

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 14, 2007

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SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good morning, ladies and gentlemen, and welcome to the George Norris Legislative Chamber for this, the forty-sixth day of the One Hundredth Legislature, First Session. Our chaplain of the day is Pastor Hughes Morris Jr., from Elkhorn Hills United Methodist Church, Elkhorn, Nebraska, a guest of Senator Kruse. Please rise.

PASTOR MORRIS: (Prayer offered.)

SENATOR LANGEMEIER: Thank you, Pastor Morris. I call to order the forty-sixth day of the One Hundredth Legislature, First Session. Senators, please record your presence. Record, Mr. Clerk.

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

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

CLERK: I have no corrections, Mr. President.

SENATOR LANGEMEIER: Thank you. Are there any messages, reports, or announcements?

CLERK: Your Committee on Banking, Commerce and Insurance, chaired by Senator Pahls, reports LB113 to General File with amendments; LB123, General File with amendments; LB190, General File with amendments. Government, Military, Veterans Affairs, chaired by Senator Aguilar, reports LB269 to General File with amendments. And Health and Human Services Committee, chaired by Senator Johnson, reports LB236 to General File with amendments. That's all that I had, Mr. President. (Legislative Journal pages 851-860.) [LB113 LB123 LB190 LB269 LB236]

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

CLERK: Mr. President, the first bill, Select File, LB374. Senator McGill, I have Enrollment and Review amendments pending. (ER8031, Legislative Journal page 703.)

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[LB374]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB374]

SENATOR MCGILL: Mr. President, I move to advance the E&R amendments. [LB374]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. The motion is adopted. Mr. Clerk. [LB374]

CLERK: Mr. President, I have nothing further pending on the bill. [LB374]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB374]

SENATOR MCGILL: Mr. President, I move LB374 to E&R for engrossing. [LB374]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed same sign. The ayes have it. The bill does advance. Mr. Clerk. [LB374]

CLERK: Senator McGill, LB203. I do have Enrollment and Review amendments. (ER8033, Legislative Journal page 703.) [LB203]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB203]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB203]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. They are adopted. Mr. Clerk. [LB203]

CLERK: I have nothing further on that bill, Senator. [LB203]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB203]

SENATOR MCGILL: Mr. President, I move LB203 to E&R for engrossing. [LB203]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. It does advance. Mr. Clerk. [LB203]

CLERK: LB34, Senator. I do have Enrollment and Review amendments pending. (ER8035, Legislative Journal page 735.) [LB34]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB34]

SENATOR MCGILL: Mr. President, I move LB34 to E&R for engrossing. [LB34]

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CLERK: I have amendments on that bill, Senator. I'm sorry. [LB34]

SENATOR MCGILL: I'm sorry? [LB34]

CLERK: There are amendments. [LB34]

SENATOR MCGILL: Oh. I move the E&R amendments. [LB34]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. Mr. Clerk. [LB34]

CLERK: I have nothing further on the bill, Senator. [LB34]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB34]

SENATOR MCGILL: Mr. President, now I move LB34 to E&R for engrossing. [LB34]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. LB34 does advance. Mr. Clerk. [LB34]

CLERK: Senator McGill, LB349. I have no amendments for the bill. [LB349]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB349]

SENATOR MCGILL: Mr. President, I move LB349 to E&R for engrossing. [LB349]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. LB349 does advance. Mr. Clerk. [LB349]

CLERK: Senator McGill, LB136. I do have E&R amendments. (ER8037, Legislative Journal page 739.) [LB136]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB136]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB136]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB136]

CLERK: I have nothing further on that bill, Senator. [LB136]

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SENATOR LANGEMEIER: Senator McGill, for a motion. [LB136]

SENATOR MCGILL: Mr. President, I move LB136 to E&R for engrossing. [LB136]

SENATOR LANGEMEIER: You have heard the motion to advance LB136. All those in favor say aye. All those opposed say nay. LB136 does advance. Mr. Clerk. [LB136]

CLERK: LB537, Senator. I have Enrollment and Review amendments pending. (ER8038, Legislative Journal page 739.) [LB537]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB537]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB537]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. Mr. Clerk. [LB537]

CLERK: Mr. President, LB12. Senator McGill, first of all, I have Enrollment and Review amendments pending. I'm sorry. Forgive me, I got ahead of myself. Senator, I have nothing on LB537. [LB537]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB537]

SENATOR MCGILL: Mr. President, I move LB537 to E&R for engrossing. [LB537]

SENATOR LANGEMEIER: You have heard the motion to advance LB537. All those in favor say aye. All those opposed say nay. LB537 does advance. Mr. Clerk. [LB537]

CLERK: Mr. President, LB12 on Select File. I do have Enrollment and Review amendments first of all, Senator. (ER8029, Legislative Journal page 673.) [LB12]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB12]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB12]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. Mr. Clerk. [LB12]

CLERK: Mr. President, I now have a motion by Senator Fulton. Senator, I had a note that you wanted to withdraw motion number 28. That's...withdraw? Mr. President, Senator Fulton would move to amend with AM637. (Legislature Journal page 812.) [LB12]

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SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Fulton, you are recognized to open on AM637. [LB12]

SENATOR FULTON: Thank you, Mr. President and members of the Legislature. From the courtesy of Senator Mines, he has provided a legislative indult on LB12 and he has worked with me to...on the pricing, I guess, the money that will be associated with this bill. This bill on General File moved forward with plenty of votes. There were only a couple of us that were against it. Those of us who were against it were against it because of the monetary ramifications of the bill. That money has gone down. If you will check the fiscal note on the bill after the amendments from General File have been implemented, the fiscal note indicates that we're at \$266,000, I think it is, General Funds in first fiscal year, and second fiscal year we're down to \$200,000. I'm introducing this amendment, AM637, with the idea that in the future perhaps this...it may not be possible for the industry to be able to fund this inspection act, but at least to increase the amount of funding that the industry might be able to provide, and we do that by way of cash funds. So what we're doing is to increase the licensing fee from...or the ability to collect a licensing fee from \$250 to \$350. This doesn't actually change the licensing fee. This only gives the Department of Agriculture the flexibility to increase the licensing fee in the future should they see that need. And so that being said, I hope that we can advance AM637 on to LB12 and move the bill forward. So I thank you for the time, Mr. President. [LB12]

SENATOR LANGEMEIER: Thank you, Senator Fulton. You have heard the opening on AM637. The floor is now open for discussion. Is there anyone wishing to speak to the amendment? Seeing no lights on, Senator Erdman, you are recognized. [LB12]

SENATOR ERDMAN: Mr. President and members of the Legislature, would Senator Fulton yield to a question? [LB12]

SENATOR LANGEMEIER: Senator Fulton, would you yield to a question? [LB12]

SENATOR FULTON: I will. [LB12]

SENATOR ERDMAN: Senator Fulton, as I understand your amendment, you would simply expand the authority of the department to set the fee at a maximum of \$350. Is that accurate? [LB12]

SENATOR FULTON: That is correct, yes. [LB12]

SENATOR ERDMAN: And they would utilize the existing process that they have in place to set that graduated license fee, as LB12 outlines. Is that correct? [LB12]

SENATOR FULTON: That's correct, yes. [LB12]

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SENATOR ERDMAN: Okay. Thank you. Members of the Legislature, I've been having some discussions with the Department of Ag, and it's interesting. As I pointed out on General File, you can tell the department or you can set the higher rate at \$350 if you want to, but it doesn't necessarily mean it's going to actually change anything. The Department of Ag has currently set the fee rate at \$150 and that's based on existing law. Under LB12, we go ahead and change a provision, and I think rightfully so. Senator Mines' office and the department have figured this out, that one of the obstacles of changing the fee structure under existing law was the fact that you treat pet shops and other facilities that have animals other than cats and dogs to a higher fee than what they should be reasonably afforded or required to pay. So we have made that so that it's only based on animals that are cats and dogs. Under LB12, if you raise this fee or give them this authority, they still have to go back through rules and regs, and it may not actually accomplish anything in the short term but it does give them additional authority. And should the Appropriations Committee choose to tell the Department of Ag to go and take some additional money from the commercial cat and dog breeders in the state of Nebraska, then the department would have to weigh that in their decision of application of this bill and how they would enforce the law. So I don't know that this does anything, to be candid with you. It does give the department the additional authority, but recognize that the department is at \$150 now. You can give them the authority of up to \$350 if you would like, but they're still going to have to go through a public hearing. There are different ideas that we have been discussing that may be easier to administrate than what the existing process does, and I believe that's some of the concerns that the department has and what they ran into when they tried to set the graduated schedule in the past. Again, and Senator Fulton, if you would yield again, I would make sure that if there's something that I've said under my response that is misleading or isn't true, I'd give you that opportunity to correct. Is it your understanding that simply giving them this authority doesn't necessarily raise or lower the General Fund obligation under LB12 at this point? [LB12]

SENATOR FULTON: At this point, no. This is a tool. This provides a means by which additional cash funds could be appropriated from the Department of Ag in the future. I guess what I'm doing here is I'm looking off five, six, seven years down the road, and if this particular program expands then there would be...it wouldn't have to expand through the General Fund. There would be the opportunity to look at the cash fund, but the same procedures that exist now would exist then as well. [LB12]

SENATOR ERDMAN: Is it your intent, Senator Fulton, to offer an amendment on LB12A to address the obligation of the state's General Fund in funding LB12? [LB12 LB12A]

SENATOR FULTON: It is, yes. [LB12]

SENATOR ERDMAN: Not to reveal your hand before you may want to, but can you

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share with me your thoughts on that? [LB12]

SENATOR FULTON: Yeah. The idea here is, in the first fiscal year the full amount will be funded with General Funds. In the second fiscal year of this biennial budget, we would have \$50,000 to be funded through the cash fund. It's my understanding there's over \$100,000 in that cash fund now. That would be at least a message that in the second part of this biennial budget that there should be some deference given to the cash fund authority that exists. [LB12]

SENATOR LANGEMEIER: One minute. [LB12]

SENATOR FULTON: So that's my intention, is to at least...is to get the ball rolling in that way and then in the next biennial budget, whatever the Appropriations Committee is considering, that would at least have been an option that was gleaned. And if it didn't work, fine, that can go through the process; if it did then it ought to continue in that regard. [LB12]

SENATOR ERDMAN: Thank you, Senator Fulton. We'll see if there's other debate. I appreciate you sharing that additional information on your intention with LB12A and we'll look forward for other discussion on this bill and the A bill to follow. Thank you, Mr. President. [LB12 LB12A]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Anyone else wishing to speak to AM637? Seeing no lights on, Senator Fulton, you are recognized to close on AM637. Senator Fulton waives closing. The motion before the body is the adoption of AM637 to LB12. All those in favor vote yea; all those opposed vote nay. Senator Fulton, for what purpose do you rise? Have all those voted that wish to? Record, Mr. Clerk. [LB12]

ASSISTANT CLERK: 29 ayes, 3 nays, Mr. President. [LB12]

SENATOR LANGEMEIER: The amendment...thank you, Mr. Clerk. The amendment is adopted. We return...oh, back to Mr. Clerk. [LB12]

ASSISTANT CLERK: Mr. President, I have nothing further on the bill. [LB12]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB12]

SENATOR MCGILL: Mr. President, I move LB12 to E&R for engrossing. [LB12]

SENATOR LANGEMEIER: You have heard the motion on the advancement of LB12. All those in favor say yea. All those opposed say nay. It is advanced. Mr. Clerk. [LB12]

ASSISTANT CLERK: Mr. President, the next bill is LB12A. There are no E&R

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amendments. Senator Fulton would offer AM652. (Legislative Journal page 812.)  
[LB12A]

SENATOR LANGEMEIER: Senator Fulton, you are recognized for an opening on  
AM652. [LB12A]

SENATOR FULTON: Thank you, Mr. President and members of the Legislature. This is a continuation of what we did on LB12 and Senator Erdman has already gleaned my intention here. This is...I'll tell you where the genesis of all this. The budget that the Appropriations Committee has put out, if you are reading the paper and reading your preliminary budget, we're at about 4.2 percent increase over what the budget was two years ago, and soon we're going to be making decisions on A bills that are going to add. Everything that we decide to do as far as A bills now adds to that 4.2 percent. So out of...this is a mechanism, I guess, not so much to address the A bill now. I think that we did that with the amendments in the General File to this bill. This is a mechanism for the future, for future Appropriations Committees. What this amendment does is it says that in the first year, fiscal year '07-08, the full amount of the fiscal note will be funded with General Fund dollars. However, in the second year, fiscal year '08 and '09, this bill would provide that \$50,000 would come from the Commercial Dog and Cat Operator Inspection Program Cash Fund. That is, it's not coming from the General Funds. Now what happens in the future in the next biennial budget will be up to the Appropriations Committee and the Department of Agriculture, but this at least provides that some of the cash fund dollars that exist would be applied toward this program. And if it doesn't fly with the industry and if the Department of Agriculture thinks that it's not working efficiently, then that case can be made to the next Appropriations Committee. So basically this is a mechanism by which the Legislature takes some control over this program. So that's my intention here. I am asking you to read through the amendment and I'll ask you to do as we did with the amendment to LB12, to do like with LB12A and provide a mechanism of control for the Legislature in the next biennial budget. So with that, I thank you for the time, Mr. President. [LB12A LB12]

SENATOR LANGEMEIER: Thank you, Senator Fulton. You have heard the opening on AM652. The floor is now open for discussion. Senator Chambers, you are recognized.  
[LB12A]

SENATOR CHAMBERS: Mr. President and members of the Legislature, I would like to ask Senator Mines a question. [LB12A]

SENATOR LANGEMEIER: Senator Mines, will you yield to a question? [LB12A]

SENATOR MINES: I will, Mr. President. [LB12A]

SENATOR CHAMBERS: Senator Mines, as a tactical move, are you in favor of this

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amendment? [LB12A]

SENATOR MINES: I'm not opposed to the amendment. [LB12A]

SENATOR CHAMBERS: Okay. Thank you. Members of the Legislature, I'm not going to oppose it at this point because it can be fought next year. Senator Fulton is new here. I'm very concerned about animals and their welfare. If we were talking about livestock, there wouldn't be an attempt to take money and lessen it. They'd get as much out of the General Fund as they could. These dogs and these cats are entitled to much better than what this State Legislature is doing. There is not enough money to provide inspectors to look after the interest of these animals. Now it seems strange to me that in a state like Nebraska, where people do understand animals, even those who slaughter them for food and raise them for food, they still should have an understanding of and appreciation for these creatures. There is dominion that was given over the whole universe that you all who believe in the "Bible" accept. You are to be a steward. And when you know these animals are being treated so cruelly, so viciously, and in order to deal with some budget over a billion dollars you are going to take a position to harm a program like this, I think is inexcusable. So this is getting on the fighting side of me. You wait till that budget comes and you wait till people start bringing things from the Revenue Committee. You're talking about peanuts and you are going to let the whole plantation go. I know new people are still under the influence of their having run for office, and they're going to cut fat here and they're going to cut fat there and they're going to reduce the budget. You're going to cut some of these things over my strenuous opposition. This is Senator Mines' bill. If it was my bill, Senator Fulton would be in the fight of his young legislative life, and I would teach him a lesson and the rest of my colleagues too. Because the dogs are not here to bark and the cats are not here to meow doesn't mean that their welfare should just be cast aside so cavalierly. I will not watch that happen. But it's Senator Mines' bill. You notice when I ask him, did he support it, he said he's not opposing it. It's a tactical move. But I'm not bound by that. I'm going to let this go, but I'm going to fix the Legislature and I'm going to try to put some pain on you all like these animals feel. Then all of that holiness...did you all have a prayer this morning? Was there a prayer uttered here this morning? You don't hear the Bible saying that the legislators shall lie down with the saint, but the lion shall lie down with the lamb. There are scriptures that suggest animals will be in heaven, which is something that can't be said about everybody here. Somebody cares about these animals. Somebody created these animals. Somebody placed a responsibility on human beings to look after these animals. There are priests in Omaha and maybe in other parts of the country who will have a Sunday set aside where they bless people's animals, and we on this floor are going to let these things be done. You'll do it, but there's going to be some blood shed, figuratively speaking, later on in the session. Mark well this day,... [LB12A]

SENATOR LANGEMEIER: One minute. [LB12A]

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SENATOR CHAMBERS: ...March 14, and thank Senator Fulton for what I'm going to do. But I'm not going to tell this time what I'm going to do. You'll find out. I don't care about this session. I don't care about the budget. I don't care about the Governor's tax plans. With all due respect to Senator White, I don't care about his tax plan. I don't care what the Education Committee is doing. This session is mine and you are going to have to take it from me. I want you to know what you are doing this morning. I'm not going to try to get along with these upstarts who don't know anything about what's going on around here. And they pick something that they think is weak and vulnerable and say, I'm going to show my colleagues and the people who voted for me; by God I'm going to cut the budget. Do it, and you can probably get people to go along with you. But, my friend, I feel you just did what they did in the old days. You took a glove and you slapped me, and you told me, choose your weapons. [LB12A]

SENATOR LANGEMEIER: Time. [LB12A]

SENATOR CHAMBERS: Thank you, Mr. President. [LB12A]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Wightman, you are recognized. [LB12A]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the Legislature. I rise in support of the amendment of Senator Fulton's. First of all, Senator Chambers indicates that we're cutting the budget. This is a new budget item that's never been on before. We've never had this particular cat and operator's licensing act before. We're appropriating new money for it. I guess it just gets down to determining how much is the proper amount to fund that at. Senator Fulton's bill does not decrease the first year, as I understand it. Would...Senator Fulton, would you...I would ask if Senator Fulton would yield for a question. [LB12A]

SENATOR LANGEMEIER: Senator Fulton, would you yield to a question? [LB12A]

SENATOR FULTON: I will. [LB12A]

SENATOR WIGHTMAN: As I understand your amendment, it does not cut the funding in any way in the first year. Is that correct? [LB12A]

SENATOR FULTON: That's correct. [LB12A]

SENATOR WIGHTMAN: And the second year, you are saying that it would be funded out of cash funds rather than out of a general appropriation. Is that correct? [LB12A]

SENATOR FULTON: Correct, partly. [LB12A]

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SENATOR WIGHTMAN: Thank you. So we're creating a new licensing act. We're providing for the funding of that act. There has been no budget for this particular process before, so we have \$266,000. I suppose you could make an argument that maybe \$2 million is the proper funding amount, but I would disagree with that. I think we're not even talking about what we're funding it at this year, so I do not see this amendment in any way taking any of the teeth out of the act. It's going forward and it's just a matter of what level we're going to fund it, or not even that. It's a matter of what source we're going to fund it from in a future year. So I do support the amendment, and I hope that the body will see it, not as budget cutting, because there's nothing there to cut. It's just the level we're going to fund it and the source from which it will be funded. Thank you. [LB12A]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator Erdman, followed by Synowiecki and Chambers. Senator Erdman, you are recognized. [LB12A]

SENATOR ERDMAN: Mr. President and members of the Legislature, let me provide some additional information that I think may not be understood. This is not a new law. It is an expansion of existing program. And to the point that Senator Wightman made, it is an existing program, however it is an expansion of that program. We're not creating a new act here. The Commercial Cat and Dog Licensure Act is in place now. It has been in place for a number of years. This is an issue of how do we enforce the act, and Senator Mines has brought us LB12 to expand the enforcement provisions of the act. So for those of you that think this is a new program, it is not. It's an expansion of an existing program and it's done under the interest that Senator Mines and others have. Let me provide you some additional information on the cash fund that was alluded to by the introducer of this amendment. The Department of Ag generally collects \$112,000 a year in cash funds from this program. That's from the licensees, that's from those individuals that would be subject to the act. Annually the cost of administration of this act is \$108,000 a year. So it is true to state that there's about \$100,000 in the cash fund for this program; however, about that same amount is actually expended every year for the purposes of carrying out the act. If you do some analysis of the cash fund and how that balance plays out, under the existing projection the cash balance does grow minimally for about the next three or four years, and then it reduces or declines substantially. That's the same thing under LB12. So even though there are potential cash fund balances, there's obviously costs that will be increasing generally higher than what the cash fund may be allowed to recover. And so even though there is somewhat of a cash fund balance at this point, recognize that in the short future here we're going to see an actual deficit or reduction in that amount and there will probably need to be a reevaluation of how much money is put into the program. At that point, and why I voted against the amendment before, is the fact that at that point we will have to have a reevaluation of the fees as well. We are not at the maximum at this point. We're at \$150. Under LB12, we give the department some additional authority to set that at a higher

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rate, or now with the amendment, at \$350, but recognize they're at \$150 now. I've shared with Senator Mines, the introducer of LB12, that I believe that there needs to be some clarification in the actual fee process to ensure the department has flexibility in setting that fee. It's somewhat cumbersome at this point. And the other side of this is, is that I think we need to make sure that when we do raise this fee, if that's the decision that the department has, that we preserve the right for public hearing. Because up until now the commercial breeders in the state of Nebraska were not aware they were going to see a fee increase. That was not a part of a public hearing. That was not a part of any of the discussions that we had as a committee to try to make the producers in the state of Nebraska pay an additional fee. It was simply a recognition that if there's an opportunity to get General Funds, go for it, and they were behind that. So I think there's some dynamics that have changed somewhat in this discussion just this morning. Whether or not you like the Fulton amendment and whether or not you agree with its intent or not, here's what I think should happen. I think we should probably put LB12 over to Final. We should figure out what the budget is going to be and then we can make those decisions from there. As I understand Senator Fulton's amendment, it doesn't reduce the obligation this year. It does reduce somewhat of the obligation of the General Fund for next year. But again, going back to my earlier comments, if we don't give the department the flexibility that I think they need in order to help comply with the intent of LB12, we may be back next year to try to figure out how to fill that gap again. So I do think we need to think through this. It did come up very quickly this morning. My office and I were working on these issues,... [LB12A LB12]

SENATOR LANGEMEIER: One minute. [LB12A]

SENATOR ERDMAN: ...and due to the breakneck speed in which we accomplished our agenda up till this moment, we really didn't have all of the issues put together in a way that could be presented to the body comprehensively. But I wanted to give you some additional information. Recognize again that LB12 is not a new program. It's an expansion of an existing program. With that expansion requires some additional obligation to the state, either in cash funds or General Funds. The question we will have to decide is what the appropriate balance is and how to proceed. Ultimately though, I think you need to recognize that if you've supported LB12 at this point all the way through, I think you should support it all the way through. I don't think it's fair to give false opinions to the introducers and the proponents of this legislation that you've supported it up to this point and nothing has changed and now you are going to oppose it for the same reasons that you should have opposed it all the way through. I think you should be fair and consistent with the introducers and the supporters of this bill so that they have an idea of what issues need to be addressed in the event that we as a Legislature choose to deviate from the path that we have undertaken on General File and Select File. [LB12A LB12]

SENATOR LANGEMEIER: Time. [LB12A]

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SENATOR ERDMAN: Thank you, Mr. President. [LB12A]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Senator Synowiecki, you are recognized, followed by Chambers and Mines. [LB12A]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier. Members of the Legislature, I think I'll support Senator Fulton's amendment. I don't know if it goes far enough because I...actually, I hate to admit this, but I wasn't even aware of a lot of inspection programs under Department of Agriculture receive a General Fund appropriation for their inspection duties. This is quite contrary to a lot of the other industries that are inspected in our state, whether it be the insurance industry, whether it be the elevator inspections, the electrical inspections, or on the local area in the plumbing inspections. For a state representative or a state employee to come in and do the proper inspections, or insights into the paperwork of insurance companies, or to look at the elevators that are put up throughout our state, that's all entirely cash funded. Now I know these folks that sell these dogs and these cats is probably, I would imagine, a profitable undertaking for them, and I think the problem has arisen, there's some bad actors. There's some bad actors in the system and they mistreat, unfortunately so, they mistreat these dogs and these cats, and they ought to be held accountable for that. But I don't know. I don't understand completely why General Fund expenditures need to be appropriated to watchdog, pardon the pun, but to watchdog an industry. It's really not consistent with what we do with realtors in our state, it's not consistent with what we do with the insurance industry in terms of monitoring that industry, it's not consistent with what we do with electrical inspections, it's not consistent with what we do in plumbing inspections. The whole array of industries that are monitored by the state are entirely cash funded. If these folks want to make a profit off of these dogs and these cats, they ought to step up to the plate and provide the necessary funding to regulate their industry. I'm sympathetic to dogs and cats. I used to have dogs. But nevertheless, if you want to participate in this industry and if you want to derive a profit from this industry and profit from these dogs and cats, you ought to pay your own way in terms of regulating your industry. So I think I support Senator Fulton's amendment. I just don't think it goes far enough. Thank you. [LB12A]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. Senator Chambers, you are recognized. [LB12A]

SENATOR CHAMBERS: Mr. President and members of the Legislature, in keeping with Senator Synowiecki and the rest of these attitudes, I got a kill motion on the next bill so we can stop setting aside certain people to get grants, carving them out and giving them a break that others don't get who are seeking these grants. When you have an industry where there are legitimate people who are paying high fees and you have a much larger group of people who are violating the law, sheriffs are not going to enforce the law.

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They say they don't have the person power. The State Patrol is not. So you are saying these people who are trying to comply with the law, who are taking care of these animals in the way they should be going to have to pay the cost of policing what the state ought to police. Why doesn't Senator Fulton and Senator Synowiecki get a law to prohibit the breeding of animals of this kind in the state of Nebraska? Then you don't have to worry about this and anybody who's doing it is violating the law. It's a criminal offense then, we'll make it. But they're not going to do this. This is an easy target. Senator Erdman tried to explain to some of our new people who thought they knew so much about a brand new something being created, it's not a...they don't know what they're talking about. I've supported bills of Senator Wightman. One of them I probably helped get out of committee, but it's in for some rough sledding now. You talk about vengeful. When I see these animals, who are defenseless, handled in this way, I'm going to do differently. Senator Synowiecki had a cat bill and I was for it; not now. Am I making animals the equivalent of human beings? Not on your life. But when there is cruelty, there is torture of animals, and this body doesn't care; then I don't care about what they want. And you'll probably be able to fight off my kill motions, but we're going to take some time this morning. Hear the sledges with the bells - Silver bells! / What a world of merriment their melody foretells! / How they tinkle, tinkle, tinkle, / In the icy air of night! / While the stars that oversprinkle / All the heavens, seem a twinkle / With a crystalline delight; / Keeping time, time, time / ...that's what I want to emphasize... / In a sort of Runic rhyme, / To the tintinnabulation that so musically wells / From the bells, bells, bells, bells, / bells, bells, bells - / From the jingling and the tinkling of the bells. So it's going to be me against the rookies. Rookies know everything, know what programs are just now new, and they've been here. But I'm not one of those who's going to sit back and let it happen, just to get along with these people. I care about these animals. There's a little poodle in my office right now and if she understood what we're doing she'd be patting her little paws together saying, go, go, go, Ernie. But she has no voice. And when Cindy got her, the lady in my office, she had been rescued, the little dog. She couldn't bark. They thought she didn't know how. She didn't know how to walk up and down stairs because these people, Senator Fulton, kept her in a cage for five years trying to breed her. And when they couldn't, they were going to kill her. [LB12A]

SENATOR LANGEMEIER: One minute. [LB12A]

SENATOR CHAMBERS: The first time she barked she startled herself. She didn't realize what had happened and she was looking to see where that came from. You all are so accustomed to seeing animals which have been domesticated and socialized walking up and down steps, so it would seem that any animal could walk up and down steps. She didn't know how to do that. She was terrified. She was traumatized. And remember this, I'm not even a "Christain." I'm not even a religious man. I'm not spiritual. I don't believe in the supernatural. But I believe in those things that I can see, and when I see them treated cruelly then I'm going to defend them. And when I see my colleagues endorse the cruelty, then I'm going to be cruel to them. And I have no feeling

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whatsoever in the way of being deterred because somebody... [LB12A]

SENATOR LANGEMEIER: Time. [LB12A]

SENATOR CHAMBERS: ...looks angry at me because of what I'm doing. Thank you, Mr. President. [LB12A]

SENATOR LANGEMEIER: Thank you, Senator Chambers. (Doctor of the day introduced.) We continue discussion on AM652. We have Mines, Wallman, Dierks, Karpisek, and others. Senator Mines, you are recognized. [LB12A]

SENATOR MINES: Thank you, Mr. President, colleagues. There is great emotion, I think, on both sides of this. Senator Fulton had come to me about a week ago and asked if...and presented some reasonable arguments on why the A bill might be amended and, frankly, when we get down to it, it's \$50,000. That's a lot in my household, but in the grand scheme of Nebraska's fiscal picture it's pretty small. Here's what...let me remind you what LB12 does. We've been talking about the \$50,000 fiscal note. First of all, it would create a flat fee for those pet shops and breeders that don't have dogs, just cats, and it would be...the bill has \$150. Secondly, it would require that the Department of Agriculture inspect each breeder's facility biennially. So every other year you are going to have an inspection just to ensure that they're meeting all the rules and regulations. Third of all, it gives the department...it puts teeth in this department and allows them to levy fines of up to \$5,000. So rather than a slap on the hands and rather than a strong letter, there's the ability to levy a fine to \$5,000. And then, of course, we've got the A bill. That A bill...by the way, this process has been going on since early summer. When we first worked with the department, this is a separate standalone program. There is one inspector for the entire state of Nebraska. That inspector is called out on a complaint-driven basis. There are no inspections unless they're called out. So in order to meet what the department saw as a demand, we came up with an annual budget of over \$400,000. Understanding that wouldn't fly in this body, we worked with them and we've tuned it back to a little over \$200,000 of General Fund request, actually \$266,000 General Fund request. Senator Fulton is interested in shifting more of the cost to a fee-based or to those that cause the cost should pay the cost, and I'm fine with that. You know, but \$50,000 is, quite frankly, not a big number. My intention was not to oppose Senator Fulton's measure. Frankly, with a year under our belts that this bill would...I forgot to tell you we have one inspector. It would increase it to a total of four people for the entire state. I didn't intend to oppose Senator Fulton's amendment, and if you choose to support or oppose, frankly, it doesn't matter to me. I've also had conversation with Senator Erdman, and his recommendation, as he's already told you, my recommendation would be to advance LB12, again vote up or down on the amendment, Senator Fulton's amendment, and then on Final Reading we can come back and propose a fee-based schedule that will accommodate the concern certainly raised by Senator Chambers and I think that would address some concerns that the

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department now has over Senator Fulton's amendment. So with that, again, AM652 is at your discretion. LB12 I would hope that you...we're on LB12A right now. I'd hope you would advance it either way. [LB12A LB12]

SENATOR LANGEMEIER: One minute. [LB12A]

SENATOR MINES: Thank you so much. [LB12A]

SENATOR LANGEMEIER: Thank you, Senator Mines. Senator Wallman, you are recognized. [LB12A]

SENATOR WALLMAN: Thank you, Mr. President and members of the body, I find this very interesting how we're talking about funding this thing with legitimate AKC breeders. Who's going to pay this fee? The legitimate dog breeders are; not the people that have these puppy mills out in the countryside. They're not going to seek a permit. So where are we going here? We're going to up the fees for the legitimate dog breeders. Does that bother you? It bothers me. These people take care of their facilities. They keep them clean. You buy a clean dog there. I usually get dogs that dropped off. I take care of them. They're usually good dogs. But somebody has decided a dog is worth nothing to them, so they just drop it off. And I don't kill it. I don't shoot it. My wife won't let me. But anyway, we're picking on legitimate dog breeders. They obey the law, they pay their fines, they pay their fees. And the punitive damages here are way too high to suit me, but that was in there. Hopefully we don't use that. But anyway, I would hope you would be against this amendment because how can you fund this unless you fund it with legitimate breeders? And they're paying their fair share right now, I feel. And thank you, Mr. President. [LB12A]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator Dierks, you are recognized, followed by Karpisek. [LB12A]

SENATOR DIERKS: Thank you, Mr. President and members of the Legislature. I'd like to visit with Senator Mines a moment, please. [LB12A]

SENATOR LANGEMEIER: Senator Mines, would you yield to a question? [LB12A]

SENATOR MINES: I will, Mr. President. [LB12A]

SENATOR DIERKS: Senator Mines, I'm...I have to excuse myself. I was preoccupied with some other things this morning so I didn't get in on the first part of Senator Fulton's amendment, and I'd like you to tell me what it does. [LB12A]

SENATOR MINES: Senator Fulton's amendment, AM652, would, year two in our budget, would cut \$50,000 from our appropriations, and reduce that amount, and then

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the previous bill...or his amendment to LB12, would increase the maximum fee that could be charged to licensees from \$250 to \$350. [LB12A LB12]

SENATOR DIERKS: I see. Thank you. I think that this legislation has been around for a long time. I mean, they talked about it being here since last fall. We've been dealing with this for probably 15 years, and we've been...I had several bills that dealt with it and most of the time they got bombed before we got them to the floor, but...and one of those was one that would require a tax on pet food. It was a very minimal tax, but that wasn't the point. The point was that a tax is a tax, and they didn't like that. But the tax was something like 4 cents on a 100-pound sack of dog food, and it would have funded the needs for the inspectors. At that time, we felt there was a need for four inspectors across Nebraska. But with the lack of funding, we finally got settled for one, and they promised us at that time we'd have two federal inspectors that would be coming in here to help with that. And they might have helped a little bit. I think one of the federal guys came from Des Moines and he was here on a part-time basis, but the problem still exists, and Senator Chambers is absolutely right. There are some of those facilities out there that just should not be there. I've got them in my district and I think most of you have them in your district. We've had evidence from the Humane Society of the United States who have these information and all these studies they've done that show that we're one of the biggest offenders in the nation right here in Nebraska. So I think that Senator Mines has a good bill. I'm not too sure about Senator Fulton's amendment. I think I'd like to just not support that at this time, and ask for you to support the bill because it is something that is really needed and we need to have the Department of Agriculture working full-time at it. Thank you. [LB12A]

SENATOR LANGEMEIER: Thank you, Senator Dierks. Senator Karpisek, followed by Senator Chambers. [LB12A]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. When this bill came to the Agriculture Committee, we talked about it and I was good to send it out the way it was. We had a meeting under the balcony, and Senator Chambers, I'm sure, conceded, as I did, that we would drop the price about in half and have inspection every two years rather than one year. And I guess when it came out of committee and we looked at it, we sent it out the way that we thought could pass, of course, and what we could live with for now. So I guess I don't understand putting amendments on it now after the committee has put it out this way. I do understand, but I don't really like watering it down. I like the bill as it was. I voted last time, yea, because I talked to Senator Mines and he said he was all right with it. I agree with Senator Chambers. It was his bill and so I thought I would be all right with it. Then I saw Chairman Erdman's red come on, the Chair of the Ag Committee. Made me wonder, okay, now which way should we go here? I think there wasn't enough discussion done prior to this. I agree with Senator Dierks. I don't know that I can really go with the way we're going here, and I think there's been a lot of discussion already, a lot of give and take, especially by

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Senator Chambers, to get to the bill to this point. So I guess I just wanted to get up and say...give a little history how it came through committee, because I think this hit us pretty quickly all of a sudden, and I know it hit me quickly and I've been involved with it. So thank you, Mr. President. [LB12A]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. Senator Chambers, you are recognized. [LB12A]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, another political lesson for these tyros. This is a bill that went through the political process, the give and take, as Senator Karpisek pointed out. He and I and maybe others on the committee wanted the bill in its original form. We agreed to some concessions and weakened the bill so it would have a chance to pass and give us a foundation on which to build in the future. This bill is fragile. We dealt with the legitimate breeders who, as Senator Dierks pointed out, are doing what they ought to do. Do you know why I refer to the "Bibble" so much? Because you all claim to believe it. Jesus was not called the ram of God, the ram with the big horns who can defend himself, but the lamb, the helpless, the pitiful, the one that cannot take care of itself, the one that needs the compassion and concern of others to survive. That's a label hung on Jesus not by me: Behold, the Lamb of God that taketh away the sins of the world. And now these helpless animals are the ones we ought to use to show the depth of our humanity, our humaneness, our concern and understanding. And instead you are talking about saving some pennies or shifting where the money is going to come from, and there is not enough money to do the job if we take all that's in the cash fund now. And that would be frittered away, gobbled up almost immediately if you are going to say you are going to fund this program of inspection through a cash fund. When you talk about the insurance industry or any other industry being inspected on the basis of fees, all of those who are practicing insurance are licensed. They're making money and it's to their benefit. Here you are taking a small segment and asking them to bear the cost of what amounts to law enforcement, and it's not going to work. In two years, when the deficit hits, I'm not going to be here perhaps, and the Legislature is not going to pick up this program and do the right thing with it. Senator Dierks has pointed out, and it's true, Nebraska is a haven where these cruel, vicious people come and operate because Nebraskans don't care about these animals, despite all their talk of Nebraska values, their talk of compassion, their talk of understanding, their talk of Christianity. Humbug. It's piffle, p-i-f-f-l-e. It means nothing. You do all this talk, but when time comes to put that talk into action, you are missing in action. This bill ought to be left alone. What ought to be done is to bring it back and strike the part of the Fulton amendment that was added to it. When we have another bill coming up this morning that the university is interested in, where there have been some concessions made by the two sides getting together in terms of... [LB12A]

SENATOR LANGEMEIER: One minute. [LB12A]

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SENATOR CHAMBERS: ...what kind of information will be made available to the public when a search is being made for a certain position at the university, I'm going to derail that. I'm going to say those deals don't mean anything. They don't count for anything. And I'm going to draw my line in the sand right here, right now, and one of my colleagues has said she would offer me time, and I hope she'll put on her light because I'm going to take some this morning. Thank you, Mr. President. [LB12A]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Howard, you are recognized. [LB12A]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I rise to support Senator Wallman and I thank him for pointing out that this amendment will, in fact, penalize legitimate breeders, those who are trying to do right by pets and trying to follow the law, and actually encourage those that go beneath the law and try to avoid working within the sanctions that we approve of. And I thank Senator Chambers for keeping us, as I like to say, ever alert to bad amendments and focused on good bills. I'm going to tell you a very short story of the work of the humane society and how much I appreciate what they do. A number of years ago, one of my children fell in love with a dog. He was with the humane society pet mobile. And as most parents, I thought, "not another pet." (Laugh) I've cared for plenty that they've loved, but Eddie was a little different. Eddie was a little different. And we went out to the humane society and visited him, and he was in the cage, going back and forth like a trapped animal, frankly. But Sarah loved him so much and she said, he's all I want for Christmas, and so we took Eddie. We bailed him out. We paid his fine, we got his shots, we made sure he had what he needed. And he was so neurotic, he paid us back by eating most of our Christmas gifts under the tree that year. But we kept him and we loved him and he's a wonderful, wonderful dog, and he's as gentle as he can be and yet he can bark like a wolverine when we need him to. But he was a discard. He was a discarded dog. He didn't come from a legitimate breeder. He was cast aside. He was left probably for that long, lonely walk down the hall that animals don't return from. I still have Eddie, even though Sarah is gone now to law school (laugh), and he's a wonderful dog and I'm grateful to have him. I offer the remainder of my time to Senator Chambers. [LB12A]

SENATOR LANGEMEIER: Senator Chambers, 2, 50. [LB12A]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Howard. One of the practices that these people will engage in, Senator Synowiecki and Senator Fulton, is to take a pipe and run it down the dog's throat to destroy the vocal chords so that the dog cannot make any noise. That's happening in this state while we're sitting here talking. They will have dogs out in the winter weather, not protected, inadequate food, inadequate drinking water. In the summer they swelter in the heat. I think the measure of a person can be taken when you determine how that person deals with

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those who are the scorned, the neglected, the ones who have nothing they can give you in exchange for your showing them some consideration. There was an idiot in Lincoln several years ago who had a Burmese python that he used to keep in bed with him. Well, the snake realized that she was dealing with a fool so she bit him, and then he wanted to kill her, so he took her to the humane society to have them dispose of her. I read about it in the Lincoln Journal Star, and I went to his house. I got where he lived from the reporter and I had him write me a bill of sale. I forget how much I paid him for the animal. I gave...whatever he wanted, that's what I paid him. Then I went to the humane society in Lincoln and I showed them the bill of sale, and I took possession of the animal. I had already talked to the zoo and they said they would take the animal and find a home for it, which they did in another state. So I'm not just up here talking just to hear myself talk. I'm talking, hoping I can reach something in you... [LB12A]

SENATOR LANGEMEIER: One minute. [LB12A]

SENATOR CHAMBERS: ...that maybe is not reached when you hear those sermons on Sunday, that is not touched when you hear these packaged perfunctory prayers every morning. I'm trying to touch something in you that may have been more sensitive when you were a wee lad or a wee lass, when you could see an animal or a person in dire straits, and maybe you would begin to tear up a bit, your eyes would well up, and maybe a tear would even escape and run down your little cheek because you felt the pain of that helpless creature, whether it had two legs or four or, in the case of the serpent, no legs. It's difficult to reach that deeply into us, especially in a political setting, but I won't take no for an answer. I think it is there and I'm going to try to reach it. We need to kill or reject what Senator Fulton is offering to us this morning. But if we... [LB12A]

SENATOR LANGEMEIER: Time. [LB12A]

SENATOR CHAMBERS: Thank you, Mr. President. [LB12A]

SENATOR LANGEMEIER: Thank you, Senator Chambers and Senator Howard. Senator Wallman, followed by Erdman, Howard, and Mines. Senator Wallman, you are recognized. [LB12A]

SENATOR WALLMAN: Thank you, Mr. President. In regard to animals, I think we'll find out those that abuse animals usually abuse people, so let's pay attention to what we're doing here and not assess more fees on those who can't afford to pay any more--legitimate breeders who do a really good job. And then these puppy mills, how can we chase them down without state authority? Like Senator Dierks says, the state has to have some kind of a referee, police department, whatever it is. And like Senator Karpisek said, we did water this bill down in committee to hold the cost down, so it's not like we was trying to, you know, stick it to the state. And I, too, like to hold costs down,

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but let's be careful where we hold the costs down. And then I'd yield the rest of my time to Senator Chambers, if he wants it. [LB12A]

SENATOR LANGEMEIER: Senator Chambers, four minutes. [LB12A]

SENATOR CHAMBERS: Thank you, Senator Wallman. Members of the Legislature, we may be going to reach an accord, but I will not have an opportunity on another bill to say some of the things I'm going to say this morning because I may not have the occasion. I want to tell you all that I'm a hard man. A hard life makes a hard man. I don't have what you all call a heart, and when Cindy had gotten another little poodle some years ago, I told her that little animal is going to take too much of your time, you are not going to be able to look after her as you should so you shouldn't even take her. Well, the little...another little poodle, larger than this one, managed to find a crack in my armor, and without me even being aware of it kind of invaded my being and took over. And I was with her all the time and she was with me, and people thought that she was mine which she wasn't. And when she died after an operation which ought not to have been life-threatening, that's as close as I ever came in my life to having what in other people could be called a heart, and if I would have had one, that death of that little animal would have broken it. But not having one, I survived. But intellectually, it was a devastating experience to me. I had never gotten that involved with another living creature. When human beings die, you can prepare yourself for that because you know that everybody is going to die. If a person is ill, if a person is old, you know that this is what happens to human beings. But when there is an animal with which you have bonded and there is nothing that would suggest that this animal's end is imminent, and that end comes like a bolt out of the blue, for me, anyway, it took the wind out of my sails. It took the breath out of my lungs. I shouldn't admit this--but it will never happen again; that's why I'll acknowledge it--for awhile I had difficulty eating, I had difficulty sleeping. I actually lost weight, and I thought about her all the time. When I would drop something on the floor there would be a race between her and me to see who got it first. I was cleaning up the floor; she was getting a treat. All these little things that became habitual, such as when I'd be at a table typing she would come and sit at my feet, so I'd be careful where I placed them so I wouldn't step on her,... [LB12A]

SENATOR LANGEMEIER: One minute. [LB12A]

SENATOR CHAMBERS: ...for a good period of time after she had died I still went through those motions when I wasn't thinking because habits, some of them, die hard. There was a large pillow that had become her bed. Having slept on it and rested on it for such a long time, there was a depression in it which was hers. All of those things took on an almost mystical quality for this hard man. So if that animal can do that and have that impact on one without a heart, I'm stunned that those of you all who have hearts, who are more spiritual than I, who are informed from a superior or supreme power, cannot find it in your heart, and you all have a heart, to do that which will see

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that these animals are not mistreated. [LB12A]

SENATOR LANGEMEIER: Time. [LB12A]

SENATOR CHAMBERS: Thank you, Mr. President. [LB12A]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Erdman, you are recognized. [LB12A]

SENATOR ERDMAN: Mr. President, I would yield my time to Senator Fulton. [LB12A]

SENATOR LANGEMEIER: Senator Fulton. [LB12A]

SENATOR FULTON: Thank you, Mr. President. Thank you, Senator Erdman. The rookie is learning here this morning and I want to share with you what's occurred here. My intention was to bring some cash funds to fund this program. While I've been in Appropriations, I've seen that other industries that have...for which government has regulatory oversight, utilize cash funds largely to fund that industry. When this bill came before me, it was conspicuous that this was going to be General Fund dollars. And having researched it and learned a little bit more about this industry, I understand that there are not adequate cash funds or there's not even adequate cash fund potential to fund this particular program, and so I recognize that we're not going to be able to fund this long term with cash funds. So my thought is we should at least use some cash funds. I learned that there is a little over \$100,000 sitting in the cash fund presently with the Department of Agriculture, so my thought is that we should use some of that money to fund this program. Now using the force of statute to do that may or may not be the appropriate mechanism. And I've had a talk with Senator Chambers, and he's been very accommodating, and he said that he will work with me in between now and Final Reading to talk with the Department of Agriculture to see if there is some remedy here that can assuage both of our intentions. And so that having been said, I will respectfully pull this amendment off with the intention that we can work with the Department of Agriculture. [LB12A]

SENATOR LANGEMEIER: Thank you, Senator Fulton. The motion is withdrawn. Mr. Clerk. [LB12A]

ASSISTANT CLERK: Mr. President, I have nothing further on the bill. [LB12A]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. There are three lights on. The floor is open for discussion on the bill itself. Senator Mines waives his time. Senator Synowiecki, do you wish to speak to LB12A? [LB12A]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier. I appreciate Senator

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Fulton. I think his intent was...had value. I think his intent was good. I think he's trying, as a studious member of the Appropriations Committee, learning the process, he was trying to mitigate exposure to the General Fund, and I think that's a good thing and I think that's commendable on his behalf. And I hope that he can work with the proponents of the bill to perhaps mitigate exposure to the General Fund. Some of the things mentioned by Senator Chambers I do think we have to keep in mind, that these agents with the Department of Agriculture are not the only source of law enforcement for these bad actors in the puppy mill business that profoundly mistreat animals in our state. You know, county sheriff's departments, the State Patrol, local city police departments have arresting authority if you abuse an animal. And so I think that's something that we have to keep in mind, that there are other resources available in our communities throughout our state to help combat these bad actors in our state and attempt to mitigate what's going on relative to the profound abuses of these animals. And so hopefully everyone will be able to step up to the plate. The enhanced program now with the Department of Agriculture, increasing a program in our state, you know, we always have to be cognizant of when we do those sorts of things, regardless of the value of the underlying program, we are increasing state government here. And hopefully the value there is significant and that they can work with local law enforcement, county sheriff's departments, State Patrol, in rectifying the situation and mitigating the impact on these vulnerable animals. Thank you. [LB12A]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. Senator Howard, you are recognized. [LB12A]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I'd like to thank Senator Wallman for his comments earlier. He pointed out, and very accurately, that abuse of animals will lead in cases to the abuse of children. And on those same lines the body may not be aware but there was no mechanism for dealing with the abuse of children prior to the humane society taking the lead on this. All of the efforts in protecting children in the United States originated with the humane society, and I thank them for that. They have made all the difference in the lives of many, many children. I'd like to offer the remainder of my time to Senator Chambers. [LB12A]

SENATOR LANGEMEIER: Senator Chambers, 4, 20. [LB12A]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Howard. And I was not going to turn my light on, but since I have the time I will thank Senator Fulton for his willingness to work our way through this matter in a way that won't put something into the statute. And we will let the Department of Agriculture know that we're very serious about this program; that whereas we do not expect it to be cash funded because there is not enough money in that fund to fund this program, that perhaps something can go in that direction as earnest money, if you will. But at any rate, the police departments, the sheriff's departments, the State Patrol, do not see mistreatment

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of animals as a high priority. There are people who say that the police are too slow in responding to calls anyway, so they're not going to say we're going to set a different set of priorities and place animals higher on a scale where they may not appear at all. We are the policymakers. We are the ones who set the tone for how this state is going to function and how all those living creatures are going to be treated. When we know that there is an industry based on cruelty and abuse, and that Nebraska has a reputation around the nation as being one of the best places to go to engage in this kind of cruelty, that ought to be alarming. Nebraskans ought to be saying, I did not know that was the case, but now that I know and my slumber has been broken, I will never again go to sleep on this issue. We need to do something about it. Many people have pets. Some people refer to them as companion animals. People talk to me, when they see me out there with little Nicole, about various experiences they've had with animals, yet there is such an unwillingness for the people in this state to do what is necessary to protect them. They are setting up spas for animals where people with a lot of money may treat them better than some people's children are treated, and in some cases maybe better than the animal owner's spouse is treated. And I'm not saying people can't do what they want to do with their money, but that attitude ought to be carried over so that we reach down and protect those who need the protection, and there are many of them out there. Maybe if every senator could spend part of a day watching the cruelty inflicted on these animals, it might make a difference, but I don't think it should take that. I wish that it didn't. And if that's what it takes, some will never change because they're not going to undergo that experience. I'm glad that Senator Fulton... [LB12A]

SENATOR LANGEMEIER: One minute. [LB12A]

SENATOR CHAMBERS: ...withdrew his amendment and the bill can move forward now. Thank you, Mr. President. [LB12A]

SENATOR LANGEMEIER: Thank you, Senator Chambers and Senator Howard. There are no other lights on. Senator McGill, for a motion. [LB12A]

SENATOR MCGILL: Mr. President, I move LB12A to E&R for engrossing. [LB12A]

SENATOR LANGEMEIER: You have heard the motion on the advancement of LB12A to E&R for engrossing. All those in favor say aye. All those opposed say nay. It does advance. Mr. Clerk. [LB12A]

ASSISTANT CLERK: Mr. President, next bill, LB568. There are no E&R amendments. Senator Loudon would offer AM210. (Legislative Journal page 687.) [LB568]

SENATOR LANGEMEIER: Senator Loudon, you are recognized to open on AM210. [LB568]

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SENATOR LOUDEN: Thank you, Mr. President and members of the body. This amendment was recommended by the Revisors. It reinstates a section under the Litter Reduction and Recycling Act that was inadvertently omitted in the Final Reading of copy LB79, which has been signed by the Governor. This provision was current law until the Governor signed LB79, and by adopting this amendment it will reinstate as current law upon the Governor's signature. I would thank you for your consideration and I would ask that you adopt this amendment and advance the bill to Final Reading. [LB568 LB79]

SENATOR LANGEMEIER: Thank you, Senator Louden. You have heard the opening on AM210. The floor is now open for discussion. Senator Preister, you are recognized. [LB568]

SENATOR PREISTER: Thank you, Honorable President, friends all. Senator Louden described this as an amendment for the Revisors, and I think that's what it is, so I have no problem. I will support the amendment. I will support the amended version of the original bill. My reason for standing up is to give you that information, but to also encourage the members of the Natural Resources Committee in the future to monitor this scrap tire fund. It should not become an entitlement for cities and other political subdivisions or others to use as a way of getting around people paying that \$1 fee on the tires. And I think that some of that has already started, and when people take the tires out, don't pay the \$1 fee, and then they wait for the amnesty program to take them in, they keep getting bailed out, so we circumvent the whole intent of setting up the program in the beginning. So in two years this sunset will need to come back. The committee will need to revisit the program. I think that's a good thing. I'm just saying we need to monitor this and all other programs, particularly in light of term limits and people like me not going to be around who remember when we first established these programs. Without that oversight, without somebody understanding why we did things, their purposes of being implemented, there's no basis for future decisions, and those new decisions can maybe be decisions that aren't in the best interest of what was originally intended. My caution is to ask DEQ the hard questions, to get data, to get information, to ask them for a full status report of the tire situation, where the monies have gone, how they've been spent effectively, how the amnesty programs have been administered, how successful have they been, what large piles of tires still remain to be cleaned up in the state, where they see problems. I just think we need to continue accountability on this program. What the committee may want to do in the future is cut the amount in half. Rather than the million dollars being there, maybe reduce it to \$500,000 for another two years. But all I'm saying is I'm not going to be around, and I'm essentially the last person who was here and was a participant in establishing the fund. And for those that remain, please be vigilant, please ask the questions, and make those decisions with insight and information. Thank you, Mr. President. [LB568]

SENATOR LANGEMEIER: Thank you, Senator Preister. Is there anyone else wishing to speak to AM210? Seeing no lights on, Senator Louden, you are recognized to close.

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[LB568]

SENATOR LOUDEN: Thank you, Mr. Speaker and members of the body. Again, this amendment doesn't have anything to do with the tire amnesty program. It was strictly a Revisor mistake and they were wishing that we would correct this mistake, and I don't think there ever was any problem. After we agreed to go with a two-year program on the scrap tire program, why, that's the way it's been agreed to and that's the way we are proceeding at the present time. This is a very popular program and I think the communities need to have something lined up so they can look into the future and plan into the future on how they go about these programs. With that, I would ask you to advance this amendment or add this amendment and advance LB568. Thank you, Mr. President. [LB568]

SENATOR LANGEMEIER: Thank you, Senator Louden. You have heard the closing on AM210. The motion before the body is the adoption of AM210. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB568]

ASSISTANT CLERK: 35 ayes, 0 nays, on the adoption of the amendment, Mr. President. [LB568]

SENATOR LANGEMEIER: The amendment is adopted. Mr. Clerk. [LB568]

ASSISTANT CLERK: I have nothing further pending on the bill. [LB568]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB568]

SENATOR MCGILL: Mr. President, I move LB568 to E&R for engrossing. [LB568]

SENATOR LANGEMEIER: You have heard the motion on the advancement of LB568. All those in favor say aye. All those opposed say nay. I does advance. At the request of the introducer, LB299 will be passed over. Mr. Clerk. [LB568]

ASSISTANT CLERK: Mr. President, with respect to LB286, there are E&R amendments. (ER8034, Legislative Journal page 735.) [LB286]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB286]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB286]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. Mr. Clerk. [LB286]

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ASSISTANT CLERK: Senator Erdman would offer AM648. (Legislative Journal page 804.) [LB286]

SENATOR LANGEMEIER: Senator Erdman, you are recognized to open on AM648. [LB286]

SENATOR ERDMAN: Mr. President and members of the Legislature, AM648 is a technical change to our existing statute on Purple Heart license plates. And there were two different ideas that were presented before the Transportation Committee; both, as I understand it, were supported by the Department of Motor Vehicles. It would simply allow an individual, or at least the intent is that an individual who is a multiple Purple Heart winner would be able to apply for more than one license plate but they would still have to be the primary owner of that vehicle. So the technical amendment before you strikes the word "only one" and replaces it with "any number." Again, that was a consideration brought to the Transportation Committee in support by the Department of Motor Vehicles. I would hope that the body would see to adopt this amendment to LB286. Thank you, Mr. President. [LB286]

SENATOR LANGEMEIER: Thank you, Senator Erdman. You have heard the opening on AM648, offered by Senator Erdman. The floor is now open for discussion. Is there anyone wishing to speak to the amendment? Seeing no lights on, Senator Erdman is recognized to close. He waives closing. The question before the body is, shall AM648 be adopted to LB286? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB286]

ASSISTANT CLERK: 31 ayes, 0 nays, on the adoption of the amendment, Mr. President. [LB286]

SENATOR LANGEMEIER: The amendment is adopted. Mr. Clerk. [LB286]

ASSISTANT CLERK: I have nothing further pending on the bill. [LB286]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB286]

SENATOR MCGILL: Mr. President, I move LB286 to E&R for engrossing. [LB286]

SENATOR LANGEMEIER: You have heard the motion. All those in favor say aye. All those opposed say nay. LB286 does advance. Mr. Clerk, items for the record. [LB286]

ASSISTANT CLERK: Mr. President, I do. New A bills. (Read LB551A and LB396A by title for the first time.) A confirmation report from the Education Committee. New resolution, LR56, offered by Senator Fischer. And your Committee on Urban Affairs reports LB562 to General File with committee amendments. In addition to that, Judiciary

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reports LB218 to General File, LB457, LB692, all to General File with no amendments, and LB81 as indefinitely postponed. (Legislative Journal pages 862-863.) [LB551A LB396A LR56 LB562 LB218 LB457 LB692 LB81]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. (Visitors introduced.) In keeping with the agenda, it is 10:30. We will move on to the General File, 2007 Speaker priority bills. LB292. Mr. Clerk. [LB292]

ASSISTANT CLERK: Mr. President, LB292, introduced by Senator Hansen and others. (Read title.) The bill was read for the first time on January 10 of this year, referred to the Health and Human Services Committee. That committee reports the bill to General File with committee amendments. (AM444, Legislative Journal page 663.) [LB292]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Hansen, you are recognized to open on LB292. [LB292]

SENATOR HANSEN: Thank you, Mr. President and members of the Unicameral, this fine morning. The Disproportionate Share Hospital Program was created by the United States government in 1981 to compensate hospitals that are serving underinsured or uninsured individuals in Nebraska. LB292 will allow additional federal funds to be brought into Nebraska's economy without any new state or county funding being required. Although Nebraska is currently eligible for additional federal funds, in order to receive these funds the state must first produce its matching portion of the DSH--that's the acronym for Disproportionate Share Hospital; I'll refer to that as "dish" (phonetic)--payments. LB292 will allow county boards to transfer general assistance funds to the Department of Health and Human Services Finance and Support Department prior to those payments being made to the providers, and the providers are about ten hospitals in the state of Nebraska--exactly ten hospitals, sorry. These funds would then be considered the state's match, which would result in additional federal funding being available to the disproportionate share hospitals. The solution contains two parts: general assistance payments and behavioral health regional payments. Currently, general assistance payments are made directly from the county to the provider or the hospital. The first part would give the counties the option of making general assistance payments to HHS Finance and Support prior to the payments being made to the providers. This intergovernmental transfer would utilize approximately \$3.1 million annually from current county general assistance payments as the state's match, and would potentially result in additional federal funding to the DSH program of approximately \$4.1 million. So in other words, we're taking \$3.1 million that the counties are providing to hospitals now, bring it back to HHS, they apply for the grant, and an additional \$4.1 million goes to these DSH hospitals that are the providers. The Centers for Medicare and Medicaid Services, the CMS, on January 26, 2007, approved the use of this intergovernmental transfer for the purpose in Nebraska. It's anticipated that this bill will impact Medicaid fiscal year 2007 DSH payments if we can get this law passed

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and...if we can get this act passed and comply with the federal regulations that they do require. LB292 would not require any additional General Funds appropriations or additional county funds either. There are committee amendments--one, one amendment. [LB292]

SENATOR LANGEMEIER: Thank you, Senator Hansen. As the Clerk has stated, there are amendments from the Health and Human Services Committee. Senator Johnson, as Chair of that committee, you are recognized to open on the committee amendments. [LB292]

SENATOR JOHNSON: Thank you, Mr. President and members of the body. First of all, let me tell you that this was voted out of committee unanimously and this is, in itself, one of the best bills that we think that the body will take up this year. Basically, by just writing the state's share of the check through a different routing system, we add \$4.1 million as if, in a sense, it's free money. Obviously, it's tax money on the federal level, but for the state of Nebraska, just by writing the check through a different routing system, we go from \$3.1 million to \$7.2 million. This is an excellent bill. What I want to talk about this morning is a related subject, and again it goes back to federal law. What this is, and this is AM444, as the committee amendment that adds these provisions to the state's Medicaid provider tax. And this is about immediate care facilities for the mentally retarded, and the acronym is the ICF/MRs. First of all, let's thank the Speaker for making this a Speaker priority bill. Here's the problem: The U.S. Congress recently enacted legislation to lower the allowable Medicaid provider tax rates from 6 percent to 5.5 percent. This is effective January 1 of this year. This took place after the tenth day of the legislative session, and therefore we could not introduce this as a separate legislative bill. The bill was discussed at a public hearing however, on LB292, and the amendment that we're talking about was advanced unanimously by the committee. Here's the situation: Nebraska's tax on intermediate care facilities for the mentally retarded, the ICF/MRs, is established in statute at 6 percent, and with the federal statute now being changed to 5.5 percent, this would put Nebraska out of compliance with the federal requirements. Since the reduction to 5.5 percent needs to take effect before the beginning of the Unicameral's next legislative session, the committee is offering this as an amendment to LB292. The ICF/MR provider tax generates annually \$3.8 million which is used to reimburse the expenses of the tax; support both institutional ICF/MR programs, and there's two; and the community-based care for persons with developmental disabilities; and to enhance the state General Fund. A reduction of the tax from 6 percent to 5.5 percent will lower the General Fund revenue by \$170,000, but if we fail to pass this bill because of the federal cap, it puts the entire tax in jeopardy. I would like to thank you for consideration of this. I have had discussions obviously with the Speaker about this but also Senator Heidemann, and I believe that both of these are in complete agreement with this amendment. Thank you very much. [LB292]

SENATOR LANGEMEIER: Thank you, Senator Johnson. You have heard the opening

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on AM444 offered by the Health and Human Services Committee. The floor is now open for discussion. Is there anyone wishing to speak to the committee amendment? Seeing no lights on, Senator Johnson, you are recognized to close. Senator Johnson waives closing. The question is, shall...is the adoption of AM444, the Health and Human Services committee amendment to LB292. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB292]

ASSISTANT CLERK: 29 ayes, 0 nays, on the adoption of committee amendments, Mr. President. [LB292]

SENATOR LANGEMEIER: The amendments are adopted. We return now to discussion on LB292, the bill itself. Is there anyone wishing to speak to LB292? Seeing no lights on, Senator Hansen, you are recognized to close on LB292. [LB292]

SENATOR HANSEN: Thank you, Mr. President. I urge your support for LB292 to pass from General File. This is certainly not new money and free money, but it is money that we were going to leave on the table if we don't pass this. There is going to be another state and other hospitals take advantage of this, so this is, I think, a good bill. We'll get \$4.1 million into the hands, hopefully into the hands of the hospitals that have the disproportionate share program. Thank you. [LB292]

SENATOR LANGEMEIER: Thank you, Senator Hansen. You have heard the closing on LB292. The question is, shall LB292 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Has everyone voted that wishes to? Record, Mr. Clerk. [LB292]

ASSISTANT CLERK: 29 ayes, 0 nays, on the motion to advance the bill, Mr. President. [LB292]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. LB292 does advance. Mr. Clerk, LB389. [LB292 LB389]

ASSISTANT CLERK: Mr. President, LB389 was introduced by Senator Aguilar. (Read title.) The bill was read for the first time on January 16, referred to the Government Committee. That committee reports the bill to General File with committee amendments attached. (AM462, Legislative Journal page 657.) [LB389]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Aguilar, you are recognized to open on LB389. [LB389]

SENATOR AGUILAR: Thank you, Mr. President and members. LB389 was brought to me by the University of Nebraska to deal with the problem that they've been experiencing for years with regulations to hiring practices. In 1999, the Legislature

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passed a bill establishing the current language regarding when job application materials from people who have applied for employment with a public agency can be withheld from public. The current law allows job application materials submitted by applicants other than finalists to be withheld from the public by the lawful custodian of the records. In other words, job application materials submitted by finalists may be made public. Since the law went into effect, concerns have been raised, particularly by the University of Nebraska, that the current language will prevent quality applicants from applying for the high level positions in the university, knowing their name and other information will be made public before they are hired. For the first time since this language went into effect in 1999, the University of Nebraska and Media of Nebraska have agreed on an amendment to further define finalists. The committee amendments represent the compromise language which I will explain in more detail when I am recognized to introduce the amendment. Thank you, Mr. President. [LB389]

SENATOR LANGEMEIER: Thank you, Senator Aguilar. As the Clerk stated, there are amendments from the Government, Military and Veterans Affairs Committee. Senator Aguilar, as Chair of that committee, you are recognized to open on the committee amendments. [LB389]

SENATOR AGUILAR: Thank you, Mr. President. As I mentioned in my opening, the committee amendment further defines finalists. With the committee amendment, there are three situations in which an applicant is considered a finalist. As you will remember, a finalist is someone whose job application materials may be made public. The first situation is when an applicant reaches the final pool of applicants numbering four or more from which the applicant is to be selected. The second situation is when the final pool of applicants is less than four, then all original applicants are considered finalists. The third situation is when there are four or fewer original applicants, then again all original applicants are considered finalists. The Government Committee advanced this bill with the amendment on a 6-0 vote with two members being absent. Thank you, Mr. President. [LB389]

SENATOR LANGEMEIER: Thank you, Senator Aguilar. You have heard the opening on the committee amendments, AM462. Mr. Clerk. [LB389]

ASSISTANT CLERK: Mr. President, I do have an amendment to the committee amendment. Senator Aguilar would offer AM706. (Legislative Journal page 864.) [LB389]

SENATOR LANGEMEIER: Senator Aguilar, you are recognized to open on AM706. [LB389]

SENATOR AGUILAR: Thank you, Mr. President and members. This amendment corrects a drafting error. The error was made not by the Revisor's Office but by

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incompatible computers. When the compromise amendment was sent over to my office via e-mail, the e-mail failed to show that certain language was intended to be deleted, so my office assumed the language was meant to stay in statute. After all parties reviewed the committee amendment, it was discovered that the language intended to be stricken had not been. This amendment corrects that situation. With this amendment the language defining finalists as someone who is offered and who accepts an interview by a public body or its agents, representatives, or consultants for any public employment position, is deleted. In other words, the requirement that an applicant accept an interview in order to be considered a finalist is eliminated. Again, this was the intent of the original compromise amendment between the University of Nebraska and Media of Nebraska, but because of the computer incompatibility, the committee amendment did not reflect that. I ask that you adopt this amendment, the committee amendment, and then advance LB389 to Select File. Thank you. [LB389]

SENATOR LANGEMEIER: Thank you, Senator Aguilar. You have heard the opening on AM706 to the committee amendments. The floor is now open for discussion. Senator Schimek, you are recognized. [LB389]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I rise in support of the amendment to the amendment, the amendment, and the bill, the underlying bill. I think this is a very good bill. I don't know, Senator Aguilar, if you mentioned who all came together to actually work on the language of this bill, but this has been a long, long-standing issue which we've dealt with before but still didn't quite do the job. And as I look at the committee statement, it mentions that the university came in, in support, the League of Municipalities, the Association of School Boards, Media of Nebraska, which is an important component, and the Nebraska Press Association. The only opponent, and I want to clarify the opposition from this opponent as I understand it anyway, and Senator Aguilar, if I'm mistaken, you can let me know. But Jack Gould from Common Cause came in, in opposition, but as I understand it, that opposition was to the green copy of the bill, and once the amendments were framed, I understand that opposition was not there anymore, at least as I understand it. I just think that this is a good bill and that it deserves speedy passage. Thank you. [LB389]

SENATOR LANGEMEIER: Senator Schimek, did you yield your time to Senator Aguilar? [LB389]

SENATOR SCHIMEK: I would. [LB389]

SENATOR LANGEMEIER: Senator Aguilar, three minutes. [LB389]

SENATOR AGUILAR: I'll just briefly say that you understand correctly, Senator Schimek, and thank you for your endorsement. [LB389]

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SENATOR LANGEMEIER: Thank you, Senator Aguilar and Senator Schimek. Senator Avery, you are recognized. [LB389]

SENATOR AVERY: Thank you, Mr. President. As Senator Schimek pointed out, this is a long-standing problem that the university has had in recruiting people for top administrative positions. What they need is the opportunity to recruit from a large pool of applicants without having those people who expressed an initial interest in a position having their names made public. The reason for this is that many of the best candidates for these positions are reluctant to put their names forward or to express an interest in an open position if they know that that interest is going to be made public. The reason why they are reluctant to do so, let's say you are a vice president at another institution and you might be applying for the presidency here or you may be a vice chancellor applying for the chancellorship, if you know that a mere expression of interest is going to lead to public disclosure, you have to make the calculation then, what is this going to do to my standing at my home institution? Expressing an interest that may not even lead to a formal application could become public and that then could poison the well at your home school, undermining your effectiveness. It may be difficult for you to continue to operate effectively in your home institution if people now know, well, that person has expressed an interest in employment at the University of Nebraska. Sometimes many candidates will express an interest in an open position and might later decide not to follow through the process to the point of a formal application. We would like to be able to give the university the opportunity to have a broad pool, not a restricted pool, one that would give them the access to the best candidates possible, and I believe that this bill does that. I am generally very much in favor of, not only defending open records, but expanding the law that would open more records. In this case I think this is not an unreasonable restriction. I urge you to pass it. Thank you. [LB389]

SENATOR LANGEMEIER: Thank you, Senator Avery. Is there anyone else wishing to speak to AM706? Seeing no lights on, Senator Aguilar, you are recognized to close on AM706. [LB389]

SENATOR AGUILAR: Thank you, Mr. President, and I just encourage everybody to support this. This has been going on long enough and I'm glad that we have reached accord with the different interested parties, and I'd ask for your support of the amendments as well as the underlying legislation. Thank you. [LB389]

SENATOR LANGEMEIER: Thank you, Senator Aguilar. The question before the body is, shall AM706 be adopted to the committee amendments? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB389]

ASSISTANT CLERK: 32 ayes, 0 nays, on the adoption of the amendment to the committee amendments, Mr. President. [LB389]

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SENATOR LANGEMEIER: The amendment is adopted. We return now to discussion on the committee amendments, AM462. Is there anyone wishing to speak to the amendment? Seeing no lights on, Senator Aguilar, as Chair, is recognized for closing. He waives closing. The question before the body is, shall AM462 be adopted to LB389? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB389]

ASSISTANT CLERK: 32 ayes, 0 nays, on the adoption of committee amendments, Mr. President. [LB389]

SENATOR LANGEMEIER: The committee amendments are adopted. We return now to discussion on LB389 itself. Is there anyone wishing to speak to the bill itself? Seeing no lights on, Senator Aguilar is recognized to close. He waives closing. The question before the body is, shall LB389 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB389]

ASSISTANT CLERK: 32 ayes, 0 nays, on the advancement of the bill, Mr. President. [LB389]

SENATOR LANGEMEIER: LB389 does advance. Now we continue on to senator priority bills, the Loudon division, LB304. Mr. Clerk. [LB389 LB304]

ASSISTANT CLERK: Mr. President, LB304 was introduced by Senator Gay. (Read title.) The bill was read for the first time on January 11 of this year, referred to the Revenue Committee. That committee reports the bill to General File with committee amendments. (AM277, Legislative Journal page 510.) [LB304]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Gay, you are recognized to open on LB304. [LB304]

SENATOR GAY: Thank you, Mr. President. I'd like to...I'm going to give a little lesson where we arrived at this LB304, but I'd like to thank Senator Mines for recognizing the importance of the long-term care and some of the looming problems we may have, and in prioritizing this bill. LB304 is intended to improve upon a bill started in 2006; that was LB965 which created the Nebraska Long-Term Care Savings Plan Act. And LB304 is really about two ideas: one, individual responsibility, and the second is independence, and I'll discuss that a little further. But LB965, when it was created, is looking at the long-term problems that are looming, and not just in the state of Nebraska, but the nation. And we had a Medicare reform plan that was done, released in 2005, prepared by Jeff Santema, the legal counsel of the Health Committee, and with the Department of Health and Human Services. And I just wanted to state a few facts that came from that study that was done so you know why we're discussing this today. Long-term care

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services for the elderly and disabled are currently the largest expenditure categories in the Medicaid program. In fiscal year 2005, the total long-term care expenditures accounted for nearly 36.3 percent of the total Medicaid budget. By 2025, Medicaid is expected to consume 31.2 percent of the state's General Fund, which means that's a \$785 million gap between the needed expenditures and the anticipated appropriations that we're currently on. Much of this growth is going to be due to the aging population, and this will increase the need for long-term care services. Over the next 25 years, Nebraska's 65 and over population is expected to grow by 75 percent. The 2005 nursing facility services cost Medicaid \$278.9 million, and this represents the single highest cost service category. The one thing we do know, home and community-based services, including assisted living, are a less costly alternative to nursing home care. The average cost per day for the least expensive nursing facilities is \$74 per day compared to \$41 per day for assisted living. That will continue just to increase. The idea here is you do have a handout that we're handing out and it states what the Long-Term Care Savings Plan Act does. I don't want to read through the whole program, but what this does is, it starts to generate discussion amongst younger people to start saving for long-term care. The bill, as it was created, you couldn't access those funds until age 65. What this bill really does is lower that age to age 50, so if somebody is looking to purchase long-term care, they can access these funds at age 50. So the whole crux of LB304 is to lower that age. One of the things, there will be some amendments that we will be discussing and I won't get into those right now, but those were Revenue Committee amendments that will make this a better piece of legislation. Right now, I'd like to just, the discussion that maybe we could have and go on would be, is will younger people need to--and when I say younger, I've got to watch that--but people need to start understanding the cost involved with long-term care. Nebraska is one of five states actually working with the Centers for Medicaid and Medicare to do a study, Own Your Future Campaign, which is a pilot program to help educate consumers about long-term care and the needs for long-term care. So this, as we do that campaign and we create alternatives to help finance that, we needed to amend this bill to make it more attractive, to actually make LB965, or the Long-Term Care Savings Plan Act, a better and more viable working act. But I'll look forward to any...with that I'll end my comments and I'll look forward to any questions that anyone may have on this. Thank you, Mr. President. [LB304]

SPEAKER FLOOD PRESIDING [LB304]

SPEAKER FLOOD: Thank you, Senator Gay. There are Revenue Committee amendments to LB304. Senator Ray Janssen, as Chair of the Revenue Committee, you are recognized to open on the committee amendments. [LB304]

SENATOR JANSSEN: Thank you, Mr. Speaker, members of the Legislature. The committee amendments rewrites the bill to allow taxpayers to have long-term care accounts with the benefit of any person for whom the owner of the account has an insurable interest. Use of the accounts would also be more flexible under the committee

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amendments because anyone who has long-term care expense would be eligible. The committee amendments retains the original idea of LB304 that a person over 50 years of age could use the accounts to pay long-term insurance premiums. With that I would...that's the size of the amendment and I would answer any questions that anyone would have. Thank you, Mr. Speaker. [LB304]

SPEAKER FLOOD: Thank you, Senator Janssen. You've heard the opening on AM277, Revenue Committee amendments to LB304. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR46, LR47, LR48, LR49, LR50, LR51. We'll continue with discussion on LB304. Senator Engel, followed by Senator Carlson. Senator Engel, you are recognized. [LB304 LR46 LR47 LR48 LR49 LR50 LR51]

SENATOR ENGEL: Mr. Speaker and members of the body, thank you for recognizing me. I just want to mention that I'm totally in support of this bill, as amended. Long-term care insurance--I want to talk about the insurance side of it--is one of the best things that you can do as far as your future is concerned and as far as the state of Nebraska's future is concerned. Medicaid is eating up our budget, as you all know, and most of that money is going to support people that are in nursing homes. And if people can get a tax break on the premiums and/or setting aside the monies, they will invest in that for their future. And, of course, you have to sell this to those people. But I think if I was still in the insurance business, that's exactly what I would be doing. In fact, I did it before when I was in the insurance business. I bought it myself hoping I never use it. But I do have it in case something happens, because if anything will bankrupt you, nothing that I can think of will bankrupt you faster than being in a nursing home. It eats up your assets much more quickly than you think it will, because when the average--well, it's about \$3,000 or \$4,000 a month to stay in the nursing home--it doesn't take long to eat up a fairly good sizeable estate unless you are totally wealthy, and most of us, of course, aren't. And so I totally support this. And by lowering the age--in fact, we tried to do that when this bill was passed, lowering it; it didn't work but I think it's the wise thing to do--lowering the age to 50 because the premiums are so much cheaper at age 50 than they are at age 65. And besides being cheaper, more people qualify because you do have to have...you have to be in fairly good health to buy it, depending on what your health problems are, you can buy this long-term care. So by lowering it to 50, you make it more reasonable as far as premiums are concerned, more people will qualify for it, and with that tax deduction it's going to be an easier sale for anyone. In fact, someday...someday, you might even want to think down the road as far as even the state subsidizing the premiums for something like that. When you put everything together, what that cost would be and what we're paying for people in nursing homes now. But not today. Let's get this taken care of today and I totally support this bill and hopefully it goes through. Thank you. [LB304]

SPEAKER FLOOD: Thank you, Senator Engel. Senator Carlson, you are recognized.

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[LB304]

SENATOR CARLSON: Mr. President and members of the Legislature, I rise in support of LB304 and AM277, and appreciate Senator Gay's bringing the bill forward. We are about trying to make good legislation for the public. This bill is good public policy. This bill encourages people to do the right thing. This bill encourages people to take responsibility for themselves. And this bill encourages people not to rely on government for their well-being, and anyone who takes the attitude, I'll let the government take care of me, really doesn't understand what they're saying. They don't want to be in that situation. This bill will, long-term, help cut government expense because people are taking care of themselves. This is good legislation. It's good long-term planning, and I urge your support of LB304 and AM277. Thank you. [LB304]

SPEAKER FLOOD: Thank you, Senator Carlson. Senator Pankonin, you are recognized. [LB304]

SENATOR PANKONIN: Thank you, Mr. President and members of the body. I also stand in support of AM277 and LB304. I thank Senator Gay, as well. This is an important public policy initiative to encourage more long-term care insurance. As a former mayor of Louisville, Nebraska, we own our care center. I have personally seen how the expense of staying in that facility can be devastating financially, as well as emotionally, for families. As my own decision because I'm involved in small businesses, before I turned age 50 my wife and I started paying on long-term care insurance, knowing that that was, besides life insurance, one of the things that could be devastating to not only myself and my family but the stakeholders in our small business, our customers and employees that have been so loyal for so long. So it's a smart thing for people to do, and this policy encourages it and I think it's very wise. Thank you. [LB304]

SPEAKER FLOOD: Thank you, Senator Pankonin. There are no other lights on. Senator Janssen, you are recognized to close on AM277 to LB304. [LB304]

SENATOR JANSSEN: Thank you, Mr. Speaker. We've had some very good discussion. This is the right way to go, and possibly with this amendment we will have more people getting into the program and save the state many, many dollars. With that, I ask for your passage of the amendment. Thank you. [LB304]

SPEAKER FLOOD: Thank you, Chairman Janssen. You've heard the closing on the committee amendments to LB304. The question before the body is, should AM277 be adopted? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB304]

ASSISTANT CLERK: 32 ayes, 0 nays, on the adoption of committee amendments. Mr.

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President. [LB304]

SPEAKER FLOOD: AM277 has been adopted. Returning to discussion, there are no other lights on. Senator Gay, you are recognized to close on LB304. [LB304]

SENATOR GAY: Thank you, Mr. President. And I thank everybody for their comments on this bill; it is an important issue. I did discuss about individual responsibility and independence, and I do want to discuss that because this will be something I think we're going to be discussing in the future, as well. But if we could promote people taking control of their future and promote those ideas, I think that is a very good thing. It's going to need to be done. I think as I see these young people over here, this could be probably just like saving for your retirement, quite honestly. I think it's going to be that kind of deal and they may have to be saving for long-term care as they would their retirement probably. But another thing though, I did want to talk about the independence part of it. As we keep more people who are available to stay at home, that would be a much better way to go about taking care of our elderly population. With that, in the interest of time I will end. Thank you, Mr. Speaker. [LB304]

SPEAKER FLOOD: Thank you, Senator Gay. You've heard the closing on LB304. The question before the body is, should LB304 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB304]

ASSISTANT CLERK: 35 ayes, 0 nays, on the motion to advance the bill, Mr. President. [LB304]

SPEAKER FLOOD: LB304 advances to E&R Initial. Mr. Clerk, items for the record. [LB304]

ASSISTANT CLERK: Mr. President, I do. Your Committee on Judiciary reports LB659 to General File; LB142, LB179, and LB274 to General File with committee amendments attached. That's all I have at this time. (Legislative Journal pages 865-869.) [LB659 LB142 LB179 LB274]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Mr. Clerk. LB677. [LB677]

ASSISTANT CLERK: LB677, introduced by Senator Dubas. (Read title.) The bill was read for the first time on January 17, referred to the Natural Resources Committee. That committee reports the bill to General File with committee amendments. (AM630, Legislative Journal page 800.) [LB677]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Dubas, you are recognized to

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open on LB677. [LB677]

SENATOR DUBAS: Thank you, Mr. President and members of the body. In 1998, LB1209, the Livestock Waste Management Act, required that animal feeding operations over a certain size needed to request an inspection to determine their waste management plan. At that time, the definition for an animal feeding operation exempted ranch operations. In 2004, DEQ adopted EPA livestock waste regulations which removed this exemption. These ranchers are now required to request an inspection. There is a great deal of difference between ranchers' livestock operations and the actual livestock feeding operations. These rule changes have caught ranchers unaware and they have continued to operate as they always have, considering themselves exempt. The sole intent of this bill is to create a window of opportunity for the ranchers to request their inspection by December 31, 2008. The committee amendment further narrows this definition and clarifies this in intent, and I do support that amendment. Thank you. [LB677]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Mr. Clerk for an announcement. [LB677]

ASSISTANT CLERK: Mr. President, Senator Johnson would like to hold an Executive Session of the Health Committee now under the North Balcony; that's the Health Committee under the North Balcony. [LB677]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. As the Clerk has stated, there are committee amendments from the Natural Resources Committee. Senator Louden, as Chair of the Natural Resources Committee, you are recognized to open on the committee amendments. [LB677]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. The committee amendment, AM630 to LB677, and this amendment strikes Section 3 of the bill and replaces it with language that limits the effects of this bill to livestock operations that were exempt from requesting an inspection until federal action in 2004. The amendment allows those operations to request an inspection prior to January 1, 2009, and if they fail to do so, late fees shall be assessed as exists in current law. Late fees are assessed based on size, and range from \$50 to \$500 per month, until the request for inspection has been filed. The committee amendment also contains the emergency clause. This amendment should help our small- and medium-sized operations which had been exempt from requesting an inspection, to come into compliance without having to pay late fees which could total thousands of dollars. The amendment was advanced by a vote of 6, with 2 absent, with no opposition. Thank you, Mr. President. [LB677]

SENATOR LANGEMEIER: Thank you, Senator Louden. You have heard the opening

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on the committee amendments, AM630. The floor is now open for discussion on the committee amendments. Those wishing to speak? Senator Preister, you are recognized. [LB677]

SENATOR PREISTER: Thank you, Honorable President, friends all. I rise in support of the committee amendment. I want to commend the committee for their work in limiting the scope of the original bill. I think certainly the cow/calf operators did not originally believe that they would be covered, and so to give them this opportunity to come into compliance and get the inspection I think is a fair thing to do and do appreciate doing it. I appreciate the work that the committee has put into it and the work with the cattlemen. I think that the amendment which becomes the bill is acceptable and is good policy and I do support it. Thank you. [LB677]

SENATOR LANGEMEIER: Thank you, Senator Preister. Is there anyone else wishing to speak to the committee amendments? Senator Carlson, you are recognized. [LB677]

SENATOR CARLSON: Mr. President and members of the Legislature, on the note I was down as absent and not voting and I was called out to another meeting, but I do want to rise in support of the amendment, AM630 and LB677, and would request your support. Thank you. [LB677]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Is there anyone else wishing to speak to the amendment? Seeing no lights on, Senator Loudon, you are recognized to close. Senator Loudon waives closing. The question before the body is, shall AM630 be adopted to LB677? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB677]

ASSISTANT CLERK: 26 ayes, 0 nays, on the adoption of committee amendments, Mr. President. [LB677]

SENATOR LANGEMEIER: The amendment is adopted. We return now to discussion on the bill itself, LB677. The floor is now open. Is there anyone wishing to speak to the bill itself? Seeing no lights on, Senator Dubas, you are recognized to close on LB677. Senator Dubas waives closing. The question before the body is, shall LB677 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB677]

ASSISTANT CLERK: 26 ayes, 0 nays, on the motion to advance the bill, Mr. President. [LB677]

SENATOR LANGEMEIER: LB677 does advance. (Visitors introduced.) Mr. Clerk, LB636. [LB677 LB636]

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ASSISTANT CLERK: LB636 introduced by the Natural Resources Committee. (Read title.) The bill was read for the first time January 17, referred to the Natural Resources Committee. The committee reports the bill to General File with committee amendments. (AM381, Legislative Journal page 621.) [LB636]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Louden, you are recognized to open on LB636. [LB636]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. LB636 adds exceptions to the current sealed bidding requirements in an attempt to give public power districts additional options for acquiring equipment and supplemental labor in a cost-effective and timely manner. The exception concerns contracts for equipment and supplemental labor from an electric utility or through an electric utility alliance when three things occur. First, an engineer certifies that a sealed bid process is impractical or not in the public interest, and provides a cost estimate. Second, the contract is advertised so that prospective suppliers can respond if the cost estimate exceeds \$100,000, which is the current law for exceptions to the sealed bidding process. And third, the decision requires a two-thirds vote of the boards of directors which is also current law. Current exceptions to the sealed bidding requirements are for contracts not including on-site labor where no responsive bids are received or bids exceed fair market value, for replacement parts or services relating to such replacement parts when the original manufacturer is the only available source of supply, and for purchase of used equipment. No opposition was presented and it was advanced by the committee on a vote of 7, with 1 person absent. There is no fiscal impact. I might also add that Senator Heidemann has prioritized this bill. With that I would ask for the advancement of LB636. Thank you, Mr. President. [LB636]

SENATOR LANGEMEIER: Thank you, Senator Louden. As the Clerk has stated, there are amendments from the Natural Resources Committee. Senator Louden, as Chair of the Natural Resources Committee, you are recognized to open on the committee amendments. [LB636]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. The committee amendment incorporates all of the provisions of the original bill and merely allows entities that are formed under an interlocal agreement and entities under the Municipal Cooperative Financing Act to be eligible for the same provisions as public power districts and public power and irrigation districts. The committee amendment becomes the bill. Thank you, Mr. President. [LB636]

SENATOR LANGEMEIER: Thank you, Senator Louden. You have heard the opening on the Natural Resources committee amendments. The floor is now open for discussion. Is there anyone wishing to speak to AM381? Seeing no lights on, Senator Louden, you are recognized to close. Senator Louden waives closing on the committee

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amendments, AM381. The question before the body is, shall AM381, the Natural Resources committee amendments, be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Senator Louden, for what purpose do you rise? [LB636]

SENATOR LOUDEN: I would ask for a call of the house, Mr. President. [LB636]

SENATOR LANGEMEIER: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB636]

ASSISTANT CLERK: 21 ayes, 0 nays, to go under call, Mr. President. [LB636]

SENATOR LANGEMEIER: The house is under call. Senators, please record your presence. Those senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Stuthman, Aguilar, Synowiecki, Wallman, Chambers, the house is under call. Senators Johnson, Nelson, and Nantkes, please return to the Chamber. The house is under call. Senator Preister, would you please check in. Senator Louden. [LB636]

SENATOR LOUDEN: Ask for call-in votes if you would. [LB636]

SENATOR LANGEMEIER: Senator Louden has deemed we have enough here to proceed and he is allowing call-in votes. The question before the body is the adoption of AM381, the committee amendments to LB636. Mr. Clerk. [LB636]

ASSISTANT CLERK: Senator Janssen voting aye. Senator Kruse voting aye. [LB636]

SENATOR LANGEMEIER: Record, Mr. Clerk. [LB636]

ASSISTANT CLERK: 26 ayes, 0 nays, to adopt the committee amendments, Mr. President. [LB636]

SENATOR LANGEMEIER: The committee amendments are adopted. We return back to LB636. There are no lights on. Senator Louden, you are recognized to close. [LB636]

SENATOR LOUDEN: Thank you, Mr. President. I would just ask that we advance LB636. Thank you. [LB636]

SENATOR LANGEMEIER: You have heard the closing on the advancement of LB636. The question before the body is, shall LB636 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr.

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Clerk. [LB636]

ASSISTANT CLERK: 34 ayes, 0 nays, to advance the bill, Mr. President. [LB636]

SENATOR LANGEMEIER: LB636 does advance. With that I raise the call. Mr. Clerk, we're now returning, according to the agenda, back to Select File to LB192. [LB636 LB192]

ASSISTANT CLERK: Mr. President, with respect to Select File, there are E&R amendments. (ER8039, Legislative Journal page 736.) [LB192]

SENATOR LANGEMEIER: Senator McGill for a motion. [LB192]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB192]

SENATOR LANGEMEIER: You've heard the motion to advance the E&R amendments. All those in favor say aye. All those opposed say nay. The amendments are adopted. Mr. Clerk. [LB192]

ASSISTANT CLERK: Mr. President, Senator Harms had offered AM643. Senator, I have a note to withdraw this amendment. [LB192]

SENATOR HARMS: That's correct. [LB192]

ASSISTANT CLERK: Senator Harms would offer AM701. (Legislative Journal pages 869-870.) [LB192]

SENATOR LANGEMEIER: Senator Harms, you are recognized to open on AM701. [LB192]

SENATOR HARMS: Mr. Chairman and colleagues, thank you very much. This bill, LB192, creates a scholarship program, an Access Early Scholarship Program for the low-income students. I won't go over what I discussed a week ago but I'll just directly go to the amendments. In the amendments, on page 1, lines 3-15, we talk here that students must be enrolled in a qualified postsecondary educational institution, and it must be located in Nebraska, must agree to comply with the requirements of this particular act. The courses must be taken for credit from a qualified postsecondary educational institution, and the students are required to be residents in Nebraska. Still on page 1, lines 16-21 or 22, I want to take just a moment to read this to you because I want to clarify this for you because it deals with tuition. And what it says here on line 16, it says, "lesser of tuition and mandatory fees accrued by the student after any discounts applicable to such student from the qualified postsecondary" institution. What we have here in Nebraska, there are a number of institutions of higher education that

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while students are still in high school they actually will give them a discount. And I want to make sure that the law shows that we want the discount if the student is going to enroll and they've been giving it, that they pay appropriately. And then it also talks about...inserts then, "or the tuition and mandatory fees that would have been accrued by the student for the same number of credit hours if the student were taking the course as a full-time, resident, undergraduate student from the University of Nebraska-Lincoln." Now this is because we do have students who could go to a private tech college or could go to a private school, and we don't want to narrow this whole thing down for students. We want them to have, as low-income students, to have that same opportunity to do that, but I don't want to pay that kind of tuition, and it's equal and comparable to what they would take if they were at the university. The other thing that's in the bill on the second page that I want to bring to your attention is that we ask the institutions to report to the commission and then later send the report to the Clerk of the Legislature. And I want to clarify the fact that we would like to know whether the student has been successful or not successful in the classes that they've taken, and that we want to know within 30 days of the end of that semester time whether the student has been successful. And there's a second part of that is that within 180 days of the receipt of payment if the course does not have a specific end date. There are a lot of classes that you can take over the Web that don't have an end date, that are open-ended for a longer period of time. We want to make sure that we stay on top of that and we want to make sure that the student is finishing that. And then the rest of it is really just minor changes that we take place, and I would urge you to support this amendment. [LB192]

SENATOR LANGEMEIER: Thank you, Senator Harms. You have heard...Mr. Clerk. [LB192]

ASSISTANT CLERK: Mr. President, Senator Erdman would offer AM715 to Senator Harms' amendment. (Legislative Journal page 870.) [LB192]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Erdman, you are recognized to open on AM715 to AM701. Senator Erdman, do you wish to open on your...? You are recognized to open on AM715. [LB192]

SENATOR ERDMAN: Mr. President and members of the Legislature, I apologize for my tardiness. We were having a discussion on the amendment. Let me share with you what the amendment does and let me give you some background on why this language was taken out of the green copy of the bill as I understand it. I have visited with Senator Harms and Senator Schimek and Senator Chambers, as well as the Speaker, about this language, and let me be clear about what my intentions are. My intentions are to make it clear that we want kids that qualify for this program to succeed. And in that vein what we also want to do is make sure that one of the barriers that they may experience in pursuing higher education would be out-of-state tuition. And it doesn't apply to any specific area or group of individuals. It simply is a recognition of a barrier that has been

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a problem in the state of Nebraska for kids to be able to seek higher education, is cost. As I understand the language that was taken out by the committee, that language was taken out which referred to Section 85-502, specifically because that program referred to somebody who had already graduated from high school. That's why that language was taken out. And in an attempt to broaden the language to reflect the undergrad scenario, it was simply made that the student who attends school in Nebraska. The amendment that's before you has this language that would be added to that. The students who attends...I believe this is accurate and I'll have to look exactly but the application of my language is, is that "with the reasonable expectation that such students will meet residency requirements of section 85-502 upon graduation from a Nebraska high school." If it is the intent of this Legislature to encourage young people in this state, and candidly had this program been in place when I was in high school I would have qualified for it so I understand what the intention is because I took classes in high school for college credit. But what we have as a state is a reasonable expectation that before we give somebody a subsidized value on their education, that they meet our residency requirements. There are going to be limited funds in this program. My thought for the body's consideration--and should you choose to have a different opinion, you are entitled to that--but my thought is that we should have a reasonable expectation that the same standard we would hold people to before the state would subsidize their higher education costs would be the same standard we would hold these students to before we would subsidize their higher education costs while they're still in high school. I think that's a reasonable expectation. And the reason why that's language is in this amendment is because we obviously can't compel somebody to meet a requirement that's contingent upon graduation if they're still in high school. So we've worked with Bill Drafters to come up with the language that I believe allows for the considerations necessary but reflects the policy that's existing in the state. There are eight different scenarios in five subsections under Section 8 of 85-502 that relate to when you are eligible for in-state tuition in the state of Nebraska. This amendment does not change that, and in fact it references it exactly. So the amendment before you would allow those young people in the state of Nebraska who would qualify under this program, if there's a reasonable expectation if they're going to meet 85-502, that they should be given every opportunity to apply and receive this scholarship should the funding be available. If that's not a reasonable expectation of this state and of this Legislature, then I guess I would like to know what a reasonable expectation is. The reality of it, if a student qualifies as a resident, and chooses to go to Iowa or Kansas or Colorado for their higher education, they're going to have out-of-state tuition costs. If they choose to go to Nebraska, then they shouldn't have that barrier, at least as I understand the intent of the bill. We don't want to set kids up to face an arbitrary barrier that they weren't aware of. We have tried to address that in the past, and while I may have opposed Senator Schimek's bills in the past on this area, this is not that issue. This is completely different. This is about applying a policy on targeting the funds for the young people in the state to be successful under the bill that Senator Harms has, under our existing requirements, so that we don't entice them into higher

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education only to tell them, oh, by the way, you now get to pay a higher education cost because you don't meet our requirements and you are better off going to some other state. I think we get the biggest bang for our buck if we have this reasonable expectation. It's not an ironclad requirement. It's simply an expectation that clarifies a student that would be eligible for this type of scholarship is reasonably expected to meet the in-state tuition requirements, and in the event that they don't, there's no recovery provision. It's simply an expectation and I think that's fair. I would yield time to Senator Harms. I know that he and I have visited. I see his light is on but in fairness to him I'd like him to have an opportunity to share his thoughts on the amendment and any ideas that he may have, as well. [LB192]

SENATOR LANGEMEIER: Senator Harms, 4, 40. [LB192]

SENATOR HARMS: Thank you very much for your comments in regard to this. After a lot of thought and discussion, this is not really where I want to be, to be very frank with you, but I think it's a reasonable compromise. And the thing that I look at, this amendment, we talk about reasonable expectations. Well, that will be up to the counselor to determine what is reasonable. It will be up to the commissioner to determine what is reasonable. And with that in mind and with that in the record, I feel comfortable at this point of accepting this amendment. [LB192]

SENATOR LANGEMEIER: Thank you, Senator Harms and Senator Erdman. The floor is now open for discussion on AM715. Senator Schimek, followed by Senator Harms. Senator Schimek, you are recognized. [LB192]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. Senator Erdman, we've had some discussions off the mike about this amendment, and you know that I don't think it's really necessary. But on the other hand, in the spirit of cooperativeness I think it's acceptable. I, as you know, worried about what reasonable expectation meant, but I think it's probably okay. I think this is not a necessary amendment but I too am willing to accept it. [LB192]

SENATOR LANGEMEIER: Thank you, Senator Schimek. Senator Harms. [LB192]

SENATOR HARMS: I am in favor of this amendment, and please adopt it. [LB192]

SENATOR LANGEMEIER: Thank you, Senator Harms. Is there anyone else wishing to speak to AM715? Seeing no lights on, Senator Erdman, you are recognized to close. [LB192]

SENATOR ERDMAN: Mr. President and members of the Legislature, I appreciate the comments of Senator Schimek and Senator Harms. I do think it's clarifying. I think it's appropriate. I appreciate their support and would encourage the body to adopt AM715

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to the Harms amendment. Thank you, Mr. President. [LB192]

SENATOR LANGEMEIER: Thank you, Senator Erdman. You have heard the closing on AM715. The question before the body is, shall AM715 be adopted to AM701? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB192]

ASSISTANT CLERK: 31 ayes, 2 nays, on the adoption of the amendment to the amendment, Mr. President. [LB192]

SENATOR LANGEMEIER: AM715 is adopted. We return now to AM701 discussion. (Visitors introduced.) The floor is now open for discussion on AM701. Is there anyone wishing to speak to AM701? Seeing no lights on, Senator Harms, you are recognized to close. Senator Harms waives closing. The question before the body is, shall AM701 be adopted to LB192? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB192]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Harms' amendment. [LB192]

SENATOR LANGEMEIER: The amendment is adopted. [LB192]

CLERK: I have nothing further on the bill, Mr. President. [LB192]

SENATOR LANGEMEIER: Senator McGill for a motion. [LB192]

SENATOR MCGILL: Mr. President, I move LB192 to E&R for engrossing. [LB192]

SENATOR LANGEMEIER: The motion is the advancement of LB192. All those in favor say aye. Before we do that, Senator Synowiecki, for what purpose do you rise? You're recognized; sorry. [LB192]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier. I just have a quick question for Senator Harms. [LB192]

SENATOR LANGEMEIER: Senator Harms, would you yield to a question? [LB192]

SENATOR HARMS: Yes. [LB192]

SENATOR SYNOWIECKI: Senator Harms, I appreciate you bringing this bill. I just want to confirm on the record though that you've heard me talking in the committee a lot about I have a private school in my district. It's a private school and it's mission-driven essentially, and it's a great school. And those kids then get scholarships to private high

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schools in the Omaha area. I just wanted to confirm for the record that youngsters that attend a private high school will have access to this program if they meet the qualifying guidelines. [LB192]

SENATOR HARMS: I think when you really look at the bill it really refers to basically public institutions. It's not...they could qualify for that. I don't think it's a...would be an issue and it's really up to the counselor to submit that recommendation to the commission. [LB192]

SENATOR SYNOWIECKI: Senator Harms, the secondary school is all public institutions in the state. [LB192]

SENATOR HARMS: Right. [LB192]

SENATOR SYNOWIECKI: I understand that. But I just wanted to confirm that youngsters that are attending a private high school have access to this program. [LB192]

SENATOR HARMS: They would. [LB192]

SENATOR SYNOWIECKI: Thank you. [LB192]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki and pardon the skipping there. Senator McGill, for a motion. [LB192]

SENATOR MCGILL: Mr. President, I move LB192 to E&R for engrossing. [LB192]

SENATOR LANGEMEIER: Thank you. The motion before the body is the advancement of LB192. All those in favor say aye. All those opposed say nay. LB192 does advance. Mr. Clerk, returning to General File: LB663. [LB192 LB663]

ASSISTANT CLERK: Mr. President, LB663, offered by Senator Hudkins. (Read title.) The bill was read for the first time on January 17 of this year, referred to the Transportation and Telecommunications Committee. That committee reports the bill to General File with no committee amendments. [LB663]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Hudkins, you are recognized to open on LB663. [LB663]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. LB663 changes the distribution of prorated--and those are commercial trucks--registration fees. Currently, the Motor Vehicle Tax Fund receives 30 percent, less a 3 percent collection fee, of prorated registration fees, or approximately \$7.9 million annually. Money in the

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Motor Vehicle Tax Fund is distributed to counties based on the number of motor vehicle registrations in each county. The money is then distributed to local taxing authorities based on the levy of each taxing authority within the county. LB663 would direct these funds to the Highway Allocation Fund. The Highway Allocation Fund is distributed to cities and counties based on a formula that includes population, motor vehicle registration, lane-miles of streets, farm products sold, and so forth. LB663 looks to the registration fee on apportionable vehicles because this fee is more related to the use of our road system than it is to the current distribution formula, and redirects the funding from the Motor Vehicle Tax Fund to the Highway Allocation Fund for use by the cities and counties for maintenance and construction of their road systems. The formula set up for distribution of the funds in the Highway Allocation Fund is more equitable between counties and cities than the formula set forth in the Motor Vehicle Tax Fund, and by placing the funds in the Highway Allocation Fund, the monies are then dedicated to the road infrastructure and cannot be diverted for other uses as it may be under the Motor Vehicle Tax Fund. One impact that this change and distribution will be the estimated loss to school districts, and I know some of you have talked to me about this. The total cost is about \$4 million, but this loss of revenue will be replaced with General Fund state aid beginning in fiscal year '09, and from the perspective of other political subdivisions there will be a change in the amount of revenue received due to the differences in the distribution formula with, unfortunately, some losing and others gaining. We did this because we felt that the money received in registration fees from apportionable vehicles should never have gone to all of the governmental entities in the first place. That money, because they are trucks, they are on the road, we felt that that money should be sent to the Highway Allocation Fund which deals in roads. For right now that's all I will say. Thank you, Mr. President. [LB663]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. (Visitors introduced.) The floor is now open for discussion on LB663. Senator Pahls, you are recognized. [LB663]

SENATOR PAHLS: Mr. President and members of the body, I would like to have a dialogue with Senator Hudkins, please. [LB663]

SENATOR LANGEMEIER: Senator Hudkins, would you yield to a question? [LB663]

SENATOR HUDKINS: Yes. [LB663]

SENATOR PAHLS: Senator, I understand what you are doing and I do appreciate helping the highway fund. The question that I have is you said that these fees really should not have gone to...where they're going right now is not really the place they deserve to be. The question I have is, looking historically, why did this happen? Why were these fees placed for like on the...for the schools? [LB663]

SENATOR HUDKINS: Senator Pahls, I'm afraid that was before my time and I don't

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know why or how these funds were divided up. [LB663]

SENATOR PAHLS: Okay. And the only reason I did...I thought perhaps you did. Historically, when we have property tax on these vehicles, that money went to the school districts. And then it was my understanding since they moved from the property tax to the registration, that money historically was just kept in the same pot, as you may say. The only concern that I have is the losing of the \$4.1 million and that would be offset by state aid. And I hear people on the floor in the past have talked about we have to be very careful about state aid. So it seems like we are causing some friction in the future when we're looking at state aid, the increase of state aid, and part of that is because we're shifting. Am I misinterpreting that or am I making myself clear? [LB663]

SENATOR HUDKINS: Well, the funds that...let's say that this bill has already passed. The funds that used to go to the Highway Allocation Fund, the Highway Trust Fund, were distributed amongst all of these other entities, yes, including schools. If this money is now switched to being used only for cities and counties to be used with their roads, there could perhaps be a raise in property taxes from the school's perspective and a lowering of the property taxes from the county's perspective because now they have more money to work with to devote to roads. Does that answer your question? [LB663]

SENATOR PAHLS: Yes, that does. And I understand the rationale behind that but then there's always a criticism that state aid is continually increasing. And by making this \$4 million shift, that's just going to make that continue to increase, where if you take that \$4 million now it won't cause the state aid to go up that additional \$4 million. Because there's always a concern that we're spending too much money on state aid, and this will automatically jump that up \$4 million because you are taking away the revenue that you are getting, that the school systems are getting. [LB663]

SENATOR HUDKINS: I see your point, Senator Pahls. [LB663]

SENATOR PAHLS: And I do. I mean, I support the concept of roads; that's not the issue. But I'm just hoping in the future on our debates on the floor that people will, our peers will understand that \$4 million, perhaps, increase in state aid is because we shifted the money out of...from state aid, basically helping the state aid into helping the roads. It's a shift. Am I correct on that? [LB663]

SENATOR HUDKINS: Yes, you are right. [LB663]

SENATOR PAHLS: Okay. Okay. Again, I would do every effort to help you increase the roads fund but I do think that we...I'm just hoping the people understand in the future that this will jack up state aid. [LB663]

SENATOR HUDKINS: Senator Pahls, you also have to look down the road further.

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Increasing the amount of money that is spent for roads... [LB663]

SENATOR LANGEMEIER: One minute. [LB663]

SENATOR HUDKINS: ...construction and maintenance is also going to add to the economic climate of the state. [LB663]

SENATOR PAHLS: Yes, and I agree. I think we're sort of caught between a rock and a hard place on this particular issue because both sides need money. Okay, thank you. [LB663]

SENATOR LANGEMEIER: Thank you, Senator Pahls. Senator Stuthman, followed by Karpisek, Adams, and others. [LB663]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. At your desk, I did pass out some information as far as what the effects of this bill could do as far as school districts, the nonequalized school districts, and how many dollars it would involve that would have to be made up some other place. Now, I'm going to tell you a little bit about in my area, the school districts that I represent. Leigh Community Schools would lose about \$7,000; Lakeview Community Schools would lose about \$31,000; Humphrey Public Schools, about \$10,000. Where are these dollars going to come from that they're currently receiving now? The school districts that are equalized, the loss that they will incur because of this bill, will, in my opinion and the way I understand it, will be coming in a contribution from the state aid formula to balance that out. But in the nonequalized school districts of which I just mentioned, those three that I have in my district, and you can look at all of them on the sheet that I have, that will have to be absorbed in property taxes. And we all realize what is the main issue that people have a real concern with? Property taxes. This is an increase to property taxes is what it comes down to. Yes, it's \$4 million is what the total comes to which would end up going to the Highway Trust Fund, to really the Highway Allocation Fund. Are we going to see a lot of difference in the progress of the Department of Roads as far as building roads if we add another \$4 million to that? Yes, we will probably see just a little bit. But is that the main issue in the eyes of the public? In the eyes of the public it's property taxes. It has been for many years, and I think this is just another way where we're going to be raising property taxes in those districts, and I think we need to take that into consideration. We've had this bill before. And my school districts would really suffer. Yes, I have other school districts that are equalized in my district also and they will get additional money from state aid for that. I would like to see something that could come out of this where we could get back to the schools those dollars instead of having to go to property tax. I think this is just a penalty to the people owning property. It's another tax burden. In my district, like I said, it's going to be about \$50,000-some additional tax burden on the people that are in my community. And just because we have high value in farm property and the low population out there in the rural area, I don't know why we have to be

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penalized for that. So I think we need to take this into consideration. We need to be very careful as to what we're doing for property taxes, how we're sending the direction. And I will guarantee you that if this \$31,000 and \$10,000 and \$7,000... [LB663]

SENATOR LANGEMEIER: One minute. [LB663]

SENATOR STUTHMAN: ...is taken away from those school districts of mine, I will guarantee you it will be on your property tax bill. Thank you. [LB663]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Karpisek, you are recognized. [LB663]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. Senator Stuthman said pretty much everything that I was going to say. I have five districts in my district which would cost roughly \$40,000 in these nonequalized districts. These schools are already having a tough time. They're land-rich, cash-poor, and I cannot support any bill that would take more money away from them. Again, they're already having too hard a time. I am very in favor of the Highway Trust Fund. I don't think this is the place that we can take it. If it all came back from the state aid to schools formula, I wouldn't have as much problem with it. But these schools that will get nothing and just get it taken away, Senator Stuthman is correct, where else will it go? It will either be on property taxes or it will be cuts at the schools, and we just can't let that happen anymore. Thank you, Mr. President. [LB663]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. Senator Adams, you are recognized. [LB663]

SENATOR ADAMS: Thank you, Mr. President and members of the Legislature. I rise to this and I'll tell you quite frankly I wrestled a bit with it, and I do for this reason. One, I'm an advocate of building roads. I'm an advocate of maintaining the public infrastructure. And my initial reaction was, well, \$4 million, if we can make the shift and give it to counties and cities, we ought to do that. But when I looked deeper and I looked deeper at the impact to schools, and particularly the nonequalized schools, I had to take a step back. I had to take a step back and really weigh the cost versus the benefit here. More money for roads: we've got to have it, no question about it. But I think the money we're talking about here is a drop in the bucket compared to the harm it may do to school districts that don't get money made up in the state aid formula. The other concern that I have is this: I could maybe vote in favor of this right now if I didn't know what else may be coming down the road in terms of the state aid formula and appropriations before this session was over. I might be able to look at a nonequalized school district in the 24th District and say to them, um, you are going to take a \$9,000 hit or you are going to take a \$10,000 or a \$4,000 hit; you can do that. What I don't want to have to do is today say, you may have to take a \$9,000 hit, and then before the session is over say, and

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because of some other changes that got made in the state aid formula and appropriations before this session is over you are also going to have to take another hit here and another hit here. At this point I just don't have enough information to prepare to say yes to this. Thank you, Mr. President. [LB663]

SENATOR LANGEMEIER: Thank you, Senator Adams. Mr. Clerk, items for the record. [LB663]

ASSISTANT CLERK: Mr. President, I do. An amendment to LB198 from Senator Schimek to be printed in the Journal. Your Committee on Transportation reports LB415 to General File with amendments, as well as LB570; reports LB297 as indefinitely postponed; LB560, indefinitely postponed; and LR37 is reported to the Legislature for further consideration. The Committee on Health and Human Services reports LB461 to General File with amendments. New A bill, LB404A, offered by Senator Janssen. (Read title for the first time.) Request for name adds: Senator Pirsch to LB255; Senator Cornett to LB338; Senator Dwite Pedersen to LB470 and LB554. (Legislative Journal pages 871-873.) [LB198 LB415 LB570 LB297 LB560 LR37 LB461 LB255 LB404A LB338 LB470 LB554]

Mr. President, I have a priority motion. Senator Flood would move to adjourn until Thursday, March 15, 2007, 9:00 a.m.

SENATOR LANGEMEIER: Thank you, Mr. Clerk. The motion before the body is to adjourn until Thursday, March 15, at 9 a.m. All those in favor say aye. All those opposed say nay. We are adjourned.