

Transcript Prepared By the Clerk of the Legislature  
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Floor Debate  
February 05, 2007

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SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-third day of the One Hundredth Legislature, First Session. Our chaplain for today is Senator Kruse. Please rise. []

SENATOR KRUSE: (Prayer offered.) []

SPEAKER FLOOD: Thank you, Senator Kruse. I call to order the twenty-third day of the One Hundredth Legislature, First Session. Senators, please record your presence. Please check in. Mr. Clerk, please record. []

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

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

CLERK: Mr. President, no corrections to the Journal. []

SPEAKER FLOOD: (Visitors introduced.) Mr. Clerk, we will now proceed to the first item on the agenda. []

CLERK: Mr. President, if I may right before that, your Committee on Transportation, chaired by Senator Fischer, reports LB239 to General File. And that report is signed by Senator Fischer. Your Committee on Agriculture, chaired by Senator Erdman, reports LB12 to General File with amendments, that report signed by Senator Erdman. Natural Resources Committee reports LB390 to General File, LB568 to General File, and LB299 to General File with amendments; those reports signed by Senator Louden as Chair. [LB239 LB12 LB390 LB568 LB299]

I have a series of hearing notices, Mr. President, from the Transportation Committee signed by Senator Fischer as Chair. Confirmation report from Natural Resources Committee. And I have two gubernatorial appointees; one to the Power Review Board, a second to the Board of Public Roads Classifications and Standards. Those will be referred to Reference, Mr. President. And that's all that I have at this time. (Legislative Journal pages 459-462.) []

SPEAKER FLOOD: Mr. Clerk, we will now proceed to General File, LB305A. [LB305A]

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CLERK: LB305A is by Senator Fischer. (Read title.) [LB305A]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Fischer, you are recognized to open on LB305A. [LB305A]

SENATOR FISCHER: Thank you, Mr. Speaker, members of the body. LB305A is the A bill that will accompany LB305, which we advanced to Select File. I would appreciate your vote to advance the A bill so it can catch up on Select File to the bill. Thank you. [LB305A LB305]

SPEAKER FLOOD: Thank you, Senator Fischer. There are no lights on at this time. Senator Fischer, you are recognized to close on LB305A. Senator Fischer waives closing. The question before the body is, should LB305A advance to E&R Initial? Please record your vote. Mr. Clerk, please record. [LB305A]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB305A. [LB305A]

SPEAKER FLOOD: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR23. Mr. Clerk, we will now move to Final Reading. Members should return to their seats in preparation for Final Reading. Would members please return to their seats so that we can begin Final Reading. Thank you. Mr. Clerk, the first bill is LB11. [LR23 LB11]

CLERK: (Read LB11 on Final Reading.) [LB11]

SPEAKER FLOOD: Thank you, Mr. Clerk. All provisions of law relative to procedure having been complied with, the question is, shall LB11 pass? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Mr. Clerk, please record. [LB11]

CLERK: (Record vote read, Legislative Journal page 463.) 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB11]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB11 passes. We will now proceed to LB25. [LB11 LB25]

CLERK: Mr. President, I have a motion on the desk. Senator Dierks would move to return LB25 to Select File for a specific amendment, specifically to strike the enacting clause. (FA9, Legislative Journal page 426.) [LB25]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Dierks, you're recognized to open on your motion. [LB25]

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SENATOR DIERKS: Thank you, Mr. Speaker and members of the Legislature. I will withdraw the motion as soon as I've explained a few things to you. As I was reading the green copy of the bill before we advanced it to General File, I was concerned about the new language on page 2, line 20. So I recorded as not voting to advance. Later I was reminded that that language had been removed with the committee amendment. And so I have no problem now with supporting LB25. Please withdraw my amendment, Mr. Speaker. [LB25]

SPEAKER FLOOD: Your amendment is withdrawn. [LB25]

CLERK: Mr. President, Senator Kopplin would move to return LB25 to Select File for a specific amendment, the purpose being to strike the enacting clause. (FA10, Legislative Journal pages 463-464.) [LB25]

SPEAKER FLOOD: Senator Kopplin, you're recognized to open. [LB25]

SENATOR KOPPLIN: Thank you, Mr. Speaker, members of the body. I too would just like to get one final message in. And there may be others that wish to do so also. And I think we should have the chance to say that. I will oppose this bill because, to me, it's just really unclear. How long are these animals considered the hybrid; one generation, two generations, what? It doesn't say. Officials are going to have a difficult time telling what is a hybrid wolf-dog. I just want to throw that last thought in and I think there may be others who might want to speak. If they do, I'm going to leave this amendment up. If there are not, then I will withdraw it. Thank you, Mr. Speaker. [LB25]

SPEAKER FLOOD: Thank you, Senator Kopplin. Your amendment is withdrawn. Strike my last. We will go and recognize Senator Cornett to speak on Senator Kopplin's motion to strike the enacting clause and return to Select File. You're recognized. [LB25]

SENATOR CORNETT: Thank you, Mr. Speaker and members of the Legislature. As you well remember, I worked on amending this bill to exclude hybrid cats. My concern with this bill is it does not define what a wolf hybrid is or a hybrid. There is no language in it to exclude animals that are one-sixteenth wolf, one-twentieth wolf. There is no way to prove an animal has been genetically crossed with a wolf. DNA tests are inconclusive. Where do we draw the line on having these animals put down? At what percentage do they stop being considered a hybrid? The bill is disturbing in the fact that it offers no way to identify these animals. And I know Senator Langemeier said that they are easily identifiable by physical characteristics. From my research though, when you get into the one-sixteenth and sometimes even one-eighth, it is not as easy to tell depending on what other breed of dog they've been crossed with. I would personally like to see more clarification in this bill as to regards to what a hybrid is and when it is stopped being considered a hybrid and what the mixture of domestic to nondomestic

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animal needs to be. Thank you. [LB25]

SPEAKER FLOOD: Thank you, Senator Cornett. Chair recognizes Senator Dubas. [LB25]

SENATOR DUBAS: Thank you, Mr. Speaker. I too have some serious reservations about passing this bill on, just because of a lot of the comments that Senator Cornett just made. Have we created another law that's going to be vague and hard to enforce? Are we going to drive a lot of people kind of underground as far as will they continue to get their dogs vaccinated if there's any concern at all that they might be considered a wolf-dog and be forced to put their pet under? So I just, I think if we're going to go forward with this, we need to put a lot more clarifying language into the bill and make sure that it's going to be enforceable and that we aren't going to create more problems than we're trying to solve right now. So I too would like to have it further considered. Thank you. [LB25]

SPEAKER FLOOD: Thank you, Senator Dubas. Chair recognizes Senator Stuthman. [LB25]

SENATOR STUTHMAN: Thank you, Mr. Speaker and members of the body. I also have some real concerns about this bill. In my opinion, it doesn't totally give the direction that we're trying to accomplish with this. And I will echo the thoughts of the past two speakers, the two senators that just discussed this. The hybrid portion of it, I guess realistically when you look at the bill, it's the first cross. But do we realistically know that the nondomesticated animal, is that already a half-blood that turned back to the wild or is it totally a wild animal? I think there's things in here that, you know, don't have the real sense of what we're trying to accomplish as far as what constitutes a hybrid dog. I just think that we're trying to do something that there's a good possibility that there's going to be quite a number of these animals that are going to be destroyed, you know, before we definitely make a decision as what constitutes a hybrid animal. And I think, in my opinion I think we're opening ourselves up to a can of worms. And I would be very cautious with this bill. Thank you. I'll give the balance of my time back to the Speaker. [LB25]

SPEAKER FLOOD: Thank you, Senator Stuthman. Senator Wallman, you're recognized. [LB25]

SENATOR WALLMAN: Thank you, Mr. Speaker, members of the body. I too have trouble with the word "hybrid." You know, where did most of these dogs come from? They were bred some time or other with other animals to come up with special pets. And I don't know how we're going to enforce this bill or what are we going to call a hybrid. So I have a lot of trouble with this bill as it is and I would also vote to have more study on this. Yield my time back to you. Thank you, Mr. Speaker. [LB25]

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SPEAKER FLOOD: Thank you, Senator Wallman. Senator Harms, you're recognized. [LB25]

SENATOR HARMS: Mr. President and colleagues, after reviewing this bill again and then looking at the correspondence that I have received, there are an awful lot of people that are concerned about this piece of legislation. And I would urge us to take it back and maybe we need to reconsider this, to look very carefully at what we're saying. It's evident from the correspondence I'm getting that the public has major concerns about this legislation. So I rise to simply say I have a concern about it. We need to address it. We need to rethink it. Because right now, it's not being well received. Thank you. [LB25]

SPEAKER FLOOD: Thank you, Senator Harms. Senator Cornett. [LB25]

SENATOR CORNETT: Thank you, Mr. Speaker. I understand the intent of the bill is somewhat of a backdoor approach to banning wolf hybrids in the state of Nebraska. Instead of coming right out and saying we're banning hybrid animals, we are trying to effectively do so by saying they have to be vaccinated. The problem is there's a very good chance this bill will be obsolete by the end of the year. I have an article right now from the Wolf Dog Coalition that talks about working towards rabies vaccine. In February, this month, after a thorough analysis, the USDA made the determination that all vaccines currently approved for dogs should also be approved for wolves and wolf-dog crosses. The mechanism by which wolves and wolf-dogs would gain vaccine approval was with an amendment to Title 9 Code of the Federal Regulations. The amendment, in essence, declared that all vaccines are approved for any member of the species *Canis lupus*. Thank you very much. [LB25]

SPEAKER FLOOD: Thank you, Senator Cornett. (Doctor of the day introduced.) On with discussion. Senator Erdman, you're recognized. [LB25]

SENATOR ERDMAN: Mr. Speaker, members of the Legislature, I appreciate the conversation this morning. And I'll tell you that if you vote to return it to Select File, the specific amendment you have is to kill the bill. That's what's before you. The idea that we're going to talk some more about this bill doesn't get accomplished by just simply removing it Select File. If you'd like to delay the bill to a different date, there's a different motion you should have before us. This is a stall tactic. The other side of this is, is that Senator Cornett actually made the best argument for this bill that could be made. If this bill does not pass and the vaccine is approved, there is no requirement in statute that wolf-dogs or hybrids be vaccinated the same as your cats and dogs. There is none. So if you say, well, this is going to ban them, and Senator Cornett argues that it's not because there's a vaccine available, then we actually need LB25. Because without LB25, we'll have individuals who will be able to maintain pets, who will be able to own these animals, that will not be subject to the same standards that you and I do if we own

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what we would traditionally call cats and dogs. So let's not get lost in the discussion. Senator Harms, there is a lot of e-mails that are coming. There absolutely will be on a number of other issues that are going to be before us. The question that we as policy makers have to decide is, do we hold the same standard to those pets that we would other pets? The Ag Committee heard the bill. We have two members of the committee that have concerns about the bill. And I think that after additional information, they have that right. But if you want the opportunity to delay this discussion to a later date, this isn't the vehicle to do it. If your ultimate attempt is to kill the bill, then go for it, here's your chance. You have two options. You can vote to return to this to Select File and the specific amendment is to strike the enacting clause--which essentially would kill the bill--or you can vote not to adopt the bill this morning. But if you believe as I do, and why the Ag Committee advanced the bill, that we should have similar standards for pets regardless of what their breeding is and they should all be held to the same standard that if we require a vaccine for cats and dogs, that we look at the same standard for other pets that may fit that designation. So Senator Cornett, I've heard your comments. I've heard the same thing from some of the folks that are representing the Veterinarians Association to say there are vaccines in the work. The question is the timing of it. Senator Langemeier has his light on as well, but I thought for the sake of the body I would give you a little perspective on this process since this is the first time this has happened under this new Legislature. But again, I think that this is a question we have to decide. Do we want to hold these pets to the same standard or not? And if we don't, then you're right. We don't need the bill. But if you argue that there's a vaccine going to be approved, then we actually do need this bill to be able to hold all pets to the same standard. Thank you, Mr. Speaker. [LB25]

SPEAKER FLOOD: Thank you, Senator Erdman. Chair recognizes Senator Langemeier. [LB25]

SENATOR LANGEMEIER: Thank you, Speaker Flood, members of the body. And after Senator Erdman's little talk there, I guess first of all I'd like to thank everybody for the conversation. And the goal with this is to keep these...typically we narrowed it down through the amendments down to the wolf hybrid, to keep them to the same standards that each of you have to keep your pets, whether it be your dog or your cat. And I too have enjoyed the e-mails that have come in. And many of them have indicated, especially the ones out of Oklahoma, Texas, and New Mexico, have indicated that they are working on vaccines for these typical animals. And without this legislation, there's no reason to further that desire to have that. We do create a demand for this vaccine with this hybrid and that's usually what makes a hybrid vaccine created. With that, I'll return my time to the Chair. Thank you. [LB25]

SPEAKER FLOOD: Thank you, Senator Langemeier. Senator Cornett, you're recognized. [LB25]

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SENATOR CORNETT: Senator Langemeier, will you yield to a question? [LB25]

SPEAKER FLOOD: Senator Langemeier, will you yield to a question of Senator Cornett? [LB25]

SENATOR LANGEMEIER: Yes. [LB25]

SENATOR CORNETT: What is the current standard for rabies vaccines and what the fine or penalty is for not having your pet enacted if it is not a hybrid currently in the state of Nebraska? [LB25]

SENATOR LANGEMEIER: I don't know that right offhand. [LB25]

SENATOR CORNETT: Then how can you say we're holding these animals equal if, in fact, we are actually holding them to a higher standard than a household, a normal domesticated household pet? Do you have your legal counsel? Could he answer the question? [LB25]

SENATOR LANGEMEIER: I guess my question to you is, is we requiring this bill to have rabies shots which we require your domesticated canine that is at the same level. However, due to the fact that that vaccine, however controversial it is with the e-mail, is not created, as soon as that is created they'd be at the same standard. [LB25]

SENATOR CORNETT: If you do not have your dog vaccinated in the state of Nebraska, is your dog put to sleep within 30 days or euthanized? [LB25]

SENATOR LANGEMEIER: I'm unaware of that. [LB25]

SENATOR CORNETT: In your bill, what would happen to a hybrid that is unvaccinated? [LB25]

SENATOR LANGEMEIER: After one year, it would be euthanized. [LB25]

SENATOR CORNETT: I don't believe that that is the standard for dogs in the state of Nebraska. The other question that I have with the bill is, how do you determine what is a wolf hybrid? You said that you had testimony that these were easily identifiable animals. I spent the weekend researching the web sites of wolf hybrids. And a lot of these dogs, depending on what their genetic mix is, there is no way you could tell by looking at them if they were a dog or a cross. I agree with the concept that we should not allow wolf hybrids in the state. But then we need a bill that addresses that but does not approach it through a vaccination standpoint. And Senator Erdman's argument that this is the reason to have them vaccinated because of the pending vaccine, there's no guarantee when that vaccine will come on-line. It could be this year. It could be next year. What

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happens to the animals that are caught in that loop? Looks like Senator Langemeier is busy looking for an answer to my questions. I will yield the remainder of my time to the Chair. [LB25]

SPEAKER FLOOD: Thank you, Senator Cornett. That is your third time on this motion. Senator Dubas, you're recognized. [LB25]

SENATOR DUBAS: Thank you, Mr. Speaker. Again, I go back to the fact that this seems to be legislation that maybe has two separate intentions. I will definitely agree with the public safety, protecting people from animals that aren't safe, especially if they can't be vaccinated. If our intent is to make sure that these animals are vaccinated, that's what we need to address. If our intent is to ban wolf-dogs, then that's what we need to address. Again, I think we're too vague in this language. We're going to create additional problems for enforcement. I just, I'm not disagreeing with the intent of this bill or what it's trying to do. Public safety should always be paramount no matter what. But let's make sure that we put words into the bill, language into the bill that is easy to enforce and that people will be able to understand and that there will be a willingness on their part to cooperate with it. I yield the rest of my time. Thank you. [LB25]

SPEAKER FLOOD: Thank you, Senator Dubas. Chair recognizes Senator Kopplin. [LB25]

SENATOR KOPPLIN: Thank you, Mr. Speaker, members of the body. I would just like to react for a moment. First of all, I do understand that if we want to change this, we should have a different motion up there. My intent is not necessarily to stop a vote this morning. It is to give people a chance to speak their mind one last time. I have a big problem with this bill and the way it was presented because it was deceptive. We're talking about rabies vaccine but that does not appear to be what the idea behind this entire bill was. And if that's the way we're going to operate in this body, fine. We devise our language in such a way that we accomplish a goal without being forthright and saying this is my goal. Mr. Speaker, are there other lights on? [LB25]

SPEAKER FLOOD: Yes, Senator. [LB25]

SENATOR KOPPLIN: Okay, I'll return my time to you. [LB25]

SPEAKER FLOOD: Thank you, Senator Kopplin. Senator Janssen, you're recognized. [LB25]

SENATOR JANSSEN: Thank you, Mr. Speaker, members of the Legislature. If I could ask Senator Erdman a couple of questions, please. [LB25]

SPEAKER FLOOD: Senator Erdman, will you yield to questions from Senator Janssen?

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[LB25]

SENATOR ERDMAN: I would, Mr. Speaker. [LB25]

SENATOR JANSSEN: Senator Erdman, where have our domestic dogs derived from? How did they arrive in the world? Were they from wild animals at one time? [LB25]

SENATOR ERDMAN: Well, not to go too far back in philosophy, but I would say they were created, first of all. But there are probably breeds of animals that were crossbred in order to arrive at some of the breeds that we have today. [LB25]

SENATOR JANSSEN: Now I have not got in on this discussion on General File either. But now we're talking about a wolf or a crossbred animal, a crossbred between a Cocker Spaniel and a wolf, let's say. Now is that particular animal...you cannot give that animal, say, a rabies shot because it won't work. Is that correct? [LB25]

SENATOR ERDMAN: Senator Janssen, you can give that animal a rabies shot. At this point there has not been any verified evidence that that rabies shot is effective, scientifically effective I believe is the terminology that's used in the bill. It's not whether or not you can do it. It's a matter of whether or not that actually accomplishes the goal that it would accomplish if you have a purebred Cocker Spaniel. [LB25]

SENATOR JANSSEN: So theoretically then that crossbreed could possible get rabies or any other canine diseases that those animals are subject to. Is that correct? [LB25]

SENATOR ERDMAN: The concern and the reason for LB25 is that there is no proof that that vaccine is effective against rabies, as it would be against your Cocker Spaniel. So that's the concern, is that you have individuals who are able to maintain a pet in their home where the vaccine has not been scientifically proven to be effective. So they could be carriers of the rabies disease in their home. [LB25]

SENATOR JANSSEN: Okay, thank you, Senator Erdman. If I could ask Dr. Dierks a couple of questions, please. [LB25]

SPEAKER FLOOD: Senator Dierks, will you yield to a question from Senator Janssen? [LB25]

SENATOR DIERKS: Yes. [LB25]

SENATOR JANSSEN: Senator Dierks, we have what we call wild pigs, wild boars, and so on and so forth. We have had discussions about that on the floor the last couple of years about these farms that have wild pigs. Now is a wild pig different than a Duroc-Jersey? [LB25]

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SENATOR DIERKS: I believe so. [LB25]

SENATOR JANSSEN: In what way are they? Are their heart different, larger, smaller? Are their lungs larger or is their reproductive system different? Or is it in their genes that makes them different? [LB25]

SENATOR DIERKS: Probably isn't a lot of difference anatomically or physiologically or maybe even histologically. [LB25]

SENATOR JANSSEN: Those are pretty big words. I don't understand them, Doctor, but that's fine. You go ahead. [LB25]

SENATOR DIERKS: Well, the thing of it is, they're recognized by their other traits, the fact that they've been in the wild. And when you see a wild hog, you know what one looks like. They're different than a Duroc or a mixed breed hog. One of the things I was going to...excuse me, it's your time, Senator. [LB25]

SENATOR JANSSEN: No, you go right ahead. I'm listening. [LB25]

SENATOR DIERKS: Well, the thing we have to remember about the rabies vaccine is that the USDA has not approved it for use in anything except the domestic animals. And the reason they haven't is because it has not been tested for approved use in hybrid animals. [LB25]

SPEAKER FLOOD: One minute. [LB25]

SENATOR DIERKS: That's the upshot of it. And Senator Cornett asked what the penalty was, it's a misdemeanor if you look at the rest of the green copy. If you violate that first section that we're talking about now, that's a misdemeanor. [LB25]

SENATOR JANSSEN: Thank you, Senator. I don't think that this bill would hurt anything. I haven't heard anything that says that it would. If it doesn't work, if you could give this particular animal the vaccine, what harm would it do? What harm would it do? I don't know. I'm wondering if you couldn't, if we do start this, if you couldn't test them then, say, six months later to see if they would capable of carrying this particular disease or virus or whatever it is. [LB25]

SPEAKER FLOOD: Time, Senator Janssen. [LB25]

SENATOR JANSSEN: Thank you. [LB25]

SPEAKER FLOOD: Thank you, Senator Janssen. Senator Howard, you're recognized.

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[LB25]

SENATOR HOWARD: Thank you, Mr. Chair. My district, District 9, is very much a pet-loving district. But many of the animals that people take ownership of come from the rescue, from the humane society, which does a wonderful job with pets. And when a pet is placed for adoption, the humane society makes sure that pet is vaccinated and all medical care that it needs prior to being placed with a family is taken care of. And along these lines, I have a question for Senator Langemeier if he would yield. [LB25]

SPEAKER FLOOD: Senator Howard? [LB25]

SENATOR HOWARD: Is Senator Langemeier available? [LB25]

SPEAKER FLOOD: Senator Langemeier, will you yield to a question from Senator Howard? [LB25]

SENATOR LANGEMEIER: I would. [LB25]

SENATOR HOWARD: Thank you. When I went to the humane society and adopted Eddie, our dog, no one knew what his origin was. They sort of did a deduction based on his appearance and felt he was a Gordon Setter mix. And I reported that to the vet when I took Eddie in and he put that on Eddie's record and said Eddie is a Gordon Setter mix. Now my question is, if an animal comes into the humane society, is dropped off by a previous owner or is picked up and it appears to be a German Shepherd and yet it has some heritage of wolf-dog, how would you know that? Is there a genetic test? Is there a way to determine that accurately? [LB25]

SENATOR LANGEMEIER: In my discussion with the humane society, is they said they could identify them. And that's what Dr. Katz had testified to in the committee. [LB25]

SENATOR HOWARD: How do they do that? [LB25]

SENATOR LANGEMEIER: That I don't know. It's why I don't work for them. Now if I could borrow a moment of your time. I'm going to offer an amendment here to bracket this bill until Friday. Senator Cornett and I have talked a little bit about a potential amendment, but it's going to take a little time to draft it. So I'd ask that when I get that up that we move on to that. Thank you. [LB25]

SENATOR HOWARD: I appreciate that, Senator Langemeier, and I will return the balance of my time to the Chair. Thank you. [LB25]

SPEAKER FLOOD: Thank you, Senator Howard. Mr. Clerk. [LB25]

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CLERK: Mr. President, I have a unanimous consent request from Senator Langemeier. He would ask unanimous consent to bracket the bill until Thursday, February 8. [LB25]

SPEAKER FLOOD: Are there any objections? Seeing none, so ordered. LB25 is bracketed until Friday, February 8, 2007. Next bill, Mr. Clerk. [LB25]

CLERK: (Read LB28 on Final Reading.) [LB28]

SPEAKER FLOOD: Thank you, Mr. Clerk. All members, please be in your seats. This is Final Reading. All provisions of law relative to procedure having been complied with, the question is, shall LB28 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who intend to? Mr. Clerk, please record. [LB28]

CLERK: (Record vote read, Legislative Journal page 464.) 47 ayes, 0 nays, 0 present and not voting, 2 excused and not voting, Mr. President. [LB28]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB28 passes. We will now proceed to LB44. [LB28 LB44]

CLERK: (Read LB44 on Final Reading.) [LB44]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB44 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who intend to? Mr. Clerk, please record. [LB44]

CLERK: (Record vote read, Legislative Journal page 465.) 47 ayes, 0 nays, 0 present and not voting, 2 excused and not voting, Mr. President. [LB44]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB44 passes. We will now proceed to LB94. [LB44 LB94]

CLERK: (Read LB94 on Final Reading.) [LB94]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB94 pass? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB94]

CLERK: (Record vote read, Legislative Journal pages 465-466.) 47 ayes, 0 nays, 0 present and not voting, 2 excused and not voting, Mr. President. [LB94]

SPEAKER FLOOD: LB94 passes. We will now proceed to LB115. [LB94 LB115]

CLERK: (Read LB115 on Final Reading.) [LB115]

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SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB115 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted who intend to do so? Please record, Mr. Clerk. [LB115]

CLERK: (Record vote read, Legislative Journal page 466.) 47 ayes, 0 nays, 0 present and not voting, 2 excused and not voting, Mr. President. [LB115]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB115 passes. We will now proceed to LB167E. [LB115 LB167]

CLERK: Mr. President, motion with respect to LB167 to move to approve the dispensing of the Final Reading of LB167. [LB167]

SPEAKER FLOOD: The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB167]

CLERK: 42 ayes, 3 nays, Mr. President, to dispense with the at-large reading. [LB167]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB167]

CLERK: Engrossed LB167, introduced by the Revenue Committee and signed by its members. (Read title of LB167.) [LB167]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB167 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Have all those voted who intend to do so? Record please, Mr. Clerk. [LB167]

CLERK: (Record vote read, Legislative Journal page 467.) 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President. [LB167]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB167E passes. We now move to Select File. [LB167]

CLERK: Mr. President, with respect to Select File, LB186. Senator McGill, I have Enrollment and Review amendments pending, Senator. (ER8004, Legislative Journal page 393.) [LB186]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB186]

SPEAKER FLOOD: The question is the adoption of the E&R amendments to LB186. All

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those in favor say aye. All those opposed say nay. The amendments are adopted. [LB186]

CLERK: I have nothing further on that bill, Senator. [LB186]

SENATOR MCGILL: Mr. President, I move LB186 to E&R for engrossing. [LB186]

SPEAKER FLOOD: You have heard the motion. All those in favor say aye. All those opposed say nay. LB186 is advanced. [LB186]

CLERK: Mr. President, next bill, LB150. Senator McGill, no E&R. Senator Adams would move to amend with AM95. (Legislative Journal page 468.) [LB150]

SPEAKER FLOOD: Senator Adams, you are recognized to open on AM95. [LB150]

SENATOR ADAMS: Thank you, Mr. Speaker. LB150 is the bill that was introduced that is intended to raise the certification fee for both public school and nonpublic school teachers by \$10 to offset the deficits in the cash fund. The amendment that I've added is to take the emergency clause out of the bill. It's not necessary to expedite this. [LB150]

SPEAKER FLOOD: Thank you, Senator Adams. You've heard the opening on AM95. Senator Raikes, you're recognized. [LB150]

SENATOR RAIKES: Thank you, Mr. Speaker, members of the Legislature. I support Senator Adams in this effort. There is not a financial crisis that needs immediate attention here. It is a change that needs to be made. But without the emergency clause, it allows more time for the change to be brought into effect, which I think will make everything work better. So I urge your support of this amendment. Thank you. [LB150]

SPEAKER FLOOD: Thank you, Senator Raikes. There are no other lights on. Senator Adams waives closing. The question before the body is, should AM95 be adopted? Please record your vote. Mr. Clerk, please record. [LB150]

CLERK: 41 ayes, 0 nays, Mr. President, on the adoption of Senator Adams' amendment. [LB150]

SPEAKER FLOOD: AM95 has been adopted. [LB150]

CLERK: Senator McGill, I have nothing further pending on the bill. [LB150]

SENATOR MCGILL: Mr. President, I move LB150 to E&R for engrossing. [LB150]

SPEAKER FLOOD: You've heard the motion. All those in favor say aye. All those

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opposed say nay. The ayes have it. LB150 is advanced. Next bill, Mr. Clerk. [LB150]

CLERK: Mr. President, Senator McGill, LB64. I have no amendments to LB64. [LB64]

SENATOR MCGILL: I move LB64 to E&R for engrossing. [LB64]

SPEAKER FLOOD: You've heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. LB64 is advanced to E&R for engrossing. Next bill, Mr. Clerk. [LB64]

CLERK: Mr. President, LB63. Senator McGill, I have no amendments to the bill. [LB63]

SENATOR MCGILL: Mr. President, I move LB63 to E&R for engrossing. [LB63]

SPEAKER FLOOD: You've heard the motion. All those in favor say aye. All those opposed say nay. LB63 is advanced to E&R for engrossing. (Visitors introduced.) While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB11, LB28, LB44, LB94, LB115, and LB167. Next bill, Mr. Clerk. [LB63 LB11 LB28 LB44 LB94 LB115 LB167]

CLERK: LB74, Mr. President. Senator McGill, I have Enrollment and Review amendments. (ER8008, Legislative Journal page 393.) [LB74]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB74]

SPEAKER FLOOD: The question is the adoption of the E&R amendments to LB74. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB74]

CLERK: I have nothing further on the bill, Senator. [LB74]

SENATOR MCGILL: Mr. President, I move LB74 to E&R for engrossing. [LB74]

SPEAKER FLOOD: You have heard the motion. All those in favor say aye. All those opposed say nay. LB74 is advanced. Next bill. [LB74]

CLERK: Mr. President, LB111. I have Enrollment and Review amendments first of all, Senator. (ER8011, Legislative Journal page 407.) [LB111]

SENATOR MCGILL: I move the E&R amendments. [LB111]

SPEAKER FLOOD: The question is the adoption of the E&R amendments to LB111. All those in favor say aye. All those opposed say nay. The amendments are adopted.

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[LB111]

CLERK: Senator Erdman would move to amend with AM186, Mr. President. (Legislative Journal page 454.) [LB111]

SPEAKER FLOOD: Senator Erdman, you're recognized to open on AM186. [LB111]

SENATOR ERDMAN: Mr. Speaker, members of the Legislature, AM186 has been brought to our office as a cleanup amendment that went beyond some of the technical issues that were in the E&R amendments and let me briefly outline what they are. They're designed generally to clean up the text as we provide the transition from the two acts that we had that we discussed on General File into the one act and making sure that those acts are consistent. Amendments to Section 2-3906 under Section 7 of the bill provide for the use of existing permit fee schedule until July 31, 2008. A new permit fee schedule effective after that date is placed later in the statute. The bill currently fails to strike some text that is inconsistent with the termination of that existing fee schedule. AM186 strikes this text. Second, it inserts the new permit fee schedule in Section 7 does not carry forth under text in existing fee provisions and identifying the payment of a fee as a condition precedent for the issuance of a permit and clarification that fees are paid annually. So in clarifying how that needs to work, AM186 inserts that necessary language. LB111 also sets out permit fee for the milk transportation company in a separate subsection due to the fact that it will no longer be a set amount but based on the number of milk trucks. AM186 inserts parallel text for identifying the starting date for the new milk transportation company fee calculation and clarification that this fee will be an annual requirement. Finally, AM186 corrects an internal reference to a subsection that would be stricken. The stricken reference pertains to exclusion of milk from animals that have been treated with drugs. AM186 inserts an excerpt of the text of the stricken referenced subsection to conform with the pasteurized milk ordinance and the intent of the section as amendment by LB111. Again, these are technical amendments that generally could have been done under an E&R, but since they were actually a result of the merging of the two policies and not simply cleanup, Enrollment and Review felt that it was more appropriate to do it as a floor amendment. Again, they're just simply designed to make the law effective and to work under the new scheme that is merging the manufactured milk law and the pasteurized milk law into one milk act. And that is the intent of the floor amendment. I would encourage your support of AM186. Thank you, Mr. Speaker. [LB111]

SPEAKER FLOOD: Thank you, Senator Erdman. You've heard the opening on AM186. There are no lights on. Senator Erdman waives closing. The question before the body is, should AM186 be adopted? Record your vote. Mr. Clerk, please record. [LB111]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Erdman's amendment. [LB111]

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SPEAKER FLOOD: AM186 is adopted. [LB111]

CLERK: Senator McGill, I have nothing further on the bill. [LB111]

SENATOR MCGILL: Mr. President, I move LB111 to E&R for engrossing. [LB111]

SPEAKER FLOOD: You have heard the motion. All those in favor say aye. All those opposed say nay. LB111 is advanced. Next bill, Mr. Clerk. [LB111]

CLERK: LB110. Senator McGill, I have Enrollment and Review amendments. (ER8005, Legislative Journal page 408.) [LB110]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB110]

SPEAKER FLOOD: The question is the adoption of the E&R amendments to LB110. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB110]

CLERK: I have nothing further on that bill, Senator. [LB110]

SENATOR MCGILL: Mr. President, I move LB110 to E&R for engrossing. [LB110]

SPEAKER FLOOD: You have heard the motion. All those in favor say aye. All those opposed say nay. LB110 is advanced. Next bill, Mr. Clerk. [LB110]

CLERK: Mr. President, LB148. Senator McGill, I do have Enrollment and Review amendments. (ER8007, Legislative Journal page 408.) [LB148]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB148]

SPEAKER FLOOD: The question is the adoption of the E&R amendments to LB148. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB148]

CLERK: I have nothing further on that bill, Senator. [LB148]

SENATOR MCGILL: Mr. President, I move LB148 to E&R for engrossing. [LB148]

SPEAKER FLOOD: You've heard the motion. All those in favor say aye. All those opposed say nay. LB148 is advanced. Next bill, Mr. Clerk. [LB148]

CLERK: LB206, Senator. I do have Enrollment and Review amendments. (ER8006,

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Legislative Journal page 410.) [LB206]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB206]

SPEAKER FLOOD: The question is the adoption of the E&R amendments to LB206. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB206]

CLERK: I have nothing further on the bill, Senator. [LB206]

SENATOR MCGILL: Mr. President, I move LB206 to E&R for engrossing. [LB206]

SPEAKER FLOOD: You have heard the motion. All those in favor say aye. All those opposed say nay. LB206 is advanced. Next bill, Mr. Clerk. [LB206]

CLERK: LB207, no Enrollment and Review. Senator Friend would move to amend with AM111. (Legislative Journal page 400.) [LB207]

SPEAKER FLOOD: Senator Friend, you are recognized to open on AM111. [LB207]

SENATOR FRIEND: Thank you, Mr. Speaker and members of the Legislature. If you recall, on General File we discussed LB207 and the subject matter relating to the Metropolitan Utilities District and what that Metropolitan Utilities District could actually label its...Senator Fulton liked to refer to him or her, their leader. One of the things that was discussed or some subject matter that came up, Senator Chambers raised an excellent point, others did as well or concurred, that all references to the terminology "general manager" in this section of statute should be eliminated. So what we do with the amendment, on page 2, line 5, we strike beginning with the term "the" through the term "other," show the old matter as stricken, and insert an "an." So it reads as follows. Section 1, 14-2109, "The board of directors of a metropolitan utilities district shall at its first regular meeting appoint an individual with an official title designated by the board." So that officially takes out all of the references to the terminology "general manager." I'd be happy to answer any questions in regard to AM111. Short of that, I would ask for its adoption and the acceptance, if you will, of LB207 onto Final Reading. Thank you, Mr. Speaker. [LB207]

SPEAKER FLOOD: Thank you, Senator Friend. The senior senator from District 11 is recognized. [LB207]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I agree with Senator Friend's amendment. I am partial to AM111 for a number of reasons. First of all, my district comprises two-thirds of it. But when I was in the Army, which is considered the lowest branch among the various services, the lowest MOS, which was mine, 111.

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The lowest position you can hold in the Army is that of a rifleman. My MOS was 111. Senator Friend brought back not-so-pleasant memories but I thought I would acknowledge agreement with his amendment nevertheless. [LB207]

SPEAKER FLOOD: Thank you, Senator Chambers. (Visitors introduced.) There are no other lights on. Senator Friend waives closing. The question before the body is, should AM111 be adopted? Record your vote. Mr. Clerk, please record. [LB207]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Friend's amendment. [LB207]

SPEAKER FLOOD: AM111 is adopted. [LB207]

CLERK: Senator McGill, I have nothing further pending to the bill. [LB207]

SENATOR MCGILL: Mr. President, I move LB207 to E&R for engrossing. [LB207]

SPEAKER FLOOD: You have heard the motion. All those in favor say aye. All those opposed say nay. LB207 is advanced. Next bill, Mr. Clerk. [LB207]

CLERK: LB35. Senator, I have no amendments. Senator Janssen would move to amend. (AM104, Legislative Journal page 400.) [LB35]

SPEAKER FLOOD: Senator Janssen, you're recognized to open on your amendment. [LB35]

SENATOR JANSSEN: Thank you, Mr. Speaker, members. On January 25, the Legislature advanced LB35 to Select File. As introduced and advanced, the bill would change the state law to clarify the speed limit for all freeways in Nebraska would be 65 miles an hour. This amendment would add the emergency clause to the bill, allowing the Department of Roads to implement this change after the bill is passed and signed into law. I've discussed this with the department and they are supportive of the amendment. Thank you. [LB35]

SPEAKER FLOOD: Thank you, Senator Janssen. There are no other lights on. Senator Janssen waives closing. The question before the body is, should AM104 be adopted? Record your vote. Mr. Clerk, please record. [LB35]

CLERK: 39 ayes, 0 nays, Mr. President, on the adoption of Senator Janssen's amendment. [LB35]

SPEAKER FLOOD: AM104 is adopted. [LB35]

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CLERK: I have nothing further on the bill, Senator McGill. [LB35]

SENATOR MCGILL: Mr. President, I move LB35 to E&R for engrossing. [LB35]

SPEAKER FLOOD: You have heard the motion. All those in favor say aye. All those opposed say nay. LB35 is advanced. Next bill, Mr. Clerk. [LB35]

CLERK: Mr. President, LB43. I have Enrollment and Review amendments first of all, Senator. (ER8010, Legislative Journal page 410.) [LB43]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB43]

SPEAKER FLOOD: The question is the adoption of the E&R amendments to LB43. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB43]

CLERK: Senator Heidemann would move to amend with AM134. (Legislative Journal page 422.) [LB43]

SPEAKER FLOOD: Senator Heidemann, you're recognized to open on AM134. [LB43]

SENATOR HEIDEMANN: AM134 would add to the bill a requirement for applicants to show prove of liability insurance of at least \$1,000,000 to the Department of Roads when applying for a permit to mow or harvest hay from highway right-of-ways. There was concern on General File that someone might cause an accident while out harvesting this hay along the roadways. To alleviate that concern, we decided that if these farmers or whoever would be doing this could show proof of insurance of at least a million dollars, it would kind of take away the liability of the state. So I urge your adoption of AM134. [LB43]

SPEAKER FLOOD: Thank you, Senator Heidemann. You've heard the opening on AM134. There are no other lights on at this time. Senator Heidemann waives closing. The question before the body is, should AM134 be adopted? Record your vote. Please record, Mr. Clerk. [LB43]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of Senator Heidemann's amendment. [LB43]

SPEAKER FLOOD: AM134 is adopted. [LB43]

CLERK: I have nothing further on the bill, Senator McGill. [LB43]

SENATOR MCGILL: Mr. President, I move LB43 to E&R for engrossing. [LB43]

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SPEAKER FLOOD: You have heard the motion. All those in favor say aye. All those opposed say nay. LB43 is advanced. Next bill, Mr. Clerk. [LB43]

CLERK: Mr. President, LB315. Senator McGill, I have no amendments to the bill. [LB315]

SENATOR MCGILL: Mr. President, I move LB315 to E&R for engrossing. [LB315]

SPEAKER FLOOD: The motion before the body is, should LB315 advance to E&R for engrossing? All those in favor say aye. All those opposed say nay. LB315 is advanced. Next bill, Mr. Clerk. [LB315]

CLERK: Mr. President, LB185. No Enrollment and Review. Senator Johnson would move to amend with AM220. (Legislative Journal page 469.) [LB185]

SPEAKER FLOOD: Senator Johnson, you are recognized to open on AM220. [LB185]

SENATOR JOHNSON: Mr. Speaker, members of the body, LB185 was a cleanup bill for the Health and Human Services System. It was strictly a technical bill. We now have before us in this amendment another technical bill that we wish to add to this and take care of these problems at the same time. I might add that Senator Erdman will have another amendment to follow me that is another technical bill. LB185 was a cleanup bill, is a traditional one that deals with the technical matters that evolve over this. On January 18, it was advanced out of committee unanimously. There were no opponents to the bill, and advanced to Select File on the 30th of January. What AM220 does is it adds the provisions of LB385, which is another cleanup bill. What this one is about is an advanced practice registered nurses. This bill was advanced unanimously by committee on February 2. There were no opponents. There is no fiscal impact. And it is on your gadget if you want to look it up there. LB385 is a further revision of LB256, passed back in 2005. This bill provides that all specialty areas of advanced practice nurses with a single license, that's all it does. The license would be specific for licensed nurse practitioners, certified registered nurse anesthetist, certified nurse midwives, clinical nurse specialists upon proof of certification in their specialty area. LB385 amends sections to change the term "certification" of the licensure and revise the language for renewal of these APR and licenses. Several sections are also outright repealed. LB385 also changes the terms of the Board of Advanced Practice Registered Nurses from four to five years. So it harmonizes with the bill introduced this session to recodify the statutes relating to the licensure of healthcare professions and occupations. Now this also puts in an operative date of July 1, 2007, with the emergency clause. In summary, what this does is it just adds this technical requirement for how advanced practice nurses enter the system using a single license. I would ask the advancement of this amendment. [LB185 LB385]

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SPEAKER FLOOD: You've heard the opening on AM220. There are no other lights on. Senator Johnson, you're recognized to close. [LB185]

SENATOR JOHNSON: I'll waive closing. [LB185]

SPEAKER FLOOD: Senator Johnson waives closing. The question before the body is, should AM220 be adopted? Record your vote. Mr. Clerk, please record. [LB185]

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Johnson's amendment. [LB185]

SPEAKER FLOOD: AM220 is adopted. [LB185]

CLERK: Mr. President, before we proceed to the next amendment, Business and Labor would like to have an executive session underneath the north balcony now; Business and Labor, north balcony, now. []

Mr. President, the next amendment to LB185. Senator Erdman, AM221. (Legislative Journal pages 469-471.) [LB185]

SPEAKER FLOOD: (Visitors introduced.) The Chair recognizes Senator Erdman to open on AM221. [LB185]

SENATOR ERDMAN: Mr. Speaker, members of the Legislature, AM221 is the amendment version of LB103, which was heard before the Health and Human Services Committee and advanced unanimously. LB103 allows Health and Human Services Regulation and Licensure to release patient data to healthcare providers--this is a technical change that is necessary--in the course of transferring patients from the location, say, of an ambulance or emergency responder all the way through their final treatment, which may be at a different hospital facility than maybe the one they were delivered to. Existing data release laws for EMS or emergency medical services data and trauma data prevent the department from facilitating the transfer of patient information to treatment facilities. This bill changes Section 71-5185 and 71-8249 to permit the department to facilitate this transfer. The reason for these changes are that it will provide a more accurate and complete patient information to those healthcare providers upon receipt of that patient. It reduces the redundant data entry and collection. It reduces errors caused by duplicate data entry. It will provide for effective and efficient use of web-based data collection systems. And it helps fulfill the requirements of the Nebraska Statewide Trauma Systems Act. AM221 is actually the amended version of LB103. The committee amendment changes the provisions relating to the release of patient data received or recorded by an emergency medical service or an out-of-hospital emergency care provider. The amendment provides that such data

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may be released for purposes of treatment, payment, and other healthcare operations as defined under HIPAA, which is a federal standard on health insurance portability act, or as otherwise permitted under law. The amendment requires that such data be released to the department for public health purposes pursuant to rules and regulations of the department. Current law permits the release but doesn't require it. The amendment also updates references to federal HIPAA legislation as it existed on January 1, 2007. Again, LB103 was heard before the Health and Human Services Committee, advanced unanimously 7-0 with the committee amendment, and that is before you in AM221. Thank you, Mr. Speaker. [LB185 LB103]

SPEAKER FLOOD: Thank you, Senator Erdman. You've heard the opening on AM221. Senator Johnson, you're recognized. [LB185]

SENATOR JOHNSON: Mr. Speaker, members of the Legislature, just to reconfirm, this is the amendment that Senator Erdman and I had agreed to and obviously had passed our committee unanimously. I'd ask for its support. [LB185]

SPEAKER FLOOD: There are no other lights on. Senator Erdman waives closing. The question before the body is, should AM221 be adopted? Record your vote. Please record, Mr. Clerk. [LB185]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Erdman's amendment. [LB185]

SPEAKER FLOOD: AM221 is adopted. [LB185]

CLERK: Senator McGill, I have nothing further pending to the bill. [LB185]

SENATOR MCGILL: Mr. President, I move LB185 to E&R for engrossing. [LB185]

SPEAKER FLOOD: You've heard the motion. All those in favor say aye. All those opposed say nay. LB185 is advanced. Next bill, Mr. Clerk. [LB185]

CLERK: LB283. No Enrollment and Review amendments. Senator Stuthman would move to amend with AM170. (Legislative Journal page 438.) [LB283]

SPEAKER FLOOD: Senator Stuthman, you're recognized to open on AM170. [LB283]

SENATOR STUTHMAN: Thank you, Mr. Speaker and members of the body. I am speaking to the A bill portion of it. Is this correct, Mr. Speaker? LB283A? [LB283 LB283A]

CLERK: No, sir, I'm on LB283 and this is an amendment that says on page 4, line 1

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after the period, insert "After the effective date of this act, any registration that is renewed shall expire two years after the date the registration would have expired."  
[LB283]

SENATOR STUTHMAN: Thank you. Yes, this is an amendment from the HHS and it's a technical amendment that changes the effective date and any registration to this renewal shall expire in two years after the date of registration would have expired. And this is a technical amendment as far as changing it from the triennial to the biennial. And this is just a technical amendment. [LB283]

SPEAKER FLOOD: Thank you, Senator Stuthman. You've heard the opening on AM170. There are no lights on. Senator Stuthman waives closing. The question before the body is, should AM170 be adopted? Record your vote. Mr. Clerk, please record.  
[LB283]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Stuthman's amendment. [LB283]

SPEAKER FLOOD: AM170 is adopted. [LB283]

CLERK: I have no further amendments, Senator McGill. [LB283]

SENATOR MCGILL: Mr. President, I move LB283 to E&R for engrossing. [LB283]

SPEAKER FLOOD: Thank you, Senator McGill. You've heard the motion. All those in favor say aye. All those opposed say nay. LB283 is advanced. Next bill, Mr. Clerk.  
[LB283]

CLERK: LB283A. Senator, I have no Enrollment and Review amendments. Senator Stuthman would move to amend with AM226. (Legislative Journal page 472.) [LB283A]

SPEAKER FLOOD: Senator Stuthman, you're recognized to open on AM226. [LB283A]

SENATOR STUTHMAN: Thank you, Mr. Speaker, members of the body. The amendment is just a little technical amendment and it changes, on page 2, line 5, it strikes "178" and it should have been "177." This is a number change that was mistakenly put in there as far as the program is concerned. And also, it strikes lines 8 through 10, which is realistically immaterial to this portion of the A bill for this LB283. That portion is generally added to the majority of the A bills but it has no concern to this. So I would ask for your support in this amendment. Thank you. [LB283A LB283]

SPEAKER FLOOD: Thank you, Senator Stuthman. You've heard the opening on AM226. Senator Chambers, you're recognized. [LB283A]

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SENATOR CHAMBERS: Mr. President, members of the Legislature, I would like to ask Senator Stuthman a question or two if he would respond. [LB283A]

SPEAKER FLOOD: Senator Stuthman, will you yield to a question from Senator Chambers? [LB283A]

SENATOR STUTHMAN: Yes, willingly. [LB283A]

SENATOR CHAMBERS: Senator Stuthman, how much money is involved here? [LB283A]

SENATOR STUTHMAN: The amount of money is \$138,000. It's a cash transfer is what it is from...I guess \$138,000. [LB283A]

SENATOR CHAMBERS: Senator Stuthman, do you think this would qualify you as a big spender? [LB283A]

SENATOR STUTHMAN: In my work of life, yes, a very big spender. [LB283A]

SENATOR CHAMBERS: As a member of the Legislature, is the amount you're requesting or suggesting considered a large amount of money? [LB283A]

SENATOR STUTHMAN: No. [LB283A]

SENATOR CHAMBERS: And what will be the benefit of this money? [LB283A]

SENATOR STUTHMAN: The benefit of this money, it's a cash transfer, these \$138,000. It's a fee charged to the people when...all of those that pay this fee, it's an \$8 annual fee that was...it was \$8 for three years and now it's going to be \$8 for two years. And it's just a transfer. There is realistically nothing coming from the state of Nebraska. It's a fee that's charged to the people that are getting credentialed and the individuals have to pay the fee. And this is where it comes from. [LB283A]

SENATOR CHAMBERS: Senator Stuthman, when a person is credentialed, is that person given some kind of card which can fit in a wallet? [LB283A]

SENATOR STUTHMAN: Yes, this is very true. [LB283A]

SENATOR CHAMBERS: Does it have distinctive markings which would make it clear that it is issued by the state of Nebraska? [LB283A]

SENATOR STUTHMAN: Yes, the way I understand, it would be. I am not aware, I do

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not have one of these cards because I'm not one of those that would be a medication aide. It would be individuals that have the education to be a certified medication aide and they would be issued the card. And yes, it would come from the Department of Health and Human Services. [LB283A]

SENATOR CHAMBERS: Would the fact that person is licensed to carry a concealed weapon prevent him or her from being one of these aides, as far as you know, if they comply with all parts of the law relative to carrying concealed weapons? [LB283A]

SENATOR STUTHMAN: Senator Chambers, I realistically think that you cannot carry a concealed weapon in a hospital or in a doctor's office where these medication aides would be performing their scope of service. [LB283A]

SENATOR CHAMBERS: But if they're not in one of those prohibited facilities, a person could be one of these aides and be licensed to carry a concealed weapon and, in fact, carry a concealed weapon; true? [LB283A]

SENATOR STUTHMAN: Yes, that would be true. [LB283A]

SENATOR CHAMBERS: If a person were to flash this card quickly, would a person being shown that card--and then the person flashing the card would pat an obvious bulge in his or her pocket, or if it was a member of the distaff side, she would reach in her purse--could that person being accosted in this way think that he or she was dealing with a member of the law enforcement establishment? [LB283A]

SENATOR STUTHMAN: Yes, if it would be displayed in a very hasty manner and just show that a permit, they probably could think that they do have the permit. But I think that would be the responsibility of the person to grab the hand of the individual that is showing the permit and hold it still and quiet until they could read what the card had said. [LB283A]

SENATOR CHAMBERS: Well, suppose at the time the permit...the card was shown in the left hand, the gat or the heater or the Roscoe was put on you in the right hand. Would you advise the person to grab that card in that set of circumstances? [LB283A]

SENATOR STUTHMAN: I think in that set of circumstances, I would grab the other hand. [LB283A]

SENATOR CHAMBERS: You'd grab the hand with the gat in it? (Laughter) [LB283A]

SENATOR STUTHMAN: Could you repeat that question? [LB283A]

SPEAKER FLOOD: One minute. [LB283A]

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SENATOR CHAMBERS: You would grab the hand that had the pistol in it? [LB283A]

SENATOR STUTHMAN: Yes, that's what I would do, but I think normally a person probably would just melt. [LB283A]

SENATOR CHAMBERS: How rapidly would your hand move? Are you known as Flash? (Laughter) [LB283A]

SENATOR STUTHMAN: Realistically, no. [LB283A]

SENATOR CHAMBERS: You think your hand could move quicker than somebody could pull a trigger? [LB283A]

SENATOR STUTHMAN: No, I don't think so. [LB283A]

SENATOR CHAMBERS: So then you still, nevertheless, would grab that hand? [LB283A]

SENATOR STUTHMAN: Yes, I would still try to do it. [LB283A]

SENATOR CHAMBERS: I got to turn my light on, but thank you for now, Mr. President. [LB283A]

SPEAKER FLOOD: Thank you, Senator Chambers. You may continue. [LB283A]

SENATOR CHAMBERS: Thank you, Mr. President. Senator Stuthman, whenever I can, I like to serve as a mentor, and one of the things I believe a mentor should do is advise the mentee to avoid doing anything that could bring harm to the mentee. Now if the distance between you and me which exists now, which may be about six feet, were the distance between you and the person I described, and the person I described has the gat over here, would you lunge in order to grab the pistol? [LB283A]

SENATOR STUTHMAN: No, I would not lunge. [LB283A]

SENATOR CHAMBERS: Would you more or less melt? [LB283A]

SENATOR STUTHMAN: Probably faint. (Laughter) [LB283A]

SENATOR CHAMBERS: Thank you. My mentoring was successful this morning. Thank you, Senator Stuthman. [LB283A]

SENATOR STUTHMAN: Thank you, Senator Chambers. [LB283A]

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SPEAKER FLOOD: Thank you, Senator Chambers. Senator Stuthman, there are no other lights on. You are recognized to close. Senator Stuthman waives closing. The question before the body is, should AM226 be adopted? Record your vote. Please record, Mr. Clerk. [LB283A]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of Senator Stuthman's amendment. [LB283A]

SPEAKER FLOOD: AM226 is adopted. [LB283A]

CLERK: I have nothing further on the bill, Senator McGill. [LB283A]

SENATOR MCGILL: Mr. President, I move LB283A to E&R for engrossing. [LB283A]

SPEAKER FLOOD: You've heard the motion from Senator McGill. All those in favor say aye. All those opposed say nay. LB283A is advanced. We now move to General File. Mr. Clerk. [LB283A]

CLERK: Mr. President, LB108. It was a bill introduced by the Agriculture Committee and signed by its members. (Read title.) The bill was introduced on January 8 of this year, referred to the Agriculture Committee for public hearing. The bill was advanced to General File. I do have Agriculture Committee amendments pending, Mr. President. (AM172, Legislative Journal page 430.) [LB108]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Erdman, you're recognized to open on LB108 [LB108]

SENATOR ERDMAN: Mr. Speaker, members of the Legislature, LB108 was heard before the Agriculture Committee on January 30, 2007. Seven of the members that were present voted for its advancement. There were five proponents at the hearing, no opponents, and one individual testified in a neutral capacity at the request of the committee. LB108 proposes a number of significant changes to Nebraska's law of fence divisions. The bill arises from an interim study resolution, LR207, that was introduced jointly last session by then Chairman Bob Kremer and Senator Vickie McDonald. LB108 is actually a reintroduction of LB934 from last session. LB934 was a product of that same interim study and was advanced to General File by the Ag Committee, and was designated a committee priority bill but failed due to lack of time during the legislative session. The bill is motivated by the need to address elements of the existing law that have been proven burdensome to counties, and to resolve other vague and contradictory features largely brought about by the revisions made by LB882 in 1994. There is an explanation sheet that's being distributed to you by the pages that outlines the existing law under LB882 in 1994, the effects of those provisions, and then why

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LB108 is necessary to correct those issues. The need to restate our fence law is also motivated in part by increasing judicial scrutiny of fence laws first enacted during early settlement to apply in an open-range setting. It is the purpose of LB108 to update the law and more appropriately reflect the evolving rural land use issues and ownership patterns and those public interests in division fences that arise in modern times. Let me briefly go through the provisions of the bill, and there is also a technical amendment that has been approved by the committee that makes one technical change in the way that the bill is written. The provisions of the bill are as follows. The most significant changes are found in Sections 3 and 6, and in the outright repeal of several statutory sections under Section 1 of the bill. Much of the remainder of the bill follows the following provisions. It redefines when adjoining landowners have shared division fence liability, as found in Section 3. Generally, if you live in a ag zoning area, either or both parties are ag land. This law would apply in that case, and that case specifically. In the event that there are other areas, it only applies when the adjoining properties are specifically ag land. Further, the bill restates the allocation of shared contribution. It further provides an opportunity to pursue a remedy. Currently, there are a number of options and what we're trying to do is create a process that allows both landowners to be able to have a mediation process, as well as the other provisions that are outlined in law. It does repeal the fence viewer system. We have heard over the course of the last number of years from county officials, and actually some members of the Legislature have also served as a fence viewer. That process has been repealed. It is cumbersome for the counties to try to enforce, it is not a workable solution many times, and it is repealed and replaced with a different process to try to resolve the disputes. Some of the other provisions that are addressed in the bill relate to the right of entry. It further harmonizes the changes that are in the act, the Farm Mediation Act, and also adds the E clause specifically to minimize the number of disputes that might be started between the passage of this bill and its effective date. Some of the issues that were brought up, and we briefly just talked about them, was the burden of the county clerk...the burden on county clerks that the current law imposes. The current method of appointing fence viewers has had the effect of involving county clerks in private and often contentious civil disputes, increased duties and costs, without any corresponding compensation. The use of a special assessment to recover those private costs is unusual, and it's suspect use of taxing authority, and is also cumbersome, that may be less useful to parties than means available to collect under court judgments. We have consulted with a number of individuals in the course of the interim study on LR207, including individuals that had tried cases regarding the fence law and fence division issues, and their opinion and insight have been a value in our process in arriving at LB108. Further, regarding the current imposition of the law and why LB108 is needed, it allows for the direct recourse to the courts. The direct government role is reduced to providing a forum through the courts for resolving the private matters. Informality and relatively small expense of current procedures may actually encourage invoking fence dispute resolution procedures, rather than encourage private resolution short of governmental intervention. Finally, the bill addresses what we would consider to be some

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constitutional concerns. LB108 addresses them in the following way. It provides that a shared responsibility arises only when both adjoining parties are used for agricultural purposes, except for both parties lie in agricultural zoning. Second, the bill retains the language that compels only a just proportion contribution. Similar language was interpreted in an Illinois case, suggesting that allocation of responsibility can be adjusted to something other than 50/50, so that the allocation is appropriate to the circumstances. A flexible, just proportion allocation is less likely to impose an unjustified burden on landowners who do not wish to contribute, and reduce the likelihood that the law could be found invalid as applied. Also, the opportunity is afforded to resolve a dispute through mediation and would also indirectly tend to find resolution short of a compelled equal contribution. There are other provisions that are outlined in your handout, that again has been distributed to you, and there is also a technical amendment that was advanced from the committee for your consideration, as well. Thank you, Mr. Speaker. [LB108]

SPEAKER FLOOD: Thank you, Senator Erdman. You've heard the opening on LB108. Senator Erdman, if you want...there are committee amendments to this bill. Would you like to open on those as well? [LB108]

SENATOR ERDMAN: I would, Mr. Speaker, thank you. The committee amendment that's before you changes one term, and that term is "petition," and replaces it with the term "complaint." The committee amendment makes that determination to designate that the document filed to commence a fence dispute at four places under Section 6 of the bill. This conforms the bill to Section 25-501, which provides that a civil action is commenced by the filing of a complaint. Prior to legislation enacted in 2002, Section 25-501 designated the filing as a petition, and that term was inadvertently utilized in the drafting of LB108. With that, Mr. Speaker, I would like to yield some time to Senator McDonald, who has worked tirelessly on trying to update our fence laws. And she was a key part of the process that has brought the bill before us, and I would like her the opportunity to express some of her wishes to the body. [LB108]

SENATOR FLOOD: Senator McDonald, will you yield to Senator Erdman? [LB108]

SENATOR McDONALD: I will, Mr. President and members of the body. This legislation was a result of one of my county clerks coming to me and telling that there was a problem. As you know, we bring citizen legislation here every day. Sometimes they are good ideas, and sometimes they're not so good ideas. But as representatives of the people, we bring that information and that legislation here to the body. This legislation was a good idea. It was pitting our county clerks against neighbor and neighbor, and it was a process that they didn't want to be involved in and no one in the rural communities want to be fence viewers, which would put their land ownership against land ownership next door. So it was legislation that was needed to be addressed, and as you will find out, things don't get changed in a year. Sometimes it takes two years,

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sometimes it takes three years. When this was first brought up, many of my urban senators didn't know what fence viewing was, and so part of it was an education process to let them know that in rural Nebraska, we have fence viewers to watch out to see what's going on with fences that are not maintained. So it was first an education opportunity. And then we needed to realize that in order to solve this problem, maybe an interim study was needed, and that brings people together that have this issue, and find out the best way to resolve it. And this bill, LB108, is a result of that interim study, fixing the problem that affects many of our rural communities. And so I applaud Senator Erdman for bringing this forward and I hope you support it. Thank you. [LB108]

SPEAKER FLOOD: Thank you, Senators McDonald and Erdman. Senator Chambers, followed by Senators Louden and Wightman. Senator Chambers, you're recognized. [LB108]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I've been on the Ag Committee for a number of years and this matter has come before us, and it seems that at last there is going to be a final resolution in a way that will harm nobody, and may bring some peace where otherwise there might not be that. So in honor of the work that Senator Erdman did and Senator McDonald, I want to call a couple of things to everybody's attention. There's a man named George Herbert who was a British poet, and he was known as one of the metaphysical poets. He lived several hundred years ago, and he might be alive today, as far as I know, but the dates that they give for him having lived was 1593 to 1633. But you can't always go by what you read, because there's a fellow who said the reports of his death had been greatly exaggerated. Well, they had newspapers when he said that. They may not have had that kind of communication during Mr. Herbert's life. But he said, love your neighbor, yet pull not down your hedge. Remember what that American philosopher said; trust, but verify. When I was growing up, preachers always came to Sunday dinner. They did, at people's houses. And the expression arose, and I'm sure somebody's heard a version of it everywhere--trust the preacher, but lock up the silverware. (Laughter) That's another version of the hedge, don't pull it down. Herbert was known as a metaphysical poet. There was an American poet named Robert Frost, and he was known as a cool dude by the youngsters who had to deal with him in school, and his dates were 1874-1963. And he wrote a poem in 1914 called "Mending Wall." One of the lines that everybody has heard is, Something there is/that doesn't love a wall. I know that there are people who don't love a wall, and they are in various stages of incarceration, and they would prefer that the wall not be there, but that's not what we're talking about this morning. Here's something that Frost put in his poem, two neighbors conversing: My apple trees never get across/and eat the cones under his pines, I tell him./He only says/good fences make good neighbors. So Senator Erdman and Senator McDonald are going to make it possible for those fences to remain good, for the neighbors to remain relatively good or at least peacefully coexist, and a problem that has come up repeatedly since I've been here I think will not need to come again. Thank you, Mr. President, and I do support the

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amendment and I support the bill. [LB108]

SPEAKER FLOOD: Thank you, Senator Chambers. Senator Louden, you're recognized. [LB108]

SENATOR LOUDEN: Thank you, Mr. Speaker and members of the body. I'm glad somebody has finally done something about trying to do something about fence laws, because that one that was put in back in the nineties, whenever it was, probably put everything back several years because it was the poorest crafted legislation, I think, to make work that I'd ever seen, because I was on a fence-viewing board at one time and it was nearly impossible to get anything done. And the county clerk in our county couldn't get anybody to serve on that board, and so finally it just all went away and nothing ever happened. I would like to be as optimistic as Senator Chambers is on it, but I...the one part in the bill that I'm somewhat concerned about would be, you go to the mediation service at the Department of Agriculture, and I think about all you're doing there is going to another level of mediation board or fence-viewing board. At one time this was all taken care of in the district courts, and it was settled locally by, when you went into court, then each person that had a problem with a fence, each...they would choose one person and the court would choose one other person. So there was three people, and they were under the jurisdiction of the court, and that was how a lot of fences got resolved that I knew of and grew up with, that if people couldn't agree to it, they went through the court. I see this is set up here that after you go through the agricultural mediation or whatever, then you end up in county court anyway. So really, I certainly support this thing, because it...a little bit of good is better than nothing at all, probably. But I do think that it could be refined more by just letting it all work back to the county court, and let it be settled like it was years ago. We built fences for years and years, and we didn't have problems with fence viewers and that sort of thing until a few years back when they got the idea you had to have a fence viewer because courts didn't want to handle some of these situations. But we also invented the TERC committee so the courts wouldn't have to handle some of the tax protests. But that hasn't always worked out, either. So I will support the amendment and support the bill, but I would have liked to see it cleaned up a little bit better and went forward. Thank you. [LB108]

SENATOR FLOOD: Thank you, Senator Louden. Senator Wightman. [LB108]

SENATOR WIGHTMAN: Mr. Speaker and members of the body, I would ask if Senator Erdman would yield to a question. [LB108]

SENATOR FLOOD: Senator Erdman, will you yield to a question of Senator Wightman? [LB108]

SENATOR ERDMAN: I would, Mr. Speaker. [LB108]

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SENATOR WIGHTMAN: Senator Erdman, it seems that one of the things you have done here is allow something other than an even split and some discretionary powers on the part of the administrator, is that correct, or the mediator? [LB108]

SENATOR ERDMAN: Senator Wightman, that's a good observation. The 50/50 contribution is maintained if both owners own livestock,... [LB108]

SENATOR WIGHTMAN: Right. [LB108]

SENATOR ERDMAN: ...and there's a deviation for other circumstances. [LB108]

SENATOR WIGHTMAN: So the main discretion would be to perhaps assess more of the cost of the owner of livestock, the one who really needs the fencing in place, rather than the maybe crop producer that has no livestock who is his adjoining neighbor. [LB108]

SENATOR ERDMAN: That would be fair. The basis is allowing that flexibility under the allocation, and I didn't hear all. We were trying to make sure that we were going to get an answer to your question. But flexibility is allowed, and I think that would be an example that would be viewed. There are some constitutional issues as far as allocating the cost to different landowners, and so we need to make sure we're sensitive to that, but where they both own the livestock, it's 50/50. And maybe the example that you bring up is a valid case of why that contribution is not at 50/50 specifically. [LB108]

SENATOR WIGHTMAN: And I think this is probably better that it be assessed in this manner, although it may create friction between landowners that probably existed anyway, but may be a different reason for them at this time; would that be a fair statement? [LB108]

SENATOR ERDMAN: I think that's a fair analysis, Senator. [LB108]

SENATOR WIGHTMAN: I plan to support the bill. Just wanted to clear up what might be considered within that discretionary power of the mediator. I'll yield the rest of my time to the Chair. [LB108]

SENATOR FLOOD: Thank you, Senator Wightman. There are no other lights on. Senator Erdman, you're recognized to close on the committee amendments. [LB108]

SENATOR ERDMAN: Mr. Speaker, members of the Legislature, the committee amendment strikes the term "petition" in the existing language of the bill and replaces it with "complaint," pursuant to other civil procedures. I would encourage the adoption of the committee amendment. [LB108]

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SPEAKER FLOOD: You've heard the closing on the committee amendments to LB108. The question before the body is, should the committee amendments be adopted? Record your vote. Mr. Clerk, please record. [LB108]

CLERK: 38 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB108]

SPEAKER FLOOD: The committee amendments are adopted. [LB108]

CLERK: I have nothing further on the bill, Mr. President. [LB108]

SPEAKER FLOOD: There are no other lights on. Senator Erdman, would you like to close on LB108? [LB108]

SENATOR ERDMAN: Thank you, Mr. Speaker, members. Briefly, the bill before you updates our fence laws. As you review the handouts that were distributed to you that compare the existing law with the effects and what we're trying to accomplish under LB108, if you do have any further questions or concerns that would need to be addressed, please let me know. We'd be happy to work with you between now and Select File to address that. I appreciate the work done by Senator McDonald and the Research Analysts for the Ag Committee on this bill for a number of years. And in keeping with Senator Chambers' optimism, we're hopeful that this can address this issue and we can move on to other issues as well. Thank you, Mr. Speaker. [LB108]

SPEAKER FLOOD: Thank you, Senator Erdman. The question before the body is, should LB108 advance to E&R Initial? Record your vote. Record please, Mr. Clerk. [LB108]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB108. [LB108]

SPEAKER FLOOD: LB108 advances to E&R Initial. Mr. Clerk, any reports, announcements, motions? [LB108]

CLERK: Yes, Mr. President, thank you. Your committee on Enrollment and Review reports LB117, LB97, LB67, LB290, LB422, LB204, LB472, LB347, LB307, and LB305A, all reported to Select File, some having Enrollment and Review amendments attached. Health and Human Services Committee reports LB374 to General File, LB103 to General File with amendments, LB203 General File with amendments, LB385 General File with amendments. Transportation and Telecommunications reports LB286 to General File with amendments, those reports all signed by their respective chairs. [LB117 LB97 LB67 LB290 LB422 LB204 LB472 LB347 LB307 LB305A LB374 LB103 LB203 LB385 LB286]

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New A bills: LB204A, Senator Synowiecki. (Read LB204A by title for the first time.) LB441A by Senator McDonald. (Read LB441A by title for the first time.) Senator Aguilar offers LR27, Mr. President. That will be laid over. [LB204A LB441A LR27]

I have notice of hearing from the Revenue Committee, and notice of cancellation of Revenue Committee hearing. Subsequent to that, a motion to withdraw LB557 by Senator Ashford. That will be laid over. [LB557]

Bills read on Final Reading were presented to the Governor at 11:12 a.m. (In re LB11, LB28, LB44, LB94, LB115, and LB167.) And I have a Reference report of the two gubernatorial appointments acknowledged earlier this morning, Mr. President. (Legislative Journal pages 472-479.) [LB11 LB28 LB44 LB94 LB115 LB167]

Priority motion. Senator White would move to adjourn until Tuesday morning, February 6, at 9 a.m. []

SPEAKER FLOOD: You've heard the motion to adjourn until Tuesday, February 6, 2007, at 9 a.m. All those in favor say aye. All those opposed say nay. The ayes have it. We stand adjourned. []