

FEBRUARY 14, 2001

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FLOOR DEBATE

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SENATOR COORDSEN PRESIDING

SENATOR COORDSEN: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. Our chaplain for the day is Senator Jim Jones.

SENATOR JONES: (Prayer offered.)

SENATOR COORDSEN: Thank you, Senator Jones. I now call to order the twenty-ninth day of the Ninety-Seventh Legislature, First Session. Roll call. Record, Mr. Clerk.

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

SENATOR COORDSEN: Thank you, Mr. Clerk. Corrections for the Journal?

CLERK: Mr. President, I have no corrections this morning.

SENATOR COORDSEN: Thank you, Mr. Clerk. Messages, reports, and announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports they've examined LB 182 and recommend that same be placed on Select File; LB 337, LB 409, LB 133, LB 46, LB 48, LB 84, LB 85, LB 87, and LB 299, all on Select File.

I have a communication from the Governor to the Clerk. (Read re: LB 67, LB 68, LB 111, LB 118, LB 131, LB 137, LB 138, LB 151, LB 156, LB 168, LB 168A, LB 173, LB 197, LB 198, LB 209, LB 209A, LB 214, LB 252, LB 275, LB 295, LB 302, and LB 365.) Attorney General's Opinion to Senator Baker. Priority bill designation, Senator Beutler has selected LB 657. Series of appointment letters from the Governor, will be referred to Reference Committee.

And, Mr. President, two new resolutions, LR 29 by Senator Foley, and LR 30 by Senator Foley; both those will be laid over and considered another time, Mr. President. That's all that I have this morning. (Legislative Journal pages 653-664.)

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SENATOR COORDSEN: Thank you, Mr. Clerk. Moving on to our agenda for the day, first item.

CLERK: Mr. President, Senator Jensen offers, it's a confirmation report by the Health Committee, found on page 628.

SENATOR COORDSEN: Senator Jensen.

SENATOR JENSEN: Good morning. Mr. President, members of the Legislature. The Health and Human Services Committee desires to report favorably upon appointment of the following persons to the Commission on (sic--for) the Blind and Visually Impaired. These are new appointments to a commission created with the passage of LB 352 in the year 2000. The committee suggests the appointments be confirmed by the Legislature and suggests a record vote. The following individuals, these are all blind individuals, and if you'll recall last week during our snowstorm, you can understand that many of them did not appear; matter of fact, only one of the five. But Mr. Robert Burns, an attorney from Omaha, was unable to appear personally. Senator Brashear offered testimony in support of his confirmation. The second, William Orester, an attorney from Lincoln, was also unable to appear. Senator Foley did appear in his behalf, to support his confirmation. Maya Samms, unable to personally appear. She's an attorney from Omaha, and Senator Hilgert appeared in her support for her confirmation. Barbara Walker, an active volunteer from Lincoln and past president for eight consecutive years of the National Federation for the Blind of Nebraska, did appear in person. And then the fifth member, Dorothy Westin-Yockey, a clinical social worker at Siouxland Medical...Mental Health from Sioux City...South Sioux City, was unable to appear personally, but Senator Engel offered testimony in support of her confirmation. Mr. President, I'd recommend confirmation of these five individuals.

SENATOR COORDSEN: Thank you. There are no lights on to comment on the committee. Did you want to say anything in closing? Closing is waived. The question before the body is the adoption of the confirmation report as recommended to us by Health and Human Services Committee. Those in favor please say aye...vote aye, those opposed nay. Record, Mr. Clerk.

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CLERK: (Record vote, Legislative Journal page 664.) 28 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR COORDSEN: The confirmation report is approved. Next item, Mr. Clerk.

CLERK: Mr. President, General File, LB 791, a bill by Senator Janssen. (Read title.) The bill was introduced on January 17 of this year, referred to General Affairs. The bill was advanced to General File. I have no amendments at this time, Mr. President.

SENATOR COORDSEN: Thank you, Mr. Clerk. Senator Janssen, to open on LB 791.

SENATOR JANSSEN: Thank you. Senator Coordsen, members of the Legislature. LB 791 is designed to address the problem of the declining revenues going to the charities from the state lottery. Three years after the lottery began, sales have been steadily declining, due mostly, as we all know, to the boats in Iowa. As a result, the three charities that receive the money from the lottery--the Environmental Trust, and Excellence in Education, and the Compulsive Gamblers Assistance--have had to do with less dollars. This addresses the problem by providing the charities with a guaranteed minimum amount, while freeing up the mandatory percentage going to them. This will allow the lottery to increase the prize payouts; thus, giving more money back to the players. It is thought that the current player will play more often since he or she is getting more money back for their play, which in turn will increase the revenues. This is...this same situation has been accomplished in other states with success, I might add, and I would like to see the lottery stop the downward side, what we're...we're going down the slippery slope right now, that charities would continue to get less every year as they have since 1996. With that, I would like to answer...or I will answer any questions that anyone may have, or attempt to do so. I look forward to the passage of this bill, and actually what happens is the lotteries...the amount that goes into this trust fund will be...goes from

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twenty-five percent down to eighteen percent, for a period of five years. And if...anticipated that the sales will go up at the end of five years, they will go back to the twenty-five percent. But, once again, I stress that we will...they will be held harmless, they will not get any less money than they received in the year 2000-2001. Thank you, Mr. Chairman.

SENATOR COORDSEN: Thank you, Senator Janssen. A series of lights on, beginning with Senator Smith, to speak to LB 791.

SENATOR SMITH: Thank you, Mr. President, members. If Senator Janssen will yield to questions?

SENATOR COORDSEN: Senator Janssen would respond.

SENATOR SMITH: Senator Janssen, you mentioned how the lottery is declining in popularity and whatever you want to call it. Say that it continues in that manner and this particular plan is unsuccessful. How...what draws the line of where the funds discontinue fulfilling that guaranteed amount?

SENATOR JANSSEN: That will occur after five years, Senator Smith. They will be held harmless for a five-year period. If they continue to decline, which I hope that it won't, I wish it would go back up, which has been proven in other states, then they would go back to the twenty-five percent, after the end of five years.

SENATOR SMITH: Okay, so basically...

SENATOR JANSSEN: Does that answer your question?

SENATOR SMITH: ...the difference in the payouts goes entirely to prizes and so we won't be jeopardizing any contracts or anything with...

SENATOR JANSSEN: Oh, that's right. That's right. That percentage will go back in payouts. That additional percentage that is being taken away will go back. And those...those particular people will be keeping the same amount of revenue, they won't drop any further than they are right now, for five

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years.

SENATOR SMITH: Okay.

SENATOR JANSSEN: To me, it seems like a win-win situation for those, the Environmental Trust; and the Excellence in Education, and the Gamblers Assistance Fund, because they will not continue to see that decline.

SENATOR SMITH: Okay. Thank you.

SENATOR COORDSEN: Thank you. Senator Beutler, please.

SENATOR BEUTLER: Senator Janssen, just a question or two, if I may. First of all, let me say I admire the effort and the adventure here. I'm not sure how this comes out and I understand you probably aren't either. But my question is this. The money that's being taken from the charitable organization is clearly set out in the bill, and that money then, by your description on the floor here, is to be used all entirely for prizes, increased prizes?

SENATOR JANSSEN: Yes.

SENATOR BEUTLER: The bill doesn't actually say that, as I understand it, the bill, unless I'm missing the part that actually says that. How can we be sure that this money is not being used to pay for contracts that might ask for increased expenses? In other words, I suppose....

SENATOR JANSSEN: Well, their expenses are already set in contract, Senator Beutler, so they can't raise that.

SENATOR BEUTLER: But they could...if the contracts come up for renewal, there could be new contracts and requests for an additional amount in order to run the lottery?

SENATOR JANSSEN: That will be awhile, Senator Beutler, because the contract was just renewed just this last year.

SENATOR BEUTLER: Okay. So within the time period set out in

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this bill, there would be no renewal of the main contract to operate the lottery?

SENATOR JANSSEN: That's right. Five years. Yeah, for the scratch-off tickets...

SENATOR BEUTLER: Yeah.

SENATOR JANSSEN: ...it's five years.

SENATOR BEUTLER: Part of the reason I was asking is because there's a sentence in here that would be quite easy to amend. It's the one that says, "The amount used for the payment of lottery prizes shall not be less than forty percent of the dollar amount of the lottery tickets which have been sold." But it would be unwise to try to increase that to make clear where the money was going?

SENATOR JANSSEN: I don't...

SENATOR BEUTLER: Just a thought. I'll...

SENATOR JANSSEN: ...where's that at, Senator, on what page?

SENATOR BEUTLER: That's on page 2, line...starting line 15.

SENATOR JANSSEN: Okay.

SENATOR BEUTLER: Well, perhaps it's not necessary if you feel...

SENATOR JANSSEN: That is in statute now.

SENATOR BEUTLER: Pardon me?

SENATOR JANSSEN: That is in the existing statute.

SENATOR BEUTLER: Yeah, and all I'm saying is I suppose it's possible to make that percentage higher for the five-year period so that it was clear that the money was going to that purpose only. But if you're comfortable that there is no major

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contracts to be renewed and it's not...

SENATOR JANSSEN: No.

SENATOR BEUTLER: ...the money is not going for...to the people who run the lottery as opposed to prizes, then I'm comfortable with that, Senator, too.

SENATOR JANSSEN: No, it's set in statute where that can go. It was set at twenty-five percent. That is the only portion that we're changing, that payout was at twenty-five percent.

SENATOR BEUTLER: Oh, okay.

SENATOR JANSSEN: We're changing that to eighteen percent with the provision that the dollar amount stays the same for five years.

SENATOR BEUTLER: Okay. And you've been reassured by the people who run the lottery that none of this money will...that it will all go to prizes and none of it will go to the payment of...

SENATOR JANSSEN: That's right.

SENATOR BEUTLER: ...expense contracts?

SENATOR JANSSEN: That's right...

SENATOR BEUTLER: Okay.

SENATOR JANSSEN: ...because what they want to do is boost the play.

SENATOR BEUTLER: Right. Okay, thank you.

SENATOR JANSSEN: Uh-huh.

SENATOR COORDSEN: Senator Schrock, please.

SENATOR SCHROCK: Mr. President and members of the Legislature, I'd like to ask Senator Janssen a question now.

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SENATOR COORDSEN: Senator Janssen.

SENATOR JANSSEN: Yes.

SENATOR SCHROCK: Senator Janssen, what do they pay back now? I remember from committee, was it about fifty-two percent?

SENATOR JANSSEN: Yes. Fifty-four point nine percent.

SENATOR SCHROCK: Okay. That's getting...that's getting close. And so the odds aren't real good if you buy that scratch-off ticket, but it's more for entertainment value, I suppose. They will increase the payout though with the passage of this bill. Is that correct?

SENATOR JANSSEN: Yes, I think it's fifty-four, fifty-five percent...sixty-five percent. Will be sixty-five percent will be paid back because they'll have the extra dollars in sales.

SENATOR SCHROCK: So, from that standpoint, they think there will be more players because the payback will be better. And a lot of times if you cash...if you win five or ten dollars, you'll take that money to buy more tickets. Is that what happens?

SENATOR JANSSEN: As a rule. Watching people play them, they'll spend ten dollars and they'll, if they have some winners, they'll cash those and buy some more tickets until their ten dollars is gone. Then they'll quit.

SENATOR SCHROCK: The point I'd like to make here is, members of the Legislature, is that whether you're progambling, antigambling, this was put on the ballot and the lottery was started by the people of the state of Nebraska. It was put on the ballot; they voted for it. And it would appear to me like we should give the people who run the games the authority to run a competitive game with other states. And they think that they'll get more play, generate more money for education and the environment by increasing the payout, not decreasing the payout, by increasing the payout. You might say this is somewhat of an

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expansion of gambling, if you want to be real fair about it. But I think it's just implementing what they voters told us to do, and that was to provide a lottery for the citizens of the state of Nebraska. And I don't even remember, when it was on the ballot, whether I voted for it or against it. I don't remember. And the amount of scratch-off tickets I buy, I just really don't buy them. But that's neither here nor there. I don't like the odds. But people do buy them, and so I think this is something we should advance. It's not without controversy but, for that reason, I'll be voting yes.

SENATOR COORDSEN: Thank you. Senator Smith, please.

SENATOR SMITH: Thank you, Mr. President. If Senator Janssen would yield to further questions?

SENATOR COORDSEN: Senator Janssen.

SENATOR JANSSEN: Yes.

SENATOR SMITH: If the...well, first of all, are the odds going to be better, or will the payouts be bigger, or both?

SENATOR JANSSEN: The odds will be better.

SENATOR SMITH: The odds will be better. So basically, same size of prizes; just that they would be more frequent?

SENATOR JANSSEN: That's right.

SENATOR SMITH: And how do you see that being implemented so as to raise the overall play?

SENATOR JANSSEN: Well, you're going for fifty-five percent to sixty-five percent for winners. So I think you will see longer play if you...like the situation I just talked about where they buy ten dollars worth of tickets, and if they win sixty-five percent of the time they're going to buy more tickets, thus, increasing the revenues.

SENATOR SMITH: In theory, taking that prize money and putting

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it right back in.

SENATOR JANSSEN: Putting it right back in. And that...that usually is what happens, Senator Smith.

SENATOR SMITH: So you don't see a plan to bring in players who...

SENATOR JANSSEN: No, I think...

SENATOR SMITH: ...were frustrated from before?

SENATOR JANSSEN: ...you've got your typical scratch-off players. I've witnessed that in my business. There are...you can name the people who are going to buy those tickets, and very seldom do you see a big rush come in to play those scratch-off tickets. It's the same people that play them all the time. So that...and if they're going to get a prize, sixty-five...or ten percent more often, they are actually going to buy more tickets.

SENATOR SMITH: But they're...in this...

SENATOR JANSSEN: Because it's ten percent.

SENATOR SMITH: In the plan to raise the frequency of play, there's no outreach planned to bring in new players? Is that right?

SENATOR JANSSEN: No. I...it has been around here now for eight, nine years, and you've got, I think, the newness of the thing has worn off, and you've got those people that are going to play scratch-off tickets. And very seldom do you see any, what you would call, new blood getting into the game.

SENATOR SMITH: Okay.

SENATOR JANSSEN: It's...it is that one group of people that like to play scratch-off tickets, and that's it. Just like the people that like to play bingo or hopscotch or anything else. It's just one group of people.

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SENATOR SMITH: Okay. Thank you, Mr. President.

SENATOR COORDSEN: Thank you, Senator Smith. Senator Janssen, there are no other lights on. Did you wish to say anything in closing on LB 791?

SENATOR JANSSEN: Thank you, Senator Coordsen. Only to say that, you know, we have been shown how this increased the sales in other states, brought their revenues up, and those people that are receiving those funds have been able to do more things. You look back at the schools that have got some of these payments from the lottery. I know one of my schools...or two of my schools received some assistance from this fund. It was a pretty good amount of money. I think it's going to a good cause and if we can stop the decline. State of Texas lowered their payout, just did the opposite of what we're trying to do here, and it went down drastically. The sale of those lottery...or scratch-off tickets really declined, and so did the revenues that went to their charities. So, with that, I think it's a win-win situation for the Environmental Trust, and the Excellence in Education, and the Compulsive Gamblers Fund. They're not going to lose anything. They stand to gain from this. And, to me, I think it's very important that we protect those funds that the voters voted for on the ballot, was this was where that prize money was supposed to go. So, with that, I hope you will see favorably upon this piece of legislation. Thank you.

SENATOR COORDSEN: Thank you, Senator Janssen. You've heard the closing. The question before the body is the advancement to E & R Initial of LB 791. Those in favor please vote aye, those opposed nay. Senator Janssen.

SENATOR JANSSEN: Like to ask for a call of the house, Senator.

SENATOR COORDSEN: Thank you, Senator Janssen. The question is a request for the call of the house. The question is, shall the house go under call? Those in favor please vote aye, those opposed nay. Record, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, to place the house under

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call.

SENATOR COORDSEN: The house is under call. Those who are not excused and not on the floor please return to the floor and return your...and record your presence. The house is under call. The house is under call. If you're not excused and absent the floor, please return to the Chamber and record your presence. Senator Connealy, Senator Price, please return to the floor and record your presence. Senator Janssen has authorized call-in votes. Senator Connealy, Senator Price. Senator Connealy, the house is under call. Call-in votes have been authorized.

CLERK: Senator Bruning voting no...changing from yes to no. Senator Byars voting yes. Senator Redfield voting no.

SENATOR COORDSEN: Senator Connealy, the house is under call. Please return to the Chamber and record your presence. Senator Janssen.

SENATOR JANSSEN: Mr. Chairman, I would ask for a roll call vote in regular order, please.

SENATOR COORDSEN: Roll call vote in regular order has been requested. Mr. Clerk, call the roll, please.

CLERK: (Roll call vote taken, Legislative Journal page 665.) 22 ayes, 11 nays, on the advancement, Mr. President.

SENATOR COORDSEN: The bill does not advance. Next item, Mr. Clerk. Raise the call.

CLERK: Mr. President, the next bill, LB 300, a bill by Senator Chambers. (Read title.) The bill was introduced on January 5, referred to the Banking Committee, advanced to General File. I have no amendments to the bill, Mr. President.

SENATOR COORDSEN: Thank you, Mr. Clerk. I have a notice...a note here that Senator Landis will handle the bill. Senator Landis, to open on LB 300, please.

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SENATOR LANDIS: Thank you, Senator Coordsen. Members of the Legislature, this is Senator Chambers' bill. I understand it's also in connection, if you can believe it, with the Johanna administration, (laugh) that they've been working on this, (inaudible) at least they are in concert. It's a bit of a shock, sort of a pleasant irony to find here. This goes back to the Research and Development Authority, a bill and an authority that we created a number of years ago, in 1986. The authority was to have investments; those investments, that appropriation, was invested. As it worked out, we eventually took the money that we still had from that authority and we exchanged its assets with a limited partnership called the Heartland Capital Fund. The authority itself, which was to have a board, and an appointment has never been filed since 1993. It's on the books; it doesn't exist. Nobody has been appointed to fill this position. The reason is there are no assets for the authority to work on at all. So you have a dead letter and this repeals that dead letter authority. It does break the tie because there was a time a number of years ago with the North Omaha Business Development Corporation, and this bill says that the business development corporation formed to Section 58-440 shall no longer be required to include representatives to the authority because the authority is going to go away. All interest of the authority in such business development corporation shall be transferred to the North Omaha Business Development Corporation. So if there are any assets that the corporation...that the North Omaha Business Corporation has that were a flow-through from the authority, they'll be able to keep that. There is no parent authority to return the money to at this point, if there is an asset that they hold, and I'm not sure that they do. The Department of Economic Development asked for the bill. Al Wenstrand testified in favor of it, as Senator Chambers, who introduced it, and the measure came out 8 to 0. Just a little bit of background, the RDA was, as I said, created in 1986. That was LB 850. It had a relatively broad-based charter with a \$10.5 million appropriation. By 1992, we transferred what assets we had in the authority, which was about \$3.7 million, to the Heartland Capital Fund. Subsequently, the RDA issued \$2 million in bonds for additional funding to the Heartland Capital Fund. The RDA is a nonfunctioning authority. In general, it's been inactive since 1993. And that's LB 300. I

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would ask for its advancement. Thank you.

SENATOR COORDSEN: Thank you, Senator Landis. To speak to the advancement of the bill, Senator Kremer, please.

SENATOR KREMER: Thank you, Mr. President and members of the body. A friend of mine came to me about two years ago and said he was the Chairman of this board, the Research and Development Authority board, and was wondering what happened to it. They hadn't had a meeting for about three years or four years, something like that, and wondered what was going on; they have never done anything. And so this was one of the commissions or boards that we looked at through the Government Committee last year as a commission to dispense with, and there...the reason that they didn't at that time was there was some outstanding bonds, and at this time they've been transferred to another fund, so there's no reason to keep it alive. So I would urge you to support this bill. Thank you.

SENATOR COORDSEN: Thank you, Senator Kremer. We will pause a moment. (Visitors introduced.) Moving on, on our speakers list, Senator Engel, please.

SENATOR ENGEL: Mr. Chairman, members of the Legislature, I rise, as Chair of the Program Evaluation Committee, to speak in favor of LB 300. In 1997, at the committee's direction, the Program Evaluation unit conducted a pre-evaluation inquiry of the Nebraska Research and Development Authority. The unit found that activities of the authority were in conflict with its existing statutes and, because of these concerns, I support dissolution of the authority, and hope you'll advance LB 300 to Select File. Thank you.

SENATOR COORDSEN: Thank you, Senator Engel. Senator Beutler, please.

SENATOR BEUTLER: Senator Coordsen, members of the Legislature, I am certainly for this bill. I just thought that if one wanted to remember history and reflect on the meaning of history to the present, one might take a look at the statutes that are being repealed, 58-403, and compare them a little bit with the

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Economic Development proposal that we have before us this year dealing with venture capital. It seems like every so often there is a new idea about how we're going to help economic development and, of course, we keep...need to explore those new ideas. But this Research and Development Authority, at the time that it came about, was the big item...a big item on our agenda and it didn't work at all. It was to finance applied research, it was to engage in seed capital financing, doing many of the things that we seek to try to get government involved in from time to time, that it really doesn't...but it really doesn't work very well. Anyway, it will be interesting to hear on the next stage of debate how this year's current proposal with regard to venture capital and putting money into a government exploration of that area compares to what we tried in the past that it didn't work. Thank you.

SENATOR COORDSEN: Thank you, Senator Beutler. Senator Hartnett, please.

SENATOR HARTNETT: Mr. President, members of the body, I noticed in the Committee Statement there's some mention of North Omaha Business Development Corporation. In visiting with...I had some concern it...at what connection the state had with this body and I...talking to Mr. Wenstrand and the introducer of the bill, Senator Landis, I guess the connection is kind of severed. And so I guess I would ask simply...would rise to support this bill.

SENATOR COORDSEN: Thank you, Senator Hartnett. There are no other lights on. Senator Landis, did you wish to say anything in closing?

SENATOR LANDIS: Yes, I do. Senator Hartnett points out an...to explain a provision in the bill, we are transferring back to the North Business Omaha Corporation (sic--North Omaha Business Development Corporation) whatever interests we have, and the interests that we have is two seats on their board of directors, not money, two seats on their board of directors. And we saying, we're not going to use those, you got them back, we're not going to fill them, you got yourself two seats on your own board of directors back. In answer to Senator Beutler's question, how is this different, how was this authority

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significantly different from the venture capital bill that the Governor supports this year, this was \$10.5 million of state money. There is no state money to be invested in LB 225. We did the investing and we were particularly unskilled at it. That will not be the case in LB 225, so there are significant differences between the thing that was attempted in this RDA a number of years ago and what is being advocated in LB 225. I would ask for the advancement of LB 300 on Senator Chambers' behalf. He's down giving a speech, I believe in Missouri, at I'm sure an inflated salary. For what we get for free, they're paying through the nose for, and I wish him the best. Thank you. (Laughter)

SENATOR COORDSEN: A closing complete with an addendum. You've heard the closing on LB 300. The question before the body is the advancement of LB 300 to E & R Initial. Those in favor please vote aye, those opposed nay. Record, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB 300.

SENATOR COORDSEN: LB 300 does advance. Next item, Mr. Clerk.

CLERK: LB 360, Mr. President, by Senator Landis. (Read title.) The bill was introduced on January 8, referred to the Banking, Commerce, and Insurance Committee, advanced to General File. I do have committee amendments, Mr. President. (AM0004, Legislative Journal page 469.)

SENATOR COORDSEN: Thank you, Mr. Clerk. Senator Landis, to open on the bill.

SENATOR LANDIS: Thank you, Senator Coordsen. Members of the Legislature, this would be the annual Department of Insurance clean-up bill. The provisions come to us from the department, with their recommendation that these are changes in the laws that they now administer that they would like to see, essentially for administrative purposes. Some of it is relatively technical, some of it is relatively...a rather good deal of it is relatively minor. For example, years ago if you wanted to sue an insurance company, you had to have service of

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process, and the Director of Insurance would be an agent for processing. You could send your complaint and summons to the Director of Insurance, and that would work to be actual notice then to the company that they were being sued. Well, we stopped doing that in the...perhaps it was the eighties, perhaps it was the nineties, I'm not sure which; however, when we stopped doing that, we left out fraternal insurance companies. Well, we have one, and that's Woodmen of the World in Omaha. And we repealed that service of process status for the director in every other kind of insurance but this one. Well, we now have stumbled across the fact we didn't do that, so we're doing that in this bill. We make a number of changes in our Guaranty Association statute for life and health. Guaranty Association is the closest thing to the FDIC that exists in insurance, and it is not an exact match by any nature, by any means. A guaranty funds is an organization that says if one of the member companies goes down and they don't have the money to keep their word, to keep their contractual promises with their policyholders, other companies who are in the guaranty fund will pony up the money to meet those obligations. Now there is a maximum amount of obligation that the guaranty fund will pick up. Historically, for health-related injuries, accidents, costs, claims, that is \$300,000. This bill moves that to \$500,000, so that if you are a policyholder you would be covered up to \$500,000 by the Guaranty Association. Understand, the Guaranty Association is not an act of largess or altruism on the part of insurance companies because contributions that they make, to make up the difference for when one of their member companies goes down, is a credit against their premium tax. So they give us money but they get a business tax credit in the form of a premium tax credit when they do that. On the other hand, it is a way of making sure that policyholders get their promises kept, which is a good idea. What constitutes reinsurance and credit for reinsurance, for reinsurance contracts, now will be defined to allow a direct payment to policyholders to be considered as a credit for reinsurance, out of reinsurance contracts. In the event you transfer a policy from one company to another company that is in a group of companies so that they're related, you do not have to do a separate cancellation and rewriting practice because that entails a relatively costly notice that has to be sent out to

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the policyholder that their first policy has lapsed. This says, look, you can make that change seamlessly from one insurance company to another insurance company if they're in the same group, when you move a policyholder from one of those companies to another. With respect to the CHIP program, CHIP program-eligible individuals must be residents of the state, but we've never identified or defined resident, and now we're going to add the term "domiciled in the state" as that definition. When you use domiciled in the state, you are tapping into a relatively long line of court cases that help you define resident. It doesn't necessarily mean that you're living in Nebraska at the moment. You could be away for a trip or for business or temporarily someplace else. Generally that line of cases says you're domiciled when this is the place you intend to return to at the end of your travels. There was a committee amendment and the committee amendment has to do with fraternal insurance companies. I think I'll close here, open on the committee amendments and continue to discuss the bill, as the body wishes. Thank you, Senator Cudaback.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Thank you, Senator Landis. As Chairman of the Banking and Insurance Committee, you're recognized to open on the committee amendment to LB 360.

SENATOR LANDIS: The Department of Insurance concurs in the request of the fraternal organizations to amend the Insurance Holding Company System Act to delete the fraternal benefit society from the definition of insurer. And this essentially allows the fraternal to participate in the Holding Company System Act. The testimony came from Mark Theisen. The current definition of insurer, under the Holding Company Act, excludes external benefit societies. By changing that definition you allow fraternal to enter into the use of the Insurance Holding Company System Act, which is found in Section 44-2121, subsection (5). I ask for the adoption of the committee amendments to allow fraternal to participate in the Insurance Holding Company System Act. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the

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opening on the committee amendments to LB 360. Open for discussion. Seeing no discussion, Senator Landis, did you wish to...

SENATOR LANDIS: I'd close on this amendment. I will tell you the amendment came from Woodmen of the World in Omaha, but our Insurance Department approves of the amendment, regards it as appropriate and asks that it be adopted into their housecleaning bill.

SENATOR CUDABACK: The question before the body is, shall the committee amendments to LB 360 be adopted? All in favor of the motion say aye...or vote aye, opposed nay. We're voting on the committee amendments to LB 360. Have you all voted who care to? Record, please, Mr. Clerk.

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

SENATOR CUDABACK: The committee amendments are adopted. We're now open on discussion of LB 360 to E & R Initial. Open for discussion. Senator Landis, I do not see any lights on. Did you wish to...

SENATOR LANDIS: Yes, there are some minor provisions I just thought I'd acknowledge to the body.

SENATOR CUDABACK: Are you closing or do you want to speak for five?

SENATOR LANDIS: I am closing.

SENATOR CUDABACK: You're closing. Thank you.

SENATOR LANDIS: I am closing, right. Section 16 of the bill allows our Nebraska Life and Health Insurance Guaranty Association to collect interest on unpaid assessments so that if you're a company and you owe an assessment to this guaranty fund and you don't pay it, the guaranty fund can collect interest. There are some definitions that need to be updated, among them insolvent insurer, premiums in resident, and we need to adopt,

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and so do adopt, definitions of Moody's corporate bond yield average, principal place of business of a plan's sponsor, state and unallocated annuity contract. And these definitions now will conform to the National Association of Insurance Commissioners Life and Health Guaranty Fund Model Act. One other thing that's in our Title Insurance Act, there is a reference to a personal property. It is totally without connection to the rest of the act. It is not acted upon. It was a piece of draftsmanship that was asked for years ago by California and other states and, for some reason, we put it in ours, but it has no meaning and we're striking any reference to personal property...or to a reference to personal property in the definition of title insurance business. Title insurance business is about real estate, not personal property. With that, I'd ask for the advancement of LB 360.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the closing on LB 360. All in favor of advancement of LB 360 vote aye, opposed nay. We're voting on the advancement of LB 360 to E & R Initial. Have you all voted? Record, please, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB 360.

SENATOR CUDABACK: LB 360 does advance. Mr. Clerk, next item.

CLERK: Mr. President, LB 308 is a bill by Senator Coordsen. (Read title.) Bill was introduced on January 8, referred to the Business and Labor Committee. Bill was advanced to General File. I have no amendments at this time to the bill, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Coordsen, you're recognized to open on LB 308.

SENATOR COORDSEN: Thank you, Mr. President, members of the body. LB 308 came into being as part of my responsibilities as Chair of the Exec Board of the Legislative Council, and I forget the exact date but there was an administrative order, went out from the Department of Administrative Services in mid-summer of 2000, or later summer of 2000, that required all payments for

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salary or expenses to state employees to be done by direct deposit as a condition of employment. Now, we are the responsible party for the employees of the Legislative Council and it was...it was my, and our, agreed opinion that, while direct deposit of salary and expense checks was something to be encouraged, it should not be mandated as a condition of employment; that is, our feeling was that you should not have to have a bank account before you could work for the state of Nebraska or receive reimbursements for some incurred expenses. That was a situation that existed when LB 308 was drafted. At the time of the hearing before Business and Labor Committee, I received a memorandum to all agencies, boards and commission, coming from the Department of Administrative Services, that said: Effective immediately, new employees hired by the state of Nebraska will no longer be required to use direct deposit for their payroll. And so the rules were, in fact, changed. One other thing I would like to share with you and that is a message that was in the fiscal note. Said, electronic payments are three times cheaper to process through the banking system than state warrants. During the last six years, the State Treasurer has increased electronic payments by 90 percent, saving approximately \$500,000 in compensating bank charges and, additionally, increasing the amount of money available for investment, thereby earning additional income for the state. This change in operational policy will increase compensating bank charges and reduce the amount of interest income for the state. That is LB 308 and I believe that statement to be accurate. However, however, I think all of us are familiar with the changes in the banking industry and, particularly for people of limited means, minimum balance charges, check charges, things of that type can be a significant cost to new employees, part-time employees, or people who are receiving relatively small reimbursements for some type of incurred expenses. So, after consultation with the other members of the body, it is my considered opinion that at this...at this point in time we ought to advance LB 308 and provide...and certainly you can read the bill. It's extremely simple. The fundamental part of it is...says: "The department," this refers to the Department of Administrative Assistance...Administrative Services, "may not require a state employee to use electronic funds transfer or a similar means of direct deposit for payment of wages", and also

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I think included expenses. "For the purpose of this section, state employee means any person or officer employed by the state who works a full-time or part-time schedule on an ongoing basis." It's our position that, while direct deposit is to be encouraged, that it should not be a condition of employment by the state of Nebraska in...in any type of service, so I would move then in closing of the opening, Mr. President, for the advancement of LB 308 to Select File.

SENATOR CUDABACK: Thank you, Senator Coordsen. You've heard the opening on LB 308. We're now open for discussion on advancement of LB 308 to E & R Initial. Open for discussion on advancement. Senator Coordsen, there are no lights on. Senator Coordsen waives closing. The question before the body is, shall LB 308 be advanced to E & R Initial? All in favor vote aye, opposed nay. We are voting on the advancement of LB 308 to E & R Initial. Have you all voted? Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on the motion to advance LB 308.

SENATOR CUDABACK: LB 308 does advance. Mr. Clerk, next agenda item.

CLERK: LB 397, Mr. President, by Senator Preister. (Read title.) Bill was introduced on January 8, referred to the Business and Labor Committee, advanced to General File. I have no amendments at this time to the bill, Mr. President.

SENATOR CUDABACK: Senator Preister, you're recognized to open on advancement of LB 397.

SENATOR PREISTER: Thank you, Honorable President, friends all. I rise to introduce LB 397 which would rectify a problem that has arisen with the original State Employees Collective Bargaining Act. It would provide members of the Law Enforcement Bargaining Unit with the same access to the Commission of Industrial Relations that other public employees currently enjoy. Under Nebraska Revised Statute 48-811.02, Reissue of 1998, employees of a school district, educational service unit

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or community college have the option to utilize a special master or file their action directly with the Commission of Industrial Relations to settle their wage and benefit disputes. In addition, all other employees of political subdivisions may go directly to the Commission of Industrial Relations without being required to use a special master. I believe that this option should also be available to the Law Enforcement Bargaining Unit. LB 397 is a reintroduction of LB 1424 from last year. That bill had no opposition in committee last year and was voted out unanimously. LB 397 also had no opposition in the committee hearing and was also voted out to the floor unanimously. I would certainly entertain any questions. This bill simply provides the option in going to a special master rather than an actual requirement. And with that, I would ask your favorable vote upon LB 397. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Preister. You've heard the opening on advancement of LB 397. We are now open for discussion. Senator Preister, there are no lights on. Senator Preister waives closing on his option to close on advancement of LB 397. The question before the body is, shall LB 397 be advanced to E & R Initial? All in favor vote aye, and opposed nay. We are voting on the advancement of LB 397 to E & R Initial. Have you all voted who care to? We are voting on the advancement of LB 397. Have you all voted? Record, please, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of LB 397.

SENATOR CUDABACK: LB 397 does advance. Mr. Clerk, next agenda item.

CLERK: LB 432, Mr. President, a bill by Senator Brown. (Read title.) Bill was introduced on January 9, referred to the Business and Labor Committee. The bill was advanced to General File. I do have committee amendments, Mr. President. (AM0176, Legislative Journal page 470.)

SENATOR CUDABACK: Senator Brown, you're recognized to open on advancement of LB 432.

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SENATOR BROWN: Thank you, Mr. President and members. The state of Nebraska has been very thoughtful in the way that they have approached policy in regard to human genetic technology. Several years ago we established a Commission on Human Genetic Technology that made some recommendations. Some of those recommendations are contained in this bill. This past year, the Business and Labor Committee had an interim study, LR 478, to look at issues around discrimination because of genetic testing. LB 432, the bill we're discussing today, was designed to address many of the issues that have been brought forward but in a very narrow way. It does it comprehensively but narrowly, which sounds like it's conflicting, but not really. The definition of genetic testing is very clear, very narrow, very specific. That, then, provides the basis of what we're dealing with. So we're not looking at solving every either real or perceived problem about what is the potential for the infringements on our privacy and all kinds of things by this burgeoning technology. We are looking specifically about genetic testing but looking comprehensively at the ways that genetic testing may be misused and trying to prevent that. So the first part of the bill deals with a written informed consent. There is information that is available through genetic tests that can be very devastating to an individual. Personally, it can challenge their entire view of the future. It can also challenge their ability to continue in certain kinds of professions and really it can have an impact on their entire family. Going into a genetic test fully understanding the ramifications, and understanding that the information may be predictive but not absolute, is critical. And so this bill establishes first that people will understand what is happening to them when they participated in genetic tests. The second part of the bill then deals with insurance and primarily says that an insurance company cannot force an individual to participate in a genetic test before they would become insurable. The third section addresses employment discrimination and says that an employer shall not refuse to hire, recruit or promote because of genetic information that is unrelated to the ability to perform a job, and once again says that an employer may not require an individual to take a genetic test either for employment or for continued employment. The third part of the bill then begins to deal with some of the

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other aspects of privacy. Once a genetic test has been taken, what happens to that information? And this is an area that some other states have embarked on fairly aggressively and have had unintended consequences as a result, and so we try to be very careful in this section. The two aspects of it are that genetic testing for criminal forensic DNA purposes, to find out if someone who is a suspect in the crime was actually a part of that crime, if that genetic test does not prove that that person was involved in that crime, then that genetic test information would be destroyed. The same is true in the case of paternity. If a genetic test is done for the purposes of paternity, it proves that the person that was considered to be a father is not the father, then that genetic test would be destroyed. And there is also federal legislation pending that has some impact in this area. I believe that this legislation is clear and narrow enough that it would be...would probably fit with any federal legislation that would pass and, plus, we've had federal legislation pending for a long time and nothing has happened. And I do think that it's time for Nebraska to...you know, we've been thoughtful about it. I think this bill is thoughtful, but I do think it's time to take the step, and I think that there's some reasons that we've had in front of us in the press. One of the companies that operates in Nebraska was doing genetic testing on employees. It is genetic testing that's a little bit different than what I'm talking about here, but it certainly points out that there is a great deal to be feared in this brave new world and I believe that LB 432 is a very necessary first step. I worked very closely with the business community, with insurance companies, with labor, to try to have something that is a doable first step, and I think that LB 432 is just that first step, and I would urge its adoption. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. Senator Connealy, as Chairman of the Business and Labor Committee, you're recognized to open on the committee amendments.

SENATOR CONNEALY: Thank you, Mr. President and members. The committee amendments, AM0176, would make a couple of clarifications to the original bill. They were brought to us by Senator Brown. First, in Section 2, we're going to clarify the types of insurance policies which one may be required to submit

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to genetic testing. Senator Brown asked for this clarification at a request from the insurance industry to ensure that the bill covers only those that we intend it to, medical and surgical policies. The rest of the amendment addresses concerns of the Nebraska State Patrol regarding certification compliance time lines for their testing laboratory. The State Patrol is in the process of certification, and this language adjusts the time line to match the reality of the certification deadline that they're under. Further, the amendment addresses the disposal requirements of DNA samples when the sample is obtained by a law enforcement agency other than the State Patrol. Before...in the past, only the State Patrol had obligations but at...it was pointed out to the committee that there are other law enforcement agencies that might obtain such samples. The change, once again, was requested by Senator Brown, and the committee would like to thank Senator Brown for the work on this. This is a very important and timely topic, as we see the genetic code being mapped and we see businesses doing genetic testing. Other states are addressing this and it's time and it's good that we're doing it also. And so I would move the committee amendments.

SENATOR CUDABACK: Thank you, Senator Connealy. You've heard the opening on the committee amendments to LB 432. Senator Hilgert, did you wish to address the committee amendments or the bill? Senator Hilgert, you're recognized.

SENATOR HILGERT: Thank you. And they're generic so it doesn't matter whether I speak on the bill or the committee amendments. I do...this is just a...it's extremely timely. In fact, the U.S. News & World Report that arrived at my mail box yesterday talked about that Nebraska employee that was discriminated against, and I'm glad that this is getting resolved, and I appreciate Senator Brown's leadership in this area. I sincerely appreciate the protection that this provides employees and it would be a shame if this research, which is so important, would be manipulated for a less than ideal purpose. In fact, one of the researchers in the U.S. News & World Report that was in the article yesterday said, you know, the research that I've done in trying to develop this medicine, I never wanted to be used the way it was in that article. I have two

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quick questions for Senator Brown, if she would yield.

SENATOR CUDABACK: Senator Brown, would you yield to a question, please?

SENATOR BROWN: Yes.

SENATOR HILGERT: The first question I have is in Section 2 it prohibits the insurance industry for de...from denying issuing policy based on nontesting, and that's wonderful. But I was wondering, does the insurance industry have the ability to adjust rates if a consumer fails to undergo genetic testing?

SENATOR BROWN: My understanding is that this is not something that the insurance com...the insurance industry has used at all.

SENATOR HILGERT: Okay.

SENATOR BROWN: But they do use information about the background, your background,...

SENATOR HILGERT: Family history.

SENATOR BROWN: ...their family's background and those kinds of things,...

SENATOR HILGERT: Okay.

SENATOR BROWN: ...and those kinds of questions. And how those play into the pricing, I'm not certain. I think it has to do with whether it's a group policy through a company, whether it's a risk exemption and a lot of other issues.

SENATOR HILGERT: Thank you, Senator Brown, and I appreciate that. I did want to raise that issue on the record as a potential concern for the future. And certainly your bill does authorize the traditional questions of family illnesses, of family history, et cetera, and that's certainly fine. There is...the other question I have, on page 5, I'm not a doctor and I'm not a scientist so I'm just going to ask you if you could...and this is my final question, if you could explain, on

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line 21 and 25, the subsections (v) and (vi), what exactly does that mean? I'm...you don't even have to be exact. (Laugh)

SENATOR BROWN: There are certain...(laugh) you have genetic information. Genetic information, then, is DNA...

SENATOR HILGERT: Uh-huh.

SENATOR BROWN: ...and then it is transmitted by RNA, which is the code part that makes it into something.

SENATOR HILGERT: Right.

SENATOR BROWN: And then it's made into enzymes and metabolites that are the chemical way that genetics manifests itself physically. And so, there's a condition called phenylketonuria, which is the absence of a certain section of DNA that then translates into the absence of an enzyme...

SENATOR HILGERT: Okay.

SENATOR BROWN: ...that does not allow your body to process phenylalanine, which is included in certain kinds of, like, diet pop contains...

SENATOR HILGERT: Okay.

SENATOR BROWN: ...phenylalanine. So those...for those persons who are phenylketonuric, they can't process this and so...

SENATOR CUDABACK: One minute.

SENATOR HILGERT: So these are tests that are currently being done...

SENATOR BROWN: Right.

SENATOR HILGERT: ...that aren't...

SENATOR BROWN: Right.

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SENATOR HILGERT: ...genetic testing,...

SENATOR BROWN: Right.

SENATOR HILGERT: ...that you want to make clear that you can continue doing what you're doing now.

SENATOR BROWN: Exactly. Exactly.

SENATOR HILGERT: Thank you very much, Senator Brown. I appreciate your leadership on this issue.

SENATOR CUDABACK: Thank you, Senator Hilgert. We are discussing the committee amendments to LB 432. Senator Brown.

SENATOR BROWN: I would say briefly that the committee amendments are mostly technical. There was a bit of a drafting situation. They just tighten up some things and so I would urge their adoption. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. Senator Connealy, there are no further lights on. Did you wish to close on the committee...Senator Connealy waives closing. The question before the body is, shall the committee amendments be adopted to LB 432? All in favor vote aye, opposed nay. We are voting on the committee amendments to LB 432. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of the committee amendments.

SENATOR CUDABACK: The committee amendments are adopted. Next amendment to the bill, Mr. Clerk.

CLERK: Mr. President, Senator Brown would move to amend with AM0243. (Legislative Journal page 666.)

SENATOR CUDABACK: Senator Brown, to open on your amendment.

SENATOR BROWN: Mr. President, members, this amendment was another request from the State Patrol. It clarifies some of the

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titles of the accrediting organizations that are...that would accredit the programs. That's...the other aspect of the bill is to make sure that the genetic testing that's done in Nebraska is of high quality, and so we're calling for programs to be accredited. The program...the accreditation program for the State Patrol testing laboratory, either the name has changed or we didn't get it exactly right in the green copy of the bill, and so we have been advised a small change and this amendment essentially does that, and I would urge its adoption.

SENATOR CUDABACK: Thank you, Senator Brown. You've heard the opening on AM0243 to LB 432. Senator Brown, there are no lights on. Did you wish to close on your amendment? Senator Brown waives closing. The question for the body is, shall AM0243 be adopted to LB 432? All in favor vote aye, opposed nay. Have you all voted? We are voting on AM0243 to LB 432. Record, please, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of Senator Brown's amendment.

SENATOR CUDABACK: The amendment is adopted. We're now open for discussion on advancement of LB 432. There are no light on, Senator...Senator Brown. Mr. Clerk, item on the desk?

CLERK: Mr. President, Senator Brown would move to amend. On page 4, line 3, after the word "know", insert the following new language: "a person acting under the delegated authority of a physician shall understand and be qualified to provide the information required by subsection (1)." (FA34, Legislative Journal page 666.)

SENATOR CUDABACK: Senator Brown, to open on your amendment.

SENATOR BROWN: Thank you, Mr. President. In reviewing the aspect about the written informed consent, very often individuals will be taking blood that may not be the ones that can fully convey the...all the ramifications of genetic testing that are in Section 1, and so we want to make sure that the person who is delegated by the physician understands that and can communicate to the patient exactly what...exactly those

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things that we have set out in Section 1 that need to be communicated. And this just clarifies it, and I think it's an important distinction for the informed consent and I would urge the adoption of the amendment.

SENATOR CUDABACK: You have heard the opening on the Brown amendment to LB 432. Open for discussion. Senator Brown, there are no lights on. Did you wish to close? Senator Brown waives closing. The question before the body is, shall the Brown amendment be adopted to LB 432? All in favor vote aye, opposed nay. We are voting on the Brown amendment to LB 432. Have you all voted who care to? We are voting on the Brown amendment to LB 432. Have you all voted? Record, please, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of Senator Brown's amendment.

SENATOR CUDABACK: The Brown amendment is adopted. We're now open for discussion on advancement of LB 432. Senator Beutler, on the advancement.

SENATOR BEUTLER: Senator Cudaback, Senator Brown, if I may.

SENATOR CUDABACK: Senator Brown, would you yield?

SENATOR BEUTLER: The informed consent provisions list out various pieces of information that should be provided as part of the consent form, and then it goes on to basically kind of acknowledge that this is a new area, new model form; annually for five years, you're going to look...have people look at the form again and see if it's adequate, I suppose. Would it make any sense to have a subsection (g) under the information to be provided on the form, indicating that the Department of Health and Human Services should have the prerogative to make additional requirements, disclosure...put additional disclosure requirements on the form, or is that otherwise provided for in the bill someplace?

SENATOR BROWN: No, it may...

SENATOR BEUTLER: Would there be any industry objection to that

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prerogative?

SENATOR BROWN: I doubt...I don't think so and I can't imagine that that would be a problem. In fact, I think it's probably something that would be a good addition to the bill.

SENATOR BEUTLER: Okay. Could you just discuss for me briefly, and this probably has...if it's explained thoroughly in the bill then don't discuss it and I'll just finish reading the bill, but with respect to life insurance I know that with regard to group or individual sickness or accident insurance, apparently, under this law you cannot ask for a genetic test before issuing that kind of a policy, for example.

SENATOR BROWN: What...actually in the change that we made in the committee amendments, we have limited this to hospital-, medical-, or surgical-expense incurred policies. There are different issues for life insurance and other kinds of insurance than there are for, in my estimation, for medical insurance. There's a different kind of playing field for life insurance, and so this legislation does not impact life insurance. It impacts only health insurance.

SENATOR BEUTLER: Okay. And so is it...I mean, I'm very much in favor of this bill because again it moves in the right direction, and all of these provisions seem good to me. But the exclusion of life insurance, is that because we don't know enough about it yet, because it's too big a piece to try to include here, or because there's nothing to be said here ultimately? It just seems to me that that's...

SENATOR BROWN: It has...I guess it has to...

SENATOR BEUTLER: ...a problem area potentially.

SENATOR BROWN: It is a problem area potentially, but it also is an area that is a little bit...an individual could, by having information and not revealing it, manipulate the system. And I guess I see health insurance as being different. Everyone needs health insurance. Life insurance, on the other hand, if you had a test, and we have laws that protect your privacy in not having

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to reveal that you've had the test and not having to reveal what the results of that test were, then you might...you might be able to buy life insurance having information that the insurer did not have. And it's just very much more problematic...

SENATOR CUDABACK: One minute.

SENATOR BROWN: ...how you deal with that, the protection of that information, in a life insurance situation versus a health insurance situation.

SENATOR BEUTLER: Okay. Thank you very much. I'll return the rest of my time to the President.

SENATOR CUDABACK: Thank you, Senator Beutler. We're open for discussion on advancement of LB 432. Seeing no lights on, Senator Brown, did you wish to close?

SENATOR BROWN: Thank you, Mr. President. I did want to distinguish a little bit the difference between the issue that was presented in the Burlington Northern information that was passed out and this bill. And it's actually a distinction that I think is more important in some ways, and that is that this bill deals with people who are presymptomatic, who have no symptoms. We are talking about predictive genetic testing, and protecting the individual, both in their knowing fully what it means when they take a test, knowing fully that these tests are not...are in some case, some cases, not absolute. I found one of the things about the testing that was mentioned in this case, the Burlington case, which is being dealt with under the Americans with Disabilities Act because the Americans with Disabilities Act deals with people who have symptoms, and so that's how...why they are dealing with it under this. In my bill, we're talking about people who do not have symptoms, who do...so it's a predictive kind of thing. But they...I was totally unaware, as were several of the physicians that I talked to, that there was a test for carpal tunnel because carpal tunnel is a very complex situation and no one that I talked to was even aware that this test existed. And that's one of the things I think that we have to be a little bit careful about. We can test for something but until...but for those conditions

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that there are a number of genetic and environmental causes that come together to result in whether somebody has that. Having one test, doing one test is...does not tell you everything, and certainly does not...should not mean that someone is kept out of being able to have insurance, is kept out of being able to work, if there are a number of issues that are coming together. So this is, as I said before, an area that is changing daily. This is our first step. It doesn't do everything but what it does I think it does very well and I think it's a very important thing for us to do. And I would urge the adoption of LB 432. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. The question before the body is, shall LB 432 be advanced to E & R Initial? All in favor vote aye, and opposed nay. We are voting on the advancement of LB 432. Have you all voted who wish to? Record, please, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB 432.

SENATOR CUDABACK: LB 432 does advance. Mr. Clerk, next agenda item.

CLERK: LB 411, Mr. President, by Senator McDonald. (Read title.) The bill was introduced on January 9, referred to Health and Human Services Committee, advanced to General File. I have no amendments to the bill, Mr. President.

SENATOR CUDABACK: Senator McDonald, you're recognized to open on LB 411.

SENATOR McDONALD: Thank you, Mr. President. Members of the body, LB 411 adds a rural member to the Rural Health Advisory Commission, bringing the number of members of 13. The new member will be appointed by the Governor, and this will bring the number of members appointed by the Governor to 11. LB 411 also adds language that specifies that all eight medical professions must be represented by rural members. Those professions are one physician, one consumer representative, one hospital administrator, one nursing home administrator, one

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nurse, one physical assistant, one mental health professional, and one dentist. The changes proposed in LB 411 were recommended by the Program Committee of the Rural Health Advisory Commission. The Rural Health Advisory Commission designates rural health shortage areas for approved medical specialties based on health status indicators and the supply of medical practitioners. The commission administers the Rural Student Health Loan Program, which provides forgivable students loans to Nebraska medical, dental and physician assistant students who agree to participate and practice in an approved speciality in a state designated shortage area. The number and amount of student loans are determined annually based on state funding. The commission also administers the Loan Repayment Program for rural health professionals who sign a three-year practice agreement in an approved community, located within a shortage area for their specialty. This award amount depends upon the individual's debt load and the availability of funds. The makeup of the Rural Health Advisory Commission should closely reflect those medical professions served by the loan programs. Under current statute, four professions are without active representation on the commission at any given time. The...LB 411 ensures representation on the commission for nurses, physician assistants, mental health professionals, and dentists. Thank you for your consideration. Please advance LB 411 to Select File.

SENATOR CUDABACK: Thank you, Senator McDonald. You've heard the opening on LB 411. Open for discussion. Senator McDonald, there are no lights on; did you wish to close? Senator McDonald waives the option to close. Question before the body is, shall LB 411 be advanced to E & R Initial? All in favor vote aye, and opposed nay. We are voting on advancement of LB 411 to E & R Initial. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB 411.

SENATOR CUDABACK: LB 411 does advance. Mr. Clerk, next agenda item.

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CLERK: LB 243, Mr. President, a bill by Senator Schrock. (Read title.) The bill was introduced on January 5, referred to the Natural Resources Committee, advanced to General File. I have no amendments at this time, Mr. President.

SENATOR CUDABACK: Senator Schrock, to open on LB 243.

SENATOR SCHROCK: Mr. President, members of the Legislature, the following constitutes the reasons for this bill. This bill amends Section 70-655 of the Nebraska Revised Statutes to allow a newly merged or consolidated public power district to charge consumers in the service area of one of the former districts a kilowatt hour rate which is different than that charged to consumers in the rest of the newly merged or consolidated district. This different kilowatt hour rate could only be in effect for up to five years after the date of the merger or the consolidation. It would have to be based on a cost-of-service or other rate study showing that the adaptation of a different rate for consumers in otherwise similar rate classes is necessary to facilitate the merger or the consolidation. Current law does not allow for a public power district to charge different rates to consumers in similar rate classes. The bill was heard on January 31st by the Natural Resources Committee. Proponents were Rex Carpenter, of the Nebraska Rural Electric Association, Mark Farnsworth, from the Chimney Rock Public Power District, and Chris Dibbern, from the Nebraska Municipal Public Power Pool and the Nebraska Power Association. It's a fairly simple, straightforward bill. As you know, in the state of Nebraska we have a lot of REA districts, Rural Electric Association Districts, some of them are quite small, some of them don't encompass an area bigger than a county. And so there are efficiencies to merging. But one of the things that causes districts not to want to merge is, because...because of the debt structure one may have compared to another, their rates are different. And this would allow them to keep those rates different for up to five years. I do believe if we pass this that there's a good chance that Chimney Rock and Roosevelt Public Power Districts would merge and charge a different rate for five years. And I think there's potential in other areas of the state for this bill to also pass. I did not pass out a map of all the REA associations in the state, but I have one handy

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here, I will hold it up, and if anybody is real interested they can come and look at it. And I might even give it to Senator Pederson and he can tell you about it. So, with that, I will conclude my opening remarks. If you have any questions, I would be glad to answer them.

SENATOR CUDABACK: Thank you, Senator Schrock. (Visitors introduced.) Senator Hartnett, you're recognized for discussion on advancement of LB 243.

SENATOR HARTNETT: Mr. President, members of the body, Senator Schrock, could I ask you a question? I think the difference that you want to have this merger have different rates for five years is because...to pay off bonds or outstanding debt. Is that what I heard you say?

SENATOR SCHROCK: I think that's some of the factors. I assume, that maybe, you know, in my area of the state there are different rural electric associations and some of them have a longer distance between customers and it's just not as efficient for them to serve the district. So I suppose that could be a factor also. But you're correct, the amount of indebtedness would be a factor here.

SENATOR HARTNETT: Is that...is that a long period of time, this five years, do you think that's a long enough period of time? Is that what they told you in committee?

SENATOR SCHROCK: I'm not positive of that, but I think that's the case.

SENATOR HARTNETT: Yeah, okay, thank you very much. Give the time back, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Hartnett. Open for discussion on the advancement of LB 243. Seeing no lights on, Senator Schrock, did you wish to close on the advancement? Senator Schrock waives his option to close. The question before the body is, shall LB 243 be advanced to E & R Initial? All in favor vote aye, and opposed nay. We're voting on the advancement of LB 243. Have you all voted who care to? Record,

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please, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB 243.

SENATOR CUDABACK: LB 243 does advance. Mr. Clerk, next agenda item?

CLERK: Mr. President, LB 34 was a bill introduced by Senator Thompson. (Read title.) The bill was introduced on January 4, referred to the Transportation Committee, advanced to General File. I have no amendments to the bill at this time, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Thompson, you are recognized to open on the advancement of LB 34.

SENATOR THOMPSON: Thank you, Mr. President. LB 34 was introduced at the request of the Department of Motor Vehicles. And the bill is in response to two things; one is that the language regarding organ and tissue donation in our current statute refers to do you want to make an anatomical gift. Clearly, the language that we're used to hearing on this is more direct, saying, do you want to be an organ and tissue donor? And this was a suggestion of the Nebraska Organ and Tissue Donation Task Force that we should bring our language more in line with what currently is being stated when people discuss organ and tissue donation. Second is we passed LB 704, in the 1999 session, to implement an interactive driver's license system in Nebraska. The department looked through the current language. This is a way to streamline and improve its services in...in its technology transfer and make the process for the driver's license application information that's transferred to the department in Lincoln work more smoothly and eliminate some duplication. The interactive driver's license process looked at what's currently on the application and also made the recommendation that the language should be updated and revised. And so what the bill does is change the old language, that's a little more cumbersome and lengthy, into three new questions. First, do you want to be an organ and tissue donor? Second, do you wish to receive any specific information regarding organ and

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tissue donation, any additional specific information? And that information will be provided in a pamphlet form, or by having information sent to the person if they want more information. And third is the bill was passed two years ago, allowing people, as part of their application process, to donate a dollar to the Organ and Tissue Donor Education and Awareness Fund in Nebraska, to promote organ and tissue donation information. So that's the first part of what the bill does. The bill also takes away a duplication in the application process. Currently, if you sign to be an organ donor, it requires a signature to be witnessed by two individuals, then the same process is required on the actual driver's license document. This would merge those two processes together. The department felt this was a duplication and you could eliminate the signing and witnessing twice and just do it as part of the application form. These are two changes recommended by the department and supported by the Organ and Tissue Donor Task Force of Nebraska, which is a coalition of organizations that work on organ and tissue donation, either because they are practitioners of that or recipients of organs, or are volunteers working to promote the concept. They support this bill and think it would help clarify for people inf...the language rather than using the...what's considered a little bit outdated language. And with that, I would urge adoption of the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Thompson. You've heard the opening on the advancement of LB 34. Open for discussion on that bill. Senator Bromm.

SENATOR BROMM: Thank you, Mr. President. I just wanted to rise in support of LB 34, and Senator Thompson gave a very accurate, complete description of why the bill is...is a wise thing to do. We had nothing but support in the committee and the bill was advanced unanimously. And so I hope that we can continue. This is, as part of what Senator Thompson said, not only I think do these new questions focus in on what people need to decide if they want to be an organ or tissue donor, more specifically they...they are clearer, more concise questions, and they will fit much better with the digital driver's license process that the DMV is trying to work towards and implement as rapidly as possible. So both for the people that are interested

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in...in...in tissue or organ donation and for the working mechanisms of DMV this bill is very helpful. So I would urge the body to support the bill.

SENATOR CUDABACK: Thank you, Senator. Thank you, Senator Bromm. Further discussion on the advancement of LB 34? Seeing none, Senator Thompson, did you wish to...Senator Thompson waives her option to close. The question before the body is, shall LB 34 be advanced to E & R Initial? All in favor vote aye, opposed nay. We're voting on the advancement of LB 34 to E & R Initial. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of LB 34.

SENATOR CUDABACK: LB 34 does advance. Mr. Clerk, items for the record?

CLERK: Mr. President, thank you. Enrollment and Review reports LB 269, LB 346, LB 346A, LB 226, LB 253, LB 250, LB 186, LB 280, LB 97 and LB 97A all to Select File, some of those having Enrollment and Review amendments attached. New A bill, LB 574A, by Senator Bromm. (Read by title for the first time.) And I have a confirmation report...confirmation hearing report from General Affairs, signed by General Affairs, Senator Janssen as Chair. That's all that I have, Mr. President. (Legislative Journal pages 667-672.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Mr. Clerk, next agenda item?

CLERK: Mr. President, LB 106, a bill by Senator Bromm. (Read title.) Introduced on January 4, referred to the Transportation Committee, advanced to General File. I have no amendments to the bill at this time, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Bromm, you're recognized to open on the advancement of LB 106.

SENATOR BROMM: Thank you very much, Mr. President. LB 106 is

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a...pretty much a procedural bill. It was here in...in the last session and advanced to the floor, just didn't have time to pass. But it places in statute the change in fees for obtaining driver's license records. It was approved by the State Records Board in November of 1999. State law, Section 84-1205.02, requires that fees established by the records...State Records Board be reviewed and approved by the Legislature within 18 months of when the State Records Board approved that change in fees. This would establish in statute what they approved back in November of '99. The fee of 6 cents per record would be charged for each driver's record requested to be reviewed, and that review would identify any changes since the record was last accessed. This allows insurance companies to identify and request drivers' abstracts only on those records which have had changes. When they find that there has been a change in the driver's record, then they can request...the insurance company can request the entire abstract, and that is for the fee of \$3, which is already in statute. So, just to kind of summarize, this fee would allow, for 6 cents per record, insurance companies to order a series of drivers' records. If there has been a change in that driver record since the last time they checked it, that would be noted by the records that would be furnished to the insurance company. If there's been a change then they would order the entire abstract of driver's record for that person and pay a fee of \$3. And that arrangement was approved by the State Records Board. There was no...no objection or any opposing view or testimony in our committee. The bill was advanced unanimously, so I would ask the body to support advancement of LB 106.

SENATOR CUDABACK: Thank you, Senator Bromm. You've heard the opening on the advancement of LB 106. We're now open for discussion on that bill. Senator Bromm, there are no lights on. Senator Bromm waives his option to close. The question before the body is, shall LB 106 be advanced to E & R Initial? All in favor vote aye, opposed nay. We are voting on the advancement of LB 106. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB 106.

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SENATOR CUDABACK: LB 106 does advance. Mr. Clerk, next agenda item.

CLERK: Mr. President, LB 108 was a bill introduced by Senator Bromm. (Read title.) The bill was introduced on January 4, referred to Transportation, advanced to General File. I have no amendments to the bill.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Bromm, to open on the advancement of LB 108.

SENATOR BROMM: Thank you very much, Mr. President. LB 108 would allow nonresidents, who want to become truck drivers for Nebraska companies and help fill the need for truck drivers in this state, it would allow them, even though they're a nonresident attending a Nebraska commercial drivers' training school, to be issued a commercial learner's permit while they are attending that drivers' school. Currently, only Nebraska residents are eligible for a commercial learner's permit. So what happens is, if they have nonresidents that want to become drivers and want to be licensed here with a commercial driver's license, they come in, they must first get a Nebraska resident Class O driver's license; then when they have that they can go ahead and get a learner's permit. Then they can go to the drivers' school and...and eventually get their CDL to become a truck driver for a Nebraska company. What is being suggested here is that that is an unnecessary amount of paperwork, that if they have an out-of-state driver's license the DMV could issue a...a commercial driver's learning...learner's permit so they can take this school and learn what our rules are for a CDL and skip, basically, some paperwork. It also, as we've been doing with DMV driver's license applications, as we move toward the digital driver's license and doing away with as much paperwork as possible, it eliminates on the paperwork a couple of the requirements that they have witnesses on the application and that kind of thing. So, it is basically...the main purpose of the bill is facilitating a learner's permit to be issued to a nonresident so they can go to CDL drivers' school here, and that's it. We had no opposition at the hearing.

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SENATOR CUDABACK: Thank you, Senator Bromm. You've heard the opening on the advancement of LB 108. Open for discussion. Senator Bromm, there are no lights on, did you wish to close? Senator Bromm waives closing. The question before the body is advancement of LB 108 to E & R Initial. All in favor vote aye, opposed nay. We're voting on the advancement of LB 108. Record, please, Mr. Clerk.

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB 108.

SENATOR CUDABACK: LB 108 does advance. Mr. Clerk, next agenda item.

CLERK: Mr. President, LB 477 is a bill by Senator Erdman. (Read title.) Introduced on January 10 of this year, referred to the Transportation Committee, advanced to General File. I have no amendments at this time, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Erdman, to open on LB 477 to E & R Initial.

SENATOR ERDMAN: Thank you, Senator Cudaback. Members, LB 477 is a bill that was introduced last year as LB 1431; was placed on General File unanimously by the committee but, because of time constraints, was never acted upon. LB 477 would allow the refund and credit of unexpired motor vehicle fees, taxes and registration fees to be calculated based on when the vehicle was damaged and a salvage certificate of title is issued as a result of an insurance settlement. Currently, a registrant only receives a refund from the date when a new vehicle is titled until the expiration of the old registration. This bill would increase the amount of funds and credits for those additional months between when the accident occurred and when the salvage title was issued. This bill prorates the refund of the taxes and fees back to the date of when the vehicle went out of service. Even though this has a fiscal loss for the Department of...Department of Roads, this is a very simple bill that just addresses the fact that, if a vehicle is damaged and the individual has a salvage...salvage certificate, they can be refunded the amount of fees that they have originally paid on

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their vehicle. So, I'd be open to any questions, Mr. Chairman.

SENATOR CUDABACK: You've heard the opening on the advancement of LB 477 by Senator Erdman. Open for discussion. Senator Hilgert.

SENATOR HILGERT: Thank you, Mr. President. I don't have any specific objections about this bill itself, but I do want to raise an issue regarding salvage titles. Salvage title is not an indication of damage, believe it or not. It's an indication of economics. If I have a \$30,000 car that sustains \$10,000 worth of damage it will be repaired, because the car is worth more than the damage that incurred to it. Okay? If I have a '67 Buick Skylark that's worth \$300, receives only \$500 worth of damage, it's going to get salvage titled. It may only lose a quarter panel, rear quarter panel, because they're harder to find on Buicks, okay? So there is an idea that this salvage title is somehow an indication of the automobile's drivability or safety. Oftentimes that may be true, but it is not specifically always the case. It's an economic title, not a safety title. There needs to be reform in this area, and I hope some day that our national government takes the leadership role in doing this because we can...50 states, 50 jurisdictions, 50 different ways to have these salvage titles. I have a car that has a salvage title that I drive to Lincoln; I've put probably 35,000 miles on it since I've purchased it. It is a completely safe car. I have another automobile that I bought that was wrecked that has good title, and it's a perfectly safe car. What were the differences? If I put both cars out in front of the Capitol, you couldn't tell which one had the salvage title and which one could. Take it to a mechanic, you couldn't tell. Salvage title is a title of economics, not of safety. I'm not trying to disparage the salvage title concept, but consumers must be aware that because a car has a salvage title it's an economic decision, not a safety decision. If you want something that is all-encompassing on safety, I would suggest a reform that we have complete, open disclosure to the consumers that if this accident wasn't a reported wreck either by insurance or by the police, it goes on the title and let buyer beware. I bought my...a Chevy in Omaha once at a dealership I won't name and found out, a couple years after I

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bought it, it was wrecked. It had good title. Was there any indication to me, as a consumer, that this vehicle could have been wrecked? No. Because if it didn't get a salvage title there is no indication. So, I'm not going to ask Mr. Erd...Senator Erdman any questions regarding this bill itself, but I did want to raise this issue about salvage titles and this misperception that, if it doesn't have a salvage title, it's fine, it's a wonderful car that's never been wrecked. Wrong. And likewise, if it does have a salvage title, boy, this thing shouldn't be on the road. That's my only point. Sometimes that is the case, not always. Thank you.

SENATOR CUDABACK: Thank you, Senator Hilgert. We are open for discussion on LB 477. Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. Chairman. We've been discussing this bill and, as far as the scope of this bill goes, all this does is provide for individuals to receive a refund on their title when the vehicle has been damaged, as the way it is now there is no way to receive that refund. And that's essentially what this bill does. I appreciate the Senator's passion, I guess, for salvage titles, but I don't see how that is as applicable to this as what it is, and I'd be more than happy to discuss this with Senator Hilgert in further...

SENATOR HILGERT: (Microphone malfunction)...the...what the connection was. It was...

SENATOR CUDABACK: Did you...Senator Erdman, were you asking him a question, Senator Erdman?

SENATOR HILGERT: ...because it does deal with salvage titles. That's why I rose to speak about salvage titles, Senator.

SENATOR ERDMAN: I understand that.

SENATOR HILGERT: Okay, that's the connection. If you read the bill it does mention salvage titles and talks about it.

SENATOR ERDMAN: Thank you.

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SENATOR CUDABACK: Thank you, Senator Erdman. Were you finished?

SENATOR ERDMAN: Yes, sir.

SENATOR CUDABACK: Thank you. Senator Wickersham, on the advancement of LB 477.

SENATOR WICKERSHAM: Well, thank you, Mr. President. I rise in support of Senator Erdman's bill. I...I think it's a reasonable proposition. I think, as Senator Erdman indicated, it does give persons who do not retile a salvaged titled vehicle the opportunity to obtain a rebate of their registration fees if they haven't used up the full year. If you...if we do not allow for this refund, what we have done is tell people, you owe a full year's registration and taxes, even though we know you're not going to get a full year's use out of the vehicle because it's been wrecked and because the insurance company has paid you for it and you've chosen to retain the vehicle. You don't get a refund if you choose to retain the vehicle, but you can't use the vehicle unless you get it reregistered and retitled because you have a salvage title. I don't see why we shouldn't give them the rebate. They don't have use of the vehicle. In other circumstances we would do that. If they traded in vehicle you get a rebate on the portion of the year's taxes and fees that you haven't used up on the old vehicle. I don't see anything unreasonable about Senator Erdman's bill.

SENATOR CUDABACK: Thank you, Senator Wickersham. Further discussion on the advancement of LB 477? Seeing none, Senator Erdman, do you wish to close? Senator Erdman waives his option to close. The question before the body is, shall LB 477 be advanced to E & R Initial? All in favor vote aye, opposed nay. Have you all voted who care to? Have you all voted? Record, please, Mr. Clerk.

ASSISTANT CLERK: 32 ayes, 0 nays on the adoption of LB 477, Mr. President.

SENATOR CUDABACK: LB 477 does advance. Mr. Clerk, next agenda item.

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February 14, 2001 LB 574

ASSISTANT CLERK: Next item, Mr. President, is LB 574, which is a bill introduced by the Transportation Committee. (Read title.) The bill was read for the first time on January 12, referred to the Transportation Committee; that committee reports the bill to General File with no committee amendments.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Bromm, as Chairman of the Transportation Committee, you're recognized to open.

SENATOR BROMM: Thank you, Mr. President. I am very glad to bring LB 574 forward to the floor. It's a lengthy bill, but it essentially does one thing. It changes the type of document that we will issue to a person who obtains a driver's license or state ID card in the state of Nebraska. It gives the Department of Motor Vehicles the authority to utilize a digital type technology that is currently being used in 45 states around the country. It will allow the department to build a system, I think, that will be greatly beneficial to the state, to the citizens; it will improve the security that will assist the department in protecting the identity of customers and reducing the fraud and duplication that we now see...illegal duplication that we now see in our driver's license and ID card area. It will allow the department to provide increased customer service, also, through the use of established and secure technologies that are being used in other states. It calls for an implementation date of July 1, 2004, or earlier, at the discretion of the director of DMV. The director assured us in our hearing that...that she feels that the system can be in place in early to mid 2003. This is a very large project and we could see unforeseen delay, I'm sure, in implementing the technology. But we certainly...we certainly hope not. For my part, I don't think this can get done too quickly. We had testimony, for example, from Lincoln Police Chief Tom Casady, who gave us some examples of...in fact, he had a huge, huge box of duplicate ID cards or drivers' licenses they had confiscated. Of course, this is not an uncommon thing, when you have a college town, that there will be a fair amount of attempt at duplication. And with the computers that we have and so forth, and the skills that young people have with computers, it is not

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hard to duplicate our present driver's license at all. And this will help avoid that, plus, I think, it will be a great...it will be of some benefit to the merchants in our state to attempt not to sell, for example, liquor to people who are presenting a false ID. It will be of some help to them, I believe. Now, there is...there is quite a price tag associated with implementing this technology. If you look at the fiscal note, it is fairly significant over the next five years. However, in order to provide the necessary revenue, to provide the additional cost or pay for the additional cost, there will be approximate...about a \$1 per year increase in our driver's license fee. So instead of a five-year license costing \$18.75, it would cost \$23.75, in order to provide the necessary revenue to offset the necessary expense. I should say that in the committee hearing not even the Pages objected to this (laugh)...to this change in technology. And we have very good Pages in our committee, by the way. But I would like to say that I think we had support from, of course, the State Patrol, Liquor Control Commission, University of Nebraska, Retailers and Grocers Association, Game and Parks, Association of County Officials, and numerous community groups who are interested in limiting access to alcohol by minors. We have to place quit a bit of trust, I think, in our DMV in implementation of this technology. The bill doesn't specify the technology that we will implement. And it was recommended by DMV that we leave that in the discretion of the department, and they gave us this example. Our current vendor in Nebraska, Polaroid, a company that has digital systems in 37 states, has advised DMV that the technology that we have become very familiar with, the magnetic stripe, will most likely be outdated by the year 2003, which is when we hope that this system will be implemented. And in its place will probably appear increased use of what they call the 2-D bar codes, or Smart Chip technology. And so if we were to specify, for example, the magnetic stripe technology, by the time this were implemented that might be out of date. So I think we need to have the trust that they will use the best advice and consultation and judgment in deciding exactly what is the appropriate and most modern technology that we should implement with respect to this driver's license and ID card. Our committee, I think, felt very unanimous and very, very strong about advancing this. If we thought it was going to have

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trouble getting through this body, I think we feel strongly enough it would receive some priority. But I hope that it is the kind of thing that the body feels that we can do. So, with that, I will end my clo...or my opening, Mr. President.

SENATOR CUDABACK: Thank you, Senator Bromm. You've heard the opening on the advancement of LB 575 by the Chairman of the Transportation and Telecommunications Committee. Now we're open for discussion. For discussion we have Senators Jones, Vrtiska, and Brashear wishing to speak. Senator Jones.

SENATOR JONES: Thank you, Mr. President, members of the body. I was in committee when we heard this and I thought it was a real good idea and I think everybody there did, and especially looked to see who all come in and supported it. And I think that Senator Bromm probably explained it just about as good as you except to get the message across that this is something that we really need to look forward to doing, and turn it over to DMV to go ahead and develop the technology to do it. So I strongly support this and I hope the body does so that we can move it on forward and give them a heads up. It's kind a...we had LB 704, if I don't...everybody remembers right, here a couple years ago that was my priority bill. And that actually lets you get your driver's license in every county and go across any county you wanted to, and this is kind of a continuation of it. And so hopefully we can go to this technology and do it and get everything to going by 2003. Again, I strongly support this and I hope the rest of the body does. Thank you.

SENATOR CUDABACK: Thank you, Senator Jones. We're discussing the advancement of LB 574. Senators wishing to speak are Senator Vrtiska, Brashear, and Senator Kristensen. Senator Vrtiska.

SENATOR VRTISKA: Thank you, Senator Cudaback. I'd like to have a little visit with Senator Bromm, if I might.

SENATOR CUDABACK: Senator Bromm, will you yield to a question, please?

SENATOR BROMM: Yes.

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SENATOR VRTISKA: First of all, Senator Bromm, I support this legislation. I was just curious and maybe you can't answer this, but you talked about the bar chip. When you...if that becomes in fact a future development before this is put out and we in fact...do you know what...do you know anything about that? Will it require the people who check the cards to have the machine to do that, or how does that work, or do you know?

SENATOR BROMM: My impression is, and I will double check on this and get back on the microphone if I'm not correct, is that there would be a type of machine you would swipe the card through to make sure that it is a valid and legitimate card.

SENATOR VRTISKA: I had anticipated that's probably what it was. And I guess the question that follows then is, who's going to be required...who's going to pay for those machines? Will it be the...

SENATOR CUDABACK: Will you speak into the mike, Senator Vrtiska, please.

SENATOR VRTISKA: ...will it be the businesses that are checking the cards, or will the state furnish them, or do you know?

SENATOR BROMM: Would you repeat that last question, Senator Vrtiska.

SENATOR VRTISKA: Well, I would curious whether, if in fact you have to have a machine to in fact check the cards, will the businesses be required to buy those, or will those be furnished by the state?

SENATOR BROMM: Well, if we use the magnetic stripe right now, which is a technology we're familiar with, my understanding is that most every business has one of those. If it is a new type of technology with a chip that that type of machine won't read, then it would probably require a different machine. But I...I also suspect that as technology changes and if we go to a type of chip technology, that will also be in other areas of business, and the businesses will move towards those. Now there

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is nothing in this bill that would say or specify that the state would pay for all these machines that people might need to use or want to use. That is not included in the bill, so my answer would be that if a different machine is required, it would be my understanding it would be at the expense of the retailer that wanted to use the machine.

SENATOR VRTISKA: Well, that's reasonable. I just brought the issue up simply because I suspect, because of the necessity to be more accurate and not have the fraudulent (sic) that has happened in the past, that we will go to a different bar chip that will probably be more accurate. And you're probably, everybody that...who uses credit cards and other type cards like that will probably have the same...be able to read...in other words, other cards, credit cards and et cetera, as well as your driver's license. Doesn't that seem reasonable?

SENATOR BROMM: It seems reasonable to me.

SENATOR VRTISKA: Okay, I was just curious about what the technology...and of course we don't know what it is, but your bill doesn't specify, but it does leave it open for future advancements by the department. With that, thank you for your time.

SENATOR CUDABACK: Thank you, Senator Vrtiska. Senator Brashear, on the advancement of LB 574.

SENATOR BRASHEAR: Thank you, Mr. President. Members of the body, Senator Bromm, as I considered this bill, noted its topic and began to read it, and I certainly haven't spent a great deal of time on it, I developed some concerns. I wonder if you would yield to inquiry?

SENATOR CUDABACK: Senator Bromm, would you answer a question, please?

SENATOR BROMM: Yes, I would.

SENATOR BRASHEAR: Senator Bromm, what...and if you've covered any of this, I apologize, but I believe I was listening to you.

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What...I heard you use the word "trust" repeatedly in terms of how we should treat this information. But I'm not certain I heard words like "prohibition", "confidentiality", "restriction", "limited access", those kinds of things. And to give you a general feel, and then we can be more specific, when I see that we're going to do digital images of every applicant for a driver's license and preserve those in a state-run database, and then we're going to do digital signatures and we're going to preserve those in a state-run database, and we're only going to make them available to the Department of Motor Vehicles and law enforcement, and then I see that we're going to have biometric identifiers, and those are going to be in the database, I'm developing concerns about privacy, propriety, misuse, abuse, security and those kinds of things. Can you help me?

SENATOR BROMM: Well, I'll sure try to, Senator Brashear. And I don't know that I have the detail that you're going to be looking for. But let me tell you that the bill and also the testimony of DMV indicates that they will implement the necessary security measures to comply with all other laws. And of course we have federal laws that pertain, to a large extent, to what information we can release with respect to individuals, and particularly with respect to their driver's license, and it is very narrow and it is restricted to DMV for internal purposes and to law enforcement, as I recall. Now the type of...and I don't want to...if I use all your time, I'll put my light on so we can continue. The type of identification or the word you use, "biometric", the DMV director indicated that...that decisions on exactly what technology to implement would not be in the bill because it is ever-changing, and that they would like to be able to use the best, most practical and secure technology that's available as they approach the implementation date. Of course, this is always subject to our review and another bill, but they did not want to be tied down to a specific technology, in that respect, or identifier. Does that help?

SENATOR BRASHEAR: I...well, it's helpful, it's helpful because it's you; I know your integrity and I'm not questioning any specific known individual's integrity, but I also don't want to

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come to the body responsible for passing polic...law...

SENATOR CUDABACK: One minute.

SENATOR BRASHEAR: ...and policy and not reasonably anticipate, in the world in which we live, the possibility for misuse or abuse of this system, absent some extraordinary measures. And "photograph" may be a photograph, that doesn't excite me so much, but when we start talking about you're going to have a signature...digital signature you're going to preserve in a database, and there are a number of opportunities for its use here, it says on the original renewal duplicate and replacement operators' licenses and state identification cards, and I'm simply saying that then we can get into authorizations. Digital signatures misused can authorize all kinds of things. We take care not to put...

SENATOR CUDABACK: Time, Senator.

SENATOR BRASHEAR: ...somebody...thank you.

SENATOR CUDABACK: Thank you, Senator Brashear. We're discussing the advancement of LB 574. The senators wishing to speak are Senators Kristensen, Janssen, Cunningham, Brashear, Bromm. Senator Kristensen, you're recognized.

SPEAKER KRISTENSEN: Thank you, Mr. President. Members of the Legislature, I would tell you that digital licenses and operators' licenses certainly are the wave of the future, and these will be done and need to be done. And, Senator Bromm, five years ago, maybe six years ago, the company that had the cameras and were doing our operators' licenses were telling us the cameras are wore out, we've got to do something new. We strung them along, we strung them along, and they are in poor shape. No one can...can disagree with the fact that we need to change the method in which we do these. The issue becomes, and it's one that this Legislature is going to begin to tackle in a number of areas, but probably most likely is the strip that's on the back. What information are we going to put on there? And I'm concerned about it. I think we need to begin to look at some privacy policies on how much information do you put on this

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strip? If you lose your operator's license today, someone can take your operator's license and perhaps use it for other purposes. They could cash one of your checks, if they stole your purse or your billfold. They could maybe use a credit card as another form of an ID, using your operator's license. Maybe they could, if they look enough like you or people don't care, maybe they could use it as a form of identification to board a plane and do a variety of really bad criminal activities. And so we all guard our identification because of the fear of doing that. The digital strips that can appear on these licenses now carry with them a much larger policy problem; you not only lose your name, your signature and your picture, but those...on that strip could contain all of your health information, it can contain a variety of genetic information. This is not in Senator Bromm's bill, but this begins to open up the area that we've got to start to consider about what information do we put onto those strips, who regulates that and who gets to make those decisions? Other things that could be put on the strip may well be your arrest records, could be your...a wide variety of state information. And so when you'd go to the hospital they'd say, give me your driver's license, and they would swipe your information through and they would have an instant database of what your allergies were, what your physical records were, a variety of those sorts of things, very convenient. What happens if those fall into the wrong hands? All of a sudden that information becomes much more valuable. Your insurance company will want that...your license to run through so that they can gain that information. Maybe that's information that some of it's relevant, some of it's not. I would suggest that this...the policy of needing a digital license is great; we ought to do some form of it, I'm saying we need to begin to look at some protections of privacy. And, for example, if you're stopped by law enforcement, how much information are you going to put on that strip for law enforcement? More than...more than you think? And where does that information go and to whose database? Those databases are shared frequently with other people, sometimes we sell them for money, sometimes we combine them just because it's good information to have. At some point in time, I don't know whether we do it now, Senator Bromm, or whether we...where this happens, but I want to raise those issues that we need to think about privacy. This opens up a

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wonderful world of opportunity. We can be very efficient with it. We can use them for a variety of things. But put in the wrong hands or inadvertently given to other people that would build a database about you, that instant use of the digital driver's license and the information contained on that strip will cause issues we never begin to think about.

SENATOR CUDABACK: One minute.

SPEAKER KRISTENSEN: And people are going to have that information. How much of your life are you going to put on there? We now state, as a state, will provide them with the hardware and the mechanism to do that. And I want to think about that before we go along. I'd like to see if there is some way that we can inch our way in. And I'm not talking about whether to do a digital operator's license. We ought to do it. It's the information that we're going to put on that strip that I want to make sure that we don't, by default, just give out to someone and let other people have that without knowing the consequences of it. Better quality of pictures, less likely to tamper, all good policies, we ought to do it, I support that. I would vote for that concept. I am concerned about the information and the privacy that is possible to put on here, and maybe we start off with a prohibition saying we're only going to put...

SENATOR CUDABACK: Time.

SPEAKER KRISTENSEN: ...certain information on and not do any other until we're authorizing it. Thank you.

SENATOR CUDABACK: Thank you, Senator Kristensen. Senator Janssen, followed by Senator Cunningham, Brashear, Bromm, and Brown. Senator Janssen.

SENATOR JANSSEN: Thank you, Mr. President, members. LB 574 does a lot of things...it...with that new driver's license. We had some interim hearings on that this summer. And the problem that I am concerned with is minors procuring alcohol. This will certainly help the problem that we're facing with duplication of driver's license, so on, that the young people seem to be able

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to get a hold of very easily. This will alleviate a lot of the problems with liquor stores, taverns, so on, where young people try to come in with fictitious license...driver's license. This was one of the...one of the things that was brought up at the interim hearings throughout the summer, was the fact that would be...the minors would be more readily addressed and able to keep a handle on those people who are trying to procure alcohol. So I am going to be supporting this legislation. I think it's a good bill; it's something that has taken a long time to get on board with. And I know the DMV has to go through all the hoops in getting this ready to go. I wish it could have been done a couple years ago, but these things take time. And the Transportation Committee and Senator Bromm have been very patient with DMV in following the time element to get this...get this before us. And with that, that's my two cents worth on this bill. It's a good bill and I'm going to be supporting it.

SENATOR CUDABACK: Thank you, Senator Janssen. Senator Cunningham, on the advancement of LB 574.

SENATOR CUNNINGHAM: Thank you, Mr. President, members of the body. I, too, rise in favor of this bill. Senator Janssen very ably expressed my views. But I will tell you that in the retail community we need this driver's license; we need to better be able to identify the minors; it needs to be easier. I know that everyone says you can look at the date on the other driver's license and you have these little cards that tell you if you're born before this date, blah, blah, blah. But I can tell you when it gets busy and there's a lineup, maybe you have a new clerk, we just need to make it easier to readily identify the minor and I'm very much in favor of this bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Cunningham. Senator Brashear, on the advancement of LB 574.

SENATOR BRASHEAR: Mr. President, members of the body, I...continuing my concerns, the Speaker more than adequately discussed the concerns about the digital strip and the biometric identifiers that could be included in this. I'm going to focus my concern on the digital signature and then, Senator Bromm, try to yield some time to you to respond, because I'm going to make

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a point and then see where that takes us. We don't put a Social Security number on a driver's license in order to try to protect some of the privacy that is desirable with regard to that number. Someone indicated to me here, off the floor, that we probably wouldn't...we wouldn't necessarily have to have a date of birth there, although I don't know how that will accommodate Senator Janssen and law enforcement and liquor industry concerns about identifying people by age for other purposes. But if you focus on the digital signature, Senator Bromm, the fact is if I have access to your signature and if I can reproduce it in commercially reasonable, acceptable manner, I can get anything about you I want. The signature is the key that unlocks the storehouse of information. And that's why I'm particularly drawn to the signature issue. And I'm not certain I understand...I can understand why we might want all of this in the latest form, why we might want to be able to reproduce it and access it and everything else, but why the signature? And I have...I have grave concerns in that area. I think the signature is the one thing we maybe ought to strike out and say we'll still do that the good, old, reliable, traditional way, those are good Nebraska standards, and we'll make somebody write it. And I would yield the remainder of my time to Senator Bromm to try to respond, if he would, to the concern I'm expressing. I know you were engaged in other conversation, but I'm opposed to...I'll just start from the premise I'm opposed to the digital signature; it's not necessary. That's one thing we ought to still do manually while we're doing all the rest of this at light speed.

SENATOR CUDABACK: Senator Bromm, you have about two and a half minutes.

SENATOR BROMM: Thank you, Senator...thank you, Senator Brashear, and thank you for yielding me a little bit of your time. I'm going to go back and work into your concern by reminding us that last year, in the year 2000, we passed the Uniform Motor Vehicle Records Disclosure Act. That's in Chapter 60-2904 and a few sections after that. Now that was a...that was somewhat of a reaction and a response to some federal...federal law, and also a court case or two dealing with privacy and what a state could or could not disclose with

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respect to the records, and the driver's license in particular. And that law defines what is sensitive personal information, and that law said that sensitive personal information could not be disclosed by the Department of Motor Vehicle or any person with the state without the express, written consent of the person to whom the information pertains. And that sensitive personal information...

SENATOR CUDABACK: One minute.

SENATOR BROMM: ...included an individual's operator's license photograph or computerized image, Social Security number, and medical or disability information. Section 31 of this bill then adds to "sensitive personal information", that's on page 56 of the bill, the words "digital image or signature or digital signature", so that the digital signature, Senator Brashear, would be defined and included under sensitive personal information which is something that cannot be disclosed. Now the digital photograph, digital signature has to be done every time you get a new license, which would be five years, but it would be good for five years, just like your photograph would be on your existing license. I don't know mechanically...I'd...

SENATOR CUDABACK: Time. Thank you, Senator Bromm, Senator Brashear. Senators, out of respect for the speakers, try to hold your conversations down, please. Senator Bromm, your light is on next.

SENATOR BROMM: Thank you, Mr. President. And, Senator Brashear, I'll certainly give you a chance to respond or ask additional questions on my time here. But I don't know mechanically, without doing a little more research, which I'll be glad to do, what the implications would be of removing that digital signature, but I think it would be...it would probably cause great difficulties if we didn't have a digital signature included with this process. That's part of the identification process or the benefit of the digital license and the digital identification. But I wanted to make sure that we tied back into that LB 1317 that we did in the year 2000 and looked at that definition of "personal sensitive information" and try to assure you that the digital signature is included in that, so

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that, I think, gives us some...gives the public some protection from that being exploited or used. Senator Brashear, I would give you a chance to respond, make comments or ask additional questions.

SENATOR CUDABACK: Senator Brashear.

SENATOR BRASHEAR: Thank you, Mr. President, members of the body. Thank you, Senator Bromm. I...I appreciate that and you were extremely responsive. And the sensitive personal information issue is...and the way you addressed it is reassuring and I think I do understand that. I'm trying not to be the Neanderthal newly emerged from the cave. But I'm going to continue on the digital signature issue because I am not worried about the digital signature, or the sensitive personal information which is...which is handled in accordance with the act and is not disclosed. But the point I'm trying to make is that we are accumulating in one, unless somebody leads me through this and convinces me, we're going to store it in two separate databases at two disparate points and we're going to have two systems of security and so on. The point I'm trying to lead to is the digital signature being classified as sensitive personal information won't make any difference at all if, in violation of the law, somebody releases the digital signature. And the digital signature is more and more becoming a commonplace methodology for accessing and authorizing certain things, so that we are storing the key to the...to the safety deposit box right beside the box, so to speak. And I am...I am concerned about that and I think it requires extraordinary provisions. Scrambling around a little bit back here, it looks like maybe if somebody gave out the digital signature and shouldn't have, they're guilty of a Class II misdemeanor. I respectfully submit that's not sufficiently severe. We could be talking about high crimes here in terms of quantity of signatures, in terms of the amount at issue or involved in any misuse. I just think we have to look at security, and I don't think we can say, and I'm not criticizing your presentation which was definitive, so to speak, Senator Bromm, but I'm saying I don't think "trust me" will cut it when we're dealing on this kind of an issue, and I don't think you just delegate it to the bureaucracy and say I hope it works. I think you write it in

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the law. And I thank you for the time.

SENATOR CUDABACK: Thank you, Senator Brashear. Senator Bromm, did you yield all of your time to Senator Brashear? You have a minute left.

SENATOR BROMM: Okay, I'll...I'll...I'll briefly comment on that. And I...I respect Senator Brashear's questions and concerns, and we want to make sure that we do everything possible to protect this information. And I will obtain more information from DMV about how they intend to do this. But I think...I think we have set up the principles as best they can be set up in the...in the...in the Chapter "60-29" area. If we want to increase penalties or something like that, I would certainly be glad to look at that. There are...there are penalties for falsifying or requesting disclosure of personal information from the department, and misrepresenting their identity or making a false statement to get that information is a Class IV felony under 60-2912. But we want to be sure that this is done right. And I think we've got...we've got a number of other states to look at, to see how they've done it...

SENATOR CUDABACK: Time, Senator Bromm.

SENATOR BROMM: ...and determine whether they've had any problems. There is some experience. Thank you.

SENATOR CUDABACK: Thank you, Senator Bromm. Senator Brown, on advancement of LB 574. Is Senator Brown in the Chamber? I do not see Senator Brown. Senator Beutler, your light is next.

SENATOR BEUTLER: Senator Bromm, if I could inquire further also.

SENATOR CUDABACK: Senator Bromm, would you yield to a question?

SENATOR BROMM: Yes.

SENATOR BEUTLER: Again, along some of the same lines that...you probably weren't expecting this kind of eruption this morning. (Laughter)

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SENATOR BROMM: No, I think it's an appropriate discussion. I don't...

SENATOR BEUTLER: It strikes me as...

SENATOR BROMM: ..classify it as an eruption yet, depending on what you say. (Laugh)

SENATOR BEUTLER: It strikes me as the dawning of a certain consciousness on this body, generally, with Senator Brown's bill, with this bill, with repeated stories of the Internet and the inability to protect databases from hackers and the expert opinion that you're beginning to hear in many parts expressing a reluctance to say that they'll ever be able to protect those databases. I guess we like to think we can stay one step ahead of the criminal element, no matter what, but I suppose that that whole issue is starting to play in now into a lot of different things that we're doing now. So it will be an expanding but a good debate, I think. Tell me again, and I...and I had to leave the room a couple times, but tell me again with respect to the information that the department is allowed to put onto the...the digital strip, which I understand, even with current technology and what they're intending, has a great deal of space or room for information on it, what is the limitation on what information they can put on the strip currently and where do we...orient me to the part of the bill that deals with that.

SENATOR CUDABACK: Senator Bromm.

SENATOR BROMM: Okay, we'll...I'll make sure I don't leave something out, have counsel help me check for that. But, basically, I think we're looking at the first, like Sections 3 and 4 of the bill, where we say that we can have the digital image of the person, we can have the digital signature, and then this is...is where I think your question might go to, the department may also provide for the capture and storage of biometric identifiers and shall not release them, except to a law enforcement agency for law enforcement purposes. And that is...and quite frankly, let me try to give you a little bit more explanation on that from the department itself.

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SENATOR BEUTLER: Yeah, I, as part of that, if you would, I'm interested. I don't know very much about what the variety of biometric identifiers much be...much...may be, and I assume there may be different ones and whether any of them are currently...are currently usable. And further and related to that, if there is only one or two or none that are currently usable, do we need to have this paragraph at this point in time? Those questions, Senator.

SENATOR BROMM: I...I certainly will have to probably have a discussion with the director to answer whether we have to have that paragraph at this point in time. The explanation she gave...

SENATOR CUDABACK: One minute.

SENATOR BROMM: I'm sorry, what did you say, Mr. President?

SENATOR CUDABACK: Senator Beutler, (inaudible) one minute left.

SENATOR BROMM: The explanation that she gave at the hearing was that it was their intent to allow for very limited biometric identifiers, but they weren't willing to specifically identify what those would be because of the changing and ever-improving technology that's available. They didn't want to tie themselves down to what that would be. Now, maybe they don't know yet, but we can inquire further about that.

SENATOR BEUTLER: When you inquire, maybe add one more question in the few seconds I have left. Do an...does the obtaining of any biometric identifiers involve any process that might in any way be thought of as intrusive to any of us?

SENATOR BROMM: We'll...

SENATOR BEUTLER: Thank you, Senator Cudaback.

SENATOR CUDABACK: Senator Brown, you may use Senator Brashear's mike, if you wish. I'm sorry, come...

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SENATOR BROWN: Thank you, Mr. President. Members, for...I think that we are having very good conversation about some of the...some of the aspects about...about our new technology. We've had...that seems to be a theme that we've had this morning. But I would like to go back, just for...for a second, and remind us of the underlying bill, because I think that there...there are some things that we can do certainly about the digital strips and what kind of information is put on there and how we might limit that information. And I think that we can probably work on amendments to deal with that. But I'd like to tell you quickly a story. A constituent of mine called and told about how his family meets in Chicago each year for Thanksgiving, and the airline declined to accept, as proof of identification, a Nebraska driver's license because they felt that it could...it...it...they thought it was actually a joke. They thought that it was so...seemed so poorly done that it really was not a real driver's license, and so his son had to use a passport, and fortunately had his passport with him to be able to use as identification for the airlines. We absolutely must do something about the situation with our driver's license and how easily they can be altered and how unprofessional they look. And when you have airlines turning down Nebraska residents because the driver's license looks like it's something that somebody could make on a color copier, which apparently has actually taken place, we really have to do something about the situation with our drivers' licenses. And I think that this is...this...a digital driver's license is the way to go. I think we must do it, but I think that we must do it thoughtfully and make sure, especially with the digital strips that...that can encode a great deal of information, that we are controlling the policy about what those...what that information can be. I...I understand Senator Brashear's concern about digital signatures, but I think that it makes...it's a little bit more difficult on how we're going to deal with that issue and provide the protections that Senator Brashear is talking about. I do think that we can establish policy about what information goes on the...on the strips. I think that, as he said earlier, we are faced with digital signatures more and more being a mechanism for identification, and I don't know logistically how easy it would be to have a digital driver's license without a digital signature on it. That's something that I think that we

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maybe need to spend a little bit more time to figure out. But this is a bill that we need to advance this year. Nebraska needs to be in line with all the other states that have digital driver's license, much more sophisticated driver's license. Nebraska...Nebraska's drivers' licenses are absolutely one of the most easy forms of identification to duplicate that you can imagine. Kids are doing it, people are doing it right and left, anybody who has access to a color copier is probably doing it. We need to move to digital drivers' licenses...

SENATOR CUDABACK: One minute.

SENATOR BROWN: ...this year. And so don't lose sight of that in the discussion that we're having, a very legitimate discussion about how much information, how much of your personal information you want available on those drivers' licenses; how much of your personal information you want available for whomever might have access to that. We...we are beginning to reconsider how ubiquitous we have been with the use of Social Security numbers as a form of identification on...and what we request Social Security numbers for. This...and the unfortunate thing with Social Security numbers is that we've already begun using them so much and they're on so many databases that being able to restrict that use is...is very difficult.

SENATOR CUDABACK: Time.

SENATOR BROWN: And so, with this, we can restrict the use right away. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. Senator Brashear, and this will be your third time, Senator.

SENATOR BRASHEAR: Thank you, Mr. President, yes. Members of the body, Senator Bromm, as we maybe close this out, I want to approach the digital signature issue in Section...of subpart (2) of Section 4 again and approach it a little differently. If you take the whole of Section 4 together, it closes, at subpart (3), with the general prohibition, "and shall not release them except to a law enforcement agency for law enforcement purposes." Now I don't know whether we're talking, under statutory

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construction, the way this is written, whether we're talking just the biometric identifiers or whether we're also talking the digital signature, but I'm going to take the less conservative view for the purposes of this discussion and say it applies to all three--the digital picture, the digital signature, and the biometric identifiers. And I think we're presented with an interesting issue. If you have...first of all, Senator Kristensen mentioned it just once but I want to make certain it's understood, over my years of service here I've heard over and over about how we sell and release for commercial reasons and maybe for others databases and database information. Now, I understand this is a new era. We've got to update and do things, but I think we want to make sure that our law is entirely adequate and protective as we do. But just taking the words at face value that it can be released to "law enforcement agency for law enforcement purposes", then my signature can be released, my digital signature can be released to law enforcement without any sort of a notice and hearing or the like, any kind of an adversary proceeding. And then, as I was standing here waiting my turn, I began to think if you have my signature, which you're authorized to have, but I didn't authorize it, if somebody uses it is that forgery or not? Is that an unauthorized use or not? Is that a crime or not if you're entitled to have it, but I didn't authorize it, and you use it? And I'm simply trying to identify technical issues that I see as we go forward, as it may relate to how we do our law enforcement, how we enforce our Criminal Code, how we protect citizen information and rights of privacy and the like. And...and when I read the bill I...I do not feel like we are being zealous enough and concerned enough about these very modern techniques and methodologies and the possible misuse, criminal misuse, or simply a misuse in violation of due process that might be involved. And while I would...I...I'm not trying to be an overwhelming obstacle to the bill, I'm...these are things I'd like to be satisfied on certainly before Select File. Thank you.

SENATOR CUDABACK: Thank you, Senator Brashear. Senator Kristensen, on advancement of LB 574.

SPEAKER KRISTENSEN: Thank you, Mr. President. Members of the

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Legislature, Senator Bromm, I had not given him any time to respond. I would offer the following things that as we look, and today we aren't going to be able to do this, hopefully we'll get back to this bill tomorrow, after we do a few other things. But I would offer as a suggestion that the things we need to have put on that strip are really the text and the information that already exists on the operator's license itself. That ought to be priority number one of things that go on the strip. Outside of that information, I don't know what else we really need to begin with to do this. It will take us a couple of years to get the...physically get the digital system in place. I would offer, and I don't have an amendment, maybe we can work on it between now and tomorrow or between now and Select File, that would say something, look, let's only put onto the magnetic strip, that's transferable information electronically, that information that physically exists in print on the license itself, and that we won't put anything else on there unless it's authorized by law. And that doesn't let us run very far but it gets us what we need to do right away and gives us time to think about the policy of the privacy. It gives us time to think about procedure: do you want that done by rule and regulation, do you want it by review, do you set up a review committee? I don't know how all that occurs. But again, I think the committee has put forth a bill that needs to be accomplished, and that is that we need digital operators' licenses. And, if we don't do it, I think we'll waste a lot of time and money and don't have a very good product. But Senator Brashear raises some very good policy questions that aren't easy. There's not a lot of answers. But we know that the problem is there and, before we jump headlong into that problem, I would suggest, Senator Cudaback and other members of the Legislature, that we need to go slow and look at limiting the amount of information we put on there to begin with, and we can always expand. But once we put that on there, it's going to be very hard to take that information back off. And there is nothing that prevents you from taking that card and, if there is strips, encoding other information of your own on there. That's also technology, that technology is available where you could put your own information on there. And maybe we need to say that you can't put other information on the operator's license unless we authorize that as well. All policy choices that we need to look

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at and I would hope that we would do so. Thank you, Mr. President. I'd yield my time to Senator Bromm, if he had...

SENATOR CUDABACK: Senator Bromm, there are no further lights on.

SENATOR BROMM: I think we really need to have a little bit more discussion on this before we vote, and we'll be prepared to do that. So, rather than take any more of the body's time, it's just about noon, I'm not...I'm not going to close, if possible. And if somebody wants to make a motion to adjourn, I certainly wouldn't object.

SENATOR CUDABACK: Thank you, Senator Bromm and Senator Kristensen. Mr. Clerk, items for the record?

CLERK: Mr. President, there will be a Revenue Executive Session, Revenue Committee Executive Session at one o'clock today in Room 1524. Senator Hilgert would move to place LB 476 on General File, pursuant to Rule 3, Section 19(b); that will be laid over. Senator Suttle, an amendment to LB 254; Senator Landis to LB 56; Senator Beutler to LB 329, all those amendments to be printed. Senator Engel would like to withdraw LB 771; that will be laid over. And Health and Human Services would report LB 235 to General File with committee amendments attached. That's all that I have, Mr. President. (Legislative Journal pages 672-674.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Kristensen.

SPEAKER KRISTENSEN: I move that we adjourn until tomorrow at 9:00 a.m.

SENATOR CUDABACK: Motion is to adjourn until Thursday morning at 9:00 a.m. All in favor say aye. Opposed nay. We are adjourned.

Proofed by: Jody Hurlbut