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Floor Debate
April 22, 2009

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SENATOR ROBERT PRESIDING []

SENATOR ROBERT: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-sixth day of the One Hundred First Legislature, First Session. Our chaplain for today is Senator Nelson. Please rise. []

SENATOR NELSON: (Prayer offered.) []

SENATOR ROBERT: Thank you. I call to order the sixty-sixth day of the One Hundred First Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record. []

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

SENATOR ROBERT: Thank you. Are there any corrections for the Journal? []

CLERK: I have no corrections, Mr. President. []

SENATOR ROBERT: Are there any messages, reports, or announcements? []

CLERK: Just one item, Mr. President: A confirmation report from Health and Human Services, and that's all that I have. (Legislative Journal page 1157.) []

SENATOR ROBERT: Thank you. We will now proceed to the first item on the agenda, General File, 2009 Speaker priority bills. []

CLERK: Mr. President, LB97 by Senator Lautenbaugh. (Read title.) Introduced on January 10, referred to the Judiciary Committee, the bill was advanced to General File. There are committee amendments, Mr. President. (AM893, Legislative Journal page 978.) [LB97]

SENATOR ROBERT: Senator Lautenbaugh, you're recognized to open on LB97. [LB97]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. LB97 is intended to give prosecutors and law enforcement more tools with which to combat sex offenders on the Internet. This bill makes various changes to the charges, procedures

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and penalties in relation to the current sex offender statutes. There are a variety of provision in here that we'll have time to discuss. I will hit on some of the main ones in the opening here. It allows for the service of search warrants and subpoenas on Internet service providers located in other jurisdictions but doing business in Nebraska. It adopts certain federal rules of evidence concerning the admissibility of prior instances of sexual behavior of an accused offender. It changes the charge of on-line enticement using a computer to on-line enticement using any electronic communication device. It expands various definitions of visual depictions of pornography. It describes rules and procedures for introducing child pornography at trial and for sharing child pornography evidence with the defense through the discovery process. And there will be committee amendments on this. We had some concerns voiced by the defense bar and we worked with them to eliminate those concerns. The crime also eliminates...or, I'm sorry, the bill also eliminates the applicability of the statute of limitations for the crime of incest and, again, provides various other provisions in this area to tighten up our Criminal Code, if you will, in this area. This bill was brought to me by the Attorney General's Office and I was happy to introduce it. It was kind of a shock to me when we were discussing this initially. I was asked how many computers in Nebraska do you think are actively involved in the sharing of child pornography, and I guessed, you know, a state the size of Nebraska, maybe 500 would be a high number, and I was advised that that number is actually 10,000, just in the state of Nebraska, 10,000 computers storing and actively sharing such images and inappropriate material, and that was a shock to me and I hope it's a shock to you. This is a very serious bill. There will be a committee amendment that I believe Senator Ashford will discuss that I may have already touched on. Senator White also had a bill that provided various provisions in this area as well and that, per the committee amendment, is being rolled into this bill and Senator White, I believe, will speak to the terms of that as well. So I'd be happy to answer your question on this, as the debate goes on. This is a very serious topic. We'll give it the time it needs. And I would ask for your support in advancing the bill. [LB97]

SENATOR ROBERT: Thank you, Senator Lautenbaugh. Members, you have heard the opening to LB97. As the Clerk mentioned, there are committee amendments. Senator Ashford, as Chair of the Judiciary Committee, you are recognized to open on AM893. [LB97]

SENATOR ASHFORD: Thank you, Mr. President. And I do commend both Senator Lautenbaugh and Senator White for putting a great deal of work into this amalgam, really, of two fairly significant pieces of legislation that were introduced and referenced to the Judiciary Committee. And also, I would commend the efforts and work of both the defense bar and the Attorney General's Office, others on the committee who worked diligently to bring to you a...I think a concise and targeted piece of legislation to deal with the issue of pornography, the Internet and related topics. The amendment to LB97, AM893, as Senator Lautenbaugh suggests, does propose some changes to the original legislation. For one thing, LB15, which was Senator White's bill, is introduced or is

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incorporated in the bill to add driver's license numbers to the list of information included in the registration database in addition to e-mail addresses, instant messaging addresses, and other Internet communication identifiers as required under the original bill, again expanding the scope of enforcement and investigation into these matters. AM893 would also amend provisions related to handling of child pornography evidence, as Senator Lautenbaugh suggests, somewhat adopting the federal rules. The new language would allow the court to order the copies of the evidence be delivered to an expert witness for the defense for evaluation, but the court would have continued supervision over that evidence. The amendment would expand the crime of sexual assault of a child in the first degree to include instances when a child who is at least 25 years old subjects a person, who is less than 16 but at least 12 years old, to sexual penetration. AM893 would also add provisions related to juveniles and "sexting" and the issue of "sexting" was an issue that our committee spent a great deal of time thinking about. It's apparently a common practice in our society and in our state. The statutes prohibiting the possession of and the manufacturing of child pornography would be amended to differentiate between persons who are under 19 and those 19 and older with regard to the penalty provisions, again recognizing that there are...I guess the word is not really innocent but negligent actions by juveniles not aware of the gravity of what they are participating in, and we've recognized that in the amendments to LB97, committee amendments. We also inserted an affirmative defense for juvenile offenders under certain circumstances, again recognizing that juveniles...their mens rea, their state of mind, their experience level, their attitudes are different than adults and that is...that language in the amendment is reflective of that. The amendment would strike new language in the original bill that prohibits certain types of involvement with sexually explicit images that appear to but do not actually include a minor as a participant or portrayed observer. Again, this amendment was brought to us really by the arts and sciences industry, the theater industry, the movie industry, that where adults in effect do depict children in movies, television programming and other media. So with that, Mr. President, I would urge the adoption of the committee amendments. I believe they do tighten the bill, includes Senator White's good work in this issue, the Attorney General's work, the defense bar. And I want to thank the committee. We spent a lot of time on this bill, quite a bit of time on this bill because of the potential for misinterpretation of language or misapplication of broad standards when we're dealing with the issue of pornography. And words can be interpreted in many different ways in statute, especially when we're dealing with issues such as this, and when freedom of the press issues get involved and First Amendment rights are involved, and these always become rather tricky. But through the efforts of our staff, the committee and others, Senator Lautenbaugh, Senator White, Attorney General, I think we've got, with these amendments, a bill that is tight and is targeted. Thank you, Mr. President. [LB97 LB15]

SENATOR ROBERT: Thank you, Senator Ashford. Members, you have heard the opening to the committee amendments, AM893. Mr. Clerk. [LB97]

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CLERK: Mr. President, Senator Flood would move to amend the committee amendments, AM1094. (Legislative Journal page 1120.) [LB97]

SENATOR ROBERT: Senator Flood, you're recognized to open on AM1094. [LB97]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. AM1094 amends the standing committee amendment to LB97. This essentially is LB39, as recently advanced from the Judiciary Committee to General File with a couple of technical adjustments. This amendment would amend Nebraska's existing rules of evidence. It would adopt new rules of evidence concerning sexual offenses. In short, these changes would allow the admission of an accused other sex offenses to show his or her propensity to commit that type of crime. The bill, as amended, advanced from the Judiciary Committee on an 8:0 vote. In drafting what has become this amendment, we were fortunate to have the support and assistance from the Douglas County Attorney, the County Attorney Association, obviously Don Kleine in Omaha, Chief Deputy County Attorney Brenda Beadle, Creighton law professor Collin (sic) Mangrum, and the Nebraska Domestic and Sexual Assault Coalition. Also, since the bill's introduction, I want to just highlight for you the extraordinary work done by these two men, Senator Ashford and Senator Lathrop, and other members of the committee. They really went to work on this. They got in the middle of it and they've created and crafted an outstanding state policy that I think we can all be proud of. In addition, Media of Nebraska is okay with this. The Nebraska Criminal Defense Attorney Association is fine, and the Commission on Public Advocacy to alleviate their concerns with the bill have all been met with and they are fine. This represents a compromise following what was introduced with LB39. It puts Nebraska in line with a growing number of other jurisdictions, including the federal government, who have liberalized the admission of other crimes in sex offense cases. It is important to note that such evidence of other sex offenses is not automatically admitted. The court must subject this other crimes evidence to the probative value versus unfair prejudice balancing test found in Section 27-403 in the Nebraska rules of evidence. Some of the reasons why Nebraska should enact this amendment were well summarized in a portion of another state's preamble to these rules. Quote: Sexual offenses are a matter of grave statewide concern. These frequently occurring offenses are aggressive and assaultive violations of the well-being, privacy, and security of the victims and they result in serious, long-lasting harm to individuals and society. These offenses often are not reported or are reported long after the offense for many reasons, usually occur under circumstances in which there are no witnesses except for the accused and the victim, and because of this and frequent delays in reporting there is often no evidence except for the more conflicting testimony. Nine states that have carved out common law exceptions to their propensity rules for sex crimes. At least 19 states plus all the federal courts have recognized the admission of sex crimes' evidence through such evidence rules. I'd like to thank Senator Lautenbaugh for his support. I'd like to thank Senator Lathrop, Senator Ashford for their work with that. I would urge the adoption of AM1094. Thank you. [LB97 LB39]

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SENATOR ROBERT: Thank you, Senator Flood. (Visitors and doctor of the day introduced.) Members, you have heard the opening of AM1094, the amendment to the committee amendments. Those wishing to speak, Senators White and Haar. Senator White, you are next and recognized. [LB97]

SENATOR WHITE: Thank you, Mr. President. Ladies and gentlemen of the body, I support this bill. The problem is immense and growing. The arise of the Internet has extended the reach of people who prey on our children. This bill is an effort to try to keep pace with those who would abuse and exploit the most vulnerable among us for their own gratification and in the process not only destroy many lives of the victims but also create a new class of people who will perpetrate crimes on the following generations. The abuse of minors by sexual predators is a cancer that we must do everything we can within the constitution to eradicate. This bill is an excellent step forward. I also want to thank the Attorney General's Office, David Cookson, Attorney General Bruning. They have shown remarkable leadership in this area and have worked hard to accommodate the reasonable constitutional concerns, at the same time really pushing all of us to do our best to protect our children. Thank you, Mr. President. [LB97]

SENATOR ROBERT: Thank you, Senator White. Senator Haar, you are recognized. [LB97]

SENATOR HAAR: Mr. President, members of the body, I rise to support the bill. I do have some technical questions about it and just talked to Senator Lautenbaugh at the last moment. So the questions have to do with page 24, line 12, that requires a defendant to sign a consent form that would allow search of all computers or electronic communication devices possessed or used by the person at any time. And so some really practical questions arise and I'd like to ask... [LB97]

SENATOR ROBERT: Senator Lautenbaugh, will you yield to a question? [LB97]

SENATOR LAUTENBAUGH: Yes, I will. [LB97]

SENATOR HAAR: Okay. Thank you. Explain this a little bit because it seems a bit...just the practicality of this. For example, if a person described in this bill were to get a job at a bank, would that make all the bank's records open to, you know, to law enforcement and so on? [LB97]

SENATOR LAUTENBAUGH: Well, it would be consenting, and let me get the language here, I'm sorry, on line 12? It covers computers possessed or used by the person. On the one hand, the concerns we dealt with were library type computers, public computers, and those obviously are public computers anyway,... [LB97]

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SENATOR HAAR: Right. [LB97]

SENATOR LAUTENBAUGH: ...would be subjected to this. In the circumstance of a person working with a computer on the job, again, it would be subject to search by law enforcement because they could use that device just like any other for accessing the Internet and doing inappropriate things. Now once again, we aren't talking about making whatever records are on that computer open to the public at any time. We're talking about making it open to law enforcement for access. [LB97]

SENATOR HAAR: Okay. I would just suggest that maybe before Select you may want to look at some of that language and make it a little clearer, because obviously the intent of the bill is to keep sexual predators from using the Internet but we also don't want to totally, you know, if somebody has served their time, we don't want to totally rope them in to the point they can't get any kind of job, and I could see where this might be threatening to an employer, the way the language is now. [LB97]

SENATOR LAUTENBAUGH: And I would be happy to work with you on that.... [LB97]

SENATOR HAAR: Okay. [LB97]

SENATOR LAUTENBAUGH: ...between General and Select, if necessary. [LB97]

SENATOR HAAR: Okay. Then another question, and this is on page 26, states information must be given to the sheriff by the next working day in which they have to report every site...my understanding of it is report every Web site they've been to and so on. And again, I just think this is somewhat unenforceable. You know, what does a sheriff do with this information? Is this going to require extra manpower? What is all this collection? In other words, if I go out to a Web site like Google and I go to a site and then it refers me to three other sites and I link and so on and so forth, are we requiring that every Web site that somebody goes to would have to be reported? And maybe again this is something you'd want to work on to... [LB97]

SENATOR LAUTENBAUGH: Yeah, and generally, I mean...and I'll admit some of the provisions in here do seem harsh and restrictive and that's really the point. The Internet is a great tool and we all access it every day, all of us do, I'm certain. [LB97]

SENATOR ROBERT: One minute. [LB97]

SENATOR LAUTENBAUGH: But at the same time, for individuals with these particular proclivities and these particular past convictions, we do want to limit and track what they're using the Internet for to avoid a repeat offense. [LB97]

SENATOR HAAR: So again, would that mean that if somebody goes out to

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weather.com, they have to report that? If they go out to REI to look at camping gear or something, that they have to report that and then...or if you go to a site like, oh, some of the book sites, Amazon, which takes you here and there and everywhere, you know, what are the implications of that, I guess? [LB97]

SENATOR LAUTENBAUGH: Well, I think you may be reading this a little broader than it is. It's referring to e-mail addresses, instant messaging identifiers, chat room identifiers, and other Internet communication identifiers that the registrant uses or plans to use, and blogs, and Internet sites maintained by the person. [LB97]

SENATOR ROBERT: Time. [LB97]

SENATOR HAAR: Okay. Thank you. [LB97]

SENATOR ROBERT: Thank you, Senator Haar and Senator Lautenbaugh. Senator Lathrop, you're next and recognized. [LB97]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I'm standing in support of both the amendment and the underlying bill and I wanted to take a few minutes to explain something that maybe folks don't understand that goes on in Judiciary Committee, because I think this may be a fine example of what happens in that committee and also give you a little better understanding of what we're doing with this bill. We have...a lot of the issues that come into that committee are in response to public outcry of what's going on in the day and sexual predators is a growing, growing problem. We had bills offered by Senator White and Senator Lautenbaugh, thoughtful measures to be sure, to try to get to the Internet and the use of the Internet to try to stalk young children and find potential victims. And we took testimony from prosecutors that told us about the need, the Attorney General's Office, and we also took testimony from the defense lawyers. And when there is a public outcry for change--we need to do something to get these guys--it's important that we not get carried away to the point where we're trampling on the civil liberties of the rest of the people of the state of Nebraska and that was true not only with LB97 but with Senator Flood's amendment, which relates to evidence of other prior bad acts. I think it's a complement to the committee and certainly to the criminal defense lawyers who are oftentimes kicked around in the press and oftentimes kicked around in the media, but they are vigilant when it comes to the civil liberties of people, all of us, and had a lot of thoughtful input into this bill. They're not...they're reaction isn't to not have crimes in response to growing concerns or things that we hadn't anticipated even five years ago but to make sure that people's civil liberties are protected along the way and they played an important role in the final product here. Senator Flood's amendment was a standalone bill in our committee, LB39, and it was a hearing that brought in the prosecutors from Douglas County, it brought in defense lawyers, and it also brought in an evidence professor from the Creighton University law school. It was a great hearing and LB97 and AM1094 are

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the product of these different interests working together to try to find a way to address a serious problem that's growing in our society and at the same time maintain the civil liberties of Nebraskans across the state. So I'm supportive of both the amendment and the underlying bill, and be assured that they...that we will get to these predators without violating everyone's civil liberties along the way. Thank you. [LB97 LB39]

SENATOR ROBERT: Thank you, Senator Lathrop. Those wishing to speak: Senators Campbell, Dubas, and Lautenbaugh. Senator Campbell, you are next and recognized. [LB97]

SENATOR CAMPBELL: Thank you, Mr. President. When you no longer have teenagers living in your home, you're probably not as aware of some of the issues and so I appreciate the work of the Judiciary Committee and all of the senators involved, and certainly support the two amendments and LB97. My question has to do with the fact that this past weekend, as we all are apt to do, surfing channels and seeing what was on, I saw a very brief snippet about Massachusetts, I believe, who is trying to take a look at what the penalties would be in sex texting. And if Senator Ashford...and I hate to bother him because I know he's in conversation, would entertain a question. [LB97]

SENATOR ROBERT: Senator Ashford, will you yield to a question from Senator Campbell? [LB97]

SENATOR ASHFORD: Yes. [LB97]

SENATOR CAMPBELL: I know this issue of sex texting is becoming an issue among parents and I listened to some of my colleagues who have teenagers talk about it. It might be helpful, and you touched upon it a little bit, but could you amplify for me how this state is looking at these penalties and what the role of the parent is as it's mentioned in the bill? [LB97]

SENATOR ASHFORD: Well, in a couple of ways, and it was...it was probably the most talked about amendment or topic in the bill was "sexting" because, again, we don't...the desire was to address really the felonious activities primarily of adults who engage in texting and not juveniles. So we did lessen the penalty. First of all, we put the age at 19 or the...the age at 19. The penalty is going to be less for a juvenile as opposed to an adult. It's a felony IV instead of a felony III. And the amendment would also establish...and the biggest change is the...is to create an affirmative defense to a juvenile. If, for example, the image is of the defendant themselves only, that's an affirmative defense. That's not actionable. If it's of...if it's a child or young person who engages in "sexting" and sends it out of themselves, that would be an affirmative defense. Or if the defendant was under 19, the image portrays a child of at least 15 years of age, the child depicted generated the image knowingly and voluntarily, the image was knowingly and voluntarily provided by the child depicted, the image contains

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only one child, the defendant has not provided or made available the image to anyone except the child who originally generated and provided it to the defendant, and the defendant did not coerce the depicted child to generate or provide the image. That's the wording of the amendment, again trying to...trying to limit the action of a juvenile to a very specific set of circumstances. But it was a major part of our discussion. [LB97]

SENATOR CAMPBELL: Thank you, Senator Ashford. And I think just in my brief review of the bill that the committee has taken the correct approach. Some of the states are looking at some fairly severe penalties for teenagers who do this on a first-time basis or with a boyfriend, so I think we need to be very aware of what is in the bill because I think questions will arise from parents. Thank you, Mr. President. [LB97]

SENATOR ROBERT: Thank you, Senator Campbell. Senator Dubas, you're next and recognized. [LB97]

SENATOR DUBAS: Thank you, Mr. President, members of the body. I, too, rise in very strong support of this bill and the underlying amendments. Raising kids has never been an easy task and, you know, in years gone by when our kids were in our home, that's probably when we felt the most secure. We knew where they were at. We had as much control over them as possible, and now today that's not so true anymore. Computers are wonderful. Our kids use them for a variety of things, school, recreation, entertainment, but they also allow way too much into their lives that is dangerous and damaging to their psyche. So there's always good with the bad, I guess. I do have some questions, if Senator Lautenbaugh would yield to some questions. [LB97]

PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to questions? [LB97]

SENATOR LAUTENBAUGH: Yes, I will. [LB97]

SENATOR DUBAS: My questions are kind of along the same line as Senator Haar's. You know, I believe in this bill so much that I want to make sure that it's enforceable and we're not going to have very many unintended consequences. So as I was looking through it, and I will be the first to admit that I don't have a great deal of understanding about computers and how they work and Web sites, but I do know that, you know, there's URLs and every Web site, every e-mail, everything deals with a URL. Do we have a definition of what a URL is in this bill and is that something that we need? [LB97]

SENATOR LAUTENBAUGH: I don't believe it's specifically defined in the bill. I think it's a...and, of course, as I stand here now I cannot remember what the three letters URL stand for, so which to make my next comment kind of unusual, which is I think it's common knowledge what that means, not so much what it stands for but what it means,

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at least to the point that it's specifically defined in usage to the point that, you know, we would not be wondering. It would not be vague, I guess, what a URL is. [LB97]

SENATOR DUBAS: I think that would be very important. It stands for Uniform Resource Locator. [LB97]

SENATOR LAUTENBAUGH: Thank you. [LB97]

SENATOR DUBAS: (Laugh) I mean, as I said, you know, I want this to be a tight bill and... [LB97]

SENATOR LAUTENBAUGH: Right. [LB97]

SENATOR DUBAS: ...everybody uses computers for everything and we want to be able to monitor where these particular people are using them. And if we're able to define a URL, I mean we're going paperless, we're trying to become a paperless society, and so if you're applying for a hunting permit or I mean there's just a lot of things now that we're using our computers for and so if we have...if we're able to define the specific URLs that we're targeting with this particular population, you know, again, I'm no lawyer but I think maybe that might help us really get to what we're trying to achieve with this bill. [LB97]

SENATOR LAUTENBAUGH: I would agree with you on that and I'd be happy to work on tightening up that or at least adding a definition of that. [LB97]

SENATOR DUBAS: Thank you. [LB97]

SENATOR LAUTENBAUGH: Thank you. [LB97]

PRESIDENT SHEEHY: Thank you, Senator Dubas. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR84, LR85, LR86, and LR87. Continuing floor discussion on the Flood amendment to committee amendment, AM1094, members requesting to speak: Senator Lautenbaugh, followed by Senator Price, Senator White, and Senator Haar. Senator Lautenbaugh, you're recognized. [LB97 LR84 LR85 LR86 LR87]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I do feel like I sort of fumbled a response to Senator Haar's question, so I do want to clarify this. The bill discusses, in the section we were discussing, Web sites that an individual posts content to, not just ones that they visit, or ones that they maintain. So we would not be talking about just the average person flipping through the Internet. It would be ones that they are actively adding information to, which is not something we all commonly do. So I hope that better addresses the concern, as I was fumbling through the answer previously. And once again, I would like to thank the committee, Senator White, Senator

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Flood and everyone for their assistance on this. And I'd yield the rest of my time to Senator White, whose light is on. [LB97]

PRESIDENT SHEEHY: Senator White, you're yielded 4 minutes, 15 seconds. [LB97]

SENATOR WHITE: Thank you, Mr. President. Senator Haar, you raise an excellent question. Among the concepts that were struggled with by the committee is how do we keep sexual predators away from our children. It is a normal parole violation, normal different orders that sexual predators are ordered to stay away from schools, stay away from various children's activities to keep them away from our children as a method of protecting. They also have to register where they live. That has been one of the things we've developed as we better understood the nature of this criminal and their crimes. This tries to take some of those concepts into the Internet to the extent we can do it consistently. One of the early proposals was that sexual predators shall be barred from using the Internet in an interactive method. In other words, they can't post anything. Thankfully, people listened to the criminal defense lawyers and others and they worked together and realized that would probably be a clear violation of the First Amendment, but it also makes it impossible for them to ever rejoin society. I don't know how you could work in this world today if you didn't use the Internet, either to look for jobs, fill out applications or research, do your work. So the different concepts that are thought to be embodied in this bill are an intent crime to use by posting information to solicit children, and that's illegal now anyway. The difference is it makes it a crime specifically to use the Internet anyway. If somebody is trying to entice a child in person, that's illegal, and so all that does is transfer that base concept over to the Internet. And there are other things though. We also would make it a criminal violation for high-level sex offenders that have been convicted to use any communication device, Internet basically, whether they access it through a BlackBerry or a computer or a cell phone, if they have not registered their identifiers, their URLs and their names in the sex registry. And the reason I rise not only to address Senator Haar's question but also in a hope to reach out to all of the parents in this state, this is a really important development. We would very much like all parents to understand that if this bill passes people who have been convicted of high-level sex offender crimes must register the computer they use and their names, and that the citizens have the right to then go and find those names and those registrations and compare them to the names of people who have been in communication with their children on their computers. You know, and hopefully you won't have to go through, if you don't feel you should, the messages to your child, but we are trying to put together the base information and I beg, I beg a computer programmer out there to develop a quick and easy method for a parent to take a computer and run... [LB97]

PRESIDENT SHEEHY: One minute. [LB97]

SENATOR WHITE: ...a comparison of the URLs that have been in contact with their

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children's computers with the sexual data registry database. That is one of the best tools we can give parents to protect their children, is the ability to efficiently screen who they are associating with on the Internet. And if the computer programmers put that together we will have it a crime if sexual predators use computers that are not registered, and certainly they will try and we have enforcement in place. There are officers both on the federal, state and increasingly local level who troll the Internet trying to catch people. And if they catch somebody in a child's Web site that caters to young people and they find out that they're a predator and they haven't registered that computer... [LB97]

PRESIDENT SHEEHY: Time, Senator. Thank you. Time, Senator. Thank you, Senator White. Senator Price, you're recognized. [LB97]

SENATOR PRICE: Thank you, Mr. President, members of the body. I was wondering if Senator Ashford would yield to a question. [LB97]

PRESIDENT SHEEHY: Senator Ashford, would you yield to questions from Senator Price? [LB97]

SENATOR ASHFORD: Sure. [LB97]

SENATOR PRICE: Thank you, Senator. The question I had is I didn't catch it, I'm reading through the bill and the amendments, does this also, the part that deals with "sexting," deal with minors who forward the pictures? [LB97]

SENATOR ASHFORD: Yes. [LB97]

SENATOR PRICE: Okay. Great. That's what I wanted to know about. Thank you very much. [LB97]

SENATOR ASHFORD: And involves a third party who's not the image...that is someone other than the person that's depicted in the image, yes. [LB97]

SENATOR PRICE: Okay. Thank you very much. And as far as...to answer back to Senator White, Senator White, there are programs that can do much of what you asked for already. If you look at Net Nanny, I think it's what that...a home...a home administrator, if you would, can go ahead and block out, and that's just a function of a query on a database. So they have that availability. Also, is Senator...would Senator Lathrop, is he in the room here? [LB97]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to questions from Senator Price? [LB97]

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SENATOR LATHROP: Yes. [LB97]

SENATOR PRICE: Thank you, Senator Lathrop. This is just kind of a little bit...this might be a little bit tangential to the conversation, but when we talk about families and we talk about parents taking control of their home computers, do you see that there would be any problem or violation if a parent has software on the home computer systems that would actually capture net activity without the consent of the minor? [LB97]

SENATOR LATHROP: No, I don't...no, and if they have that available, as you just represented, I don't...I think that's important. And one thing that is important to recognize today is we're putting some laws in place to make some things unlawful for the predator, but it doesn't...it's not a substitute for the parent's responsibility to parent at home and to do those things and set proper boundaries and limits for their kids. This is simply to allow law enforcement to do its part to capture or to catch these guys and prosecute them. [LB97]

SENATOR PRICE: Great. I appreciate that because, I'll tell you, I have it on my computers at home and young teenagers are want to wander about on the Net. You know, I thought I had a teenager who might have found the end of the Internet one time, he spent so much time on it. But, no, in actuality I do have software at home that actually does do...does screen captures, it does all the IP logging, and that's actually a lot of capability that exists on most home computers today. But thank you very much for answering that question and, with that, I will yield any time I have remaining, Mr. President, to Senator Lathrop, should he choose to use it. [LB97]

PRESIDENT SHEEHY: Senator Lathrop, you're yielded 2 minutes. [LB97]

SENATOR LATHROP: Well, maybe I'll take it just to comment on Senator Price's point, and that is the bills that came to us from Senator White and from Senator Lautenbaugh that turned into LB97 are really law enforcement's attempt, the Attorney General, and the Douglas County Prosecutor to bring the types of crimes that we have into the Internet age. And we did that a year or two ago when we had that enticement by an electronic communication device that we worked on, which I think was Senator Friend's bill, and this is just a logical extension of that. But...and it's well-thought through and it is intended to go right where and at the tool of the sexual predator. So I think they're well-thought through, good ideas. I appreciate the fact that they were both brought to Judiciary Committee and, of course, they're not a substitute for parental control, which we all must exercise with our kids. So thank you, Mr. President. [LB97]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Thank you, Senator Price. Senator White, you're recognized. [LB97]

SENATOR WHITE: Thank you, Mr. President. And I appreciate Senator Price's

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observation that there are computer programs that will retain the URLs and the screen names that have been in communication with your child. The point of this is now, however, there is...under law in Nebraska, the sex offender must register, so you have something to compare them against. And so what I'd hope would happen is that as we develop this that there be a software that will automatically take the data off of your child's computer and, among other things, reach out to the state computer that contains the list of computers used by sexual...convicted sexual...sex offenders and compare the URLs and then issue an alert to a parent, that it would be easy and efficient. So a parent could simply hit a button and, you know, all the screen names that the child has been in communication with over the last week would simply be compared against a sex offender. If one is found to match that computer, then it comes up. And that is our hope, is to give parents and law enforcement the ability to track people who have been convicted of sexual crimes, not unnecessarily or unconstitutionally restrict people who have been convicted of these crimes from their right to access the Internet and hopefully rebuild a life free from crime, and that means getting a job. But this allows us to track them and protect our children and that's why I was very delighted to work with Senator Lautenbaugh, Senator Ashford, Senator...the whole Judiciary Committee, all of them. And then the Attorney General and the criminal defense lawyers, they were very helpful, and I would urge the public to recognize that we often beat up on them but they have children and they're deeply interested in protecting them as well and they've done great work on this bill. Thank you. [LB97]

PRESIDENT SHEEHY: Thank you, Senator White. We have Senator Haar, followed by Senator Coash. Senator Haar, you're recognized. [LB97]

SENATOR HAAR: Mr. President, members of the body, a few more questions. Senator Ashford, could I pick your brain? [LB97]

PRESIDENT SHEEHY: Senator Ashford, would you yield to questions from Senator Haar? [LB97]

SENATOR ASHFORD: Sure. [LB97]

SENATOR HAAR: First of all, for those of us who aren't on the Judiciary Committee, I mean, you spent a lot of time, obviously, going over this and so on. Could you provide kind of a CliffsNotes for us that we could actually share with constituents who... [LB97]

SENATOR ASHFORD: Yes, I will do so and we will send around a summary of the original bill and the amendments. Yes, to answer your question. [LB97]

SENATOR HAAR: Okay. I'd appreciate that because we're having some... [LB97]

SENATOR ASHFORD: Well, there are a lot of issues in here. Obviously, "sexting" is

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one that people identify with immediately,... [LB97]

SENATOR HAAR: Right. [LB97]

SENATOR ASHFORD: ...but there are a number of other issues involving evidence and the registry itself and I think that's...it's important. [LB97]

SENATOR HAAR: And when you do this again, you know, think of me reading this but also constituents... [LB97]

SENATOR ASHFORD: Yes. [LB97]

SENATOR HAAR: ...who might not have much of a background. [LB97]

SENATOR ASHFORD: I will do so. [LB97]

SENATOR HAAR: Okay. I appreciate that. Also, could you explain to me just a little bit the difference between the penalties for adolescents versus...and what's the age, first, of adolescents in the bill? [LB97]

SENATOR ASHFORD: You know what I'm going to do. I'm going to ask you to ask Senator Lautenbaugh that question, Senator Haar, because I think the ages, they vary as to the offense, and I would defer to Senator Lautenbaugh on that, I think, if I could. [LB97]

SENATOR HAAR: Okay. Can I ask Senator... [LB97]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield to a question from Senator Haar? [LB97]

SENATOR LAUTENBAUGH: Yes, I will. [LB97]

SENATOR HAAR: And again, you can...we can get back to this later if you'd like, but in terms of the definition of adolescents, what are the ages you use in the different parts of this bill? [LB97]

SENATOR LAUTENBAUGH: Well, and I heard the question coming up and I was struggling to get to the portion on "sexting," but generally we're talking under 19. [LB97]

SENATOR HAAR: Okay. And what's the difference in the penalties between those under 19 and over 19? [LB97]

SENATOR LAUTENBAUGH: I was just looking that up. It is a difference between the

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class of felony and, if memory serves, we're talking about a 20-year versus a 50-year. [LB97]

SENATOR HAAR: Okay. Okay. That's helpful. And then what was...this was your bill, LB97. Then it was also Senator White's and what was the LB on that one, for my notes? [LB97]

SENATOR LAUTENBAUGH: The LB number on Senator White's original bill was...I think it's coming to me... [LB97]

SENATOR HAAR: LB15? [LB97 LB15]

SENATOR LAUTENBAUGH: LB15. [LB97 LB15]

SENATOR HAAR: LB15. Okay, thank you very much. I appreciate that. [LB97 LB15]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Coash, you're recognized. [LB97]

SENATOR COASH: Thank you, Mr. President, members of the body. I rise in support of LB97 and the underlying amendments. I have the unfortunate experience of working in the past with perpetrators of sexual abuse against children and, more importantly, working with the victims of sexual abuse, and I wanted to just briefly tell you why this bill is important, particularly the part about having a perpetrator register his domain names, his Web sites, and things of that nature. If you work with sexual offenders, one of the first things that you'll realize that they value the most is anonymity. They value blending in. They value people not knowing who they are, especially children. Part of what this bill does is takes away their ability to blend in. They don't get to be the anonymous person on the Internet. This is not a substitute for parenting. I don't believe any member on the Judiciary Committee thought that this would take away a parent's responsibilities, but what it does do, as Senator White pointed out, is it gives parents another tool. When parents look at the Web sites and the people who are...who their children are talking to, it gives them an ability to compare those domain names, those user names to people who have been communicating with their children, so this is just a tool. Parents need all the tools that they can get in order to protect their children. And with that, I will close my remarks and urge the body to adopt LB97 and its amendments. Thank you. [LB97]

PRESIDENT SHEEHY: Thank you, Senator Coash. Senator Ashford, you're recognized. [LB97]

SENATOR ASHFORD: I want to clarify for Senator Haar. He's asking a very good question and I confused myself for a moment. The under 18 we've established an affirmative defense in those defenses that are in the bill, and we will get that out to you.

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There also is the age group of 18 to 19, the college student who would send a picture out or receive a picture from a girlfriend or boyfriend or whatever it is. Those individuals are not minors under this act but they are...they do have a degree of protection in that the punishment is less, but the affirmative defense is not available to someone between 18 and 19. The reasoning is different. I mean, again, you're talking about potentially a post high school student, college student that would engage in this activity potentially, but it's not to the level of an adult type of an offense. And that's why we try to kind of grade them by age, 18, up to 18...or under 18, 18 to 19, and over 19. But we need to get that to you in written form so you can see it. [LB97]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Seeing no additional requests to speak, Senator Flood, you're recognized to close on your amendment to committee amendment, AM1094. Senator Flood waives closing. The question before the body is on the adoption of AM1094 to AM893. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB97]

CLERK: 35 ayes, 0 nays, Mr. President, on adoption of the amendment to the committee amendments. [LB97]

PRESIDENT SHEEHY: AM1094 is adopted. We will now return to floor discussion on the Judiciary Committee amendment, AM893. Seeing no requests to speak, Senator Ashford, you're recognized to close. [LB97]

SENATOR ASHFORD: Thank you, Mr. President. Very briefly, obviously, the intent of this bill, as Senator Coash so rightly suggests, is to deal with the sexual predator and the Internet, and other devices that are available to young people and to adults that can be used in a way that injures children. Senator White talked about the registry and some of the technical pieces of that to give parents the ability to track, give law enforcement the ability to track, to enhance the tools for law enforcement that are needed and that are becoming more prevalent across the country. We felt that was an important point. But also, Senator Campbell and Senator Haar are thinking about the reach of this law as it applies to children and these are very important questions. I believe we...and we spent a lot of time on it. I believe with the affirmative defenses that are enumerated that we have limited the prosecution in those cases to the most severe cases and we reflect the ages. So with that, I would urge the adoption. I would also say that Senator Haar has made a very reasonable request. We need to get a summary sheet to everyone because there are a lot of different pieces of the law involving sexual predators in this particular committee amendment and in the bill. So by the time Select File comes or soon after today, we will get that information off to everyone so that they can respond to constituents and study the bill further. Thank you, Mr. President. [LB97]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the closing. The question before the body is on the adoption of the Judiciary Committee amendment,

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AM893, to LB97. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB97]

CLERK: 41 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB97]

PRESIDENT SHEEHY: AM893 is adopted. We will now resume floor discussion on LB97. Seeing no requests to speak, Senator Lautenbaugh, you're recognized to close. [LB97]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I appreciate the discussion this morning and I'm happy to work with anyone who has concerns to make this bill the best it can possibly be. This is a difficult, difficult area and I think in the committee hearing on this I questioned whether or not I was the ideal person to bring this, because of the just revulsion I feel for people who have these convictions. Revulsion is not too strong a word. I mean these are not criminals that we're angry at. These are people that are just frightening to me and all of us, and I think rightfully so, and I don't have a lot of faith in our ability to rehabilitate people who would engage in this type of conduct. So this does provide necessary, ongoing protections for our children, for our society from these individuals who have been convicted of these types of crimes. I do thank you all for your support on this. I would urge you to vote green. It is an important bill. I am privileged to bring it and I thank you all for...in advance hopefully for your vote. Thank you. [LB97]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You have heard the closing. The question before the body is on the advancement of LB97. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB97]

CLERK: 44 ayes, 0 nays, Mr. President, on the advancement of LB97. [LB97]

PRESIDENT SHEEHY: LB97 advances. Mr. Clerk, you have items for the record. [LB97]

CLERK: I do, Mr. President. Enrollment and Review reports LB237, LB237A, and LB92 to Select File, some having Enrollment and Review amendments attached. New A bill. (Read LB405A by title for the first time.) Senator Fischer, an amendment to be printed to LB497. And a communication from the Governor to the Clerk. (Read re: LB111, LB121, LB121A, LB164, LB202, LB202A, LB206, LB292, LB292A, LB300, LB328, LB328A, LB340, LB355, LB361, LB396, LB449, LB458, LB477, LB511, LB517, LB547, LB547A, and LB620.) That's all that I have, Mr. President. (Legislative Journal pages 1158-1160.) [LB237 LB237A LB92 LB405A LB497 LB111 LB121 LB121A LB164 LB202 LB202A LB206 LB292 LB292A LB300 LB328 LB328A LB340 LB355 LB361 LB396 LB449 LB458 LB477 LB511 LB517 LB547 LB547A LB620]

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PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now proceed to LB402. [LB402]

CLERK: Mr. President, LB402 is a bill introduced by Senator Avery. (Read title.) Introduced on January 16, referred to the Government Committee. The bill was advanced to General File. [LB402]

PRESIDENT SHEEHY: Senator Avery, you're recognized to open on LB402. [LB402]

SENATOR AVERY: Thank you, Mr. Colleague. Thank you, Mr. President. Good morning, colleagues. LB402 changes two provisions in the existing Convention Center Facility Assistance Act. These are simple and minor changes but they have important implications. I want to stress at the outset that none of these affect the substance of the law that we passed last year. With LB402 no general obligation bond will be issued until authorized by greater than 50 percent of the electors voting on the question as to the issuance of these bonds in any election as defined in Section 32-108 of the bill. The current law requires the bonds be authorized by a vote of 51 percent or greater of the voters. We're not quite sure how and why that was ever in the bill. This bill has a pedigree that goes back to the Qwest bill some years ago. The current law also allows the election to occur only at a statewide regular primary or general election. With this bill, general obligation bond elections may be held at any statewide or local primary, special, joint or general election. It gives more option to the city of Lincoln to hold the election at a time of their choosing. The final change extends the deadline for the board that is created under the act to accept applications for assistance. Right now, the law specifies that these applications have to be submitted by December 31, 2010. The...excuse me, that would...the current law is June 1, 2010. This bill would change that to December 31, 2010. You will see that I have an amendment, AM1138, that would extend that to 2012. I'll talk about that in a minute. The bill will allow additional flexibility for the city of Lincoln to get approval for building its arena. As you know, the city has delayed the arena because of challenging economic times. Bonding is hard to get under current economic conditions. If you have read the Lincoln Journal Star this morning, you saw a story on the front page, large banner headline, speaking about the budget problems that Lincoln is facing. In that story sales tax revenue is expected to be \$1.5 million behind projections. Also total property valuation is expected to drop three-fourths of a percent this year. The County Assessor, Norm Agena, stated that this will be the first time in his 19 years in that office that this has occurred. So the times are bad and the city of Lincoln needs a little more time to make application. So we will see that in AM1138. With this bill the city of Lincoln will be given additional time. They won't have to get more than a majority in the election. The election can be held in other than just primary and general elections. Again, I want to stress that no changes are being proposed to the substance of LB912 that we passed last year. This did advance on a vote of 8-0 from the committee. I urge your support for this. Thank you, Mr. President. [LB402]

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PRESIDENT SHEEHY: Thank you, Senator Avery. You have heard the opening to LB402. Mr. Clerk, before we go to the amendment, I have a couple of announcements. (Visitors introduced.) Mr. Clerk, you have an amendment on your desk. [LB402]

CLERK: Mr. President, Senator Avery would move to amend the bill with AM1138. (AM1138, Legislative Journal page 1155.) [LB402]

PRESIDENT SHEEHY: Senator Avery, you're recognized to open on AM1138. [LB402]

SENATOR AVERY: Thank you, Mr. President. AM1138 on page 3, line 24, would strike "2010" and insert "2012". This would simply give the city of Lincoln an additional two years in order to conduct the election and file the application. Thank you, Mr. President. [LB402]

PRESIDENT SHEEHY: Thank you, Senator Avery. You have heard the opening of AM1138 to LB402. Members, requesting to speak are: Senator Hadley followed by Senator Stuthman and Senator Gloor. Senator Hadley, you're recognized. [LB402]

SENATOR HADLEY: Mr. President and members of the body, I stand in support of AM1138 and LB402. Would Senator Avery yield to a question? [LB402]

PRESIDENT SHEEHY: Senator Avery, would you yield to questions? [LB402]

SENATOR AVERY: I will. [LB402]

SENATOR HADLEY: Senator Avery, in looking at this bill did you ever give any thought to not having an election on these bonds and allowing the City Council by a super majority just to issue these bonds? [LB402]

SENATOR AVERY: Well, that was not my decision. You always are tempted not to go to the people but this was never seriously considered. General obligation bonds, do deserve a vote of the people. [LB402]

SENATOR HADLEY: So that is an important part of this bill that the people of Lincoln will be able to vote on these bonds, is that correct? [LB402]

SENATOR AVERY: That is correct. [LB402]

SENATOR HADLEY: Thank you, and I do support this bill. [LB402]

PRESIDENT SHEEHY: Thank you, Senator Hadley. Senator Stuthman, you're recognized. [LB402]

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SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I would like to ask Senator Avery a question. [LB402]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Stuthman? [LB402]

SENATOR AVERY: I will. [LB402]

SENATOR STUTHMAN: Senator Avery, in the amendment it has, it's changing it from 51 percent of the vote to 50 percent. Is there a reason for that or is...I mean, it's 1 percent, yes, it is, but was it an error originally or why did you go from 51 to 50? [LB402]

SENATOR AVERY: Well, I can tell you why we went from 51 to 50. I can't tell you why 51 was ever in there. A majority vote is how we decide things in this country. A 50 percent plus one is a majority. I don't know why 51 percent was in the original Qwest bill, but...and I asked around, couldn't find anybody who could tell me why. It could have been an error or it could have been there for a reason. I don't know what it was but we don't need it. We do...all of our elections we do by majority vote. [LB402]

SENATOR STUTHMAN: Okay, thank you Senator Avery. And I do support the bill, but I just had a question on that as to why it was 51 to start with and now you went to 50. And I do agree that the 50, greater than 50 is important. Thank you, Mr. President. [LB402]

PRESIDENT SHEEHY: Thank you, Mr. Stuthman. Senator Gloor followed by Senator Gay and Senator Lautenbaugh. Senator Gloor, you're recognized. [LB402]

SENATOR GLOOR: Thank you, Mr. President and members of the body. I rise in support of LB402 and AM1138. As a representative whose district is the community of Grand Island, we invested a considerable amount of money into facilities in Grand Island over the years. And the payback on that has been the opportunity to not only host the state fair but also attract other major events, most recently the state volleyball tournament. I was cautious about bringing this up not wanting to agitate those representatives from Lincoln. On the other hand, the broader picture here is, good things happen when you pay attention to the facilities in your community and what those facilities can accommodate. I think Lincoln is well-advised to take a look at utilizing the Qwest Center opportunity. I think giving them a little more time to work on it makes an awful lot of sense. Obviously, economic downturns have been a challenge for all of us in our communities, counties, and our districts. And providing them a little more time to realize bringing this opportunity forward is the right thing to do. I encourage them to do so in the interests of community unity between our communities. Lincoln is a great community. It's always been the big city to me. Omaha has always been another big city to me, but one that I couldn't get to easily. I have a car that only goes about 100 miles and then I have to turn around and drive back. Anyway, I rise in support of LB402.

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Thank you. [LB402]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Senator Gay, you're recognized. [LB402]

SENATOR GAY: Thank you, Mr. President. Would Senator Avery yield to a question? [LB402]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Gay? [LB402]

SENATOR AVERY: I would. [LB402]

SENATOR GAY: Thank you, Senator Avery. Senator Avery, when...is it Lincoln that votes on this issue? [LB402]

SENATOR AVERY: Yes. [LB402]

SENATOR GAY: Just Lincoln? [LB402]

SENATOR AVERY: Just Lincoln. [LB402]

SENATOR GAY: Does the county vote on the issue? [LB402]

SENATOR AVERY: I really don't know if it would include county voters. I can find out. [LB402]

SENATOR GAY: Okay. And my good friend, Senator Hadley, I know, brought this up so I couldn't just let it go, so. But I supported this bill last year and I will support the amendment and the bill. But just to make a point though, I think this, what this does allows you more flexibility. With this bill, general obligation bond elections may be held in any statewide or local primary, special, joint, or general election, so you've actually created more opportunities to have a vote, correct? [LB402]

SENATOR AVERY: That is correct. And I do have an answer to your question. It would not include county voters. [LB402]

SENATOR GAY: So they know specifically in that particular...in Lincoln, if I'm a Lincoln resident, I know what I'm getting, right? [LB402]

SENATOR AVERY: Yes. [LB402]

SENATOR GAY: So it's not a multijurisdictional entity? [LB402]

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SENATOR AVERY: No. [LB402]

SENATOR GAY: Okay. I had to get that in for my friend, Senator Hadley, so. Thank you, Mr. President. [LB402]

PRESIDENT SHEEHY: Thank you, Senator Gay. We have Senator Lautenbaugh, followed by Senator Wallman. Senator Lautenbaugh, you're recognized. [LB402]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And anyone who knows me, knows I always try to accommodate the wants, needs, and desires of the city of Lincoln, which is what I'm all about. And as by way of an aside on an aside, Senator Gloor, don't be afraid of going more than 100 miles from home. There are a lot of great things out there, Blair, Ft. Calhoun, Omaha, great places you could visit if you're of a mind to. But I do have some questions for Senator Avery, if he will yield. [LB402]

PRESIDENT SHEEHY: Senator Avery would you yield to Senator Lautenbaugh? [LB402]

SENATOR AVERY: I will. [LB402]

SENATOR LAUTENBAUGH: Senator Avery, do you have any concerns about the constitutionality of this? [LB402]

SENATOR AVERY: None whatsoever, sir. [LB402]

SENATOR LAUTENBAUGH: Have you sought any opinions to bolster your confidence or are you just hoping for the best? [LB402]

SENATOR AVERY: I haven't needed any opinions yet, but after you finish, maybe I will. [LB402]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB402]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Wallman, you're recognized. [LB402]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Thank you for the dialog here. And I live pretty close to Lincoln so I will miss these tournaments leaving Lincoln. But I also drive to Omaha and I will probably drive to Grand Island to see the state fair. So this is an opportunity. We have to upgrade facilities for communities. The Pershing Center has not been kept up to par, parking, and numerous issues there. So I would urge you to support this amendment and Bill Avery's bill,

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LB402. Thank you. [LB402]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Seeing no additional members requesting to speak, Senator Avery you're recognized to close on AM1138. Senator Avery waives closing. The question before the body is on the adoption of AM1138 to LB402. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB402]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Avery's amendment. [LB402]

PRESIDENT SHEEHY: AM1138 is adopted. We will now return to floor discussion on LB402. Senator Hansen, you're recognized. [LB402]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I knew at some time, some point in time in this session that since I moved to the back of the Chamber, Senator Avery and I would share a mike and we do have a problem back here about how high the mike is set, but I would like to ask Senator Avery if he would yield for one question. [LB402]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Hansen? [LB402]

SENATOR AVERY: Yes, I will. [LB402]

SENATOR HANSEN: Excuse me, I have to use the mike. [LB402]

SENATOR AVERY: Oh. (Laughter) [LB402]

SENATOR HANSEN: Senator Avery, are you aware that about 240 miles west of here there is a convention center? It's halfway between the river and the Rockies. It just follows my laundry list of things why people should be interested in moving to western Nebraska, central Nebraska. Two hundred forty miles away the Sandhills Convention Center is a big part of North Platte. We have conventions there all the time. Would your...would the convention center that is in Lincoln have conventions of less than 500 people? [LB402]

SENATOR AVERY: I would hope not because if they couldn't draw bigger crowds than that they'd be in financial trouble. It will seat about 15,000 to 16,000. I think the law caps it at 16,000. [LB402]

SENATOR HANSEN: For a convention? [LB402]

SENATOR AVERY: Yes, for a convention, athletic events, and things of that sort. [LB402]

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SENATOR HANSEN: Thank you. I just to reiterate that...of the things that they're good in central Nebraska that we do have a convention center that's paid for. It's hooked to the Quality Inn, may not be paid for that's for sure, but it is in private enterprise and do a great job and it's always busy. It's busy almost every day of the year. So wish the best for Lincoln's convention center. And of those people who would like to come out to the...about halfway between the river and the Rockies for a convention, certainly would welcome you there too. So thank you, Senator Avery. [LB402]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Seeing no additional members requesting to speak, Senator Avery you're recognized to close on LB402. [LB402]

SENATOR AVERY: Thank you, Mr. President. Let me just say very quickly, these are minor changes in the current law. It does not change the substance at all. I would urge you to support it. Thank you, Mr. President. [LB402]

PRESIDENT SHEEHY: Thank you, Senator Avery. You have heard the closing. The question for the body is on the advancement of LB402. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB402]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB402. [LB402]

PRESIDENT SHEEHY: LB402 advances. We will now move to items under General File, committee priority bills, Harms division, LB195. [LB402 LB195]

CLERK: LB195 is a bill by Senator Gay. (Read title.) Introduced on January 12, referred to Health and Human Services Committee, advanced to General File. There are committee amendments, Mr. President. (AM952, Legislative Journal page 1059.) [LB195]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Gay, you're recognized to open on LB195. [LB195]

SENATOR GAY: Thank you, Mr. President. LB195 is the statewide trauma bill, but also there will be an amendment coming. This is a committee priority bill. There will be an amendment that creates...has six different bills in that, and I'll read each bill when we get to that. But I did want to make the body aware of that. LB195 is the Statewide Trauma System Act. The bill revises several definitions and outright repeals the definition of on-scene medical director. The bill, among other things, adds new language requiring a basic level trauma center to maintain appropriate equipment for pediatric trauma patients for resuscitation and stabilization. It expands the definition of communication system, adds new language requiring a comprehensive level trauma center to provide an emergency trauma team available within 15 minutes, 24 hours per

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day, making them consistent with the American College of Surgeons national standards. It also requires updating of the Emergency Medical Services and Trauma Plan every five years instead of every two years; adds language requiring general level trauma centers to provide trauma trained physicians and nurses to the emergency department within 30 minutes instead of 15 minutes, which is now consistent with federal Critical Access Hospital requirements; replaces the term "medical controller" with the term "physician or qualified physician surrogate;" and the definition of trauma team replaces specialist with other personnel; replaces medical emergency with acutely patient and emergency room with emergency department; and deletes language in the definition of trauma system and prohibits the trauma system from restricting transfers for rehab services. The bill contains duties of the State Trauma Advisory Board. The bill requires to the board to draft a five-year statewide prevention plan for implementation by each trauma care region instead of the two-year plan; removes obsolete dates and updates the duties of the Department of Health and Human Services relating to ongoing maintenance of the statewide trauma system. It eliminates provisions relating to trauma center and rehab center transfer agreements and adds a requirement that designated trauma centers and rehab centers follow federal regulation guidelines in established referral patterns. The provisions require relating to the designation of trauma centers is revised to require appropriate verification from the governing body of a facility seeking such a designation. And it provides hospitals involved in the care of trauma patients with unrestricted access to all prehospital reports for the trauma registry for a specific trauma occurrence. It has no fiscal impact. And I'd ask for your advancement of the bill. Mr. President, this bill was the bill we had on General File. We pulled it back. We figured we'd quickly get to it, but we pulled it back and then attached these other six bills to this. I would like to thank Dr. Joe Stothert who worked very hard in the Statewide Trauma Advisory Board to put this together. But what they did, they looked at the federal requirements and just made sure that our act is in compliance with the other acts around the country to meet those standards. Thank you, Mr. President. [LB195]

PRESIDENT SHEEHY: Thank you, Senator Gay. You've heard the opening to LB195. As was stated, we do have a Health and Human Services Committee amendment, AM952. Senator Gay, you're recognized to open on Health and Human Services Committee amendment. [LB195]

SENATOR GAY: Thank you, Mr. President. For the body's knowledge, I'm going to read which bills these are and who they were introduced by. LB132, Senator Fulton; LB220 is a pharmacy and pharmacy practice bill by Senator Gloor; LB250, a physician assistant's bill by Senator Gloor; LB367, a certificate of need bill by Senator Gloor; LB451, a hearing instrument specialist bill introduced by Senator Campbell; LB515, emergency medical services bill introduced by Speaker Flood. So those will be the bills we'll be discussing. We'll start out, LB132 is the Barber Act. It was introduced by Senator Fulton and makes technical changes to the Barber Act. The bill changes from one year to two years the renewal period for registration or licensure as a registered assistant barber

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instructor, registered barber instructor, licensed barber in barber school. The bill imposes title restrictions. The bill changes provisions relating to eligibility for licensure as a registered barber instructor. The bill requires and provides for the issuance of booth rental permits, and the bill provides for licensure of barbers without examination. This is a bill brought every couple of years by the Barber Board and Senator Fulton...actually he lives in Senator Fulton's district and Senator Fulton brought that to us. LB220 is a pharmacy and pharmacy practice. LB220 was introduced by Senator Gloor and changes, adds, and eliminates provisions of the Uniform Controlled Substances Act, the Pharmacy Practice Act, the Emergency Box Drug Act, and the Automated Medication Systems Act relating to prescription drugs and the practice of pharmacy. The bill is a technical cleanup bill relating to the practice of pharmacy. Among other changes, the bill permits long-term care facilities to utilize automated medication systems along with hospital and pharmacies. So this was a...allowed for several things, mostly long-term care facilities to better utilize the technology that's out there right now. And Senator Gloor can speak on that if he'd like to or if there are questions. LB250 was also introduced by Senator Gloor and changes and eliminates provisions of the Medicine and Surgery Practice Act. The bill is a cleanup relating to the physician assistants. And this changes and eliminates definitions. The bill permits physician assistants to sign birth and death certificates, and permits physician assistants to authenticate with their signature any form that may be authenticated by a physician's signature, if the authentication is within the scope of the practice of the physician assistant, is delegated by his or her supervising physician and is not otherwise prohibited by law. It updates physician assistant scope of practice provisions and changes and eliminates physician assistant licensure procedures and changes provisions relating to temporary licenses. The supervising physician is prohibited from supervising more than four assistants at any one time. This bill permits the department to adopt and promulgate rules and regulations to establish minimum requirements for a waiver of those limits. The bill permits the department to adopt and promulgate rules and regulations relating to standards of supervision that will apply to physician assistants with less than two years experience and a minimum of requirements for the waiver of such standards. Clarifies that prescriptions and prescription container labels must still contain the name of both the supervising physician and the physician assistant if the name of the physician is required for purposes of reimbursement. LB367 is a certificate of need. This eliminates...changes, eliminates, and adds certificate of need provisions. The bill exempts from certificate of need requirements a transfer or relocation of long-term care beds from one facility to another entity in the same health planning region or any other health planning region. The bill requires the receiving entity to obtain a license for the transferred or relocated beds within two years after the transfer or relocation, and requires the department to grant an extension of such time if the receiving entity is making progress towards the licensure of such bed. This bill clarifies provisions relating to the department's calculation of long-term bed need. For purposes of making the calculation, the bill requires each healthcare facility with long-term care beds to report to the department on a quarterly basis the number of

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residents at the facility on the last day of the immediately preceding quarter. Any facility that fails to timely report such information will be ineligible for any certificate of need exemption, and may not receive transfer or relocate long-term care beds. The bill requires the department to provide the occupancy data collected from such reports upon request. LB451 introduced by Senator Campbell is a hearing instrument specialist bill. It renames the Hearing Aid Instrument Dispensers and Fitters Practice Act to the Hearing Instrument Specialist Practice Act. The bill changes the term hearing aid to hearing instrument. The bill changes the name of the Board of Hearing Aid Dispensers and Fitters to the Board of Hearing Instrument Specialists. The bill changes licensures as hearing aid fitter and dealer to licensure as a Hearing Instrument Specialists. Changes membership on the Board of the Hearing Instrument Specialists Board. This bill requires that at least one of the three licensed hearing instrument specialists on the board may not hold a license as an audiologist. The amendment permits hearing aid fitter and dealers to practice under the existing license until it expires. And I'm sure Senator Campbell will probably discuss that bill a little. LB515 was introduced by Speaker Flood and changes provisions of the Emergency Medical Services Practice Act. This bill creates new classifications for out of hospital emergency care providers as of September 1, 2010. It provides for the issuance of a temporary license for an out of hospital emergency care provider who has completed the educational requirements but has not yet completed the testing requirements for licensure. The bill adopts the United States Department of Transportation National Emergency Medical Services education standards and the National Emergency Medical Services scope of practice for out of hospital licensure classifications until modified by the board in rule or regulation. The Board of Emergency Medical Services is permitted to approve curricula for licensure classifications. That is the amendment, and I'd like...I'd appreciate any conversations or questions. We're more than happy to engage in any of those that you may have. And I've asked all the proponents of these bills, of course, are willing to answer any questions as well. Thank you, Mr. President. [LB195 LB132 LB220 LB250 LB367 LB451 LB515]

PRESIDENT SHEEHY: Thank you, Senator Gay. You've heard the opening of the Health and Human Services Committee amendment, AM952, to LB195. Members requesting to speak are Senator Gloor. Senator Gloor, you're recognized. [LB195]

SENATOR GLOOR: Thank you, Mr. President and members of the body. I just wanted to make a comment about the piece of legislation, specifically LB250, that relates to physician's assistants. The main component of this bill relates to the ability of a physician to supervise not just two PAs but four PAs. I do this somewhat as an educational opportunity for the members of the body. The state of Nebraska used to be one of the foremost states in leading the way with physician's assistants, both the training as well as the use of physician's assistants. And way back when, the parameters set were for one doctor supervising two PAs. A lot of things have changed since that period of time, not the least of which is the fact that we're faced with

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significant manpower shortage, work force shortage is a more appropriate term and some of the supervisory learnings we've had of physicians and the use of physician's assistants that work for them. I want to make it clear, this is not a change in scope of practice. It is not a change in scope of practice because that always gets people's antennas up when we talk about healthcare related occupations and organizations and entities. In this case, some of the other things that have changed is the move, appropriately so, from a gender equity standpoint to more and more of our healthcare professionals being women, not just nurses but physicians and also PAs. Having a single physician responsible for two PAs often has put organizations in a position of having work sharing opportunities, but not being able to share jobs without having to get another physician lined up who is willing to sign on in a supervisory capacity. That's also been problematic. There is a tremendous amount of paper chasing that went on with the original legislation. This will simplify that in a number of ways. Overall, it's a...of course, I have a degree of bias on this, but it's a wonderful piece of legislation that I think modernizes us of some of the realities we're dealing with in today's healthcare environment. It will be a benefit to both urban and rural communities, not just one over the other. Overall, it has some great benefits. If there are any additional questions, I'd certainly be glad to address them, but I did want to provide this as an educational opportunity on LB250. Thank you. [LB195 LB250]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Members requesting to speak on AM952, we have Senator Campbell followed by Senator Cook, Senator Sullivan, and Senator Nelson. Senator Campbell, you're recognized. [LB195]

SENATOR CAMPBELL: Thank you, Mr. President. I just want to follow up a little bit on AM952 as Senator Gay explained on the portion of this amendment that deals with the audiologist and the hearing instrument dispensers. The language much...it's a very lengthy portion of the amendment and it brings the language up to the current practice and standards nationally across the country. I would like to thank the audiologists and the hearing aid instrument dispenser folks because this is one case for my colleagues where two associations really had a disagreement as to the configuration of the board that would oversee the practices of this profession. And I commend the two associations because they came together with a compromise that seemed to suit both of the associations and serve the profession admirably. And I wanted to add my thank you to them. Thank you, Mr. President. [LB195]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Cook, you're recognized. [LB195]

SENATOR COOK: Thank you, Mr. President and members of the body. I wanted to make the body aware of my intention to amend the bill at Select File with a bill I introduced, LB341. Quite simply, the bill will allow nurse practitioners to dispense tuberculosis medications at no charge when the medications are free to the end user

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from the Health Department. I introduced it on behalf of the agency. And we're going to be working on that between now and Select. Thank you, Mr. President. [LB195 LB341]

PRESIDENT SHEEHY: Thank you, Senator Cook. Senator Sullivan, you're recognized. [LB195]

SENATOR SULLIVAN: Thank you very much, Mr. President, members of the body. I speak in favor of the amendment and the underlying bill. Just had a question with respect to one of the portions of the amendment. And I think probably I would ask Senator Gay if he would yield for a question. [LB195]

PRESIDENT SHEEHY: Senator Gay, would you yield to a question from Senator Sullivan? [LB195]

SENATOR GAY: Yes. Yes, I would. [LB195]

SENATOR SULLIVAN: Senator Gay, the reason I hesitated, I didn't know if you would be the one to answer it or Senator Gloor because it pertains to the original bill, LB367. I received a lot of favorable comments from nursing home administrators in my district really appreciating this proposed legislation, that it was going to help them with respect to moving beds around, so to speak, and getting some money for basically selling them. Now I just wanted to clarify to make sure that the components of that bill have not changed that it's still sort of intact. Is that correct? [LB195 LB367]

SENATOR GAY: Yes. It's a very good bill, it's intact. It's supported very well. And feel free to ask Senator Gloor that as well because we've...the whole committee liked the bill. It really creates opportunities for rural areas, quite honestly, to update and it's a good economic stimulus bill actually. They can move the beds they don't need and then go refurbish or train or use that money for other things. [LB195]

SENATOR SULLIVAN: Exactly. It allows the beds to follow the population. And then in the process of selling those beds the money then can be used by that facility to upgrade their facility. So I do speak in strong support of it and I'm really glad that the components of that were retained in this amendment. Thank you. [LB195]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Members requesting to speak on AM952 are Senator Nelson, followed by Senator Dierks. Senator Nelson, you're recognized. [LB195]

SENATOR NELSON: Thank you, Mr. President, members of the body. I have a question or two of Senator Gloor if he will yield. [LB195]

PRESIDENT SHEEHY: Senator Gloor, would you yield to questions from Senator

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Nelson? [LB195]

SENATOR GLOOR: In the interest of community to community unity absolutely. [LB195]

SENATOR NELSON: Thank you, Senator Gloor. I should add that I expressed reluctance to answer a question from Senator Dierks a couple of days ago. And I just want it understood for the record, I wasn't afraid to answer the question, I just thought that there were others better qualified to answer that and they weren't present on the floor. I'm not going to give that response in the future. I'm looking at amendments to LB195 on page 55, if you could turn to that, Senator Gloor. And specifically, I can find it here, well, it's (4), starting with line 7 and going through line 12. Maybe this is a matter of semantics. Are you with me there in the amendment? Again that's on page 55, starting with line 7. It talks about, "A physician assistant"... [LB195]

SENATOR GLOOR: Yes. [LB195]

SENATOR NELSON: ..."may pronounce death and may authenticate with his or her signature any form that may be authenticated by a physician's signature if the authentication is within the scope of practice of the physician assistant." That sounds to me like the same thing as a notary public notarizing his own signature. Could you amplify that a little bit what we mean by if authentication is within the scope of practice of a physician's assistant. You see the gist of my question there? [LB195]

SENATOR GLOOR: I believe the answer to that would have to do with the supervisory responsibilities for nurse practitioners under this...excuse me, physician's assistants under this particular piece of legislation requires a heavier degree of supervision during the first two years after they have graduated, received their training, they're under the supervision of a physician. It may be that the physician who is providing the supervision for them would not be comfortable with them making that pronouncement of death and so would not have written that into the supervisory agreement. My expectation and assumption is after that two-year supervisory time almost all the physician's assistants in this state would probably be allowed by their supervising physician to go ahead and make this determination. This actually was written in part because in this case rural communities, which are far more pressed to have a physician sign the death certificate, can have this then as an additional extension as physician's assistants are supposed to be, to allow them to focus perhaps on providing more care to patients who are in the living as opposed to some of the paperwork that goes with somebody who has already passed away. [LB195]

SENATOR NELSON: All right. We have that problem in the urban community at times getting a death certificate signed because you can't find the doctor or it was an intern or somebody who was on for 48 hours and then was not available. So I appreciate that. So your answer is then that that would be in the agreement or contract or authentication by

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the physicians, that the physician felt that the assistant was...had the ability or could pronounce death and sign the certificate is that right? [LB195]

SENATOR GLOOR: Correct. [LB195]

SENATOR NELSON: All right. Thank you, Senator Gloor. Thank you, Mr. President. [LB195]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Dierks, followed by Senator Price. Senator Dierks, you're recognized. [LB195]

SENATOR DIERKS: Thank you, Mr. President. I, too, would like to have a conversation with Senator Gloor. [LB195]

PRESIDENT SHEEHY: Senator Gloor, would you yield to Senator Dierks? [LB195]

SENATOR GLOOR: Certainly. [LB195]

SENATOR DIERKS: Senator Gloor, over the years when I was on the Health Committee, previous years when I was on the Board of Directors of the St. Anthony's Hospital in O'Neill, we had a...something we lived by was a Certificate of Need. This was something that was before us every day. I've been told that the Certificate of Need has done a great change. I wonder if you'd give me a little history on what is going on with the CON now. [LB195]

SENATOR GLOOR: Well, I'm happy to do so, Senator Dierks, but am somewhat embarrassed to do so because in another life, many years ago, even before I got into hospitals, I was part of a group that got together and drew up the original Certificate of Need law. So some of what I now find myself here as a Legislature here trying to get changed I'm partly responsible for given the role that I played in Certificate of Need. About 11 to 12 years ago, the state which had Certificate of Need that covered almost all healthcare facilities, basically, not completely, but basically eliminated Certificate of Need for acute care facilities. St. Anthony's as an example now is fairly free to add programs, services, replace boilers, new roof, put in an MRI or a CT. In the past that would probably have required a Certificate of Need. We left Certificate of Need in place for a couple of small areas, one not so small area would have been as relates to long-term care facilities. And it's this effort that we're looking for in this bill is an opportunity to update Certificate of Need as relates to long-term care facilities. When put in place it was highly, highly restrictive. And in fact the industry was supportive of that. Now we find ourselves in a position where those restrictions really limit the ability of the industry to operate within this state to the extent that we have even had facilities that have had to close their doors because of their inability, under a Certificate of Need, to sell beds to other facilities who wanted to buy them. And that's the basis for the bill.

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[LB195]

SENATOR DIERKS: Okay, thank you very much. Thank you, Mr. President. [LB195]

PRESIDENT SHEEHY: Thank you, Senator Dierks. Senator Price, you're recognized. [LB195]

SENATOR PRICE: Thank you, Mr. President, members of the body. I wondered if Senator Gay would yield to some questions, please. [LB195]

PRESIDENT SHEEHY: Senator Gay, would you yield to questions from Senator Price? [LB195]

SENATOR GAY: Yes, I would. [LB195]

SENATOR PRICE: Thank you, Senator Gay. Question for you. On the rolling of LB341, where nurse practitioners will be at the request of the Health and Human Services will be dispensing medications. My question is, are these medications free to Health and Human Services? [LB195 LB341]

SENATOR GAY: Yes, on what she's looking at those are free to the state, yeah, from the federal government. [LB195]

SENATOR PRICE: So the medication is free to the state, Health and Human Services, no one is paying for the tuberculosis medications? [LB195]

SENATOR GAY: My understanding at this point the amendment is still being worked on, but yeah at this point they're free. And then if we need to utilize those they are then dispensed but they are free, yes. [LB195]

SENATOR PRICE: Okay. And then also within the amendment are they dispensing these medications in the same manner as a pharmacist would both with...as far as following product protocol as outlined in statute, with drug interactions, labeling, and counseling? [LB195]

SENATOR GAY: No they would not be. But that is not right in this. It's going to be on Select possibly. And at this point if...I don't know if Senator Cook is next to you, but that's still being worked on. The question is in case we get cases of tuberculosis, the regime is very involved how you do that. We don't want it to spread. So it's a public health concern. We are having conversations with the pharmacy people about that but... [LB195]

SENATOR PRICE: Okay, great because I had a little concern if we're going to start

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having people dispense money or dispense medication, it could be money, dispense medications. And if we're not following the pharmacological protocols and ensuring because as we can all understand the drug interactions can be a tricky thing even in the best scenarios and under the tightest controls. And I would submit that while I understand nurse practitioners are highly qualified individuals in their fields, this is a scope change, and as such we want to be very careful that when we change that scope that we are ensuring public safety and following protocols. [LB195]

SENATOR GAY: Yes. [LB195]

SENATOR PRICE: So again, Senator Gay, I appreciate you taking on the challenge here. This is going to be a magnum opus type bill for you to run herd over. And with that, Mr. President, I would release any time I have left for Senator Gay. [LB195]

PRESIDENT SHEEHY: Senator Gay, you're yielded 2 minutes, 10 seconds. [LB195]

SENATOR GAY: Thank you, Senator Price. And actually, I will use a little bit of that time because I misspoke. We do pennies on the dollar, so we pay them and then we distribute them for free though. So I didn't want to mislead but I was just informed of that. This situation though is being worked on. It's very important to the public health, Dr. Schaefer and others are working on this to try to get something. And maybe it will be one of these things where not everyone can agree but we certainly want to sit down with all parties involved and get something. I commend Senator Cook for bringing that up. And we are having conversations and, hopefully, can get you all your answers on Select File. But it is an important issue, I think, in the state because we're seeing more and more cases that are occurring. And like I say, when that does occur the regime could be as, the way I understand it, up six months taking this. Thank you. [LB195]

PRESIDENT SHEEHY: Thank you, Senator Gay. Thank you, Senator Price. Seeing no additional requests to speak, Senator Gay, you're recognized to close on the Health and Human Services committee amendment, AM952, to LB195. [LB195]

SENATOR GAY: Thank you, Mr. President. I would just say to our colleagues and for the whole Health and Human Services Committee we did look for bills here that would help enhance what medical practitioners are doing out there to make their job a little easier, use a little common sense. And I think we've done that with these bills that are in the amendment. The Certificate of Need laws that Senator Dierks discussed, they are evolving a little bit and we're cognizant of those. But we're very fortunate, a great committee that put a lot of time and effort in. There have been negotiations, best that we can do, with a lot of different parties. And I'm very pleased with what we have. I think it will go a long way to helping the state deliver those services that our constituents are looking for. Thank you, Mr. President. [LB195]

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PRESIDENT SHEEHY: Thank you, Senator Gay. You have heard the closing. The question before the body is on the adoption of the Health and Human Services Committee amendment, AM952, to LB195. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB195]

CLERK: 37 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB195]

PRESIDENT SHEEHY: AM952 is adopted. We will now resume floor discussion on LB195. Seeing no members requesting to speak, Senator Gay, you're recognized to close on LB195. Senator Gay waives closing. The question before the body is on the advancement of LB195. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB195]

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB195]

PRESIDENT SHEEHY: LB195 advances. We will now proceed to LB653. [LB195 LB653]

CLERK: LB653 is a bill by Senator Harms. (Read title.) Introduced on January 21 of this year, referred to the Executive Board for public hearing. The bill was advanced to General File. There are Executive Board Committee amendments pending. (AM1071, Legislative Journal page 1024.) [LB653]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Harms, you're recognized to open on LB653. [LB653]

SENATOR HARMS: Thank you, Mr. President, colleagues. Nebraska has significant challenges before it that they're going to have to face such as changing global economy, aging population, and out migration of educated young people, and a constantly expanding need for services among other issues require that our Legislature start to consider long-term trends and factors that affect our welfare in this great state. We must look at the implications of the decisions made by our body now and in the future as we start to think about long-range planning and think about a changing world global economy. It's necessary for this Legislature to identify emerging trends, assets, challenges that the state is presently facing. It's vital for Nebraska to have continuity and policy. We need to establish a process of long-term planning so that we can guarantee that we have a pathway to follow. It's important now more than ever for our taxpayers and our citizens to understand where we're going (clears throat) excuse me, and what our plans are, and how we'll change the economy, and how we might want to streamline government in the future. Planning honestly makes government transparent. In the midst of an economic downturn there is an opportunity for a state to rethink how we run our state government, what changes need to be made, what direction should we take.

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But without a plan it's hard for us to understand that. Without a plan we may not move in the right direction. The Nebraska economy faces five key challenges over the next decade. The question is how we will meet these challenges and turn them into opportunities will largely determine whether the state will be growing and robust in the next decade or whether we become stagnant, whether we fail or we fall short of our goal. We can find the answer in the long-range planning process in meeting these five key challenges by (1) achieve the promise of a digital revolution; (2) ride the next wave of innovation; (3) build on transition of low carbon economy; and (4) learn how to take advantage of a new changing world global economy, and that is our greatest challenge in Nebraska; and (5) build on a more balanced regional growth. The new economy, colleagues, is global, it's entrepreneurial, it's knowledge-based economy in which the key success lies in the extent to which knowledge, technology innovation is embedded in our products and our services in this great state. It's important for us to understand what the new economic opportunities will be in the future and what the challenge will be and what new strategies Nebraska has to implement to be competitive, to be visionary and have a pathway to follow. These and other new opportunities and challenges mean that for Nebraska to be successful it will need to have in place the right economic policy and implementation framework. This can only be done if we start to collect and understand how to collect the appropriate data in order for us to develop a strategic plan. The data is what will drive this great state in the future. Data and science will lead us down the pathway to where we can be competitive in a changing world global economy. And developing a data platform that compares Nebraska to other states and other nations in such things as demographics, work force, wealth, innovative assets, trends in key industry especially agriculture which is our key in this great state, the structure, revenue, taxes, business climate, business startups, education. That's just naming a few. We need to undertake in this great state a formal policy audit that will allow this body to ask one question, what is there about this great state of Nebraska and its culture, its values, its statutes, its policies and its regulations that serve as barriers to successfully address the priority needs and issues the state has now and will definitely have in the future. I would have to tell you as I look at those questions and those concerns and those issues it's very clear to me the only way we will be able to accomplish this is through some type of long-range planning. Thank you, Mr. President. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Harms. You've heard the opening to LB653. As was stated, we do have an Executive Board amendment, AM1071. Senator Wightman, you're recognized to open. [LB653]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. This is both a committee priority bill and we do have a committee amendment, AM1071. As originally drafted, LB653 provisions were general in nature and even by Senator Harms' own admission, I think, needed to be clarified, which has been done by the committee amendment. It was nonspecific as to what authority and duties the Legislature's

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Planning Committee might have. The committee amendment builds upon the original bill by proposing the following: it specifies "There shall be a total of nine members to serve on the committee, including the Speaker, the Chairperson of the Executive Board, the Chairperson of the Appropriations Committee, and six other members of the Legislature to be selected by the Executive Committee." The amendment outlines the duties of the Legislature's Planning Committee to include "collecting and analyzing data about Nebraska, identifying long-term significant state issues, setting goals and benchmarks, issuing yearly reports and proposing legislation." Finally, the committee amendment authorizes the Legislature's Planning Committee to "hold public hearings, obtain data and information from the state agencies and private entities that contract with the state." Now in addition to our committee amendment, there is an amendment which will be up next, introduced by Senator Harms. And it will make clear that there is no fiscal impact on the...LB653. It will also indicate that the University of Nebraska will be or can be involved at the discretion of the Executive...or the Planning Committee and Executive Board. And so Senator Harms will introduce that. But it will make it clear that there will be no fiscal note attached. Thank you, Mr. President. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Wightman. You have heard the opening of AM1071 from the Executive Board. Mr. Clerk, do you have an amendment to committee amendment? [LB653]

CLERK: Senator Harms would move to amend, AM1149. (Legislative Journal page 1161.) [LB653]

PRESIDENT SHEEHY: Senator Harms, you're recognized to open on AM1149. [LB653]

SENATOR HARMS: Thank you, Mr. President, colleagues. The amendment offers three basic technical changes. First, it clarifies the starting date of the Legislative Planning Committee so that it can work...so it can start its work right away rather than waiting until the beginning of the 2011 Legislative Session. After the initial startup, the Planning Committee would then be appointed at the beginning of each regular session. Secondly, on page 2, line 25, University of Nebraska is added to clarify that the committee will obtain information from the university as well as state agencies. And third, the amendment adds the emergency clause. We need to get started on this as soon as possible. There's a lot of work going to be involved in this. And if we're going to move ourselves forward we need to start immediately. I would appreciate your support for this amendment to this committee amendment. I will also tell you that the University of Nebraska is going to play a large role in this planning process. And without them coming forward, without their willingness and through their CPACS programs it would be impossible for us to do this and make it neutral, revenue neutral. So I would appreciate if you would be willing to support these amendments as well as the bill. I think it gives us an opportunity to move in the right direction. Thank you, Mr. President. [LB653]

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PRESIDENT SHEEHY: Thank you, Senator Harms. You have heard the opening of the amendment to committee amendment, AM1149. Members requesting to speak are Senator Mello, followed by Senator Nordquist, Senator Pirsch, Senator Lathrop, Senator Dubas, and others. Senator Mello, you're recognized. [LB653]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I'd like to thank Senator Harms for bringing, I think, perhaps one of the best bills that I've seen so far this session dealing with the future of Nebraska. We've been in the midst of floor debate on education funding, we're wrapping up discussions regarding the Appropriations Committee and doing the budget, we have some very serious issues ahead of us in regards to roads funding. And what LB653 does is it provides a mechanism for our state to start to address some of the long-term challenges that we're starting to see. And there is a handout that the pages should have provided you. The Pew Report, the Pew Center for...I'm sorry, the Pew Center of the States issued a report on government performance. And I've been reading through the report over the session and they've offered a few other reports along the way that deal with state government's dealing with tough economic times. And there are some recommendations that the Pew Center has given Nebraska. And on the first page, under information, the first recommendation they give is creating a statewide strategic plan. And I, you know, growing up in my young professional life I've heard the phrase over and over again, which is, if you fail to plan, you plan to fail. And as a state right now in this unique time in our country's history we have the opportunity with LB653 to bring members of the Legislature together in conjunction with various state agencies and in conjunction also with the University of Nebraska to help build a platform that collects data that will help us make better informed decisions based on what the data suggests certain trends are. Senator Harms mentioned the new changing global economy and how we will have to adapt as a state both in our economic development and work force development policies, but also just be able to look at some of the overall demographic changes that are happening. We know that we are seeing a brain-drain happening in regards to education in our state. We are educating our youth and they are leaving our state. We are noticing that we are seeing a graying and aging population increase in certain areas of the state. It will only benefit the Legislature and the state of Nebraska as a whole for us to be able to take that data and information and to begin the long-term planning process to help address some of these critical issues. I believe Senator Nordquist and a few other senators will talk about what the state of Virginia has undergone in conjunction with their Governor and their Legislature to help build upon a very similar apparatus, to help guide their state not only through tough economic times but also setting up benchmarks and setting up performance-based budgeting measures to acquire more performance from their state government. I think LB653 starts to set Nebraska on that path that will help us meet the needs of not only our children but also our economic and work force and education needs of the future. With that, Mr. President, I'd like to yield the remainder of my time to Senator Harms. [LB653]

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PRESIDENT SHEEHY: Senator Harms, you're yielded 1 minute, 15 seconds. [LB653]

SENATOR HARMS: Thank you, Senator Mello, Mr. President. I had one of my colleagues ask me before off mike about, would the planning circumvent the committee structure? And the answer is absolutely not. Whatever the planning committee finds and whatever directions we want to go, we will go to those committees--if it's in Natural Resources, if it's in Agriculture, if it's in, you know, Banking or Health and Human Services, we'll go to those chairs and say, look, we need to make these changes... [LB653]

PRESIDENT SHEEHY: One minute. [LB653]

SENATOR HARMS: Thank you, and this is where we need to go. Would you please help us introduce this legislation. You'll be a part of this. And so I just wanted to make sure that you understood that, that it will not circumvent what we are doing. It will bring us together and help us focus down the pathway that we need to go. Thank you, Mr. President. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Harms. Thank you, Senator Mello. Senator Nordquist, you're recognized. [LB653]

SENATOR NORDQUIST: Thank you, Mr. President, members. You know we hear all the time when we're running for office or on the campaign trail, and I'm sure many of us have said it ourselves, we need to run government more like a business. Well, this is our way to do just that. Talking to entrepreneurs like Senator Janssen, planning is critical in his business, it's critical in every business, and it's critical in government for us to move forward. It gives us a long-range view of where we're going, what the trends are, where we need to address, what assets, what advantages do we have as a state versus our neighbors and other states in this country. It gives us a chance to look at where we can invest now, especially in an economic downturn where we need to be looking for those competitive advantages to make those investments so when we come out of this thing we're at the front of the pack. We can...and it gives us a vision on policy. We can't continue to make policy in a vacuum, piecemeal without having any idea of how it fits into the big picture. That is what this does, it gives us that opportunity. And I handed out a few pages of a report from the Virginia plan. Virginia is recognized as one of the nation's leaders in long-term strategic planning. And if you want to see the full version in color, I didn't do color copies, it's a great report, you go to future.virginia.gov. But in the report you'll see who their members are, members of state government, and then similar to ours, to this bill that Senator Harms has introduced, there's going to be an advisory committee eventually bringing in experts from top sectors in Nebraska. It shows where they're at. It gives you a realistic view of where the state is at and where it is going, where it's making progress, where it is not making progress. If you look on

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page 6, they measure 46 key quality of life indicators, broken down into different categories. Looking at the economy, they look at personal income, business climate, business startups. They measure those, see if their improving, maintaining or falling behind. In education they look at certain reading scores, at dropout rates, at college graduation. In the issue of health they look at life expectancy, smoking, foster care, obesity. Again, on all these issues they take a realistic snapshot of where they are and where they're going, where they need to make changes. This...and then the report goes on to look at how it does comparatively amongst all 50 states and then comparatively amongst its neighboring regional states. This is what we need to look at doing here in Nebraska. I thank Senator Harms for his efforts to lead us down this path to start making government really function like a business. Thank you, Mr. President. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. Senator Pirsch, you're recognized. [LB653]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I also rise in strong support...in support of the underlying concept imbued in this bill which is strategic long-term planning. And I also have recognized this as a potential...well, an area in which we could improve the body, shall we say. Introduced a bill myself this year geared along the lines of looking long-term planning for the future in my LB505. And a lot of the concepts that were in that bill are in this bill as well. And so I do support this strongly. I think far too often we as a body approach issues on a piecemeal, a case-by-case basis as the years roll on. And I think we need to look at a more comprehensive, unified, long-term approach to things. And I think this bill will help us, take us down that path. Especially with the advent of term limits we are not...I think it is going to, when you look at the average term of service, it is going to shorten that. And so institutional memory which may have existed in past decades will not be here. And I think to compensate for that we need to restructure, reconfigure this body such that though we may not be here with our memories ourselves, that the institution itself has a process in place to always be looking long-term, remembering the lessons of the past and bringing those forward into the future. I think that no business would operate, as Senator Nordquist pointed out, without looking at long-term strategy. And so we need to, with the size of our state and with the many directions we're being pulled, utilize this to help us focus. Look at what our native strengths are, where are long-term competitive advantages vis-a-vis not just the region now and not just the entire United States but we're in a global economy. And so the only way we're going to succeed long-term is if we become more organized and more focused. And, you know, far too often we deal with matters here in the Legislature that have reached the crisis level. And that's not a good way to do that. Your options are far more limited, your choices are not good ones. And so this is a way where we can look at things proactively, which gives us a greater range of better outcomes. I guess with that, I would yield the balance of my time to...how much time do I have left, Mr. President? [LB653 LB505]

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PRESIDENT SHEEHY: You have 1 minuted, 45 seconds. [LB653]

SENATOR PIRSCH: I'd yield it to Senator Harms, should he desire to take it. [LB653]

PRESIDENT SHEEHY: Senator Harms, 1 minute, 40 seconds. [LB653]

SENATOR HARMS: Thank you, Mr. President. Thank you, Senator Pirsch. Senator Pirsch brought out a pretty good point in regard to term limits. That's one of the factors why I brought in long-range planning was my biggest concern is that in many years we're all going to be gone. I mean we're going to be rotating in and out of here and without a pathway to follow, without planning taking place, I'm just afraid that Nebraska is going to fall short. And I don't think we should do that. And I want you also to understand that I think when you look across in this body and look at the different committees, we have great ideas and we're bringing these ideas forward but we've never put them in long-range plans. [LB653]

PRESIDENT SHEEHY: One minute. [LB653]

SENATOR HARMS: Thank you. We've never tied those together to show the public this is exactly where we're headed, this is exactly the direction the state needs to take. This gives us a chance to truly be self...transparent. And I know that Senator White has legislation coming up about being transparent. And I think that's really important, particularly in today's economy and particularly with the issues we're confronting people want to know what are our thoughts, where are we headed, what are our plans. This is a good way for us to do this. This is an opportunity for us to tell the public this is where we're going. And also then take the plan to them and say, here is where we are, give us your input, tell us what your thoughts and your views are. There's a lot of different thoughts and views just between rural and urban America and those need to be brought together. And it won't be done unless we do it through some type of planning process and get people to buy in. Thank you, Mr. President. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Harms. (Visitors introduced.) Returning to floor discussion on the amendment to committee amendment, AM1149. Members requesting to speak are Senator Lathrop, followed by Senator Dubas, Senator Hadley, Senator Fulton, Senator White, and others. Senator Lathrop, you're recognized. [LB653]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I stand in support of LB653 and the amendments thereto. And I want to comment, if I can. First, I want to thank Senator Harms. I had the pleasure of working with Senator Harms since I've gotten here but also on the special...the Beatrice committee. He is a...we are lucky to have him in the body. And he is a thoughtful, thoughtful man. He's brought something to us that really comes from his professional background, which is in management and planning and presiding over an institution and I think that's evident in his approach to

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state government. It is clear to me after now in my third year that the policy in this state is generally set by this legislative body. It is...we are the policy branch and we have, at least in my time here, done that on an ad hoc basis. We do it from bill to bill. We take up issues one at a time without ever having a big picture view of the direction we want to take the state in. And I think that what Senator Harms has proposed here today is a great idea. It is a great idea because if we are to assess and make policy in this state we ought to be able to do it or we should do it with reference to a vision. And we have no vision. My observation about the legislative process is this, that generally we'll pass a uniform bill in this state after 35 other states have done it. We will...and I think safe haven is a perfect example of how we legislate in this body. We were one of the last states to have a safe haven bill. And then when it turned into a problem we immediately got together and changed it. And that really is the two things that drive legislation in this state, primarily. We do have people that bring vision and ideas, wind energy is a good example. We have bills on wind energy. But we are way behind on wind energy. We should have recognized wind energy as the resource it was a long time ago and invested in it and instead we are one of the sixth best states in the union when it comes to that resource and we're following the pack when it comes to the development of wind. And so I think you could go through and look at...and I think sales tax is another example. When we legislate without a vision, what we end up with is a sales tax...a list of exemptions that make no...there's no rational policy for them other than someone persuaded this body at one time or another to grant an exemption not because it fit an overall scheme and what was good for the state and our vision of where the state should go but because somebody was particularly persuasive when it came to those sales tax exemptions. And now we got a book full of them that we actually...I saw in the paper and I didn't recognize this even when I was listening to Senator Pahls last week, we now exempt more transactions than we tax when it comes to sales. And that, I think, is an example of legislating without a vision. This bill is, I think, critical if this body as the policymaking body of the state is going to assess what our needs are, what our strengths are... [LB653]

PRESIDENT SHEEHY: One minute. [LB653]

SENATOR LATHROP: ...and where we want to go. Then we can legislate, not based upon whether or not a particular interest group is filling your in mailbox with pleas for you to vote on different legislation one way or the other, but whether it fits in the picture or the vision that we've created with a study. So I am fully in support of this. I'm excited about the prospect of having members of this body serve on a committee that will look at our strengths, look what our needs are, set our priorities. And then we can come to this body and legislate with some direction and take us from where we are today after that assessment to a place in the future where we can keep young people in the state and have a clear policy and clear vision when it comes to roads funding, when it comes to education funding, when it comes to funding for developmental disabilities, when we have a clear vision for what we want to do with corrections other than... [LB653]

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PRESIDENT SHEEHY: Time, Senator. [LB653]

SENATOR LATHROP: ...filling the prisons with 1 percent of our population. Thank you. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. (Visitors introduced.) Continuing with floor discussion on the amendment to committee amendment, AM1149, Senator Dubas, you're recognized. [LB653]

SENATOR DUBAS: Thank you, Mr. President, members of the body. Nebraska has been known to be progressive. We have the Unicameral, we have public power, those things have definitely set us apart nationwide. And I found that to be even more so as I've done a little bit of traveling around the country. And as soon as someone hears you're from Nebraska they immediately say, and how do you make that Unicameral work. So we have set ourselves apart in many ways. And I think this bill will continue to set us apart. This bill has the potential to have the most long-range positive impact on our state than probably anything we've done in recent history. If you don't know where you're going how do you know when you get there? And that's kind of been what's been directing us for many, many years. When I began my legislative career and my quest to promote and develop renewable energy I started out by talking to different groups and individuals who were involved in that particular endeavor. And it quickly became apparent to me that there was a little interaction or coordination of efforts and absolutely no clearly defined goals. We had no comprehensive plan or approach to developing renewable energy and everybody was just kind of out there doing their own thing. And if they crossed paths that was great and if they didn't well they just didn't. The Natural Resources Committee is going to take, I think, a big step during this interim in putting together an interim study that will really take a big picture, comprehensive look at...while we'll probably be looking at wind energy, I think, other renewables will come into the mix also. I think this need for direction has continued to become more obvious to me in many other areas, whether it's children's behavioral health issues, I mean you can kind of just go down the line. Senator Lathrop mentioned quite a few of them. And as term limits are more fully implemented I think this bill becomes even more important. This bill allows us to map out a course and create a record for future legislators. And I think it also breaks that cycle of, well, this is how we've always done it in the past and so we just haven't put anything in place to say, well, maybe we should look at doing it differently in the future. Did we each come in here as individuals, as individual senators we campaigned, we've talked to our constituents, we've made promises, we've mapped out our individual agenda. And we come in here working on those individual issues. But it quickly becomes apparent as debate begins on the floor about any particular bill that that individual bill has a much larger impact. It impacts a bigger picture. This is a valuable tool for committees to use, for legislators to use. Oftentimes I know I have been, and I've heard this from my other colleagues, very frustrated when you're trying to

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put something together, trying to craft policy, you're seeking information, you go different places, you just aren't able to get everything that you really feel you need to put together a good, sound policy. Having a plan in place that has gathered data, reliable information that we as individual senators or as committees can go to, to help us kind of find our way through whatever particular issue we're working with I think will be invaluable. How can we capitalize on our comparative advantages if we don't even know what those advantages are? I think again this bill will allow us to...it's one thing to know it in your mind but to actually have evidence and data to backup what you think you know is critical. Our constituents rightly demand accountability from us and we should be able to give that to them. [LB653]

PRESIDENT SHEEHY: One minute. [LB653]

SENATOR DUBAS: And I think this will give us the visual benchmarks to determine our successes and our failures and how do we need to direct or redirect our efforts. Often we hear in committee, well, this is what Iowa does, this is what Kansas does, this is what South Dakota does. And so we often craft knee-jerk policy trying to stay competitive, trying to stay out there in the global economy. So we're not doing it because it's the best way for Nebraska. We're doing it because it's almost a desperate effort to keep us competitive and keep us moving forward. I think again this has been brought up, this will help us in the transition with term limits. It's going to give our future legislators some background, some information to go back to and see why was it that we did what we did. I think another example is the children's behavioral health package that's coming forward. We realized during that debate that we can't just pass individual pieces of legislation to impact such a big problem. So we came together and we've put that package together. [LB653]

PRESIDENT SHEEHY: Time, Senator. [LB653]

SENATOR DUBAS: Thank you very much. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Hadley, you are recognized. [LB653]

SENATOR HADLEY: Mr. President, members of the body, it's great to be able to reach across the aisle and put my arms around Senator Mello, Senator Nordquist, Senator Lathrop, all of our great Omaha senators and we're all working together on this bill. That's kind of a joke. Anyway, (laughter) I fully support this bill. I think this is great. This started in a meeting in January on a snowy day in early January when Senator Harms brought this idea to a group of senators. And I appreciate his willingness to follow through on it. The only caveat I have, and this comes from 35 years of working in higher education, that the report itself is not the end. If we're not going to use the findings, if we're not going to use what comes out of this group then we shouldn't do it. If all we're

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going to do is get a report that we put on the shelf and we told everybody that we have a report then there's no reason to do it. But if we're going to make use of the information that we gather and making good decisions for the state of Nebraska I fully support this particular bill. Thank you, Mr. President. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Hadley. Members requesting to speak on AM1149, we have Senator Fulton, followed by Senator Wightman, Senator Campbell, Senator Sullivan, and Senator Price. Senator Fulton, you're recognized. [LB653]

SENATOR FULTON: Thank you, Mr. President, members of the body. I want to start by saying at the very beginning of this talk that I am in favor of the bill and the underlying amendments because of our need for long-term planning. But I would like to have...I'd like to get some attention as to focus some of my colleagues attention on why we have to do this, why it's necessary for this bill. Within the legislative branch of government part of what we're supposed to do is conduct our debate and our bill introduction and our process in such a way as to plan. This is supposed to be part of our responsibilities in the first place. And somehow or another over the course of however many decades that has been lost. That vision as been lost within the Legislature. That we need to have a bill like this speaks of some deficiency in our branch of government. Now in the executive branch of government the long-term plan is put forward during the campaigns. So people run for an office, they put forward their vision for what Nebraska ought to be and the people of the state of Nebraska choose who they want their Governor to be, hopefully, ostensibly, based on the plans that are put forward by any given candidate. In the legislative branch of government it's not quite so succinct because there are 49 legislators, while in the executive branch of government there is one Governor. But this to a somewhat lesser degree or a less identifiable degree should be occurring in our legislative process. Now I have a theory as to why it's not. Why is it that we don't have a discernible long-term plan within the legislative process? Perhaps it's because the populace is not able to focus in and pay attention to legislative races. This is something that became evident to me while I was running. There are so many things bombarding the public and we're part of the public, we're citizen legislators, so many things competing for the attention of the citizens that oftentimes our campaign platform is not dissected or considered or contemplated with the depth of...with the necessity and depth that is required to make a long-term plan. Now that's something to consider because that this bill is necessary and that this bill will get the support that I'm certain it's going to get speaks of a deficiency not only in our legislative process but in our political process at large. We're talking about the need to put forward a special committee to plan for the future of Nebraska. That existed before. Okay. Some questions that I'd like to ask Senator...would Senator Harms yield. [LB653]

PRESIDENT SHEEHY: Senator Harms, would you yield to questions for Senator Fulton? [LB653]

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SENATOR HARMS: Yes, I will, Mr. President. [LB653]

SENATOR FULTON: Thank you for bringing this forward, Senator Harms. I have a couple of questions of clarification for the record. Page 2, line 26, and I'm actually going to skip a step here and go to AM1071 and maybe it would be more appropriate for Senator Wightman but, hopefully, you could answer these. [LB653]

SENATOR HARMS: What was that again, Senator, now? [LB653]

SENATOR FULTON: Okay. It was page 2, line 26, and this is in AM1071. I'll go ahead and just read it, "In order to fulfill its duties, the Legislature's Planning Committee may:" and then line 25, "Obtain data and information from state agencies" and your amendment would include the university. Then line 26, "and private entities that contract with the state." Could you elaborate a little bit more on that. [LB653]

SENATOR HARMS: Well, there may be private organizations that have certain data that we may want to tap, for example, that might be able to give us data. We may want to go to some different businesses or different agencies or different...the private sector to say, hey, we need your help in this aspect. I think what you'll really see is when you get the material and the data put together you're going to want to take this data then to the private world. And that's when you'll bring them in and say, here's our platform, here's what this is telling us. Tell us now what your thoughts are about the pathway we're thinking about; give us your data and your information and let's confirm this to make sure that it's correct. That's really what that's about. [LB653]

SENATOR FULTON: Okay, that helps. It's not your intention to...oh, to be able to conduct...I know that when there are public monies that are spent in a private agency that we have the ability to request that information for auditing purposes within our branch and I think probably the State Auditor. Your intention here is to get information that is constructive feedback. [LB653]

SENATOR HARMS: Absolutely. [LB653]

SENATOR FULTON: Okay. And then my second... [LB653]

PRESIDENT SHEEHY: Time, Senator. [LB653]

SENATOR FULTON: Thank you, Mr. President. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Wightman, you're recognized. [LB653]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. First of all, I

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want to thank Senator Harms, as others have done, for his vision in bringing this bill. I think it is then an extremely important bill that provides for long-range planning for the state of Nebraska. I attended a meeting earlier this session in Philadelphia. The topic of that meeting was strategies for governing in difficult times. Without question we all across this great nation and certainly in the state of Nebraska as well are in the middle of those difficult times. The concerns of those at the meeting, consensus of those at the meeting was that those states who come out of this economic crisis with the best plan will best position themselves for the future. And I think that is very true. I think we have an opportunity here as we come out of this economic crisis that we can formulate a plan as Senator Harms envisions. Both Senator Lathrop and Senator Fulton have easily stated how we react in this body on a bill to bill basis and not under a plan as to what our goals or long-term objectives or how this legislation might fit into those long-term goals. In short, I suggest that we are often reactive rather than proactive. I think we need to be proactive. I think we need to look at an overall plan and then make our legislation fit within that plan. We need to determine how not only this body, the state of Nebraska through its various agencies serves its citizens but also how local government serves its citizens. And we have to take a hard look at local government. We're providing a lot of aid in funding of local subdivisions, counties and cities. So I think it's extremely important that we do have a long-term plan in place. And I think this is a good opportunity to set this plan in place and so I do urge your support. With that, I would yield any time remaining to Senator Nantkes. [LB653]

PRESIDENT SHEEHY: Senator Nantkes, 2 minutes, 30 seconds. [LB653]

SENATOR NANTKES: Thank you, Mr. President. That you for yielding some additional time to Senator Wightman, thank you. Friends, I...my friend, Senator Friend, would probably say, wow, here goes the lovefest. But I think rather than having it viewed in that context this should be a strong statement in support of the fact that this body and the state is crying out for this leadership, this long-range vision for our state. Because we all, every single member in this Legislature, who run hard-fought campaigns want to see Nebraska succeed, want to see Nebraska move forward, wants to see Nebraska on the leading edge of what's happening across this great country of ours. And this is really the first step in helping to ensure that we have a road map to accomplish those objectives. Senator Harms helped to lay some of the groundwork for this idea and this vision and this legislation in the early part of the session or even pre-session. And there was over 20 senators and senators-elect at that meeting where we got to hear just a general idea about where our demographics are, what our economy looks like and how that hinders or helps Nebraska move forward and be competitive in a new economy. And some of the focuses key items that I took away from that meeting was the fact that Nebraska can do a better job in terms of leveraging more research dollars and to do more in terms of... [LB653]

PRESIDENT SHEEHY: One minute. [LB653]

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SENATOR NANTKES: ...research and development. And Nebraska has to be responsive in terms of a public policy towards our ever-changing demographics in this state. And so with those kinds of ideas in the mix as part of this bill I'm so happy that we can move forward and get some real benchmarks, get some real data, get some information that's unemotional and nonpolitical to help us guide the many difficult and emotional decisions we will have to make down the road. So, Senator Harms, thank you, thank you, thank you for your leadership. Thank you for this bill. I'm thrilled to see it move forward and look forward to continuing to work with you so that Nebraska's vision for the future is bright and strong. Thank you. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Nantkes. Senator Campbell, you're recognized. [LB653]

SENATOR CAMPBELL: Thank you, Mr. President. Earlier in my life I was a high school English teacher. And I tried to impart to my students the importance of remembering good gems and quotes. One of those today fits, a quote from Ralph Waldo Emerson. "People only see what they are prepared to see." And I thank Senator Harms very much because the gist of what he is trying to do is to prepare all of us to see into the future, which is a great asset to the state of Nebraska. I would also like to add a suggestion for when the committee is pulled together. And that is that they find a way to systematically use the standing committees of the Legislature for discussion on issues and trends. Having sat now these months in the Health and Human Services Committee some of my colleagues there have spent more time and have an exceptional background. I would hope that using the standing committees would help to set certain benchmarks of what we ought to be looking at. It would also be a way to involve the entire Legislature in this process and keep all of us focused on the future. I have to say when I saw Senator Nantkes ready to speak I was sure that she was going to use my last quote of the day which is from Proverbs 29 verse 18, "Without a vision the people perish." Thank you, Mr. President. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Sullivan, you're recognized. [LB653]

SENATOR SULLIVAN: Thank you, Mr. President. I'd like to call the question, please. [LB653]

PRESIDENT SHEEHY: There has been a call of the question. Do I see five hands? I do. The question before the body is, shall debate cease? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB653]

CLERK: 32 ayes, 1 nay, Mr. President, to cease debate. [LB653]

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PRESIDENT SHEEHY: Debate does cease. Senator Harms, you're recognized to close on the amendment to committee amendment, AM1149. [LB653]

SENATOR HARMS: I would just ask, colleagues, that you support this. It's the right thing for us to do. It's a good amendment. And so thank you, Mr. President. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Harms. You have heard the closing. The question before the body is on the adoption of AM1149 to AM1071. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB653]

CLERK: 39 ayes, 0 nays on adoption of Senator Harms amendment. [LB653]

PRESIDENT SHEEHY: AM1149 is adopted. We will now resume floor discussion on AM1071. We have Senator Price, followed by Senator Dierks, Senator Karpisek, Senator Carlson and others. Senator Price, you are recognized. [LB653]

SENATOR PRICE: Thank you, Mr. President, members of the body. I was wondering if Senator Harms would yield to a question. [LB653]

PRESIDENT SHEEHY: Senator Harms, would you yield to a question from Senator Price? [LB653]

SENATOR HARMS: Yes, I will. [LB653]

SENATOR PRICE: Thank you very much, Senator Harms. I appreciate you bringing forth this legislation. Obviously, from the comments on the floor it's a well received concept. I would like to ask though when we talk about adequate geographic representation, page 2, line 6, what is...are we going to follow the same process for other committees? What does "adequate" mean? [LB653]

SENATOR HARMS: Well, that's really up to the executive committee. But we would like to geographically make sure we have someone from western Nebraska, north, south, you know, east Nebraska so we have a balance because the issues are sometimes different. There is some similarity but there is a lot of difference in the issues. And so that would be good. We also want to make sure we have the right people at the table. So that's really what that's about. [LB653]

SENATOR PRICE: Okay, great. And I anticipated as much, I just wasn't sure with the numbers making sure we have...when we say "adequate representation" we have one over here and then four there. And it looks to me that there's going to be a nine member board. [LB653]

SENATOR HARMS: That's correct. But it does not stop the executive committee for

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asking for senators to come in and serve as ad hoc, to give us some help on a specific issue that we know that they have the expertise, they can come in and advise us. [LB653]

SENATOR PRICE: Okay, great. And then again another question. On page 2, line 27, (3), when you talk about giving them the ability to contract, do committees currently have that ability, that power? [LB653]

SENATOR HARMS: The contract would be that if somewhere along the line we would decide we'd need to bring a consultant in on a specific area, you have the ability to do that as long as this body would approve the funding. It's all based upon whether this body wants to allow us to do that. But that's what that's about. We didn't want any door closed to us. So... [LB653]

SENATOR PRICE: But is that a capability currently, special committees can do? [LB653]

SENATOR HARMS: Yes, it can. [LB653]

SENATOR PRICE: Okay, great. Thank you very much, Senator Harms. I would also like to remind the body that what an awesome, awesome opportunity this is and what a great state Nebraska is. And I'll tell you what, we are talking a lot here about being prepared for when we come out of this economic situation we are in today. And I would submit that our policies will be the driver that put us in a better place, we'll have more effect on what actually happens. And that particularly as they relate to taxing that will be our largest player there. And let us not forget that the prudent policies of our predecessors that are providing the opportunity to debate reductions to increases in the next budget opposed to cutting current operating budgets. So please utilize that. Obviously there would be...it would be different if some of the stimulus money wasn't coming here, obviously. That doesn't play so well anymore because that's obvious. But how bad would it be if we didn't have good, prudent policies ahead of us. So thank you, Mr. President. I would yield the balance of my time to Senator Harms if he should like it. [LB653]

PRESIDENT SHEEHY: Senator Harms, you're being yielded 1 minute, 35 seconds. You are being yielded time, 1 minute 20 seconds. [LB653]

SENATOR HARMS: Well, thank you very much. I'd like, if I can if this is appropriate, I'd like to call the question. Is that appropriate at this time or can we wait? [LB653]

PRESIDENT SHEEHY: You need to be in the line in the order of speaking. [LB653]

SENATOR HARMS: Okay, that would be fine. I'll have that taken care of. I do

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appreciate the dialogue. I do appreciate the support. I think it's really important that...
[LB653]

PRESIDENT SHEEHY: One minute. [LB653]

SENATOR HARMS: ...this moves forward and we get the opportunity to do it. I will tell you this, that if the body approves this I will work very hard to make sure this is not something that's put upon the shelf. I'll make very...I'll work very hard to make sure that we get into the long-range planning and we look at the future because I am absolutely committed to this 100 percent. And I'll work with the committee if they choose in any manner in anyway I can to make sure that we can say to our grandchildren and our grandparents and our taxpayers that Nebraska definitely has a plan, we know where we're going, we know what to do and how to get there. So I think that's extremely important. So thank you, Mr. President. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Dierks, you're recognized.
[LB653]

SENATOR DIERKS: I call the question. [LB653]

PRESIDENT SHEEHY: The question has been called. Do I see five hands? I do. The question before the body is, shall debate cease? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB653]

CLERK: 33 ayes, 0 nays, Mr. President, on the motion to cease debate. [LB653]

PRESIDENT SHEEHY: Debate does cease. Senator Wightman, you're recognized to close on the Executive Board amendment, AM1071. [LB653]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I just urge you to vote green on AM1071 and on the bill itself. Thank you. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Wightman. You have heard the closing. The question before the body is on the adoption of AM1071 to LB653. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB653]

CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of committee amendments.
[LB653]

PRESIDENT SHEEHY: Executive Board amendment, AM1071, is adopted. We'll now resume floor discussion on LB653. Members requesting to speak: Senator Karpisek, followed by Senator Carlson, and Senator White. Senator Karpisek, you're recognized. Senator Karpisek waives. Senator Carlson. [LB653]

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SENATOR CARLSON: Mr. President and members of the Legislature, I'll make this brief and I'll probably embarrass Senator Harms but that's okay. He's been very supportive of me in my efforts in the Legislature and I want to be the same for him. A lot of us, everyone of us in this body has been given different gifts. Some have the gift of mercy, some have the gift of giving, some have the gift of hospitality, some have the gift of teaching and that's Senator Harms. Some have the gift of prophecy and I'll change that to being visionary and that's Senator Harms. He's one who plans ahead short-term and long-term. He wants us to determine where we want to go. He wants us to create a map and chart our course and then we will revisit that map and revise it and helps us keep our eyes on the goal. And so I applaud him for this and I am in support of LB653. Thank you. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator White, you're recognized. [LB653]

SENATOR WHITE: Thank you, Mr. President. I had concerns about this bill. I have concerns whether or not we can effectively carry out a plan in an era of term limits. Term limits have taken away from this body much of the institutional knowledge and also at times the will to protect a course of conduct decided on by legislators none of whom are here. And that was one of my concerns. Senator Harms has worked hard on this bill. Given the changes in it that he's worked on I can see an increasing need for long-term planning though I have deep worries about how we carry it out in the reality of term limits. Senator Harms was kind enough to talk to me about LB16, which is a transparency bill which puts our checkbook online. In the time of term limits I can see a devaluing if we do have an articulated strategy by the Legislature of where we're moving and the public can watch how we're spending our money, how really we act mostly with money here, either in tax breaks given or amounts spent. And they can compare how we're doing on what our articulated goals are and where we're actually putting our money. Are we putting our money where our mouth is. And I do see this as a very positive bill if used in conjunction with other bills to try to hold onto some of the better traditions that existed in this body before term limits. And one of those was that we did have longstanding people who brought to us things like a plan to build roads where we had defined amounts of money. We faced long-term challenges in that area. Many of you I've showed a Web site for an all electric vehicle that goes 250 miles without a charge and goes from 0 to 60 in under 4 seconds. That vehicle is being built now in California and they've sold over 300 of them. It's a wonderful step forward except that devastates our road system, how we fund and pay for roads as will hybrids. Those kinds of long-term structural problems that we face, something we're going to face this afternoon again, what I believe to be are long-term inherent contradictions in structural problems with how we fund education here. If Senator Harms is willing to take on these monumental tasks and try to articulate a long-term goal so we can move towards long-term solutions to problems that will take many years to understand and devise real,

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workable answers for, I say more power to him. If that's coupled with the public's right to follow our progress as we seek those answers I'd say it's a wonderful idea and I will support this bill. Thank you. [LB653 LB16]

PRESIDENT SHEEHY: Thank you, Senator White. Senator Pirsch, you're recognized. [LB653]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I would just say again thank you to Senator Harms. I'd say if we don't plan to succeed, then we're planning to fail. I would just want to clarify with Senator Harms a quick question. [LB653]

PRESIDENT SHEEHY: Senator Harms, would you yield to a question from Senator Pirsch? [LB653]

SENATOR HARMS: Yes, I will, Mr. President. [LB653]

SENATOR PIRSCH: With respect to the way that this bill is written, the structure, you know, and is it broad enough such that as we go down the path of identifying competitive strengths long-term and pursuing those, does it have a feature of the bill such that then we will assess our performance in going down that path such that, you know, we talked about our expectations, and that's what our plans were based on. And if, you know, just with regard to evaluating are we meeting those ? Was it a good plan? Should we modify our plan or go to a different plan? Is that...there's enough language in there, correct, so that we can do that, correct? [LB653]

SENATOR HARMS: Yes, there is. And that's exactly what this will be about, Senator, is the fact that we do want to monitor the decisions we've made and we want to make sure that we're not flat, are we going up, are we going down. Once we choose the direction an the goals that we're going to accomplish those will be monitored on an annual basis. And you'll know, we'll present this to the body. It will be a report card. You'll get a chance to see whether we're successful or not and what's happened to us. [LB653]

SENATOR PIRSCH: Great. So assessment is part of that. And so I think that's wonderful. Will...you know as far as...is long-term planning feasible. In some case will...over the course of time just due to assessment what we thought was a good idea a few years back turn out to be in some cases, you know, something that we wish we had changed based on assessment. Yes, I'm sure that will happen. But in the long run, you know, if you don't have a long-range strategy or goal we're going to continue to drift as we do in so many issues aimlessly, piecemeal, without a guiding light, be that as mentioned in the area of roads, funding, taxes, economic development and so much more. So with that, thank you. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. Seeing no additional members

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requesting to speak, Senator Harms, you're recognized to close on LB653. [LB653]

SENATOR HARMS: Thank you, Mr. President, colleagues. Thank you for the dialogue, it was a good dialogue. And I will make a promise to you that as this goes through and if it is approved I'm committed to this, making it happen. And I will work hard and I will keep communication open for you. I'll make sure that we don't circumvent the committees which are involved in this thing. And so I would just urge for you to go ahead and support this legislation. Thank you, Mr. President. [LB653]

PRESIDENT SHEEHY: Thank you, Senator Harms. You have heard the closing. The question before the body is on the advancement of LB653. All those in favor vote yea; opposed nay. Please record, Mr. Clerk. [LB653]

CLERK: 45 ayes, 0 nays on the advancement of the bill, Mr. President. [LB653]

PRESIDENT SHEEHY: LB653 advances. Mr. Clerk, do you have items for the record? [LB653]

CLERK: An amendment by Senator Dierks to LB568 to be printed. Senator Pirsch would like to add his name to LB653. (Legislative Journal page 1162.) [LB568 LB653]

And, Mr. President, priority motion. Senator Loudon would move to recess the body until 1:30 p.m. []

PRESIDENT SHEEHY: You have heard the motion to recess until 1:30 p.m. All those in favor say aye. Opposed nay. We are standing in recess. []

RECESS []

PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Please record, Mr. Clerk. []

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

PRESIDENT SHEEHY: Are there any messages, reports, or announcements? []

CLERK: I have an amendment to LB545 to be printed, by Senator Loudon. That's all that I had. (Legislative Journal pages 1162-1163.) [LB545]

PRESIDENT SHEEHY: Thank you. We will move to the first item under General File,

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2009 senator priority bills: LB545. [LB545]

CLERK: Mr. President, LB545, originally introduced by Senator Adams. Discussed yesterday. Committee amendments were offered, subsequently divided. Senator Adams left the second component of the committee amendments pending, specifically AM1119. Senator Council had pending as an amendment to that component, AM1141. (AM1119, Legislative Journal page 1136; AM1141, Legislative Journal page 1152.) [LB545]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Adams, would you like to give us a recap of LB545 and AM1119. [LB545]

SENATOR ADAMS: Well, I'll make it very brief, Mr. President. We are on the second division of LB545, which is the averaging adjustment. And what the committee amendment is now, with the incorporation of my amendment yesterday, it modifies the averaging adjustment. It maintains it but it does modify it. It compresses it. And what we will be looking at is compensating schools that are at, at least \$1. We'll be compensating at 50 percent of the difference between a statewide average and the array average, and times 75 percent of their formula students. And that is now the Education amendment. Thank you, Mr. Chair. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Adams. Senator Council, would you like to give us a recap on AM1141. [LB545]

SENATOR COUNCIL: Yes. Thank you, Mr. President. AM1141 amends LB545 and the proposed Education Committee amendment by restoring the averaging adjustment at a 100 percent level. And in lieu of altering the averaging adjustment, it provides a formula for reducing basic funding proportionately. I would like to remind my colleagues that my initial amendment called for a reduction in basic funding of 1.5 percent across the board. I substituted AM1141 for that amendment to provide for a 1 percent reduction in basic funding across the board. As we were concluding yesterday, there were questions raised about the financial impact of AM1141 on the state aid formula and the resulting state aid requirements. There were also questions raised about the effect of my amendment on particular school districts. At this point in time, I am prepared to address the issue of the effect of AM1141 on state aid and TEEOSA, and I have had distributed to each member of the body a two-sided document. On one side is the TEEOSA state aid estimate and the effects of LB545 with the amendment that was passed, AM1078. And then it shows the effect on the TEEOSA state aid estimate with the amendment that is being discussed here today, AM1141. And I would like to draw your particular attention to the bottom of both of those pages with regard to the effect on the LB545 scenario. You will see, under the TEEOSA state aid estimate, under the amendment that was passed yesterday, the percentage change, year over year it shows a 10.3 percent increase in state aid for '09-10 and that is over '08-09; and it shows a 7.2 percent increase for 2010-11. If you look at the comparable section on AM1141, it

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shows that AM1141 would result in an 11 percent increase for '09-10, and a 10.2 percent increase for '10-11. So practically speaking, it's less than a 1 percent change for the upcoming year, and a 3 percent change for the next year, the second year of the biennium. And I would like to point that this number is calculated on the basis of the current percentage reduction reflected in AM1141. So somewhere between the percentage reduction that was reflected in my original amendment, AM1137, which was 1.5 percent, and the 1 percent we would actually be at the same percentage increases as would be the result under AM1119 as now amended. So the percentage change there is determined by the percentage that is used to decrease the basic funding. I could propose an amendment that instead of .99 that is AM1141, you could go to .987, and I would submit to you that the percentage changes year over year would be essentially the same under AM1141 as they would be under AM1119 as currently amended. I also want to take this opportunity to address a couple of points that were referenced yesterday, and in fact, have been repeatedly... [LB545]

PRESIDENT SHEEHY: One minute. [LB545]

SENATOR COUNCIL: ...referenced in connection with the whole state aid issue. Number one is the cliff effect. And there were suggestions yesterday, that I guess for lack of a better descriptor, that the cliff would be higher and the drop would be deeper under AM1141 than it would be under AM1119. Quite frankly, there's going to be a cliff regardless of either of these proposals that is adopted by this body, because all of these scenarios are based upon using stimulus dollars which will not be available to us after '10-11, 2011. So in any event, we're going to be on a cliff because we won't have stimulus dollars available to us for state aid. The second point was stabilization. And the suggestion that AM1119...and it's a suggestion and that may not have been Senator Adams' intent, that the suggestion that AM1119 was more stabilizing relative to state aid than AM1141. Again, just looking at the numbers that are on the document that is before you, it is no more destabilizing than AM1119. And the other point that needs to be made is that, quite frankly, we should be ignoring the estimates for '11-12 and '12-13 because that's another biennium. I mean, we can look at it and take this formula and project it out, but numerous changes can and will occur with regard to resources and needs between now and 2012-2013. And there are a number of questions with regard to the data that was used to prepare this. [LB545]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Council. Members requesting to speak on AM1141 to AM1119: We have Senator Ashford followed by Senator White, Senator Price, Senator Lautenbaugh, Senator Nordquist, and others. Senator Ashford, you're recognized. [LB545]

SENATOR ASHFORD: Thank you, Mr. President and members. I'd like to talk just a little bit about the process that was undertaken in the Education Committee and by so doing...by the way, I do rise in support of Senator Council's amendment. I've also filed

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an amendment which takes a little different approach, if we get to it, but essentially kind of arriving at the same problem. But the Education...yesterday I was picking up some conversation about how this is some...this conversation or discussion is somehow a subversion of the Education Committee's work or undercutting the Education Committee's work. Nothing could be further from the truth. This is a tough issue, to start with, and we knew that going in. When...and, quite frankly, here's what really happened. What really happened was that Senator Adams was under a tremendous amount of pressure from the lobby to get a bill together so that people could see the numbers. And, quite frankly, I'm here to tell you that it was incredibly inappropriate kind of pressure. And in my days in the Legislature, I have never seen such a swarm of special interests trying to influence one person. And I think Senator Adams has done an admirable job in trying to sort through all this. This issue is now in this body. It is not in the lobby. It is in here. It has nothing to do with filibustering the issue. This is a civil conversation and it, quite frankly, is a continuation of the conversation we had in committee and here's how it went. Senator Adams proposed to us the original bill, LB545, which phased out the averaging adjustment. And he did that for good reasons and he gave you those reasons the other day, and his reasoning was sound. It was also important to us in the committee to realize that any changes to LB545, as originally proposed by Senator Adams to the committee, would take a new modeling, a new computation. This modeling doesn't happen overnight. It is a very complex proposition. When the committee decided to...and in its deliberations, the committee decided that it needed to hold back....the original General Fund appropriation for education was \$100 million. The Education Committee was asked by the Appropriations Committee to determine how much money out of that \$100 million it needed to fund LB545. And it was decided that it would be prudent to keep back \$11 million. Can I get a gavel, please, Mr. President? [LB545]

PRESIDENT SHEEHY: (Gavel) [LB545]

SENATOR ASHFORD: The decision was made to hold back \$11 million. When it became clear to the committee that we needed to get something out, Senator Adams suggested to us that he had an amendment coming, because we were obviously getting some suggestions from those outside the body, saying don't do away with the averaging adjustment. Senator Adams decided not to get rid of the averaging adjustment. He did that in opposition to most of the lobby. He didn't do that just to kind of be nice to us or the lobby or some other...he said, you know what? We need to keep that averaging adjustment in there but we need to make sure it slows down in the out-years. And he came up with what is LB545 and AM1119. When we put the bill out and Senator Adams filed his amendments, the numbers started trickling out. And it was when the numbers started trickling out that the proverbial blank hit the proverbial fan... [LB545]

PRESIDENT SHEEHY: One minute. [LB545]

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SENATOR ASHFORD: ...and that's why we are where we're are. What we're proposing and the discussion we're having today is not in contravention to what Senator Adams did. It is a continuation of that discussion. I think we need to do a little more. I think we may need to spend a little more money. I think we need to maybe make this averaging adjustment start to go down but not until the third year. That's the difference that we have. But Senator Adams did not give into the lobby. The lobby, hopefully, will start to go away and we can make our decision in this body, and that's what we're talking about today. Senator Council has a very reasonable suggestion. Mine, of course, is a much better suggestion, but we may not get to it until later. Thank you, Mr. President. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Senator White, you're recognized. [LB545]

SENATOR WHITE: Thank you, Mr. President. I would like to talk to Senator Council's amendment a little bit and I want the senators to know from rural areas that we will try to make sure you, too, are held harmless. But what does Senator Council's amendment do? Generally it does share the pain across the board, but we can work with the smaller schools or the declining enrollment schools on other aspects of this bill to try to help them out, as well. But here are some changes. Under Senator Council's amendment, as I understand it, Hastings Public School will get \$157,760 more; Lexington will be held safe; Fremont Public Schools will gain \$7,755; Elkhorn Public Schools will get \$111,000 more; Millard Public Schools will get \$873,000 more; Ralston Public Schools will get \$7,000 more; Lincoln Public Schools will get \$1,408,000 more; Omaha Public Schools will get \$2,824,000 more; Papillion-La Vista Schools will get \$446,000 more; Gretna Public Schools will get \$179,854 more; Scottsbluff Schools, \$102,800; and Blair Community Schools, Blair will get \$94,626 more. Now these numbers, because we haven't had a chance to really debate this and run different ideas and look at it, are somewhat softer than you'd like them to be. One of the things I guess I would really urge...Mr. President, can get a gavel? I'm having a hard time focusing. Thank you. One of the things that I would really urge this body to look at is are we going to try to just rush this through because we're tired of dealing with it and because we think that our special interest did okay, or are we going really look at our obligation, both to taxpayers and to students. One of my great concerns on the spending side of this is that it increases the differential if we do not adopt Senator Council's amendment. It increases the differential between the poor and minorities and those who do not live in those kind of districts. That's a fundamental problem, especially...folks, I want you to think about this: Where do we get this money we are spending? We got it from the federal government. This is federal money and we are making a conscious decision using federal money to increase the gap of available resources for the poor and the minorities from the Caucasian and the wealthy. I mean, that to me is not good policy and it's something that we can talk about and try to work through. Everybody is going to have to suffer some. We're going to...I understand that. We cannot meet all needs. But we don't have to increase the gap using federal money, of all things. We didn't put in \$100 million

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that we had originally budgeted to do this, and if we had we wouldn't have a problem at all. What we wanted to do was take that federal money, pull our money out and hold it tight. Well, federal money is not there to ease the pain of the wealthiest and throw out the poorest under the bus. It's just completely not appropriate to increase that gap. Now are we going to be able to get rid of it? No. Everybody is going to have to step back. But there are serious thoughtful proposals... [LB545]

PRESIDENT SHEEHY: One minute. [LB545]

SENATOR WHITE: ...that will help us all look at this and you know what I would tell you is? Truly, haste makes waste. We run a risk of passing a law that's unenforceable. We run of a risk of exposing ourselves because we got in a hurry, because people want to jam this through before they've really looked at all issues and really considered all potential ramifications of what we do do, but they want a political solution now. This is \$2 billion of our budget. Two billion and we can't take the time to seriously look at a number of different amendments that offer a different approach, when I am telling you, and I'm sure you've had a chance to talk to others, you're looking square in the face of a potential constitutional violation and/or federal lawsuit on the way we've allocated this money. [LB545]

PRESIDENT SHEEHY: Time, Senator. [LB545]

SENATOR WHITE: Thank you, Mr. President. [LB545]

PRESIDENT SHEEHY: Thank you, Senator White. Mr. Clerk, you have an item for the record. [LB545]

CLERK: Mr. President, Business and Labor will have an Exec Session now. It's north balcony. Business and Labor underneath the north balcony immediately. []

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Lautenbaugh, you're recognized. [LB545]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I yield my time to Senator Adams. [LB545]

PRESIDENT SHEEHY: Senator Adams, you are yielded 4 minutes, 50 seconds. [LB545]

SENATOR ADAMS: Thank you, Mr. President. Let me just simply take a moment and reiterate my concern over this amendment. Though I think, as I said yesterday, it is certainly well intended. And though on the surface it seems like an easy thing to do, a fair thing to do, I don't believe it's the right thing to do. And when I say that I'm talking in

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terms, conceptually, of equalization, which is the basis of our funding formula. What we are, in effect, doing with this across-the-board cut in basic funding is saying, regardless of what your resource base is, regardless of what your capability is, we're going to take 1 percent off of your basic funding. Now in the simplest of terms, those with substantial resource can make that 1 percent up. Those who don't have it will find it very difficult to make up. And I realize that part of what Senator Council has done is put this aid equalization methodology in there to try to ease some of that pain. Well, it doesn't get away from the fact that what we are doing here is still not equalizing, and the other thing that it does is add a bunch more General Fund spending to this picture. And I...Senator Council voiced a concern about years three and four: We don't know what they'll bring to us. We don't but I believe and I think the committee did that it was prudent that we anticipate years three and four, which is what AM1119 does. Thank you, Mr. President. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Adams. Members requesting to speak on AM1141, we have Senator Nordquist, followed by Senator Fischer, Senator Harms, Senator Sullivan, Senator Adams, and others. Senator Nordquist, you're recognized. [LB545]

SENATOR NORDQUIST: Thank you, Mr. President. I kind of want to go back to an issue I've been talking about and thinking about the last few days, and that's the change that we are making in the averaging adjustment, going away from a tiered system. Under the current calculation we have a system that ranges, if you have a levy from 96 to 97 cents you get a 10 percent all the way up to 90 percent if you have a levy more than \$1.04. Under the proposed changes in FY '10, we're going to go from \$1.00, to \$1.01, you get 50 percent, and that tiers up to if you're over \$1.04 you get 90 percent. And also under the proposed changes in FY '11 is when we go to a flat averaging adjustment, 50 percent if you're over \$1. Now talking about the...going back to the example that we've been using the last few days, the kids and the allowance. I know Senator Adams said we made this change to get costs down. I understand that. But we can make changes and still reward those districts that are at the \$1.05 that are maxed out with the averaging adjustment, and it will take a reduction probably from those not at \$1.50, those on the lower end. If I have \$1,000 to give out to two kids and one is working hard and doing everything they can, you know, maybe I give them 75 percent and I only give 25 percent to the slacker. So I don't understand why we're going away from that. And maybe if Senator Adams can, if he'd yield to a question. [LB545]

PRESIDENT SHEEHY: Senator Adams, would you yield to a question from Senator Nordquist? [LB545]

SENATOR ADAMS: Yes. [LB545]

SENATOR NORDQUIST: Senator Adams, I understand that, you know, we're trying to

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keep costs down and that's why we did this, but did the committee take a look at why specifically would we go from a tiered system to a flat system? There is a way to do it to keep the costs the same eventually, like the \$1,000 example. What was the...kind of the policy reasoning behind going away from the tiered system to the flat? [LB545]

SENATOR ADAMS: Senator, I'm glad that you asked because that was part of our discussion. Now you've already answered part of the question because we've had this dialogue and it was a reduction in expense. You're speaking now more specifically to the levy compression. One of the things that we discovered, Senator, with only one year of implementation of the averaging adjustment is unintended consequences. And what we saw was school districts intentionally raising their levy in order to access the levying adjustment. Now we can stand here and say, well, way to go. That's how the system works; go for it. And they did. I'm not begrudging them that. But now the issue becomes, whoa, are you raising property tax? Are we incenting a raising of property tax unnecessarily? [LB545]

SENATOR NORDQUIST: Well, that's a tough local decision and, you know, I don't know if there are districts out there gaming the system like that, but I would find it hard to believe that any politician would go ahead and raise taxes if there wasn't a need for it. But potentially that's happening. I think we need to look at this and say those districts that are doing the maximum effort at the local level that maybe we need to give them a little bit more on the averaging adjustment as opposed to those that are at the dollar level. With that I'll yield the rest of my time to Senator Ashford. Thank you. [LB545]

PRESIDENT SHEEHY: Senator Ashford, you're yielded 1 minute, 25 seconds. [LB545]

SENATOR ASHFORD: Thank you. And just to reiterate a bit here on the...what the impact of the change that is in AM1119 on districts. I don't think it's unreasonable to question the impact of an adjustment change as it is in AM1119, when the numbers came out. For example, a school district like OPS--but there are 26 districts in the same boat--go from \$24 million to \$18 million, and in the third year, the second year of the biennium, to \$10 million. That's a \$14 million... [LB545]

PRESIDENT SHEEHY: One minute. [LB545]

SENATOR ASHFORD: Sorry? [LB545]

PRESIDENT SHEEHY: One minute. [LB545]

SENATOR ASHFORD: Okay. That's a \$14 million decrease. Now everything is relative and, yes, OPS gets quite a bit of state aid, but that's a significant reduction and I think that, but...and I will also suggest to you and I think what the committee firmly believed is that in the out-years we need to change the averaging adjustment in some respects

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because of the fact that we never do quite...these districts never do quite get to their sort of standard cost average dollar amount. It keeps pushing that amount up and that's why you get the increase in the averaging adjustment at a greater rate than the other adjustments or allowances that are in the formula. Fully understand that. We're talking about the two years ahead of us, and Senator Council is absolutely right, and I think anything... [LB545]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Ashford. Senator Fischer, you're recognized. [LB545]

SENATOR FISCHER: Thank you, Mr. President and members. As we've talked about this bill and the concepts involved with it over the last two days, it's been pointed out that this body decides what the factors are for needs. And those factors have changed over the years. We don't have a system of tiers any more where Omaha was in its own tier and there were a number of tiers. We have an array now where you are with the five districts that are larger, five districts that are smaller than you. That's how we determine things. And this body voted on that. We met our obligations. We set what those needs were. We've eliminated the sparse and very sparse factors in the formula. Was I happy about that? No, I was not, but that's the policy of this state now. That was a decision made by this body. That is our obligation to do so. I stand against Senator Council's amendment. I truly believe that is moving away from our policy of equalization. If we take an across-the-board cut to every district, do we then give an across-the-board increase to every district? Do we forget about the factors and the needs that we've put into this formula that we have determined are necessary to meet the needs of different student populations across the state? If this amendment is adopted, I propose to you that's the direction that we're headed into. I appreciate Senator White's comments about the small schools and wanting to help us out. I happen to represent 21 of those small schools. Many of them are not receiving anything, as I told you yesterday. It's not that we're receiving less than we expected; we're not receiving anything and we're receiving decreases--up to 17 percent decrease in state aid--yet we understand what LB545 is trying to do. And I will tell you--I just had lunch with superintendents from my area--and although we're going to be hurt, we understand the concept and we will support it. With that I would like to yield my remaining time to Senator Heidemann. [LB545]

PRESIDENT SHEEHY: Senator Heidemann, you're yielded 2 minutes, 35 seconds. [LB545]

SENATOR HEIDEMANN: Thank you, Senator Fischer. Fellow members of the body, I appreciate the time that Senator Fischer...I have my light on and I'm probably going to continue a little bit about the costs of AM1141 to LB545. Best as we can tell--and I want everybody to go in heads up when they're supporting something, what it's going to cost them--as near as we can tell now, the amendment to LB545 will cost us \$37,125,775. That's money that the Appropriations Committee as we are at the end of our process

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that we have not accounted for. I think that puts a lot of concern, to me. I...hopefully that puts a lot of concern to other people. We have made a lot of tough decisions in Appropriations. We have made a lot of cut...we have cut three...from our beginning process, we have cut \$300 million out already. If we adopt this amendment we will have to come back in and find another \$37 million. And I will let you know that we can go to agency after agency to agency, and add them all up and we won't get \$37 million. You could literally wipe agencies out trying to get...to make up this amount of money. Just to give you a scope of things, you could say the State College System. It wouldn't wipe it totally out but we would wipe out a couple of state college systems to come up with this amount of money, and this will have to be done. Those tough decisions are... [LB545]

PRESIDENT SHEEHY: One minute. [LB545]

SENATOR HEIDEMANN: Those tough decisions are out there. I do want to let you know that someone handed me a piece of paper and I want to thank Senator Wightman for that. I am going to correct myself a little bit: It's \$37 million over the two years. Over the next biennium it will cost \$37 million. We operate a lot of time in Appropriations over the biennium so that's the way I stated it that way. If this is a priority to the body, then so be it, but I will let you know, if you adopt AM1141 to LB545, a lot of tough decisions will have to be made by the Appropriations Committee and this body before it's all over. Thank you. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Senator Harms, you're recognized. [LB545]

SENATOR HARMS: Thank you, Mr. President. Question. [LB545]

PRESIDENT SHEEHY: There has been a call for the question. Do I see five hands? I do see five hands. The question before the body is, shall debate cease? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB545]

CLERK: 26 ayes, 15 nays, Mr. President, to cease debate. [LB545]

PRESIDENT SHEEHY: Debate does cease. Senator Council, you're recognized to close on AM1141. [LB545]

SENATOR COUNCIL: Thank you, Mr. President. I would urge the body to seriously consider the facts that are a part of this discussion. Number one, with regard to Senator Heidemann's statement with regard to the cost, I opened my discussion of this matter today by acknowledging the fact that the initial amendment that I introduced provided for a 1.5 percent reduction. I would submit to Senator Heidemann that that would more than adequately take up the \$37 million that you've referenced. I changed it to .99 percent in deference to the committee that was concerned about the impact that a 1.5

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percent decrease in basic funding would have on the smaller school districts. And indeed, by reducing the impact on the smaller school districts, that's what results in the \$37 million, because we have given them some degree of protection. Their aid stabilization, their need stabilization is continued for an additional year that they don't have under the current bill. So that \$37 million that is referenced was indeed an effort to address the needs of the small school districts, the small rural school districts that were expressed yesterday, and quite frankly, returning to the original amendment that I proposed would wipe out the need for any additional General Fund dollars above the stimulus dollars. Number two, there's been this discussion about the bill being an injustice to equalization. Maybe I'm slower than some other people but I don't get it. I don't get how my proposal is any less equalizing than AM1119. Averaging adjustment was enacted by this Legislature to equalize funding to school districts, recognizing that there were school districts in this state who were levying at the maximum levy allowable and were not able to raise the kind of resources needed to meet the needs of the children in their district. If there's anything that's equalizing, it's the averaging adjustment. Under my proposal, yes, there is some de-equalizing in the fact that we're trying to protect those school districts who rely on need and stabilization aid. And I guess the argument could be made that that's equalizing, as well. So I take grave exception and issue to any suggestion that AM1141 is somehow contrary to the whole concept and principle of equalization. It is as equalizing, if not more equalizing than AM1119, because if you look at AM1119 in some of the districts, you get a 75 percent reduction. You go to 75 percent on the averaging adjustment, yeah, you may not hurt too much this year but next year you're talking about a 50 percent reduction and you're not going to be able to raise your levy. I haven't heard anybody saying, well, how are those districts going to be able to make up that difference? They're not going to be able to make up that difference. And for those school districts like Grand Island and Lincoln who that will hit hard in the second year, I want to submit to you, you're going to have difficulty making up that difference. And when we talk about the compression... [LB545]

PRESIDENT SHEEHY: One minute. [LB545]

SENATOR COUNCIL: ...that is associated with AM1119, again that is even less equalizing than what is being proposed in AM1141. In consideration of the concern raised by Senator Heidemann, which is a legitimate concern, on Select File I'd be more than willing to give you the exact percentage that will make this even. Because, quite frankly, that's how we've developed the funding here anyhow. We came up with the number we wanted and we made a formula fit it. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Council. You have heard the closing. The question before the body is on the adoption of AM1141...Senator White. [LB545]

SENATOR WHITE: Roll call in reverse order, please. [LB545]

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PRESIDENT SHEEHY: We have had a request for a roll call vote in a reverse order. Again continuing, you've heard the closing of AM1141 to AM1119. Mr. Clerk, please proceed. [LB545]

CLERK: (Roll call vote taken, Legislative Journal page 1163.) 16 ayes, 30 nays, Mr. President. [LB545]

PRESIDENT SHEEHY: AM1141 is not adopted. Mr. Clerk, we'll move to the next amendment. [LB545]

CLERK: Mr. President, the next amendment: Senator Ashford, AM1170 as an amendment to the committee amendment. (Legislative Journal page 1163.) [LB545]

PRESIDENT SHEEHY: Senator Ashford, you're recognized to open on AM1170. [LB545]

SENATOR ASHFORD: Thank you, Mr. President and members. AM1170 simply continues the changes in AM1119 in the second year of the biennium. So, in effect, what we're doing is we're making the change that we make in AM1119 in the first year, and continue that change in the second year. And what that would mean is this: For example, if your spending at your school, your average spending is \$1,000 per student, and the statewide average is \$2,000 a student, for the second year of the biennium you would receive \$900 per student or 90 percent of the difference times 75 percent of the number of students that you have in your school. That is simply a continuation of this next year of the biennium policy shift that we've done in AM1119 and having it apply for the second year. There is a fiscal impact to it, obviously, because we are continuing with the first year policy in AM1119 and extending it to the second year of the biennium. The fiscal impact is in the neighborhood of \$20 million to \$23 million in the second year. It would be arguably or theoretically I believe it would have the same fiscal impact as Senator Adams' amendment in the first year. And this, in effect, does is, clearly, is transition the averaging adjustment in the biennium into the third and fourth year, the out-years, where the changes that Senator Adams is recommending, basically going to 50 percent of the difference in the averaging adjustment, but would hit in the third year instead of the second year. Members, the...when we first got the numbers in the committee, it was after the bill came out. It was after Senator Adams, in good faith, suggested the amendment AM1119, which kept the averaging adjustment in place. The numbers, however, made it very clear, that in the second year of the biennium all of the 26 districts of the districts that received the averaging adjustment would be taking a significant hit. And quite frankly, these are the largest school districts, and yes, they do get other aid, and yes, they are able to carry on, but the hit that they're going to be taking is going to be significant. Too much. And I think each individual senators has to look at their districts and determine whether it is too great or it's okay. Apparently, there are numbers of superintendents out there that are saying it's fine; we're fine with taking

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this significant decrease in the second year. In the case of OPS, it's a \$14 million difference in the averaging adjustment. OPS is one district that doesn't get some of the other adjustments that other school districts get. It doesn't mean that OPS doesn't get a significant amount of state aid. But for districts to take this amount of decrease in one year is significant. We have, in the AM1119, I believe we have \$234 million in stimulus money and \$11 million in General Fund. May I ask Senator Adams that question? Or maybe... [LB545]

PRESIDENT SHEEHY: Senator Adams, would you yield to a question? [LB545]

SENATOR ADAMS: Yes, I will. [LB545]

SENATOR ASHFORD: In the General Fund, is there any general...there's \$11 million in General Fund dollars, is that correct, in your...? [LB545]

SENATOR ADAMS: Well, I'm confident that Senator Heidemann will tell you that those \$9 million is what we had, but remember, in committee when we had a \$100 million that we were starting with and we kept \$9 million back so that we had wiggle room as we made our computations and did our models? And I'm sure that in Appropriations those monies have gone away. [LB545]

SENATOR ASHFORD: All right, so there aren't any General Fund dollars in your amendments, in AM1119? [LB545]

SENATOR ADAMS: Two; 1.8. [LB545]

SENATOR ASHFORD: One point eight million dollars. Okay. So there's \$1.2 million or \$1.8 million in General Funds for education in this budget. I realize it's tight. I realize there's \$234 million of stimulus money. It is a bit incongruous though for the 26 largest schools in the state to get stimulus money and at the same time have their increases in state aid be significantly less in the second year than what, in my view, is appropriate. I don't know where the \$20 million would come from, necessarily? I haven't seen the budget in its totality. I would have to defer to my friends on the Appropriations Committee. There may be reserve money--I don't know--in the second year. But it seems to me that phasing-in this adjustment in AM1119 over two years and then having it fully take effect in the third year allows these school districts, which anticipated the full averaging adjustment where 100 percent of the difference would be calculated in LB988, we've gone down to 90 percent of the difference. And now we're going to 50 percent in the second year of the biennium and that has a significant fiscal impact. I think this is really a discussion around priorities. The Appropriations Committee has a very difficult job and they have made difficult decisions on priorities. Had we had the numbers on AM1119 during the process, we could have suggested to the Appropriations Committee that it would be best if they held back \$20 million so that we

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could have phased in AM1119; but that didn't happen because of the process. This bill hit the floor prior to the numbers coming out, and when the numbers came out and it was very clear that an adjustment would be prudent, the money that the Appropriations Committee had originally budgeted for the state aid, \$100 million had been spent. So here we are. We have, I think, an opportunity to get to where Senator Adams I think has so rightly argued, and that is to stem the cost. And one of the problems with the averaging adjustment as originally conceived, and we've talked about it over and over again, is that as each year...as the cost goes up, as the GFOE goes up, as the average cost of educating a student goes up, then the averaging adjustment goes up. You never quite get to the point where you are at that standard amount: \$8,700 now, I believe, statewide. So I understand that and I think it does need to be adjusted and it needs to be adjusted back so that it does not expand at such a great amount. But I think we can do that in the third and fourth year. We can start doing it in the first and second year, this biennium, by taking the 90 percent figure for those districts that are at \$1--and Senator Nordquist has raised that issue. Remember, a number of these districts, certainly OPS and others, are clearly at \$1.05. So they're taking a \$14 million hit at OPS--and again, that's the district that I represent partially--that's a \$14 million...but there is...they are already at their \$1.05. There is no other...there are no other resources necessarily, just sitting there, that they can access to make up that \$14 million difference. So again we're talking about districts that have maintained their effort; who have gotten to a level that's responsible. A dollar five is what the state has suggested is the amount that is responsible and they have gotten to the \$1.05. There is no other place for them to look on the property tax side, and \$14 million is coming out... [LB545]

PRESIDENT SHEEHY: One minute. [LB545]

SENATOR ASHFORD: ...of the averaging adjustment. What I'm asking this body to consider is let's stairstep this in a responsible, prudent manner, up to where Senator Adams and the committee...well, with Senator Adams' amendment, where Senator Adams would like us to be so that we can clearly have the dollars in the out-years to pay for this averaging adjustment. This is not a cut of state aid from any other district. This is not...this is simply a stairstepping; slowing down the transition in getting the averaging adjustment from 90 percent of the difference between the costs and the standard costs, and doing that in two years rather than one year. Thank you, Mr. President. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the opening, AM1170 to AM1119. Members requesting to speak: Senator Sullivan, followed by Senator Heidemann, Senator Utter, Senator Avery, Senator Hadley, and others. Senator Sullivan, you're recognized. [LB545]

SENATOR SULLIVAN: Thank you, Mr. President and members of the body. You know, I spent a sleepless night because I sat here yesterday and really took to heart all what I

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thought was very good discussion, and I appreciated all of it. And quite frankly, even though I didn't stand up and say anything, it really kind of stressed me out because the bottom line is I care deeply about education and I care deeply about kids, and I would not like to think that we are overlooking the needs of some of the children in our state. But I also respect what I consider to be all the hard work that the Education Committee, irrespective of the fact that obviously we didn't all agree, but we worked very hard to not only be fair to kids and school districts and education in this state, but to fulfill what I felt was a fiduciary responsibility of using the monies wisely and fairly across the state for school districts. As I said, I care deeply about education and I think our whole state has a history of valuing education. This whole play and discussion yesterday came home to me last night as I crawled into bed, and I read 15 minutes before I go to sleep. Of course, I didn't sleep at all last night because I'm reading A Lantern in Her Hand, and that's a beautiful depiction, I think, of the history of how the pioneers valued education in this state and how they sacrificed deeply for the well-being of their children and to make sure that they received education. And interestingly enough, I don't know if you're familiar with that story, but it takes place on the prairie, but the nearest town is in Weeping Water. And Abbie Deal raises her five children, and they all left that farm, they all left the rural community, and she made sure that they were all educated. And the majority of them went to Lincoln and Omaha to work and to continue with their careers, and I sort of feel like that's what's happened to us in rural Nebraska. We have valued education desperately and we have seen our children, because they've been well-educated, leave our farms and our ranches and our small communities. So I come around to the whole situation of we care desperately about this, about education in our state. And I want us to be one state in this discussion and that brings me back to the deliberation of our committee and why I have to stand for Senator Adams' amendment and the underlying bill and in opposition to Senator Ashford's. I don't necessarily like this but I think it's the right thing that I feel compelled to do in my head and in my heart. I value the work that the committee has done. I think they care about kids and I respect the work that we've done. I also, as a freshman senator, was not here when all the discussions took place on LB988 and the learning community. All of those were very heartfelt discussions that led us to educational policy. The bottom line is, our discussion of educational policy will not and should not end after today because we do care about kids and we do care about education. So again, even though I respect all of the good discussion that we have and will continue to have, I stand in opposition to AM1170 and in support of AM1119 and LB545. Thank you. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Senator Heidemann, you're recognized. [LB545]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. Just briefly, hopefully I'm right. A lot of conversation going on. I try to listen to the debate. I believe that this amendment, if Senator Ashford, if I understood him correctly, it's going to cost \$25 million. I don't know if that was the first year or if that was over the

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biennium. I'm not for sure. But I probably want to state again, I talked a little bit about the last amendment. It's really not there. We don't have it. We're at the end of the budgeting process. If this amendment would get adopted we would have to go back and do some hard cuts, hard decisions about cuts in other places. I mean, it will not be an easy process. We have talked about...a little bit about the \$100 million that we had in there. And then we didn't, as a committee, we didn't include that. We included a \$234 million. And do you know why we didn't do that? Because we didn't have it just like we didn't have the \$37 million, just like we don't have the \$25 million. And I want to ask Senator Adams a question here and I'm just going to let him have the rest of my time after this, and this just...I don't know how we got to this point, because as we started this budgeting process we realized what tough times we were in, and there was a lot of work and we come to the conclusion that we were going to be able to make the increase to TEEOSA over two years, \$100 million. And do you know what? Everybody seemed to be satisfied with that. Everybody was satisfied with \$100 million. And all of a sudden we realized we couldn't do that but we could give \$234 million extra for TEEOSA, and now we have an argument that that's not enough and we need more. How did we get to that point, Senator Adams? [LB545]

PRESIDENT SHEEHY: Senator Adams, would you yield, and you've also been yielded 2 minutes, 55 seconds. [LB545]

SENATOR ADAMS: Thank you, Senator Heidemann. Let me begin by, first of all, sending some praise to the direction of Senator Ashford. He worked hard in the committee on this; asked a huge number of questions; and we spent a lot of time on the phone, both of us, trying to understand what we were trying to accomplish here. And I suspect...I don't want to put words in his mouth but I suspect that he understands LB545; I know that he understands LB545 and he understands what we're trying to do and agrees with what we're trying to do, but he's in a spot where he also has a concern about education. He has a concern about his home community, and I can empathize with that, but at this point I can't support the amendment. We're looking at \$24 million--\$24 million--and I realize that in that second year is when Omaha has a great deal of concern. But remember this: In this first year there will be \$18 million in averaging adjustment for Omaha, and as they spend that, that rolls over into their GFOE for the next year and grows, so it will be there to spend again with whatever additional averaging adjustment on top of that. So it's not like it's a one-time thing that we give and then we take away. It folds into the GFOE so there will be that additional money there. And I know that there's a concern, and every community or every school has asked me about it, and that's with two other pots of money--... [LB545]

PRESIDENT SHEEHY: One minute. [LB545]

SENATOR ADAMS: ...Title I and special ed IDEA. And there will be those monies going out to a host of school districts across the state. I think there was only like four, if I

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remember right, on the list of Title I monies that would not be receiving any, and those will be substantial amounts as well. Thank you, Mr. President. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Adams. Senator Utter, you're recognized. [LB545]

SENATOR UTTER: Thank you, Mr. President. Good afternoon, colleagues. I've listened now for a couple of days and plus time today at the debate over LB545 and AM1119 and the other amendments that have been introduced and that we have discussed. And I've got to express, at this point, at least, my admiration for the Education Committee for the hard work that they have put into this to try to solve this incredibly complex problem that relates to the education of all of the children in this state, and I give them their thanks. And Senator Adams, I've got great admiration for him for the leadership that he has provided in this process. I can't help but remind myself and all of you that we are indeed a state and a nation where everyone is tightening their belts to survive. We have citizens without jobs, and daily, in my community, in south central Nebraska, we have business firms that are cutting back on the number of employees because of the tight economic situation. We have businesses that are struggling to survive, honestly. We have a state that's struggling to survive to meet its needs with reduced revenues. And we are working today with a state aid to education bill where, in spite of all of these things, we are talking about a 10 percent increase in state aid to education and talking about how we're going to split that up among the school districts of the state. From south central Nebraska, in my district, I've got all kinds of school districts. I've got...one of the districts in District 33 is one of the 26 that we've referred to the last two days. And while they are a confined district, confined within the city limits of Hastings, and they have their difficulties, that board and that administration have said to me that even though this is going to be tough, we're going to make this work; we have to make this work. And so they're committed to LB545 and to Senator Adams' amendment, AM1119. I've got a school in my district that hardly gets any state aid to education. The Silver Lake Schools in the southern part of the district, less than \$50,000 in state aid to education to that district. There's a school in my district that has had their state aid to education cut in half over the...since the 2006-2007 year. So I see all of these things in our district, yet I see the people, the residents of that district, the school people in that district, with a commitment to make things work in these hard times. And as I look at this bill... [LB545]

PRESIDENT SHEEHY: One minute. [LB545]

SENATOR UTTER: ...and I look at LB545, I think that we have got to make it work without any additional stress upon the state's budget. The one thing that has been missing the last two days that in all of the discussion we've had, I think has been the lack of discussion over how we can deliver education to the classrooms, to the students, in a more economical, more efficient manner, and to decrease the size of the

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bureaucracy that exists from top to bottom. We must begin that discussion because I think, as everyone knows, the 10 percent levels that we're talking about even today are not sustainable over a long period of time. Thank you, Mr. President. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Utter. Senator Avery, you're recognized. [LB545]

SENATOR AVERY: Thank you, Mr. President. I'm going to oppose AM1170. This gives me no pleasure. Since I came here two and a half years ago, I don't think I've ever voted contrary to my good friend, Senator Ashford. He's one of the most remarkable people I've met in this body. He is a noble individual and I share his values. I like him. But I don't like this amendment; sorry, Senator Ashford. He said that we need to spend a little more money. I would remind you that we are spending a substantial amount of money already. Under the underlying bill, LB545, we are increasing funding for schools 10 percent in the next year...or this year. And then next year it will be 8 percent. That's significant. I understand what Senator Ashford is trying to do: trying to phase-in the pain. But sometimes phasing-in the pain creates additional pain. I took a look at the amount of money that this would cost in addition to what we are already considering spending under LB545. It would be \$24 million. If you were to take the combined operating budgets of the Game and Parks Commission, DAS, the Treasurer, the Secretary of State, and Veterans' Affairs, you come up to just about \$24 million. Are we going to ask the Appropriations Committee to seriously take a look at these kinds of decisions? We've asked already enough of that committee. I don't see how we can ask them to come up with \$24 million additional savings. It would certainly create a great deal of pain. And my sense is that if we do that, we're going to see some other parts of education cut: the University of Nebraska, for example; state colleges. Is that what we want? I don't think so. And we certainly don't need to be raising taxes in this time. And I think that the proposal already from the Appropriations Committee to take money out of the Cash Reserve is quite a bit. We don't need to be going there either. We need to get our heads back on ourselves and start thinking rationally here about what we're doing. We're not...we don't have unlimited resources. We need to think carefully about this. I hope that you will not approve this. The committee worked very hard. Senator Ashford worked very hard in the committee and I watched him agonize on that vote when we reported out LB545. I saw the cross-pressure that he was experiencing and the pain that he went through. But he voted for it; he voted to send it out of committee. It was the right thing to do and I applauded his courage at that time. Now is not the time to start unraveling what was, what took us three months to do. I ask you to vote against this amendment, support AM1119 and the underlying bill, LB545. Thank you, Mr. President. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Avery. Continuing members wishing to speak on AM1170, we have Senator Hadley, followed by Senator Council, Senator Harms, Senator Ashford, Senator Gay, Senator White and others. Senator Hadley,

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you're recognized. [LB545]

SENATOR HADLEY: Mr. President and members of the body, I too rise and thank Senator Adams and the Education Committee for the work they're doing. I thank the Appropriations Committee. Those are very difficult tasks. And any time we start talking about educating our young, it becomes a very emotional issue. But I asked for and I got some numbers that I thought were surprising to me, and I looked at numbers from 1999-2000 school year to 2007-2008 school year. We have 3,809 more students in those nine years in the state of Nebraska, yet we have spent the increase in state aid has gone up almost 30 percent or \$200 million for 3,809 students. We have 1,310 more teachers in the state in that period of time, yet state aid has gone up almost \$200 million. You look at the percentage increases, and I'm not going to bore you with every year, but the last few years 10.48 percent, 2.5 percent, 7.12 percent, we're looking at 9.1 percent, we're looking at 10.3 percent, we're looking at 7.2 percent. I'm concerned about sustainability of the current formula we have. The rule of 72 says you divide 72 by the percentage increase and it will tell you how long it takes to double. Ten percent increase means state aid will double in 7.2 years. That's a lot of money. I compared it to the inflation increase. Inflation has averaged, in the last five or six years, about 3 percent a year, yet we've had over 8 and 9 percent increases in state aid to education. So if you take the difference between our percentage increase and the inflation rate, that is true dollars that are additional to spend. You back out the inflation rate; true dollars to spend. So I rise in opposition to AM1170. We're putting a lot of money in there. I think we need to look at the sustainability, the long-term impact of the formula, and what we can do to make that work. I appreciate the time. I know this is a difficult subject. I know everyone is really working hard on it. Thank you, Mr. President. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Hadley. (Visitors introduced.) Continuing with floor discussion of AM1170 to AM1119, we have Senator Council, followed by Senator Haar, Senator Ashford, Senator Gay, Senator White, Senator Fischer, and others. Senator Council, you're recognized. [LB545]

SENATOR COUNCIL: Yes, than you, Mr. President. I have a couple of questions for Senator Ashford if he would yield to a couple of questions. [LB545]

PRESIDENT SHEEHY: Senator Ashford, would you yield to questions from Senator Council? [LB545]

SENATOR ASHFORD: Yes, ma'am. [LB545]

SENATOR COUNCIL: Yes. Senator Ashford, there's been a lot of discussion, both with respect to the present amendment and other amendments that have been discussed regarding sustainability. As a member of the Education Committee, could you please enlighten me and others as to what was the nature of the committees discussions

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regarding sustainability? [LB545]

SENATOR ASHFORD: Yes. The nature of the committees discussions, and much of the discussion was about sustainability, and the concern was that the averaging adjustment itself, because of the way it was constructed in LB988, was not sustainable over a long period of time. Over the years that those districts that would qualify--there are 26 districts that get it--the way we tiered it from 10 percent up to 90 percent, that it made it...it just was too expensive. So we were kind of searching for some other option that would not disregard those issues, the issue of schools that are up against their lid, but at the same time try to slow down the growth. And I think that that was the discussion. [LB545]

SENATOR COUNCIL: Okay. But in that regard, what is in LB545 that is not disregarding the fact that there are school districts up against that limit? [LB545]

SENATOR ASHFORD: Well, LB545, with AM1119, doesn't disregard it. I mean, it basically...it assumes that there are going to be schools up against the lid that their spending is below the state average and that they need some help to get up there. What we did in AM1119 was slow that down. That's essentially what we did. And what I'm suggesting in AM1170 is we're slowing it down too quickly. [LB545]

SENATOR COUNCIL: Okay. And I guess that's the point that I was getting to, that your amendment says, look, the committee in the bill that it advanced to the floor... [LB545]

SENATOR ASHFORD: Right. [LB545]

SENATOR COUNCIL: ...recognized that that condition was going to continue to exist. [LB545]

SENATOR ASHFORD: Correct. [LB545]

SENATOR COUNCIL: That there were going to be school districts in this state who are up against that levy and could not raise the amount of resources necessary to meet their need, and that... [LB545]

SENATOR ASHFORD: Right. [LB545]

SENATOR COUNCIL: But the committee made the determination to just cut off the averaging, to cut it in half after year two... [LB545]

SENATOR ASHFORD: Right. [LB545]

SENATOR COUNCIL: ...with no commitment... [LB545]

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SENATOR ASHFORD: Right, it was after...right. [LB545]

SENATOR COUNCIL: ...after the second year of the biennium, with no commitment with regard to that averaging adjustment beyond that. [LB545]

SENATOR ASHFORD: Right. Senator Adams' amendment set it...put it down to 50 percent. We actually got rid of it. We phased it out altogether and then Senator Adams' amendment, I think the committee concurred, put it at 50 percent to keep it going. But it was...it's a big...it's quite a bit (inaudible). [LB545]

SENATOR COUNCIL: And the projection as to the cost of your amendment, the projection is \$24 million. [LB545]

SENATOR ASHFORD: In the second year. In the second year it's \$24 million; it's \$1.9 million or \$1.6 million or something in the first year, which is the same as Senator Adams. And then in the third it has some impact, obviously, because the GFOE goes up, but it basically then goes back to the 50 percent and it sustains the program. [LB545]

SENATOR COUNCIL: Okay, but it was also my understanding that the GFOE is the principal factor in the equation... [LB545]

SENATOR ASHFORD: Yes. [LB545]

SENATOR COUNCIL: ...as to the rolling adjustments in any event. So... [LB545]

SENATOR ASHFORD: Yes. [LB545]

SENATOR COUNCIL: ...if your...if the GFOE goes up, then it has an effect on the amount of the various adjustments. [LB545]

SENATOR ASHFORD: Correct. I mean, if you're... [LB545]

PRESIDENT SHEEHY: One minute. [LB545]

SENATOR ASHFORD: ...if you're a school district that's below the standard GFOE or the state average, if...and the closer you get to the state average, the less averaging adjustment money you're going to get. The concern we had was that there's a push and pull effect and that that average cost goes up and up and up, and so it's just hard to sustain it unless we try...and that's why we tried to correct it with AM1119. [LB545]

SENATOR COUNCIL: Okay. I would just like to remind the body that I asked the

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question yesterday of Senator Adams. Was I correct in my understanding that the way the averaging adjustment worked, that because the increase resulting from the averaging adjustment goes into your general operating fund expenditures, that there is a point in time where there's no need for the averaging adjustment because your general operating fund expenditures increase exponentially over time, and that there's a point in time that... [LB545]

PRESIDENT SHEEHY: Time, Senator. [LB545]

SENATOR COUNCIL: ...a district that may rely on the averaging adjustment doesn't need it any longer. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Council. (Visitors introduced.) Mr. Clerk, you have a motion on your desk. [LB545]

CLERK: Mr. President, I have a priority motion. Senator Friend would move to bracket the bill until April 29, 2009. [LB545]

PRESIDENT SHEEHY: Senator Friend, you're recognized to open on your motion to bracket. [LB545]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. If I had, oh, I don't know, a quarter for every person in the last four hours or, for that matter, the last two days--let's extend it out--that's asked me whether I support cloture on this bill, we could fund Senator Ashford's amendment. I threw this bracket motion up because not to offend you guys because I know people are waiting in line. First of all, I know because I just looked; there's about 20. But I think this is important, okay, and I wanted to propose something. And understand this, please understand this: This is my idea right here. I didn't run out to the lobby and ask them what they thought. I didn't run up to the Lieutenant Governor or anybody else and ask what they thought. This is from here because I'm a little bit worried, and let me tell you what. Here's why I'm worried. My second year here, Governor Johanns and virtually a whole different crew--and Senator Stuthman may remember--we had huge problems; huge problems; about 700 million problems. Seven hundred million of them, and things got pretty cantankerous; and no offense to anybody in here, but you don't know yet what cantankerous is. We've been at this for about 14, 13, 12, whatever, how many hours. I don't know. Actually it seems like it's gone pretty quick. Not for Senator Adams, I'm sure, but it seems like it's gone pretty quick and there's been a lot of people involved in the discussion. It's been informative. But things got cantankerous. We had a five-day ordeal on a budget bill--one budget bill. Not transfer bills; not amendments to those transfer bills; not A bills. The budget bill. Five days, nights. We were closing prisons. People were at each other's throat. I made friends with people in that Second Legislative Session that I was in, and I think I...there were people that would just as soon never see me again. Now, maybe that's the case

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here too, however it isn't the case with all of you. And I'm not trying to be a matchmaker here. But my guess is this and it's not just us in here; it's the lobby too. If we continue down this road much further--I'm just saying I love debate and I think it's been going pretty decent--but if we continue under these terms, things could get somewhat uncollegial, and I don't think that's a very good idea because I know when I look back at those days of the people that I won't talk to anymore or the people that won't talk to me, I just know. It wasn't fun. It's not enjoyable. You know you're working for your district but these...we are all people; we have to work together. Anyway, all that aside, since then I've seen the Omaha school district split into three districts. That was an amendment out here on the floor. I got back in from the lobby. I asked Senator Redfield, what just happened? She goes, oh, Omaha is getting split into three districts. I said, (coughing sound) excuse me? That was an amendment. The Education Committee didn't come up with that. I've seen people call each other names over that issue and others. I've seen Senator Raikes belittled and lambasted. Frankly, I was probably one of them that did the belittling. I didn't lambast him. I tried not to. Senator Raikes saw things that Senator Adams hasn't even begun to see yet. Go ask him. What he'll probably say in his normal fashion is, oh, shucks; no, it was fine. I saw Ron haggard. I saw him haggard and it wasn't fair. Now, I'm not saying what's going on with Senator Adams here is not fair. What I'm saying is, I've seen things like this lead to that. Let's go back to the cloture thing for a second. Cloture was created...cloture is a creation. It was a creation to stop one guy. Anybody that would say that now it serves a different person or whatever else, okay, fine. It was created to stop one man and we know who that man was. It was the "King Cobra." It's nuclear. It's functional. And I'm tired of answering the question; even if I had the quarters, I'm tired of answering the question. I don't like it. I don't like it because I think it's a function of something that we don't have to deal with right here and right now. You know what I've already seen done? I was all prepared to kill a bill earlier in this session that was virtually nonfixable, in my view. But we're trying to fix it. That bill is on Select File now. Do you know what's not on Select File? This bill. We've spent 14 hours on it and, granted, again I reiterate: I don't have a problem with that. But I'm telling you that what I was doing earlier was not going to cause anybody to burn bridges that a lot of you are going to end up needing--just sounds like a wise old sage--but I'm telling you, you're going to end up needing in the future. It's not even necessary. So the proposal is this and I'm going to get to cloture a little bit here if I actually have any time left. Twenty lights on and one amendment. I would say this: Flip the lights off and vote on this bill, move this amendment, cooler heads prevail over a weekend. We talk about this amendment. Senator Ashford is on the committee. This is his amendment. They have a whole weekend to talk about it. They talk about it next week. This comes back up on Select File. The whole process begins again. And Senator Adams can maybe actually take a breath. You know what? In my younger days I might not have liked that idea. But what I'm hearing now is a member of the Education Committee with an idea here that Senator Adams doesn't want to deal with that on the floor, and frankly quite honestly we don't have the time. There's 20 lights on. How are you going to cut a deal and work through these things when we have that type of situation? I let the county

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ordinance bill go. It wasn't out of the, you know, kindness of my heart. It was out of the idea that I thought we might even be able to provide a fix. I'm probably going to be Casper the Friendly Ghost on that one. I don't want anything to do with it anymore. Sorry, Senator Price. But if he wants to bring it back and it's in the shape that we can all deal with it, the we'll deal with it. But it's not dead. I wanted that bill dead so bad. I can't tell you how bad I wanted it dead, but it's not. Back to cloture and this is the final point: Senator Chambers knew what cloture was for. He hated it. After eight hours of one man talking...and I have seen him do things I couldn't believe he did. One man. Nobody else was talking. After eight hours you've had a enough and you wanted cloture and it was a very, very effective tool. There are 20 lights on in this queue, but we're going to cloture that? It's nuclear, folks. We cloture people with 20 lights--I don't care what their motive is--we cloture that and we've got a different set of circumstances. Now, maybe when I'm done here and I pull this bracket motion, by the way, because I will... [LB545]

PRESIDENT SHEEHY: One minute. [LB545]

SENATOR FRIEND: Maybe what we'll do is say, you know, let's deal with Senator Ashford's amendment now, get it over with, and on Select File we don't have to deal with these things anymore. Do not kid yourself. It's TEEOSA. I told you from the very outset we do this every time we deal with it. Senator Raikes did it every time, Senator Adams will as well. On Select File we'll have another argument and we'll have a hard, long discussion, might be less. Cloture might be an option again. I'm just telling you for collegiality sake and this is not the lobby talking, maybe to give Senator Ashford and Senator Adams time, maybe, Education Committee members to sit down and go through this stuff because isn't that what we need right now? Or maybe the body has made up its mind and that's not what we need, maybe we want to go cloture. Folks, I'm not answering that question anymore. [LB545]

PRESIDENT SHEEHY: Time, Senator. [LB545]

SENATOR FRIEND: The lobby needs to understand it. I hope you guys to do too. I'd like to pull that bracket motion. Thank you. [LB545]

PRESIDENT SHEEHY: The motion to bracket is withdrawn. We will resume floor discussion on AM1170 to AM1119. Members requesting to speak are: Senator Haar, followed by Senator Ashford, Senator Gay, Senator White, Senator Fischer, and others. Senator Haar, you're recognized. [LB545]

SENATOR HAAR: Mr. President, members of the body, I, too, have lost a lot of sleep over this and I'm afraid if I keep up with this, my hair is going to turn white or something. (Laugh) My friends are concerned. Coming to this body there isn't a single person in this body I don't respect. I have made friends, but I don't think friendship is really the issue when we're trying to make policy. And so I could reel off all my friends in the group and I

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don't like to go up against my friends, nobody does. But I think it's important to talk about good policy. First of all, I think I heard...and these numbers may be a little off, but I think I heard on the way to work this morning on NPR that we're basically borrowing \$10 billion a week from China, and that bothers me a great deal. But really the money we've added using the TEEOSA formula, the money we've added is money from China. And I guess I should appreciate that. They're going to fund our education probably all across the United States for a couple of years. I'm on the Education Committee as well, and I really look forward to digging into what this thing we call "need," which, as I'm finding out, is whatever we define it to be. And I'm also interested in digging into sustainability. What concerns me now and the reason I'm still voting against basically LB545 is I think the policy that we had in place was to find a way to adjust TEEOSA to spend \$234 million. And I kept hearing that really education ought to be based on the need of students, and yet I think it was based on how could we bring the spending down to the \$234 billion or million, I'm sorry. And earlier it was \$100 million and it went all over the place. So what concerns me most about this policy of cutting back on the averaging adjustment...last year in LB988 it was enacted. It seemed good then and we argued this with some other issues that you let things, you know, go and at least a little while to see how they operate it. We did that with community colleges. There was a big dispute with community colleges. They wanted us to cut it off and change it this year and we said, no, we're going to let it go another year and then there's going to be a study and so on. And so, again, what really bothers me here is I don't think we've worked at what the need of students is and then said, where to we get that money, what is that money amount, but we work towards a money amount. Now, it's not the amount the Governor told us or whatever, it's a money amount. And frankly I think if the Education Committee had a recommendation that was not the \$234, the money we are getting from China, then I think we should be willing to go back to the Appropriations Committee. Again, I appreciate all the work they've done and said education deserves more spending. Thank you very much. [LB545]

SENATOR FRIEND PRESIDING []

SENATOR FRIEND: Thank you, Senator Haar. Senator Ashford, you're recognized. [LB545]

SENATOR ASHFORD: Thanks, Senator Friend. I thought that Senator Hadley had some great...he's back there or he's over there. He was here. There he is over there. God, he was just here. (Laugh) Anyway, are there two of you, Senator Hadley or more? No really, I thought he had a great point. And I think that, you know, we in the Legislature, those of us who were here in the last two years before now, really a lot of the discussion we had was about the point that has been brought up. And that is, how do we better spend our education dollars. And, you know, a great deal of the discussion around the learning community was how do you take 11 school districts and encourage them to work together collaboratively? And that is really a hard thing to do. And no

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matter how much legislation we pass, you know, every school district is its own entity and they make...each Board of Education makes its own decisions for its own school districts. They become very loyal to that concept. And even though we have probably about half as many school districts today as we did when I was in the Legislature before, it's very difficult for rural areas when schools become too expensive to operate. And the cost that those schools have to operate schools with just a few students compared to the urban areas, you know, it's a tragedy actually in many respects. And though I never get up and say that, I think all of us think that. And that rural life and the fabric of rural life is partly what makes our state what it is, and that is a tragedy. And every school district has different costs and different cost structures and different challenges. OPS has its challenges and other districts have theirs. The 26 districts that received averaging adjustment, however, do have some similarities. And they tend to be larger, they tend to be school districts that are getting up to their lid and many over their lid. The amount of money they are spending on educational issues is less than the state average. And that state average is made up of lots of different school districts. And part of the policy...the other point that I would make and why I think we tend to always phase-in these changes, and I don't think that what I'm requesting here is...asking you to consider is at all odd. Well, in the last biennium when we looked at state aid, we had all sorts of phase-ins, and almost everyone of the adjustments that we built into the formula in order...we had a hold harmless as it related to the learning community. We have another hold harmless now as it relates to the learning community schools. I think we're very, very sensitive to the individual needs of the districts, not so much their cost needs, but just their needs to make their own decisions and have some continuity in their decision making. The problem with these...and I know that most of the districts out here have said, fine, we're not going to spend anymore than the \$234 million, all those. But those are decisions made by school district representatives and other people that aren't in here. They aren't in here. They're out there. They made whatever arrangement they made with whomever. But that is not binding on us. It's not binding on us that those sorts of arrangements were made. I think the real crux of the issue here on this amendment or any amendment where we try to phase-in changes in the formula, which we do all the time and have done the 11 years I've been here almost every year, and is how can we fund it? [LB545]

SENATOR FRIEND: One minute. [LB545]

SENATOR ASHFORD: It's not should we not do it. I mean, why wouldn't we phase-in a formula change? I mean, we do it all the time. Had we had more information, the Education Committee which was impossible to get, we might have been able to do more or it in the committee. I'll tell you, we did work through these issues very hard, and Senator Adams led us well, but the phase-in is not complete here. That's the issue. To make this work there has to be a phase-in. Whether it's 90 percent in the second year of the difference or 75 percent of the difference, it is responsible and prudent to come up with some number that we can afford to do and phase-in this change for these 26

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school districts. It just is not a radical idea. In fact, I can't think of a radical idea I've ever proposed. I hope some day to think of one. But anyway, thank you, Mr. President.
[LB545]

SENATOR FRIEND: Thank you, Senator Ashford. Senator Gay, you are recognized.
[LB545]

SENATOR GAY: Thank you, Mr. President. This is the first time I've talked on this issue, probably be the last. But I do commend those that are bringing amendments, you know, Senator Council, Louden, Ashford, Senator White makes great points. I commend them because now is the time to be working on these issues. Senator Friend brought up the idea that maybe we pass this and move forward and try to continue to work some things out. I would agree with that, but also, you know, I'm kind of torn because, just a little history, last year I was very active in discussion LB988. And it was very late in the session, there wasn't a whole lot of interest in LB988, I guarantee you that. And there were times where no one was listening and Senator Raikes and I were having conversations, Senator Kopplin was very involved. And one of those things that we never got to was an amendment that was filed and never got heard. And that amendment was basically, and I have it right here in front of me, that Senator Kopplin had and we wanted to discuss. It wasn't discussed. It talked about a task force to look at the funding mechanism because no one quite understood, I don't think, LB988, but we passed it and here we are again. And Senator Friend brought up the fact, and I think his words were, this is what TEEOSA is about, when you debate TEEOSA it's complex, it's frustrating, it takes time. There's a reason. I think it's broken. I think we need to sit down and try fix this longer term. Earlier I heard everybody supporting long-term thought and planning on Senator Harms's bill, and I agree. But yet we don't do that on TEEOSA, I don't think. So I keep hearing also about this cliff effect that we're going to drop into, and I do agree with that. This is unsustainable into the future, and I don't know how we avoid that, but if I saw a cliff ahead, I'd either stop or turn direction. And we don't seem to be doing that. We're just continuing to move forward, maybe a little slower. I will commend Senator Adams thought. I do appreciate his averaging adjustment, him and his committee. I think that's a good first start to look at the averaging adjustment. At least it's a positive solution, but it will not solve our long-term problems, I don't think, but it's a start and I commend him and the committee for looking into that. But I guess when I look at this I just want to talk a little bit about an amendment and maybe it's something to look into. Again, I'm not a member of the Education Committee nor will I be, but this task force would have involved the Education Committee, the Revenue Committee, Appropriations Committee, five members of the Legislature, the Governor, and representatives from kindergarten through twelfth grade education, NSEA, the Council of School Administrators, Commissioner of Education, and then three representatives of business and industry to look at TEEOSA funding long-term...not TEEOSA funding, I should get off...it would be school funding. What are the needs? Senator White brings up the fact of a lawsuit or a potential lawsuit. I don't know. I mean, anything...there's

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always that potential I guess. But where are we going long-term, that's where I think we need to sit here. And, again, I don't know if we're going to work it out right now on the floor, but at some point I would love the Education Committee to look into that and possible come up with a...maybe not as a complex issue where there's so many winners and losers, but a fair issue: Here's what it takes to educate a student of this caliber, here's what it takes to educate one in a poverty area, whatever the situation may be. When we talked about learning community last year, you know, one of the first things Senator Adams brought up was we're trying to help those. And I've always said that's a statewide problem and it deserves a statewide solution. And to his credit, there is things in the adjustment formula that deals with poverty and ESL and those issues. It's in there, but exactly how it all fits together... [LB545]

SENATOR FRIEND: One minute. [LB545]

SENATOR GAY: Thank you, Mr. President. But year after year we come back and we continue to do this. My prediction is we will continue to do this into the future. Right now I think we need to move on, either continue to keep working on this, which I know is being done. But at some point Senator Friend is right, we need to take a vote, let's go back between now and Select File and see if there's some kind of agreement we can get, we push it down a little bit down the road. And I don't want to just kick the can down the road, but we've got several amendments passed now, we move this onto Select. Let those people, Senator Ashford and others, continue to work on the solution. Maybe there is a solution, but continuing to beat our heads against the wall, I think, is not going to do us much good. How we spend the rest of the day, we'll see. But that would be my suggestion and that's what I'd love to see us do. Thank you, Mr. President. [LB545]

SENATOR FRIEND: Thank you, Senator Gay. Members, we are discussing AM1170, an amendment to the second division of the Education Committee amendments. Senator White, you are recognized. [LB545]

SENATOR WHITE: Thank you, Mr. President. One of the things that is important is the concept of: it shouldn't be a zero sum game. It is hard to accept that what come out of your committee may not be what ultimately is accepted by the floor, but we don't legislate by committee. We certainly interview. We certainly formulate ideas. We certainly vet. We certainly refine. We work through concepts in committee. But committees don't pass laws. The Legislature has to pass laws and that is because we need to run concepts past larger numbers of people and we have to accept that they will ask us hard questions. I want you to know as I stand here today, you've watched this year me take a pounding on bills I don't like, Senator Carlson had the bill where we took on the obligation of adjoining landowners to spray for weeds. I didn't like it, didn't like it for the reasons we articulated. You also saw me put forward a bill that came out of committee that gave police officers a bill of rights, and in order for that to advance I had to make very substantial concessions. That's the nature of the beast, folks. That is a

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system that is designed to keep one person or small group of people running an idea through without it being examined from other aspects, from other people with different life expectancies and different experience. For me I come to you from a world where I've spent way too much time doing constitutional law, usually for free for people who don't have a lot of political clout. That shapes me. Senator Adams comes to you from years of teaching in a small school. That shapes him. We carry to this problem to this moment those life experiences and that colors how we see things. And, you know, they claim a camel is a horse designed by a committee--it's ugly, but, boy, it works. You know, it works for the world it was built. Democracy will never produce the most beautiful, elegant rules. It won't. We're a committee, a big committee. But it will get a practical solution that people, if it's done properly, can live with the compromise. They will always look at that camel and see parts of it they think are ugly, but compromise is in the essence of affective government. What we're struggling here, folks, is I have a concern about a very specific underclass of people who are really going to take a pounding. It really worries me. Senator Adams has a concern for different people and we're struggling trying to find a compromise. Even as we talk right now, there are people out there trying to find a financial basis on Senator Ashford's proposal that we can compromise on. We need compromise. What doesn't work is when you have something as contentious as children that we love, it will never work that any one person can come in and say my way or the highway. Even if you win, you lose because the bruising that comes out on the backside is so brutal. [LB545]

SENATOR FRIEND: One minute. [LB545]

SENATOR WHITE: I want you to contemplate something. One of the things I deeply care about is property tax relief, both rural and urban. We got a quarter of a billion dollars, \$250 million plus that fell in from the sky to fund schools and we didn't give anybody a nickel of property tax relief. I mean, if we want to line them up and talk about criticism and problems, that possibility is endless. But instead what we need to do, what Senator Ashford, Senator Council are doing is keep our eye on the ball. It's about educating kids. It's about how do we find a common ground that I can walk out of here and look my parents in the eye and say, it ain't perfect and there's parts of this camel that are so ugly you're not going to stand it, but it was the best we could do in this situation. And to get there I have to ask all of you to encourage everyone... [LB545]

SENATOR FRIEND: Time. [LB545]

SENATOR WHITE: Thank you, Mr. President. [LB545]

SENATOR FRIEND: Thank you, Senator White. (Visitors introduced.) Members, again, we are on the Senator Ashford amendment AM1170 to the second division of the Education Committee amendments. Senators wishing to speak are Fischer, Mello, Cook, Nordquist, Loudon, Gloor, Dubas, Lathrop, and others. Senator Fischer, you are

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recognized. [LB545]

SENATOR FISCHER: Thank you, Mr. President and members. I want to thank Senator Sullivan for her words previously, and she expressed it truly for all of us. We're all in here and we are trying to do what's right for the students in this state. And I think for the most part we are looking past our districts and we are looking at every student, every child. This is similar to our discussion on safe haven. We're not trying to short anybody, but there is a political reality and there is a budget reality to this. The political reality I've talked about before. Senator White brought up compromise. I think we've compromised. We passed Senator Adams' amendment yesterday onto the committee amendment that added more money. In my opinion, that was a compromise. This, in many ways, does boil down to money. If we could put in heaven knows how many millions of dollars, I can tell you from my experience on being involved in education and on a school board when first elected in 1979 we can put in millions and millions of dollars. It will never be enough. There will be some district out there, there will be some superintendent out there, there will be parents out there, there will be board members out there, and there will be us in here saying it's not enough. These kids have needs. These kids have problems. We need to fund it more and more and more. That's the reality. We can't do that. We had a special session on safe haven. What about those kids? What about those kids? We hear about the DD workers every year. What about them? What are you going to do with that in the budget? We have to balance things in here. We have needs for children, we are meeting those as best we can. If you look at the districts that are receiving increases...and I believe there are 16 districts that are receiving increases of over \$1 million in state aid under LB545, and I certainly do not begrudge them that money because that's what equalization is about. Those needs are identified and those districts will be receiving that money. But that's 87 percent, that's 87 percent of the total. Those same 16 districts educate 56 percent of the children. That's equalization. We are recognizing the needs of those larger districts that are receiving those very , very large increases because of the factors and we're funding that--87 percent of the money, 56 percent of the students. That's equalization. [LB545]

PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: One minute. [LB545]

SENATOR FISCHER: When you do it across the board, cuts, that is not equalization. When you do increases across the board, which I know a lot of us would like to see, that is not equalization. There will never be enough money to satisfy different constituencies and the needs that they perceive. I am against Senator Ashford's amendment. I know his care and his concern and I respect that as I do all of you, but I'm against his amendment. We have a responsibility to all the children in this state. We have a responsibility to meet their educational needs, and remember we had a safe haven special session and I haven't heard much on that lately, but we know from Senator

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Gay... [LB545]

PRESIDENT SHEEHY: Time, Senator. [LB545]

SENATOR FISCHER: ...that bill is coming up. Thank you, Mr. President. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Senator Mello, you're recognized. [LB545]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Would Senator Avery yield to a few questions? [LB545]

PRESIDENT SHEEHY: Senator Avery, would you yield to questions from Senator Mello? [LB545]

SENATOR AVERY: Yes, I will. [LB545]

SENATOR MELLO: Senator Avery, we've had numerous conversations before about government efficiency and streamlining to make government a little bit smarter. You still share those beliefs that we can consistently look for efficiencies in both state and local government, right? [LB545]

SENATOR AVERY: Absolutely. [LB545]

SENATOR MELLO: Okay. In that same vein, what percentage of an increase does LB545 give in General Funds to the TEEOSA formula over the next two years? [LB545]

SENATOR AVERY: The increase that is there is not from General Funds, it's from the stabilization money. [LB545]

SENATOR MELLO: So it would be give or take one-half percent, maybe one-tenth of an increase in General Funds? [LB545]

SENATOR AVERY: No. The \$234 million that we're putting into schools is coming from the stabilization money in... [LB545]

SENATOR MELLO: Stimulus, federal funds there. [LB545]

SENATOR AVERY: Yeah. [LB545]

SENATOR MELLO: But in General Fund increase we're still at roughly about zero? [LB545]

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SENATOR AVERY: Yeah. Probably about 1 percent. [LB545]

SENATOR MELLO: Okay. Thank you. Thank you, Senator Avery. As an Appropriation Committee member, we had a hearing on LB680, which was the Nebraska version of the American Recovery and Reinvestment Act where I asked Dr. Breed, Dr. Roger Breed the Education Commissioner of the state, if we provided more funding and state aid to education through TEEOSA formula, would that reduce the reliance on property taxes? And Commissioner Breed agreed and said yes. And the more funding that we would give in state aid and General File dollars, or any dollars for that matter, would reduce the reliance on property taxes. Then I believe Senator White briefly discussed a lot of the work he's done on trying to reduce property taxes in this state, and trying to ensure that our public education system starts to rely less on property taxes and more on the states constitutional responsibility of funding public education. But the reason I asked Senator Avery a few of those questions, and I believe Senator Utter also mentioned the 10 percent increase and the 7 percent increase, is because I'd like to once again reiterate to the body that those increases are not coming due to anything that we are doing special beyond serving as a pass through for stimulus dollars. There's no decision that's being made by the Governor, no decision being made by the Education Committee or by the Legislature as a whole that is increasing General File dollars to public education. We are simply taking stimulus dollars that our school districts were going to receive anyway. And instead of allowing those funds to flow through a TEEOSA-like formula to the school districts, we're instead inserting that money into our current funding formula process, once again creating a cliff effect in year three that roughly averages out to \$191 million. Now, I'd like to shift focus a little bit. I'd just like to remind the body, every time I hear a fellow senator get up and use the talking point that we're giving a 10 and 7 percent increase to education, they should be happy, they should deal with this, this is great in these tough economic times that we're funding education at this level. I'd just like to remind everyone that we're not funding education at that level. As I had discussion this morning in a Retirement Committee afterwards is that we're not fully funding education and we never have, and the reason we never have is because we change the needs every year to fit what Senator Haar also just recently said... [LB545 LB680]

PRESIDENT SHEEHY: One minute. [LB545]

SENATOR MELLO: ...to fit what our budget outlook currently looks like. So I'd just like to remind everyone that we shouldn't be patting ourselves on the back or ever try to say that we're doing a service to school districts as simply following federal law in which the Governor signed a letter in March saying that we would accept these funds and we would follow federal law. And those funds, by accepting them in this fiscal stabilization, would do one thing, would create or promote job growth and economic vitality. Recent numbers from the Omaha Public School District, which is one of three districts that I represent in Legislative District 5, recently laid off 99 first year teachers, are planning to

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layoff and get rid of over 200 full-time employees--administrative and custodial. And if to help fill the problems that we're facing now with an increase in student needs... [LB545]

PRESIDENT SHEEHY: Time, Senator. [LB545]

SENATOR MELLO: Thank you, Mr. President. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Mello. Senator Cook, you're recognized. [LB545]

SENATOR COOK: Thank you, Mr. President. I would like to yield my time to Senator Ashford, if he would like to continue. [LB545]

PRESIDENT SHEEHY: Senator Ashford, you're being yielded 4 minutes and 50 seconds. [LB545]

SENATOR ASHFORD: Thank you, Senator Cook. Okay. No, thank you. The process continues. I think that we hopefully...and I think we are in a process time now of thinking together about how we can best transition these 26 school districts from their current position, their current status receiving this averaging adjustment to a status a few years from now when that averaging adjustment will be at least impacted and will amount to less funding for those districts. It's my understanding that the 26...there's 280,000 students in the state, K-12 students. Of those, 85 percent of those students attend the 26 school districts that we're talking about here. So we're talking about most of the students in the state, we're talking about the largest school districts. That doesn't mean that the 15 percent of the students that attend schools that are not in this 26 are in anyway less important at all. I think it really boils down to this, and I know that...I'm trying to think of something really unique and novel to say about this, but I think it is, again, pretty basic. We're talking about a significant number of the students. We're talking about districts that are at or near their lid of \$1.05 per \$100 of valuation in real property. We're talking about districts with needs, as do all the other school districts in the state have. And we're talking about a piece of legislation in LB988 that was just passed a year ago. And it was passed with excruciating time consuming sessions about how to best get control of spending. And also to encourage school districts to do things that enhance educational opportunity, like advance degree teachers, longer school days, those kinds of things, the allowances for English as a second language students, the allowances for poverty allowances, the rapid growth adjustment. We spent two years talking about how do we deal with school districts like Gretna and/or Elkhorn, to talk about schools in my area, who really...that is a real cost when numbers of students...I think the numbers...and I'm going to be wrong here, Tammy can correct me, over 400, maybe it's more than that. But the rapid growth adjustment applies to the new students in a district. And that's a real cost to that school district. When we're talking about the averaging adjustment, we're talking about the number that is used to compare

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to the state average is...we pull out all of the allowances and we come up with... [LB545]

PRESIDENT SHEEHY: One minute. [LB545]

SENATOR ASHFORD: ...the average cost to educate a student, not with special needs, just what does it take to put a young person in a seat in a school and teach them. And the number statewide is somewhere around \$8,700, and I believe I'm right on that, without any of the adjustments or allowances added onto that. And some school districts that receive the averaging adjustment actually spend more than \$8,700 in actual dollars with all the adjustments that go into the state aid formula. But we're talking about what it costs to run a school with children in the school, to open the building in the morning and close the building in the afternoon. What Senator Adams has suggested is the averaging adjustment may not have a direct nexus to things like...educational issues like some of the other adjustments or allowances do, but it is a significant issue because we are talking about costs. And it seems to me fundamentally sound to try to transition these 26 districts with 85 percent of the students to the point where we can get the... [LB545]

PRESIDENT SHEEHY: Time, Senator. [LB545]

SENATOR ASHFORD: ...averaging adjustment at a sustaining level. Thank you, Mr. President. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Senator Nordquist, you're recognized. [LB545]

SENATOR NORDQUIST: Thank you, Mr. President and members, friends all. I just want to respond to a couple of points that have been thrown out there today. Senator Heidemann, he said earlier, you know, we were happy with the \$100 million but we're not happy with the \$235 million. Well, there reason for that is the \$100 million was a General Fund appropriation, not federal funds that we're just stuffing in our budget to make ends meet. We're actually putting the state on the line for the \$100 million saying it's a priority, we're going to fund it, we're going to increase it to that \$100 million level. Unfortunately, the path we're going down is providing a cliff in the third year. We have \$234 million to come up with. That's a significant challenge in year three. That's why people were happy with the \$100 million when they thought it was all we could do, but are not happy with the \$234 because of position it puts us in. Senator Utter, you know, mentioned businesses are cutting back. I agree. They're doing it all over the state. They're doing it in my district. Families in my district are trying to figure out how to make ends meet, how to balance their family budgets. But let's not fool ourselves, schools are doing it too. I've heard people say, well, schools just have to tighten their belts. They are. Schools are tightening their belts. In Omaha, OPS just sent out RIF notices to 99 teachers, first year teachers, meaning larger class sizes. Over the next year, they're

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projecting another 100 FTE layoff in administration, custodial staff, and paraprofessionals which means less services to our kids in the classroom and bigger class sizes. Schools are making tough decisions, so let's not pretend that they're not. And just to reiterate that fact, I have in my hand here vacancy postings from the last three years at OPS, and the numbers of vacancies that they have to fill have been declining every year. In the '07-08 school year for kindergarten teachers, they had 17 postings; In '08-09 they had 12 postings; and coming up for the next year in '09-10 they have 2 postings. English teachers, same way. Schools are making tough decisions, they are cutting back, just as businesses are doing around the state. And after some discussion with folks at OPS, I don't know how they're going to go forward with the budget that they're looking at. Just between salaries, FICA, health insurance increases, and retirement contributions that they have to meet, they have \$21.4 million liability just in those areas right there--\$21.4 million. I think if we're talking about what we're doing here, it's \$4 or \$5 million increase from the state. Where do they have to turn? Property taxes, they're at the \$1.05 levy. Valuations in Douglas County are projected to be flat, if not declining. There's no new construction within OPS. Where do these districts turn? They cut teachers. They make classes bigger. They cut administration. They are making tough choices. And that runs contrary to the letter that our Governor signed and sent when he applied for the ARRA Funds. He says, I hereby certify that the state of Nebraska and its agencies will (1) request and use funds provided by the ARRA, and (2) that the funds will be used to create jobs and promote economic opportunity. Runs contrary to what he signed when we got these funds. With that, Mr. President, I'll yield the rest of my time to Senator Ashford, if he's interested. [LB545]

PRESIDENT SHEEHY: Senator Ashford, you're being yielded 1 minute. [LB545]

SENATOR ASHFORD: Okay. Thank you so much, Senator Nordquist. (Laugh) First of all, I think we are, I certainly am, grateful that the Governor has made this request for the \$234 million, is in the process of making this request for the \$234 million. It is significant. Had we not had it, we would have been looking at deep, deep cuts. I fully understand that. I think that argument is...or not even an argument that that point is...we can't forget about it. I think, we appreciate...all of us in Education, obviously, those in Education appreciate not having to look at deep cuts in the...I mean, cuts from the prior year in their budgets. I fully understand that. However, I do, again, reiterate that we are talking about 85 percent of the students in the state of Nebraska, and all I'm suggesting that we look at doing, there are no General Fund dollars in the budget... [LB545]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Ashford. Members requesting to speak, Senator Louden, followed by Senator Gloor, Senator Dubas, Senator Council, Senator Ashford, and others. Senator Louden, you're recognized. [LB545]

SENATOR LOUDEN: Question. [LB545]

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PRESIDENT SHEEHY: There has been a call for the question. Do I see five hands? I do. The question before the body is, shall debate cease? All those in favor vote yea; opposed, nay. Senator Louden, you're recognized. [LB545]

SENATOR LOUDEN: (Microphone malfunction) ...,please. [LB545]

PRESIDENT SHEEHY: There has been a request of a call of the house. The question before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB545]

CLERK: 31 ayes, 0 nays to place the house under call, Mr. President. [LB545]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please report to the legislative Chamber. All unauthorized personnel please step from the floor. The house is under call. Senators, please record your presence. Senator Heidemann, Senator Utter, Senator Rogert, Senator Hansen, Senator Sullivan, Senator Schilz, Senator Lautenbaugh, Senator Langemeier the house is under call. Senator Louden, all members are present or accounted for. Members, the question before the body is on shall debate cease on AM1170. Senator Louden, how would you like to proceed? [LB545]

SENATOR LOUDEN: Roll call vote in general order. [LB545]

PRESIDENT SHEEHY: Mr. Clerk, there's been a request for roll call in regular order. [LB545]

CLERK: (Roll call vote taken, Legislative Journal page 1164.) 30 ayes, 16 nays to cease debate, Mr. President. [LB545]

PRESIDENT SHEEHY: The motion to cease debate is successful. The call is raised. Senator Ashford, you're recognized to close on AM1170 to AM1119. [LB545]

SENATOR ASHFORD: Members, there are 26 school districts that are adversely impacted by moving away from and phasing out or not phasing out, but decreasing the averaging adjustment. I'm asking the body to allow there to be discussion, continued discussion, around phasing that change out over the next two years. What I have proposed is basically keeping AM1119, Senator Adams', amendment in place for one more year. And then phasing it out into the 50 percent of the difference between the statewide average in each individual schools basic average spending. It seems like a logical idea. I think that if we defeat this amendment I suppose we could file another amendment and reduce that amount even further. But I wish we could have a little bit more discussion about why phasing out is a bad idea instead of that we don't have any

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General Fund money. Well, obviously we have a tight budget, but I think we need the ability to continue to talk about what the impact of not phasing out this change has on these districts. And are all throughout the state--Hastings, Alliance, I mean, we all know who we are, Sidney, Lexington, Fremont, OPS, Elkhorn, Millard, Ralston, Westside, Beatrice, Grand Island, Grand Island Northwest, Lincoln Public Schools, Waverly Public Schools, North Platte, Norfolk, Nebraska City, McCook, Crete, Bellevue, Papillion, Gretna, Scottsbluff, Blair, York. The idea of phasing these changes out is one that is not novel, as I suggested, not radical. I would ask the body to consider voting yes on this amendment. We can continue to discuss it. We can continue to look at other numbers, can check with the Appropriations Committee on the funding of these things, but this is fundamental education policy. It does have an impact, a significant impact on those 26 schools, 85 percent of the students of the state. I urge the adoption of the amendment. Thank you. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the closing. The question before the body is on the adoption of AM1170 to AM1119. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB545]

CLERK: 16 ayes, 29 nays, Mr. President, on the amendment. [LB545]

PRESIDENT SHEEHY: AM1170 is not adopted. We will now return to floor discussion on AM1119. Members requesting to speak are Senator Gloor, followed by Senator Dubas, Senator Council, Senator Ashford, Senator White, and others. Senator Gloor, you're recognized. [LB545]

SENATOR GLOOR: Thank you, Mr. President, members of the body. I made a comment yesterday during the early stages of this debate that I'd like to repeat. Has to do with the fact that if we were to throw all of our problems as a state into a pile along with all the other states, we'd want our problems back. That's been said in a variety of ways over the past couple of days. It probably I think is worth reminding ourselves of during this discussion. I also want to make sure I do the perfunctory thank you in appreciation of the work of the Education Committee, the work of Chairman Adams, Senator Adams in this process. Certainly they are wise beyond their years. Since most of them are very, very young, I hope they don't take that as faint praise. I mean it in a positive way. I want to go back to a comment made by Senator Council about the average adjustment and the emphasis on the fact that it is equalizing. Since we're talking about an equalization process in the funding formula here, how we seems to define equalizing has flipped back and forth and back and forth, but I always thought in the education sessions that I've gone to on the education formula that the averaging adjustment was always part of the equalization. As Senator Ashford has said, to take this kind of hit on that component for these 26 schools is significant. And of course the problem is year after year that difference is never made up. It becomes sort of a hopeless discussion for those of us hit by this that there's no hope of ever making up

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that difference. Once we lose it, it will likely never come back and that gap between those different schools will always exist. This is what I know about those 26 districts including mine, and I'm trying to be a statesman as I think through this process, do we penalize districts who have low property values? We penalize districts with high needs. I'll get back to that in a second. We do not reward those districts for making difficult, difficult decisions when it comes to levy lids that are out there who have made that. And let me go back to the high needs area. We talk about that term in a very, very general way, but what high needs means if you sit down and look at that list, I believe, is poverty and all the issues that go along with that poverty, whether it's transportation, whether it's being part of a minority classification and having language problems. This seems to be an issue that we comfortably talk about as a component of needs, high needs without defining because it makes us uncomfortable. And therein lies the rub in some of this discussion as it continues politely along. I wonder if Senator Adams would yield to a question? [LB545]

PRESIDENT SHEEHY: Senator Adams, would you yield to a question from Senator Gloor? [LB545]

SENATOR ADAMS: Yes, I will. [LB545]

SENATOR GLOOR: Senator Adams, I've heard an acronym, GFOE, a number of times in the discussion today. Would you mind helping me with a definition of what GFOE is? [LB545]

SENATOR ADAMS: General Fund operating expenditure and that becomes your base. We look at what a school spent in the previous year in their general fund. We take that amount and we take that times the growth limitation rate and in that amount the allowances that the school had from the previous year and averaging adjustment and all those kinds of things from the previous year is there. We take it times the growth limitation rate and that becomes the beginning point for what happens in the next year. [LB545]

SENATOR GLOOR: Thank you, Senator Adams. Thank you, Mr. President. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Senator Dubas, you're recognized. [LB545]

SENATOR DUBAS: Thank you, Mr. President, members of the body. We've talked about a lot of topics here today, all dealing with state aid to education or committee work. And I don't think there's any question that we all rely on and value the work that our committees do for us, especially if its topics that you don't have a great deal of background information. We do rely on our committees to help fill in those blanks for us. But yet there is nothing wrong that when something comes to the floor we challenge it,

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we question it, we dig into it, we ask for more explanations, we disagree with it. That's our job. It's our prerogative as state senators to introduce amendments, raise questions, and challenge what's being discussed. We all have that obligation as a state senator to our district, to the constituents that we serve. And so we should never ever back away from making our case. And if this scenario was reversed, I would be leading the charge introducing these amendments, talking about these things. This is hard. This is a hard debate because we all care. We all bottom line agree that it's about the kids and we want to be able to take care of our kids and provide them the best education possible. They're our future. What we invest in them will come back to serve us. We spent a lot of time last year and the year before talking about the learning community issue. That was another bill that was hammered on and wrangled about and debated and discussed on the floor. This was a piece of legislation that was specifically targeted towards OPS and their particular situation. We passed that legislation in the hopes that they would be better able to serve their student population. We have yet to see the outcome of the learning community legislation and I know that it's all of our hope that it does do what we intended for it to do. But what I continue to hear here yesterday and today, no matter what we pass, whether we pass this original bill with the original amendment or any of these other amendments that we've discussed, no matter what gets passed TEEOSA is still a problem. There is no question in my mind that we will have to come back and seriously look at how do we fund education. We understand we are on an unsustainable path. TEEOSA has continued to gobble up more and more of our budget. And it's not that we're throwing good money after bad, it's just the reality. We know what our limitations are. We understand what our financial resources are. The rub comes to, how do we divide those resources up? How do we equitably divide those resources up? So no matter which way go, we really haven't resolved this issue. We just kind of keep us...I think someone mentioned before, we just kind of keep kicking the can down the road. It's important that we have this discussion. As I stated yesterday, this is probably one of the most important debates that we will have. But I truly believe that our mission over the next several years at least is to look at our tax structure, look at our financial resources, and look at how we have, how we are, and how we can in the future fund the education for our children because this is one of our top priority issues. [LB545]

PRESIDENT SHEEHY: One minute. [LB545]

SENATOR DUBAS: Thank you. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Ashford, you're recognized. [LB545]

SENATOR ASHFORD: Mr. President, if Senator White wants my time, I would offer it to him. [LB545]

PRESIDENT SHEEHY: Senator White, you are yielded 4 minutes 45 seconds. [LB545]

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SENATOR WHITE: Thank you much. Ladies and gentlemen, I just want you to know we continue to try to find some movement. One of the possibilities that's quite real is we take what Senator Ashford has proposed, to cushion the impact on our poorest most desperate students. And his proposal would cost \$24 million, and we don't have to make that winner take all. We could take less, we could have taken less and would take less to help. And, you know, I have just talked to a number of members of the Appropriations Committee, they've been told we can likely expect another \$40-plus million because our unemployment numbers went up. We found that our Friday. The money is there, folks. And I have a couple of real fundamental problems and I want you to think how you're going to explain this to your voters because I'm sure going to have trouble. Number one: How is it we got \$250,000,000 from the feds and we didn't really deliver meaningful property tax relief to anybody out of that money. And at the same time, OPS is going to be laying off and is laying off 100 teachers and support staff. So we're laying off teachers, we got no property tax relief, and we've got \$250,000,000, but the formula must be protected. Man, that is fundamentally broken. It is fundamentally broken. We sit and talk about a compromise. We offer compromise after compromise. We find the likelihood of new money and nobody moves, nobody will move an inch. And this is money that just showed up. Now, beyond that, we've got \$100-plus million that we've "earmarked" for property tax relief, and I can tell you right now, Ted Turner is going to get about \$150,000. Ted Turner. And then we have foreign corporation after foreign corporation, Kawasaki, will get \$40,000. We got money to ship \$40,000 to Tokyo. We got money to ship \$150,000 to Ted Turner and we don't have any money to keep Omaha teachers from being laid off? We don't have money to help the minorities in Grand Island, the minorities in Lexington, the young students, the poor students that don't have the ability to get out of poverty unless we give them an education. We can give money and ship money out of this state for people who have no stake in it that own land here but don't contribute to the economy, don't live here and we can ship millions of dollars out of state, but we can't find enough money in a compromise to cushion this blow. That's what we're about. In the end, that's what we're about. So riddle me this: When you go back and your constituents say, okay, how come my school district took a cut, we got \$250,000,000 of federal money, I didn't get any tax relief, and we're laying off teachers in the state? Now, if you can explain that one to me than I think you can defend this formula. But until you can defend those, you can't defend the formula. And if the formula put us in this position where we have an irrational system where one farmer is paying 75 cents on the dollar for \$100 value of his ranch and the next one is paying \$1.05 and is at a massive competitive disadvantage, that's also a product of our formula. [LB545]

PRESIDENT SHEEHY: One minute. [LB545]

SENATOR WHITE: Senator Adams stood up and said, well, you having a problem with the formula it may encourage people to raise taxes to get more of our state money.

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Folks, it's broken. And if ever we were going to take a real hard look at the formula, it was this year and I want to count heads. This bill came out of a committee 5-2. Senator Ashford was one of them that voted for it. He clearly doesn't support the bill as written. At best, it's not 4-3. Not an iota has been changed and we're a deliberative body looking for compromise to accommodate all the interests across the board. This bill is not ready yet to be passed. It's not yet ready. We have money that could help fix it. We have negotiated in good faith. We have gotten no where. And we have talked to you about a real fundamental fact. The gap between the poorest students and the richest students with this \$250,000,000 grows, doesn't shrink, it grows. What have we done right. [LB545]

PRESIDENT SHEEHY: Time, Senator. [LB545]

SENATOR WHITE: What have we done right? [LB545]

PRESIDENT SHEEHY: Thank you, Senator White. Mr. Clerk, you have a motion on your desk. [LB545]

CLERK: Mr. President, I do. Senator White would move to bracket the bill until June 4 of 2009. [LB545]

PRESIDENT SHEEHY: Senator White, you're recognized to open on your motion to bracket. [LB545]

SENATOR WHITE: Mr. President, I have never filled a bracket motion in my career and I do not intend to pull this one and I'm going to tell you why. I mean, a piece of respect for my fellow senators. We have asked can we do anything with the temporary aid to adjustment to this bill, and the answer has been "no." We've asked, can we do anything for total aid adjustment, and the answer has been "no." We've asked, can we do anything to reduce the reduction of basic funding factor, and the answer has been "no." We've asked, can we do anything to reduce the reduction basing funding with rural stabilization, and the answer has been "no." We've asked, can we do anything with the averaging adjustment, and the answer has been "no." And when we say, look, can we find money to lessen the impact on those in poverty in the schools up against the lid levy, and the answer has been "no." We have problems, there's no more money. Well, then we found money. We found that we can reasonably expect another \$40 million because our unemployment rate has gone up. And it's a promise, it's not cash in the bank. But guess what? Our whole budget is based on a promise from the federal government of money would come in, and we said, he's the money. And you know what? If you can go the whole \$24 million Senator Ashford had proposed, can you give us something? And the answer is not only no, it's we ain't even going to talk about it. We won't give you a counter offer. We won't give you a number. We won't do anything. So here's what we've done: We've taken \$250,000,000 of federal money, federal money

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that if there's ever been a mission of the federal government it is to use education to advance people out of poverty, we've taken that money and we've widened, not closed the gap. We have not helped one landowner. We have not reformed the property tax system that Senator Dierks and others say are driving ranchers and farmers out of our business. We've not taken one nickel of money that we are going to spend, and it is millions of dollars to send not only out of this state, but out of this country, this hard money and have we found a nickel to soften this blow? Not one nickel. Not one nickel. Then I would tell you this: This is not any kind of legislative compromise, this is an in-your-face we-don't-care you eat it and see what you got. And when that kind of environment is created, folks, it has ramifications and repercussions. You don't get a law that all parties can live with, you get a law that they're going to attack one way or another. You don't get a formula they respect, you get a formula, at best, they can try it again. You don't get a cooperative effort in other problems going forward, you get resistance and frustration. Now, if we stood here, if I stood here before you and said, my way or the highway, you would properly resent me for it. And yet for days we have been working and that has been the answer and it's not right. It's not thoughtful, it's not collegial, it's not legislative, and this is not a good bill for a number of reasons. Now, do I want to blow up the budget? No. Do I want this bill to work? Yes. Do I want to make compromises so people can go back to their constituents and say, it wasn't perfect, but we got something? Absolutely. But the answer has been to every effort, no. What came out of that committee 5-2, now 4-3 must be it. We've compromised enough. Four-three coming out of your committee? Kill this bill. And if you don't kill this bill, make folks talk until it's somewhat better. Thank you, ladies and gentlemen. [LB545]

PRESIDENT SHEEHY: Thank you, Senator White. You have heard the motion to bracket until June 4, 2009. Members requesting to speak are Senator White, followed by Senator Stuthman, Senator Avery, Senator Lathrop, Senator Adams, Senator Council, and others. Senator White, you're recognized. [LB545]

SENATOR WHITE: Thank you, Mr. President. We've got a problem, folks. We're forty-eighth in the country in state aid to children in education. That's why our property tax system is a mess. And yet we talk about how fast it's increasing under this bill. Guess what? If we were a car, we're coming from damn near dead stop, so any speed is 100 percent increase. The percentages only mean something if you understand the underlying number. We do a terrible job on a state responsibility. Remember the constitution? It's not property taxes responsibility to educate children. Those belong to local entities and the constitution put it on us. We have now, so we're clear, told school districts in Lexington, in Grand Island, in Omaha you can't levy more than \$1.05. You're not even close to the average we spent on kids across the state. We've taken federal money and, oh, by the way, we recognize, though we don't want to admit it, that those students are largely minority, and we're not going to spend even close to the average to educate them that's available to other kids. And we're okay with that. And oh, by the way, property tax owners: Yeah, we know it's messed up, we've been goofing

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around with it for years. But we're darn sure going to make sure that Ted Turner get his. We're going to darn sure make sure we send a check to him of \$73,000 this year. And oh, by the way, we are laying off a lot to teachers. In what universe did we do a good job? In what universe do we now need to stop talking? In what universe do we now not try to find a solution to some of these problems? Thank you, Mr. President. [LB545]

PRESIDENT SHEEHY: Thank you, Senator White. Senator Stuthman, you're recognized. [LB545]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I lie in opposition to the bracket motion. I really think and I really respect the fact that Education Committee and Senator Adams have really worked hard on developing a bill that is workable and doable. And I truly respect that. And that's why I haven't been involved in the discussion at all so far. And I also respect the fact that Appropriations Committee has worked very hard and they've got it fairly well worked out, in my opinion. But there's one other thing that I would like to mention. In the past two days when we've been debating this, we've had quite a number of students that have come to the gallery and watched the debate but as you remember, there was several of those groups were parochial school kids. What if as Senator White said, you know, it is the states responsibility to educate the kids. It's the states responsibility. There are a lot of families, parents that take that responsibility to heart and they educate their kids in the parochial school system. If all of those children that attend these parochial schools would attend the public schools, they'd blow the doors right off those public schools. They couldn't handle them. They'd have to build bigger buildings. That would be an expense of the taxpayer. And I really appreciate and respect those individual families that take it upon themselves to pay the property tax and, and pay for the education of their students. You don't hear those people complain. They are taking it upon themselves. Yes, they pay property tax also. They pay for the education of all the kids in the district, but they're also paying for their own. I think we've got to keep that in mind. That what if every child in the state of Nebraska was educated in public schools, what would the budget look like? I don't think we could handle it, and that's why I truly respect those individual families and organizations and groups that take it upon themselves and educate their children in those parochial school situations. As I stated, I do not support this bracket motion and I will support what we have in front of us, which the Education Committee and Senator Adams have spent many days on trying to come up with something that's workable. And I truly respect them for that. Thank you, Mr. President. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Avery, you're recognized. [LB545]

SENATOR AVERY: Thank you, Mr. President. I think there's some misinformation going around about the stimulus money, the \$234 million that the Education Committee is

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putting into TEEOSA. We have to understand that if we did not have that stimulus money then we probably would not be putting any new money into TEEOSA. That is a reality we need to remember. We are required by federal rules and regulations that govern the stimulus money to use the \$234 million to fund our formula for school aid. To use that money for anything else would require us to fully fund TEEOSA with General Funds under existing law, which is LB988, which would mean that we would have to spend \$295 million. We don't have that kind of money in the General Fund. So the committee decided that it was the best approach to use the money to offset the shortfall, to use that stimulus money, the \$234 million, to fund TEEOSA. We had originally budgeted...as has been pointed out here many times, we had originally budgeted \$100 million for schools. But that became impossible to fund when the February forecast came out. So we were faced in the Education Committee with a situation where we weren't going to have any new money to put into TEEOSA. But we had the stimulus money. The stimulus money was very, very clearly tied to our requirement that we would use that to eliminate shortfalls in our school funding, and we had a shortfall and that is what we did with it. If we had tried to do otherwise with the stimulus money, we stood in jeopardy of losing all of it, not being able to use it. This action also allowed us to offset the \$100 million that was in the original budget so that we could attribute that or credit that toward reducing the \$184 million projected deficit. Now, obviously education was being asked to contribute a lot to deficit reduction. But you have to remember that this is the biggest item in the budget, so it's not unreasonable to ask that we contribute more than other entities. I believe then and I still believe that what we did was right, that we were acting in a responsible manner. We're in a financial downturn and we're all in it together. We've heard a lot of talk about all the facets of this issue. And recently we've been talking about abandoning poverty students. I don't have any interest in abandoning poverty students. But what we haven't heard much about is the \$47.5 million in stimulus money that's going directly into Title I programs. These are programs for poverty students \$47.5 million. OPS will get a large chunk of that. The committee decided to commit the \$234 million in stimulus money to TEEOSA. We did that with the full knowledge that... [LB545]

PRESIDENT SHEEHY: One minute. [LB545]

SENATOR AVERY: ...if we didn't do it, we wouldn't have anything for schools. We knew that schools would be getting with what we were doing with the stimulus money they'd be getting more than twice as much as we had budgeted originally, more than twice the \$100 million we had originally budgeted. After the February forecast, we were facing a very serious situation. This bracket motion is wrong. We should not support this bracket motion because if we do, we will not have a budget. There is no way we can have a budget that makes any sense that does not require a tax increase unless we do LB545 as presented. There won't be money for UNL. There won't be money for community colleges. There will not be money for the A bills that are out there. There will be no money for the Beatrice center. There won't be any money left. This will suck the life out

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of the budget. Thank you. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Lathrop, you're recognized. [LB545]

SENATOR LATHROP: Thank you, Mr. President and colleagues. This has been going on for a couple of days now and I haven't spoken yet. And I thought it was appropriate with the bracket motion up to share some of my thoughts because there's been a lot said so far and there's a lot of wisdom in what's been said whether you're with or against the person that's talking about it. And maybe I should start by acknowledging the work of the Education Committee who I greatly respect, and Senator Adams is a great friend. I have a lot of respect for his work. Today, we find ourselves now, though in a position where there is a significant number of senators with a concern about how the money shakes out and with good reason. And I must say that while most of the conversation is related to the Omaha Public School District, my Ralston School District is in the same place but with being a smaller school district it affects it proportionately in a smaller way, but the circumstances and the concerns remain the same. When I got down here three years ago and they said the TEEOSA is coming up, TEEOSA is coming up and Senator Raikes is going to come on the floor. I said, well, what's the formula? What's this about? How does this all work? And they're like, young man, I'm just going to tell you nobody understands it but one guy. And that one guy will tell us what we need to know, and then we'll come out on the floor and everybody will listen and you can stomp around if you like, but it's not going to change anything. And it struck me that it's a little bit like deciding who our next Pope is. They go into a room and nobody understands what they do. They do it in...not in secret, but we really don't understand what it is. A little smoke comes out of the chimney and we have a new Pope. And now we have a TEEOSA formula that has told us who's going to get what and who's not going to get what they expected. And now that we've brought out the numbers and we have brought it out...I am a little bit amused, I got to tell you. I'm a little bit amused when I hear everybody say, well, the Education Committee came up with this and they're a thoughtful group, and they are and I love each one of those people dearly. They're all my friends. But when we bring something out of Judiciary Committee, we're going to kick it around, you know. If we used the same logic, you guys would be repealing the death penalty in a couple of weeks. So I don't think we are...because we have concerns about what the work product of the Education Committee, that doesn't mean that we are kicking them around or not showing them a proper level of respect, but at the same time, we're all state senators, each one of us. So I think it's fair to talk about this, and I think it's fair when there are a good number of senators with as many concerns as have been expressed that we talk about what we can do to see if there isn't a middle ground and are there options for a middle ground. I think there, I'm hearing them. Some of it is maybe a little more money, and would that be a bad thing? You know, what the state is actually contributing is nothing more than what they contributed before. What we have is federal stimulus money. We were going to spend the \$100

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million on this undertaking, but the federal government said, here's \$234 million. And we said, well, we'll take that \$100 million off the table. That was money we were going to have to devote... [LB545]

PRESIDENT SHEEHY: One minute. [LB545]

SENATOR LATHROP: ...to this undertaking. And now to talk about taking a little bit of that, it's being dismissed out of hand. I am concerned that we are getting closer to the place Senator Friend described. We are getting closer to the place Senator Friend described. And I would for one encourage this body to find a way to set this on the back burner, whether it's on a bracket motion or whether we do it overnight and take this bill up again on Monday so that we can sit down with the computer in the room where these figures are generated and find out what different options and different scenarios might generate and if there isn't some way to satisfy what I think are legitimate concerns of my friends in the Omaha Public School District as well as the folks at Ralston. So I, for one, would like to see us set this aside, work on it a little bit, have an opportunity to visit with Senator Adams who I generally regard as a reasonable person. [LB545]

PRESIDENT SHEEHY: Time, Senator. [LB545]

SENATOR LATHROP: Thank you. [LB545]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Continuing discussion on the motion to bracket. Members requesting to speak: Senator Council, followed by Senator Nordquist, Senator Fulton, Senator Ashford, Senator Nantkes, and others. Senator Council, you're recognized. [LB545]

SENATOR COUNCIL: Thank you, Mr. President. I pressed my light some time ago. In fact, I pressed my light before the question was called on Senator Ashford's amendment. And I did so, and he's not in the room right now, to applaud the candor and honesty of my colleague and now new best friend Senator Haar. Senator Haar in his statements if you'll remember, you know, conceded that one of the guiding principles that led the committee to LB545 was the stimulus dollars and the adjustment to TEEOSA to fit the stimulus dollars. And no one has a problem with that. We understood that. We understood that without the stimulus dollars, the state would have to find at \$100 million and that still wouldn't address the needs because the formula said the needs required an additional \$295 million. Senator Ashford's amendment attempted to strike a balance between preserving this Legislature's intent to meet the needs of the children of all the school districts in this state and the desire to limit the increase in state aid to the amount of the stimulus dollars. Well, that goal we discovered couldn't be achieved because the phasing-in proposed by Senator Ashford's amendment resulted in an increase in the second year of the biennium with regard to state aid. There was a discussion of, well, let's try to work that to see if we can eliminate that increase. Well,

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the amendment I proposed sought to achieve that balance and in fact it would have achieved that balance if I had not attempted to address the legitimate concerns expressed by Senator Adams and the small rural schools. And that concern was that they couldn't effectively shoulder an across the board decrease of 1.5 percent in basic funding. So I heard that. I heard the concern expressed by Senator Adams about the ability to shoulder that. So the amendment that I ultimately introduced said, okay, they can't shoulder the 1.5 percent, let's go 1 percent. Now, you talk about unintended consequences. The unintended consequences of providing for a 1 percent rather than a 1.5 percent decrease in basic funding and continuing to recognize the need for stabilization in the small rural school districts, the unintended consequence of going from 1.5 percent to 1 percent was an increase in the need and aid stabilization for the rural school districts that resulted in the \$36 million that was discussed by Senator Heidemann. However, I tried to note for the body that that unintended consequence could easily be ameliorated by moving the decrease in the basic funding closer to that 1.5 percent. That could have occurred. And I stated to the body that I was willing and would assure that if the amendment was adopted that before the bill came back on Select File that the appropriate percentage decrease would be determined so that you could ameliorate that \$36 million increase and come closer to the \$234 million that is the stimulus dollars. That's what I proposed. That's what I offered. And I was kind of disappointed, could have taken it personally because I have... [LB545]

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: One minute. [LB545]

SENATOR COUNCIL: ...stood on this floor and heard others who have had concerns about bills on General File who have been given assurances that if you advance it to Select File, I'll fix it when it gets there. And we voted to move the bill to Select File. I said, if there's a problem with the \$36 million we can fix it before we get there, but I wasn't provided that opportunity. And like I said, I'm not going to take it personally, but here's where we are now with Senator Ashford's proposal. It can be fixed before we get there. So if we really want to be fair and achieve... [LB545]

SPEAKER FLOOD: Time, Senator. [LB545]

SENATOR COUNCIL: ...equalization let's try to fix it before it gets there. [LB545]

SPEAKER FLOOD: Thank you, Senator Council. Senator Nordquist, you are recognized. [LB545]

SENATOR NORDQUIST: Thank you, Mr. President, members, friends all. I just want to clarify a couple of things for the record that have been said. I believe it was Senator Avery that said first of all that if we didn't use the stimulus money through the formula

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we'd have to fully fund the formula at \$290-some million. Well, that's not quite true because the same provision that allows us to change the formula with LB545 would have allowed us to change the formula to another amount and send the stimulus money out through Title I funding distribution, which is in the federal guidelines. If you want to see how the stimulus money works, there's a 50-page guidance on the federal Department of Education Web site. I suggest you read it. Secondly, Senator White was making mention of the \$40 million. It's highly likely we will get an enhanced of FMAP because of our unemployment going up. That's the provisions in the federal law. Highly likely. I had some people come up to me and maybe didn't understand the process and go: Well, there's no guarantee! There's no guarantee we're going to get the money! Well, you want to know what? There's no guarantee we're getting the last third of this \$234 million! If you read page 4 in the guidance it says: A state will receive the remaining 33 percent of its total stabilization allocation in phase two after, and only after, the department approves the state's comprehensive plan for making progress in the four education reform areas for which it is provided assurances in phase one. So if we don't meet and we aren't making progress in these areas, we're not getting the last third of this money. So that's how we budget. We make assumptions. We assume we're getting money so the possibility of getting that \$40 million is as highly as likely as getting the last third of this. I want everyone to be aware of that and clarify the record because there's people going around spreading some misinformation. With that, I'll yield the rest of my time to Senator Nantkes. [LB545]

SPEAKER FLOOD: Senator Nantkes, you have 2 minutes 58 seconds. [LB545]

SENATOR NANTKES: Thank you, Mr. President. Thank you, Senator Nordquist. I guess just to echo some of the comments from Senator Nordquist, I know that with term limits we have a lot of new members here and they might not be aware of some of the really fantastic resources that we have available as senators. And one of those is our fiscal analyst and our fiscal staff. And if people have questions about the budget process or about federal stimulus, I suggest that they either talk to us or on Appropriations or talk to the fiscal analyst because they are an unbiased, sound source of good information to dialogue about these issues. And if you have questions, the proper thing to do is to get on the mike and ask them and build the record and participate in a dialogue. It's not to run around the body, engage in a whisper campaign, and impugn members character about honest statements that they're bringing forward that are serious parts of the dialogue. I think in the heat of the battle when things get really emotional sometimes it's hard to lose sight of the august and special nature of this body that we operate within. And so I think that we can all maybe take a minute to reflect about how we should engage in dialogue and how we all can be thoughtful and considerate of each other's feelings. And, you know, my good friend Senator Sullivan jumped up earlier today and gave a very heartfelt speech about how there's really so much common ground at the heart of this debate. And Senator Fischer echoed those concerns and I want to as well. And so I guess that's just maybe a good reminder for all

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of us that there's resources out there that we can get credible information from. And if you have questions, just ask them. With that, thank you, Mr. President. [LB545]

SPEAKER FLOOD: Thank you, Senator Nantkes. A reminder, members: Tomorrow we will be taking up Select File. We'll be starting at 9:00 in the morning and we will be working through lunch into the afternoon. Continuing with discussion on Senator White's bracket motion we have Senator Fulton. You are recognized. [LB545]

SENATOR FULTON: Thank you, Mr. President, members of the body. I was just commenting that we believe here in our corner of the Legislature we have the most laid-back locale of all of the areas in the Legislature. We like to call ourselves the new culture corner. We're taking this all in. There's is something that piqued my interest. We're talking about the increase potentiality for FMAP dollars. And to my colleague on the committee, Senator Nordquist, he is correct. We do make assumptions. In fact, one of the greatest assumptions that we make in writing the budget is how much revenue is going to be coming into the state. We base that assumption to the best of our ability on the forecasting review board. And so I think that might be something that could be forgotten in this discussion. After Thursday I think there will be a different vantage as to how we will treat LB545. Let us say that the FMAP will bring in, with the increase in unemployment rate, up to 4.8 percent in Nebraska, an increase in the FMAP of \$40 million. Let us say that that indeed occurs. I would bet...I'm not a gambling man, we'll put it a different way, I am almost certain that we will take in less than \$40 million more. In other words, that \$40 million that might come into the state via FMAP will be, to borrow an awesome turn by my colleague Senator Council, ameliorated because we will be, I believe, more...how can I put this? If we take in \$40 million more, we will lose more than \$40 million after Thursday. The Forecasting Review Board is going to meet and I'm willing to bet that times are even worse than what we have been planning. And so that assumption in our budget will take another \$50 million, \$60 million, \$70 million off of what the Appropriations Committee believes is an already balanced budget. So if we are trying to spend monies that we think might be coming in, after you do the math we will realize we actually have less money coming in than what we believe right now. Okay. So bear that in mind. We can't spend monies that we don't have coming in when indeed the math indicates we have less money coming in than we thought. And that's what we're going to find out on Thursday, I'm willing to wager. Thank you, Mr. President. [LB545]

SPEAKER FLOOD: Thank you, Senator Fulton. Senator Ashford, you're recognized. [LB545]

SENATOR ASHFORD: Thank you, Mr. President. I'd like to...seriously, Senator Nordquist brought up a great point. And that's the commitment to advancing education reform which is a requirement for the stimulus funding. And I'm not going to read it. I think we can all read it, but it's a clearly an issue as we apply for these numbers. But I

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want to think a little bit more about what Senator Council has said. What Senator Council has proposed is a 1 percent cut across the board, and she is advocating for a stabilization number that will help smaller schools. That will significantly aid all the schools in the state because it will allow...certainly the 26 schools and the 85 percent of the students that are educated by those 26 schools, it will help them deal with the issues and the challenges of the stimulus money which are federal standards and criteria. She has said something that is very interesting. She's willing to work on an amendment that will not cost us any money or if it is some money, it's very, very little and certainly probably no greater than the amount of appropriation in AM1119. We've talked a lot about that we don't have any money and I understand that, and we're going to have weeks and weeks, days and days of conversation about that between now and the end of session. But I think Senator Council...apart from the issue, but to some degree it isn't the issue of collegiality. Senator Council has raised a very interesting idea. In the out-years, we definitely need to sustain the growth of the averaging adjustment at a level that will allow us to fund it in a prudent and responsible manner. I think Senator Council agrees with that. I think everybody in this body agrees with that. But if we can affect educational policy in a positive way by allowing the LB988 adjustments and allowances to move forward in the next two years by taking this suggested reduction that Senator Council has suggested and we defeat it, I'd like someone to be able to get up...and I understand the nonequalizing general argument. But I think Senator Council has adequately responded to it or if there are questions that need to be resolved, then the Education Committee could sit down, take Senator Council's amendment, think about it, run the numbers, bring the body back the numbers. And if fiscal impact is minimal, why wouldn't we consider that? And to me what we should do is we should stop debate at the end of the day and go on and take Senator Council's amendment or my amendment, but I think Senator Council's amendment, the more I think about it, is the more persuasive, to take her amendment, think about it, the cost impact, talk to everybody concerned, and come back with an agreement that we can sell to the body that the body would understand. And unless I can hear some reason other than the fact that...I understand it's not exactly what Senator Adams is proposing. I get that. But I also know that Senator Adams is...I mean, we talk about stuff all the time. We talk about differing ways to approach this since the beginning of this session. We have talked and talked and talked and we've been open-minded and we've talked together. We put out on the floor was our best guess at the way to handle this. But my goodness gracious, this is not a bill, certainly not one that comes out of Judiciary that doesn't get lots of changes. I mean, we are the change agents of this body. We put stuff out here and we just talk about it and talk about it. [LB545]

SPEAKER FLOOD: One minute. [LB545]

SENATOR ASHFORD: But I think this...let's just treat Senator Council's amendment the same way, on a critical issue, let's treat it or whatever other suggestions are plausible

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and prudent the same way, the same way. If we can get it within the budget, within the \$234 million, if it keeps LB988 intact at least for two years, then we can meet the educational requirements of the stimulus package. And this body will have given the 26 school districts who get the averaging adjustment at least an opportunity to be helped through the next two years. And if we can do that in a nearly cost-neutral manner, at least it's worth talking about, isn't it? What could possibly be wrong with doing that? Thank you, Mr. President. [LB545]

SPEAKER FLOOD: Thank you, Senator Ashford. Mr. Clerk, for a motion. [LB545]

CLERK: Mr. President, I have a priority motion. Senator Adams would move to invoke cloture pursuant to Rule 7 Section 10. [LB545]

SPEAKER FLOOD: Thank you, Mr. Clerk. It is the ruling of the Chair that there has been fair and full debate afforded to LB545. Senator Adams, for what purpose to you rise? [LB545]

SENATOR ADAMS: I would request a call of the house and a roll call vote in regular order, Mr. President. [LB545]

SPEAKER FLOOD: Members, there has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB545]

CLERK: 41 ayes, 0 nays, Mr. President, to place the house under call. [LB545]

SPEAKER FLOOD: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Mr. Clerk. All senators are present or otherwise accounted for. Members, the first vote is the motion to invoke cloture pursuant to Rule 7 Section 10 of the rules of the Legislature. All those in favor vote aye...strike that. Mr. Clerk, please read the role in regular order. [LB545]

CLERK: (Roll call vote taken, Legislative Journal page 1165.) 30 ayes, 17 nays on the motion to invoke cloture, Mr. President. [LB545]

SPEAKER FLOOD: The motion to invoke cloture is not adopted. Mr. Clerk, items for the record. I do raise the call. (Gavel.) [LB545]

CLERK: Mr. President, some items I have a series of amendments to LB545 to be printed. I also have an amendment by Senator Sullivan to LB531 and Senator Stuthman to LB198. (Legislative Journal pages 1165-1169.) [LB545 LB531 LB198]

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And I do have a priority motion, Mr. President. Senator Schilz would move to adjourn the body until Thursday morning, April 23, at 9:00 a.m. []

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. We are adjourned. (Gavel.) []