...and I was even more disappointed once I seen a picture of the fountains. To me, it's just a small bubble-up, just put a little round tank out there and let it bubble up. And to me, that's disappointing. What they will end up choosing I don't know if this passes. But if it goes back to the original as it was shown to me, I was very disappointed. And so I'm...I hope, if you haven't seen it, you'll go back and talk to some of the former senators that are in the lobby that are supporting this and look at it. You know, when you talk of a fountain, I thought we'd see something that would be beautiful, water shooting in the air

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and something very nice, not just a little bowl that's got a little bit of water bubbling up in the middle. To me, that's not a fountain, but, evidently, that's the terminology of it. And, to me, it just is frustrating that...if you're going to spend dollars that we're going to do, then let's make something that's elaborate. Let's make it something that you can be proud of. And, to me, it was just disappointing. Ever since I'd seen the picture, I knew from right then I didn't want it. And I don't know who all has seen it, but I'd encourage you to go back and look at it, because...and again, maybe I should ask some questions, but I'm not sure who gets to make the decision. I was just told it's going to try and look back to the original that was proposed back in 1933 that wasn't a priority then. And I don't see it to be a priority now. Two-and-a-half million compared to the budget is not a big deal. A lot of people would say that. But you'd also have a lot of constituents say: Really, you'd say "not a big deal" on \$2.5 million? And I know it's been compared to the airplane, which I supported, but I'm one of the people that's way out west. And, believe me, I had a number of constituents jump me and say, oh, we don't need an airplane. I said, that's fine, don't ask the Governor to come out here. Well, why? And I said, well, if you've only got one day and you're going to spend five hours driving one way, as I do every week, five hours back on Thursday or Friday and five hours back on Sunday or Monday, it makes you think about, is it worth going? And I understand the Governor has a lot of things on his plate. And if he had to drive it all, he wouldn't do it. So, to me, it is a difference, but it's my perception, because I'm from western Nebraska. And I realize that I wouldn't have the opportunity to have them come out there. And we think it's pretty special out west. We realize we're small in population. But it's still special when somebody can come out in an airplane and speak for a grand opening or a ribbon cutting or whatever the event is. [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR CHRISTENSEN: Thank you, Mr. President. And, you know, whether it was the fires that we had a few years ago up in the northwest corner of the state, he could fly out and see it. He could evaluate it, stop and visit with the people. That's why I don't think it's a fair comparison. And I realize we're talking more dollars on the plane than that. But it's got a different use. And so, again, I'm just saying I don't agree with having the fountains. I'm going to support FA313. I think it's a good approach to reevaluate this again and see what we can do on...about eliminating it and protecting the money. And so, when rough times come, we don't have to take as many cuts out of the schools, universities, state colleges, because in all my times here in the Legislature, when they had budgetary problems, that's where the cuts come from. And so that's why I've always... [LB905]

SENATOR COASH: Time, Senator. [LB905]

SENATOR CHRISTENSEN: Thank you. [LB905]

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SENATOR COASH: Thank you, Senator Christensen. Senator Wightman, you're recognized. [LB905]

SENATOR WIGHTMAN: Thank you, Mr. President. Good morning, members. First of all, I rise in opposition to FA313 and in favor of the committee motion to override MO168. I think people have to consider the fact that the Appropriations Committee is probably different than any other committee in trying to build consensus. There is going to be something that many of us don't think is the number-one item, perhaps, that we need to provide funding for but that we have our own items that we wish to have build consensus. And sometimes there's a trade-off and, certainly, that happens probably more in the Appropriations Committee than any other committee. So I also want to thank the Fiscal Office for the hard work and good work that they do in providing guidance for the committee. But building consensus is important, and it seems to me, we can argue about probably every item in there one by one. For example, the airplane, everybody wasn't in favor of purchasing a new airplane for the Governor and for the state of Nebraska. The heating and air conditioning, that surprised me a little, but the heating and air conditioning, if anything, needs to be replaced. Across the state of Nebraska, I would think that might be one of the most important items and, yet, I realize that the Governor took the position that we shouldn't be doing it at this time. If this isn't the time to do it, when can we do it? When should we do it? It seems, to me, it's fairly obvious that we've reached the point that we should be doing it when snow and moisture is blowing through the windows of the State Capitol. So I consider all of those important. The Supreme Court...I want to speak because the Governor proposed vetoes of about 10 or 12 items out of the Supreme Court. I didn't count them exactly but a large number. The Supreme Court has indicated that all of these are necessary and should be done at this time, that a lot of it is to take into account items that we've previously passed as a Legislature and through the Judiciary Committee. So I think we have to look at the entire budget. It's not just one item. It's building consensus among the nine members of the committee. So with that, I would yield the balance of my time to Senator Mello. Thank you, Mr. President. [LB905]

SENATOR COASH: Senator Mello, 1:45. [LB905]

SENATOR MELLO: Thank you, Mr. President. Members of the Legislature, I just want to make sure I clarify. I only had about a minute last time I got yielded time. But, once again, to clarify, and I think Senator Krist mentioned it, that if we were to adopt Senator McCoy's floor amendment, essentially, that would restrict the appropriation to the Capitol Commission. And it's tied...the actual transfer of the funding is in the Cash Reserve bill. We would have to take on a separate vote on that when we get to LB130. And if we supported the HVAC system moving forward, we would still make the cash transfer to the Nebraska Capital Construction Fund, regardless of what we did on this amendment. Now, obviously, I don't support the amendment. As you heard from other members, doing a budget is an exercise in compromise, an exercise in negotiation, and

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an exercise in understanding that, sometimes, other senators' priorities may not be your own, the same reason that Senator Nelson brought the original bill on this courtyard renovation that was cosponsored by 31 senators in this body. Thirty-one members cosponsored Senator Nelson's bill, which sent a pretty strong message to the Appropriations Committee that this seemed to be a priority of the body. Now the reality is that it may not be a priority to everybody. But I would argue, if you go through any state budget in the history of our state, you will find senators who don't agree with everything in a budget, whether you're at the city council level, county board, the state, or at the federal government level. And I think what we tried to do in this proposal was try to strike balance and, once again, take care of the State Capitol because, once again, this is the people's Capitol. The public gets to utilize this space; the public gets to utilize these courtyards. Children come into this Capitol on an annual basis. They get to utilize this the same way I or any other taxpayer can come and utilize the space, this facility... [LB905 LB130]

SENATOR COASH: Time, Senator. [LB905]

SENATOR MELLO: Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Mello. Senator Kintner, you're recognized. [LB905]

SENATOR KINTNER: Well, thank you, Mr. President. First thing I want to say is I want to thank Governor Heineman. Thank you, Governor Heineman, for trying to instill some fiscal discipline on this body. I appreciate that and there's a lot of taxpayers around this state that appreciate that. I also want to say thank you to my fellow committee members for working hard to try to come up with a good budget. We thoughtfully looked at things we were going to override. We talked about it. Now make no mistake about it, it came out 8 to 1. I was the one vote that did not... I was the one person that did not vote to support this package of overrides. I want to talk a little bit about the process here because everyone on the committee came here to do something and I don't have any quibbles with that. There's no doubt, no secret I'm a conservative. I came down here to try to hold the line on spending and reduce taxes. I have a different priority than the other eight members on the committee and that's fair and that's okay. Where I have a problem is the process we're using here where it's all or nothing. You take it all or you get nothing. I just think that's the wrong way to go. Let's put it in a way that people can understand. You go in to buy a hamburger and they have a hamburger and this is the hamburger you can buy. It's got three patties of meat, it's got Swiss cheese, it's got hot peppers on it, pickles, lettuce, tomato, their own special sauce, and it's got vinegar on it. Now I don't want that burger. I want the things on the burger that I want, which includes bacon, by the way. And I wouldn't go there. I just wouldn't go buy the burger they're forcing me to buy just because I want a burger. I don't want all those things. And when we have a system like this that says you will either vote to take every one of these

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overrides or nothing, I think that's a bad way to go. And there are things I would vote to override, but I'm not going to take an incredible amount of overrides just to get one little thing that I want. And that's the way it was in the budget. To get some good things in the budget, I had to accept an awful lot of spending, and I just think that's the wrong way to go. It's different priorities. It's what's important to you, and I understand that. But I think having to take the entire burger with all that stuff on it is wrong. On the underlying bill, I would encourage people to vote no on the underlying bill and then we can go back and we can look at the things that we really want to override the Governor on instead of an all or nothing process. And I would encourage everyone to vote no on the underlying bill. Now, and let me just say something about the amendment we're talking about by Senator McCoy. Yeah, I heard quite a bit from my constituents--when I say "quite a bit," that's about five or six letters on...or e-mails--on the fountains, and they just said use private money for it, and I got that. And I support this amendment but, you know what, it's the process that's the problem that forces us to go through piece by piece with 30 votes, and that's never going to happen. It's very tough to do. The process is the problem. I think the underlying bill should be defeated so we can start looking at things that we really want to override. And thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Kintner. Senator Gloor, you're recognized. [LB905]

SENATOR GLOOR: Question. [LB905]

SENATOR COASH: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB905]

CLERK: 30 ayes, 6 nays to cease debate, Mr. President. [LB905]

SENATOR COASH: Debate does cease. Senator McCoy, you're recognized to close on your motion. [LB905]

SENATOR McCOY: Well, thank you, Mr. President. Was a pretty short discussion for something that I think is pretty substantial and fundamental to our budget. I value the arts the same as I think all of us do. You know, there's an interesting movie some of you have probably seen recently, The Monuments Men. If you haven't seen it, it's a pretty good movie, talking about protecting the arts and the treasures from World War II in Europe. A distinction, though, I'd make from that movie...because I'm a student of history and I found that movie fascinating. I had previously read the book, very interesting story about a unique period of our history where a relatively small group of individuals saved thousands of years of history in Europe from the ravages of a war, of a conflict. But you know what was going on at the same time that that struggle to save those arts and those treasures were taking place? A conflict to liberate oppressed

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people. Now that's not what's going on here and I'm not drawing that as a parallel, in case anyone wonders. But what I am saying is this. There are other things that go on, as we all know, in our state beyond these walls. This discussion is a valuable one. There is quite a number of senators in the queue that didn't even get a chance to speak on this issue before the question was called, and that's fine. That's our process. But I would imagine the discussion is going to continue, because what goes on beyond these walls is pretty important. And what do we tell the young family that wants to buy a house that's staring \$500 or \$600 of property taxes in the face every month beyond their mortgage payment because of high property taxes in our state? What do we tell the longtime farming family, ranching family that for multiple generations has taken care of the land and helped feed the world and, oh, by the way, drove our economy in the process and gave us the funds so that we could sit here today and talk about a beautiful Capitol that was built with no debt, stone by stone, brick by brick? Because those farm families, those ranch families, those small business owners, those young families that live in Omaha or Lincoln in an urban setting and might not have much of a connection to agriculture, they are paying some of the highest tax burdens of anywhere in the United States. Agriculture pays the third highest property tax burden in the United States. And we still, in spite of all that, are leading the way in so many different areas as a state and we have so much to be proud of. I think it's a mistake to fund these fountains when we didn't do more. The Appropriations Committee, Senator Mello talked about the Appropriations Committee chose to include Senator Davis' bill on property tax money, \$25 million to the Property Tax Credit relief (sic) Fund. Well, there were three bills. One of them was mine. One of them was Senator Pirsch's. [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR McCLOY: There could have been more that was done in property tax relief. Instead, we chose to fund, as a body, other projects. This was one of them. I don't support that. I think this discussion is worthwhile because, let my words not be twisted because they were earlier, what I said was the majority, the vast majority of Nebraskans that I talked to think this is ridiculous, think this is ridiculous. It isn't that these fountains wouldn't be pretty. We've lived without them for 80 years through good times and bad. Why now, before we did more to cut taxes? Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator McCloy. Members, you've heard the closing to FA313. Question before the body is, shall FA313 be adopted? Members, this does take 30 votes. All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB905]

CLERK: 10 ayes, 25 nays, Mr. President, on the amendment. [LB905]

SENATOR COASH: The amendment is not adopted. Next item, Mr. Clerk. [LB905]

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CLERK: Mr. President, I have a second amendment. Senator McCoy would move to amend with FA314 by striking Section 45 from the Appropriations Committee motion. (Legislative Journal page 1309.) [LB905]

SENATOR COASH: Senator McCoy, you're recognized to open on your motion. [LB905]

SENATOR McCOY: Thank you, Mr. President. Well, this has already been talked about some by some members. I don't think anybody is going to dispute that sometimes it gets a little warm in this Chamber--that might be due to our HVAC system, might be due to a lot of us talking, I don't know--and in other areas of the building. Might be cold sometimes. We have aging infrastructure. But I have a lot of questions on this. Hopefully some of that will become a little more apparent because it sure wasn't as we dealt with the budget going through. This project is a lot more in cost than just what's outlined now. This project potentially is going to cost \$77 million. Senator Nordquist talked about that earlier. I have some real questions as, why was this not brought at the beginning biennium and made a capital...part of the capital construction bill? It's my understanding the Capitol Commission didn't ask for these funds. And it's my understanding--and perhaps Senator Mello at some point and if he so wishes I'll give him time at some point or maybe he'll get on the microphone and talk about it on his own time--didn't go through its own rules that you normally would go through for this particular part of the budget. I'm in the contracting industry. A project of this scale is fairly rare, at least in our state. It's very common for there to be cost overruns on a large project. This is going to be very, very involved, with moving staff and offices out of the Capitol quadrant by quadrant. How do we really know what this is going to cost? Sure, we can take a report, which I think has been given by an engineering firm for part of this, and come up with an estimate. Do we really know? And if this project is so worthwhile, why did we not put it through the budget at the beginning of a biennium and fund it like we do regular capital construction projects? Why was it handled in this way? Like a lot of you, I've had different offices in this building. Used to get some snow in my office because of the windows. It's one of the unique peculiarities of this (laugh) of this building that we have, that we love. I don't dispute any of that. You know, it's been said that our HVAC system has outlived its usefulness and now is the time we've got to do something; that it's being held together by, I think somebody said, baling wire and chewing gum. Sounds like a lot of farm machinery I grew up with. You held it together because you had to because you didn't have another option. Going out and buying a new piece of equipment wasn't an option. A lot of Nebraskans do that with the cars and pickups they drive. It's been said the only reason it's still working is because of good maintenance. That's good to hear, in my mind. That tells me we have some very skilled folks that understand our system, that understand how it works and have wisely utilized the taxpayer dollars we spend to maintain our HVAC system. This is about more than just that. This is about fire, safety, windows. I dispute whether or not this is necessary now, and if it is, why we didn't fund this, as I said, through the normal process. And do

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we have a plan to convert from the old system to the new system? That doesn't appear to be part of any of this at all. And my further question, maybe someone will answer this, we were just finishing my first couple years here in the Legislature a long, about a decade long project to revitalize some of the exterior of this building. My question is, did that go through the budget as a capital construction project and was that funded on the front side? It's my understanding that it was. If that's incorrect, hopefully someone will correct me. Why are we not following through the same process to do this that we did for that? Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator McCoy. Members, you've heard the opening to FA314. Those in the queue wishing to speak: Senators Burke Harr, Hansen, Pirsch, Krist, Bloomfield, and others. Senator Harr, you're recognized. [LB905]

SENATOR HARR: Thank you, Mr. President and members of the body. Let me just say I appreciate what Senator McCoy is doing here today. It's amazing. Oftentimes we sit there, we all are on our own committees and when our committees come out we get the "what were you thinking" conversation; "why is this out of committee?" And sometimes bills do come out that we in the committee are sorry we passed, and sometimes a bill comes out of committee and the floor doesn't vote for it. So I think it's good that we're taking this on a case-by-case basis. Let me just say I disagree with Senator McCoy on this one. Our HVAC was first installed in the late '50s, early '60s. I'm going to let you all in on a little secret. There have been a lot of technological changes since then. We have a bunch of new efficiencies. I wouldn't be surprised, to be honest, if this system, this HVAC system didn't pay for itself in a short number of years. I would also say that...address his question about why this wasn't brought with the full budget. I don't have the complete answer. Senator Mello started to tell me but he is much more articulate than I am. And with that, I would yield the remainder of my time to Senator Mello. [LB905]

SENATOR COASH: Senator Mello, 3 minutes 40 seconds. [LB905]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I rise in opposition to Senator McCoy's amendment. I'm a bit disappointed that Senator McCoy would stand on the floor and say some of the things he'd said without reading through his budget book. Page 34 of the yellow budget book, Senator McCoy, points out this was a long, lengthy process that started in 2007, before you and I even came into the Legislature. They did the capital process then and waited and gave it to the Governor and the Capitol Commission which answers directly to the Governor, and they didn't bring forward a proposal over the remainder six years. So what the Legislature did last year in LB198 is we asked for an updated program statement of that 2007 master plan with the understanding that it was already done before but we wanted an updated version to see if cost changed, if the program statement itself changed, and what we would have to consider moving forward on a long-term project to renovate the Capitol

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HVAC system. It's all right there; page 34 of your budget book gives the history. So, yes, it did follow the legislative process. It took seven years to get here though. And I think the Legislature last year, when they passed LB198, we mentioned this was going to be an additional study and it was going to be a priority of the Legislature because the Capitol Commission didn't request it. Why they didn't request it? As I mentioned, they answer directly to the Governor. If the Governor doesn't want the Capitol Commission to request something, they won't request it. So hopefully that answers Senator McCoy's questions in regards to the murkiness of this process, why we didn't follow it, quote unquote, the way we do with everything else. I'll remind Senator McCoy and other members who were here in 2012 there was very little discussion in regards to a, I would say, quicker process that the Legislature took on appropriating \$125 million to the university for projects in 2012 that didn't go through the same capital construction process that the HVAC system went through. So if you oppose generally us doing this, that's one thing. But to stand on the floor and, I would argue, make some somewhat serious accusations that we're skirting process, that we didn't do our homework, that the Appropriations Committee is doing something that maybe it shouldn't be doing, I'd ask that you take a step back, read your budget book--it's laid out in black and white on this yellow book--and read through the process. That hopefully should show this has been a seven-year-in-the-making project study that's been done twice. And, yes, our hope would be the project will cost less in the long-run. I think that's everyone's hope. But I think the Capitol Commission in their updated master plan that they gave to the committee and that we shared publicly, shows that they did their homework, Alvine Engineering did their homework and they have more work to do over the next ten years as we embark... [LB905 LB198]

SENATOR COASH: One minute. [LB905]

SENATOR MELLO: ...on the renovation of the HVAC system. Colleagues, Bob Ripley, who's the director of the Nebraska Capitol Commission, kind of, I think, very pointedly and very candidly said this HVAC system is the equivalent of a car with 500,000 miles on it. Most of us equate when you have a car that's got 200,000, 250,000, it's probably time to replace your car. This has 500,000 miles on this HVAC system and this could go dead at any day at any time. And it's the fiscally prudent thing for us to invest in a long-term renovation of this Capitol's HVAC system in comparison to spending millions of dollars to replace broken pipes, broken venting situations and venting pipes. [LB905]

SENATOR COASH: One minute...or time, Senator. [LB905]

SENATOR MELLO: Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Mello. Senator Hansen, you're recognized. [LB905]

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SENATOR HANSEN: Thank you, Mr. President. I was one of the ones that had my light on, would like to have talked, too, about the fountains. I told Senator Nelson that I'd give him a first-round vote, which we sort of did when we talked about the budget before, but that I wouldn't this time. I've got a picture down...now maybe I'm doing like the historic horse racing. I'm beating a dead horse right now. I've got a picture down in my office that was taken of the Capitol in 1937. In the back, the title of it was "Our New Capitol," and it had all the old '30s cars sitting out in front. But it did have some trees planted around the capitol and they were probably three inches across. Now those trees are probably almost two-foot across, magnificently manicured lawn now, and it's the part that the people see, not necessarily the fountains. But we talk...now I want to switch to Senator McCoy's amendment. This is an amendment that this whole process, and I do remember it from years ago, we talked about that someday we're going to have to do it, someday we're going to have to fix the HVAC system. Senator Harr talked like an HVAC salesman that in 1953 things have changed. We need to upgrade this too. It's going to be quite a process. I mean it looks like it's seven or eight years long and it's going to be expensive. It's going to be dirty. It's going to be dusty. A quarter of the Capitol is going to be moved at one time, to where I don't know. But it's going to be quite a process to go through. This...and that's not going to be self-maintaining either. All these things, including the fountains that I didn't get a chance to talk about, have maintenance issues. I think it was Senator Wallman who stood up and said, you know, this is a one-time expense, and Senator Harms has said that too. I've seen too many fountains in my life that have a lot of maintenance and don't have a very long lifestyle. This morning it was 23 degrees. You know, it would have been great in the Capitol to be able to turn the heat on. Tomorrow it may be 70. I know it was almost 80 here on Monday. So you know, going back and forth would be great. Don't know if any HVAC system could do that, that quickly. There's other items in the budget we need to talk about. There's other items in the budget that cost more than the \$2.5 million for the fountains. My suggestion was, to the Appropriations Committee, was to move that \$2.5 million to behavioral health. If we think behavioral health is worthy of \$10 million more, I know it got moved accidentally last year or a little prematurely, but we could switch that \$2.5 million to behavioral health yet, Senator Mello. We could still switch that now, and don't tell me that the Appropriations Committee can't do that late. They can take a bill off the Governor's desk and bring it back to the Legislature, bring it back to Select File, make an amendment. Senator Hadley lived through that the first year he was down here. There's things we can do with the budget. It's just the will of the body and the will of the people. People I talk to at home, this is my last...going to be my last comment on my dead horse, but people I say, you know, people I talk to, property tax is still number one. And you're going to spend \$2.5 million on landscaping? No, that's not a good deal. Give us some property tax relief. That's what we need. Property tax relief,... [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR HANSEN: ...an addition to the property tax relief fund would go to almost

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everyone in the state, everyone that owned a bit of property, any property. It should go back to renters because their landlord isn't spending so much on property taxes. Senator Cook shakes her head, that is not going to happen, but it should. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Hansen. Senator Pirsch, you're recognized. [LB905]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I would, first of all, like to just rise and address I think some comments that were made earlier with respect to we ought not use...send money back to the taxpayers from the Cash Reserve Fund because that is not sustainable. And I think that our experience in my tenure here in the Legislature is that it is sustainable. In 2007 we did pass property tax relief, property tax credit that every year has returned \$115 million back to the taxpayers. And so it has been done and, quite frankly, it's the right thing to do. Whether or not it's sustainable or just a one-time or a short-time type of proposition, if an amount of money accumulates in our Cash Reserve Fund such that we cannot articulate a present reason that we need it to spend, then I think it is our duty to give that back to where it came from--the taxpayers. So that's irrespective of whether we think we're going to be able to do that on a continuing basis every year for eternity or if it's just for a shorter period of time. That being said, with respect to the floor amendment that we are now considering, I'd like to ask Senator Mello if he would yield to a question or two. [LB905]

SENATOR COASH: Senator Mello, will you yield? [LB905]

SENATOR MELLO: Absolutely. [LB905]

SENATOR PIRSCH: Thank you. So with respect to the HVAC question, if this floor amendment fails and the committee amendment remains and the expenditure occurs this year for HVAC, are we committing with this...what's the total amount this year then? [LB905]

SENATOR MELLO: It's actually an appropriation, Senator Pirsch, of about \$12 million that covers the next three years, next three fiscal years, out of the total \$77 million project over a ten-year period. [LB905]

SENATOR PIRSCH: Okay. And so that's what I wanted to get at. It's \$77 million over a ten-year period? [LB905]

SENATOR MELLO: That is correct. [LB905]

SENATOR PIRSCH: Okay. And so this \$12 million is for just the three years of that, correct? [LB905]

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SENATOR MELLO: That would be fiscal year '14-15 and the next biennium. That is correct. [LB905]

SENATOR PIRSCH: Okay. And with respect to the Governor's veto, why did the Capitol Commission not request funding during the mid-biennium budget process? [LB905]

SENATOR MELLO: Well, Senator Pirsch, as I tried to answer, I think, Senator McCoy's questions on his opening, the Governor serves as chairman of the Nebraska Capitol Commission. So if the Governor chooses not to want to fund something in his budget, thus, the Capitol Commission would not request it. It's a code agency. [LB905]

SENATOR PIRSCH: Okay. And with respect to the...I think Senator Burke Harr had talked about the idea, the concept, that this renovation would actually produce energy savings--I guess it was inferred--such that it would pay for itself. Has there been any studies or any close consideration of that proposition at all? [LB905]

SENATOR MELLO: We actually had requested the Capitol Commission and Alvine Engineering to do a quick analysis. They needed more time to do a thorough energy savings audit, but their initial analysis showed, obviously, with the renovation and update of, you know,... [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR MELLO: ...a 50-year-old-plus HVAC system, there will be energy savings in the project. The likelihood that it pays for the project, they were very up-front with us and said that's highly unlikely you would have that much energy savings in a building, a historic building of this size, that needs to require its still historic nature in regard to some of the infrastructure. But they said there will be energy savings with the new HVAC system and the new window renovation. [LB905]

SENATOR PIRSCH: Okay. So this would be a cost for comfort within the building essentially. I do appreciate that. How much time do we have? [LB905]

SENATOR COASH: Thirty seconds. [LB905]

SENATOR PIRSCH: Thank you. [LB905]

SENATOR COASH: Thank you, Senator Pirsch. Senator Krist, you're recognized. [LB905]

SENATOR KRIST: Thank you, Mr. President. And good morning again, colleagues, and good morning, Nebraska. This is another one of those situations where if you've ever

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been involved with trying to maintain a historic building you understand that it's not an easy proposition. There are so many considerations. And Mr. Ripley does a wonderful job of holding all of our feet to the fire to make sure that the building maintains the integrity that it deserves on behalf of the people who own it--the citizens of the state of Nebraska. But to make an analogy that I would hold my airplane together with baling wire and bubblegum or duct tape, if I was using the Red Green analogy, particularly when it comes to our charge and our duty in maintaining the citizens of Nebraska, their building, I believe I would not make that analogy. I would say that there's time for reinvestment and not throwing, as we would say, good money after bad. In my own situation, had my wife and I decided many years ago that we were going to look at replacing our furnace and air-conditioning system--smaller scale, I understand, family budget involved--I think we would use that same good Nebraska fundamental concept though in saying we would need to fund that process either by setting aside a low-energy efficiency loan at a low-interest rate but arranging for those kinds of things before we would plunge headfirst into doing that. The Capitol Commission actually was founded midway through the major changes that went around the outside of this building. And to Senator McCoy's point, maybe there's additional supervision that needs to go into how that money is spent and what the priorities are from beginning to end. I was involved in a restoration project in an historical building at Offutt Air Force Base and, boy, it would have been really nice to just tear out all the windows, tear off the guttering system and start over again. But those copper gutters are not cheap and those windows and the integrity of the building had to be maintained. So it is more expensive to maintain a historic building and certainly to try to bring it up to efficiency and energy code is relatively impossible, not impossible but relatively impossible. I can remember sitting in this Chamber and hearing stories about where the heating and air conditioning actually came from, and I think many of you remember a story that was told of Speaker Brashear one day standing in front of this body and making sure that the University of Nebraska understood that they were going to discuss the university's budget next week and until the air-conditioning system went on, it might be more difficult to pass that budget because the switch gets turned on at the other end of the Capitol Parkway down to the university. It has outlived its usefulness. It is in our best interest to make a reinvestment in this building. It's a ten-year project that it will be money spent and money saved throughout. The realization of the actual savings may not come for years down the road. Why now? I don't know. Because it's time. It's time for us to stand up and say those people in the '30s, the '20s and '30s who wanted to build their Capitol did it. Those people that wanted to preserve... [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR KRIST: ...the outside of this building did it. And we have to have the resolve to make sure that we continue to keep this building up and that means maintaining the HVAC system and, quite frankly, the windows so I'm not making snowballs on my ledge. So with that, I thank you, Mr. President. [LB905]

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SENATOR COASH: Thank you, Senator Krist. (Visitors introduced.) Senator Bloomfield, you're recognized. [LB905]

SENATOR BLOOMFIELD: Thank you, Mr. President. Colleagues, I can't let Senator Hansen have the last kick at the dead horse, that is, the fountains. The idea that we're going to spend the money on those fountains just doesn't appeal to me at all. But what appeals to me less is comparing them to the airplane. Comparing something that might be pretty that a very small percentage of the people of Nebraska will ever see to dependable, safe transportation for our chief executive is insane. Very few people, given the population of Nebraska percentagewise, will ever see the fountains. The Governor is charged with traveling the state and sometimes beyond, and it's our obligation to keep him safe as we possibly can in that process. Making the airplane the whipping boy for everything that some of us don't like in the budget, throwing that red herring out there that, well, the Governor can buy an airplane but he can't do this or he can't do that, colleagues, that's fundamentally wrong. I will probably support most of the Governor's vetoes, most of them, not all of them. But the idea that we keep going back and tying them to the purchase of the plane is just wrong. Thank you, Mr. President. Mr. President, I'd yield the remainder of my time to Senator McCoy. [LB905]

SENATOR COASH: Senator McCoy, you've been yielded 2 minutes and 50 seconds. [LB905]

SENATOR McCOY: Thank you, Mr. President. Thank you, Senator Bloomfield. Something Senator Mello said a few moments ago caught my attention. Maybe it did yours as well. I think...would Senator Mello yield to a question, please? [LB905]

SENATOR COASH: Senator Mello, will you yield? [LB905]

SENATOR MELLO: Absolutely. [LB905]

SENATOR McCOY: Thank you, Senator. I think you talked about an initial energy audit and review. Is that correct? [LB905]

SENATOR MELLO: No. Actually, it was a quick analysis of how much energy the Capitol is currently using, where they think there could be energy savings. Alvine Engineering came back and said, we need more than three weeks to be able to do an actual energy audit of the Capitol. [LB905]

SENATOR McCOY: And has that been done? [LB905]

SENATOR MELLO: No. [LB905]

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SENATOR McCOY: So we are talking about embarking...thank you, Senator Mello. We are talking about embarking on at least, members, with the cost of inflation it could very well be a lot more than this, at least a \$77 million project without a full...without waiting for a full analysis of this, the potential ramifications of this. Why? That doesn't make any amount of sense at all. I don't care whether you think this project is a good idea or a bad idea. That just doesn't make a whole lot of sense that we would spend taxpayers dollars. And I might remind those of us, and I think a lot of us see it this way, when we have the kind of funds we have in the Cash Reserve that we have today...is it one minute, Mr. President, or no time? [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR McCOY: Thank you. I might remind you that's because we have overtaxed Nebraskans. That's why we have the funds that we have in the Cash Reserve. We're now talking about using part of this Cash Reserve to start a project, to initially fund a project that we don't even know what the full cost is going to be with potential overruns. We don't know what it's going to be with the cost of inflation. You know, what springs to my mind is a project the federal government did called the "bridge to nowhere," with no plan for how that money was going to be spent. Why are we doing this outside the normal budgetary process at the beginning of a biennium when we would have had time for a full report from the engineering firm? Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator McCoy. Senator Scheer, you're recognized. [LB905]

SENATOR SCHEER: Thank you, Mr. President. I rise this morning not necessarily to oppose LB905 or oppose FA314 or MO168. What I rise to do is to talk and ask your consideration in relationship to how our process has worked. I'm not being critical of the Appropriations Committee. The Governor took the five days that is allowed to him to look over the budget. He and his team did a thoughtful approach based on their thoughts in relationship to what they thought the state could do without. Thus, we received the vetoes. I'm not supportive or opposing those. That's just the facts. They took five days to get those...that information back to us. It was relayed to us essentially Saturday, because that was the fifth day. Most of us did not receive that information until Monday morning when we got to our offices, although it was e-mailed to us, but we didn't really have the time to look at it. Yesterday afternoon the Appropriations Committee met and reviewed those vetoes and came up with a list of those that they wish to override. Again, I'm not trying to promote or oppose them, but that is the fact that what happened yesterday afternoon. We in the body were not informed of what those were, literally, until either last night when you received your e-mail, if you were still awake, or this morning. And now this morning, at 9:15 or 9:20, when we met, it's the first thing that we're doing in relationship to overriding those vetoes. Fellow Senators, we have the same amount of time that the Governor has. We have five days to look at

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these. We don't have to do them in a two- or a three-hour concept. I don't know that I don't support every one of the overrides or that I support any of them. But if we had some time to have some thoughtful looks and to try to gather additional information, because these vetoes are vetoes, they should make us pause, we should take some time to deliberate them and to make some thoughts. But having a couple hours at the best to digest this to me is not good policy. Yes, I know that we're now on Day 54, but that doesn't release us of our ability and our obligation to look thoughtfully at everything that comes in front of us. From a budgetary standpoint, the dollars are not huge percentagewise from the paces of the entire budget. But are we doing justice to what we should be doing in such a short period of time? The budget, truly, is about the only thing we have to do, and this is now the final component of that budget process is looking at the Governor's vetoes. It's too late now but I certainly would have appreciated more time between that. I don't know that perhaps waiting another day would have necessarily killed the process, but it would have given all of us... [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR SCHEER: ...the time to meet with those that we use for information or do some things on our own to research these things. And, yes, each one of us have voted on probably every one of these items. Not one thing may change but I still believe that we should and should have been able to take the time to truly digest what we are trying to either accomplish by an override or what the Governor was trying to accomplish by his veto. And I think to a certain extent we have not done that through thoughtful consideration. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Scheer. Senator Chambers, you're recognized. [LB905]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask Senator McCoy a question. [LB905]

SENATOR COASH: Senator McCoy, will you yield? [LB905]

SENATOR McCOY: Yes. [LB905]

SENATOR CHAMBERS: Senator McCoy, you had said the Capitol Commission did not ask for this project. Is that correct? [LB905]

SENATOR McCOY: Correct. [LB905]

SENATOR CHAMBERS: Did you by chance, and I'm asking because I don't remember, vote for the bonding for building roads? Do you remember whether you voted for that bill? [LB905]

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SENATOR McCOY: I did. [LB905]

SENATOR CHAMBERS: You did? [LB905]

SENATOR McCOY: Uh-huh. [LB905]

SENATOR CHAMBERS: And the Department of Roads did not ask for that, did they? [LB905]

SENATOR McCOY: They did not. [LB905]

SENATOR CHAMBERS: In fact, they opposed it, didn't they, if I'm not...thank you. That's all I will ask. Members of the Legislature, here's why I asked that question. Circumstances alter cases, even Senator McCoy voted for something that the Department of Roads, which would be the beneficiary, did not want and had spoken against. So that is not really an argument for or against what we're talking about now. What I see as significant, because I had a car with 510,000 miles on it, you grow attached to it, you're used to it. I felt like I was betraying a friend. And I actually heard that car, Senator Janssen, when I dropped it off at Superior and drove away in that little Fit, I heard it say, what did I do wrong? And I almost turned around and rescinded the deal, but then I became realistic. There's only so long that mechanical things can have a useful life. Once deterioration sets in, it's not going to self-correct. This building has been deteriorating. The heating and the air conditioning are extremely important, if you come here, like I do, all times of the year to do the work to try to earn every penny of that \$12,000 a year salary. I get \$800 and some after the two governments take what they want, which comes out to about \$5.74 an hour. But I don't even get that much because of the number of hours I put here, but it gives me an opportunity to see how this building functions as far as the temperature early in the morning, in the middle of the day, late at night, during all seasons of the year. And I think to turn our back on the need to take care of this inner structure is a mistake. The amount of money is large if you reckon it according to some standards; not so large if you reckon them according to others. Senator McCoy gave the answers to the questions he was posing. Why would you go forth with a project like this when you don't know what inflation will be, the cost of this, the cost of that? He is stating all of the variables that make it impossible to anticipate what the cost is going to be, and that's why you make estimates. If everybody knows there might be overruns, you bargain about that. If you reach a solid date by which something is to be finished, if it's not finished by that date there are liquidated damages where a certain amount is taken from the contractor. All of those things are a part of it, and Senator McCoy understands that better than most of us because he's in the contracting business. We're not talking about contracting right now. We're talking about political issues. This issue is politicized because the real matter we're dealing with is the Legislature versus the Governor. He cannot run again. He's going out the door.

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This is his last hurrah, his last chance to stick his finger in the eye of the Legislature and laugh, as was pointed out earlier, condemning for there not being property tax relief. But in his budget proposal he put nothing, nothing whatsoever. [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR CHAMBERS: I think one of the very important things that we ought to do as a Legislature this session is, if you want to talk about a legacy, do something that will put this building in the shape it needs to be in. This is a first step and I support it as I will support other things. But when you have a car and it's a stick shift, the clutch, when it starts to go, you can go a little bit further but you don't know when it's going to completely go. The brakes you can hear a little squealing in any kind of car and you need to get them fixed. Your radiator might be giving you a problem and you don't know when that's going to go. So you can analogize from other things we're familiar with to what can happen to this building if we allow the deterioration to continue. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Chambers. Senator Janssen, you're recognized. [LB905]

SENATOR JANSSEN: Thank you, Mr. President and members. And, yes, Senator Chambers, I do recall when you traded in your vehicle and I recall thinking how sorry I felt for the used car or the new car salesman when he had to negotiate with you for a new car, but you told me that went very smoothly. I would like to actually applaud Senator McCoy for bringing this to light and bringing the last issue to light. Speaking of the dead horse, it's not quite done being kicked yet because I voted against that and that's originally what I turned my light on to speak to. I did not think that was necessary. I do not think that is necessary. I'll continue to think that's not necessary. Kind of reminded me of driving home the other day and I came in the house and my wife goes, hey, did you notice anything. I said, oh, you did your hair. No, I didn't do my hair. I just...that's my fallback. She said, I pulled out all the landscaping out front and we're getting new landscaping, which I have pushed back, pushed off. It's probably overgrown. I don't look at it a whole lot. And so I lost that vote in the house and, as it turns out, we lost the vote on what I deem unnecessary spending but somebody else deemed it necessary, and that's our process here so I'll live with that. I would say on this particular floor amendment, now, expenses, I don't try to push off, would be something like this when it comes to that. I do usually win those battles. Well, lose them all but at least I get a say in this in redoing whatever our HVAC system is and whatnot. And you know, I don't...I guess I don't need to have the audit. I'm not a professional on this for the...whatever the HVAC system is. I think I'll just trust the butcher on this one. I guess the best audit we've had here for me is the last six years working in this building. Something is not right and I think we could all probably agree on that to some extent with the HVAC system. And we do owe it to the people coming to this building to at least

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have somewhere cool in the summer and warm in the winter, although, I mean with the new fountains, maybe everybody is going to be out in the courtyards looking at them so maybe we don't need this. So now I'm torn. But with that, I do applaud Senator McCoy, and if I have any time remaining, I would yield the balance to Senator McCoy and encourage him to continue bringing light to these issues. [LB905]

SENATOR COASH: Senator McCoy, you've been yielded 2 minutes 20 seconds. [LB905]

SENATOR McCOY: Thank you, Mr. President. Thank you, Senator Janssen. I'm going to lead off where I think I ended with the time I was yielded from Senator Bloomfield a little bit ago and say...and I'm not the only one in here that's familiar with the construction process. Now that is a widely diverse area. When you talk about projects of the scale and magnitude of anytime you're dealing with a building like our Capitol that's on the National Historic Register, very historic building, versus building a home or a small project, obviously different scales. But what is important I think is that you don't go into that process...no one that's building a home, custom home for someone, starts into that process and says, well, we're going to build a home without having an idea of what it's going to cost and how long the project is going to take so that you can build a budget. That's how you do a project. So I'm not sure why we went into this with a quick analysis. And by Senator Mello's own admission, the engineering firm said, well, three weeks wasn't enough to really... [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR McCOY: Thank you, Mr. President,...wasn't really enough to do a full analysis. Then why on earth are we going this direction without a full analysis having been done? Why is it that that couldn't wait and a full analysis be done over the interim this year and this project come through the capital construction process starting next January? I think our system...I have a lot of faith and confidence in the great employees and the great partners we have here at the Capitol and with the state of Nebraska, some very, very dedicated public servants who many of them have spent their careers in this building or somehow connected with our state government. They're wonderful people. I have a lot of faith and confidence in them. And I would guess... [LB905]

SENATOR COASH: Time, Senator. Time. [LB905]

SENATOR McCOY: Thank you. [LB905]

SENATOR COASH: Thank you, Senator McCoy. (Visitors introduced.) And Senator Christensen, you are recognized. [LB905]

SENATOR CHRISTENSEN: Thank you, Mr. President. First of all, I'm going to say I do

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support working on our heating, cooling, air conditioning because of the fact three times in my career down here--I've been in the same office for eight years--I've had water leaks that have come three to five foot out into my office. And I think at times what if we'd had a big leak instead of just an itty-bitty pinhole with the pressure that's on, how much we have had on that? This is one of the areas that I do support overriding. But I wanted to state just why I'm that way with the experiences I've had in the office. And at this time, I'd like to yield my time to Senator Mello. [LB905]

SENATOR COASH: Senator Mello, you've been yielded 4 minutes 20 seconds. [LB905]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. First off, just so everyone knows, Senator McCoy and myself have to work extensively in regards to an organization that he's going to be the national chair of, Council of State Governments, and so we get to work with each other in that avenue. And I want to make sure I'm trying to be as respectful and polite to a colleague that I got to continue to work with, even though I fundamentally disagree with the talking points that he's saying right now in respects to this particular override. There was a full analysis done in 2007, colleagues. Last year you voted to ask the Capitol Commission to do another updated analysis and I have them right here, right here, the full analysis from last year. So when Senator McCoy tries to take up bits and pieces of what I've said on the floor to make an argument of convenience, I have the information if you want to look at it. What I said was we are replacing this HVAC system not for the purpose of saving energy. That is obviously an added bonus of why we need to replace a 50-year-old system. The reason that the committee decided to replace the system is because the risk of failure. The system could fail tomorrow. We asked Alvine to do a preliminary analysis of would there be energy savings with this new system. They said, yes, there will. If this gets approved by the Legislature, obviously we will do a more extensive energy audit of the Capitol in relationship to an HVAC replacement, but that will take place over a three-year period. So hopefully that clarifies Senator McCoy's argument against why we shouldn't do this, because there wasn't, quote unquote, analysis done. Colleagues, there was more analysis done on this than arguably anything else that's been done in the Capitol. Let me be clear. There was more analysis being done on this HVAC system than arguably anything else done in the Capitol. I hope that clarifies Senator McCoy's concerns and questions. Once again, I'll remind everyone Senator McCoy continues to raise this murky issue--and I won't take offense to it right now, but if he continues to bring it up I just may--that somewhere along the lines the Appropriations Committee didn't follow a process, that we somehow tried to sneak this through or it's just not needed right now and we don't really know what the cost figures are and why would you build something that you don't know the total costs. Colleagues, this analysis done by Alvine shows the cost of the project, full cost of the project. And it also incorporates things that no one has really brought up today in regard to why they want to sustain the Governor's veto, which is the generator that's part of this that's needed in case, obviously, LES's electrical system goes out; the fire and safety, which was a big concern of members of

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the Appropriations Committee that we don't have a sprinkler system in case there is a fire in the Capitol to deal with fire and safety issues. Colleagues, this has been a very vetted project and the difference is this. This has gone through the regular process seven years ago and has sat in the Capitol Commission because the Governor, who chairs the Capitol Commission, does not want to make this a priority. The Legislature, on the other hand, has made this a priority. And as I mentioned last year and as I mentioned this year, the Legislature has consistently made taking care of the people's Capitol a priority and that is what we did in this budget. That's what we did... [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR MELLO: ...last year in the budget. And my hope is in the future the Legislature will continue to do that. So hopefully that answered Senator McCoy's questions and concerns and somewhat, I would say, erroneous talking points this wasn't vetted, that we don't know the cost, that there hasn't been a full detailed analysis of such a long-term project. Colleagues, this has been, as I mentioned, the most vetted project you could imagine. And the Appropriations Committee voted 9-0. Even Senator Kintner, who opposed the budget, felt this was a priority because we have to do something on this now. We are wasting millions of dollars not trying to replace the system. And, yes, I'm a believer in energy efficiency. We incorporated intent language to ensure energy efficiency is a priority in this project. But we replace this system, colleagues, due to the risk of failure and that is why we have to replace this over the next ten years. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Mello. Senator Gloor, you're recognized. [LB905]

SENATOR GLOOR: Thank you, Mr. President. Good morning, members. And I would echo that my personal feelings on this issue, and I am not in support of FA314, fit into the category of what Senator Mello was talking about. I do think the Appropriations Committee has a process and I trust the Appropriations Committee process and I trust the members to work through these issues. I trust even more the staff, given my previous life. I have a great level of comfort once I get to know, once I've seen the work of individuals, in deferring to those individuals who I think have far better abilities to discern some of the difficult issues we deal with, especially in areas of finance, than perhaps I do individually, perhaps any senator does individually. And we have great staff that fit into that category and I trust their work. Senator Harms early on in our discussions on these veto overrides said something, and I'm going to paraphrase him, which is, pay me now or pay me later. What we're talking about in this budget, in these numbers, fits into that category. And although we've talked about HVAC and drifts on windowsills when the snow flies and the wind blows, clearly this building is a treasure and one we ought to take care of. But there are other issues that have to do with pay me now and pay me later. It has to do with areas of behavioral health. It has to do with

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areas of Medicaid in this state and the courts and our institutions, areas where we seek in this budget and we seek with the override to keep monies to take care of problems that fit into the category, as far as I'm concerned, of pay me now or pay me later. Senator Hadley, would you yield for a question? [LB905]

SENATOR COASH: Senator Hadley, will you yield? [LB905]

SENATOR HADLEY: Yes. [LB905]

SENATOR GLOOR: Thank you, Senator Hadley. Senator Hadley, there's been a lot of discussion about tax relief or the perceived lack of enough tax relief this year, but it is my understanding that this isn't a one-shot issue. Obviously, there are questions of who's going to be serving in the Legislature next year and leadership that moves us in that direction. But it's my understanding that there's going to continue to be an emphasis on further tax reform, including property tax relief in the future. Is that correct? [LB905]

SENATOR HADLEY: That is absolutely correct. This was not a one-time shot this year. This will be something that the Revenue Committee and the body of the Legislature will be looking at for years to come. [LB905]

SENATOR GLOOR: Thank you, Senator Hadley. We're making moves in that direction, property tax relief, tax relief in any number of areas. We also need to make moves that improve in other areas that I think have gotten short shrift when it comes to the whole category of improvements in institutions, in the courts, behavioral health. Pay me now or pay me later. We're going to have to pay for some of these things at some point in time, and to be shortsighted and charge after tax relief now with dollars that we're going to have to come up with eventually anyway is penny wise, pound foolish, to use another quaint saying that's out there. I'm supportive of what the Appropriations Committee is proposing. I'm probably not going to be supportive of any of the amendments to change any of that. I will listen, but right now I am not in favor of FA314. Thank you, Mr. President. Thank you, members. [LB905]

SENATOR COASH: Thank you, Senator Gloor. Senator Brasch, you're recognized. [LB905]

SENATOR BRASCH: Thank you, Mr. President, and good morning, colleagues, friends all. I do stand in support of the amendment, the FA314 to MO168, and the reason I stand is, you know, I acknowledge and understand that we are unique. We are the one and only Unicameral in this nation. We all acknowledge that and take pride in that fact. But we also acknowledge and take great pride in the fact that we were brought here to serve the second house and that second house are our constituents, those who we represent, those who entrust us to come here during the legislative session and look

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after their interests. We went throughout the state, as the Tax Modernization Committee, as senators, as representatives, and we listened to the voices of that second house. Their number one priority was tax relief. When I took office four years ago, and I'm confident that it was where many of you went door to door, whether it's eight years ago or two years ago, individuals asked, do not raise our taxes. Four years ago when we took our seats here and before that, we had a deficit. I believe it was \$800 million and some, close to a billion, \$896 million. We sat down and we looked at the obligations that fiscally we could not meet. At that point, four years ago, we had to take from the Cash Reserve to meet those obligations to deliver the needs and services of our second house. Now as we changed with our economy, our constituents and our Cash Reserve and our state checking account reflects \$1.2 billion, and our good citizens in good faith with their expectations said, give us our money back, at least a portion of it, at least something, show us something. We did very minimum in tax relief this year. Yes, we are talking about next year but when we go door to door, county to county across the state and we ask our second house for their words, their priorities, doing just that is what our priorities need to be. And we have not done that. I, too, had an ag land value reduction bill that did not see the floor and people are asking me, where's the income tax relief, where's the property tax relief, and we have so little to show of that. We don't want to disappoint our second house because they entrust us to come to this house, this house of brick, stone, and mortar. They built this house to have us come here and represent that flesh and blood and sweat equity that they put into day-to-day living. And I do understand that there are many needs physically in this great institution and I do understand that the fountains are a tremendous tribute for our 150th anniversary of this state. [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR BRASCH: But we turned a deaf ear on the number one priority. I believe it would be a good thing to invest and finally finish that blueprint that we can pass on to history, not we the Unicameral but we the people of this state, to move it forward. And so with that, I do think that we need to look more closely at how can we bring more back, how can we reinvest, not in the facilities, not in a fountain, but in the people that we serve. With that said, I do believe that it is reasonable, it is understandable and most appropriate that the Governor did line-item vetoes totaling \$60 million-plus to return into the taxpayers' pockets. So today we need to think carefully on... [LB905]

SENATOR COASH: Time, Senator. [LB905]

SENATOR BRASCH: ...whose priority. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Brasch. Senator Wallman, you're recognized. [LB905]

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SENATOR WALLMAN: Question. [LB905]

SENATOR COASH: Question has been called. Do I see five hands? I do. Question before the body is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB905]

CLERK: 26 ayes, 4 nays, Mr. President, to cease debate. [LB905]

SENATOR COASH: Debate does cease. Senator McCoy, you're recognized to close on your amendment. [LB905]

SENATOR McCOY: Thank you, Mr. President. Well, I think we've had a good discussion on this issue. I remain adamant in my opposition. I might be in a minority. That may or may not be the will of this body, but that is in the spirit of how we go about our business. I think this particular path we're about to set foot on, if we don't pull this out of this override motion, is one that we're doing without all the due diligence that we should. Contrary to what Senator Mello says, I'm well aware of what's been done in the past, but that's some number of years ago. And while there may have been some revamping of that plan that was done last year, this is a very, very complicated process that we're setting out to undertake. Moving an entire quadrant of the Capitol, quadrant by quadrant out of the building, where are we all going to go? What will be the security? How will we handle communication between that satellite office location and this Chamber? All of that, all of those I think are important questions to ask. Perhaps they've been touched on in some report; perhaps they haven't. All of this is very, very important, I believe, to this discussion. I don't think it's possible, with a project that's going to last this length of time, that we have a really accurate portrayal of what the cost is going to be. You know, I've been in the construction business most of my life. It's very difficult to predict from year to year what the costs of construction material is going to be--very, very difficult. If somebody can look into a crystal-ball and say over the ten-year period, decade length of time that this project is going to take, or hopefully shorter than that, that they can judge and be on the money, on the button with what the cost is going to be, I'd say they maybe ought to be in a different business than engineering because they'd be way better at it than most of us. It's very difficult to judge that. That's why so many times I said earlier there are cost overruns on projects like this. I don't know why this wasn't evaluated on the process, let's do this in the shortest period of time possible, because we know it would be cheaper to build this in a shorter period of time than what it would be to drag it out for some number of years. It could be done sooner than that, I'm sure. You know, Senator Mello is correct. He and I both have the opportunity, blessing, I think, the good fortune, while sometimes we may vehemently disagree on things here, we are staunch allies and friends of the Council of State Governments, and he knows as well as I do a recent past national chairman of the Council of State Governments was the former Senate Majority Leader, Jay Emler from the state of Kansas. [LB905]

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SENATOR COASH: One minute. [LB905]

SENATOR McCOY: Their state capitol renovation project, colleagues, was something they waded into a number of years ago thinking, well, it's going to cost about this amount of money. Last time I checked, that project is nearing an overrun cost of \$300 million. Now they're doing a little more than what we're anticipating doing here. Not comparing the two, I'm saying it's very difficult to predict with accuracy the costs when you're dealing with a historical building. That's why I bring this motion to us today. This can wait until the beginning of the biennium. Thank you, Mr. President. And I would ask for a roll call vote in reverse order, please. [LB905]

SENATOR COASH: Thank you, Senator McCoy. Members, you've heard the closing to the FA314 to the Appropriations Committee's motion. Question before the body is, shall the floor amendment be adopted? There's been a request for a roll call vote in reverse order. Mr. Clerk, please read the roll. [LB905]

CLERK: (Roll call vote taken.) 8 ayes, 33 nays, Mr. President, on the amendment. [LB905]

SENATOR COASH: Floor amendment is not adopted. Next item, Mr. Clerk. [LB905]

CLERK: Mr. President, Senator McCoy would move to amend the Appropriations Committee motion by striking Section 12. (FA315, Legislative Journal page 1310.) [LB905]

SENATOR COASH: Senator McCoy, you're recognized to open on your amendment. [LB905]

SENATOR McCOY: Thank you, Mr. President. This would be the section for the Nebraska Supreme Court and the new \$7.4 million in General Funds. It's been talked about a little bit this morning. I believe it needs to be talked about more. This would be for the juvenile services project contingency. This is \$7.4 million in new General Funds being appropriated to the Nebraska Supreme Court just in case there's a shortfall in dollars already appropriated and provided to the Supreme Court. We all remember when we passed last year LB561 and LB561A which Senator Ashford and others did a tremendous amount of work on and we all appreciate that effort. It was a major juvenile reform law. I supported doing that last year and none of us wants to jeopardize that project, I don't believe. I don't recall, though, anytime in the six years that I've been here, at the last minute, the eleventh hour we're putting in money to this degree just in case an agency doesn't have funding for a program. I don't recall that ever happening. I'm sure someone will say, but wait, here's an example. I don't recall it. I'm not a member of the Appropriations Committee. I am a member of the Revenue Committee. I

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do watch pretty closely what the Appropriations Committee does in their arena, as they watch very closely what we do in ours. You know, when we did the two-year budget last year, there was a lot of new spending with LB561. Now we're being asked, we were asked, it was advanced by the Legislature again that I didn't...bill that I didn't vote for and now Governor Heineman has line-item vetoed this portion out, we're asked to support this as just contingency funding, contingency spending. This is funding, again, that was not requested by the Supreme Court and this money was sought very late in the Appropriations Committee process. You know, I think if you go back and look at the time line, I think this money was requested after the Appropriations Committee public hearing process was finished and the committee amendment was released. And as the Governor said in his veto message that I'm sure we all read over the weekend, this appropriation represents an additional 37, almost 37.5 percent over the total amount of funds we agreed to last year. Why? You know the Governor talked about in his press conference on Saturday, it's been reported by the media that an analysis of the year-to-date spending through the end of February of this year reveals the Supreme Court is estimated to underspend, underspend their General Fund appropriations in this same program by approximately \$8 million by the end of this fiscal year, \$8 million. If that holds true and this \$7.4 million stays, we're looking at almost \$15.5 million of overbudgeted appropriations to this program. Again, that's almost 37.5 percent more than what we agreed to last year. Why? And why so late in the game? Why so late in the process? I'm sure we're going to hear from Senator Ashford. I'm sure we're going to hear from Senator Mello, maybe others that say, well, we ought to err on the side of caution; this is such an important program and it's such an important area that we ought to err on the side of caution. I think, colleagues, there's caution and then there's just what I would call just plain overspending of hard-earned taxpayer dollars. That's what I think this represents. I'll tell you, this one probably bothered me more than any other coming through the budget, or was one of the chief ones. I don't understand it. It doesn't make sense to me. And I haven't heard any explanation as to why it's there. I didn't hear an explanation, unless I missed it, in the discussion as this went through the budget process before the budget was sent to the Governor. I bring this up today to have that discussion because I don't believe we heard an explanation of it then. Maybe we will now. This doesn't make sense. And I'll go back to what I said earlier, lest anyone twists my words: The vast majority of Nebraskans I think would look at this and say, what are folks doing down there? This doesn't make a bit of sense. Now there's many things we do in government sometimes that may not make a whole lot of sense, and then there's times that we do things that we ought to use more common sense. This is one of them. Why would we embark on putting this amount of money, General Fund dollars, towards a program that isn't even going to utilize the budget that we've already given them? Where is that money going to go? What's it going to be used for? I think there ought to be answers to those and, I'm sure, other questions maybe that others might put before the body. Thank you, Mr. President. [LB905 LB561 LB561A]

SENATOR COASH: Thank you, Senator McCoy. Members, you've heard the opening to

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FA315. (Visitors introduced.) Senator Johnson, you're recognized. [LB905]

SENATOR JOHNSON: Thank you, Mr. Speaker. I've had my light on most of the morning and I was primarily going to talk about the first two amendments. And both of them were voted down and that was the way my position was. So I'm going to talk a little bit, then I'm going to give the rest of my time to Senator Mello. First of all, I respect the committee process. When I came in the Legislature two years ago or almost two years ago, I looked at all the bills and I said, wow, how am I going to get through all of this? And I learned to respect the committees. I learned to respect the diligence that they put into their study, to the hearings. They're the ones that get all the information and make their decisions. Then it comes to this body and we listen to that. We have questions. And sometimes we can perfect the bill and sometimes, not too often, do we totally defeat a bill that's come out of committee. So I do respect the committee. Then we voted, we vote on the project. We vote on the budget, in the case of the Appropriations Committee, and we vote on the budget and collectively we agree. Not everybody agrees, but we had great discussion on that. Now we come back and we talk about the veto. I still support the recommendations of the Appropriations Committee and I believe it's good discussion today. I've been very frustrated once in a while with when we get drifting off into other subjects and we don't talk about amendments, but today we are truly staying on the subject, staying on the amendments, and I really appreciate that. The amendment that's up here now, FA315, it's a little bit different amendment than the first two. And I would like to yield the rest of my time to Senator Mello. Thank you. [LB905]

SENATOR COASH: Senator Mello, 3 minutes. [LB905]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I'll do my best in 3 minutes to calm Senator McCoy's outrage in regard to this, quote unquote, secret appropriation that occurred on Select File that no one else in the body decided to make comments on. First off, something that Senator McCoy didn't mention, this is reallocated funding within the budget. So, yes, while it may be new spending for the courts, we actually cut the \$7.4 million from HHS to make this happen. So there's a concern of this overspending and this great amount of spending. Well, we actually made this budget neutral because this was an issue that was raised about a month ago. But the court said, we're going to have to do more time and do more diligence to bring down what they thought was originally, Senator McCoy, an \$11 million deficit, based on the memo I passed out today. You can read it. Senator McCoy may agree with the executive branch on this particular issue. I'm going to side, colleagues, with the Supreme Court and the Legislative Fiscal Office who did their due diligence over the last month and said, look, it's come to our attention they've spent the \$19.7 million and/or have obligated it; you're going to have to give them a deficit to get them through the remainder three months of the budget year. I suggested, if that's what we need to do, then we need to reduce spending somewhere else so we don't take it away from the

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\$91 million we left on the floor with our original budget. The Appropriations Committee met, voted on this item as a committee to make sure it wasn't, quote unquote, some secret amendment that would be dropped at the last second. Members had questions. The Fiscal Office answered them. We brought it out. I moved it on Select File. If you have questions or concerns, come talk to me, colleagues, come talk to the Fiscal Office. They'll walk you through exactly what the Supreme Court did in their memo. They've spent the money so far at the end of the month of March. I'm going to trust the Supreme Court on this issue more than I'm going to trust Governor Heineman and/or his Budget Office. Why? Because the Supreme Court took over juvenile justice reform last year. And they made it fairly clear to me, as we discussed this issue: If you don't want to give us a deficit on this, even though we told you last year it was going to cost more than the \$19.9 million you put in your fiscal note and we said we would likely come back with a deficit, if you don't want to fund this don't expect to reform juvenile justice the way that you and the other legislators expected it to occur. Because if you're going to shortchange juvenile justice reform the same way HHS has shortchanged it for a number of years, you're going to get the same kind of results. And, colleagues, I don't want to see the same kind of results in juvenile justice reform that we've seen because we've shortchanged it. I have no reason to doubt the Supreme Court in regards to when they come forward and say, we need a deficit to fix a problem. Why? Because every time the Supreme Court has brought forward something, they've been right. They don't just come ask for money and say, we hope we don't need to spend it. The way we set it up, colleagues, was in case of an emergency,... [LB905]

SENATOR COASH: Time, Senator. [LB905]

SENATOR MELLO: ...but they said the emergency was going to occur. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Mello. Speaker Adams. [LB905]

SPEAKER ADAMS: Members, when we return at 1:30 we're going to go back to the withdrawal motion that Senator Chambers had up initially. And as soon as we have concluded that, we will go right back to where we're at on this issue. Thank you, Mr. President.

SENATOR COASH: Thank you, Speaker Adams. Mr. Clerk, items? [LB905]

CLERK: Mr. President, just one. (Read LB276A by title for the first time.) Name adds: Senator Schilz and Lautenbaugh to LB1058. Senator Murante would like to withdraw his name from LB797. (Legislative Journal page 1310.) [LB276A LB1058 LB797]

Senator Bloomfield would move to recess the body until 1:30 p.m., Mr. President.

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

RECESS

SENATOR KRIST PRESIDING

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

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

SENATOR KRIST: Any items for the record?

CLERK: I have nothing at this time, Mr. President.

SENATOR KRIST: Thank you, Mr. Clerk. We will now proceed to the first item per the Speaker's priority this morning which would be Senator Chambers. Is that correct?

CLERK: Yes, sir. Senator Chambers would move to withdraw LR463. [LR463]

SENATOR KRIST: Senator Chambers, you're recognized. [LR463]

SENATOR CHAMBERS: Mr. President, members of the Legislature, maybe it's fortuitous that I missed here this morning because there is something that I intend to do and I thought about it a long time, and especially deeply over the noonhour. I had said that if people had left me alone and had not term-limited me out of here I would have left on my own...of my own accord, but because of what happened, I had to come back. But now I am in a position to leave of my own accord, so I have two announcements that I'm going to make after I withdraw this resolution and continue...or in my work with the veto overrides. After I finish that, I'm going to tender my resignation to the Governor and I'll give my copy to the Speaker of the Legislature. That's the first announcement. The second one, this is live, April Fools. (Laughter) Mr. President, in all seriousness, I do want to withdraw this resolution. It has no purpose...I had a purpose for it at the time, but it's not needed now. And I did that little bit because I was looking at how things were going this morning and the tension was growing in some quarters and sometimes it's good to have a laugh instead of a frown so I thought I would show a different aspect and maybe things will be better for all of us, especially me. Thank you, Mr. President. [LR463]

SENATOR KRIST: Thank you, Senator Chambers. You have heard the motion; this is a machine vote, simple majority. All those in favor aye; opposed, nay. Please record, Mr.

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Clerk. [LR463]

CLERK: 27 ayes, 0 nays, Mr. President, on the motion to withdraw the resolution. [LR463]

SENATOR KRIST: It's withdrawn. Returning to debate. [LR463]

CLERK: Mr. President, the Legislature, when recessed, when it recessed was considering Senator McCoy's amendment to strike Section 12 from the Appropriations Committee motion to override certain line-item vetoes. [LB905]

SENATOR KRIST: Senator McCoy, could you briefly respond to that. [LB905]

SENATOR McCOY: Mr. President, I'd like to withdraw FA315. [LB905]

SENATOR KRIST: Withdrawn. Next item. [LB905]

CLERK: Mr. President, I have no further amendments at this time to the Appropriations Committee motion. [LB905]

SENATOR KRIST: Senator Mello, you're recognized to close. Oh, I'm sorry, Senator Mello, you're recognized. [LB905]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature, I'll yield my time to Senator Ashford. [LB905]

SENATOR KRIST: Senator Ashford, you're yielded 4:54. [LB905]

SENATOR ASHFORD: Where are we on the floor? Was the... [LB905]

SENATOR KRIST: To refresh everyone's memory, Senator McCoy has withdrawn his motion, so I have a queue full of people. If those people wanted to talk, they can, and you've been yielded time. [LB905]

SENATOR ASHFORD: And I will, just so long as I fully understand. We are FA...the FA that was just withdrawn dealt with the... [LB905]

SENATOR KRIST: Juvenile justice. [LB905]

SENATOR ASHFORD: ...juvenile justice funding and that's now withdrawn. So I have nothing further to add except I was just getting my breath back from the earlier announcement. I feel fine now. Thank you, Senator Chambers. And, yes, I would relinquish the rest of my time to the Chair. [LB905]

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SENATOR KRIST: Thank you, Senator Mello and Senator Ashford. Senator Hadley. [LB905]

SENATOR HADLEY: Mr. President, members of the body, I will talk for about a minute, then I would like to yield my time to Senator Krist. I just want to thank the Appropriations Committee for all the hard work they did. And I will be voting for the overrides because it is a package. There are some of them I like better than others, but when you break the package apart, you risk the ones that you really like not making it and that's not a risk that I wish to take on at this point in time. With that I would yield the remainder of my time to Senator Krist. [LB905]

SENATOR COASH PRESIDING

SENATOR COASH: Senator Krist, you've been yielded 4 minutes, 30 seconds. [LB905]

SENATOR KRIST: I wanted to make a...thank you, Mr. President; good afternoon, colleagues, and good afternoon, Nebraska. I wanted to make a couple of points about the bookkeeping process and the budgetary process that I've come to respect. And I will make that point very briefly. I thank Senator McCoy for pulling his floor amendment. I think...my opinion, it's the right thing to do. I have asked on occasion other agencies, without singling them out, for information, statistics, those statistics based upon the amount of money that is being spent, how that money is being spent, how it's being appropriated, and if it is being spent within that appropriation base. I have never, in the time that I have been here, and that includes some time in the federal government, I've never been more impressed with a budgetary tracking system than I have been with Probation, the Office of Probation, and our judicial branch. When I asked for information, they can tell me, literally, where every dime is being spent. And they're using our standard state budgetary process to do that. And I really appreciate that because as a legislator it makes my job so much easier to make sure that I can track that information and that it's being spent in the places that it needs to. So with that, I've made my point and I yield my time back to the Chair. [LB905]

SENATOR COASH: Thank you, Senator Krist. Senator Chambers, you are recognized. [LB905]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm glad that somebody this morning took the time and was thoughtful enough...more than one person did it, to acknowledge the hard work done by the staff of the Appropriations Committee. You could not pay me enough money to deal with what they deal with for one week, let alone day after day, session after session, year after year. And sometimes we need to let those people who are very essential and do an essential job know that we're aware of it, that we appreciate it. They are like the motor or the engine

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under the hood. Most everybody else will look at the exterior. And that's necessary to keep the rain off you, the wind off you, and so forth. But without that engine running, the car is just a heap of metal. So they are the engine that runs...and maybe if you want to get sentimental, you would say the wings beneath...the wind beneath our wings. But ordinarily I might have been doing some of what Senator McCoy did today. But...and I'm not faulting him for doing it, that's what we had said would be the appropriate thing to do, try to remove sections or segments from this package if you didn't agree with it. But because of the kind of work that was done, and mainly because of a promise that I made and the promise being made must be kept, I did not go after what I'd even suggested during...I think it was at the Exec Board where I talked about some provisions in the budget that might be beneficial to Game and Parks and that I would keep that budget on the floor before us for however many hours it took to get to cloture. And even if on one of the specific amendments I made against Game and Parks' interests, I could offer other amendments on that budget bill and keep us here. But Senator Hadley and, primarily, Senator Avery, because he was the first one that I talked to, we had made...entered a discussion about my attitude toward Game and Parks. And for those who pay attention, it had to do with that mountain lion hunting season. I gave my word to them. It could be that I've lost the bill. I expect I won't, but because an outside force intervened over which they had no control, I told them, at least one of them, I'd keep hands off the budget. I will support the overrides because I agree with what the budget is doing. We are the Legislature. The Governor can submit his recommendation and that's all his budget proposal is, but it's our duty and responsibility to work it over and come up with a product that the representative body. The Supreme Court has said, and scholars had said before the Supreme Court uttered it in an opinion, the only truly representative branch of government, the only one that represents the people is the legislative branch. So in doing the people's work in the way that the Appropriations Committee did, with their proposals they submitted to us and the work that was done by the body as a whole in going through that. Then finally arriving at a consensus of what ought to be done. In my mind it's appropriate that we support what we supported when we sent the budget over. And for that reason I can say that the Legislature as an institution behaved in a way that I find no fault with as far as the budget is concerned. And I also intend to vote to support what the Appropriations Committee is offering to us by way of their override motion. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Chambers. Senator Karpisek, you are recognized. [LB905]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. Just very quickly, I think that we've had some good discussion here. I really had my light on just to yield time to anyone if they needed it. But I don't think they do. I do think that the budget came together well. Just like everything else here, we don't like everything in it; we don't hate everything in it. But it needs to be a compromise. And over the years there has

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been times that I didn't like what the Appropriations Committee did, how they...how they compromised and how they stuck together on the floor. So I do understand when some people don't care for that, because I was on the other side of that too. But I think that we really sat down and the committee sat down and looked at things. We didn't do everything, but I think they did what we could and I appreciate that. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Karpisek. Senator Nelson, you are recognized. [LB905]

SENATOR NELSON: Thank you, Mr. President and members of the body. I, too, will be brief because I thought someone might need some time. At this point, I just want to say there are four of us that have served on the Appropriations Committee for eight years now. It's been my pleasure to serve with them and it's been a real pleasure to serve with Senator Mello who has grabbed the reins of leadership and done very well in running the committee in a very fair manner; everybody got a chance to speak. We all got a chance to vote on these. We have a large amount of override here, but we were careful as a committee, I think, and came up with a very good budget. And so I just want to urge everyone in the body to vote red to support the Appropriations Committee number, LB168. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Nelson. Senator Christensen, you're recognized. Senator Christensen waives. Senator Kintner, you are recognized. [LB905]

SENATOR KINTNER: Well, thank you, Mr. President. You know I...first I want to thank Senator McCoy. You've stepped up; you asked some tough questions. You've done what many in this body don't have the guts to do. Senator McCoy, you don't cut deals. You don't trade your vote. You stand tall for the taxpayers and for the citizens of this state. And for that, Senator McCoy, I thank you. You know what, my guess is there is an awful lot of taxpayers out here watching this that thank you also. I want to say, I voted for these amendments to pull stuff out of the budget. Not that the heating and air conditioning, for example, was the worst thing we've ever done; it needs to be done here, but because the process is flawed. Senator Karpisek said, compromise; he said it a couple of times and we should compromise. No one gets their way every time. But there's no compromise here. It's take it or leave it. Take it or leave it. You can override all this stuff or nothing. And there's enough people that want to protect it, you know, the stuff that they voted for that they'll take it all, even if they don't want it. Well, I won't take it all. These things need to stand on their own one by one by one. And I think the taxpayer is getting the short end of the stick. And I think that people deserve to have each of these overrides voted on, on it's own merit. Is it...was the Governor right or was the Governor wrong? I think if you're a taxpayer, you're going to probably say the Governor was right more often than he was wrong. But we don't get the chance to do that. It's take it all or take nothing. And I just don't think that's a good system. The

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system is stacked against the taxpayer. If you want to know why we're the sixteenth highest tax state in the country, this is part of the reason. It's not that we have bad people. But we just have a system that encourages spending and discourages cutting and discourages tax relief. And, you know, I hear it time and time again, as Senator Brasch said, why can't you cut spending, why can't you cut my taxes? Well, this is one of the reasons why we just can't seem to do it; why it's always going to be next year. We've got so much important spending, Mr. Taxpayer, we just have to spend a little more of your money; we just can't cut the taxes right now. And the taxpayers, to be honest with you, and I talked to quite a few of them, are sick and tired of it. And once again, we're going to give them the stiff arm and we're going to tell them, nope, it's more important that we spend your money and you can wait until another year and I'm going to do everything I can to make sure you don't hear that same thing next year that we just can't spare...to stop spending your money, and I'm going to fight, like I did this year, I will fight again next year to make sure you don't get pushed off another year. And that's why your taxes are so high... [LB905]

SENATOR COASH: One minute. [LB905]

SENATOR KINTNER: ...why our budget continues to grow, is because we've got a system that encourages spending and it's very tough to get a vote on bill based on it's own merit. And, Mr. President, I think that's wrong. Thank you very much. [LB905]

SENATOR COASH: Thank you, Senator Kintner. Senator Wallman, you're recognized. [LB905]

SENATOR WALLMAN: Thank you, Mr. President. I will be brief. I hear tax...taxes...property taxes. Folks, I want you to know, since I've been in here, seven-some years, my property taxes have went up tremendously, part of on account of what we did here. County aid to jails--took it away; aid to cities and counties--took it away; we balanced this budget on the backs of our local property tax owners in our district. Make no bones about it, it was our fault. Did I vote that way? I'm not saying I voted wrong way sometimes as well. But make no bones about it, it was our fault. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Wallman. Senator Kintner, you're recognized. [LB905]

SENATOR KINTNER: Mr. President, I just forgot to say, I want to encourage my fellow senators to vote "no" on this motion and to stand with the taxpayers. And if we vote "no" on this, and they don't get 30 votes, then we can now look at various overrides that we think may have merit. And we can vote on each one of those that we want, based upon if it is good or bad. And I encourage my fellow senators to vote "no" on this motion right here. Thank you, Mr. President. [LB905]

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SENATOR COASH: Thank you, Senator Kintner. Seeing no other members wishing to speak, Senator Mello, you are recognized to close on your motion. [LB905]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. First off, Mr. President, I'd like to do a call of the house while I do my closing, if possible. [LB905]

SENATOR COASH: There has been a request to place the house under call. The question is: Shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB905]

CLERK: 32 ayes, 0 nays, Mr. President, to place the house under call. [LB905]

SENATOR COASH: The house is under call. Senators, please record your presence. Unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Mello, you may close on your motion. [LB905]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. First off, thank you to all members today in regards to your dialogue, your floor debate, your conversations on and off the mike. The Appropriations Committee has taken a very serious approach this session of trying to provide a balance to what we see as both taking care of deferred maintenance in key state priorities through the appropriations process and keeping a mindful eye to the recommendations that came forward from the Tax Modernization Committee. We've, essentially, this year, if you look at the green sheet, we have come very close in regards to about 40 to 60 split in regards to spending verse tax reform/tax changes this session. Arguably, I think that part of the proposals the Legislature has already passed and signed by the Governor takes a longer term approach to tax reform. But what you have in front of you in regards to this...this veto overrides is keeping the faith of what a majority of you, 40 of you, including...41 if we include Senator Harms who was unable to be there on Final Reading, what you voted for over three rounds of debate and it came to this year's budget. This year's budget priorities marks a very stark difference in what we've seen in years past. We've tried to take care of deferred maintenance, both with our State Capitol, our Game and Parks system. We've tried to invest in early childhood education, developmental disability services, as well as job training. All while keeping a mindful eye of putting \$25 million in the property tax credit fund. Something, colleagues, that did not come from the Governor in his budget proposal, nor did he introduce a bill to do exactly that. That was a legislative-driven initiative. And you should be proud to vote for that when you voted for the final budget. What you have in front of you is the work of the nine members in the Appropriations Committee where eight of them voted to support these overrides, trying to make sure that we protect our behavioral health system, especially in light of what we've seen right now in Department of Corrections; trying to focus our efforts of

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making sure we take care of all of our Game and Parks system accordance with what Game and Parks told us they would take care of if we gave them the full \$17.5 million appropriation. We've got a couple of other items in the next bills of keeping the faith with what we said we'd do on water policy and water funding, job training, and, obviously, capital construction. Colleagues, I think this is a budget and these are vetoes that you can be proud of, not because they may not fit on a bumper sticker the way that some may want them to, because they advance our government. And they keep the faith with taxpayers that we've taken this process seriously. We've tried to make sure that we balance priorities, and we're trying to make sure that government is working for taxpayers the way it is supposed to. And some times that means you have to take care of the little things to make sure taxpayers get what they want from their government, from job training to Game and Parks, to water, to sometimes, yes, colleagues, renovating the State Capitol. I'd urge the body to adopt all of these overrides because I think, colleagues, we have a lot of other decisions ahead of us, this year and the years ahead, where we can look back on this biennial-budget process and be proud that we took the important steps forward, sometimes the difficult steps, to advance our state beyond term limits, beyond slogans, and sometimes, colleagues, beyond our terms in office. Thank you, Mr. President. [LB905]

SENATOR COASH: Thank you, Senator Mello. Members, this motion requires 30 votes. The question is, shall LB905 become law, notwithstanding the objections of the Governor. All those in favor vote aye; all those opposed vote nay? Have all voted? Record, Mr. Clerk. [LB905]

CLERK: (Record vote read, Legislative Journal pages 1311-1312.) 37 ayes, 11 nays, Mr. President, on the motion that LB905 with certain line item vetoes become law notwithstanding the objections of the Governor. [LB905]

SENATOR COASH: The motion is adopted. Raise the call. Next item, Mr. Clerk. [LB905]

CLERK: Mr. President, Senator Mello would move that LB906 become law notwithstanding the objections of the Governor. [LB906]

SENATOR COASH: Senator Mello, you're recognized to open on your motion. [LB906]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. The motion in front of you would override the Governor's line-item vetoes in the fund transfers bill, LB906. As I stated in my introduction on the previous override motion, the Appropriations Committee met yesterday to review each of the vetoed items and recommend whether any or all of the vetoes should be overridden. Each of the vetoes included in LB906 were recommended for override, so the motion would provide that the bill becomes law, notwithstanding the objection of the Governor. In addition to the

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transfers which are directly related to the Cash Fund appropriations contained in LB905 that were successfully overridden with the adoption of the previous motion, this motion would override the Governor's veto of \$1.1 million of the Appropriations Committee recommended General Fund transfer to the newly created Water Sustainability Fund. While the Governor's veto message claims that \$1.1 million that he vetoed was earmarked for the Combined Sewer Overflow Project in Omaha, nothing...I repeat, nothing in LB906 or any of the Appropriations Committee recommendations in bills actually appropriate funds in the Water Sustainability Fund to any specific project. In fact, the language in LB906 clearly states that the funds in the Water Sustainability Fund are to be appropriated in accordance with LB1098, Senator Carlson's bill, which was recently only advanced to General File. Accordingly, this line item veto merely has an impact to reducing the total amount of water funds appropriated in the budget by 10 percent and would have no direct impact on the funding for the Combined Sewer Overflow Project in Omaha, or any other project for that matter, that would potentially seek funds under LB1098. I'd urge the adoption of the override motion on LB906. Thank you, Mr. President. [LB906 LB1098]

SENATOR COASH: Thank you, Senator Mello. Members, you've heard the opening to the motion on LB906. The floor is now open for discussion. Seeing no members wishing to speak, Senator Mello, you are recognized to close. [LB906]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. And I just want to make sure, I didn't keep the house under call, so if I could, I just want to do a call of the house, if I could, to make sure everyone still remains in the Chamber, if possible. [LB906]

SENATOR COASH: There has been a request to place the house under call. The question for the body is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. Members, the question for the body is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Senator Mello, you may continue closing on your motion. [LB906]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. [LB906]

SENATOR COASH: Excuse me. Record, Mr. Clerk. [LB906]

CLERK: 43 ayes, 0 nays to place the house under call, Mr. President. [LB906]

SENATOR COASH: The house is under call. Senators, please record your presence. Unexcused senators outside the Chamber please return and record your presence. Unexcused personnel please leave the floor. The house is under call. Senator Mello, please continue with your close. [LB906]

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SENATOR MELLO: Thank you, Mr. President, members of the Legislature. As I mentioned in the opening, LB906 is the second of third bills that are tied, essentially, with the mainline overrides that the body just took a motion on to override the Governor on. This is the Cash Fund Transfers bill. As I mentioned, the main component of the Cash Fund Transfer bill that we will be overriding is the Water Sustainability Fund. There also is another significant piece that I would be remiss not to mention is the other component of the Vehicle Titling System, a bill that was brought to our committee by Senator Larson that sets the Department of Motor Vehicles on an important path forward to replace a very old titling system. It is a Cash Fund appropriation that sets up this process and that is another added component of LB906 that the committee overwhelmingly supported in the mainline budget, as well in the Cash Fund Transfer bill. With that I'd urge the body to adopt the override of the Governor on LB906. Thank you, Mr. President. [LB906]

SENATOR COASH: Thank you, Senator Mello. Members, you've heard the closing to the motion on LB906. This motion requires 30 votes. The question is, shall LB906 become law notwithstanding the objections of the Governor? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Record, Mr. Clerk. [LB906]

CLERK: (Record vote read, Legislative Journal page 1312.) 39 ayes, 9 nays, Mr. President, on the motion that LB906 become law notwithstanding the objections of the Governor. [LB906]

SENATOR COASH: The motion is adopted. Raise the call. Next item, Mr. Clerk. [LB906]

CLERK: Mr. President, Senator Mello would move that LB130 become law notwithstanding the objections of the Governor. [LB130]

SENATOR COASH: Senator Mello, you are recognized to open on your motion. [LB130]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. The motion in front of you would override the Governor's line-item vetoes in the cash reserve bill, LB130. As I stated during my introduction in the previous override motions, the Appropriations Committee met yesterday to review each of the vetoed items in this piece of legislation and recommended whether any or all of the vetoes should be overridden. Each of the vetoed items included in LB130 were recommended for override so the motion would provide that the bill becomes law notwithstanding the objection of the Governor. The transfers which were vetoed in LB130 are directly related to the appropriation contained in both LB905 and LB906 that were just successfully overridden. With that I'd urge the adoption of the override motion on LB130. Thank you, Mr. President. [LB130 LB905 LB906]

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SENATOR COASH: Thank you, Senator Mello. Members, you've heard the opening to the motion on LB130. The floor is now open for discussion. Seeing no members wishing to speak, Senator Mello, you're recognized to close on your motion. [LB130]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Since this will be, arguably, the last time this session I'll speak on an appropriations-related bill I'd urge you, obviously, to adopt LB130, as you have done in LB905 and LB906, but as a parting, I would like to thank once again the four senior members of the Appropriations Committee who will be leaving us and who did an awful lot of work the last two years, who brought a lot of balance to the Appropriations Committee, a lot of balance to this Legislature on fiscal policy: Senator Harms, Senator Nelson, Senator Conrad, and Senator Wightman. They will be missed. I know this will be their last budget, their last potential override of a budget-related item. I'm proud to have said I've been able to work with all four of them for six years and they will be missed in the Legislature. With that I'd urge the body to adopt LB130. Thank you, Mr. President. [LB130 LB905 LB906]

SENATOR COASH: Thank you, Senator Mello. Members, you've heard the closing on the motion regarding LB130. This motion requires 30 votes. The question is, shall LB130 become law notwithstanding the objections of the Governor? All those in favor vote aye; all those opposed, nay. Have all voted who wish? Record, Mr. Clerk. [LB130]

CLERK: (Record vote read, Legislative Journal page 1313.) 39 ayes, 9 nays on the motion that LB130 become law notwithstanding the objections of the Governor. [LB130]

SENATOR COASH: The motion is adopted. [LB130]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the certificate that reads: LB905, having been returned by the Governor with his objections thereto, and after reconsideration having passed the Legislature by the constitutional majority has become law on this April 1, 2014. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the certificate that reads: LB906, having been returned by the Governor with his objections thereto, and after reconsideration having passed the Legislature by the constitutional majority has become law on this first day of April, 2014. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the certificate that reads: LB130, having been returned by the Governor with his objections thereto, and after reconsideration having passed the Legislature by the constitutional majority has become law this first day of April, 2014. [LB905 LB906 LB130]

SENATOR KRIST PRESIDING

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SENATOR KRIST: Returning to the agenda, next item, Mr. Clerk.

ASSISTANT CLERK: Mr. President, next bill is LB390 introduced by Senator Christensen. (Read title.) The bill was read for the first time on January 18; referred to the Judiciary Committee. That committee placed the bill on General File with committee amendments. (AM507, Legislative Journal page 945, First Session, 2013.) [LB390]

SENATOR KRIST: Thank you, Mr. Clerk. Senator Christensen, you are recognized. [LB390]

SENATOR CHRISTENSEN: Thank you, Mr. President and colleagues. First I'd like to thank Speaker Adams for allowing LB390 an opportunity this session. LB390, as amended in the committee amendment, AM507, which will become the bill, if adopted, is a very simple one-word strike that would amend Emergency Management Act. It would remove the power under the act found in Section 81-829.04, subdivision (h), which allows a governor to suspend or limit the sale, dispensing, or transportation of firearms. To me this is common sense. During a declared state of emergency, it is more likely, not less likely, that law-abiding Nebraska residents may need to use firearm to protect themselves, their family, or property for potential mobs, looting, and other types of violent civil unrest. Moreover, depending on the length of the specific circumstances of the emergency, those who do not have a firearm to protect themselves, their family, or their property may want to or need to purchase a firearm. The state of emergency by definition is a time in which immense pressure is placed on law enforcement and other first responders which may be spread thin and may not be able to provide for normal safety of the residents they serve. This is by no means a critical statement of the preparedness of our law enforcement or first responders, but an acknowledgement of the reality of emergency situations. In addition, this is not an attack on this Governor or persons within his administration. This is a rethinking of a statute after we observed what happened locally in New Orleans in the aftermath of Hurricane Katrina. It is my understanding that 34 states have similar emergency power laws currently. Emergency powers is currently pending in these states: Colorado, Iowa, Massachusetts, Nebraska, and Washington. Georgia just passed theirs in the state legislature and is waiting the Governor's signature. Florida has had a hearing just recently to strengthen theirs. Though a declared state of emergency would likely only happen in the most rare of circumstances in Nebraska, I believe it is important in such times that a resident of Nebraska be allowed to continue to defend themselves, their family, and their property while as it is provided by our federal and state constitution and our current laws. I thank you for your consideration and urge the advancement of LB390 to Select File. [LB390]

SENATOR KRIST: Thank you, Senator Christensen. As the Clerk stated, there are amendments from the Judiciary Committee. Senator Ashford, as the Chair, you are recognized to open on your committee amendments. [LB390]

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SENATOR ASHFORD: Thank you, Mr. President. And as Senator Christensen has mentioned, the committee amendment does one thing and that is strike the word "firearms" from the Emergency Powers Act. So with that I would urge the adoption of AM507. [LB390]

SENATOR KRIST: Thank you, Senator Ashford. The floor is now open for debate. Standby. Mr. Clerk, I understand we have an amendment to the committee amendment. [LB390]

ASSISTANT CLERK: Thank you, Mr. President, we do. Senator Seiler would move to amend the committee amendments with AM2710. (Legislative Journal page 1317-1319.) [LB390]

SENATOR KRIST: Senator Seiler, you're recognized. [LB390]

SENATOR SEILER: Good afternoon, Mr. Speaker, members of the Unicameral. I've attached an amendment which simply does two things. One is the general bill does not allow possession of a weapon or a firearm on the campus of a school. And my amendment makes three exceptions: one is the...with the approval of the school, historical reenactment. In our area they do a Civil War demonstration out our way and bring cannon and old muskets on school ground with school permission to show the students how they dressed, how they acted, and they have both the Union and the Southern uniforms. The second is in hunter education programs. In western Nebraska they use the schools as a demonstration area and educational program. And the last is the Honor Guard at basketball games and football games. Many times the veterans associations will be carrying their rifles as part of the Honor Guard. Those are the three exceptions to the school land possession. Thank you. [LB390]

SENATOR KRIST: Thank you, Senator Seiler. The floor is now open for debate. Senator Kintner, you're recognized. [LB390]

SENATOR KINTNER: Mr. President, thank you very much. I want to thank Senator Christensen for this bill. I think this bill is an excellent piece of legislation. It's not...you know, a lot of these things come to the floor and they're predivisive and stuff; this is not one of them. It's a pretty commonsense bill. And I want to just say something about the amendments from Senator Seiler. These things are long overdue. They make a ton of sense. And I think it corrects a law that overshoots what it was intended to do. So this stuff is all good and I encourage my colleagues to vote for it. Thank you, Mr. President. [LB390]

SENATOR KRIST: Thank you, Senator Kintner. Senator Christensen, you're recognized. [LB390]

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SENATOR CHRISTENSEN: Thank you, Mr. President. I just want to encourage people to vote for this amendment. Senator Seiler was very gracious, come up and asked and discussed it with me. I think it's a great bill. I helped vote it out of committee. I think it is great to see these reenactments and I want to make sure that they don't ever get caught in the cross hairs of being caught...not being on complete legal side or understanding being able to take them older guns in schools. Thank you, Mr. President. [LB390]

SENATOR KRIST: Thank you, Senator Christensen. Seeing no one else in the queue, Senator Seiler, you're recognized to close on your amendment. Senator Seiler waives closing. The question is AM2710 to LB390. All in favor, aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB390]

ASSISTANT CLERK: 37 ayes, 0 nays on the adoption of Senator Seiler's amendment to the committee amendments. [LB390]

SENATOR KRIST: The amendment is adopted. Senator Chambers, you're recognized. [LB390]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, and this is not an April Fool joke. I have quoted from time to time a maxim that I call the Loran Schmit maxim. And I'm going to liberally construe it to apply it to this bill. It doesn't help anybody; it doesn't hurt anybody; it doesn't cost anything; it doesn't do anything. It makes people feel good, makes them feel better, so in that spirit do what you will. Thank you, Mr. President. [LB390]

SENATOR KRIST: Thank you, Senator Chambers. Senator Schumacher, you are recognized. [LB390]

SENATOR SCHUMACHER: Thank you, Mr. President. Would Senator Christensen yield to a couple of questions? [LB390]

SENATOR KRIST: Senator Christensen, will you yield? [LB390]

SENATOR CHRISTENSEN: Yes. [LB390]

SENATOR SCHUMACHER: Senator Christensen, in reading the new language, it said the Governor has the power to suspend or limit the sale, dispensing, transportation of alcoholic beverages, firearms, explosives, and combustibles, and it strikes the word "firearms." Is it your intention in this legislation that firearms includes the ammunition for those firearms? [LB390]

SENATOR CHRISTENSEN: Well, I believe it would. I think that was the intent of the

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way it was originally written. I know if you look at the original bill, I specifically listed it. But since this is a list of things they can control and it's not listed, I think it would just be assumed that the ammunition goes with the guns. [LB390]

SENATOR SCHUMACHER: So it's your intention that "ammo" not be included in the word "explosives," but now be stricken from this power, as is "firearms", is that correct? [LB390]

SENATOR CHRISTENSEN: I agree that it would not be included in the explosive. [LB390]

SENATOR SCHUMACHER: Thank you, Senator Christensen. Thank you, Mr. President. [LB390]

SENATOR KRIST: Thank you, Senator Schumacher and Senator Christensen. Seeing no one else in the queue, Senator Ashford you are recognized to close. Senator Ashford waives closing. The question is the adoption of AM507 to LB390. All those in favor aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB390]

ASSISTANT CLERK: 33 ayes, 0 nays on the adoption of committee amendments. [LB390]

SENATOR KRIST: Committee amendments are adopted. Seeing no... [LB390]

ASSISTANT CLERK: Mr. President, Senator Davis would move to amend the bill with AM2663. (Legislative Journal page 1300.) [LB390]

SENATOR KRIST: Senator Davis, you're recognized. [LB390]

SENATOR DAVIS: Thank you, Mr. President, and good afternoon members of the body. I want to thank Senator Christensen for letting me attach to this bill...or make an attempt to do so to his bill. This is a bill which was LB772, one of my bills earlier and it was heard in the Government Committee; it came out unanimously and we tried to put it on consent calendar, didn't get it there. So I'll briefly go over what we're trying to do here. I did have some handouts that went out earlier and you can refer to those if you'd like to. But this bill deals with aerial suppression of fire essentially using a lot of the local support that is out there. I'm talking about crop dusters and the like. So if aerial suppression or hazardous material response is required immediately, AM2663 to LB390 would increase the maximum allowable amount of expenditures by Nebraska's Adjutant General from the current level of \$10,000 to a new maximum of \$25,000 without a state of emergency proclamation being issued by the Governor as demonstrated at the bottom of page 4 on the amendment. For the sake of historical perspective, it is

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important to note that the first time funding was provided for this type of emergency response was 18 years ago in 1996. The amount approved at that time was the current level of \$10,000. In 2012, the same \$10,000 maximum level of expenditure was added to the Governor's emergency program for hazardous material response. Hourly rates for aerial suppression increased on July 1, 2013. These new rates appear on the second page of the expert, which has the table, that you received from the 2013 Emergency Assistance for Wildfire Control publication. This document was developed by the Wildland Fire Protection Section of the Nebraska Forest Service in cooperation with the Nebraska Emergency Management Agency. The rates in question increased on July 1 of last year by 25 percent across the board. The rate shown in your handout correspond to the size or capacity of tanks that can be loaded on a specific aircraft. The aircraft load categories most often used in Nebraska are 451 to 600 gallons, and 601 to 800 gallons. A plane carrying this type of load could make four to five drops in an hour. It isn't difficult to do that math and see how quickly the current \$10,000 level of funding would be reached or surpassed because of the recent rate increases. AM2613 (sic) to LB390 would update the Nebraska's Adjutant General's authority to approve expenditures that more closely affect usage costs based on new hourly rates without the need for an emergency proclamation. What we're trying to do here is expedite the time between the time you call for support and the time that it arrives because that's such a critical thing with fire. Had that been available to us a few years ago, I think we would have had a lot less fire suppression. When we had a hearing last summer on NEMA response we were told that sometimes it takes up to half a day for that to take place. Obviously, that's too long if you're in a serious windy condition and a serious fire. So I would urge the body to move this forward and would take any questions. [LB390 LB772]

SENATOR KRIST: Thank you, Senator Davis. You've heard the opening. Senator Christensen you're recognized. [LB390]

SENATOR CHRISTENSEN: Thank you, Mr. President. I want to tell you that Senator Davis did talk to me about this. I do think it's an important thing. This is under emergency powers which is same section that we're in. I think it's important that we look at the ability and update the amount that can be spent without the declaration of emergency powers. I want to thank Senator Davis for bringing this forward and I encourage people to vote to move this and the bill forward. Thank you. [LB390]

SENATOR KRIST: Thank you, Senator Christensen. Senator Scheer, you're recognized. [LB390]

SENATOR SCHEER: Thank you, Mr. President. I rise in support of AM2663. I think we've just had a current experience around Lincoln, around the lake up north where a fire took off south of Valparaiso and burned several thousand acres. I think the intent of this is probably to do with western Nebraska where we had the fires a couple of years ago and a half a day would make a big difference up there. The ground is very vast, and

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as our ground is now in the eastern part, it's very dry in a lot of times, even under the best of conditions. And the sooner that we can start providing retardant to the ground and the fires, the better we are rather than having to stop after a artificially low limit is placed that's been there for almost literally 20 years. It's probably long overdue to increase that. Unfortunately, we probably will have to do this again at some point in time in the future, but at least this gets us to a point where I think we can be effective in trying to fight the fires not only in western Nebraska, as we've seen, and now is back into eastern Nebraska. And with the winds that we've been having, it would not take much for those to get out of control in the areas that are close to population as well, So thank you, Mr. President. [LB390]

SENATOR KRIST: Thank you, Senator Scheer. Senator Davis, you're next and there is no one behind you if you choose to use your closing as well. [LB390]

SENATOR DAVIS: Thank you, Mr. President. I just wanted to respond to a question from Senator Haar, maybe I wasn't clear earlier, but the bill did have a hearing in front of the Government Affairs Committee and was Execed out unanimously. And with that I'll waive closing. [LB390]

SENATOR KRIST: Thank you, Senator Davis. The question is the adoption of AM2663 to LB390. All those in favor aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB390]

ASSISTANT CLERK: 36 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB390]

SENATOR KRIST: It is adopted. Seeing no one else in the queue, Senator Christensen, you're recognized to close on your bill. [LB390]

SENATOR CHRISTENSEN: Thank you, Mr. President. Thank you, colleagues. I appreciate the discussion that we did have and your consideration of this bill. I urge green vote and move this on to Select File. Thank you. [LB390]

SENATOR KRIST: You've heard the closing on LB390. Question is the advancement to E&R Initial. All those in favor vote aye; opposed, nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB390]

ASSISTANT CLERK: 39 ayes, 0 nays on the motion to advance LB390, Mr. President. [LB390]

SENATOR KRIST: LB390 advances. Next item. [LB390]

ASSISTANT CLERK: Mr. President, LB965 introduced by Senator Ken Haar. (Read

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title.) The bill was read for the first time on January 16; it was referred to the Natural Resources Committee. That committee placed the bill on General File with committee amendments. (AM2045, Legislative Journal page 734.) [LB965]

SENATOR KRIST: Thank you, Mr. Clerk. Senator Haar, you're recognized to open on your bill. [LB965]

SENATOR HAAR: Mr. President and members of the body. First of all, I'm going to start out with some thank-yous. These are issues I've been working on for a number of years. I'd like to thank five members of the committee for voting this bill out of committee. I'd like to thank public power for many discussions I've had with folks from public power. And I'd also like to thank the citizens who have come to the hearings on last year's LB567, this year's LB965. I want to start by saying, I support public power. There have been some people who have said I'm attacking public power. I support public power. In fact, when I was on the Lincoln City Council back in 1989 through 1997, at that time I proposed expanding public power in Lincoln to include the gas company. That didn't happen, but again, I want to say I support public power. During this discussion, I'm going to go over LB965, it's really a pretty short bill. I want to talk at some length about the role of the legislator in setting policy for political subdivisions. I want to talk about the history of public power in Nebraska and the forays into public power by the Legislature. And then I'm sure we'll talk about the various issues, what I would call red herrings brought up by public power. I believe that LB965 clarifies and updates the Legislature's intent for public power. It affirms what some public power districts have done and it offers opportunities for economic development in Nebraska. So to start, I would like you to take the handout that's...the actual bill with crossings out. I often find it kind of difficult to go through and figure out exactly where the amendments apply. So the committee amendments are going to be the strikeouts that you see on pages 2, 3, and 4. And then I have an amendment, AM2562, which is...shows the strikeouts on page 4. Real briefly then, I'd like you to look at what I call my CliffsNotes of LB965. I believe it's sound business policy for 2014 and beyond. It clarifies and updates public power intent language to reflect developing challenges and economic opportunities. LB965 would change the intent of public power to include prudent consideration of all costs and all benefits including low cost and reliable; economic benefits, which is jobs and taxes; water usage; risk analysis, both short- and long-term and the dollars sent out of state; and looking at the benefits for the common good of all Nebraska. But first of all, I want to talk about the cartoon I handed out. And, hopefully, you got a smile out of this, and if you've been in this Legislature for any time at all, you've run into this situation. The magician, of course, is the Legislature, and the Legislature creates political subdivisions. And we've talked about this a number of times and I want to encourage all of you to think this way: it's not just okay for the Legislature to ask questions about political subdivisions, but it's our responsibility. I don't think we should apologize that we set policy and intent. And I believe it's our...it's our duty, our obligation to do oversight. And because I question, or you question, something that a political subdivision is doing

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doesn't mean that it's an attack. I've seen this now with political subdivisions sort of fighting back against the Legislature when questions have been asked in Natural Resources Committee, not only with public power, but also on water issues with the NRDs. I've seen it with the small schools. And some of us in the Education...one of us in the Education Committee had a bill and kind of all the schools came back and said, no, this is not a good idea. And then finally, before I get off this topic, but I want to keep coming back to this. It's the responsibility of the Legislature to set policy for political subdivisions and those include schools, cities, counties, NRDs, public power, and so on. And when this is all over with, you've all, I'm sure, experienced the intense lobbying effort. I will try to find out how much money has been spent lobbying against this and I will report that back to you. So, once again, it's our job, it's our responsibility, to set policy for the political subdivisions. And so it's your call and it's my call and it's our call what we want political subdivisions to be and what we want them to do. So I would like to keep reminding you of that as well. When it comes to political subdivisions, it's up to the Legislature to set policy, to question, to change policy if necessary, and to affirm. That doesn't mean, necessarily, criticism; it doesn't mean attack. It means that we're doing our job. So the question that we're going to answer through LB965 is: What do you want the mission of public power to be? It's your call. If, right now, as we hear it's simply low cost and reliable, then it's the same as IOUs, independently operated utilities. For IOUs, low cost is there, just as it is with public power. And in a few minutes I'll hand out a chart showing that in low cost, Nebraska is falling behind. Nebraska, whereas the national rates are leveling off, Nebraska is continuing to increase. I think that's important. Reliable is just like an IOU. So the question has to be asked, if we're no different than IOUs in terms of low cost and reliable, and right now we're starting to fall behind in low cost, then how are we different? And if you look back again at the page I handed out, here's where I think the public power can be different. We can look at all the costs and all the benefits and that includes economic benefits like jobs and taxes for the whole state. Unlike an IOU which simply looks at profit for their shareholders. And we look at other things. Since we're public power, we can say that we want to look at water usage. Water is one of the most important things, one of the most important concerns in our state. Since we're public power we want to make sure that we look at risk analysis both the long and the short term and this is in a number of fields... [LB567 LB965]

SENATOR KRIST: One minute. [LB965]

SENATOR HAAR: Thank you...primarily being the EPA, right now, and we know that there are long-term risks associated with certain ways of generating power. The amount of money we send out of the state, we'll talk more about that, but we send about a million dollars out of the state every day to buy coal. And we have a huge wind resource in this state, we should be looking at how we can keep that resource in Nebraska. And then, again, one of the things we can look at, as public power, is how does it affect the whole state, not just each of the little separate public power districts. So with that I will

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close my opening and I hope you'll ask good questions and we can have a good discussion on this. Thanks so much. [LB965]

SENATOR KRIST: Thank you, Senator Haar. As the Clerk stated, there are committee amendments from the Natural Resources Committee. Senator Carlson, as Chair, you are recognized to open. [LB965]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. The committee amendment removes language from the bill relating to health and environmental considerations. The original language would have required the Power Review Board to consider, as part of its public purpose evaluation, environmental impacts of climate change and health impacts including public cost related to energy production. The original language would also have placed a threshold of \$50 million or more on modifications or construction of generation or transmission that would be subject to the evaluation required under this bill. The committee amendment removes that threshold language. Last, the committee amendment clarifies that an applicant before the Power Review Board has to show that it gave consideration to the costs and benefits analysis required under LB965. The language in the original bill implies that it is the Power Review Board rather than the applicant who has to consider the new costs and benefits. The intention behind the bill is to have the Power Review Board give consideration to a wider scope of factors when deciding whether to approve new generation or transmission, rather than just whether it's necessary and the lowest cost. Even with the changes in the committee amendment, the Power Review Board is concerned about how it is to carry out its duties. But the amendment makes the bill a better bill, and so I would urge your support of AM2045. Thank you, Mr. President. [LB965]

SENATOR KRIST: Thank you, Senator Carlson. Mr. Clerk for an amendment. [LB965]

ASSISTANT CLERK: Mr. President, I do have amendments to the committee amendments. The first one, Senator Haar, I have AM2461, but a note you wish to withdraw this and substitute AM2562. (Legislative Journal page 1073.) [LB965]

SENATOR HAAR: Correct. [LB965]

ASSISTANT CLERK: Mr. President, Senator Haar would offer AM2562. [LB965]

SENATOR KRIST: Withdrawn and, Senator Haar, you are recognized to open. [LB965]

SENATOR HAAR: Okay. Thank you very much. AM2562, if you look back at the bill that I handed out, the part that's crossed out in yellow is AM2562. As Senator Carlson has stated, originally we required...or the bill stated that such things as economic development and so on, those elements of LB965 be looked at by the Power Review

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Board. AM2562 removes the Power Review Board from the picture. It puts everything into the intent language and it also, by the way, takes care of any kind of fiscal note. There is no more fiscal note to the bill. And talking to the Power Review Board...talking to the Power Review Board, AM2562 would change theirs from opposition to neutral because they don't have a role in this bill. So I would like you to consider AM2562. The handout that's coming around at the moment...the graphs that I'm handing out, and I'm afraid that the school teacher in me is showing here, but the graphs that I'm handing out are from the Legislature's planning manual that we got just recently; they're from the most current version of that. And so I told Senator Harms that I would put in a plug for that manual. And the first two pages, the first two charts come directly out of the Legislature's planning manual. And what they show is that Nebraska, the cost of the electricity in Nebraska is on an increase, on a continual increase, whereas nationally we start to see a leveling off of that rate. And again, I want to go back to my original premise that it's up to you. It's up to us as the Legislature to look at the intent language for public power. And if we're satisfied with what it is currently, and the language currently, as you'll notice at the bottom of the first handout I gave you says: at as low overall cost as possible consistent with sound business practice and...although we hear the reliable, actually what the intent says is "adequate electric service." Now that served us for a long time. But as you can see from the chart, Nebraska is now...it's changing; we're not the lowest. If you look at the second page of the handout, you'll see that...and I use this...I'm sorry, the third page, there is a map. Nebraska used to be a blue state, and by that I mean, one of the lowest electric rates. We're no longer a blue state. Iowa is a blue state; Wyoming is a blue state; Nebraska is no longer a blue state. And if you look at the second page of that handout with the graphs, you'll see that our neighboring state that uses a lot of wind energy; we've all driven to Des Moines and north from there, seen all the wind turbines. In Iowa, the electric rates are actually decreasing. In ours they continue to increase. And so if you're satisfied with low cost and reliable and that's the only intent, then we should keep things the way they are. Except, except that we no longer have the lowest...we're no longer in those lowest rates in the nation. So, with that I'll close on AM2562, see where this discussion goes. But AM2562 takes the Power Review Board out of the picture and so what we have left is...we have LB965 with the intent language. I would also like to point out in LB965, by the way, that there have...there's been a lot of compromise. AM2562 is one part of that compromise. The other compromise is to remove references to health impacts, environmental impacts, and these already are compromises. I think LB965 with AM2562 is a very prudent way to change the intent language for public power. Thank you very much. [LB965]

SENATOR KRIST: Thank you, Senator Haar. Mr. Clerk for another amendment to the committee amendment. Okay. Senator Smith, you're recognized. [LB965]

SENATOR SMITH: Thank you, Mr. President. And good afternoon, colleagues. I have the privilege of being the...probably the only public power...former public power employee that is in the Legislature. And I think the last time there was one, it may have

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been Auditor Mike Foley. I think he was with NPPD, and I had the privilege of working for public power after I had worked for investor-owned utilities for a number of years and retired a few years ago from the Omaha Public Power District and I really enjoyed my time there and learned a great deal about Nebraska's unique public power system. Nebraska...and I know that energy is not something that people spend a great deal of time thinking about, but it's always there for us. But I want to spend a little time talking about the history of Nebraska and Nebraska's utility and energy governance structure and how important it is and how very unique it is. Perhaps the most unique characteristic in Nebraska, second only to this institution that we're in today, the Unicameral system, public power has been around since 1887, the first municipal system in Nebraska. And in 1933, the Legislature passed the Nebraska Enabling Act which allowed public power to be formed and began what we see in Nebraska today as being the only 1 of 50 states that's 100 percent publicly owned. Nineteen thirty-six, George Norris, who is known as the father of the Tennessee Valley Authority, the TVA, 1936, he pushed forward through the federal government the Rural Electrification Act. Today we have REAs. And those two were the bookends, if you would, to 1934, a very important thing that also occurred in this state, and that was the beginning of the unicameral system. So George Norris is the father, not only of the Unicameral, but also of public power in Nebraska. And so we are a very, very unique state in these two ways. Public power was brought about to satisfy three needs in our state: affordability of power, of electricity to our rural customers, our rural citizens and rural businesses and also in the urban areas. Affordability, and you heard Senator Haar talk about affordability, we're going to talk about that a little bit more here briefly. Reliability was the other thing. If not for reliability, businesses cannot grow and depend on the electricity that they use to run their machinery and run their businesses. You have to be able to expect the power to come on when you flip that switch on; that's reliability. And then there's the third component. So we have reliability, we have affordability, and then we have accountability. Accountability comes about by having the leadership of the local utilities close to the people, listening to the people, and persuaded by the people as to what it is important to the people and to the businesses. And so accountability means that we have very unique in this state, most states, the governance of a utility, you may have a board of directors, but rate setting and some of the operational issues are at a public service commission level. In Nebraska, they're at the board of directors. So if it's LES, they go to their board for a rate setting; if it's OPPD, they go to their board for rate setting; if it's NPPD, they go to their board for rate setting, and also determination of expanding generation needs or expanding transmission needs. That's local governance. Those people are elected by the citizens in their area. And so that's the amazing thing in this model called public power. [LB965]

SENATOR KRIST: One minute. [LB965]

SENATOR SMITH: And as we go forward today, this is an extremely complicated issue, colleagues, but I want to break it down and make the issue that's before us today as

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simple as possible. And so I will be back on the mike, hopefully, and talk to you a little bit more about what this bill really does. I don't want to challenge Senator Haar's intentions. I believe they're honorable. I believe him when he says he does not want to destroy public power. But, colleagues, this is not good for public power in our state, one of the most critical institutions that we have that make us unique in Nebraska. Thank you, Mr. President. [LB965]

SENATOR KRIST: Thank you, Senator Smith. Those still wishing to speak: Senator Brasch, Haar, Bloomfield, and Smith. (Visitor introduced.) Senator Brasch, you're recognized. [LB965]

SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues. I stand today in support of the amendments. And I have worked ongoing with Senator Haar on these amendments. Senator Haar, would you yield to a question, please? [LB965]

SENATOR KRIST: Senator Haar, will you yield? [LB965]

SENATOR HAAR: Yes. [LB965]

SENATOR BRASCH: Would you agree that the amendments were made by my request, maybe others? [LB965]

SENATOR HAAR: Yes. [LB965]

SENATOR BRASCH: And one thing that I had stated to you very clearly was that I support all forms of our public power, NPPD, nuclear power; we have a nuclear power plant, coal, methane, biofuels, natural gas, do you recall our conversation with that? [LB965]

SENATOR HAAR: Yes, yes. [LB965]

SENATOR BRASCH: And do you also recall that my heartfelt interest in this is to help Burt County Wind, that is in District 16? [LB965]

SENATOR HAAR: Yes. [LB965]

SENATOR BRASCH: I will ask you no other questions. I would like to ask Senator Smith to yield to a question if he would, please. [LB965]

SENATOR KRIST: Senator Smith, will you yield? [LB965]

SENATOR SMITH: Yes, I will. [LB965]

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SENATOR BRASCH: Senator Smith, are you also aware of my concern with Burt County Wind, being able to help the small community and a 12-megawatt windfarm through this bill? [LB965]

SENATOR SMITH: Senator Brasch, you did express it in committee. I have you heard you express that concern. [LB965]

SENATOR BRASCH: And, Senator Smith, will the language help Burt County windfarm? [LB965]

SENATOR SMITH: No, it will not, Senator Brasch. [LB965]

SENATOR BRASCH: And with that change offered, why will it not? Can you explain further, please? [LB965]

SENATOR SMITH: Sure. There's a couple of reasons, Senator Brasch. First of all, under 80-megawatt generation, can go through the Federal Energy Regulatory Commission, FERC, to receive a Form 556 which exempts it from the Power Review Board process. So I would expect that Burt County would be...have a generation project of that size or less and therefore they would not necessarily have to go before the Power Review Board. Now that's one reason. The second reason, Senator Brasch, is that we have economies of scale. And so what a small wind project or renewable project most likely would begin to compete with is a large wind project or a large renewable project, not with coal or something of that sort. And with economies of scale, a small wind project is going to have to build the additional infrastructure like the substations and the transmission lines and the distribution lines. So will a large one. But that large one can spread it over more units than the small one can, so the per unit cost of Burt County is always going to be higher than the per unit cost of a large wind project. And I would have to say, based on the approvals of the projects to date, I have not seen a small project, so I think that proves itself out that they're just, frankly, not competitive on per unit cost. [LB965]

SENATOR BRASCH: Thank you, Senator Smith. And I'm going to continue looking for solutions to help the 12-megawatt windfarms throughout our state and my district. The reason I do this is because our population base is shrinking. We saw that during the last redistricting. If we cannot grow with population, we need to grow with opportunities. And when it comes to my research and looking at opportunities and in this specific one, I believe that... [LB965]

SENATOR KRIST: One minute. [LB965]

SENATOR BRASCH: ...Nebraska has made progress; that we have a good public power system, a sound public power system. And I do know that we have to walk before

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we can run, but we are walking at an extremely slow pace. And I do encourage this body to look for ways to help revitalize our rural communities where we can engage 12-megawatt farms. We know that Yahoo went to...over to Iowa because they were considered more renewable energy. And again, supporting coal, nuclear power, methane, biofuels, natural gas, that this is a good thing because we need to be prepared for the future and have a place that we're not just starting. Thank you, Mr. President, and thank you, colleagues. [LB965]

SENATOR KRIST: Thank you, Senator Brasch. Senator Ken Haar, you're recognized, [LB965]

SENATOR HAAR: Yes, thank you, Mr. President. What we're talking about here is intent. And one of the reasons of adding to the intent language is absolutely that, to say to public power generally that, yes, low cost and reliable still make sense, but you should also consider economic development, jobs, taxes, and so on. I'll show you in a little while what OPPD did with its windfarm, the Grand Prairie Wind Farm, and what that will do and why they did that. But we're adding to the intent language. The current law...and one of the reasons we need to do that, the current law is subject to confusing and contradictory interpretations. For example, this is what I heard from one board member in the LES situation where they bought wind from Oklahoma. She said: several kinds of economic benefits went to Oklahoma, the rate savings went to Lincoln; if the Legislature thinks a decision like this should also weigh benefits for local taxes, jobs, and landowners in Nebraska, then the Legislature needs to say so in statute. Northeast Nebraska Public Power just signed a 10-year contract to buy electricity from Kentucky. And in their letter to their ratepayers they said: "principles and philosophies of public power as established under the laws and statutes of the state of Nebraska require us to do this," and on and on, and I can give another example. For example, in a press release from NPPD in 2003: NPPD's mission is to safely generate and deliver low-cost, reliable energy and provide outstanding customer service. And I agree with that. But if the intent of the Legislature is to ask them to expand their vision and to consider such things as economic benefits, then it's up to us to put that in the intent language. That's what policy is about. Economic benefits, if you refer back to the handout I gave you, it says executive summary, this is from the impact of wind energy on property taxes in Nebraska. And notice in the box on the executive summary, a 200-megawatt windfarm generates approximately \$1.3 million in property tax revenues annually. And so what we're saying in policy, if you agree with me, is that public power should at least consider economic developments, not just the mantra that we hear of low cost, reliable. That's still important, but additional consideration should come in in the form of those other things that you see in LB965, economic benefits should be a consideration. Again, if you look back at the intent language of LB965, the intent language is what the Legislature that sets policy says to the political subdivisions. And in my opinion, we need to affirm low cost, reliable, but also that public power should consider such things as economic development. And not only economic development for their own rate area, but for the

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whole state of Nebraska. [LB965]

SENATOR KRIST: One minute. [LB965]

SENATOR HAAR: Thank you very much. And here is some of the benefits, again, if you simply want low cost, reliable, that's like an IOU, an independently owned utility. If you want something different from public power, right now we have the ability to create economic benefit, especially for rural Nebraska. That will create jobs, property tax revenue, land-use income--about \$8,000 per turbine; industry, those of you have seen trucks driving across Nebraska with wind turbines built in Iowa going to Colorado or Wyoming know that we could have that industry in Nebraska if we...if we developed that...if we developed our wind potential. [LB965]

SENATOR KRIST: Time, Senator. [LB965]

SENATOR HAAR: Thank you. [LB965]

SENATOR KRIST: Senator Smith, you're recognized. [LB965]

SENATOR SMITH: Thank you, Mr. President. And just for clarification, I had a couple of my colleagues come up to me and say, hey, I thought things were worked out here, is this bill better? Colleagues, I'm going to just tell you right up front. I'm going to vote "no" on AM2562 to AM2045. I'm going to vote "no" on AM2045, the Natural Resources Committee amendment. And I'm going to vote "no" on LB965. After we get through this particular amendment, colleagues, that's been presented by Senator Haar, I will bring my own amendment. What he's done is he's taken out a portion of the bill, but it still does potential great harm to our public power in this state. And so I'm going to come back in my amendment and I'm going to have an amendment that, I believe, will make it a safe bill, one that does not have the potential for undoing public power in the state. So please don't be confused here, colleagues. There's going to be a lot of information thrown at you. This is a bad amendment to a bad bill. And you heard Senator Haar talking about renewables and that this bill is about renewables and he talks to you about cost and how our costs are increasing. He's absolutely correct, colleagues, our cost advantage, our competitive advantage on our price of electricity in this state is narrowing. The competitiveness is narrowing. But part of it is because of some of the costs that our utilities are incurring that is causing this cost to be driven up. Colleagues, this is not about renewables. Of the 8,000 megawatts generated in our state, 30 percent is carbon free; 30 percent is carbon free today. And that's 10 percent better than our neighboring states. Generation, colleagues, in this state, generation we have 8,000 megawatts of generation in the state today. The state's generation is significantly diversified, that's great. That helps to pull the cost down. But we are losing our competitive advantage. The generation includes nuclear, coal, natural gas, hydro, wind, solar, and landfill gas. Nebraska's coal plants are among the lowest cost facilities in this

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country. If we go down this road, colleagues, we will drive cost of generation up. It will necessarily give an advantage to renewable over coal whenever coal could be the lowest produced cost of energy. We use low-sulfur coal from Wyoming. We had a bill in committee just yesterday and we heard about this. Low-sulfur coal has less impact on our environment. And the coal transportation in this state creates tremendous number of jobs, colleagues. As I said before, Nebraska's electricity production is 30 percent carbon free, 10 percent better than neighboring states. On renewables, \$2 billion has been invested in renewables over the last ten years. These are not state-mandated renewable standards. These are not federally-mandated renewable standards. These are voluntary renewable standards that our public power companies have invested. Two billion dollars have been invested over the last ten years. NPPD and OPPD have voluntary goals to have 10 percent of renewable generation by 2020. OPPD will be at 30 percent renewables by 2016. [LB965]

SENATOR KRIST: One minute. [LB965]

SENATOR SMITH: LES will be at 23 percent renewables by 2016. NPPD will be 17 percent renewables by 2016. The renewable energy was all added voluntarily, colleagues. If we go down this path of this underlying bill and these amendments, it's going to force faster implementation of renewables at the cost to Nebraskans--families and businesses. We've heard about the minimum wage last night. What about the net income for our families? This is going to impact that. They're going to be spending more money on electricity. So, colleagues, we need to continue this conversation and I'll be back on the mike. Thank you, Mr. President. [LB965]

SENATOR KRIST: Thank you, Senator Smith. Those still wishing to speak: Senator Dubas, Campbell, Kolowski, Bloomfield, Conrad, Schilz, and others. Senator Dubas, you're recognized. [LB965]

SENATOR DUBAS: Thank you, Mr. President and colleagues. I stand in support of LB965 and the underlying amendments. But this is, as both Senator Haar and Senator Smith have mentioned multiple times, a very important debate and decision that we'll be making. Public power has and continues to serve the state of Nebraska so well. I mean, it's just a gem for Nebraska and we have a lot to be proud of with what public power has done for our state. I really enjoy being on the Natural Resources Committee and even learning more about public power and what it has provided for our state and being able to travel around and see how electricity really works and what goes into flipping that switch when we walk into a dark room and what it takes to manage that load is...it's pretty impressive. So, in no way does my support for this bill do I want it to undermine what public power has and will continue to do for our state. But yet we are moving in a different direction; we are moving...the potential for renewable energy development in our state, we have not even begun to tap it. We have so much potential, but because we are a public power state, we have to look at the development of that renewable

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energy in a much different fashion than other states around the country because we do not want to undermine public power. I think what Senator Haar is trying to reach through this bill and the underlying amendments is allowing the consideration of what renewable energy brings into the mix. It's very clear, the mandate says low cost and reliable. That's what I've heard over and over and over again as I've been out and talking to our public power people. They hang their hat on that as they should. But we need to be able to look at what benefits can renewables bring into this portfolio even if they don't fit completely into that low cost and reliable, especially in the area of low cost. So I hope everybody is listening. I would encourage you to ask questions of both Senator Haar and Senator Smith. I mean these, probably, are the two people who know this issue better than anyone else in here. This is an important discussion and I know Senator Haar has worked very hard to try to accommodate the concerns that have been raised by public power with the underlying amendments. And with that I would yield the remainder of my time to Senator Haar. [LB965]

SENATOR KRIST: Senator Haar, 2:13. [LB965]

SENATOR HAAR: Yes, thank you very much, Senator Dubas. First of all a reminder, this is not a mandate. It doesn't say you have to get rid of your coal, you have to, you know, you have to use wind. It's giving the opportunity. This is not a mandate. This is in the intent language and as I said earlier, right now certain public power districts are interpreting the intent language it currently exists of low cost and adequate electric service to mean that those are the only things they have to...that they can look at. And what LB965 says is, yes, low cost, and we add the word "reliable" actually. But you can also consider economic benefits. That's legitimate when you're considering how to build generation, where to buy power, and so on. Economic benefits, water usage, risk analysis, look at the money that's going out of the state. This is not a...LB965 is not mandate. [LB965]

SENATOR KRIST: One minute. [LB965]

SENATOR HAAR: It simply expands the intent language, and, in fact, affirms what some public power districts are already doing. Am I next in the queue? [LB965]

SENATOR KRIST: No, sir. You have 20 seconds left. [LB965]

SENATOR HAAR: Okay, I'll continue there. Thank you. [LB965]

SENATOR KRIST: Thank you, Senator Dubas and Senator Haar. Senator Campbell, you're next. [LB965]

SENATOR CAMPBELL: Thank you, Mr. President and members of the Legislature. You know, I stand in somewhat of a unique position. I grew up with Nebraska Public Power.

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My father worked for Nebraska Public Power for 35 years. And so when we talk about public power, it's just been a part of my life almost from the beginning. And so I was very honored when I was asked to serve on the Lincoln Electric Board and did so for six years until I was elected to the Legislature and I resigned that board. I have a great amount of respect for Senator Haar and the work that he continues to do in this area because he truly has, I think, his heart in the right place in terms of looking at the future. But I have to say that I'm not quite sure that this is the bill that takes him there. When I served on the LES board, one of the things that I learned about was the fact that electrical power in this country is even more and more going to regional power pools. And, actually, LES belongs to the Southwest Power Pool. It's one of seven regional transmission organizations in the United States. And the member states of this regional pool are Nebraska, Missouri, Kansas, Louisiana, Arkansas, Oklahoma, Texas, New Mexico, and Mississippi. LES belongs to that, as well as Nebraska Public Power and Omaha Public Power are the three-member utilities of this regional power. I bring that because I do think, to some extent, we are going to have to see in the state not only a view of how we produce wind energy, but how we export it. And I would imagine there will be some discussion today with regard to the LES decision to buy wind power from Oklahoma and should they have done that. Should they have looked at that? And I know that...would say, well, other criteria should be put into place other than just what that cost is. But serving on the Lincoln Electric Board, as well as any number of other utility boards across the state, I'm sure we try to look at what's best for our ratepayers. And in the proposal that was approved by the LES board and affirmed by them, it would save their ratepayers \$2 million a year. And we could say to ourselves, well, why don't we do something like that in Nebraska? Will this bill get us there? Colleagues, I think that the public power districts in the state have made their own voluntary commitment to renewables. When I sat on the LES board, we were just at the beginning. And to think that we would now grow to almost 23 percent of that, it's just amazing. I do want to say that I think there's a bill in Revenue that we may want to look at, and the Revenue Committee is probably going to take a really good look at it, and that is production credits. That is what Oklahoma has put into place that to some extent made the deal with Oklahoma a lower price. We want wind energy in the state of Nebraska. We want it developed. But we have to realize that every state is going to be also looking to export that. And how do we bring legislation forward to enable that? We can't just say, well don't import it,... [LB965]

SENATOR KRIST: One minute. [LB965]

SENATOR CAMPBELL: ...because we want to export what we have, we want to build that system. And, colleagues, I'm going to pay special attention to what Senator Smith and the dialogue back and forth with Senator Haar because this is a critical issue. I'm just not sure that this is the bill that gets us to that future. Thank you, Mr. President. [LB965]

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SENATOR KRIST: Thank you, Senator Campbell. Senator Kolowski, you are recognized. [LB965]

SENATOR KOLOWSKI: Thank you, Mr. President. I would like to yield my time to Senator Ken Haar, please. [LB965]

SENATOR KRIST: Senator Haar, 4:50. [LB965]

SENATOR HAAR: Thank you very much, Senator Kolowski. Again, I apologize for the teacher in me. But if...I gave you a handout of a PowerPoint that Omaha Public Power District presented to the Power Review Board. It's about the Grand Prairie Wind Farm. And on the second page, I would ask you to look under cost savings. And this is, again, what OPPD presented to the Power Review Board in making sort of a meteoric jump to 30 percent wind energy, cost savings, low-cost wind saves money over the higher cost natural gas output when wind is available, thus providing reduced energy costs to OPPD customers...consumers while at the same time providing 30 percent of our energy from renewable resources. Again, what I'm proposing is really to enable what OPPD did, not just low cost and reliable, but also looking at the next point, economics. As a public power utility, OPPD is obligated to provide electric service to our customer owners at the lowest possible cost while maintaining system stability and reliability. Grand Prairie Wind has favorable economics due to availability of federal production tax credits. And I don't disagree with Senator Campbell. I think that next year we have to look really carefully at a state production tax credit. But now if you go beyond the economics, this is also what OPPD is saying: Environmental, reduces air remissions, reduces carbon footprint, renewable resources, enhances fuel diversity, and this next one is really important, OPPD customers indicate they're willing to pay more for renewables. OPPD customers desire lower environmental impacts associated with generation. And so what OPPD did in purchasing the wind, 300 megawatts, I'm sorry, in purchasing the Grand Prairie Wind was to look not simply at cost savings, although they're saying the cost savings of this are greater than going another way, but they're looking at other economics, they're looking at environmental things, they're looking at diversity, customer preference. And I'll go into that a little bit later showing the preference in many polls of customers to start developing renewables. Again, LB965 is not a mandate. It is part of the intent. It's saying that we in the Legislature want, yes, we want low cost and we want reliable, but we also want public power to be looking at things like economic development. That's what this is about. It's up to the Legislature to set intent. And if it's our desire that things like economic development are an important part of what public power should consider, then we should add it to the intent language in the law. Again, it's created considerable confusion. Some public power districts have said, we got to go with the lowest cost because that's what the law says. Others, such as OPPD, have said, oh, we can...we're going to look at that, but we're also looking at things like economic opportunity and environment. Talking to some people at LES, they said that they considered all the elements in LB965. But some public power districts are

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not doing that. Again, the example of Northeast Nebraska Public Power District that said, we have to buy...we have to buy coal from Kentucky...coal-fired electricity from Kentucky because the law says low cost and reliable. So adding LB965 does not harm the ability of public power. It gives them...it affirms what some public power districts are doing and... [LB965]

SENATOR KRIST: Time, Senator. [LB965]

SENATOR HAAR: Thank you. [LB965]

SENATOR KRIST: Thank you, Senator Haar. Senator Bloomfield, you are recognized. [LB965]

SENATOR BLOOMFIELD: Thank you, Mr. President. Senator Haar keeps telling us this isn't a mandate, and maybe it isn't. My mind has kind of reached the fog point to where I'm not necessarily understanding everything I'm reading on the bill. But in the statement of intent, the first line says: the bill requires public power...that sounds a lot like a mandate. I'd yield the remainder of my time to Senator Smith. [LB965]

SENATOR KRIST: Senator Smith, 4:20. [LB965]

SENATOR SMITH: Thank you, Mr. President. Thank you, Senator Bloomfield, for yielding me your time, I appreciate it. Colleagues, in short, this underlying bill, what it does is it loads up the cost comparisons and it puts in some ambiguous language in there about benefits. It does not fully define what benefits include and what all the costs are that need to be included in a comparison. So it creates some ambiguous language; it loads up comparative costs between types of generation. Then, colleagues, what the underlying bill does is it takes away the authority of the locally elected board members of those utilities. The public power districts have board members that are elected by their population. And those board members make decisions on generation, on rate setting, etcetera. But what Senator Haar's bill will do is it will take the authority away from those locally elected board members, locally elected officials and it will give the deciding ability on generation to the appointed...the appointed positions of the Power Review Board that are appointed by the Governor. These are appointed positions that will then be given the ability to make decisions on generation, as opposed to where it is today, where it exists today with locally elected officials. That's not...that is not, colleagues, in the spirit of public power. That is not in the spirit of accountability. And there's no way we can look at this and see it any other way. So now the Power Review Board will have the ability in the underlying bill to make those decisions. But they don't have it clearly laid out to them exactly how they make those considerations. In this bill there are three sections: Section 1, Section 2, Section 3 and that's really at the heart of what this bill does. And AM2562 takes out one of those sections, it leaves two intact. And would Senator Haar yield to a question, please? [LB965]

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SENATOR KRIST: Senator Haar, will you yield? [LB965]

SENATOR HAAR: Yes. [LB965]

SENATOR SMITH: Senator Haar, do you agree with me, there's three primary sections in this amendment, Section 1, Section 2, and Section 3? [LB965]

SENATOR HAAR: And which amendment are you referring to? [LB965]

SENATOR SMITH: Well, let's go to the green copy, and on page 2 you have Section 1. Section 1 includes Section 70-1001. [LB965]

SENATOR HAAR: Correct. [LB965]

SENATOR SMITH: And on page 3, Section 2 includes 70-1014. And then on page 4, Section 3 includes 70-1501. Those are the three primary sections of this amendment. [LB965]

SENATOR HAAR: Okay. [LB965]

SENATOR SMITH: And yours addresses the center of that, Section 2. Yours addresses Section 70-1014, the underlying amendment does. So with that, I'm going to ask you, can you tell me what you understand to be the purpose of Section 1, which is 70-1001? [LB965]

SENATOR HAAR: Okay, let me...okay, the purpose of 70-... [LB965]

SENATOR KRIST: One minute. [LB965]

SENATOR HAAR: I'm sorry. [LB965]

SENATOR KRIST: One minute. [LB965]

SENATOR HAAR: The purpose of 70-1001 sets out what I would call the intent language and that's what LB965, with those two amendments would address. [LB965]

SENATOR SMITH: Exactly, exactly, Senator, I agree with you; 70-1001 is a declaration of policy. [LB965]

SENATOR HAAR: Yes. [LB965]

SENATOR SMITH: It's the intent that guides the Power Review Board. It basically...if

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you think of it, we have two fence posts. You have Section 1 that's a fence post that says what the state should expect. Section 3 says...is a fence post that says what utilities should be doing. And then Section 2, which is in between is the approval and the denial process. And is it correct that your amendment, AM2562, is seeking to strike the approval/denial process, but leave those two fence posts in place? [LB965]

SENATOR KRIST: Time, Senators. Senator Conrad, you are recognized. Senator Schilz, you're recognized. [LB965]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. I was one of those that voted LB965 to the floor. Senator Haar has a couple points that I think are worth talking about, economic development here in the state, as well as...and then for my purposes, that gets us to population decline. Subsequently, once I made that vote to bring it out of committee, I took another look at it, sat down and really explored it to see what it would do and had to come to the conclusion that I couldn't further support it here on the floor. So I know that Senator Haar probably doesn't like that very much. I suppose we all have those days in here when things don't work out the way you want them to. But I just wanted to say that I did vote it out of committee; I've changed my mind on my support for the bill. I will be voting against it. I think that all this stuff that he is talking about, while he says it's not a mandate in there, I think the way it's set up now gives the Power Review Board the opportunity to look at all the things that they need to look at to move forward, including with renewables and everything else. And with that, I will give the rest of my time to Senator Smith. [LB965]

SENATOR KRIST: Senator Smith, 3:30. [LB965]

SENATOR SMITH: Thank you, Mr. President. Thank you, Senator Schilz, for yielding me your time. Again, where I left off was we have these two fence posts, if you would, in this bill. You have Section 70-1001 as a declaration of policy that says, this is the intent that should guide the Power Review Board in their consideration. As Senator Haar said, it's an intent language. Section 70-1501 is a statement of policy of suppliers. Those are the utilities out there. It's saying, hey, this is what you should be doing; Power Review Board, this is what you should be expecting. And then in the center in the underlying bill, in the center was kind of the process that the Power Review Board would have to then therefore go through to connect those two fence posts. In AM2562, Senator Haar is striking that center piece, that middle section that says here is what the Power Review Board must do. But it's leaving in place the intent, the policy. And so my question is going to be to Senator Haar, why do we need this bill at all if we strike that piece of it? Why can't we go ahead and strike those fence posts? And that's what my next amendment is going to do because we're still leaving in place the intent. And granted, the success of litigation may not be as strong if we take out that process piece. Trust me, colleagues, litigation will take place by those that feel like we need to be on a faster path to renewable generation expansion. And I want renewable; I want all the above

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energy. I think most of us do, most Nebraskans do. But we have to do it in a very thoughtful way to not have increasing electric rates. We need to protect our families and our businesses. We need to pursue economic development. We need to be mindful of those things, colleagues, and we need to be careful in the path that we're on. He says it's not a mandate. I don't see how you can see the same thing other than a mandate saying this is the way we're going to go; yet, it's so ambiguous we don't really know how to measure success. So, colleagues, our public power companies are doing this today. We do not need this type of language. We do not need this type of a bill today. We need to pursue this in a very thoughtful approach. Thank you, Mr. President. [LB965]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thank you, Senator Smith. Senator Ken Haar, you're recognized. [LB965]

SENATOR HAAR: Thank you, Mr. President. We did approach and talk to the Power Review Board, and, in fact, they had a conference call among their board and they agreed that if AM2562 was enacted, in other words, taking the Power Review Board out of the process, that they were neutral, they had no problems with it, they had no questions with it. And so...although Senator Smith keeps saying that that would create problems, the Power Review Board doesn't see it as creating problems. And also, AM2562, I believe, takes away the argument about local control. The control, the local control still stays with the public power board at whatever local it is, whether it's NPPD Board, or the OPPD Board, or the LES Board. It does nothing with local control. Again, the intent language, it says this is what the Legislature believes public power should be looking at. And we found that some public power districts have embraced all of the things that are in LB965. And some are still saying, uh, the intent, the Legislature simply wants low cost, reliable. So my bill, LB965, is really affirming, for example, what OPPD has done so well. And again, looking back at the PowerPoints that I handed out on their presentation to the Power Review Board, they are looking at very much the same kinds of elements that are in LB965. What we are saying is, basically, we want to take away...we want to give...we want to take away an excuse, I might put it, or give an opportunity, I guess it's the same way of looking at it, for public power boards to consider all of those things so that you don't have one public power board coming in and saying, no, it's just low cost, reliable, that's it. And that's a mantra that many of us have heard when it comes to developing renewables. The public power district has said we'd really like to do that, but...but the intent language, what the Legislature tells us in the law is low cost, reliable. We want to give the opportunity for public power boards to go beyond that. We live in a new time and we'll talk about that later as well. We live in a new time with electricity. Things like creating jobs and the kind of economic development that renewables will provide just weren't available when public power came into existence. The red herring, I believe, of more lawsuits, well right now anybody can sue anybody for anything, that's the way the law works. But according to the

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Attorney General's Opinion that we have shared, you have to show damage, you have to show damage. And so, yeah, anybody can bring a lawsuit, they could right now. And let me give you an example. Lincoln Electric System has a solar project on...that they're approving and that's a great deal. When they announced it, one of the local business associations came in and said, but this will cost... [LB965]

SENATOR GLOOR: One minute. [LB965]

SENATOR HAAR: ...all our consumers more. Well, I haven't heard anything about that, but I suppose on that basis, low cost/reliable, that business organization could come back and sue LES for not providing the lowest cost energy. So we have created no new standing for anybody to sue public power. Right now I guess anybody can sue public power for anything. But the only reason it's going to stick, the only reason a court will give standing is if someone can show damage. And this bill does nothing to change that. The whole thing of more lawsuits, when I talked to folks in public power, they just said, well, we think it's going to create more lawsuits; we think it's going to create more lawsuits. [LB965]

SENATOR GLOOR: Time, Senator. Thank you, Senator Haar. Senators in the queue: Nelson, Brasch, Christensen, Smith, Murante, Sullivan, and others. Senator Nelson, you're recognized. [LB965]

SENATOR NELSON: Thank you, Mr. President, members of the body. If I understood and caught what Senator Haar said, he said: eliminating Section 2, under his amendment, is going to take the Power Review Board out of the picture. And, therefore, I have some questions for Senator Haar, if he will yield. [LB965]

SENATOR GLOOR: Senator Haar, would you yield? [LB965]

SENATOR HAAR: Yes. [LB965]

SENATOR NELSON: Senator Haar, the Power Review Board is not a public utility, is it? [LB965]

SENATOR HAAR: No, the Power Review Board was created in, I believe, it was 1960 and in a way they're kind of a referee so that public power districts don't overlap and don't create excess generation, that sort of thing. [LB965]

SENATOR NELSON: Right. [LB965]

SENATOR HAAR: They're appointed. [LB965]

SENATOR NELSON: I would agree with that. And in Section 1 here in LB965, well

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there's some amendments and changes and things, but it's all a policy section pretty much, not intent necessarily, but policy set forth in Section 1: to avoid and eliminate conflict and competition between public power districts, to avoid and eliminate the duplication of facilities, etcetera. [LB965]

SENATOR HAAR: Um-hum. [LB965]

SENATOR NELSON: Would you agree with that? [LB965]

SENATOR HAAR: Yes. [LB965]

SENATOR NELSON: So in essence, they are a regulatory agency, are they not? [LB965]

SENATOR HAAR: Yeah, with very specific duties. [LB965]

SENATOR NELSON: Yes? [LB965]

SENATOR HAAR: Yes. [LB965]

SENATOR NELSON: Oh, all right then. [LB965]

SENATOR HAAR: Sorry. [LB965]

SENATOR NELSON: So if you're going to eliminate Section 2, when it says here: the board shall have authority to approve or deny applications, you're taking that away. You're taking away that authority, is that correct? [LB965]

SENATOR HAAR: Oh no, no. If you'll look at page 4, please, the one that I crossed...did crossing out and stuff on, what it...no, the Power Review Board is still, you know, has the authority that it's always had. But what I would remove with AM2562 is that they would have to give consideration to both costs and benefits. They would still have the job of making sure that there is not a duplication of facilities, that sort of thing. [LB965]

SENATOR NELSON: Well, if we're looking at the same thing, beginning at the bottom of page 3, that's where Section 2 starts and it goes all the way then almost to the bottom of page 4, and my understanding is you were going to strike that entire section, is that (inaudible)? [LB965]

SENATOR HAAR: Oh, no; oh, no. All I'm going to strike, Senator Nelson, is on page 4 on line 3 from the word "and" through "70-1001." So it... [LB965]

SENATOR NELSON: Well, but your amendment that we're...AM2562, I'm sorry if I'm

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confused, it says...and you're amending the standing committee, strike Section 2 and renumber. All right, I'll take a look at this again. And this may clarify some of the confusion in my mind. In the meantime, thank you, Senator Haar, and I'll just give the remainder of my time to Senator Smith, maybe he can clarify this a little bit for me too. [LB965]

SENATOR GLOOR: 1:25, Senator Smith. [LB965]

SENATOR SMITH: Thank you, Mr. President. And, Senator Nelson, great question there. Again, those are the three components of this bill that I was referring to. The first section is the declaration of policy that the state of Nebraska expects the PRB to...the intent of policy. Then there's 1501, the last one, which is the policy of the suppliers and generators. That middle section that we're talking about, strike...we're looking at striking only the committee amendments or Senator Haar's amendment to the current responsibilities of the Power Review Board. And so his original bill was to force them to make these considerations. Now he's saying we're going to strike forcing them to make those considerations, but yet he's leaving those statement of intents in place on both sides of that decision. And so that's where I'm saying he's gone...he's taken a step towards improving the bill, but he hasn't gone far enough, that's where my amendment is going to come in and it's going to strike the fence posts as well. Senator Haar did mention opportunity...giving utilities opportunity, I would say, no, what he's doing is he's giving them a directive to consider more in their cost determinations of the best generation for Nebraskans. And he mentioned the Power Review Board that... [LB965]

SENATOR GLOOR: Time, Senator. Thank you, Senator Smith and Senator Haar. Senator Brasch, you're recognized. [LB965]

SENATOR BRASCH: Thank you, Mr. President. And thank you, colleagues, for your attention to this important bill here. Working with Senator Haar on the amendments, taking pieces of it out, and there was a lot of pencil and pen marks and amendments back and forth to reach what we believed was a bill that would, perhaps, create an opportunity to look more closely at the benefits of bringing in more renewables, perhaps at a better rate, to look at the economic benefit. Senator Haar, will you yield to a question, please? [LB965]

SENATOR GLOOR: Senator Haar, will you yield? [LB965]

SENATOR HAAR: Yes. [LB965]

SENATOR BRASCH: Were there times in our conversation that perhaps you weren't that happy with my requests? [LB965]

SENATOR HAAR: Yes, compromise has that feature. [LB965]

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SENATOR BRASCH: I think you were very clear many times that you wouldn't even move forward with this bill, is that correct? [LB965]

SENATOR HAAR: Yeah, there were some days. [LB965]

SENATOR BRASCH: And you had mentioned to me that you will bring it next year rather than compromise at one point, do you recall that? [LB965]

SENATOR HAAR: Yes, I do. [LB965]

SENATOR BRASCH: Okay. We've come a long ways and Senator Smith is saying that we have not come far enough, calling it a bad bill, bad amendments, and I have e-mail, lots of e-mails from constituents very alarmed over this as well. And I am starting to wonder if perhaps your words of waiting till next year were good words. Can you tell me why this should not wait till next year, please, would you yield and answer? [LB965]

SENATOR HAAR: Yes, yes. Well, in my opinion, what it adds to the intent language is valid and it's a good first step. I think what Senator Campbell was talking about, there are probably some other steps that need to be taken. But this enables, this recognizes what some of the public power districts are already doing and offers that opportunity to all public power districts and to their boards. [LB965]

SENATOR BRASCH: Thank you, Senator Haar. Because I also believe that I have encouraged constituents for one, and others, that the Legislature is not always an answer to making things right. I'm also wondering if the...that our public power recognizes that it's not necessary to put all our eggs in one basket, that we have seen them move forward with methane, with Danny Kluthe in Dodge County, and move forward with other areas and expand on wind. However, as I see our movement has been very slow and my concern does go back to economic development in Craig, Nebraska, for example. They are down to, I believe, 1.5 businesses the last time I had visited with someone that this would be an opportunity to provide revenues for the schools to help revitalize some of our rural communities that are slowly, but surely, trying to bring individuals in, families back, and create more growth. However, the message I'm getting from some e-mails specifically... [LB965]

SENATOR GLOOR: One minute. [LB965]

SENATOR BRASCH: ...one from Cuming County, they're very alarmed why we're trying to fix something that's not broken. And I heard that earlier today with the Appropriations Committee bill saying that this is just fine. This is...you know, we worked on it, it is what it is, and let's just do this and move forward. And so I am wondering if, perhaps, next year with more momentum, with more questions answered where I don't have a dozen

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e-mails in opposition and a dozen e-mails as proponents to face, you know, our body at this point. Thank you, Mr. President, and thank you, colleagues. [LB965]

SENATOR GLOOR: Thank you, Senator Brasch and Senator Haar. Senator Christensen, you're recognized. [LB965]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Haar yield to a question, please? [LB965]

SENATOR GLOOR: Senator Haar? [LB965]

SENATOR HAAR: Yes. [LB965]

SENATOR CHRISTENSEN: Would I be fair to say the real intent is here to try to get more wind generation or more renewables? [LB965]

SENATOR HAAR: That is one of my intents, yes. [LB965]

SENATOR CHRISTENSEN: Okay. On page 4 of the bill, it reads: if the...on line 15, it says: if the application process of an expenditure of \$50 million or more to modify or construct generation or transmission capacity...understand why you're trying to compare that generation. Why are we throwing the transmission capacity into this, because this is the one thing that's holding back wind generation? The less restriction we could put on getting transmission lines in, the better off we'd be, wouldn't we? [LB965]

SENATOR HAAR: I agree. And AM2045, the committee amendment takes that...takes lines 15 through 18 out of the bill. [LB965]

SENATOR CHRISTENSEN: Okay, I guess I didn't go in...strike off what the committee had done, so I was...had yours in here, so...but to continue on, I realize you're trying to compare cost to water in which I can tell you I know water is very expensive in my book and cost effective for a lot of things we need for agriculture, things this way. But if we start taking into consideration all of these things, the water that goes through, and I don't know how you determine how much water is lost through the cooling process when they're burning coal and things that way, but aren't we artificially driving up the cost of electricity on Nebraska citizens? [LB965]

SENATOR HAAR: No, I don't think so. And as you saw in the OPPD proposal, actually going to...buying the wind that they did they said would save consumers money. [LB965]

SENATOR CHRISTENSEN: Say that again, I missed that. [LB965]

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SENATOR HAAR: I'm sorry. No, it...in fact, as we see in other states, the states that are going to more wind energy actually have rates that are decreasing versus states like Nebraska where the rate is increasing. So, no, I think going to more renewable energy, especially in the long run, like with wind, you know what the cost is going to be for the next 20 years. Coal has been going up 10 percent a year for the last ten years, that sort of thing. [LB965]

SENATOR CHRISTENSEN: Well, I understand coal is going up and I believe the federal EPA is driving that with their rules and regulations. But isn't Nebraska's biggest problem that we have in putting more wind energy in all come into the fact that where we have the wind we don't have the available transmission lines? [LB965]

SENATOR HAAR: Transmission is certainly a part of the...okay, right now we have...we put in laws in effect a few years ago to actually export wind. We have not exported any wind, but we're importing wind. And so, yeah, transmission is part of the solution. This, I believe, is also part of the solution because we're saying: you may consider the economic development, you can consider these other things when you're making your decisions. [LB965]

SENATOR CHRISTENSEN: I understand, I think that goes into a feasibility study that you want to examine all your current costs as future costs, but, again, I think part of our problem comes in... [LB965]

SENATOR GLOOR: One minute. [LB965]

SENATOR CHRISTENSEN: Thank you, Mr. President,...that we're still struggling with the amount of transmission lines available, especially in the north where...and west where we have the biggest amount of wind compared to access to...and I think that's the biggest thing we've got to overcome, whether it's public power doing it or private. Go ahead and answer if you want. [LB965]

SENATOR HAAR: Oh, thank you. Again, this bill by itself is not a silver bullet. I think it's part of the problem which allows for things like economic development. What Senator Campbell talked about, production tax credit, is something we need to look at. And certainly, Senator Davis' bill, I think it's LB1115, that asks for a transmission study in western Nebraska is another important part of that solution. [LB1115 LB965]

SENATOR CHRISTENSEN: Okay, I think we're out of time, thank you. [LB965]

SENATOR GLOOR: Thank you, Senator Christensen and Senator Haar. Senator Smith, you are next in the queue. [LB965]

SENATOR SMITH: Thank you, Mr. President. And, again, I just want to sum up here on

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AM2562, colleagues, I'm going to vote "no" on this; it does not go far enough. It still leaves a difficult bill in place, a bill that's going to be difficult for the Power Review Board, that's going to be difficult for our public utilities. And there was a mention of Tim Texel and the Power Review Board that they had no problems once this amendment is in place. I think that was the wording, if I'm not mistaken, that Senator Haar used, that they were in opposition but now they have no problem. That's not correct, colleagues. Striking that section in that amendment, that Section 2, dealing with Section 70-1014, that is the process that the Power Review Board follows in making a determination. So they move to a neutral position because it no longer affects their process. But they continue to have concerns. If anyone here doubts that those concerns are still in place for the Power Review Board, please step outside into the Rotunda; Tim Texel is out there. He will tell you that they are still concerned. That's what he told me; they are still concerned. But they are neutral on this bill at this point. What does this bill do? It creates ambiguous language in terms of what benefits are, what costs are. It takes the role away from locally-elected members of utility boards and it gives decision-making authority to gubernatorially appointed men and women in the position of the Power Review Board, great people, it just shouldn't reside with them. We talked about renewables and we're already doing great things in this state with renewables. If we want to talk about costs, let's talk about costs; but if we want to talk about renewables, once again, we spent \$2 billion over the last ten years. NPPD and OPPD voluntary goals have 10 percent renewable generation by 2020. OPPD will be at least 30 percent renewables by 2016. I know Senator Haar keeps talking about OPPD and they have the highest percentage, that's probably why he favors that utility, but that's great, they're doing a great job. LES will be at 23 percent by 2016; NPPD, 17 percent by 2016. These renewable energies are added voluntarily. Our public utilities are doing that already; it's working, colleagues. What we have in place today with public power is working. And this bill does not do anything to help our position on cost, cost competitiveness. Colleagues, I'm asking you to please vote "no" on AM2562. And then we will be able to move on. I know we have another amendment coming up which is mine and we'll have further discussion on cost and, hopefully, I can explain some of the cost comparisons to the body here. If there are concerns about our competitiveness on cost, maybe I can shed a little bit of light on why that margin of competitiveness is shrinking. And I certainly don't want to see that happen. But this bill does nothing to control our cost of generation in this state. It does nothing to reduce the burden on families for increasing energy costs. It only adds to it. Thank you, colleagues, thank you, Mr. President. [LB965]

SENATOR GLOOR: Thank you, Senator Smith. Senator Murante, you are next in the queue. [LB965]

SENATOR MURANTE: Question. [LB965]

SENATOR GLOOR: Do I see five hands? I do. The question is, shall debate cease on this amendment? All those in favor vote aye; all those opposed vote nay. Have all voted

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who care to? Senator Murante, for what purpose do you rise? [LB965]

SENATOR MURANTE: Mr. President, I rise to ask for a call of the house. [LB965]

SENATOR GLOOR: There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB965]

CLERK: 26 ayes, 0 nays to place the house under call. [LB965]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Burke Harr, Wightman, Ashford, Davis, Larson, please return to the Chamber and record your presence. Senator Lathrop, please record your presence. Senator Murante. [LB965]

SENATOR MURANTE: While we're waiting, I'll accept call-in votes. [LB965]

SENATOR GLOOR: Members, the question is, shall debate cease? [LB965]

CLERK: Senator Larson voting yes; Senator Schumacher voting...you had voted yes, Senator. I'm sorry, I was confused for a minute. Senator Janssen voting yes. Senator Seiler voting yes. Senator Watermeier voting yes. [LB965]

SENATOR GLOOR: Record, Mr. Clerk. [LB965]

CLERK: 25 ayes, 2 nays to cease debate, Mr. President. [LB965]

SENATOR GLOOR: Debate does cease. Senator Haar, you're recognized to close on your amendment. [LB965]

SENATOR HAAR: Thank you, Mr. President. My amendment would take out the part of this bill that involves the Power Review Board. One of the things that public power has been telling everybody, that this takes away local control, and their reasoning all revolved around the Power Review Board. What we've done now is we've taken the Power Review Board...with this amendment we've taken the Power Review Board out of the bill. And if I misspoke that there are no concerns, what my understanding was is that in a telephone call to the board, to the Power Review Board, they...with this taken out...well, it does two things. One, it takes out the fiscal note, and secondly, that they would be neutral on this bill. So if I misspoke, I don't know. But at this point this is an important amendment, AM2562. It takes the Power Review Board out of the mix. It removes any fiscal note; and I believe it takes away the whole issue of local control, the

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red herring that's been thrown at us. We've heard that this is going to do potentially great harm. We haven't heard how. And, in fact, what I've demonstrated is that OPPD, in going to 30 percent wind, has actually taken into effect...into account, has considered, has taken into account, many of the factors in LB965. What we're doing with LB965 with removing AM2562 is to affirm what some of the public powers have done, like OPPD, and LES in buying wind from Oklahoma--I'll go into that later depending on what the amendment is. I wish that would have been in Nebraska--Nebraska wind; but it was Oklahoma wind. But at least some of the board members say they considered all of these things. Yet in other public power districts we're being told that they can't consider anything beyond low cost, and they used the term "reliable," although right now the word is "adequate" electric service. And so with that, I would encourage the body--and this does make it better, so I'll put it that way--AM2562 is one of the compromises to make this bill better in the eyes of some people, and I'm willing to go along with that compromise. So I would encourage the group to vote for AM2562 and then we can carry on with the amendments that Senator Smith has brought. [LB965]

SENATOR GLOOR: Thank you, Senator Haar. Members, you've heard the closing on the amendment. The question is, shall the amendment to the committee amendment to LB965 be adopted? Those in favor vote aye; those opposed vote nay. Senator Haar, for what purpose do you rise? [LB965]

SENATOR HAAR: Yes. I'm not sure whether the call to the house is still in place. [LB965]

SENATOR GLOOR: We are still under call, Senator. [LB965]

SENATOR HAAR: Okay. I would like a roll call vote then in regular order, please. [LB965]

SENATOR GLOOR: Thank you, Senator Haar. Mr. Clerk, roll call vote, regular order. [LB965]

CLERK: (Roll call vote taken, Legislative Journal page 1320.) 20 ayes, 19 nays, Mr. President, on the amendment to the committee amendments. [LB965]

SENATOR GLOOR: The amendment is not adopted. Mr. Clerk, items for the record. [LB965]

CLERK: Mr. President, I have amendments to be printed, Senator Mello to LB373; Senator Lathrop, LB752; Senator Seiler, LB810; Senator Nordquist, LB276; Senator Coash, LB799. (Legislative Journal pages 1320-1335.) Mr. President, the... [LB373 LB752 LB810 LB276 LB799]

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SENATOR GLOOR: Raise the call. [LB965]

CLERK: Mr. President, the next amendment I have is by Senator Smith. [LB965]

SENATOR GLOOR: Mr. Clerk for a priority motion. [LB965]

CLERK: Mr. President, a priority motion. Senator Ken Haar would move to reconsider the vote just taken. [LB965]

SENATOR GLOOR: Senator Haar, you're recognized to open on your motion to reconsider. [LB965]

SENATOR HAAR: Mr. President, members of the body, thank you very much. LB965 affirms what some of the public power districts are doing, and gives the option to all public power districts in Nebraska to not just consider low cost and, as the law says, adequate electric service, but to also consider other elements such as low cost and reliable being there, of course, but also economic benefits which creates jobs and property taxes in Nebraska, consider water usage, consider risk analysis both short- and long-term, and consider the amount of money that's being sent out of state, and also consider benefits for the common good of all Nebraskans. One of the red herrings thrown up by public power has been that LB965 would take away local control. AM2562 removes the Power Review Board from this bill, and so local control stays exactly where it's been and that's with whatever kind of board the local public power district has. It does not change that. I want to talk for a minute about how the electric industry has changed. First of all, and this was mentioned earlier, we're now a member of a regional transmission organization called Southwest Power Pool, and Southwest Power Pool actually makes the daily decisions of when plants should run and when plants should not run, and this would include all the generation facilities in Nebraska. Another change in the way the electric utility industry is changing is federal air pollution rules will provide hundreds of millions of dollars in health benefits for Americans by forcing utilities to rethink their use of older polluting power plants; and that's going on in Nebraska right now. The costs of wind and solar energy have been dropping rapidly as the technology improves, while the costs of fossil fuels, like coal, are rising rapidly. Furthermore, progress is being made on integration of renewables into the grid. Enhanced weather forecasting, energy storage, pricing symbols...signals demand management, and so on. And nationwide, utilities are responding by closing older coal-fired power plants, building new wind and solar energy facilities, and investing big in energy efficiency and managing demand. And there's a lot of consolidation going on around the nation of smaller boards...I'm sorry, smaller utilities to provide greater efficiencies. All of these are changes in the electric industry, and many of them don't look too different, if you have an investor-owned utility in Iowa, like they have in Iowa, or if you have public power like in Nebraska. So public power, if generating electricity doesn't have to look any different between an IOU and a public power, then we have to say, what are some of the things

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the public power can do that IOUs can't? And one of them, as you see reflected in LB965, is to think about...think beyond just the ratepayers to look at things like economic...or to look beyond just low cost and reliable to things like economic development. And in a minute we will show you, with the handout, the kind of economic development that can happen, especially in rural Nebraska, by using public power beyond just low cost and reliable. If the only thing you look at electricity is as a commodity, then we might as well be an IOU, an independently owned utility. If we expect more from public power, then putting the kinds of things into the intent language makes a lot of sense. And folks, the intent language...and I'll remind you again, is what do we want from public power? If all you want is low cost, all you want is a commodity, then maybe we should make the current definitions even more stringent. But if we want them to provide things like economic benefits where you look...where a board may look beyond simply the rate, to look at things like economic benefit. How will it benefit the community as a whole? How will it benefit the state as a whole? And we've seen tax studies showing that the amount of economic development provided especially in rural Nebraska can be very great in terms of property tax, in terms of the rental that gets paid to the landowners for having those turbines on their property. Also industry. And I mentioned this before, but every time we see wind turbines going down Interstate 80 going from Iowa to Colorado or to Wyoming, you've got to wonder why we don't have that kind of industry in Nebraska. And it's very simple. Because we don't have a lot of wind developed. We're getting there. But LB965 would allow public power districts to consider economic development. I read to you about the current law and how it's confusing and contradictory interpretations. OPPD invested in more than 600 megawatts of Nebraska wind, and the reasons for doing so sound a lot like the policies proposed in LB965: low-cost, long-term rate stability; portfolio diversification, economic benefit to Nebraskans, and environmental stewardship. On the other hand, NPPD refused to purchase additional Nebraska wind energy last year despite the fact that wind prices were at record low and despite the potential economic benefit to communities. Current law has also led LES to invest in Oklahoma wind and Northeast Public Power to invest in Kentucky coal. Their rationale was that it was the lowest cost and the best deal for their ratepayers. However, our obligation in this Legislature is to set policies for the benefit of all Nebraskans. Money spent in Oklahoma does not generate local property taxes to support schools or send nameplate capacity revenues to this state to support our university and state government. One of the things that I've been concerned about, and you look in LB965, it says that one of the intents of the Legislature is that public power should look at the benefits for all of Nebraska. I understand, if you see the piece that's being handed out right now on Oklahoma wind, in July 2013, LES announced the signing of a 20-year power purchase agreement to buy electricity from an Oklahoma windfarm because it was the lowest cost. But if you look at the bottom, this is the kind... [LB965]

SENATOR GLOOR: One minute. [LB965]

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SENATOR HAAR: Thank you...this is the kind of economic development that it would bring to rural Nebraska if that money instead of buying Oklahoma wind would have gone to Nebraska wind. Somewhere between \$87 million to \$164 million of economic development that could have come to Nebraska, had a Nebraska wind project been chosen. But instead...so LES ratepayers saved some money. The economic development went to Oklahoma. And I guess I would argue that the LES ratepaying district is not an island. Lincoln is not an island. People come to Nebraska football games, to all kinds of events, and leave money in Lincoln. So I think that we have to consider... [LB965]

SENATOR GLOOR: Time, Senator. [LB965]

SENATOR HAAR: Thank you. [LB965]

SENATOR GLOOR: Thank you, Senator Haar. Members, you've heard the opening on the motion to reconsider. Senators in the queue: Dubas, Mello, Bloomfield, Conrad, Ken Haar, and others. Senator Dubas, you are recognized. [LB965]

SENATOR DUBAS: Thank you, Mr. President. Would Senator Haar yield to a question? [LB965]

SENATOR GLOOR: Senator Haar, would you yield? [LB965]

SENATOR HAAR: Yes. Yes. [LB965]

SENATOR DUBAS: Senator Haar, I'm going to ask you a question and then I will just yield the remainder of my time. You can answer the question and then use the time as you see fit. How do you see this bill, this bill the way it is now, impacting future decisions by the Power Review Board, by public power, by REAs, compared to how decisions and the process works now? [LB965]

SENATOR HAAR: Okay, thank you. A very good question. Well, first of all, with AM2562 it...in my understanding from the Power Review Board it wouldn't change the way they make decisions. The way I believe it would make decisions on the local level is that it would say to public power districts, you may take all of these things into consideration when you make decisions to purchase electricity, to generate electricity, etcetera. So again it's the intent language. It's saying not just low cost and a reasonable amount of electricity, but here are some other things that you can consider. If it's just low cost and a reasonable amount, then it's like any other power district anyway. It's simply a commodity. Public power in Nebraska should have the opportunity to think about things like economic development for the community. And again I'm going to talk about some of the power going out of state. I think that's a real problem. For example, Northeast Nebraska Public Power District that went to Kentucky for its electricity, it

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really centers around Wayne, Nebraska, is my understanding. Well, if all they have to think about is their own ratepayers, what about the fact that when a tornado comes through Wayne, for example, the whole state steps in to help them. In my opinion, if public power simply thinks of low cost and reliable for their own ratepayers, that we are never going to develop our renewable asset that we have in wind. We have 165 public power districts, and if each one of them simply says all I have to think about are the people that live in my district, we're never going to get anywhere with renewables. One of the things that's been talked about, I noticed some senators, as I talked to them about this bill, is that I have some kind of hidden agenda. Well, I want to get my agenda out on the table very clearly. I want to use Nebraska resources. Yesterday, when I walked out the door and almost got knocked over, the wind, you know, it occurs to me and I'm sure...I hope some of you thought about it: Why aren't we using more Nebraska resources? As one of my friends put it, it's like we discovered gold in Nebraska and we're deciding not to mine it. I want to keep dollars in this state. In this state we keep sending our dollars outside of the state. A million dollars a day going to Wyoming to buy coal, and the severance tax on that pays the property tax for Wyoming homeowners. I want to transition off of fossil fuels. I want to transition off of fossil fuels, not just flip a switch but a movement towards renewables... [LB965]

SENATOR KRIST PRESIDING

SENATOR KRIST: One minute. [LB965]

SENATOR HAAR: ...would be helpful. So I want to give Nebraska public power a clear message that we believe that one of the intents should be to think about all of Nebraska, that one of the intents when they make any power purchase or generation decisions should be economic development not just in their own rate area but in Nebraska as a whole. Thank you very much. [LB965]

SENATOR KRIST: Thank you, Senator Haar. Senator Mello, you're recognized. [LB965]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I stand in support of the reconsideration motion. As I've read through, I think Senator Haar's original LB965 compared to where the committee amendment takes it, and arguably his AM2562 takes us, I think, in a different...even a little bit different direction where I've been kind of listening to Senator Haar and Senator Smith on the mike in regards to their conversation about this. And I want to make sure it's very clear that I don't read the committee amendment from Natural Resources and the adoption of Senator Haar's amendment as a mandate. There can be general disagreement I think between Senator Smith, Haar, and myself, because we have to remind sometimes our friends in public power that they are a political subdivision. They are a governmental entity. They're not a private entity. It's not a pro...it's not a capitalist, private business. They are a governmental entity created as a creature by the Legislature. And just like NRDs, cities,

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counties, school districts, I can understand that public power districts don't want to see any movement from the Legislature of instructing, advising, giving guidance, or in this particular case with Senator Haar's I think compromised bill which is purely just intent language. I can see Senator Smith's argument and I generally can appreciate and agree with a good amount of it. No one, I think, wants to see public power's rate increases go up simply because we want to see them go up. And I think the one thing that's caught my eye and mind in regards to listening to the debate a little bit is Senator Haar has provided a little material that wrapped it up in my mind a little easier, which is our existing statutes in theory gives guidance to public power districts. But you have OPPD doing one thing differently than NPPD doing things differently than LES doing things differently than Northeast Public Power. And I guess that's part of my general thought of why I see where Senator Haar wants to take this I think very compromised version of LB965, which, colleagues, it is only intent language. There is no requirement whatsoever of making public power do anything except giving some guidance in regards to, I've even looked at the revised language that the Natural Resources Committee put out, and I think it's even more compromised than the original bill. And I think the thought being was that they wanted to make sure that they gave some guidance to public power, but they didn't want to tell me absolutely what they had to do. And I, for one, have had my frustrations with public power over my six years in the Legislature, whether it deals with energy efficiency, whether it's on bill pay, or whether it's looking at renewable energy and why renewable energy isn't a bigger economic development engine as part of our public power system, we'll continue to have those debates. And by all means, public power, at least Omaha Public Power District, that the area that I live in has done a very, very noble job over the last few years of expanding their portfolio, of realizing I think the economic development benefit in the eastern part of the state in regards to wind energy. Now I'd love to see them do a lot more on energy efficiency and energy conservation, but the reality of that is not what we're talking about in LB965 or the reconsideration motion. Colleagues, public power is a creature of this Legislature. And when we give intent language suggesting that they take into consideration some components...and I'll just read some of the language that it says. On Section 1, I know Senator Smith and Senator Harms were talking about Section 1 and Section 3. It simply says their costs include, "costs of generation, current and projected fuel costs, cost of regulatory compliance. [LB965]

SENATOR KRIST: One minute. [LB965]

SENATOR MELLO: Colleagues, those are all three things that it doesn't take a Ph.D. in bio...I would say, bioengineering or it doesn't require someone to have a Ph.D. in nuclear physics to understand some of the very basic components that Senator Haar has laid out in the intent language. Now you could have a general disagreement of whether or not you think we should be giving more intent and more direction to public power since they are political subdivisions and they are governmental subdivisions that we have created, or whether you think that we should just let them do what they want to

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do. I think, colleagues, where Senator Haar is trying to take us with his amendment to the committee amendments is a compromise. It may not be the best compromise in the eyes of some but it is a compromise, and I think he's trying to make sure and remind people that this bill really is only intent language. It's not mandating anything. A mandate has a hammer, has an enforcement mechanism. This simply is giving some guidance, colleagues, that frankly I think it's in our constitutional responsibility as legislators in a body that has created public power... [LB965]

SENATOR KRIST: Time, Senator. [LB965]

SENATOR MELLO: ...in the statutes of public power to give them guidance. Thank you, Mr. President. [LB965]

SENATOR KRIST: Senator Bloomfield, you're recognized. [LB965]

SENATOR BLOOMFIELD: Thank you, Mr. President. I'd just like to yield my time to Senator Smith if he can use it. [LB965]

SENATOR KRIST: Senator Smith, you're yielded 4:50. [LB965]

SENATOR SMITH: Thank you, Mr. President. And thank you, Senator Bloomfield, for yielding me your time. I...colleagues, those of you that are in the Chamber now that were here on this last vote, I just want to say thank you for that vote. I think it was the right vote, and I stand in opposition to this reconsider motion. In my closing or in my closing comments on the last amendment, I mentioned that what this bill actually did, the AM2562, there are three components to the amendment and to the underlying bill. Two of those, the Section 1 and Section 3, are fence posts. One of them basically specifies the intent for the state of Nebraska and the Power Review Board. The other one is the intent for energy suppliers, which are the generators, which are the public power companies. And then that middle section that Senator Haar is seeking to strike with AM2562 is the process by which the Power Review Board would go through in making the consideration and determination as to whether the utilities considered the costs, and then they would make those decisions. Even if we strike that, we leave those fence posts in place, and that is simply not what is needed for public power. Just a little background. If we want to talk about renewables, I gave you some statistics about Nebraska's renewables and how advanced we are on a voluntary basis with renewables. We don't have state mandates, we don't have federal mandates, but yet we are moving forward very, very quickly on establishing renewables and adding those to the generation portfolio. That tells me that local control works for public power. We are probably moving ahead of other states. In my stats I indicated that we were ahead of neighboring states with the advancement of renewable generation by adding it to our portfolio. LB104 was passed last year. I stood on this floor and I argued against LB104 because I felt like LB402 would have been a better bill. That would have been more

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local, smaller development projects. I continue to stand in support of renewable projects that make sense. And when I say "make sense," either they provide a lower cost option or they generate significant economic activity that offsets those costs. And LB1115...and Senator Davis is not in the Chamber, but Senator Davis has a bill that's going to be coming up on Final here in the next few days, hopefully soon, and it's a bill to study wind exports. So colleagues, if we want to talk about renewables, what Senator Haar is attempting to do, that would be a perfect approach: LB1115. I hope you all watch for that bill coming up, Senator Davis' bill. It's going to be a fantastic bill to help address wind for export. But colleagues, again, I'm asking you, let's not move down this path. Even taking that center section out this amendment, it leaves those fence posts in place, it leaves the intent in place, and it takes...it undermines the local control of our public utilities. Thank you, Mr. President. [LB965 LB104 LB402 LB1115]

SENATOR KRIST: Thank you, Senator Bloomfield and Senator Smith. Senator Conrad, you're recognized. [LB965]

SENATOR CONRAD: Thank you, Mr. President, and good afternoon, colleagues. I apologize, I missed a time at the mike. I was momentarily off the floor attending to some other business and didn't have an opportunity to weigh in on this topic yet. I heard some of the commentary today and I want to just kind of work through a few of those points, and then I'd be happy to yield additional time to Senator Ken Haar if he so desires. But we have heard from some opponents that there is something maybe rushed about this process or inappropriate about this timing. And having sat near Senator Haar for a long time now, I can tell you that my seatmate has worked diligently on this legislation. It has been a top priority for him, a key focus, and there hasn't been a day that has gone by that he hasn't given me and others an update on this. So, of course, he doesn't set the legislative agenda and I think that it would be inappropriate to move aside this important effort based upon the fact that we are towards the end of the session and we might be tired and we might not want to dig into it. But he definitely has done the due diligence. There's nothing rushed about this process, and he's very appropriate in terms of where he is with scheduling. The other things that I want to note that we've heard is that this is a mandate or this is a slippery slope towards additional litigation. And Senator Mello did a nice job of, and Senator Haar, of recounting both those points of opposition, and I agree this is not a mandate and this is not a slippery slope towards any additional litigation. Friends, what this legislation is, it's a framework for decision making, which is very similar to other aspects of our state law. For example, look no further than our lowest responsible bid contracts parameters. We say, as state policy, we're not just going to look at the bottom line but we're going to look at some other factors to ensure that we're getting the best value to the taxpayer and taking into account some other considerations. That's basically what Senator Haar is trying to say in this regard. Yes, take into account the bottom line. Yes, take into account some of the things that you're used to utilizing in making your decisions. But also take into account some other factors, like environmental impact, sustainability, and the issues that he has delineated in his

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legislation and the pending amendment. That's all. It's a framework for decision making. It provides clarity for the existing practice for this decision making, which is happening already at OPPD, is my understanding, and it provides uniformity and guidance to the other public power districts to ensure that they also have the liberty to take into account these considerations--if their local members see fit. It's not a mandate that they have to. It's not a priority system. It's not a preference. It says you have the ability to look at these other considerations if you see that as appropriate; and there's nothing wrong with that. It's important when we look at issues like this and others affecting local control issues with our partners in other aspects of government, that we always strike an appropriate balance. And Senator Mello is absolutely right, the public power districts, just as NRDs, just as other governmental entities, exist because of legislative grant of authority, and there's nothing wrong or nothing new about updating or evolving the parameters for that legislative authority. That respects the decision making at the local level, but it does provide the Legislature an opportunity to just update and modernize the grant of that authority to take into account additional and new public policy considerations... [LB965]

SENATOR KRIST: One minute. [LB965]

SENATOR CONRAD: ...like sustainability and like some of the other issues that Senator Haar has talked about in that regard. So I think this is good legislation that he's worked hard on. It is very flexible in terms of respecting local control. But it does allow us to take into account other public policy considerations as we do in other aspects of law that have never led to a slippery slope of litigation and have never been determined to be an overarching mandate. I know I used most of my time, Senator Haar, so I'd be happy to yield you the few seconds that are left or you could pass. Okay, thank you, Mr. President. I appreciate it. [LB965]

SENATOR KRIST: Thank you, Senator Conrad. Senator Ken Haar, you're recognized. [LB965]

SENATOR HAAR: Mr. President and members of the body. We heard again one of the red herrings, this will destroy local control. It does nothing about local control. What it does do, what is important is that we as a Legislature say to public power, yes, low cost and reliable is important, but we'd also like you to think about economic development. I handed out a sheet a few minutes ago called "Oklahoma Wind." And again, within the current framework of the law saying low cost, reliable, LES had...as they, at least some of them have said, had the responsibility to take Oklahoma wind. Well, if you look at the kind of benefits, we often talk about rural Nebraska. Okay, if you look at the kind of benefits to rural Nebraska, there are the direct and the indirect impacts. And among the direct impacts...and then there's what's called low and high C-BED, and if you're new in the Legislature you'll get to know those terms eventually. Low C-BED means that it's pretty traditional development owned by an outside developer, probably with not a lot of

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community investment. High C-BED is a lot of community investment. You can see construction-period employment somewhere between 123 to 238 that went to Oklahoma instead of Nebraska. Construction-period economic output: \$15 million to \$30 million; that went to Oklahoma instead of Nebraska. You look at the bottom, the direct, indirect, and induced. Direct...or indirect and induced are sort of the periphery kinds of impacts that economists talk about. And you can see that there are 230...between 230...and this is according to the National Energy Renewable...National Renewable Energy Lab, NREL. That would have been 230-420 construction jobs in Nebraska that went to Oklahoma. Operations-period employment, 26-52 that went to Oklahoma instead of Nebraska. The average annual employment between 35 and 66 that went to Oklahoma instead of Nebraska. Average property tax revenue per year: \$330,000 that didn't come to Nebraska. Lifetime economic output: Between \$86 million and \$164 million that went to Oklahoma instead of Nebraska. Now again, the LES board said low cost, reliable; we have to buy the Oklahoma wind. We have to find a way. We have to give boards, tell them it's our intent that they also consider economic development in Nebraska. Between \$87 million and \$164 million in lifetime economic output that have gone...could have gone to Nebraska and, instead, it went to Oklahoma. Now, on the same point, OPPD decided to buy its wind in Nebraska, and so the kinds of economic development we're talking about here did go to Nebraska instead of another state. The fact that a public power district around Wayne, Nebraska, bought Kentucky coal-generated electricity... [LB965]

SENATOR KRIST: One minute. [LB965]

SENATOR HAAR: Thank you...means that the economic development went to Kentucky instead of Nebraska. That's wrong. That's a problem. We have to be thinking beyond our own little rate area. And LB965 at least would give...at least would give public power the difference it would make, it would give them the opportunity to make decisions that keep the money in Nebraska, that keep the economic development in Nebraska; and whatever goes on in rural Nebraska certainly helps Lincoln and Omaha. So again it's a framework. It's saying to public power, here's what we'd like you to consider; we want you to go beyond just low cost and what you call reliable. We want you to also think of the economic development that this could bring to Nebraska. [LB965]

SENATOR KRIST: Time, Senator. [LB965]

SENATOR HAAR: Thank you. [LB965]

SENATOR KRIST: Thank you, Senator Haar. Those still wishing to speak: Senators Sullivan, Smith, Scheer, Schumacher, and Ken Haar. Senator Sullivan, you are recognized. [LB965]

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SENATOR SULLIVAN: Thank you, Mr. President, and good afternoon, colleagues. And I think I'm glad that Senator Haar has asked us to reconsider that vote, because I think that that particular amendment helped us to improve the bill. I'm still struggling a little bit with LB965. Most of you know that I am a strong supporter of public power, and it is deep in my family roots, maybe even deeper than Senator Campbell. It probably wasn't long before I was born that rural electricity came to our farm, and my father worked very hard, literally going door to door, to farmsteads in our area, promoting and getting a few dollars from those local farmers to bring rural electricity. And he was one of the charter members of the local public power board. So I'm a true believer in what that has done to rural Nebraska, because I think without public power--and I believe it is one of the cornerstones of our unique state--without public power I think some of our rural areas would have seen rural electrification come a lot later in the whole process. So whenever we look to, I use the word loosely, tamper with it, I get a little suspect and cautious. And so in this whole conversation about this bill I'm trying to figure out, okay, are we wanting to promote renewables, or are we...is the main focus to look at the priorities of public power and repurpose them? And in all the discussion so far, hearing what public power districts are already doing with renewables, what their concerns are, I'm just struggling with what are they not doing or doing now that LB965 allows them to do? I mean, I'm searching for the real intentions and purpose of this bill. When I look at public power, yes, I look at those three-legged stools: the accountability, the reliability, and the cost effectiveness. But certainly, as I mentioned, I look at the local control and the local involvement as being and so important. And I have to tell you, I think that so many of our local public power districts are very concerned about economic development and economic development locally and without...at least one public power district in my district is still very concerned that the original route of the Keystone XL pipeline didn't go through part of District 41, because that would have been a big economic boon to the area and ultimately some lower rates for the ratepayers. So one of the things I'm struggling with, and I'm going to ask Senator Haar if he could help me a little on this, is that when you talk about economic development considerations, Senator Haar, to whom are you saying should the benefits be derived to? State, local? And who determines that? Senator Haar, can you help me a little with that? [LB965]

SENATOR KRIST: Senator Haar, will you yield? [LB965]

SENATOR HAAR: Well, here's my opinion. I think that LB965 gives public power districts the ability to think beyond just their district, so that in another time, for example, the group that went to Kentucky to buy coal could say, you know, it's really important that we invest in the economy of this state and look beyond just our district, because when it comes to something like a tornado, we need the help of the whole state of Nebraska. So it's still a local control issue, but it says, in terms of the framework and so on, it says... [LB965]

SENATOR KRIST: One minute. [LB965]

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SENATOR HAAR: ...this is what we would like you to at least consider. [LB965]

SENATOR SULLIVAN: All right. Thank you, Senator Haar. And then I want to also jump over, in the time left, to Senator Smith, if he could. In your earlier comments you talked about that we perhaps are losing our competitive advantage with public power. Can you elaborate on that a little bit? And what more, under the current confines of public power, can we do to improve that? [LB965]

SENATOR KRIST: Senator, there is only 20 seconds left. Senator Smith, you're next in the queue if you choose to keep it up, then you're on your time, Senator. Senator Smith, will you yield? [LB965]

SENATOR SMITH: Yes, I will. [LB965]

SENATOR KRIST: Okay. Go ahead. [LB965]

SENATOR SULLIVAN: Okay. Thank you very much. Continue, Senator Smith. [LB965]

SENATOR SMITH: All right. And I will continue on my time, too, Senator Sullivan. Thank you for those questions and I really appreciate your thoughtfulness in asking those questions. There are some things that are within the control of public power companies to control their costs, and some things that may be more regional or out of their control but that they do need to continue to operate efficiently in order to properly respond the best to those challenges. One of the things that public power has always benefited from in the past years, and I'm going back several years, was the wholesale market, selling off grid, off system sales. And this is where they're able to sell...you know, Nebraska used to be made...you know, a net exporter of power. They produced more than they consumed within their borders, and so they sold that excess off system where there were needs. And then they were able to get market prices for that, bring that back in, into their operating activities, which allowed that to subsidize lower rates in Nebraska and reduce our rates in Nebraska. And that was a fantastic thing that was taking place. But with some of the federal initiatives on renewables that occurred in neighboring states like Iowa, Iowa took advantage of that. They built a significant amount of generation from wind, and they dumped that below market prices onto the grid, putting Nebraska at a disadvantage, so that Nebraska's generation could not be sold. It had to be held here, so we no longer had those revenues coming back into our state, all because of federally funded mandated renewable generation taking place in neighboring states, flooding the market; in turn, hurting us. So now we're having to compete in that new world, and that new world does not mean installing renewable generation on top of our fossil generation, because renewable generation by its very definition or by its very nature is not reliable. It has to have something behind it to back it up so that when you turn that switch on and the wind is not blowing, something has

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got to generate that power. So you have to have this redundancy. So to force us into renewable, pushing too fast into the renewable field, could be damaging to and causing those rates to go up. You have two small nuclear plants in Nebraska. Iowa, if I'm mistaken, someone may tell me, I don't think they have any nuclear units. But we have some nuclear units that have had some troubles that we've been putting some money into. Now fortunately it helps our diversity of generation. So in the long term that's going to benefit us, but right now it's pushed our costs up. Coal, coal is...the cost of coal, transportation costs, did make a bump, but that affected everyone. And then we have the economies of scale. And if you look at some of these large generation companies, power companies, they're able to spread their administrative costs across many more units of megawatts generated. And we're just a smaller state, smaller companies, smaller generating companies, and we just have fewer megawatts to spread those administrative costs across. So the economies of scale is something else we're struggling with. But what we need to do, I don't know if we'll ever see that wholesale market come back for our firm, reliable generation that we can export. Maybe it will. But what we need to do is make certain that public power maintains its competitive advantage with the tax structure and the way it operates so that we give it every opportunity to succeed. And I think that better days are ahead. Yes, the competitive margin has shrunk and it's in the single digits now probably than in the double digits that we would prefer it to be. But I think better days are ahead, but let's not further complicate that and erode that competitiveness by forcing more renewables into the marketplace before we're ready for it. And once again, I think...I heard you point out... [LB965]

SENATOR KRIST: One minute. [LB965]

SENATOR SMITH: ...and I think I heard you say this, Senator Sullivan, but we do have significant amounts of renewables that we are voluntarily putting into our grid today. And I think our public power companies are making wise, sound decisions, and they're trying to balance this cost versus green energy that consumers want, but do it in the Nebraska way. We like to talk about the Nebraska way. Do it in a very thoughtful, procedural sort of way to where we can control those costs. So that's what I'm hoping to do by defeating this bill and defeating this amendment. Let's go back to what Senator Davis is going to be bringing up in LB1115. I think that is the kind of study that we need in our state to see what we can do with renewable exports. Thank you, Senator Sullivan. And that's all the time. Thank you. [LB965 LB1115]

SENATOR KRIST: Thank you, Senator Smith, Senator Sullivan, and Senator Haar. Senator Schumacher, you are recognized. [LB965]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. This is probably the only discussion that we're going to have this year and maybe even next year on energy policy, so I put two cents' worth in on it. We live in a very different world

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energywise. We are now 7 billion people. In 30, 35 years, if all goes well, we'll be at 9 billion, and that may be the carrying capacity of the planet. The underdeveloped sections of the world, principally China and India and Africa, would like to have the ability to burn energy the way we do, and they can see that we do a lot of it because one thing they do have, among the many things they do not have, is access probably to flat screen TVs and satellite television--and they're going to want to burn energy. And so far, most of our energy is from the destruction...or from the oxidation of hydrocarbons. So we take old life forms that have fossilized or turned into coal or oil and we light them on fire just like the Stone men did. And that's about as sophisticated as we've gotten. No matter what we do here in Nebraska, the overwhelming pressure will be to create more energy. And doing it like the Stone men did it may very well create problems if we're to listen to at least some of the climate scientists, and it may be problems that will be very hard to unwind and take a long time to unwind. There's been this infatuation with wind and solar. I can't see wind and solar baling us out of this mess. Marginal technologies have to be highly subsidized. The wind doesn't blow; it has to have backup generation. Long and vulnerable transmission lines just doesn't add up to a picture to be able to deliver the goods. So I just wanted to mention two things that I think would be worthy investing in and worthy studying in, in energy policy. One is a thorium reactor. We use uranium reactors because they were militarized and able to be militarized in the 1950s. Big ugly molecules...or atoms, broke apart into highly radioactive things that lasted for tens of thousands of years; but we did it because you can make bombs out of the by-products. There was another technology that was passed up because you couldn't make bombs out of it; much safer, much easier, much more abundant, very practical, actually works: thorium. If we were going to micromanage our power industries, we should encourage them to do whatever it is that they can do within their realm and our university within its realm to look to thorium reactions. There's hope in thorium. The second thing is a thing called low-energy nuclear reactions. There's something going on. You can take nickel, you can put it in a hydrogen environment, you can add a catalyst, and lo and behold, under certain conditions more and more predictable, it will have output 10,000 times by weight the output of gasoline. Probably not enough output to turn a turbine in a power generation facility, but likely sufficient output to take most of the pressure off of home heating. The University of Missouri is into it. The University of Oklahoma is into it. The universities around the world, at least five manufacturing companies are claiming to have replicable results. We need to get into that or we're going to be behind the power curve on that one too. There's something there and there's great hope there. I cannot support LB965... [LB965]

SENATOR KRIST: One minute. [LB965]

SENATOR SCHUMACHER: ...because it is a disconnect between the desire to do what is right and the practicality that at least today we have got to burn hydrocarbons in order to feed our energy addiction, and that addiction is not going away. So I like the idea that we are applying some thought to energy. I don't think LB965, which adds additional

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burdens and considerations that our power companies have got to take into account. I do think there's alternatives as we go down the road here that we should encourage public power and our university to be involved in, primarily the thorium reactor and low-energy nuclear reactions. Thank you. [LB965]

SENATOR KRIST: Thank you, Senator Schumacher. Senator Haar, this is your third time, and there's no one behind you if you'd like to close as well. [LB965]

SENATOR HAAR: Okay. Mr. President and members of the body, I would like to talk a little bit more about what's happening to our ranking. If the current law of low cost and reliable is all that there is and all that there should be, and that's our...up to us, our intent, I want you to look at the graph I handed out that says "National Ranking in Total Electrical Rates." And I did put Iowa on there because Iowa has been going great guns with wind energy. We all know that when you go to Des Moines or go north and see all the wind turbines. You look at Nebraska, and our ranking over...between 1990 and 2012, we were doing really quite well around 2000. And then in 2005 we were actually ranked, like, 5th or 6th in terms of lowest rates. But now look what's happening. We have now dropped to number 15 in terms of overall rates. So if low costs and reliable is serving us so well, what's going on? Iowa, on the other hand, as you can see, was trailing us in terms of ranking, and now they've gone ahead of us. And if you turn to the second page, this is really revealing because this is...the source is the U.S. Energy Information Agency (sic--Administration). And if you look at the years from 1990 to 2012, we went from 16th in terms of lowest rate in 1990 to 10th in 2006, in 2006. Now we're down to 15th. If you look over in residential rates, we went 11, 11, 6, and now we're 12 in the nation. Commercial, 9th, 7th, 5th, now we're 16th in terms of our ranking. And industrial, in 1990 we were 17th, then we went to 7th and 7th, and now we are number 33rd; we're below the national average in terms of our ranking, in terms of rates. So we can keep just looking at low cost and reliable--although that's not what the law says; it says reasonable amount--low cost and reliable to see if it's really serving us, first of all, in any way that goes beyond an independently owned utility, and secondly, what are those things that public power has to offer to us in terms of economic development and other things that IOUs, in looking just as their ratepayers, can't make decisions, but we can. And LB965 is an attempt, is one piece to say that it's not just low cost, reliable, but there are other things that we as a Legislature would like public power to consider. If you're satisfied with low cost, reliable, you've got it. We need to look and clarify our intent so that it goes beyond just low cost and reliable. I think some other things have been suggested. Senator Campbell suggested a state production tax credit. We'll look at that next year. Certainly I'm very optimistic about Senator Davis' bill. [LB965]

SENATOR KRIST: One minute. [LB965]

SENATOR HAAR: Thank you. And with that I would like to make the priority motion to

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IPP my bill until, what is it, April 17? [LB965]

SENATOR KRIST: Mr. Clerk, do you have a priority motion on your desk? [LB965]

CLERK: I do, Mr. President. Senator Ken Haar would ask unanimous consent to bracket his bill until April 17, 2014. [LB965]

SENATOR KRIST: Seeing no objection, so ordered. Next item. Items, Mr. Clerk. [LB965]

CLERK: Mr. President, Senator Gloor, I understand you want to have an Executive Session of the Banking Committee immediately? No, not now. Okay. Sorry, I misunderstood.

SENATOR KRIST: I misunderstood, sorry. Mr. Clerk, next item.

CLERK: Mr. President, sorry. LB752, offered by Senator Lathrop, relates to crimes and offenses. (Read title.) The bill has been discussed briefly, Mr. President. Senator Lathrop opened on his bill on March 5. I do have amendments to the bill, Mr. President. (FA204, Legislative Journal page 735.) [LB752]

SENATOR KRIST: Senator Lathrop, you are recognized. [LB752]

SENATOR LATHROP: This is to provide an update...or where we were at? [LB752]

SENATOR KRIST: Yes, sir. [LB752]

SENATOR LATHROP: This is the bill, you'll remember, that changed the penalties for assaulting an emergency responder. We have in statute various assault bills, and we have chosen to elevate the penalty for certain circumstances or certain employees, types of employees. They would include, for example, medical personnel, which we did, I think, two years ago. This would add firefighters to that class of those whom you assault. And it would, as a consequence of an assault on an emergency responder, enhance the penalties to the next class up. We began the debate. There are a number of amendments. And we'll look forward to Senator Chambers' various amendments and debate on the bill. Thank you. [LB752]

SENATOR KRIST: Thank you. Senator Chambers, you had an amendment pending; you're recognized to brief us. [LB752]

CLERK: Senator, this was FA204: On page 2, line 20, after the word "professional," insert "or bank teller." [LB752]

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SENATOR CHAMBERS: Thank you, Mr. Clerk. Members of the Legislature, I was following the debate that was preceding this bill, then suddenly I heard the announcement that this bill, which I don't consider to be very wise, come up. Because I have a number of amendments, I was in the process of trying to use each one of these new categories as an inspiration for a little rhyme; and I only got one done. This first one is for the bank teller: Nowhere can you find a sweller "feller" than the loyal bank teller; difficulties arise, but none compares to a desperate robber's gun; even cursory inspection shows the teller needs protection; sure as donkeys bray, "Hee-haw," tellers need a special law; so when robbers get the word, all of them will be deterred. Members of the Legislature, there is a general law that applies to all persons, not just citizens. The reason you enact laws is to criminalize conduct. And when that conduct is directed toward any person, that general law is there to provide, first of all, a clear definition of the conduct, criminalize the conduct, and then make sure that it applies equally to all people who are victimized by it. What is happening with the law now is the pocking it with all kinds of exceptions. Each group wants to be put in a special category, so that if something is directed toward anybody in that category, special consideration is given. So you can look at that two ways: either these people are elevated above everybody else, or everybody else is subordinated to them. But, in any case, there should not be different tiers of--"t-i-e-r-s"--persons whom the law will ascribe greater worth to some and lesser worth to others. I have always opposed this kind of legislation. I thought there was one time that I supported allowing some kind of sign to be put up in an emergency room of a hospital warning that if any action was taken against one of these workers, then there would be a price to pay, or something. In those areas of a hospital you might be confronted, if you work there, with people who are deranged, people who are intoxicated and combative, people who may be the relatives of somebody who is brought into one of these emergency areas, having been the victim himself or herself of a crime, and see somebody who he or she thinks may have been the perpetrator, and begin trying to take action against that individual. One of these employees may intervene or inadvertently be harmed in a fracas or a struggle. So maybe you could show that in that limited set of circumstances a type of umbrella protection would be made available. Now, I say I think I may have agreed to something like that, but I'm not sure. All of this other is not appropriate. People who get these jobs seek them out. They know what is entailed. They're paid to do whatever it is they do. And if there are risks that are inherent in the job, they know that. So the general law serves its function by allowing the prosecution of anybody who would harm one of these individuals in a way that is outside the law. The reason I say, "outside the law," sometimes these individuals, even a police officer, can step outside the boundaries of what is allowed and the law will allow a person to defend him- or herself, if subjected to excessive force or inappropriate force. So what I'm going to do--and however long it takes, I will take that time--is select different categories of individuals who face a risk. Although the rhyme was of uneven...I shouldn't even say quality, it was...it didn't require much in the way of thought, talent, or ability. But it's designed to point out, in what you might call a lighthearted way, the hazard confronted by somebody who is a bank teller. With the downturn in the

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economy, I suppose, there has been an uptick in bank robberies in Omaha, in Lincoln, in smaller towns within Nebraska, and in bigger cities all over the country. When a fellow known as Willie "The Actor" Sutton was put in jail on several occasions, he managed to escape; he was an escape artist. And he was asked, when he had been returned to jail on one occasion, why he continued to rob banks. He said, that's where the money is. And that's what people feel when they go into a bank to make an unauthorized withdrawal. They have examples: American heroes like Jesse James, Billy the Kid, the Younger brothers, the Dalton brothers, Frank James. And these people are American heroes, and everybody knows it; there's a certain romantic aura that accompanies these types of individuals. But even when you talk about them, there's an opportunity to give a lesson about parenting and how far a parent's responsibility will go: what kind of liability, if you will, could attach to a parent because of something a child does. And I did some research on Mrs. James, and she said that she never raised Jesse or Frank to rob banks or rob trains. What she had told them is that...Jesse was good with numbers, so he ought to get a job in a bank; and she said Frank liked to travel, so she told him he ought to work on the railroad. And being young, they misinterpreted what she meant. She meant, make an honest living employed in a bank; make an honest living working for a railroad. But they found an easier way: go into the bank, make an unauthorized withdrawal, and you can take it easy. The same thing with the train. And they said Frank James is the one who wrote that song--people didn't know it--"I've been working on the railroad, all the livelong day." So when you hear things, they mean different things to different people. I don't know that anybody would disagree with or challenge the idea that being a bank teller can place a person at risk for harm, at risk of harm. So if these different groups who have had a niche carved out of the law for them are entitled to that, the bank teller certainly is entitled to the same kind of consideration. [LB752]

SENATOR KRIST: One minute. [LB752]

SENATOR CHAMBERS: And what I would want you to do is adopt every one of these amendments. I want you to riddle the law, like Swiss cheese, and if we do enough of it, we then will manage to put everybody on the same level. As that guy said in "Woebegone," everybody in that town is above average, everybody. Well, if we put everybody in the special category, we have now leveled the playing field, and we've restored a semblance of equal treatment accorded all by the law. Thank you, Mr. President. [LB752]

SENATOR KRIST: Thank you, Senator Chambers. You heard the opening: we're in the refresher on LB752/FA204. The floor is now open for debate. Senator Chambers, you're recognized. [LB752]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, when this bill was heard in the Judiciary Committee, a gentleman who is a lobbyist with

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whom I've become familiar--due to his lobbying for banking and other financial interests and commercial interests before the committees of which I'm a member--came before the Judiciary Committee wearing a different hat: not a Stetson hat, seeking protection for those who work against the bank, because he wants to protect the banks, but to have pharmacists included in this law. In Iowa not too long ago, Council Bluffs, across the river from Omaha, caught on a surveillance camera was part of an armed robbery. The person had come into the pharmacy to seek drugs, not drugs for which he had a prescription, not drugs for which he intended to pay cash, but drugs which he intended to take at the end of a weapon. The person who was working as a pharmacist became so enraged that he forgot about the fact...or disregarded the fact that being enraged does not make a person bulletproof. So he came from out of his place that could have been something like a sanctuary and attacked this individual. In the military, were "General Garrett" here he could confirm this, or some of the other people who were in the military, such as Senator Janssen, here, he could confirm it; or anybody whoever took ROTC can confirm it: one of the principles of successful warfare is surprise. Catch the enemy by surprise, and that gives you an advantage. So this individual with a gun was so surprised that he turned heel and started to run. And I think he may have made it outside of the establishment or he was apprehended near the doorway. But the perpetrator, the malefactor, and the would-be victim wound up tumbling about on the sidewalk. And other people, if I'm remembering this correctly, observed what was going on. The pharmacist...the pharmacy was located in a mall, so there were other commercial establishments nearby. Customers were in some of those establishments, employees; but, in any case, several people joined in the fray. The person was disarmed, subdued, and the local constabulary was summoned. And he was carted off to a place of confinement. Now, because of that and similar things that happen to people who work in pharmacies, Mr. Hallstrom appeared before the Judiciary Committee. Senator Ashford is the Chairperson of that committee, and he conducts committee hearings in the way that most committee hearings are conducted. He explained that when a bill is presented, those who favor the bill will speak first, those who oppose the bill will speak next, and those who are neutral will speak last. [LB752]

SENATOR KRIST: One minute. [LB752]

SENATOR CHAMBERS: He will point out that there is a little box with three lights: a green light on one end, a yellow light in the middle, a red light on the other end. And each person is given three minutes to testify. When the green light is on, you're like on the street where you can proceed through an intersection. When the yellow light comes on, you're supposed to stop if you're not in the intersection, if you're on the street. But before the Judiciary Committee, you continue to talk but you know that your time is running out; if you're on your deathbed, it will let you know that your days or your hours are numbered. When the red light comes on, it meant stop. And Senator Ashford, in his dry humorous way, said: If you don't stop, a trapdoor will open beneath your chair and you will be swallowed up. Naturally, that never happened. But that's not to say some did

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not wish it would happen. [LB752]

SENATOR KRIST: Time, Senator. [LB752]

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

SENATOR KRIST: Senator Wallman, you are recognized. [LB752]

SENATOR WALLMAN: Thank you, Mr. President. And, members of the body, good evening, everyone, friends all, like Senator Price used to say. My favorite song, I guess, about gangsters, Senator Chambers, is: I miss Billy the Kid; I miss what he said, I miss what he did. Billy the Kid was true to himself. And we have lots of heroes in the outlaw world. But in real life, if you're a firefighter or a policeman and get hung up with some of these violent things that happen nowadays, I think we have to realize that a lot of these people are volunteers. And we lost a fireman in my district while I was in here. And he had no idea that he was going to lose his life that night, but it happened. And so it can happen. And so that's all, Mr. President. [LB752]

SENATOR KRIST: Thank you, Senator Wallman. Senator Chambers, you're recognized. [LB752]

SENATOR CHAMBERS: Thank you. Mr. President, picking up where I left off, Mr. Hallstrom, following Senator Ashford's instructions, approached the table; he pulled the chair back from the table, moved around it, deposited himself into the chair, and in a very gentlemanly, unobtrusive fashion, from the standpoint of not making a lot of noise, slid the chair closer to the table. He arranged himself in the chair so that he was very comfortable--he wears glasses--adjusted his glasses, leaned forward slightly, and said into the microphone: My name is Robert Hallstrom, and I want to speak in favor of this bill. The rest of it would be paraphrasing. He promptly made it clear that he was there to represent the pharmacists. And in view of the fact that the premise of this bill was to cut out a place in the law to provide special protection for individuals whom society felt would face dangers that might be out of the ordinary for a working person, pharmacists fit into that category. Now, he didn't say this but implied, and I'm saying it: if it's fair for the goose, it's fair for the gander. Nowhere in this law that exists in the current statute, nowhere in what Senator Lathrop is presenting and trying to palm off as good legislation is there a definition that would prevent a closed-class type of approach. There would be a general definition, and anybody, anybody, whose lawful activities brought him or her within that definition would qualify for this special treatment. And the law could be given a name that would indicate what the law's purpose is. Instead of that, we have the Swiss cheese approach, the patchwork quilt approach, the "I am better than you" or "You are not as good as I, and the Legislature has said so." This is an inappropriate approach to take. Mr. Hallstrom obviously was unsuccessful in persuading the committee that those he represented, those who would face dangers...he couldn't

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persuade the committee that they should be given that same consideration. Their life was not worth as much. Their little children, if they had them, would watch Daddy or Mommy go to work in the drugstore--that's what they used to call them when I was little--at the pharmacy and never come home again. And those little children would not understand; that widow or that widower would weep. But those tears did not melt the hard heart of the members of the Judiciary Committee, on which Senator Coash sits, on which Senator Lathrop sits, on which I sit. But here's the difference between me and them: I say, freedom for everybody or freedom for nobody. Didn't Patrick Henry say, "Give me liberty or give me death"? [LB752]

SENATOR KRIST: One minute. [LB752]

SENATOR CHAMBERS: Liberty or death. Freedom for everybody or freedom for nobody. But change that word to "special treatment for everybody," then it's not special. The corollary is correct: special treatment for nobody. Under the pure principle of the law, nobody is above the law and nobody is beneath, or below, the law; everybody is treated the same. And when you depart from that principle, you create discrimination, injustice, and a mockery of what the law is and stands for. Was that my third time, Mr. President? [LB752]

SENATOR KRIST: Yes, it was, Senator. [LB752]

SENATOR CHAMBERS: I might try for four, but we'll see, when that time comes. Thank you. [LB752]

SENATOR KRIST: Seeing no one else in the queue, Senator Chambers, you're recognized to close on FA204. [LB752]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, there are and have been laws many. There are and have been lawgivers many. A lot of people think of Moses. Some think of Hammurabi. Some think of Draco from which Draconian comes. There was a form of the law known as the law of the Medes and the Persians which changeth not. Senator Lathrop, whom I respect greatly, and I'm not being sarcastic and that's not an April Fool type joke. Senator Lathrop not only studied the law and mastered the law, Senator Lathrop, from what little I know about his family, was born and bred in the law in the same way that Br'er Rabbit was born and bred in the brier patch. Senator Lathrop is very proficient in the practice of law, and yet we have now before us not just one proficient in the practice of the law, not only born and bred in the law, but now occupying the exalted status of a maker of the law, a lawmaker. And we who make the law should in our lawmaking uphold the principles of the law. If those who administer the law do so in a skewed, unfair manner, the injustice should result because of the human frailty or corruption but not because the law the way it is written is inherently unjust, unfair, and becoming a respecter of persons. And when you use

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that terminology, "respector of persons," it doesn't mean that you respect all people. It means that you respect some more than others. That blindfold of injustice is raised so she can peek out from under it and see who's standing there. And based on who's standing there, justice is meted out. But justice for the poor is not the same as justice for the rich. There was a cynical individual in a discussion with people who were praising America's laws. And this other individual who was lionizing the law said that American law is pure and everybody has a chance before that law, even the poorest man. And this guy who was a humorist said, yeah, even the poor man's got a perfect chance before that law, a perfect poor man's chance. And we shouldn't be able to say there's a rich man's chance, there is a poor man's chance, there is a first responder's chance, there is a social worker's chance, there is a medical professional chance, and then there's the rest of everybody else. The law, if there's such a thing, should be a leveler in the sense of not bringing everybody low but treating everybody the same. We make the law and we break the law's back by creating exceptions within the law. And I shall take however much time is necessary... [LB752]

SENATOR KRIST: One minute. [LB752]

SENATOR CHAMBERS: ...to show how much I think of the law. A law which is not done well by people of my complexion, by people of the gender of my sisters in this room who are nevertheless of a different complexion, but woe to the woman who is also of my complexion because she is the most discriminated against person in this country, the black woman. But the law should not follow the wrongful things done in society. But that's what you're being asked to do. I want to call this thing, as Aretha Franklin said in her song, I want to call this thing exactly what it is and that's what I'm doing. Thank you, Mr. President. [LB752]

SENATOR KRIST: Thank you, Senator Chambers. You heard the closing on FA204. The question is the adoption of the floor amendment. All those...thank you, Senator Chambers. There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB752]

CLERK: 17 ayes, 0 nays to place the house under call. [LB752]

SENATOR KRIST: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senators Hansen, Wightman, Campbell, Gloor, Mello, Dubas, Howard, Seiler, Kolowski, Kintner, Christensen, Watermeier, Avery, Davis, Johnson, Schilz, Carlson, Schumacher, and Garrett, please return to the Chamber. The house is under call. Senators Dubas, Kolowski, Christensen, Watermeier, Davis, Johnson, Schilz, Carlson, please return to the Chamber. The house is under call. Senators Dubas,

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Kolowski, Christensen, Watermeier, Davis, Johnson, Schilz, and Carlson, please return to the Chamber. The house is under call. Senator Chambers, could you approach the Chair, please. Everyone is accounted for. Before we continue, the last few days there's been an incredible long time before we all get back together. We are in the waning hours of the session, and I ask you if you are meeting outside the Chamber to let people know where you are so you can be retrieved or you listen up to the phone or have staff be aware of where you are. We're wasting a little bit of time so be attentive to the other requirements. Senator Chambers has already closed on his amendment. The question is the advancement of FA204 to LB752. All those in favor aye; opposed, nay. Yes, sir. Roll call vote has been asked for, regular order I'm assuming. Mr. Clerk. [LB752]

CLERK: (Roll call vote taken, Legislative Journal page 1336.) [LB752]

SENATOR KRIST: Senator Chambers. [LB752]

SENATOR CHAMBERS: Not voting. [LB752]

CLERK: Senator Chambers changing from yes to not voting. 7 ayes, 15 nays, Mr. President. [LB752]

SENATOR KRIST: The amendment fails. Before I raise the call, just one more note. Please be respectful of other people's times. The call is raised. [LB752]

CLERK: Mr. President, Senator Chambers would move to reconsider the vote just taken. [LB752]

SENATOR KRIST: Senator Chambers, you're recognized. [LB752]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this is one of those bills that I feel so strongly about that I, as I've said, will take all the time I need. Now I have enough proposed amendments to never have to reconsider. [LB752]

SENATOR KRIST: May I interrupt for just one second, Senator? I'm sorry. I did raise the call after I made that announcement. Go ahead, sir. [LB752]

SENATOR CHAMBERS: Was that charged against my time, that announcement? [LB752]

SENATOR KRIST: No, I'll give you an extra ten seconds. [LB752]

SENATOR CHAMBERS: Thank you, Mr. President. And you never can tell what ten seconds can do. Now if I could run 100 meters in 10 seconds, I'd be world famous, especially at my age. So laugh not at ten seconds, depending on the context. Mr.

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President and members of the Legislature, a bill like this gives me the opportunity to talk about my philosophy of law and all kinds of other things that have a bearing on society, societal interests, and those who make up society. I want to have these things in the record. And everything we say is recorded and transcribed. And it doesn't matter how many people are actually in this Chamber. Thanks to the gadgetry and the high-tech capabilities that now exist, what we say here can be beamed all over the world, Senator Bloomfield. There was a play written by a man named Robert Bolt. It was called A Man for All Seasons. It was about an individual named Thomas More, M-o-r-e. They didn't waste extra letters like they do now. M-o-r-e, and he got the name, the term "Saint" attached to his name. And he's known as St. Thomas More. And he is also known as the patron saint of lawyers. And whoever placed him in that position must have had a keen sense of humor or may have thought that Sir Thomas More, even though long dead, simply through the invocation of his name could lend a degree of respectability to those known as lawyers. I'm not going to tell the whole story, but a movie was made called A Man for All Seasons. It was made a good number of years ago. And there was a man who played the role and his name might occur to me before I get through, but he was very, very effective in that role; and he elevated through his performance the real Thomas More above what Thomas More should have been entitled to as far as esteem. Thomas More did not see anything wrong with burning people at the stake. But the person portrayed in that movie based on the play would never have consented to somebody being burned alive for his or her belief or disbelief. Thank you--Paul Scofield, S-c-o-f-i-e-l-d, and he died, unfortunately, a few years ago. And his obituary talked about what an ordinary, common man of the people he was. He loved to spend time with his family. He liked to go out among his garden, growths, I don't know what all kind of plants he had. And he was considered a great father and an exceptional husband. I'm talking about Paul Scofield who played that role. There was a scene in St. Thomas More's house. He was going to be named the Lord Chancellor of England, the top legal person in the realm. There was a cardinal named Wolsey. And when Cardinal Wolsey was dying, a duke of Norfolk came to Wolsey. And while Wolsey was stretched out, Wolsey said, Had I served God as well as I've served my king, I wouldn't be left to die thus. And the duke said, you better be lucky that you're dying thus because if the king had his way, you'd be dying in the tower. And this is a man who compromised his religious faith for his king. Now when Thomas More was given this position, he was given a great house to go along with it. He had servants, rich food, and everything that a rich, powerful person could want. And he had a daughter named Margaret. He called her Mahgret (phonetically) or Meg. And there was a young guy who wanted to marry her. And this young guy was impetuous like a lot of young guys are, take the pages up there in front, for example. And this young guy liked to stay later than he should have and Thomas More told him at one point, what you need is an alarm clock so you know when to go home. But in this particular scene, there was also a sycophant, a guy who was always sniffing behind Thomas More to try to get a position, and his name was Richard Rich. And so Thomas More wouldn't hire him for a position, but he said, I'll tell you what you ought to do. You ought to be a teacher and naturally the young man didn't

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want that. So he's in this room, the young man who wants to marry Meg is in the room, the duke is in the room, and Richard Rich makes some comments that indicated that he was in with a guy whose name I'm not going to tell you; but he was not a nice man. And Richard Rich was kind of a spy for him. And when he left, the comment was made that that man should not be allowed to lead because he's a spy. And Thomas More said, why? What wrong has he done? He said, well, he's a spy. And Thomas More said, what law has he broken? And the young man said, he's broken God's law. So Sir Thomas More said, then let God arrest him. And so the young guy said then, I suppose you would give the devil benefit of law. He said, yes, I would. Then he gave a little soliloquy on the laws in England, how the country was grown thick with laws from border to border, coast to coast. And those laws were what protected people. And he asked this guy who told him that he ought to ignore the law, he said... Thomas More said, I suppose you would get rid of all the laws to go after the devil. He said, you better believe I would. I'd cut down every law in England. And Thomas More said words to the effect, what would you do all of the laws being flat and the devil suddenly turned on you? There would be winds blowing so strong you could never stand. Yes, I would give the devil benefit of law for my own sake. And people don't get things like that. People who don't have an understanding of what role the law is to play... [LB752]

SENATOR KRIST: One minute. [LB752]

SENATOR CHAMBERS: ...even when it is improperly administered by the men and women whose job it is to administer it. The word law conveys to many people, even who haven't been treated fairly by it, a certain mystical something that raises it above the ordinary. And when they say the word "law," they don't mean the statute books, they don't mean a city ordinance, they don't mean a county resolution. They mean the something that deals with justice and that every person is granted his or her due. Thank you, Mr. President. [LB752]

SENATOR KRIST: Thank you, Senator Chambers. You've heard the opening on the reconsider motion. Those wishing to speak: Senator Coash, Brasch, and Chambers. Senator Coash, you're recognized. [LB752]

SENATOR COASH: Thank you, Mr. President. Good evening, colleagues. I wanted to ask Senator Lathrop a question if he is available. [LB752]

SENATOR KRIST: Senator Lathrop, if you're available for a question. [LB752]

SENATOR COASH: Thank you. Senator Lathrop, would you yield? [LB752]

SENATOR KRIST: Senator Lathrop, will you yield to a question? [LB752]

SENATOR LATHROP: Yes. [LB752]

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SENATOR COASH: Thank you, Senator Lathrop. I didn't mean to pull you away from whatever you were doing, but I do have a...this is a serious question. In the bill we reference in several sections...well, let me ask this question first. For the added positions that we're putting into this bill, is there a requirement under the bill that the positions that we're adding have to be in the line of duty for this law to take effect? In other words, does an employee of the Department of Health and Human Services have to be doing their job as an employee for this bill to be...? [LB752]

SENATOR LATHROP: I'm looking...I'm trying to read it as I go. I want to find out the answer because I'm confident that we did that with the other positions. I just want to try to find where the language is. [LB752]

SENATOR COASH: Okay. Well, and I'll give you a chance to look. Here's my concern about LB752. I have several, but I'll take this time to just talk about one of them. This bill references employees of the Department of Health and Human Services. Nebraska has a couple thousand Department of Health and Human Services employees. They range from computer technicians to doctors to janitors. HHS is a huge agency with many employees doing many things. Some of those employees are in the business of direct patient contact, the kind of contact that Senator Lathrop's bill is trying to address by increasing this penalty. So here's my concern. You might go to a hospital, a hospital...I think those guys are already covered. You might be down...I used to spend some time at the Gold's building here in town and this is the place where you go to apply for benefits, things of that nature. And you might interact with a Health and Human Services employee. And you go down there and you are applying for benefits, something doesn't go your way, you get upset, you pop off to an HHS employee. That could be covered under this law. I'm not sure. Senator Lathrop,... [LB752]

SENATOR LATHROP: I did find the answer in page 4, line 2, "The offense is committed while such officer, firefighter, out-of-hospital emergency care provider, or employee is engaged in the performance of his or her official duties..." [LB752]

SENATOR COASH: Okay. So... [LB752]

SENATOR LATHROP: It does require that they be in the scope and course of their employment... [LB752]

SENATOR COASH: Okay. [LB752]

SENATOR LATHROP: ...or doing their, pardon me, doing their official duties. [LB752]

SENATOR COASH: Okay. Thank you, Senator Lathrop. That...let me ask you this question. In an incident that might occur and let's say it doesn't involve an HHS

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employee, what if that employee is just kind of a bystander and not...I mean, is working but...I'll give you an example. I used to go to the hospitals in the psych units and in these hospitals the... [LB752]

SENATOR KRIST: One minute. [LB752]

SENATOR COASH: ...the security guards were often stretched so thin that they used to call the janitors down to help restrain patients who are getting out of control. So the janitor was mopping the floor and then ended up being involved in a restraint and, you know, mopping the floor was his duty. If that makes sense, can you tell me how that might play out if LB752 is enacted? [LB752]

SENATOR LATHROP: Well, this deals...this expansion deals just with the first responders or the emergency personnel. So what happens to the social worker, if that's a problem, that was a problem before this amendment came along. The firefighter or the out-of-hospital emergency care provider needs to be performing his or her official duties. If they are performing his or her official duties and they are the subject of an assault, then this would apply. If they're not engaged in the performance of their official duties, then...and I would assume that means they need to be doing something, not just standing there because then you would be in the scope and course of your employment but not necessarily in the performance of your official duties. [LB752]

SENATOR KRIST: Time, Senators. [LB752]

SENATOR COASH: Thank you, Senator Lathrop. [LB752]

SENATOR KRIST: Thank you, Senator Coash and Senator Lathrop. Senator Brasch, you're recognized. [LB752]

SENATOR BRASCH: Thank you, Mr. President. I will yield my time so the dialogue between Senator Coash and Senator Lathrop can continue, and I will turn my light back on. I yield my time to Senator Coash. [LB752]

SENATOR COASH: Thank you, Senator. [LB752]

SENATOR KRIST: Senator Coash, you're yielded. [LB752]

SENATOR COASH: Thank you, Senator Brasch. And I'll tell you what I'll do. I'll...Senator Lathrop answered my first question and I'll spend the time you've yielded me talking about another concern that I have and maybe engage Senator Lathrop in this. Senator Lathrop, a couple of years ago we...I believe it was your bill...we passed a bill that...who was the group of employees that we added to this section of law a few years ago? [LB752]

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SENATOR LATHROP: I think it was healthcare providers. [LB752]

SENATOR COASH: Healthcare providers. And so now and I noticed this the last time I was in a hospital there was a sign that said something to the effect of warning assaulting a healthcare provider might result in jail time or something like that. [LB752]

SENATOR LATHROP: Increased penalties, yeah... [LB752]

SENATOR COASH: Increased penalties... [LB752]

SENATOR LATHROP: ...that's part of the bill. [LB752]

SENATOR COASH: ...which was part of the bill. Senator Lathrop, do you know if there has been any reduction of assaults on healthcare workers as a result of that law, not that necessarily it's been tracked, but...? [LB752]

SENATOR LATHROP: It's really hard to, it's really hard to say, Senator Coash. Great question. It's really hard to say. I know that they track assaults and I don't know where the assaults are on healthcare providers and to what extent we could attribute the reduction in healthcare assaults to the change in law, including the signage that was put into hospitals. [LB752]

SENATOR COASH: Okay. Here...I had challenges with that bill a few years ago and I'm going to outline for the record why I had challenges with that bill and it's this. I don't believe that...and I know there's not a sign in this bill, but I didn't believe then that putting a sign up changed somebody's behavior as it related to assaulting healthcare workers or now in LB752 emergency responders. The people who might engage in this activity I will tell you are under the influence--and that's not an excuse but it is a fact. They are experiencing severe mental illness. And their assaultive behavior is not going to be deterred by a sign. It's not going to be deterred if we enact LB752. And so the result then becomes, in many cases, a person with a mental illness with a drug addiction ends up with a new charge or an enhanced charge that he or she would not have otherwise, just by virtue of who they interacted with. And I want to make this clear. Assaulting a first responder is not okay and it's not something that we should lessen penalties for. I don't see how this is going...in the committee hearing I think we heard from first responders. And one of the things that I didn't hear was, if you pass LB752, we think we'll be assaulted less. I was listening for that in their testimony. LB752 will not decrease... [LB752]

SENATOR KRIST: One minute. [LB752]

SENATOR COASH: ...the amount of assaults on first responders. We spent a lot of time

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this session talking about why our prisons are full, overfull. And I think part of the reason is, we all try to get out of this body with a resume that says this is how I got tough on crime. And in and of themselves, these bills don't necessarily fill our prisons, but this is like one of those things that it continues to build and then we see the problems that we, in this Legislature, are having to address with regard to overcapacity. Now don't get me wrong, LB752, if enacted, is not going to fill our prisons. But I've tried to take a broader view and ask myself is this kind of legislation necessary? [LB752]

SENATOR KRIST: Time, Senator. [LB752]

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

SENATOR KRIST: Thank you, Senator Coash and Senator Lathrop. Senator Chambers, you're recognized. [LB752]

SENATOR CHAMBERS: Thank you, Mr. President. And I really appreciate what Senator Coash was getting at. We are looking at overcrowding in the prisons. All of the...well, the main thrust of what we are doing relates to trying to keep people out of prison if they're nonviolent. All over the country, even in the federal system, they're talking about these long, mandatory minimum sentences; these enhanced penalties. And the federal judges have said, you've taken away the judge's discretion, and some of them find a way around those mandatory-type sentences. Yet here we are in 2014 having just persuaded this group that helps legislatures address problems of overcrowding, enacting a law that will contribute to it without there being any societal or penological justification for it. There are not people on the street who know what the punishment for any crime is. As much as Senator Kintner knows, and I'm not going to ask him a question, he wouldn't know what the difference between a first-degree assault and a second-degree assault is. He wouldn't know the punishment. I don't know that anybody on this floor off the top of his head or her head would know those kind of things. This is feel good legislation and it's trying to placate and cheese up to certain groups and say, if somebody does something to you, they'll be punished more harshly. That's what the Omaha police have as their attitude toward this Legislature. You don't punish harshly enough. You don't punish long enough. You give good time when you shouldn't. These are cops. They're not policymakers and they do not even carry out the law the way they should. The chief had to fire several of them for the way they brutalized black people in a neighborhood, destroyed evidence, and started putting together a cover-up on the scene and they caught them in it. That's what cops will do, not all of them, but enough of them for there to be tremendous concern. But they get special coverage here. The other day cops from several, at least three, different jurisdictions--federal, state, and county--shot a guy. They said they came after him, they thought he would be armed and he wasn't. They wound up saying after several days, well, there was a gun in the car where he was. There is such a thing as a throwdown and dead men tell no tales. And when you get that many law enforcement people

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together and they're under the gun, you think they're going to tell the truth? No, they won't and it's known here. Senator Lathrop knows it as a lawyer. The Nebraska Supreme Court and other courts have said that when a person is being interrogated by the police, the police can lie. Lying is allowed. Lying is expected. They lie about what they did. And if there were not cameras catching them in some of these activities, they would lie about those. Why do you continue to corrupt and pervert the law? Why don't we repeal every criminal law and start all over again and be honest about it? If you're a rich male, if you're a white male, if you're white anything, the punishment is not going to be so great. If you're a black, Latino, Native American, Pacific Rim, any of the etceteras and miscellaneous, then you get punished more harshly. That's the way the law works. You don't have to build discrimination into the law. I know that I have no chance to get any of these amendments adopted. [LB752]

SENATOR KRIST: One minute. [LB752]

SENATOR CHAMBERS: But you all cannot sit there and be honest and say that the ones who are listed in some of these amendments are not in danger due to where they work, the conditions of their work, and the types of people they might come into contact with. But you can't bring yourself to do anything about it. You don't have to make it worse. Kill this bill and you're not going to harm any societal interest unless you think in fact some people have greater intrinsic worth than others. Some people have greater inherent worth than others. Some have greater genetic worth, those immutable traits that will make them forever and always better than others, no matter what they may do. And I think that's wrong and I'm going to fight against it. Thank you, Mr. President. [LB752]

SENATOR KRIST: Thank you, Senator Chambers. Senator Coash, you're recognized. [LB752]

SENATOR COASH: Thank you, Mr. President. I want to continue on with some of my challenges with this bill and why I oppose LB752. Several places in this bill in order for this crime to have been committed, the perpetrator must intentionally and knowingly be assaulted--intentionally and knowingly. Now keep that in mind as you think through the examples that were presented to me when we heard this bill in the committee. The examples were, well, we'll get a guy that we come to help at a scene and he's all doped up on drugs. And we try to help him and he pops us in the mouth. It doesn't make it right. But I think there's an argument to say that...I won't say that the drugs make people do things, but I think they make it questionable as to whether or not they were under the frame of mind where they could form intent to do something. Here's another example that we were given. We go up on a scene and we try to help someone and he is in the middle of a full-blown, schizophrenic episode and he sees people who aren't there. He hears voices that aren't there. And then I show up as a first responder and I get popped in the mouth. The mental health, I believe, makes it difficult for that individual to

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intentionally and knowingly commit the act that's being contemplated under LB752. So then, then we pointed out to the conclusion which is he's now got more of a charge, an enhanced penalty. Whereas had under the same circumstances he popped me in the mouth because I was walking by and trying to help, which has happened to me, I've been put in situations a few times where I've just been in a position to help someone who is struggling with a mental health need. Then that...but because I'm not in a working duty, it's a different penalty. And I believe Senator Chambers has a point here. When we start to say there are special classes of victims, it really does become hard to determine who should be in and who should be out. So that's why I struggle with this and that's why I oppose it. I would yield the balance of my time to Senator Lathrop if he'd like to comment on. [LB752]

SENATOR LATHROP: I'd be happy to and thank you, Senator Coash. Let me explain something that the bill doesn't change the elements other than the identity of the person who is acting in the scope... [LB752]

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SENATOR GLOOR: One minute. [LB752]

SENATOR LATHROP: ...and in the performance of their duties so that if someone who is incapable of developing the requisite degree of intent assaults somebody, under existing law or even after this bill passes, if they don't have the requisite intent, they're not guilty. If something requires that you do something knowingly and you can't tell the difference between right and wrong, that's how you end up with people being acquitted because they don't have the requisite degree of intent. And so the bill doesn't change the elements as it relates to reckless, careless, intentional, severe, serious bodily injury. It just says if you do it to one of these people who are in the performance of their duties, who are listed, then we increase the penalty. Even though the penalty is increased, the court still has discretion in sentencing to determine whether there are mitigating circumstances. And I think that your questions might confuse the difference between the elements of a crime and the status of the person in the performance of their duty when they're assaulted. [LB752]

SENATOR KRIST PRESIDING

SENATOR KRIST: Time, Senator. Senator Brasch, you're recognized. [LB752]

SENATOR BRASCH: Thank you, Mr. President. Thank you, colleagues. I did have a brief conversation with Senator Lathrop on the floor because I did perceive that Senator Coash had a concern for individuals with intellectual disabilities not knowing what their actions were. And I do believe that Senator Lathrop, who I will give the remainder of my time to, will explain more about that. But I do support the bill because 80 percent of the

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emergency responders are volunteers. They are rushing to the aid and assistance of an individual who is in a life-threatening situation. They are in harm's way or they are harmed. And because of that, they need some type of public protection, be it in the law or in the...basically where I was going with this was a person may be a repeat offender in this. Maybe he hit somebody in the mouth the first time he was being rescued and perhaps the next time he will not do that, realizing there are consequences. I will yield my time to Senator Lathrop, but I do stand in support of LB752. [LB752]

SENATOR KRIST: Senator Lathrop, 3:30. [LB752]

SENATOR LATHROP: Maybe I can go back and make a point. And thank you, Senator Brasch. Maybe I can go back and make a point that I made when we took this bill up initially and that is I'm not choosing randomly emergency responders. There is a rationale, I believe, for these exceptions. They are clearly exceptions and they are based upon people's employment who are assaulted in the performance of their duties. And the point, I think, of the people that are on this list, and maybe there's a case for some of the amendments Senator Chambers is making. We have not had an opportunity to take them up in a committee hearing, and so I'm probably not going to agree to any of them tonight. But the idea of the emergency personnel--last year or two years ago we put the emergency personnel people in there. And when we did that, we had testimony in the hearing that the healthcare responders were coming to the aid. It was happening...I know I actually represented a nurse who walked into a room at a hospital and she runs over to provide care for somebody and the guy starts assaulting her. And the difference is that nurse, that healthcare provider, whether they're in the emergency room or a nurse on the floor, runs in to provide aid to somebody and they get in close proximity to them and then get assaulted. And they're not in a position to do anything about it and they're in close proximity. And I think the emergency responder is, in many respects, in the same place. They run in to someone's aid, they are getting in close proximity to them, they can be in the back of an ambulance or standing over them trying to find out why they have chest pains. And the next thing you know, they're involved in an assault. That's the rationale. And I think it's fair to have a discussion. I think it's fair to disagree with me if you do. But that's the rationale for the people who fall into this class. Are bank tellers people who are vulnerable? Perhaps. They probably have some other things that allow themselves to be...to...some training, first of all, some means of defending themselves like ducking below the counter. And maybe there's a case for it. Maybe there's a case for pharmacists and maybe there's a case for postal workers... [LB752]

SENATOR KRIST: One minute. [LB752]

SENATOR LATHROP: ...when that amendment comes around. And we can take that up in a committee hearing if someone chooses to try to amend this bill further or this law further in the future. But at this point in time, I expect to resist any amendments that

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we'll hear from Senator Chambers respectfully. And while I appreciate that he has been consistently opposed to these types of amendments, today I believe there's a good reason to put emergency responders in there. And so I would ask for you to oppose the reconsideration motion and ultimately to support LB752. Thank you. [LB752]

SENATOR KRIST: Thank you, Senator Brasch and Senator Lathrop. Senator Chambers, you're recognized. [LB752]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, like any good lawyer, Senator Lathrop can create hypotheticals to justify what he's talking about. But what he talks about is the aberration. That's not what happens routinely in these situations. That is not the routine. But people like Senator Brasch, who mean well, will talk to him off the mike and she becomes convinced. And I don't blame her; she's a layperson. I was very critical of a judge who said that Nikko Jenkins could defend himself, represent himself. The irony is that while I was saying that here on this floor this morning, that same afternoon he was in court before a judge. And I'm going to start...they talked about him coming into the courtroom and various things that occurred. But then--so I won't have to read the entire article--this is from Wednesday's World-Herald, March 26: Jenkins hardly took a breath as he pounded the same drumbeat he has pounded for three months. His contention that Douglas County Attorney Don Kleine violated his constitutional rights by telling the World-Herald that Jenkins was deemed competent to stand trial. Kleine has said there are no merits to Jenkins' claims. Then get this: Three times Judge Peter Bataillon stopped Jenkins in midstream as he spouted such words as insurrection and constitutional abridgement. At one point the judge had hollered--this is the judge dealing with a man who has a history of mental illness--the judge hollered whoo, whoo, whoo. The judge hollered that in the courtroom at a mentally ill man whom the judge said can defend himself, represent himself. And the judge...that's not all. He hollered that as Jenkins talked. At another point, Bataillon slapped his hand three times on the bench (tap, tap, tap) (inaudible) whoo, whoo, whoo. The judge, dealing with a mentally ill man in his presence, Senator Brasch and Senator Lathrop and the rest of you. It takes somebody like me to say no matter what the law says I look at the way it's administered, and you should not build into the law these kind of wrongful distinctions. And when Jenkins wouldn't stop, the judge told him, we're through with this conversation. Carrying on a conversation with a man who has to be on medication to function rationally. It doesn't bother you all. I don't expect it to. And that's why I have to work so hard, and I will do it because somebody has to. Suppose you were in the courtroom and you walked in and you saw that being displayed. What would you think is going on? What I do down here is pointless. It's like they said about John the Baptist: A voice crying in the wilderness, in the wilderness of ignorance, lack of compassion, unconcern, apathetic toward those who are unfortunate. You know the ones who need the help... [LB752]

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SENATOR GLOOR: One minute. [LB752]

SENATOR CHAMBERS: ...are the ones who are the scorned, the despised, the rejected, and dregs of the earth which these Christians know that their Jesus spent time around, not approving of what they did but trying to lift them out of it to show them an example and to show them a better way. But by and large in this room we have people who would say, as was said in those days to these unfortunate people, draw not nigh unto me for I am holier than thou. And somebody who had Hansen's disease, now known as leprosy, or leprosy, now known as Hansen's disease, were required to cry out, unclean, unclean; not a human being who was ill; an unclean thing in that same book. [LB752]

SENATOR GLOOR: Time, Senator. Senator Bloomfield, you're recognized. [LB752]

SENATOR BLOOMFIELD: Thank you, Mr. President. I'd yield my time to Senator Coash. [LB752]

SENATOR GLOOR: Senator Coash, 4:50. [LB752]

SENATOR COASH: Thank you, Mr. President. Thank you, Senator Bloomfield. Colleagues, here's one of the things that I've been thinking about. Is putting this extra protection, this enhanced penalty for a new group of people going to lessen the assault on a group that we are trying to protect? Will giving emergency responders a carve-out in this law reduce the likelihood that they will get assaulted? I don't think it will. So what is the end game here? We have a group of people who have come to the Legislature and said we need this, and we may give it to them. LB752 may be passed. I don't believe that there will be one less assault on an emergency responder as the result of this bill than before we pass it. I don't see that happening. Related to that, I'm not convinced that assaults on emergency responders is at a level that warrants a law to give them a special exception. They get assaulted, absolutely. An ambulance driver, a volunteer...whether they're volunteer or employed, has a risk of being assaulted and it has happened. I won't tell you that it hasn't. But I haven't been presented with anything that shows me that it's happened to such an extent that we think that LB752 is necessary in order to protect them or that it happens to such an extent that we think this bill might prevent a few. I do believe that if we pass this bill there will be people charged with it. One of the things I do, this is a...I can't believe I'm going to say this, I look at the mug shots every day in the Lincoln Journal Star. I click through because I want to know if I know anybody who got thrown in jail the night before. My wife reads the obituaries. She wants to know if anybody she knows passed away. I like to see if anybody I know got booked into the Lincoln jail. And when you look at those mug shots, you get to see the crime that they were charged with that got them booked into jail. And I can tell you I've seen charges of assaulting a healthcare worker. It's usually not...it's never the only

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charge. It's usually... [LB752]

SENATOR GLOOR: One minute. [LB752]

SENATOR COASH: ...in addition to another assault, fleeing arrest, disturbing the peace. It's always on a whole list. And I look at that list of charges, and I...not knowing the circumstances of how those charges came about and I have to ask myself, did that extra charge keep the person who got assaulted safer? If the charge sticks and the judge...and the person is convicted of the crime and the person gets fined or jail time, is that going to prevent that person from committing the same crime again? I'm not sure that it does. And that's why I oppose LB752. Thank you, Mr. President. [LB752]

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

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Maybe life was simpler 30 years ago when I was prosecuting, but history developed a criminal code which was rather confusing, lots of different crimes that were developed and expounded upon over the years. And there came a time in the 1970s when the legal thinkers said, you know, we should have a simplified criminal code. We should define the crimes simply. We should make them apply uniformly. And we should have easy to understand sentences, sentencing ranges for prosecutors, defense attorneys, and judges to understand. And they addressed the area of assault, you know, hitting upon somebody or striking at them. And they defined what conduct would be if you did serious bodily injury; if you did just bodily injury; if you did minor bodily injury. And you had first-degree assault, second-degree assault, and third-degree assault that pretty much covered the whole spectrum of what you would do if you battered upon somebody. And then each one of those had a different class of offense. For example, a first-degree offense was 1-50 years. It was a Class II felony. And the judge, the prosecutor, and the defense attorney would have it out and the judge would make a decision in that range. And you can almost bet that if the person was a public servant who was assaulted--a police officer, a nurse--that they were looking at something closer to the top end than the bottom end of that range. And that was a judicial decision made on fairness by people who are paid the higher salaries to wear the black robes. It was a second-degree assault injury, not quite as bad, conditions and circumstances not quite as bad, it was 1-20 or a \$25,000 fine. Again, the range up to the courts and the system of litigation that we have. Likewise, if it wasn't so bad, it was a third-degree assault, was punishable up to a year in the county jail, again, depending on the circumstances. And we relied upon our judicial system to look at the circumstances, who was involved, how crazy things were, and the rehabilitation, the deterrence, the retribution needs that society felt and plug them into the spectrum. It worked. But undoubtedly over time, politics entered into the picture. And the Legislature decided, well, maybe in some cases it should tell the judge what was right or wrong. And so we began to fool with

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what was a pretty good system and say, okay, yeah, but if it's under these conditions, then we want a special rule to apply. If it's these people involved, we want a special rule to apply. And 49 people sitting in this room began to figure that somehow in absentia and the abstract they could dictate what was justice in a courtroom. And once you start down that road and you say, well, you're special and you get a special rule, we all know how long it is before the next guy wants a special rule. And just like with tax breaks, everybody has got a very good case why they should have a special rule. And we try to confine the judge and say, judge, we're no...we'd like a black robe too. And I think we've sat down this road apparently and I just...I hadn't practiced criminal law... [LB752]

SENATOR GLOOR: ...for a few years and I looked at all the litany of people that we decided were special. And I think probably it's the wrong path to be down. And the more people we add to the special classification, the more gummed up it comes. We may be well advised to at some point go back and look at all the special considerations and have some analysis done to see were they really needed and were the sentences given under our special dictates any different than what they were when the judges had the discretion to do what judges are hired to and that's do justice. I don't think we need to add to the litany any more than what we have and we probably should pare it back. And I understand fully what Senator Chambers is doing, and he's making a very good point that to add to this litany serves no public function, protects no one. It just invites another litany request to be debated next year... [LB752]

SENATOR GLOOR: Time, Senator. [LB752]

SENATOR SCHUMACHER: ...and the year after. Thank you. [LB752]

SENATOR GLOOR: Thank you, Senator Schumacher. Senator Chambers, you are next in the queue. [LB752]

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

SENATOR GLOOR: And Senator Chambers, you are last in the queue. [LB752]

SENATOR CHAMBERS: Say it again. [LB752]

SENATOR GLOOR: You are also last in the queue, should you choose to close. [LB752]

SENATOR CHAMBERS: I'll let this be my closing then. What I'm going to do is offer some of those other amendments. And you saw some of this last night on the minimum wage when those who supported an increase in the minimum wage, which I did, began to offer amendments to show that the people were not sincere in the reasons they gave for not wanting to increase the minimum wage. The statement was made about hurting

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small businesses. They would have been exempted out. That amendment that would have done so was voted down. Senator Lathrop was in that camp, not who voted it down, but was trying to show that bogus reasons were given. I'm going to show you that he's giving bogus reasons for this. And not only do I respect Senator Lathrop, I actually like him. But this has to show that when it comes to the work I do here I have to keep everybody at arm's length. And when whoever brings something that I think is inappropriate, then I have to address it in that fashion. This is a perversion of the law and it should not occur. There will be amendments that address people who are in confined spaces. In fact, the very next one will be a person in a seat belt driving a school bus. How are you going to escape from a school bus seat belt if somebody...you open the door to let a child out and somebody jumps on the bus and attacks you? What are you going to do then? Suppose some of the students in the bus attack you. You cannot...yes, you can. The Legislature can do any foolish thing it wants to. You should not try to make a different gradation of offense in the law by separating out people who do certain jobs and say this gradation is going to apply to those but no others who are similarly situated. That's what is wrong with this kind of legislation. The law as it exists is sufficient to address every issue that Senator Lathrop has talked about, every issue that these people who want favored treatment have talked about. And as Senator Coash pointed out, none of this that you put into the law while corrupting the law is going to prevent the crime that you say you're trying to do something about. I used to talk to the head of the State Patrol and tell him if there are places where there's a lot of speeding on the highway and you feel that speed kills and speed contributes to accidents, don't have your troopers in their cars hiding. Your job should not be to apprehend law violators in the first instance. Your first rule should be to prevent somebody from breaking the law so let your cruiser be seen. Let the law enforcement persons be visible and slow people down. The example I give is you've got a precipice here from the top down to the bottom is 500 feet. You can either build a cemetery and a hospital at the bottom or you can put a protective fence along the rim and keep people from falling over in the first place. Here they want somebody to do something wrong so you can hit them with a heavy punishment that does nothing other than punish for the sake of punishment. When it came to the death penalty, there were states who were going to get rid of the arbitrariness by saying any first-degree murderer, anybody convicted of first-degree murder will get the death penalty. The Supreme Court took no time at all in striking that down. [LB752]

SENATOR GLOOR: One minute. [LB752]

SENATOR CHAMBERS: They said when you're talking about the ultimate punishment, you have to individualize each case, look at all the circumstances of the offense, the condition and circumstances involving the individual, and all these other things. And you cannot have a mandatory death sentence, and all those cases where they had been imposed were struck down. Maybe the finding of guilt remained, but the mandatory death sentence was thrown out. Senator Schumacher mentioned the range that exists

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in terms of sentencing so that the judge takes into consideration those aggravating circumstances or the ones that might mitigate or lessen the level of culpability. And the punishment is fashioned to suit the crime. The particular defendant has to have particularized or customized review... [LB752]

SENATOR GLOOR: Time, Senator. [LB752]

SENATOR CHAMBERS: ...given of that case. Thank you, Mr. President. [LB752]

SENATOR GLOOR: Thank you, Senator Chambers. [LB752]

SENATOR CHAMBERS: And I will ask for a call of the house and I will take a roll call vote. [LB752]

SENATOR GLOOR: Regular order? There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB752]

CLERK: 18 ayes, 0 nays to place the house under call. [LB752]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. Unauthorized personnel please leave the floor. The house is under call. Senator Chambers. [LB752]

SENATOR CHAMBERS: (Inaudible). [LB752]

SENATOR GLOOR: Noted. Thank you, Senator. Senators Dubas, Conrad, Johnson, Davis, Larson, Hadley, Schilz, and Carlson, please return to the floor and record your presence. Senator Hadley, please record your presence. All members are here. Members, the question before us is the reconsideration of the vote taken on FA204. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB752]

CLERK: 8 ayes, 25 nays, Mr. President, on the motion to reconsider. [LB752]

SENATOR GLOOR: The motion fails. Mr. Clerk. [LB752]

CLERK: Mr. President, the... [LB752]

SENATOR GLOOR: Raise the call. [LB752]

CLERK: The next amendment I have is Senator Chambers, FA205, Senator.

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(Legislative Journal page 735.) [LB752]

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

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, every one of these amendments will amend language on page 2, line 20 after the word "professional." It simply adds another person or class to this catalog that already exists. And this time the words "or school bus driver." Now this fits what Senator Lathrop said. There is close proximity between the victim and the perpetrator; the victim cannot escape; and in fact, the victim is to some extent restrained if he or she is in a seat belt. So you have somebody who's charged with looking after the welfare of children. And there have been incidences of school bus drivers being assaulted. Yet Senator Lathrop and Senator Brasch and all those others are saying that the school bus driver is not worthy of the protection that you give to every correctional services employee even if it's a groundskeeper. A groundskeeper for the Corrections Department gets this protection because he or she is an employee of the Corrections Department. And if that person is out there attending to the grounds and is assaulted, this special protection, the enhanced penalty. There sits "Sister" McGill. Enhancing penalties not for somebody doing physical violence to another person, but simply visual. Yet we have here people who are actually the victims of physical violence and no enhanced penalty there. You know why? Because they see the preposterousness of treating the law in this fashion, of riddling it with exceptions. But if you're going to make an exception for the Corrections employee, make it for the school bus driver. Are you going to say, like you say about all of the rest of us, that the school bus driver is of a lesser order of human being, less worthy of protection while trying to see to the safety and well-being of children? Is this first responder a human being of a higher order than the bus driver? This that is being done is a perversion of the law, and it flies in the face of all of those fine words we heard. I wish Senator Ashford was here. I'd ask him some questions about prison overcrowding and all these harsh punishments that prior legislatures put in place. Now Senator Lathrop sits here as a member of the Judiciary Committee, having heard all of that testimony, and made very cogent, worthwhile, reasonable suggestions himself, offering the same kind of problem-creating legislation that put us into the situation we're now trying to correct. It makes no sense whatsoever. And regardless of the classification that I'm trying to add to this bill to show you how preposterous what you're doing is, I've got to repeat the same thing. Because to me, all human beings have a basic intrinsic worth: one no less, the other no more than any other. I even gave you all a little rhyme this morning about that maxim, there but for the grace of God go I. And the question was, if God has anything to do with it. And all these people are God's children, why will he elevate one and make the other one fall? That is not what a just God does. So is it that God is unjust or is God being misrepresented by the people who purport to speak for God? Is the law unjust? This law would be because it creates differences. It makes some better than others. One of the statements that will be found

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in the Code of Judicial Conduct and the Code of Professional Responsibility, one relates to the conduct of judges, the other to the conduct of lawyers. They both will have language relative to this being a nation of laws. And that for people to have respect for the law they must be shown that no person stands above the law. Yet here you're doing it in the law. You're placing some above others. There are no two ways about it. When Senator Schumacher read from the constitution on another bill on another day about ensuring the privacy of ballots, those words in the constitution were disregarded because there was something else that people in the Legislature wanted to do. So in the same way, "General" Garrett, that that guy said, and I'm quoting him: Damned the torpedoes, full speed ahead, well, taking that paraphrase, damned the constitution, full speed ahead. This talk of a nation of laws, no man being above the law. That's what they said when they brought down Nixon, when they brought down Spiro Agnew. But then when it came to certain people on Wall Street and in the financial industry, changes began to creep in. They even had a different designation--white collar crime--and that was to designate the difference between people like me with no collar or women with a frilly collar or a worker with a blue collar or a poor person with a frayed collar. But if you got a white collar, you're going to be treated differently because the law was not made for you when it came to punishment, when it came to retribution. That is for those riffraff categories of persons. They go to jail because they have time that they can spend in jail. The rich man doesn't have time to be going to jail. Jail wasn't made for rich people. But here there was a case and the U.S. Supreme Court was dealing with it, and it happened to have been a death penalty case. But the discussion dealt with the power of a legislature to criminalize any conduct that it chose and to annex a penalty. When the Eighth Amendment came into play and was humanized and civilized, the court built in a proviso, the punishment must fit the crime. And if the punishment is out of proportion to that conduct which is being punished, then the punishment was unconstitutional by virtue of being cruel and unusual. It's unusual if it's not applied uniformly across the board. It's cruel if it's tortuous or inflicts unnecessary, excessive, uncalled for physical pain or suffering. And the court built that in and the court, by interpretation, broadened the reach of the Eighth Amendment to the U.S. Constitution so that it rendered unconstitutional punishments that existed at the time the Eighth Amendment to the Constitution was adopted. So when you hear these right-wing judges saying, we construe the constitution to address whatever was going on... [LB752]

SENATOR GLOOR: One minute. [LB752]

SENATOR CHAMBERS: ...when the constitution was written, address that same conduct today the same way, but that's not so because the punishment for the first federal offense was 39 lashes. You cannot use corporal punishment at all now as a punishment and it be considered constitutional. So that which was constitutional at the time the Eighth Amendment was adopted no longer is. But unfortunately, people don't come to the Legislature who have any understanding, any appreciation of or for the law, who have no great care or concern for the law, and they pick their particular area of

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interest and say punish harshly there but not over here. And that's what needs to be addressed. And to the extent I can, I'm going to address it. Thank you, Mr. President. [LB752]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Wallman, you are recognized. [LB752]

SENATOR WALLMAN: Thank you, Mr. President. I'm sorry to say, there will never be liberty and justice for all. We're human beings, and a sinner such as I, we can't figure it out. And after having watched the movie "12 Years a Slave," and watched what men did to actually kidnap a person and sell him into slavery and get nothing out of it. So is that justice for all? Absolutely not. So I can understand where Senator Chambers is coming from on some of these issues. But bus drivers, I think that's a pretty good one, Senator, because bus drivers see the kids in the morning, sets their day off right, one of the most important people for a child beside their teacher and parents. Thank you, Mr. President. [LB752]

SENATOR GLOOR: Thank you, Senator Wallman. Senator Chambers, you're recognized. [LB752]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, one thing I'll give Senator Lathrop credit for, he is not standing up saying that these different categories are not entitled to protection. He can't form his mouth to say those words. He is too good a man and too good a lawyer for that. He reminds me of what they say happened with Galileo. The church was superstitious. It was ruled by ignorance, power...chauvinistic, corrupt men. There were men in those days who ran the church who had illegitimate children, who were involved in engineering assassinations. Every manner of wickedness that the people identified as organized crime did, they did it first. But they wanted to control people's thoughts. So here's Galileo. Maybe he read somewhere in one of those scriptures that knowledge is power; get knowledge, but, with all you're getting, get an understanding. So he got...made him a little telescope and started studying the stars and noticed that certain positions were changed and one thing and another...how smart people do those things. And it came to him that the earth was not the center of the solar system, or the center of the universe, as they said then; that the sun was the center and the earth moved around the sun. But since the church's position was that the earth is the center of everything, the earth didn't move around the sun, the sun and everything else moved around the earth...Galileo wouldn't say that. His knowledge and his mentality as a scientist would not let him lie, even for the church. So they put him on the rack. Religious people are ingenious when it comes to fashioning tortures. And they turned that wheel, and as they turned that wheel, it stretched his body. Joints, ligaments, tendons, muscles, not made to endure that kind of tension, nevertheless were all subjected to it. So they stretched Galileo, and they said, "Well, Mr. Galileo, what's goin' on? Does the earth move?" And Galileo said, "Yes,

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it move." Oh, they turned it another turn. So finally Galileo said, these people are going to kill me; all I have to do is say what these fools want? And if I'm dealing with a fool, I'll answer a fool after his folly. "No, the earth does not move." So the torturers ran and got a priest, and they said, "Galileo recanted; he said the earth doesn't move." So this holy man looked down at him and said, "Is this true, Mr. Galileo? Did you indeed say that the earth does not move?" And Galileo said, "Yes, yes, the earth doesn't move; the earth is still; the earth is stiller than 'Silent Night.'" And so the priest gave the nod, and they started loosening the wheel. The muscles began to take their ordinary form, as much as they could; the joints came back together; the tendons and the ligaments, although stretched, kind of took basically the shape they had. So as Galileo began to regain his physical shape, that intellect of a scientist reasserted itself. And as they were taking him off the rack, you know what Galileo said? "But it does move." He knew the truth; and even under torture, he had to say the truth. [LB752]

SENATOR GLOOR: One minute. [LB752]

SENATOR CHAMBERS: And those who were supposed to be the lovers of truth were the ones trying to torture it out of him. We who make the law have put the law on the rack. We are torturing the law; we are making the law say a lie. And we feel good about it. We feel righteous about it. But your feeling that way makes you no less wrong. Thank you, Mr. President. [LB752]

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

SENATOR CHAMBERS: Mr. President and members of the Legislature, when the term...the two words "the law" are uttered, as I've stated--and I will be repetitious on occasion--those two words used in that context do not refer to what's in the statute books. It's this amorphous "something," this really indefinable something, that holds society together: whether written in words, put in books, or just something that is found among people so primitive they don't know anything about writing, they don't know anything about reading, but there are certain things that are acknowledged and recognized as not being done among themselves and to each other, and for them that is the law. This is 2014. All of the errors that have been made in the past, all of the bad laws that have been written, all of the tyrannical regimes that have existed, all of those things that happened under Hitler, when people were systematically not only tortured but murdered...they would take people in the wintertime and fill a barrel with water and put somebody in it and let the water freeze to ice; they would take a pregnant woman and induce labor and then tie her legs together. Oh, they had some things. And it was the Nazis who created lethal injection; the Nazis created that. So they were not all bad, were they? Not everything they did was bad, was it? They taught this civilized state of Nebraska and the country of the United States a thing or two, didn't they? The Nazis did it. So you take what you like that they did and use it. But the law caught up with the

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Nazis. When the SS, when the Gestapo, when the Waffen SS did their work, I'm sure they didn't think a day would come when they would stand before what's called the bar of justice. But there were some trials in Nuremberg, and the ones who won the war were the judges. Had the Nazis won the war, and war trials been conducted, Dwight Eisenhower and some other people might have been in the dock. The winner determines what the law is. But even among the savagery that existed in Nazi Germany, there were some, quote, laws, unquote, that were recognized. But they applied only among the Aryans, the "master race." And the Jews, the "subhumans," it didn't apply to them. All of those things can be read about and known about. All of those things can be shown to happen when the law is loosened and not respected. And all of these sanctimonious people in America who will condemn the Nazis, who will condemn Mussolini--and Mussolini was an educated man--will sit up here in 2014 and pervert the law and say it's all right to do it, because it's perverted in a way that they like. But do you see any law that says if one of these healthcare professionals assaults a citizen, then a harsher punishment... [LB752]

SENATOR GLOOR: One minute. [LB752]

SENATOR CHAMBERS: ...is brought in play? No. It's always a one-way street. Always. And in this Legislature, where laws are made, these are laws but they are not "the law" in the sense that I'm speaking of it. "The law" condemns what we're doing here today, or what's being attempted here today. And I'll fight it as long as I can. Thank you, Mr. President. [LB752]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Brasch, you're recognized. [LB752]

SENATOR BRASCH: Thank you, Mr. President; and good evening, colleagues. It's interesting to hear what Senator Chambers is discussing here, and it's like the "University of Ernie Chambers." I used to work with a gentleman that described...he knew someone that went to the "University of Adversity" and the "School of Hard Knocks." And this Legislature is becoming the "University of Senator Chambers." But he does say some very interesting facts about the law. I did not attend law school, and I'm learning many things from his dialogue. When we look at legislation--and I'm thinking of our intent and our purpose, the good will we want to bring to our state--and we try to define what is "criminal activity"--now, that is without law background, and perhaps Senator Chambers will need to correct me--and then we try to define what those penalties are for criminal activities. So what we do is we define what's wrong, we try to establish penalties in hopes to prevent negative outcomes, and we try to permit what is right and encourage what is right. And with that, we hope to create a better society and a better world than what we found it, than what our parents found it, and we move that forward and pay it forward to the next generation. And I did, I printed off the transcript, and I sat here with a highlighter, you know, very curious, you know, why Senator

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Chambers is just bent to make sure that our emergency responders are not recognized for the fact that these individuals, that they are...80 percent are volunteers that look out for our well-being should we be in harm's way. And they go into dangerous situations. The EMTs and firefighters, they run into a situation where normal citizens may run away from and hide. And part of the testimony--and Senator Chambers was there--because I was reading the transcripts, and it talks about the 750,000 assaults that happen every year on firefighters, paramedics, and EMTs across America, and that, according to the Department of Labor, 52 percent of the EMTs operating in the field have been assaulted. And perhaps there are statistics for school bus drivers and others, and perhaps that will come to our attention. But we are talking about life-threatening emergencies, that courageous men and women take of their personal time, energies and help those in need of help. And it's been brought to the committee...a public hearing. We had all the proponents that stepped in saying that this was a right and appropriate law to bring forward to ensure that perhaps, if it is law, if someone did assault an emergency responder, that future events may, or may not, prevent them from another assault. It is basically to give them assurances that they do stand somewhat... [LB752]

SENATOR GLOOR: One minute. [LB752]

SENATOR BRASCH: ...even if it's not practical or applicable in real practice, as Senator Coash had said, that individuals cannot exercise judgment. I do believe individuals can exercise judgment. And it is our responsibility as lawmakers to encourage and define what those boundaries are. And so I do stand saying that our EMTs, according to all the testimony in this transcript--I believe there's 20-plus pages of it--that are appealing to the wisdom of this body here, to decide if this group should be given protection because of the numerous assaults that are happening across the country and that perhaps this will contribute to the greater good and not to the harm of others. Very respectfully... [LB752]

SENATOR GLOOR: Time, Senator. [LB752]

SENATOR BRASCH: ...I understand what Senator Chambers is expressing here, that... [LB752]

SENATOR GLOOR: Time, Senator. [LB752]

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

SENATOR GLOOR: Thank you, Senator Brasch. Senator Chambers, this would be your closing. Senator, there's no one remaining in the queue. [LB752]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature,

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Senator Brasch means well, but she's wrong. This bill is not defining the elements of an offense. It's not defining assault. It's not defining criminal conduct. The law of assault already does that. It takes certain individuals and places them outside of the operation of the existing law and creates a special niche for them. That's what this does, and that's why it's wrong. And it's why people with some knowledge of the law should be the ones writing laws. Emotion, good intentions are not enough. If you have all optometrists testifying at a hearing, they're going to say everything the optometrists want is what there ought to be. And that's why you all voted yes on that bad bill the other night. Any group that wants favored treatment is going to make a case for itself. I'd like to ask Senator Brasch a question. [LB752]

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

SENATOR BRASCH: I yield. [LB752]

SENATOR CHAMBERS: Senator Brasch, over how great a period were those assaults committed that you read about? [LB752]

SENATOR BRASCH: I believe the testimony said that they happened annually in the United States. [LB752]

SENATOR CHAMBERS: Oh, you're going... [LB752]

SENATOR BRASCH: Let me check. I'm going to... [LB752]

SENATOR CHAMBERS: So you're going by what somebody said, not what you've researched. [LB752]

SENATOR BRASCH: Now, it's from the testimony, and it... [LB752]

SENATOR CHAMBERS: But here's... [LB752]

SENATOR BRASCH: Yes. [LB752]

SENATOR CHAMBERS: Senator Brasch, please... [LB752]

SENATOR BRASCH: Yes. [LB752]

SENATOR CHAMBERS: ...you did not do any independent research, you did not read any reports, you're going strictly by what somebody said. Is that true or not? [LB752]

SENATOR BRASCH: By their testimony. [LB752]

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SENATOR CHAMBERS: Okay. Now, how many of these assaults did they say occur yearly in Nebraska to this group that wants to be given this special consideration? Or were their statistics only national? [LB752]

SENATOR BRASCH: There were statistics offered by another testifier there. And they talked of specific incidents, but they did not give a number. [LB752]

SENATOR CHAMBERS: Thank you. Members of the Legislature, that's the kind of vagueness that should not be the basis for changing the law. And as Senator Coash pointed out, although unfortunately not many people were here listening, legislation like this is not going to deter any of these assaults. This is done to punish for the sake of punishment, to make it harsh. Senator Brasch indicated, if these are not the exact words: you give them reassurance, the reassurance that somebody is going to be punished more harshly if they do something to you than if they do it to somebody else. It really ought to be the other way around. If you voluntarily put yourself in a situation where harm can come to you, and that harm comes to you, the one who is not voluntarily in that situation should have greater protection, because he or she is not looking to be harmed but nevertheless is. So all of that type of approach is counterproductive and not the basis for good lawmaking. Senator Brasch, I'd like to ask you a question... [LB752]

SENATOR GLOOR: Senator Brasch. [LB752]

SENATOR CHAMBERS: ...if you would yield. [LB752]

SENATOR BRASCH: I will. [LB752]

SENATOR CHAMBERS: Do you think that bus drivers, school bus drivers, should be granted special protection so that they'll be reassured that if they are assaulted while in the process of driving these little children, picking them up, letting them off... [LB752]

SENATOR GLOOR: One minute. [LB752]

SENATOR CHAMBERS: ...that the perpetrator should be given a little extra dose of punishment because of the status of this person as a protector of children? Do you think that should happen? [LB752]

SENATOR BRASCH: I...if there is assault happening frequently, then it should be addressed. [LB752]

SENATOR CHAMBERS: Well... [LB752]

SENATOR BRASCH: And it would be juvenile... [LB752]

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SENATOR CHAMBERS: Well...it should be what? [LB752]

SENATOR BRASCH: Juvenile court, I imagine. [LB752]

SENATOR CHAMBERS: No, there are adults who attack these bus drivers. People have gotten on the bus and attacked them. [LB752]

SENATOR BRASCH: You said, "little children," I'm sorry. [LB752]

SENATOR CHAMBERS: No, I said they...their job is to protect little children. [LB752]

SENATOR BRASCH: ...is to protect little children. Okay. [LB752]

SENATOR CHAMBERS: The little children are not attacking the bus driver. People get on that bus and attack the driver. Should that one who gets on the bus and attacks the driver be punished extra harshly, as these people will enjoy having done if they... [LB752]

SENATOR GLOOR: Time, Senators. [LB752]

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

SENATOR GLOOR: Thank you, Senator Chambers and Senator Brasch. [LB752]

SENATOR CHAMBERS: I would ask for a call of the house. [LB752]

SENATOR GLOOR: Certainly, Senator. There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB752]

ASSISTANT CLERK: 19 ayes, 0 nays to go under call, Mr. President. [LB752]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those senators outside the Chamber please return to the Chamber and record your presence. Unauthorized personnel please leave the floor. The house is under call. Senator Dubas, please record your presence. Senator Larson, Senator Avery, Senators Nordquist, Lathrop, and Kintner, please return to the Chamber and record your presence. Senator Larson, please record your presence. Senator Chambers. [LB752]

SENATOR CHAMBERS: We can vote. [LB752]

SENATOR GLOOR: Thank you, Senator Chambers. Members, the question before us

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is, shall the amendment to LB752 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB752]

ASSISTANT CLERK: 8 ayes, 25 nays on adoption of the amendment, Mr. President. [LB752]

SENATOR GLOOR: The amendment is not adopted. Mr. Clerk...raise the call. [LB752]

ASSISTANT CLERK: Mr. President, the next amendment: Senator Chambers would offer FA206. (Legislative Journal page 735.) [LB752]

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

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, with the same structure: page 2, line 20, after the word "professional," this category, "or taxicab driver." And before you laugh, taxicab drivers get robbed on a regular basis. And Carey Dean Moore is on death row for having killed two taxicab drivers. So they are in danger. They are in a confined situation, and they pick up all kinds of people all times of the day and night. And they are exposed to danger, and they're performing a public service. Some of them can even be called to pick up drunks. And there are some law firms, including one that Senator Lathrop is a part of, who will pay the fare for some of these drunks who are picked up and driven home. Suppose they pick up a drunk and he's not completely gone, and he begins to hallucinate, and he has a weapon and he kills the cab driver. These people do face danger. We know you don't care about bank tellers; we know you don't care about school bus drivers. While doing all this sanctimonious talk about this one category you're going to put into the law, as you did some of these other categories when I wasn't here, that you put into the law, like corrections workers, HHS workers, and all these others because they came to you and said, "Do this," and you did it. This is a monkey-see, monkey-do Legislature. Somebody else did it; do it. Somebody else said it; say it. You're supposed to be above that and better than that and use your brains. But I know that's kind of hard to do, so I won't look for it to happen. But it doesn't mean I'm not going to speak as though I'm talking to people who will use their brains. You know why I know you can use your brains? Because I've heard you discuss other issues. I've heard you demonstrate an ability to be logical, to be persuasive. But it just happens you don't see all human beings as having the same worth. If it's a particular category of women who are suffering domestic violence, okay, you can deal with that. They're being photographed under their dresses, you can deal with that. But you can't deal with this situation when it's right in the same church, in the same pew, as what the bill itself is talking about that you're bound and determined to pass. If you're going to keep doing it incrementally, why don't you just open the floodgates and do it now? If the school bus drivers come in next year, you'll do it for them then. Do it now. And if you can't do it now, it should let you know how wrong

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you are to do it for this group that Senator Lathrop brought to you tonight. You know that what I'm saying is true, and you know it's correct. Or maybe you don't. But there are some things I don't think you need to go to law school to understand and be aware of. And one of those things is differentiating groups of people and making some better than others. You wouldn't like it if it happened to you; you wouldn't like it if it happened to yours. But if you're instrumental in it happening to somebody else, or you won't take steps to prevent it from happening to somebody else, you are comfortable with that. Your conscience awakens, and it sleeps; it snoozes, and it's wide awake. But there is no consistency. What I'm doing here is showing that the rationale that was given for taking this selected group will apply to others. But you won't let those others into the corral. And that's not right. They don't have a lobbyist down here. And you shouldn't have to have a lobbyist. You are the representative of the people, not the lobbyists; not of those groups that can afford to have a lobbyist, hire a lobbyist, or those that are cloaked in some kind of aura that makes you afraid to pierce that aura and look at what the real situation is and see that they're not extraordinary, special human beings. If you took their DNA...you take a drop of blood, you'll find that theirs is...the components are the same as anybody else's blood. You couldn't tell the blood of a working man from the blood of Mitt Romney. Maybe you could. Maybe Mitt Romney's blood is richer, richer in platelets, richer in serum, richer in everything. But that book that you all profess to believe says: Of one blood God made all nations of men...should have said "people" or "persons" or "men and women." But nevertheless the idea is that there is a common family. But some children are favored over others. That book talks about a king named Solomon, and he was supposed to be very, very wise. It doesn't say that he went to school or what school he went to; he was just wise. Not a "wise guy," Senator Johnson. A wise man, a wise king, a philosopher-king. So there were these women, two of them, they shared a bed and they each had a child. And in the night they...somebody rolled over one of the children, and that child died. Both women claimed the living child. They didn't have blood tests then; they didn't have DNA then; they could only go by what people said, and both people were saying the same thing, but both of them couldn't be telling the truth. And Solomon was not a polygraph machine; he was not an android; he was a human being of flesh and blood. But you're supposed to get the impression that he understood something about human nature and the love that a mother would have for her child. That's what you're supposed to get from the yarn that is found in the book. So he said: Bring these two women before me. And the two women came before him, and they were behaving identically: sorrowful that a child had been killed but insisting that the living child was hers. So Solomon said: Bring me a sword. And he had people around him who wore swords, so they brought Solomon a sword. He said: Now, here's what I'm going to do; I can't determine which of you is telling the truth, so I'm going to take this sword and I'm going to split this baby in half, and I'll give half to you and half to the other one. And one of them--this shows what a yarn and what a lie it was--one of them said: Okay, okay. And the other one said: No, no, no, no, don't do it; give the child to her. Now, how smart would you have to be to say the one who said, "Don't kill the child," is the mother? But that is the story given to show how wise Solomon was.

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Nevertheless, take it for what the writer of the yarn meant it to be taken for, that there is a principle of justice by which people can make judgments and determine what is an individual's due. And that's all justice is: giving a person his or her due. That's why they use the term "due process": that process which is due, which a person merits, which is warranted under the circumstances. So when we write these laws, we are supposedly setting up a system of due process, a process that is in place; it consists of steps and procedures which take you to a conclusion. And that conclusion is to provide to a person his or her due. But when the law says, by its terms, that some people are due more than others, that law itself violates the concept of due process. It violates the concept of justice which says: giving a person his or her due. Now, if somebody takes a stick and hits Senator Bloomfield upside the head and raises a knot on his head, then they go and they hit the head of the State Patrol on the head and raise a knot on his head, both of them have a headache; each is wearing a knot. Which one do you think is going to get the most consideration: Senator Bloomfield or the head of the State Patrol? You all know. You do it, probably, in your own household. You have children you favor; you look the other way; you find a rationalization, an excuse. The good child and the bad child; the favored child, the disfavored child. And that's what we're doing here. You've selected a favored child, and everybody else is disfavored. If a person assaulted by a knuckle sandwich is entitled to see the perpetrator punished... [LB752]

SENATOR GLOOR: One minute. [LB752]

SENATOR CHAMBERS: ...is that what the law is about? No. The law is not about satisfying the victim. The law is about satisfying what the state has said is the punishment. That's why every criminal charge is brought in the name of the state, not in the name of the victim. The only name in the caption of a case is the name of the perpetrator: the state versus so-and-so, not so-and-so the victim versus the perpetrator. That's what happens in civil actions. Crimes are committed against the state, or against the sovereign, or against the king, or against the crown. Thank you, Mr. President. [LB752]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Bloomfield, you're recognized. [LB752]

SENATOR BLOOMFIELD: Thank you, Mr. President. I just wanted to let Senator Chambers know that wasn't the first time I'd ever been called a "knothead." And I'd yield the remainder of my time to Senator Wallman. [LB752]

SENATOR GLOOR: Senator Wallman, you have 4 minutes and 40 seconds. [LB752]

SENATOR WALLMAN: Thank you, Senator Bloomfield. This amendment of Senator Chambers', taxicab drivers, I am sure that if I was in New York City, Chicago, parts of L.A., I'd be scared to death. So this is probably a pretty good amendment, Senator

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Chambers. Thank you, Mr. President. Thank you, Senator Bloomfield. [LB752]

SENATOR GLOOR: Thank you, Senator Bloomfield and Senator Wallman. Senator Chambers, you're next in the queue. [LB752]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I once posed a question: If a turtle loses its shell, is the turtle naked, or is the turtle homeless? It could be either way you want it. Is my argument saying that this special, favored child is not as worthy? Or am I saying that this disfavored child is as worthy as the one you all want to favor? The law has answered that question already. Senator Brasch is correct in stating that conduct is criminalized by the Legislature. This is not a common-law state; there are no common-law crimes. No matter what is considered a crime in England or anywhere else, if it's not made a crime by statute enacted by the Legislature, it is not a crime. There are only statutory crimes. And conduct is criminal only if a penal consequence is attached to it. So you criminalize the conduct. You define it, you describe it, then you criminalize it by saying it's forbidden; and if you commit this forbidden conduct, then the state through its coercive power will punish you. Any entity that does not have the coercive power to punish a violation of its dictates is not a state. The state has that coercive power. Then you have that system. And as Senator--"The Professor" is not here--Senator Schumacher pointed out, in the '70s it was determined that the entire criminal law in Nebraska should be unified, simplified; crimes should be categorized, with punishments, in ranges, attached. That was to get rid of these laws that were passed...and the punishment would be "three to five," "seven to ten." So there was a general definition to separate a misdemeanor from a felony. Any offense where the punishment put you in the penitentiary for at least one day more than a year was a felony, no matter what the nature of the offense was. Anything that did not put you in the penitentiary for over a year was a misdemeanor, no matter what the offense was. But then descriptions were given of the conduct that is criminalized. Then it was named: some degree of misdemeanor, some degree of felony; not just the punishment that attaches, because some punishments for a high-grade misdemeanor will overlap the lower punishment for a felony. So you name it, and you tell what is the conduct, what the punishment is. And that could be understood, as "The Professor" pointed out, by defense attorneys, prosecutors, judges, everybody who had anything to do with the law, even members of the Legislature. But then politics crept in. Certain groups wanted to be treated differently. They wanted, quote, more, unquote, protection than the law provided. They wanted people to be punished more harshly if they offended against this one than if they offended against another one similarly situated but not holding the same status. So you started getting these kind of provisions. More of them you put in when I wasn't here than you could do when I was here. So now I'm trying to pick up where I left off and stop it from getting any worse. [LB752]

SENATOR GLOOR: One minute. [LB752]

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SENATOR CHAMBERS: There is no reason to go beyond or outside of the punishments already laid down in the statutes. Senator Lathrop said the judge has discretion as to the sentence. Well, the judge has discretion as to the sentence right now. The only thing you're doing is saying, by law, that certain groups are better than others. Thank you, Mr. President. [LB752]

SENATOR GLOOR: Thank you, Senator Chambers. Are there senators...Senator Chambers, you're recognized. [LB752]

SENATOR CHAMBERS: Thank you. I enjoy this. There are people who thought that I'd be like some of these people who stand up here and say they'll talk till the cows come home, and they line up other people to help them, then they start popping up to help the individual because he can't carry it off. But when I undertake to do something, I'm going to do it. And it's why I count on myself. I know what I will do; I know what I'm capable of doing; and I have a purpose in mind. When you rely on other people, you're in a position to be betrayed. There's a song that people fell in love with that Barbra Streisand sang. She can sing, but the song makes no sense; it is insane. "People, people who need people, are the luckiest people in the world." You are the most pathetic, unlucky person if you need people. Now, if you're in a position to help people, that's different. But trusting people is like putting weight on a foot out of joint, or biting down on a bone when you've got a broken tooth. People are fickle; people are unreliable. People mean well, but they cannot do well. There are people who make promises in this Legislature, and then they fold under what is called pressure. And you're going to repose your confidence in people like that and say that if you need people like that you're the luckiest person in the world? These songs don't make sense. Now, it wasn't about a song, but Shakespeare was trying to get across that notion when he said, "full of sound and fury, signifying nothing": a lot of words, yammering, yackety-yak, but there's no substance. It's like going on a movie set, Senator Bloomfield: when you step through the front door, you're out in the back yard. All you have is a facade, a seeming, an appearance, but there is no substance behind it; there's not a reality. If you're on the desert, it's a mirage. But they say a mirage is a trick that is played because there is a real something whose image is being projected, and you see the image but not the reality. Now, that's what smart people say, and I only know what I read, and I read more than what's in the newspaper. People say that about Will Rogers, and they like him, they think he was smart. But they don't like the people whose blood flowed in his veins. Will Rogers was part Native American, but they don't know that. So Will Rogers is a genius. And that's the way it is in this country. And that notion of not being quite what you seem infects everything: being slightly false in one thing, which will then make you false in all things. And you've all experienced that. So have your own moral compass, your own center, know what you believe and what you will stand for. And when you cannot do that, you will sacrifice what principles you thought you had to try to get something that is a will-o'-the-wisp. And you all can Google that while you're sitting right here. But that was this...you be in a swamp and there was phosphorescent material and

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it would glow and you thought that you saw a light which was leading you out of the swamp, but every time you got to where you thought the light was, it's gone, and it's never there. [LB752]

SENATOR GLOOR: One minute. [LB752]

SENATOR CHAMBERS: And it leads you deeper and deeper and deeper into the swamp, and you never get out. You might fall prey to an alligator, unless the alligator has better taste than that. But what I'm doing here tonight is showing the discriminatory bent of the mind of the people in this Legislature. They will say self-righteously that certain groups are to be protected, and they're to be protected by punishing more harshly those who do something to them. But similarly situated people are not to get that same protection. Thank you, Mr. President. Was that my third time? [LB752]

SENATOR GLOOR: No, Senator, your second. This would be your...Senator Chambers, there are no members remaining in the queue. You're recognized to close. [LB752]

SENATOR CHAMBERS: Is this my close? [LB752]

SENATOR GLOOR: This would be your close. [LB752]

SENATOR CHAMBERS: I've spoken three times? [LB752]

SENATOR GLOOR: Yes, you have, Senator [LB752]

SENATOR CHAMBERS: Okay, thank you. And I accept that. Members of the Legislature, this might be the night that we go until 11:59. And I'm prepared to do it. There are some people...some of you all may not know about football, but the guy who gets the ball and runs it a lot is called a running back. And there are some of them, the more they run, the stronger they get, the better they get. And the stronger they get, the weaker the other team becomes. Because when they collide with him, they suffer a setback. And he is energized by that. And when everybody else is ready to throw in the towel, he's just getting started. Now, on this kind of work, I will go all night. Now, if somebody can be so enraptured because of another person that that person can say, "I could have danced all night," on something...for something as trifling as that, it's easy for me to utter words on behalf of the law and to try to penetrate those minds that refuse to see that a law which favors some people are disfavoring others, that the law is not to do that. Not one person, not Senator Lathrop, not Senator Brasch, has pointed out what the punishment is for an assault and shown that it's not adequate to address any of these assaultive behaviors. They don't tell us what the punishment is. And if you ask them, they'd say, well, look it up. If they don't know, how can they tell us that it's not sufficient? When is a punishment sufficient? When it becomes torturous? When it

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doesn't fit the offense? When it's not suitable to satisfy the one who holds a favored status in the first place? When it doesn't satisfy that person, that his or her dignity has not been properly respected? If that is not the case, then you make the punishment harsher? But somebody else who's out here rough-and-tumble, maybe who splits infinitives, and will split your nose as quick as he would split an infinitive if you bother him, does he not have feelings? Does he not want to be respected? Is he so dull that you think he doesn't understand when he's being disrespected? When he's being insulted, you think he doesn't understand? And because that's your belief and he's of a lower order, then you don't do anything that's too wrong if you hurt that person. He had it coming because of what he was born as, the family background, the money he doesn't have. The one, in short, who is the most vulnerable is the one who can be most mistreated in this society without any consequences. You know which children are abused in schools by teachers and administrators? The children whom those teachers and administrators feel will have no protection at home, children who go into the world without protection. You just have to take my word for this...you don't have to, but I meant that's the only way you'll know...because I can't document it. My son told me...he's a grown man now, older than some of the people in here. [LB752]

SENATOR GLOOR: One minute. [LB752]

SENATOR CHAMBERS: And he still calls me, "Daddy." I guess that's what you'll always be, no first name. He said--and I have four children--"We were never afraid and always felt safe around you." My children saw how I would protect them. And that's what every child should have. And it's why I tried to be that to other children who were in the classes with my children when they told me that some child was mistreated. That mistreated child was my child. I'm going to ask for a call of the house, and I'll take a machine vote. Thank you, Mr. President. [LB752]

SENATOR GLOOR: Thank you, Senator Chambers. There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB752]

ASSISTANT CLERK: 20 ayes, 0 nays to go under call, Mr. President. [LB752]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Janssen, Senator Dubas, Senator Howard, Senator Kintner, Senator Avery, please record your presence. Senator Avery, please return to the Chamber and record your presence. Senator Hansen, please return to the Chamber and record your presence. Members, the question before us, shall the amendment to LB752 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB752]

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ASSISTANT CLERK: 8 ayes, 24 nays on the adoption of the amendment, Mr. President. [LB752]

SENATOR GLOOR: The amendment is not adopted. Raise the call. Mr. Clerk, items for the record. [LB752]

ASSISTANT CLERK: Thank you, Mr. President. A new bill: LB485A, by Senator Conrad. (Read by title for the first time.) Your Committee on Enrollment and Review reports LB464, LB800, LB908, LB998, LB1067, LB1115, and LB1115A all as correctly engrossed. Amendment to be printed: Senator Karpisek to LB976. That's all I have at this time. (Legislative Journal pages 1337-1339.) [LB485A LB464 LB800 LB908 LB998 LB1067 LB1115 LB1115A LB976]

Mr. President, the next amendment, from Senator Chambers, is FA207. (Legislative Journal page 735.) [LB752]

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

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, this next amendment says, "or referee of any sporting event or game." And for those who don't pay attention, every one of these categories, every one, is in danger of physical assault. And I've either read about them or I've seen them played out on television: in news clips or on home videos. A lot of these assaults occur, unfortunately, at what are called Little League games, where parents are supposedly taking their children to participate in an activity which will teach them sportsmanship, competitiveness without cheating, knowing how to lose if the other one happens to be better than you at that time but it doesn't mean it'll always be that way, but mainly to enjoy yourself, to have fun, to rip and run and holler and do the things that little children do, in a more or less organized way. And if the parents got too much into it, then maybe they ought to just sing that song from one of those old cowboy movies ... "Rollin', rollin', rollin'; get those dogies rollin'; rollin', rollin', rollin', rawhide." Instead of that, they want to put the rawhide on somebody. So if these referees, who are volunteers, are out there trying to provide entertainment in an organized, structured way for your children, and that person is assaulted, should not that person be given that cloak of protection? Shouldn't that person know that if, voluntarily placing himself or even herself in that situation, an assault is going to be viewed as being particularly egregious? But I'm sure you don't feel that way. Even Senator Brasch wouldn't feel that way, because these people are not worthy of that protection, despite how noble what they are volunteering their time to do and it's being done for other people's children. It takes a degree of knowledge, understanding, and expertise to carry out that role and that function. And these people who are doing it voluntarily are not given that level of protection that Senator Lathrop

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sees fit to give to these people in his bill. I see Senator Nordquist over there rubbing his eyes, so I'm going to help him pull himself together by asking him a question. [LB752]

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

SENATOR NORDQUIST: Yes. Sorry. [LB752]

SENATOR CHAMBERS: Senator Nordquist, at least you're here. Senator Nordquist, do you think that there is a serious problem--and it's being asked like a leading question to get it on out there--of people who serve as referees, from Little League on up into the pros, who run the risk of being physically assaulted, either by participants or by fans? [LB752]

SENATOR NORDQUIST: Well, I could tell you from my experience just this last week in watching my nephew at a third-grade basketball game, certainly verbally assaulted, in that setting. It didn't quite rise to a "physically assaulted," but I could see the possibility could be there. [LB752]

SENATOR CHAMBERS: But you're aware that this can become an environment where a physical assault could occur to the referee, I'm talking about. [LB752]

SENATOR NORDQUIST: And I haven't been present at an incident like that, but I have heard of incidents like that, and I could see that happening. [LB752]

SENATOR CHAMBERS: And if those kind of things happen, do you think the perpetrator should be punished more severely because the one assaulted was a referee? [LB752]

SENATOR NORDQUIST: I think our current statute is sufficient to address the...that crime. [LB752]

SENATOR CHAMBERS: Is that a "yes" or "no" answer? (Laugh) [LB752]

SENATOR NORDQUIST: (Laugh) I can't remember now how you phrased the question. [LB752]

SENATOR CHAMBERS: Oh. Well, let me ask it this way. Do you think the law on the books right now that covers assault is adequate to address those kind of situations if they should arise? [LB752]

SENATOR NORDQUIST: Yes. [LB752]

SENATOR CHAMBERS: Thank you. And, members of the Legislature, we all know that.

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But you like Senator Lathrop; you like the group that he brought the bill for. But if he had brought the bill for referees, you'd be saying the same thing; Senator Brasch would be saying the same thing; all those who support this bill would be saying the same thing. And if I tried to put the first responders in, you'd be against that. I've watched this Legislature. I know how you operate; I know how you function; and I can predict what you're going to do. And I can almost predict which ones are going to do what. Not that I'm a fortuneteller or a mind reader, I just read what occurs. So I'm going to continue bringing these amendments and letting the people who fall into that category, if they are aware of what's going on, know that you do not think they are entitled to special consideration. My view is that none of them is. None of them is. And some people think I should say, "None of them are." But when you use the word "none," it should take a singular verb because "none" is a contraction of "no one." "No one is," not "No one are." But when you put it together and say "none," people say, "None are." Even newspapers do it; they need some better editors. And on that score, let me tell you something that bothers me. Newspapers write...they don't have good editors. And the...and Channel 7, 3, and 6 always say, "A fire was 'contained to' a room." A fire is not "contained to" a room, a fire may be "confined to" a location. It's not "contained to" a room; it's not "contained to" the basement. It's "confined to" the basement. They don't know anything. They don't have editors. It used to be that you could read the newspaper, watch television, and get an idea of grammar, which if you used on an examination in school you can get a passing grade. Not now. You say, well, I saw that on television. They say, you know better than to pay attention to those people on television. Some guy said that television is an instrumentality for people who have nothing to do, to watch people who can't do anything. And that's about what it is. It might have been Will Rogers who said that, but I don't think so. Back to this amendment. I saw a very bad incident on television, but it didn't involve a referee. Two little boys, I think they were 8-years-old or so, wrestling, and the father thought his child was being beaten by the other child in wrestling, and he ran out there and pushed this little boy all the way off the mat. A grown man. A grown...now, he should have attacked the referee so the referee could have dealt with him the way he needed to be dealt with. But there is so much in the way of violence that is glamorized, that desensitizes people, that you expect certain things to happen, especially at sporting events. There was a kid, he happened to be black, he played for Texas A&M or one of those Texas schools, basketball. He chased the basketball and went toward the crowd, and he was called some racial epithets, and he went after the man who did it. And he was put out of the game, and he was suspended for two games. Nothing happened to the white guy. So I can be called racial epithets, because that's my role in this society. You all will never understand why I'm as sensitive to some things as I am, because you would have to experience it, or your children, maybe, for you to understand it. But there are things I don't have to personally experience. But I was telling you about children who get abused in school. There's a school called Lothrop. And before I was married, before I had children, I worked in a barbershop that was about two blocks away from Lothrop School. And when any child was mistreated, that child would run to the barbershop and get me, and I'd go up to the

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school and I'd confront the teacher or the principal. One great big white guy named Krumme, if you know him, K-r-u-m-m-e... [LB752]

SENATOR GLOOR: One minute. [LB752]

SENATOR CHAMBERS: ...and I referred to him as "Moby Dick." And I said, if he puts his hand on these children again, I will bring him in. I won't be like Captain Ahab, where Moby Dick kills me. I'll take care of that white whale. That's the way I dealt. And children didn't get abused anymore. Abusers understand that; they're bullies and they're cowards. [LB752]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Karpisek, you're recognized. [LB752]

SENATOR KARPISEK: Thank you, Mr. President. Members of the body, I'm sitting back here giggling myself silly listening to Senator Chambers, so I was rubbing my eyes too. So I thought I'd hit my light and avoid Senator Chambers asking me a question. So I'll ask Senator Chambers a question. Would he yield, please? [LB752]

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

SENATOR CHAMBERS: Yes, I will. [LB752]

SENATOR KARPISEK: Thank you, Senator Chambers. Now, on this amendment, referees and things, now, are these only if they're...if they're not paid? Or what if they're paid? [LB752]

SENATOR CHAMBERS: Same thing, because they're human beings, and they're involved in this particular activity, and that is the rationale for this bill. It's the kind of work that they do. [LB752]

SENATOR KARPISEK: And what if they're not performing their umpiring...would an umpire also count, Senator, as a referee? [LB752]

SENATOR CHAMBERS: They just call umpires names. [LB752]

SENATOR KARPISEK: (Laugh) Oh, okay. So you think that would count also, an umpire or a referee? [LB752]

SENATOR CHAMBERS: Say it again. [LB752]

SENATOR KARPISEK: Would an umpire or a referee, would that count? [LB752]

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SENATOR CHAMBERS: If they both...if you feel they're close enough in terms of what they do and the risks that they might be taking, I wouldn't oppose an amendment to my amendment if you were to offer it. [LB752]

SENATOR KARPISEK: It would be germane, you think? [LB752]

SENATOR CHAMBERS: No question about it. [LB752]

SENATOR KARPISEK: Okay. Now, what if...do these people have to be umpiring or refereeing at the time? [LB752]

SENATOR CHAMBERS: All they really have to do is be known to be that. [LB752]

SENATOR KARPISEK: So if they... [LB752]

SENATOR CHAMBERS: It's... [LB752]

SENATOR KARPISEK: If I... [LB752]

SENATOR CHAMBERS: It's their status that draws that mistreatment. So based on that, they're put in this special category and treated differently from everybody else. [LB752]

SENATOR KARPISEK: Okay. So just if I knew someone was a referee or an umpire, and I saw them or heard them saying something that I didn't like, but they weren't refereeing, and I did something to them, then they would be treated differently? [LB752]

SENATOR CHAMBERS: Well, you might get knocked out because some of them can handle themselves pretty well. [LB752]

SENATOR KARPISEK: (Laugh) Well, I understand that. What I'm trying to get at, Senator Chambers, is that Senator Kintner and I have been going at it a little bit this year, and I'm wondering if, as we get closer to the end of session here and things get more heated, if...if we would come to blows, what would happen. Would I be in more trouble under your amendment because he is an umpire? [LB752]

SENATOR CHAMBERS: Well, I would probably be in trouble, because I would serve as an umpire and I would separate the combatants. [LB752]

SENATOR KARPISEK: Well, then why would you be in trouble? [LB752]

SENATOR CHAMBERS: I wouldn't be in trouble, because I can handle both of you. [LB752]

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SENATOR KARPISEK: That's what I thought. (Laughter) Well, I just wondered what this refereeing thing is. And, of course, I would never try to do that to Senator Kintner, because he is bigger than me. [LB752]

SENATOR CHAMBERS: And you...now the next thing he would say: the bigger they come, the harder they fall. That's what's in his mind; I can read his mind. He just didn't say it on the mike. [LB752]

SENATOR KARPISEK: (Laugh) All right, well, I thought that, again, since I was kind of dozing off and it doesn't look like you're slowing down, I thought I would try to get my two cents in and try to give Senator Kintner a little well-natured poke while I was at it, too. Thank you, Mr. President. [LB752]

SENATOR GLOOR: Thank you, Senator Karpisek and Senator Chambers. Senator Brasch, you're recognized. [LB752]

SENATOR BRASCH: Thank you, Mr. President. And thank you, colleagues. And thank you, Senator Chambers, for adding this element into this picture. And I'm not as familiar with all sports as I should be, and...but I...from what I understand about sports and referees and umpires, that I believe that there are rules in place, written rules, written penalties, there are fines. There are also sportsmanship, rules of conduct, understood rules. And violence, although it can happen and does at some point, that is not the norm, and that the...and you called it "activities." Now, when we're comparing it to our EMTs, these are not "activities"; they are not a predictable situation. You have somewhat of an understanding of what to expect when you walk into a football game or a basketball game or a gymnastics meet, and the norm is there. Well, these EMTs, 80 percent of them volunteers, brave men and women who make it their purpose, their calling, to assist others in life-threatening situations. When they are injured, when they are in a fire, when they are incapable of physically assisting themselves, these individuals, I have a hard time comparing them to an umpire or a referee. And, again, when you're talking about King Solomon and what wisdom he had in recognizing the child that was truly the child of the biological mother versus the selfish woman, perhaps, who did not want to be alone, well, I believe there was...it wasn't discrimination, I think you were calling it, you know, choosing one class over another class, but instead it was discernment. And as I've looked at those two words very closely, discernment is the ability to understand the degree of risk and understanding the degree of risk that when an EMT works with an unknown population, an unknown situation, with unknown outcomes, and we are seeing that there is a trend of, apparently, individuals who are becoming more violent as they are being helped, then perhaps that would be discernment, where we try to step in and see how we can, you know, better understand and differentiate and make an adjustment that perhaps, as all laws, we hope the intent and the direction is to be helpful. And I believe that is what this law will do. It may

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perhaps help them in the next situation that they run into where the building may be on fire, where an individual may be in a harmful situation that, when they are being helped... [LB752]

SENATOR GLOOR: One minute. [LB752]

SENATOR BRASCH: ...perhaps they will have an understanding that this individual is not there to arrest them or cause them harm but to assist them. And so I do sort an activity from a occupation, and it's not even a full-time occupation but a good-will gesture from someone trying to save a life to...an innocent person running to help someone else. So this is where I do think that at times the law tries to step in to make a bad situation better, perhaps. It's not a perfect world; we cannot expect a perfect outcome. But at least we had made an effort in the right direction to make this individual situation better. Thank you, Mr. President; and thank you, colleagues. [LB752]

SENATOR KRIST PRESIDING

SENATOR KRIST: Thank you, Senator Brasch. Senator Chambers, you're recognized. [LB752]

SENATOR CHAMBERS: Thank you. Mr. President, I'd like to ask Senator Brasch a question or two, if she would yield. [LB752]

SENATOR KRIST: Senator Brasch, will you yield? [LB752]

SENATOR BRASCH: Yes, I will. [LB752]

SENATOR CHAMBERS: Senator Brasch, you keep talking about somebody trying to save lives, and I'm trying to show you the kind of people who are protected already under these laws. Do you equate a groundskeeper for the Corrections Department with one of these EMTs? [LB752]

SENATOR BRASCH: The groundskeeper may have... [LB752]

SENATOR CHAMBERS: Yeah, cut grass. Cut grass... [LB752]

SENATOR BRASCH: To cut grass. [LB752]

SENATOR CHAMBERS: ...and rakes leaves. [LB752]

SENATOR BRASCH: And their place of employment is where? [LB752]

SENATOR CHAMBERS: They work for the Department of Corrections. [LB752]

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SENATOR BRASCH: And they must have a understanding of the degree of risk they are at with that occupation at that location, correct? [LB752]

SENATOR CHAMBERS: Do you think they should be in the same category as EMTs? [LB752]

SENATOR BRASCH: If they are potentially in harm's way, yes. [LB752]

SENATOR CHAMBERS: Let me ask you this question. If the law, and it does, protects the state correctional employees, why not county correctional employees? Why doesn't it protect all correctional employees? Because they pick and choose. And these groups have lobbyists who come here, and they can persuade the Legislature to do this silliness. Oh, and that's all that I will ask you. Members of the Legislature, this law as it exists on the books right now is not even consistent. But they come here...and most of you were here, or many of you were here, when this stuff was put on the books, because you don't pay attention. Then you want to talk about "lifesaving" and "life-threatening situations." And not every situation that an EMT enters is life-threatening. Not every situation. They just happen to be the first ones who get there. But going back to what I'm doing, my point is to show that we ought to leave the general law that applies and is on the books now alone and let it apply to everybody who commits the conduct that has been criminalized. It doesn't matter if you're the king of France or the Queen of Sheba. If you commit this act, you committed the crime, and this is the punishment that you'll suffer. But we know the king and the queen will not suffer it. The king is the law. In fact, the king is the state: L'etat, c'est moi. "I'm the state." Talk about being above the law. "I am the law." And you all act like that's such a bad notion if it's being done by somebody in another country. And look what you're doing right here. You are perverting the law. You are perverting the law while wanting to stand up and say: America has the best legal system, the best judicial system in the world. One thing you're best at in the world: locking people up. You do more of that than anybody else in the world. And you have the worst conditions. And they are so bad that even some of the most cruel states are saying: there has to be a change; you have to do away with some of this solitary confinement; you have to stop putting people in prison for such a long time; you have to start making programs available; and you have to think about doing something to improve people and let it be a place of correction, not just penal... [LB752]

SENATOR KRIST: One minute. [LB752]

SENATOR CHAMBERS: ...punishment. And they're starting to see, not out of any sense of compassion or humaneness, but it's cheaper to do it that way. But whatever the reason, it should be done. When we are dealing, on the front end like this, at what the law itself says, you should not build this discrimination into the law. And this is

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discrimination, I don't care what you want to call it. Whenever you favor somebody or disfavor somebody else because of the work that he or she does or the status he or she holds and you're talking about the law itself, that's wrong, and it's discriminatory, and it corrupts the law. Thank you, Mr. President. [LB752]

SENATOR GLOOR PRESIDING

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

SENATOR CHAMBERS: Thank you. And I did not say, "activities"; what I...as Senator Brasch misunderstood. This amendment says, "or referee of any sporting event or game." And a lot of these things they call games are not games at all. If you pay attention to things, you see how many men, at the college level and the professional level and now even down into Little League, are getting concussions that follow them throughout their life. There's a brain disease that even has a special name, and it shows the development of plaque and other abnormal growths in the brains of these men who have suffered these gigantic or monstrous collisions that make the fans go wild. That's what happens. And that's why they shouldn't be called games. It's not just sport; it's not for fun. It's to hurt; it's to maim; it's to cripple. And they found out that there were coaches paying players to hurt players on the other team, bounties, if you can knock a quarterback out of the game. Now here are men all making their living in the same activity, and some are going to try to cripple the other one. Those are the things that go on. Once again, violence desensitizes people. So if anybody...look out, Senator...oh, Senator Karpisek is not there. I saw Senator Kintner striding with a determined stride back into Senator Karpisek's neighborhood, and I just wanted to warn him so we wouldn't have any of those clashes. (Laugh) But Senator Karpisek is like that story of "The Three Little Pigs." The wolf--wolves are smarter than this--but he never could figure how to catch these little pigs. And pigs are smart. So he told them, "Little pigs, we're going to go get some apples." And this is after he blew down the house of sticks and the house of straw. And they all went to the house of the one who built this house out of bricks, so he couldn't huff and puff and blow them down. But they said the first thing that happened when he huffed and he puffed and tried to blow the house down, the little pig gave him some Listerine and said, "Buddy, take this, you need it." But at any rate, he told the little pigs, because he didn't know how smart they are, "There are some delicious apples up on top of the hill, and let's go up there together tomorrow morning at 5:00 and get the apples." So the little pigs said, "Okay." So the little pigs got up at 4:00, and they went and got the apples. So when the wolf came knocking on the door, the little pigs said, "We already went and got our apples." That's Senator Karpisek. Senator Kintner is looking for Senator Karpisek, and Senator Karpisek has already taken refuge (laugh) in a place of safety. But that's the way we do here. At any rate, what I'm talking about I'm very serious about. But even when the most serious things are being dealt with, it doesn't mean there cannot be humor. There was nobody in

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public life, documented to be so, who was more melancholy, more often depressed, than Abraham Lincoln. Yet Abraham Lincoln had one of the keenest senses of humor of anybody in public life, and he had one of the most logical minds and one of the best grasps of language. So he would tell jokes in the most serious of situations. And some people condemned him for that, because they said he's trifling and doesn't know how to show proper decorum. But Lincoln was well known for that. And he could end a lot of arguments with one of his, as they call it, a homespun story. [LB752]

SENATOR GLOOR: One minute. [LB752]

SENATOR CHAMBERS: So everything doesn't have to be solemn all the time, even though we're talking about things--I am, anyway--about things that are very serious. And I intend to continue doing so and continue to get you voting against people being given this kind of protection that you're giving to the favorite child that Senator Lathrop presented to you. Thank you, Mr. President. [LB752]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Chambers, you're recognized. This would be your closing, Senator. [LB752]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, as I said, this amendment would include in the favored classes referees of sporting events or games. If we're dealing with people who because of the work they do are exposed to danger, who are at risk of being assaulted, referees certainly are, to a greater extent now than ever before. And what difference is it going to make if you just add another category? You've been doing it by increments. Every time you do it, this is it. It's "this is it" for this time, until another lobbyist and special interest group will come. And it'll happen again, or they'll attempt it again. And I'll be here trying to stop it again. This never should have gotten out of the Judiciary Committee. But that committee does not winnow in the way that it should, in my opinion. And I only have one vote there. And a lot of these bills got out one day when I wasn't there, because I wasn't aware that they were all out here. And then I look, and I say, now, I know I didn't vote for that. And, sure enough, I didn't; I wasn't there. So I think what happens when I'm not there, they say: Cat's away; let's play. And stuff just flows out here, when it ought to be flowing into "File 13," if you get my drift. But I'm going to continue for two reasons. One is to show that you recognize that the law should not continue to allow for these exceptions. But you're going to do it every time one comes, as you're doing it now, that you're unwilling to give everybody the same consideration. What's the second reason? To show you that nobody does it better than me. Next time somebody decides, like they're going to fight against the expansion of Medicaid and they've got to have a whole lot of company with them along, they've got to do it in relays. Let the one who says he's going to do it, let him do it. But he can't. Nobody can do it like me, and you all know it. Some people can't use their full five minutes. And they're going to do like I do? No, they're not. I know it; they know it; you all know it. But I'm not going to do this all the time, on every bill I'm

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opposed to. But this one is so bad, what it does is so wrong, what it does is so corrupting to the law that somebody needs to stand against it as long, under the rules, as it can be done. And that's what I intend to do. And I'll repeat, and I'll repeat, and I'll repeat: the law should not play favorites. And if you were standing before the law, and the person on the other side was rich, you would know right away that you've got no chance. As one of those proverbs from one of the islands says: When the cockroach goes to court with the chicken, and all the judges are roosters, then the cockroach loses every time. And that's the way it goes. I'm not going to ask Senator Burke Harr this question, but I know what answer he'd give. If Colonel Sanders were going to walk into heaven and he got to the pearly gates, and sitting there as the gatekeeper was a big old chicken, Colonel Sanders would know that he's in trouble. So those who make the law should be mindful of what role the law is to play. [LB752]

SENATOR GLOOR: One minute. [LB752]

SENATOR CHAMBERS: When we put laws on the books, those laws should make it as easy as possible for people who want to do right, to do right, and as hard as possible for those who administer the law to do it wrongfully. When you write discrimination into the law, you can't blame the judge for taking it a step further or applying it in a way that maybe you didn't intend. So when we enact a law, we have to look at what can be done under that law and not say, well, we trust the prosecutor not to do this, or we trust the judge not to do that. Periodically, I'm going to keep bringing up the Nikko Jenkins case and Judge Peter Bataillon and what a mockery he is making of mental illness. And once again it's been reported in the paper and not one person has taken offense at it. Is it because the defendant is a crazy black man? [LB752]

SENATOR GLOOR: Time, Senator. [LB752]

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

SENATOR GLOOR: Thank you, Senator Chambers. Members, you've heard the closing on the amendment to LB752. Senator Chambers. Senator Chambers. [LB752]

SENATOR CHAMBERS: I'd like a call of the house. [LB752]

SENATOR GLOOR: There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB752]

ASSISTANT CLERK: 21 ayes, 1 nay to go under call, Mr. President. [LB752]

SENATOR GLOOR: House is under call. Senators, please record your presence. Those unexcused senators not in the Chamber please return to the Chamber and record your

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presence. Unauthorized personnel please leave the floor. The house is under call. Senator Davis, Senator Schilz, Senator Scheer, Senator Conrad, please check in. Senator Lathrop, please return to the Chamber, record your presence. Senator Lathrop, please return to the Chamber and record your presence. Senator Chambers, all members are accounted for. [LB752]

SENATOR CHAMBERS: Machine vote. [LB752]

SENATOR GLOOR: Thank you, Senator Chambers. Members, the question is, shall the amendment to LB752 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB752]

ASSISTANT CLERK: 11 ayes, 24 nays on the adoption of Senator Chambers' amendment, Mr. President. [LB752]

SENATOR GLOOR: The amendment fails. Mr. Clerk. [LB752]

ASSISTANT CLERK: Mr. President, I have a priority motion. Senator Dubas would move to adjourn until Wednesday, April 2, 2014, 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. Opposed, nay. Raise the call. We are adjourned.