

Transcript Prepared By the Clerk of the Legislature
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Floor Debate
January 13, 2010

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PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixth day of the One Hundred First Legislature, Second Session. Our pastor for today is Pastor Nathan Reckling from the Princeton Countryside Alliance Church in Princeton, Nebraska, Senator Wallman's district. Would you all please rise.

PASTOR RECKLING: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Pastor Reckling. I call to order the sixth day of the One Hundred First Legislature, Second Session. Senators, please record your presence. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Are there corrections for the Journal?

CLERK: I have no corrections, Mr. President.

PRESIDENT SHEEHY: Are there messages, reports, or announcements?

CLERK: Mr. President, notice of hearings from the Government, Military and Veterans Affairs Committee signed by their Chair, and that's all that I have at this time. (Legislative Journal page 199.)

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll move to the first item under General File, LB550. [LB550]

CLERK: LB550 is a bill introduced by Senator Avery. (Read title.) Introduced on January 21 of last year, referred to the Government, Military and Veterans Affairs Committee. Bill was advanced to General File. [LB550]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Avery, you're recognized to open on LB550. [LB550]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. LB550 is being introduced on behalf of the Military Department, state of Nebraska. The bill contains two major provisions. The first deals with personnel within the Military

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Department. With LB550, the Military Department will consist of the Adjutant General in the minimum grade, lieutenant colonel, one deputy adjutant general, a chief of staff of the Military Department or deputy director with a minimum grade of colonel, one assistant director for Nebraska Emergency Management Agency, and other officers and enlisted personnel in the number and grade as prescribed by the U. S. Department of the Army and the Department of the Air Force personnel documents. The chief of the National Guard Bureau, that is at the federal level, will appoint a United States property and fiscal officer who will hold a minimum grade of colonel. The Governor will nominate one or more officers for the position after consultation with the Nebraska Adjutant General. The bill is attempting to clean up some of the laws regarding rank and promotion to senior positions. The Military Department has expressed concern that the current statute creates a structure that has limited some personnel in regard to rank advancing. The...this is needed to give the department more flexibility to advance meritorious officers in rank. The mission of the Nebraska National Guard has expanded significantly since 9/11 and since the commencing of war in the Middle East. And many of our officers have engaged in leadership positions and achieved on the battlefield in areas that actually qualify them for advances beyond the rank of colonel and, in fact, beyond the rank of brigadier general. The current statute, however, does not provide for advancement for some of these meritorious officers and this would permit that. The second provision of the bill gives the National Guard, the Nebraska National Guard members...excuse me, let me start that over. The second provision gives the Nebraska National Guard law enforcement authority while on National Guard orders in a federal status. By that we mean when Nebraska National Guard has been deployed to a federal role or a federal mission. The bill permits the Governor to limit the law enforcement authority to the missions he or she determines are necessary and to modify the law enforcement authority as the mission develops. Currently, the Governor does not have this authority. The Governor would also have the authority to extend law enforcement authority to National Guard members from other states that come to Nebraska to assist with an in-state emergency. That is something the Governor does not have now. The Governor, of course, can empower the National Guard with law enforcement authority in-state emergencies but not out-of-state National Guard members who may be deployed to help us in an emergency. Current law grants National Guard members peace officer authority when on active service by the direction of the Governor during periods of emergency. In other words, it is limited to periods of emergency during the state active duty. This limitation does not fit well with the reality of how the National Guard is now employed during emergencies. As I indicated earlier, since 9/11 the National Guard has responded to numerous natural disasters and Homeland Security missions, including airport security, assisting with hurricane problems caused by Katrina and Gustav, and assisting with the recent presidential inauguration. These missions have been funded by the federal government based on Title XXXII of the U.S. Code, 502(f) which was amended to specifically address these missions. This change permits the President and the Secretary of Defense to request that the National Guard perform specific operational missions which are then funded by the federal government. The use

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of Title 32 authority is becoming more common for large-scale disasters and security issues of national importance. If a large natural or man-made disaster were to occur in Nebraska, the National Guard would need to augment state and local law enforcement. As the statutes currently exist, the National Guard would have to be in a state of active duty status to provide law enforcement assistance, and this bill would change that. So LB550 extends law enforcement authority to Nebraska National Guard members serving in Title 32 status. This change would permit the state of Nebraska to take advantage of the federal funds that could be made available by the President or Secretary of Defense, saving the Governor's emergency funds for other purposes and other situations. This proposed statute not only expands law enforcement authority for National Guard members, it also limits that authority. LB550 requires the Governor specifically to grant law enforcement authority. Currently, the authority is automatically granted upon a call to state active duty. The Governor will also have the authority to limit the scope of that law enforcement authority so that the law enforcement authority can be tailored to meet the needs of the emergency. Law enforcement authority will be granted in the military order, calling the National Guard members to state active duty or National Guard duty under Title 32. The Governor will be able to modify the authority contained in the order as the situation unfolds to meet the needs of the state through special orders or directives. This bill is needed in order to bring the National Guard into a more rational mode of operation. It was advanced from the Government Committee on a 8 to 0 vote. There was no opposition at the hearing to this bill and I urge you to advance it. Thank you, Mr. President. [LB550]

PRESIDENT SHEEHY: Thank you, Senator Avery. You have heard the opening to LB550. Mr. Clerk, do you have an amendment on your desk? [LB550]

CLERK: Mr. President, Senator Avery would move to amend the bill with AM1539. (Legislative Journal page 125.) [LB550]

PRESIDENT SHEEHY: Senator Avery, you're recognized to open on AM1539. [LB550]

SENATOR AVERY: Thank you, Mr. President. AM1539 is really quite minor and technical in nature. The Military Department discovered that there was language in current law that needs to be corrected. And this amendment would change the word "monthly" to "biweekly" when referring to how the Adjutant General and others in the Military Department are paid. We...the state has gone to a system of paying its employees on a biweekly basis and this amendment changes the statute to reflect how members of the Military Department are currently being paid. Thank you, Mr. President. [LB550]

PRESIDENT SHEEHY: Thank you, Senator Avery. You have heard the opening of AM1539 to LB550. Members requesting to speak: Senator Fischer, you're recognized. [LB550]

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SENATOR FISCHER: Thank you, Mr. President and members. I'm confused about this bill and its purpose. From Senator Avery's opening comments and comparing those to the committee statement, I guess I have a number of questions and would ask if Senator Avery would yield. [LB550]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Fischer? [LB550]

SENATOR AVERY: Yes, I will. [LB550]

SENATOR FISCHER: Thank you, Senator Avery. In your comments you said that currently if the National Guard is on active duty status they have these police duties, these peace officer duties. Did I hear that correctly? [LB550]

SENATOR AVERY: I think you did. [LB550]

SENATOR FISCHER: In the committee statement, we're...and in the bill as I read it, we're extending peace officer duties to National Guard members. What's the difference in that? If they have... [LB550]

SENATOR AVERY: I can... [LB550]

SENATOR FISCHER: If they have these duties now when they are called out and when they're put on active duty by the Governor for a natural disaster or whatever, what are we trying to accomplish in this bill and are we extending those peace officer duties? I realize that they're needed in certain circumstances, but I do have questions on giving peace officer duties to military personnel or expanding those duties. Could you help me out there? [LB550]

SENATOR AVERY: Let me explain that. What it does, it removes the automatic peace officer authority that currently is granted to National Guard when they're serving in a state active duty status, and it requires the Governor to specifically authorize that authority. It's not a huge change. [LB550]

SENATOR FISCHER: So in effect you're putting more of a limit on it. [LB550]

SENATOR AVERY: Right. [LB550]

SENATOR FISCHER: It wouldn't just be automatic. It would take action by the Governor in order for this to happen. [LB550]

SENATOR AVERY: Correct. [LB550]

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SENATOR FISCHER: Thank you. That helps tremendously. I think you also said that this is to take advantage of possible federal money that might be coming in the future. Could you explain that a little more? [LB550]

SENATOR AVERY: Well, what it does, it authorizes the Governor to extend peace officer authority to Guard members serving in state active duty and National Guard Title 32 duty status for emergency responses. And that's where the federal money comes in is with Title 32. That's...Title 32 is a federal statute. [LB550]

SENATOR FISCHER: In order...I would question why we would extend this to National Guard members from other states. Is that a common practice? Is that necessary to get possible federal funds or is that...? [LB550]

SENATOR AVERY: It's my understanding that it does. The thing is that if you get in an acute national or state emergency, natural disaster or something of that sort, and you need assistance from other states, the way it is currently structured, the Governor would not have the authority to empower those... [LB550]

PRESIDENT SHEEHY: One minute. [LB550]

SENATOR AVERY: ...visiting Guardsmen with peacekeeping authority. He can do this under this bill. [LB550]

SENATOR FISCHER: Is it your intent with this legislation that the Governor would have to specifically give the power to the Nebraska National Guard and also specifically give the peace officer powers to National Guard from other states? [LB550]

SENATOR AVERY: Yes. [LB550]

SENATOR FISCHER: Okay. Thank you. Thank you, Mr. President. [LB550]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Seeing no additional requests to speak, Senator Avery, you're recognized to close on AM1539. [LB550]

SENATOR AVERY: Let me just briefly address what I think Senator Fischer was getting at. And that is, in federal law there is an act called the Posse Comitatus Act, and that act was passed by Congress in 1878 and generally prohibits federal military personnel and units of the National Guard acting under federal authority from acting in a law enforcement capacity. The Military Department here in Nebraska is aware of this and they have specifically tailored this bill so that it is not in violation of the Posse Comitatus Act because it applies to National Guard members who are called up under Title 32, not Title 10. Title 10 is...applies to the Posse Comitatus Act. Under Title 32, the state Governor still exercises some control and, therefore, its members are not acting solely

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with federal authority. That came up...I don't believe it came up in the hearing but it certainly came up in some e-mails I received and that caused us to take a look at it. This is legislation that is important to the Military Department, particularly as it relates to rank where we would be permitting the department to promote some of our most meritorious officers to a higher rank. And it does clarify the authority of the Governor in emergency situations. So I would urge you to vote for the amendment, and then I would also ask you to vote for LB550. Thank you. [LB550]

PRESIDENT SHEEHY: Thank you, Senator Avery. You have heard the closing. The question before the body is on the adoption of AM1539 to LB550. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB550]

CLERK: 41 ayes, 0 nays, Mr. President, on the adoption of Senator Avery's amendment. [LB550]

PRESIDENT SHEEHY: AM1539 is adopted. We will now return to floor debate on LB550. Member requesting to speak, Senator Lautenbaugh, you're recognized. [LB550]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I wonder if Senator Avery would yield to a few questions. [LB550]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Lautenbaugh? [LB550]

SENATOR AVERY: Yes, I will. [LB550]

SENATOR LAUTENBAUGH: Thank you, Senator. And I just want to get a clarification on some of the points here to make sure I understand what we're doing. On the one hand, is there a component of this that has something to do with making it easier to grant promotions for serving National Guard officers in some way? [LB550]

SENATOR AVERY: Yes. [LB550]

SENATOR LAUTENBAUGH: How does that work? [LB550]

SENATOR AVERY: Well, the federal National Guard Bureau currently reads our statutes to limit rank promotions to the rank of lieutenant colonel, that's two...I mean, lieutenant general, that's major general, that would be two stars. And the department believes that we have a number of officers that qualify because of experience brought about by 9/11 and Iraq and Afghanistan where many of our soldiers have served that we have many officers who deserve to advance to those higher ranks. We have to change Nebraska statute before the federal National Guard Bureau will agree to those promotions. [LB550]

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SENATOR LAUTENBAUGH: And, Senator, I'll confess to you, I've never served in the military and I recall that you have and I salute you for that, if I've never said that before, by the way. So we are providing for this as a mechanism to retain officers by allowing them additional promotion, or do we need additional officers in these higher ranks, so which is it? [LB550]

SENATOR AVERY: I think it's a little of both. If you have...if you're stuck at the rank of colonel, for example, and you have...and to use a military term, you've punched your ticket, you've hit all the right command posts, you've served in combat, you have a meritorious record of service and you feel that you deserve the promotion and for some reason the law doesn't permit you to make that next rank, you might be tempted to take retirement. Whereas, if you get the rank, you might stay longer, and some of our best National Guard members are in that situation. [LB550]

SENATOR LAUTENBAUGH: Now the other prong of it, as I understand it, deals with police powers basically granted to...peace officer authority, I should say, granted to, at the Governor's discretion, troops from other states that would be serving here in the time of some sort of a crisis in Nebraska? [LB550]

SENATOR AVERY: That's correct. [LB550]

SENATOR LAUTENBAUGH: And is that currently lacking under the law? [LB550]

SENATOR AVERY: It is. [LB550]

SENATOR LAUTENBAUGH: Do other states extend that courtesy or that ability to our officers if we happen to be serving in another state? [LB550]

SENATOR AVERY: I think they do. I would have to check on that, Senator, to verify it, but I think they do. [LB550]

SENATOR LAUTENBAUGH: Was there a specific reason to bring this bill now? Is there...at someone's request or someone's behest that we're doing this? [LB550]

SENATOR AVERY: Yes, this was brought to me by the Adjutant General and with the backing of the Military Department. [LB550]

SENATOR LAUTENBAUGH: Okay. Thank you, Senator. [LB550]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Hadley, you're recognized. [LB550]

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SENATOR HADLEY: Mr. President, members of the body, would Senator Avery yield to a question? [LB550]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Hadley? [LB550]

SENATOR AVERY: Of course. [LB550]

SENATOR HADLEY: Senator Avery, I just...looking at it quickly. Would we ever have a situation where the Adjutant General would be a lieutenant colonel and the people reporting to him be a colonel? [LB550]

SENATOR AVERY: Yes. In fact, I believe the current Adjutant General might have initially been a lieutenant colonel when he was appointed and that is permitted; under this act it would still be permitted, but there is a mechanism for quick promotion. He has...he now is a one-star general. [LB550]

SENATOR HADLEY: I guess my concern would be that if a person isn't promoted, would we ever have a long-term situation where the Adjutant General is a lieutenant colonel? [LB550]

SENATOR AVERY: No. [LB550]

SENATOR HADLEY: And the people reporting to him are colonels? [LB550]

SENATOR AVERY: No. [LB550]

SENATOR HADLEY: Okay. [LB550]

SENATOR AVERY: In fact, our previous Adjutant General, Tim Kadavy, I think started out as a colonel and when he left after about one year, he was a two-star general. [LB550]

SENATOR HADLEY: Okay. Thank you, Mr. President. [LB550]

PRESIDENT SHEEHY: Thank you, Senator Hadley. Senator Lautenbaugh, you're recognized. Senator Lautenbaugh waives. Members requesting to speak on LB550: we have Senator Fulton, followed by Senator Carlson, and Senator Nelson. Senator Fulton, you're recognized. [LB550]

SENATOR FULTON: Thank you, Mr. President, members of the body. Would Senator Avery yield? [LB550]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Fulton? [LB550]

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SENATOR AVERY: I will. [LB550]

SENATOR FULTON: Senator, this is my line of questioning is really to gain some knowledge here and to maybe educate the rest of us. I...the, let's see, page 5 of the bill, Section 6 is what's causing me some concern. Right now, this sounds like we're providing the executive branch with quite a bit of authority to utilize our military in the conducting of, you know, peace officer duties. So that much is true. Does this authority exist now? [LB550]

SENATOR AVERY: Actually, it's a revision of that authority, as I indicated in my dialog with Senator Fischer. The way the law is now, there is an automatic authority conferred...peace officer authority conferred on the National Guard when they are serving in a state active duty status. This will actually put that authority at the discretion of the Governor, so it will not be automatic. The Governor will decide whether or not to authorize peace officer authority. [LB550]

SENATOR FULTON: Okay. Where does that...who has the authority to authorize that now? [LB550]

SENATOR AVERY: It's automatic. [LB550]

SENATOR FULTON: Well, but someone...is it a federal prerogative then, someone at the federal level declares a state of emergency in Nebraska, and then this function that we're contemplating here in Section 6 automatically is invoked? Is that what happens now? [LB550]

SENATOR AVERY: The Governor declares a state of emergency and once the state of emergency has been declared, then the authority, peace officer authority, is immediately and automatically conferred upon the National Guard. [LB550]

SENATOR FULTON: Okay. [LB550]

SENATOR AVERY: But what this will do is when the Governor declares a state emergency, then he also has the discretion to authorize peace officer authority. [LB550]

SENATOR FULTON: Okay. So without your bill, this happens automatically; with your bill, then there is a second step that's required. [LB550]

SENATOR AVERY: Right. [LB550]

SENATOR FULTON: Okay. Thank you, Senator Avery. I just...these types of things are...you know, we're not in a state of emergency right now but when that time comes,

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these are the types of things that a deliberative body that acts on the part of the people should scrutinize a little bit. And so I think this clears it up. This presents another layer of transparency on the executive branch when a state of emergency has been declared. So with that, I think I can support the bill. Thank you, Senator Avery. Thank you, Mr. President. [LB550]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Carlson, you're recognized. [LB550]

SENATOR CARLSON: Mr. President, members of the Legislature, I'm going to comment on something and then I do have a question for Senator Avery because I think it relates to what I'm going to say. All of us, I believe, are aware of the tragic earthquake that occurred in the country of Haiti. And as we begin to look at pictures that come from Haiti, and what's happened there, it's made me be very, very thankful for where I live, for my country, and for the state in which I live, for the things that are in place in our country to address disasters like this. I'm thankful for Homeland Security. I'm thankful for our military. I'm thankful for our National Guard. And we have different agencies that spring into action when a disaster like this occurs. Haiti apparently doesn't have that. And we are so blessed in where we live and how we experience life that we're insulated, I think, from these disasters that occur in other countries like it could never occur here. If an earthquake occurs in Haiti, it could very well occur in Nebraska. We are not in a good financial position right now. We all understand that. And yet when these kinds of things happen to people in other parts of the world, I really think that the people in Nebraska would have a desire to step forward on a voluntary basis and provide aid to people in need. And I don't know if this is going to come about as a request. If it does, I hope that we're all sensitive to that and are willing to jump in and help. Now with that, I do have a question of Senator Avery, if he would yield. [LB550]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Carlson? [LB550]

SENATOR AVERY: I will. [LB550]

SENATOR CARLSON: Senator Avery, you've heard my comments about the fact that we could have an earthquake or a natural disaster in Nebraska. Is the part of this bill that would empower National Guard troops from other states to act as peace officers be another step in the direction of a positive thing that should we have such a natural disaster? [LB550]

SENATOR AVERY: Yes. I'm going to express my own opinion here. I think that to give the Governor the authority to empower borrowed or guest National Guard members with a peacekeeping or peace officer authority, I think that is a good thing. Now, the Governor is a prudent man. He is not going to extend this authority willy-nilly and without careful consideration of the need. And I believe that if we are in a situation

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where we have to have deployments from other states in our state, we ought to be able to give the Governor the authority to empower them with the same kind of powers our own National Guard members would have in the same situation. [LB550]

SENATOR CARLSON: Okay. Thank you, Senator Avery. And the second question then is, according to what I see here, this bill has no fiscal impact. [LB550]

SENATOR AVERY: That is correct. And that gives me an opportunity to clarify one thing. With respect to promotions, the promotions that we're talking about here are promotions that are determined by the federal National Guard Bureau. And they've interpreted our law to restrict those promotions. And if we pass this, then that will open up opportunities for our officers who deserve promotions to a higher rank by the federal National Guard Bureau. And all of that money, all of the cost of that, will be borne by the federal government, not the state. [LB550]

SENATOR CARLSON: Okay. Thank you, Senator Avery, for those answers and I do support LB550. Thank you. [LB550]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Nelson, you're recognized. [LB550]

SENATOR NELSON: Thank you, Mr. President and members of the body. I'd like to ask a few questions of Senator Avery, if he will yield. [LB550]

PRESIDENT SHEEHY: Senator Avery, would you yield to Senator Nelson? [LB550]

SENATOR AVERY: I will. [LB550]

SENATOR NELSON: Good morning, Senator. I'm looking at the point paper that was handed out at this time and about the fifth bullet point there it says, "Current rank requirements for positions in the Nebraska Guard will not be affected." Could you explain that? If we're expanding here and more general officers can be appointed, why would the current rank requirements not be affected? [LB550]

SENATOR AVERY: We're talking about current rank requirements at the state level, I believe, here. They would not be affected. What would be affected would be those ranks that are awarded at the federal level to our National Guard officers. [LB550]

SENATOR NELSON: Well, are those ranks just temporary ranks then in times of a national emergency or are they...? [LB550]

SENATOR AVERY: No, they would be permanent. [LB550]

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SENATOR NELSON: Well, then could you explain to me the difference between the federal level and the Nebraska level? I'm a little confused about this. [LB550]

SENATOR AVERY: You know, that's an essay question. (Laugh) I can tell you that the...you have...the National Guard, as I understand it, exists at two levels. You have the National Guard that is a federal operation. You have the National Guard that's a state operation. There are instances where the President can use the state National Guard in collaboration with Governors mobilizing them for duty, perhaps say, in Iraq. You also have a National Guard Bureau at the federal level. And I'm not exactly sure if their mission is similar to or exactly the same as the state mission. I don't think it is but I do know that you do have those two levels, and they each have their own rules about rank. [LB550]

SENATOR NELSON: So we're only talking about the federal National Guard level here then. [LB550]

SENATOR AVERY: Well, what we're trying to do is open up the federal level for Nebraska National Guard officers to achieve advancement in rank. [LB550]

SENATOR NELSON: All right. Do you happen to know in the Nebraska Guard about how many of the personnel have officer rank that you know, lieutenant colonel, colonel, of that sort, are they able to go any higher than colonel here on the local level on the Nebraska...? [LB550]

SENATOR AVERY: I have no idea how many this would affect. [LB550]

SENATOR NELSON: Um-hum. [LB550]

SENATOR AVERY: That's a good question. I'm sure that there are military personnel present in the lobby who could probably answer that. If you'd like, I can get the answer. [LB550]

SENATOR NELSON: In...right at the bottom of the page there's a statement there: Generally when responding to an emergency within their home state, members of the National Guard serve in a state active duty status under the state's jurisdiction and they're paid with state funds. Are we affecting state funds in any way with what we're doing here with LB550? [LB550]

SENATOR AVERY: No, we're affecting...if any of our officers should be promoted to a higher rank, it would be under the federal program and federal funds would be used. [LB550]

SENATOR NELSON: Under the federal program and paid with federal funds. [LB550]

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SENATOR AVERY: Yes. [LB550]

SENATOR NELSON: And would that be true of the retirement that they get then? There's no state support there, it all comes from federal funds? [LB550]

SENATOR AVERY: I think so. [LB550]

SENATOR NELSON: All right. Thank you, Senator, for answering those questions. Thank you, Mr. President. [LB550]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Seeing no additional requests to speak, Senator Avery, you're recognized to close on LB550. [LB550]

SENATOR AVERY: Thank you, Mr. President. I want to congratulate my colleagues for penetrating questions. It's a rough way to start the day. You could have thrown me a few softballs. But I do think that the questions clarified the bill and I appreciate them. It is important legislation. The Military Department is convinced that we need this. I think they're right. The committee thought they were right by an 8 to 0 vote, so I urge you to advance LB550 as amended. Thank you, Mr. President. [LB550]

PRESIDENT SHEEHY: Thank you, Senator Avery. You have heard the closing. The question before the body is on the advancement of LB550. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB550]

CLERK: 42 ayes, 0 nays, Mr. President, on the advancement of LB550. [LB550]

PRESIDENT SHEEHY: LB550 advances. We will now proceed to LB297. [LB550 LB297]

CLERK: LB297 by Senator Dubas. (Read title.) Introduced on January 15 of last year, referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. There are committee amendments, Mr. President. (AM424, Legislative Journal page 675, First Session, 2009.) [LB297]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Dubas, you're recognized to open on LB297. [LB297]

SENATOR DUBAS: Good morning, Mr. President and members of the body. LB297 creates the Nebraska Beginning Farmer and Small Business Linked Deposit Loan Act. First off, I'd like to publicly thank the Farm Bureau, the Nebraska bankers, the community bankers, and the State Treasurer's Office. We all worked very, very closely together on this program in crafting it and putting it together and the amendments. I

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really do appreciate their support and their help and their coming into the committee hearings and testifying in support. When I introduced this bill last year, I was very excited about it. I thought it was a great idea. I still think it's a great idea. I think this bill has a lot of potential to do great things, especially in the rural areas of our state. I know we're under a little bit of a different environment now with the economy, but I think this bill is something that we need to be talking about, we need to be considering the ramifications of this bill, and I feel that they're positive ramifications. So as I said, we create this Beginning Farmer and Small Business Linked Deposit Loan Act. It provides a method to assist beginning farmers and ranchers and small businesses in need of financing in rural communities. Under the program, the State Treasurer would deposit state capital investment funds into local participating banks. The legislation earmarks \$10 million of capital investment funding. The original bill talks about \$20 million, but the committee amendment will address this decrease in the funding. And then the amendment will go on to talk about this funding being put into place incrementally until we meet that \$10 million. If you'd like some more information on the Nebraska Investment Council and the Operating Investment Pool, their Web site is nic.ne.gov and it will give you a pie chart with some information about how that money comes to be. There are a variety of requirements in the legislation that beginning farmers and ranchers and businesses would have to meet in order to be eligible. They may use this loan exclusively for inventory, rent, utilities, insurance, taxes, equipment purchases, rental or lease renovations, repairs, maintenance of equipment and facilities, or the purchase of land and buildings. Beginning farmers must have a net worth of less than \$500,000, provide the majority of the day-to-day physical labor and management of his or her farming or livestock operation, and have adequate farming or livestock production experience, or demonstrate a knowledge of that type of farming or livestock production, and a profit potential and a need for assistance. A small business would qualify if they were headquartered in Nebraska, employed fewer than ten employees, and do business in rural areas that are deemed to be economically depressed. With the recent downturn in the economy, it's evident that increased capital to small businesses and beginning farmers is needed now more than ever. States such as Kansas, Missouri, Indiana, and Oklahoma have successful programs such as this in place. In fact, we modeled much of this...we're looking at what Indiana and Kansas has in place. And in visiting with some of the bankers about is this program still relevant in light of the economy and the interest rates, etcetera, etcetera, they said it's even more relevant now because of the very heavy and burdensome regulatory environment that bankers are operating under now which makes it even more difficult for them to reach out a lending hand to those farmers and ranchers and small businesses who are trying to get their feet on the ground and get their business up and running. I certainly do understand the challenge in economic times that we are facing. That's becoming more and more clear each day that we meet here on the floor of the Legislature. But I also firmly believe that there's a fine line that we walk in how do we control our spending while continuing to find ways to stimulate our economy? We must continually look for ways to expand that revenue base to help us further weather these challenging times. For those of you

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who attended the banquet a couple of nights ago, the speaker talked about what is...what's the best and most productive way to spark the economy in rural areas. And he said the best way is to invest in human capital. This bill takes money from our investment pool and then turns around and reinvests it in our own state citizens. I can think of no better way to try to improve our revenue picture than to spend money in our hardworking citizens of Nebraska. We know that new job growth has great potential in the areas of entrepreneurs and independent business owners and that's exactly what this bill targets. I understand that we are taking dollars and diverting them another direction. And, again, I don't want to underestimate the challenges that we are facing as a state. But I think it's vitally important that we pay attention to where we're spending our dollars and that we're putting those dollars in a place that we are going to get the best rate of return. And, again, I can think of no better investment than in the young farmers and ranchers and small business operators in our state. There are...as I said, there are still a lot of stringent requirements in order to be approved for this loan, but for the bankers and for these qualifying applicants, it's just another tool in the toolbox. I think it's important that we have this discussion on the floor of the Legislature. These loans are guaranteed by the lending institution so the state's investment would be secured. We have to find a way to shepherd our way through this economic maze of responsible spending decisions, all the while growing our revenue base. Now, I know if you pull up on your computer the fiscal note, I'm sure your eyes are going to pop a little bit at what that original note looked like. But that fiscal note is based on the green copy when we were talking about a \$20 million program. That number of what we should put into the program actually came from my work with the State Treasurer's Office and what kind of money they have available to do these types of investments. So we kind of settled on the \$20 million, but after we had the hearing and further discussion with those who worked with me such as Farm Bureau, and the bankers, decided to even ratchet that down further to the \$10 million. And then put that into place, as I said, in a stairstep fashion until we reach that...every two years until we reach that \$10 million cap. So, I mean, that fiscal note will come down considerably in size and we're looking at the first year only being a half a year. I believe we're looking at 10 percent of that aggregate for the first two years. So, again, that fiscal note that you're going to look at on your computer is nowhere close to what the dollars that we're really talking about to being able to fully implement this program. So I'm looking forward to a very healthy debate, willing to answer your questions. If I can't get your questions answered, the State Treasurer would be able to help fill in the gaps, also the Farm Bureau and the bankers, again, who have worked very closely with me on this, and would ask the body's careful consideration of LB297. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Dubas. You've heard the opening of LB297. As was stated, there is a Banking, Commerce and Insurance Committee amendment. Senator Pahls, you're recognized to open on AM424. [LB297]

SENATOR PAHLS: Thank you, Mr. President, members of the body. The committee

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amendments to LB297 would do a couple of things. First, they would reduce the fiscal impact of the bill. Second, they would sunset the issuance of new linked deposit loans after ten years. The committee amendments reflect the concerns the committee members had about the fiscal impact the bill would have on the General Fund. Now, the green copy of the bill would provide that the total amount of linked deposit loans shall not exceed \$20 million. The committee amendments would reduce the total aggregate amount of linked deposit loans from \$20 million to \$2 million for fiscal years 2009-10 to 2010-11. And this would increase the aggregate amount by \$2 million every two years until it reached \$10 million for the fiscal years 2017 and 2018. Next, the committee amendments would provide that no new loans should be made after June 30, 2019. You may have noted that I have referred to fiscal years 2009-10 in my description of the committee amendments. As you would expect, the committee amendments were drafted with the expectation that LB297 would have passed during the 2009 Session, which it did not, it's carried over. Senator Dubas has filed an amendment to the committee amendments to simply move all of the dates back by one year. The Dubas amendment would not change the substance of the bill. It only...it would only put the bill into proper form so its merits can be discussed. I would urge you to adopt Dubas' amendments when it comes up and, finally, I urge you to adopt the committee amendments. Thank you. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Pahls. You have heard the opening of AM424. The floor is now open for discussion. Member requesting to speak. Mr. Clerk, do you have an amendment to the committee amendment? [LB297]

CLERK: Mr. President, Senator Dubas would move to amend the committee amendment with AM1538. (Legislative Journal page 196.) [LB297]

PRESIDENT SHEEHY: Senator Dubas, you're recognized to open on AM1538. [LB297]

SENATOR DUBAS: Thank you, Mr. President. As Senator Pahls mentioned, my amendment simply moves all of the dates up. If we would have discussed this bill last year and if it would have advanced, we would have used those dates in the bill. But since we are moving into this next session, we need to just move all those years up a year. So I would appreciate the body's support of this amendment. Thank you. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Dubas. You've heard the opening of AM1538, amendment to committee amendment AM424. Member requesting to speak: Senator Mello, you're recognized. [LB297]

SENATOR MELLO: Mr. President, members of the Legislature, would Senator Dubas yield to a question? [LB297]

PRESIDENT SHEEHY: Senator Dubas, would you yield to Senator Mello? [LB297]

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SENATOR DUBAS: Certainly, I will. [LB297]

SENATOR MELLO: Senator Dubas, I'm looking at LB297's fiscal note and it says it has a General Fund expenditure of about \$47,000 dealing and concerning with the State Treasurer's Office. Can you shed any light on any conversations that you might have had with the Treasurer's Office regarding how they came up with this fiscal note? [LB297]

SENATOR DUBAS: Thank you very much, Senator Mello. Why am I not surprised that you would ask this question, but thank you for asking. And yes, I did have some discussions earlier with the Treasurer's Office as to, you know, what...where does your figure come from and why do you feel you need that. They felt that they would need to spend money on advertising and promoting of the program and also felt they would need a half-time position in order to work this program. And I did kind of challenge their thinking as far as the advertising and promotion component of this. We've got the bankers who are directly connected with those people that this bill would serve. We've got all of the farm organizations. I think they would be able to handle the promotion and the advertising of this program without any direct cost to the state. As far as additional personnel to handle the program, in talking with other states about the workload, especially in the first years until the program really gets a solid footing and up and running, there is not a lot of workload. You know, basically the State Treasurer's Office would be working right now in just getting the proper forms and the type of paperwork that would be needed in working with the banks into place. I wouldn't see an excessive workload, especially in the first few years for the State Treasurer's Office. Hopefully, if this program is implemented and gets off the ground and up and running, and their workload increases, we could probably come back then and look at their need for hiring additional personnel. But right now, I, too, challenge the Treasurer's Office as to whether they would truly need that amount of money. [LB297]

SENATOR MELLO: Thank you, Senator Dubas. Members of the Legislature, reading through the fiscal note of LB297, while I'm no expert in regards to a lot of the issues that go in the Banking, Commerce and Insurance Committee, I just raise the concern a little bit about this fiscal note knowing that at least from the comment Senator Dubas just made regarding the cost would be associated with advertising where I think everyone knows that is an expendable budget item, so to speak, when regarding to agencies and new programs or existing programs. So I had some questions regarding the fiscal note on LB297 because I think the Treasurer's Office might have thrown up a number that really doesn't fit what LB297 needs to be done. And after a little more clarification from Senator Dubas on the involvement of the banking community around the state to help cover the cost of this bill, I feel a lot more comfortable about it. Thanks so much. [LB297]

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PRESIDENT SHEEHY: Thank you, Senator Mello. Members requesting to speak on AM1538, we have Senator Utter followed by Senator Langemeier. Senator Utter, you're recognized. [LB297]

SENATOR UTTER: Thank you, Mr. President and good morning, colleagues. I wonder if Senator Dubas would yield to a question. [LB297]

PRESIDENT SHEEHY: Senator Dubas, would you yield to Senator Utter? [LB297]

SENATOR DUBAS: I certainly will. [LB297]

SENATOR UTTER: Senator Dubas, under this program, the state is not in any way guaranteeing the repayment of these loans. Is that right? [LB297]

SENATOR DUBAS: That's correct. [LB297]

SENATOR UTTER: Thank you, Senator Dubas. I just want to point out to the body that in my background, of course, as a banker, and in our bank we actively seek and solicit bankable loans to young farmers of any description as long as they meet the requirements of being a bankable loan. At this point in time in our state, in our area, and I'm sure in the entire state, the banking system is very liquid and is actively seeking loans, good loans of any kind, whether to young farmers, young businessmen, whoever. And so I guess I do have a question today as to the...as to whether, at this point in time when there is not a shortage of lendable funds for making loans to farmers--and I would point out to you that in our bank roughly 75 percent of our loans are made to agriculture or agriculturally related businesses--that maybe this is a program that at...in a time of a shortage of funds may be an absolutely good program to get our young farmers started. But I think the bankers today are doing an excellent job of trying to get and keep young farmers involved in farming and in their local communities. We recognize how important that is. I'm not sure we need the stimulus of the linked deposit program to encourage us to do that at this stage of the game. Thank you, Mr. President. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Utter. Senator Langemeier, you're recognized. [LB297]

SENATOR LANGEMEIER: Mr. President, members of the body, I'm going to talk a little bit about LB297, the bill itself. I supported it as well as the committee amendments in the committee. I think as we look to the age of our farming population in Nebraska, it continues to increase. I think we need to do everything we can to help keep a third of our economy in agriculture strong and viable, and that's bringing youth back to agriculture. However, as you look at the fiscal note and the times that we're currently in, and relating back to Senator Utter's comments on the liquidity of our banks in Nebraska, we all know that maybe now is not the time to move LB297 forward. However, I think it's

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a great idea. I want to commend Senator Dubas for bringing it. I think we need to continue to look at ways that we can keep agriculture and youth involved and will continue to look at that as long as I'm in the Legislature. Over the next two years, hopefully our financial position will change, but I think we have to keep the focus on returning youth back to agriculture. As I, in the real estate business, I talk to a lot of landowners, farmers that are thinking about retiring. Their biggest concern is, who's going to farm it, and how we're going to get that worked out to bring someone back to farm it. And so I think it's pretty crucial that we continue to look at this. And with that, I'm not going to support the advancement of LB297 due to our financial conditions of the state today. But I think it's a great idea and look forward to having this same discussion into the future. Thank you, Mr. President. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Senator Rogert, you're recognized. [LB297]

SENATOR ROGERT: Thank you, Mr. President. I wonder if Senator Dubas would yield to a couple of questions, please. [LB297]

PRESIDENT SHEEHY: Senator Dubas, would you yield to Senator Rogert? [LB297]

SENATOR DUBAS: Certainly. [LB297]

SENATOR ROGERT: Senator Dubas, can you reiterate what these funds can be used for on these particular loans that we're guaranteeing? [LB297]

SENATOR DUBAS: These funds may be used for...let me get my notes out here, these funds may be used for inventory, rent, utilities, insurance, taxes, equipment purchases, rental or lease renovations, repairs, maintenance of equipment and facilities, or the purchase of land and buildings. [LB297]

SENATOR ROGERT: Thank you, Senator Dubas. I wondered if Senator Langemeier would yield to a couple of questions, please. [LB297]

PRESIDENT SHEEHY: Senator Langemeier, would you yield to Senator Rogert? [LB297]

SENATOR LANGEMEIER: I would. [LB297]

SENATOR ROGERT: Thank you, Senator Langemeier. What do you do as your profession most of the time on the side? [LB297]

SENATOR LANGEMEIER: I'm a real estate broker. [LB297]

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SENATOR ROBERT: And are you an official appraiser as well? [LB297]

SENATOR LANGEMEIER: I'm also a certified general appraiser. [LB297]

SENATOR ROBERT: Can you give me a couple examples of what land costs are in your area today for dryland or irrigated farming? [LB297]

SENATOR LANGEMEIER: We've seen significant increases in land in our area. In 2006 I sold 80 acres to an individual for \$1,750 an acre. We turned around and reauctoned that...a death in the family. We reauctoned that piece of ground, brought \$4,150 per acre just three weeks ago. [LB297]

SENATOR ROBERT: And you also do some farm management as well, don't you? [LB297]

SENATOR LANGEMEIER: I do. [LB297]

SENATOR ROBERT: And I think when you do that you guys purchase some seed and some inputs. Give me approximation per acre on an irrigated piece of ground what you're going to spend for input costs. [LB297]

SENATOR LANGEMEIER: You know, we buy a lot of that depending on what chemical remedies or route we go and depending on the seed you'll spend anywhere from \$300 to \$450 an acre. [LB297]

SENATOR ROBERT: Have you seen that increased in the last, say, five years? [LB297]

SENATOR LANGEMEIER: Considerably. [LB297]

SENATOR ROBERT: Thank you, Senator Langemeier. And I don't see Senator Pankonin on the floor but I think if he was here he would probably tell us that equipment costs have probably doubled in the past ten years for most of the pieces of equipment that roll across the farms, to the tune of many things costing over \$100,000 apiece, many items costing over \$200,000 or \$300,000 apiece. In my particular area that I live in, and I work in agricultural too, there are some young farmers coming back. There are nowhere near enough young farmers coming back. The size of the average farmer has doubled in the past ten years from probably 700, 800 acres per farm to well over 1,500, specifically because the young folks are not coming back. And that in turn drives the costs up because the big guys get bigger and bigger and bigger. And for somebody my age or somebody younger than me to come back and start farming would probably take a minimum of a \$1 million investment if I didn't have some help from family or friends. And I do believe that Senator Utter is correct in saying that there are lots of liquid loans out there and lots of people aggressively seeking, but there are also a lot of folks who

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don't have the equity, they don't have the credit, they don't have the ability to go enter into some of these very, very high dollar loans. And with lease payments as what they are per year now and equipment costs and fuel costs and fertilizer and seed, it just becomes a huge burden on somebody such as me that would look on the balance sheet and the projected expenses on what you would need to get started and it would immediately turn me away. I do support LB297 and the amendments, especially the one that pushes it back a year just so we can reevaluate our financial situation when we get to there. But I ask for your support in helping young farmers come back to Nebraska. Thank you. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Rogert. Seeing no additional requests to speak, Senator Dubas, you're recognized to close on AM1538 to AM424. [LB297]

SENATOR DUBAS: I would just ask the body's consideration of passing this amendment. Again, it just moves the dates up so that we can put it into place when we're ready to go. Thank you. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Dubas. You've heard the closing. The question before the body is on the adoption of AM1538 to AM424. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB297]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Dubas' amendment to the committee amendments. [LB297]

PRESIDENT SHEEHY: AM1538 is adopted. We will now return to floor discussion of the Banking, Commerce and Insurance Committee amendment, AM424. Senator Hansen, you're recognized. [LB297]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I, too, want to rise in support of young farmers in this state and we do need...there certainly is a need to keep young farmers and ranchers coming back to the state. It's a tough business right now, it really is. I think the row crop folks are doing fair this year. Anybody involved in cattle, hogs, dairy are not doing well at all. We're all going to the bank. We're all looking for those types of loans. My father was not a beginning farmer. I wasn't a beginning farmer. My son is not a beginning farmer. We've been in business for 131 years. So we're not going to be able to take advantage of this, but the expansion that we have in our existing farms and ranches are where the young people need to be. Whether they can get funding at the bank like Senator Utter says now, maybe that's...you know, that's certainly a good time to (laugh) to get in debt as a young farmer. But it's a tough business, it really is. I support the idea of the bill but when we get down to the final vote, I can't support the expenditure at this time. But at the same time, you know, we do need those young farmers, and I appreciate Senator Dubas bringing this bill. Thank you, Mr. President. [LB297]

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PRESIDENT SHEEHY: Thank you, Senator Hansen. Additional members requesting to speak on AM424: Senator Stuthman, followed by Senator Fulton. Senator Stuthman, you're recognized. [LB297]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I truly support this bill of Senator Dubas' and I think this is just one of the tools that young farmers can utilize, you know, to hopefully continue to stay with the operations of their family, their parents, or try to start a farming operation. It is almost impossible for a young person coming out of school to just start an operation. It's very, very much labor intensive and very much money intense. And I truly think that, you know, having this available, you know, for the young farmers to hopefully utilize this, just gives them another tool, you know, to hopefully get enough financing to run an operation. It takes a large operation to generate enough money to keep the family going, keep the operation going, and we truly need to have more of these young farmers take an interest and have the opportunity and the ability to stay on a farm or come to a farm. I think it's a time right now where we've had real earthshaking, money-losing livestock industry projects. It's not been good, especially for the hog producers. They have lost all the money that they've made for many, many, many years. And very few will ever be getting into that operation. I think there will be some that will be interested in the grain farming operation of it, but that will turn around mainly because of the cost to raise a crop. The input costs are drastic. So I think this is a tool that we need to use and I truly support it. It just shows, and hopefully that we can get this passed, that we are concerned about, you know, what is going to be happening in years to come with the ag industry, our number one industry in the state of Nebraska. And we need to keep the young people there because it isn't long, the young ones are middle-aged, and then they're elderly too. So with that, I truly support this bill. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Sullivan, you're recognized. [LB297]

SENATOR SULLIVAN: Thank you very much, Mr. President. First of all, I'd like to applaud Senator Dubas for her efforts in presenting this bill and bringing attention to the concern of the need for more beginning farmers. We should never lose sight of this issue as we attempt to craft a vision for what we want rural Nebraska to look like going forward in the next decades. And that's why whatever the outcome of this particular piece of legislation, I think the legislative Planning Committee, of which I'm a member, is going to be looking at agriculture as one of our subject matter areas and looking at the need to have more young people get into this industry. I remind you of...well, and maybe this hasn't been brought forward on the floor, but one of the statistics that was brought to the committee told us what the median sized community is here in Nebraska and that's a community of only 320 people. We have many small towns that are continuing to get smaller. And to a certain extent, one of the reasons is because our

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farms are getting larger and we have fewer and fewer people returning to the farm and also to rural communities. So we need to find ways to, as I said, craft that vision of what we want rural Nebraska to look like. I think this particular piece of legislation addresses that. I don't intend to talk out of both sides of my mouth because earlier in the week I talked about how concerned I was about our state budget and how we need to look very carefully at anything that creates a fiscal disadvantage for this state. I'm not sure that this particular piece of legislation creates a disadvantage but it raises some concerns. So I don't know exactly what the future of this particular piece of legislation is, but I want us never to lose sight of what we want rural Nebraska to look like and farmers and ranchers play a pivotal role in that. Thank you. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Next we have Senator Campbell, followed by Senator White. Senator Campbell, you're recognized. [LB297]

SENATOR CAMPBELL: Thank you, Mr. President and good morning, colleagues. My comments will be brief. I, too, want to support LB297 and appreciate Senator Dubas bringing this forward. As important is the agricultural component, she also has included small business, which I very much appreciate. I did have a chance to talk to her off the mike and I thought it was worthwhile sharing our comment. And that was, between General File and Select, if we could get a new fiscal note, and perhaps find some alternative ways to cover those expenses so that truly the bill could go forward without an impact, why, several of us, I'm sure, would be glad to come forward and help the Senator seek some alternative funding. Thank you, Mr. President. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator White, you're recognized. [LB297]

SENATOR WHITE: Thank you, Mr. Lieutenant Governor. I want to rise in support of this bill even in our fiscal situation and I want to tie it to a number of key issues that we often forget. First, one of the biggest crises we face economically, the reason we're having a fiscal crisis in our own budget is because there is insufficient funds being lent by banks to beginning businesses. The banks are not lending even though they're making record profits. And the biggest legitimate criticism of the stimulus package passed by Congress and signed by the President is that it gave money to banks but they have not in turn put that money into productive use in the economy. And until that problem is solved, our fiscal crisis here in the state will not be solved. So this is one of those gut-check times on whether we mean that we will help businesses who pay the tax bills on our largest industry in the state. That's one point. Second point: The average age of a farmer today is 58, 58. If we do not remove impediments for young people to get into this industry, we will kill our largest industry simply by old age. That's the second reality, unpleasant, but true. Third, we have been anything but friendly in this state to the one sector in agriculture that has a chance of growing. That sector of agriculture are small, organic farm-to-market entities. We eliminated farms under 20 acres in greenbelt areas from

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getting greenbelt assistance. Where you have a chance of being a young person who wants to get into agriculture is in the value-added areas of organic foods particularly, but whether it's chicken, whether it's other small animals for meat consumption or it's organic vegetables, where you sell them near the market where your farm is, we have effectively, and it was over my objection in Revenue Committee and then passed, we effectively eliminated the real estate property tax advantage even if they could demonstrate that that was really their primary occupation was trying to build a small farm-to-market enterprise. The question I have for this body is, are you...do you mean it or are you mouthing the words that we're going to try to protect our biggest industry that pays a huge percentage of our actual tax revenues? Because our actions have been completely inconsistent thus far as a body with what we voice about how we really care about farmers, how we really care about that industry. We haven't lived up to what we say. So I am supporting this in tough economic times and I'm supporting it because if we're going to keep a healthy ag economy, we cannot do it with a rapidly aging population operating it. Thank you, Mr. President. [LB297]

PRESIDENT SHEEHY: Thank you, Senator White. Next we have Senator Dierks, followed by Senator Wallman. Senator Dierks, you're recognized. [LB297]

SENATOR DIERKS: Thank you, Mr. President and members of the Legislature. I'm hearing a lot of comments that's just made me want to say a few things myself about what's happened in rural Nebraska. I think that Senator Hansen mentioned something about the row crop farmers doing pretty well, and I think they probably have. But I can tell you from personal experience that the people that raise livestock have not done well. The livestock producers in this state have been hurting and it doesn't matter whether you're a beginning farmer or an old-timer, if you've been in the business for 130 years like Senator Hansen's family. And that's about how long our family has been in the business. I hate to admit this but I haven't paid any income tax since I got out of the veterinary practice. And all...the only other income I have is from the ranch. It's just not there, folks. We have huge problems in this state with our biggest industry. We can't seem to get the returns for our investment and we have to have something to keep our communities viable and alive. In my district I've seen, I think, six schools now that have been viable, functional, Class II schools have to co-op with other schools to do athletics because they don't have enough kids there to have a quality team. And it's going to go on. It's going to happen again next year. We have to come up with something that's going to help the livestock industry in this state. If you want me to give you some personal opinions, why, just come talk to me sometime. But I would like to encourage people to support this legislation. I think that Senator Dubas is right on track. We need to have this sort of thing available for these beginning...not only for beginning farmers but even the young businesses. And I will support it and I wish you would too. Thank you. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Dierks. Senator Wallman, you're

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recognized. [LB297]

SENATOR WALLMAN: Good morning, Mr. President, members of the Legislature. Yes, it is tough to support spending money in tough times but who supports a lot of these school districts and that? Like Senator Dierks said, it's the farmers. It's the property tax. And sometimes we hurt ourselves by bidding up land and paying too much, maybe, like Senator Langemeier says how real estate has shot up. But the fact remains, agricultural land pays a lot of taxes to schools and county roads, county governments. And I guess that's okay, but we have to find a different mean when we're in tough economic times. When if I feed cattle or if I feed hogs and lose money, I still have to pay that property tax. Why is that right? If I'm a businessman, if I'm a banker, if I'm a lawyer, if I'm a doctor, if I lose money, I don't pay any tax. But if I lose money, I still pay tax. So I think we have to find a different formula here and thank Senator Dubas for bringing this forth, and I would hope you would support this. Thank you. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Wightman, you're recognized. [LB297]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I would certainly like to support this bill and may well support it, but the fiscal note does give me some pain. And in that regard I would like to ask some questions of Senator Dubas, if she would yield. [LB297]

PRESIDENT SHEEHY: Senator Dubas, would you yield to Senator Wightman? [LB297]

SENATOR DUBAS: Yes, I will. [LB297]

SENATOR WIGHTMAN: Thank you. Senator Dubas, I know you discussed the fiscal note when you originally introduced the bill and you may have discussed that since then. But I visited with you off the microphone. You've indicated that the fiscal note...you indicated to me the fiscal note was based upon, originally, a \$20 million amount that was on the green copy of the bill. Is that correct? [LB297]

SENATOR DUBAS: That's correct. [LB297]

SENATOR WIGHTMAN: And now under the committee amendment, AM424, that would be reduced to \$2 million in the first year. Is that correct? [LB297]

SENATOR DUBAS: That's correct. The program would be put into place in increments of \$2 million until it reaches that cap of \$10 million. [LB297]

SENATOR WIGHTMAN: So it would raise incrementally \$2 million a year until it reached \$20 million? [LB297]

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SENATOR DUBAS: That's correct. And actually the first year would only be a half of a year. [LB297]

SENATOR WIGHTMAN: And I know you indicated that even the expenditure it may be fairly close, but you think it's probably, maybe, overstated and hope to get a new fiscal note based upon the committee amendment changes. Is that correct? [LB297]

SENATOR DUBAS: That's correct. If we could get this bill advanced to Select File, I would be able to provide you with much more accurate numbers as to the exact cost of this program. That original fiscal note, you know, it's an eye-popper but it is not reflective of where we're at with the amendment and what we could do. [LB297]

SENATOR WIGHTMAN: So originally there was to be a loss of interest on \$20 million. Is that correct? Is that where the \$574,000 loss of revenues came from? [LB297]

SENATOR DUBAS: Correct. That's on the \$20 million figure. [LB297]

SENATOR WIGHTMAN: So that could be as low as maybe one-tenth or something close to 10 percent of that figure. [LB297]

SENATOR DUBAS: That's the number I've been told so far. [LB297]

SENATOR WIGHTMAN: Thank you, Senator Dubas. I guess with that information I would be willing to vote to pass this on to Select File. I'm still not sure where I will be until I see that fiscal note, the revised fiscal note. But, I guess, at this point I certainly agree if Senator White's figure was 58 is the average age of farmers, I think it's going up all the time. I think I remember a few years ago when that was 51 or 52 and that wasn't very many years ago. So it continues to go up. Very few young people are going into farming. Certainly, Senator Rogert and Senator Langemeier added a lot of information to our store of knowledge with regard to what it costs to get involved even in a small way in farming. So I do think we need to look at some measures that will help younger people get involved, come back, and be able to engage in farming. So I would urge the support of the body at least to pass this on to Select File, get a revised fiscal note, and then make up our minds when we've seen that revised fiscal note. Thank you, Mr. President. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Harms, you're recognized. [LB297]

SENATOR HARMS: Thank you, Mr. President, colleagues. I rise in a manner that bothers me just a little bit because I'm really caught between the fiscal note and what this is going to do. And Senator Dubas and I had some conversations yesterday that I

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believe that this type of program may be our only hope for rural Nebraska and the agricultural area. The amount of money that would be available, to be quite frank, I don't think is enough to really make a big difference at this point, but I think that eventually we would get there. And I think that our economy where I live is truly driven by agriculture and the fact that so many of our farmers are becoming more mature, older, I see that the agriculture is going to be in trouble even further. And there's going to have to be some way that this state is going to have to be able to stimulate the family farm, stimulate the opportunity for young people to get involved in agriculture. If I was a young person and wanted to start in ag, there would be no hope for me unless my parents or my grandparents were already in the business of agriculture. There just isn't. It's just too expensive. But we can't let this concept slip away from us. And I think this concept is important as a public policy to have this discussion today. And even though I have major concerns about the fiscal note, I do believe that we should at least get this bill to Select File. I agree with Senator Wightman, this would give us an opportunity to look at, look at really what this fiscal note is truly going to be and what the impact might be and it gives Senator Dubas a little chance to work through this. But I do think that it's our only hope in some areas in agriculture and we have to find a solution to that. As we go through this planning process and as we start to begin to zero in on the ag issue, those are going to be tough issues for us because that's an issue that's in trouble. That's an area that we need to address in this state if we're going to have strong ag, that we've got to have strong programs, and we've got to have young people wanting to get into those and having the opportunity to have that experience. So based on that, Senator Dubas, I'm going to...I will support this in the General File but I would really hope that we can take a better look at it in Select File and have a lot more accurate figures before I make up my mind. So thank you very much for introducing this. Thank you, Mr. President. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Harms. Members requesting to speak on AM424 to LB297: we have Senator Christensen, followed by Senator Langemeier. Senator Christensen, you're recognized. [LB297]

SENATOR CHRISTENSEN: Thank you, Mr. President. You know, I just...I stand up as many other people have. It's a very difficult time to stand up and say, you know, we need to move a bill forward that has an A bill. But I challenge you to think about, you've heard a lot of industry people tell you before, the people that advertise or make plans to go forward in difficult times are the ones that come out of it quickly. I believe that example falls in here on this bill. We've got to make an investment into our aging number one industry. So what I'm asking you to do right now is, we've had Senator Dubas talk about new A bill coming, looking to go forward. Let's advance this one more round. Let's get some more facts on this so that we can study this a little bit further before we make our final decisions. Because, again, them decisions, it's easy to cut out advertising for a businessman. I've run a business. But sometimes that's the beginning to the end. Same way here. If we don't invest in our young farmers and we keep letting

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it get bigger and bigger and older and older, we set ourselves up to have the large conglomerates that don't have the best interest that we'd like to see with the young people back on the farm taking care of business. I'm asking you right now, let's move this one more round, take another look at it, let's get some more information, and make our final decision. Thank you. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Senator Langemeier, you're recognized. [LB297]

SENATOR LANGEMEIER: Mr. President, members of the body, in light of the discussion, in my previous statement said I think this is a good idea and, due to our fiscal times, it questions whether the advancement is correct. If Senator Dubas, in talking to the Chairman of the Banking Committee, Senator Pahls, if he thinks the fiscal note can come down I'm willing to advance this bill to Select File and see what the fiscal note does. And with that, I would ask the body to do the same. Thank you, Mr. President. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Senator Fulton, you're recognized. [LB297]

SENATOR FULTON: Thank you, Mr. President. Senator Langemeier, ditto. There's something to point out though. What's going on right now is we see a bill with good intention and we suspect will have a good result and would be good policy; it, however, costs money, money which we don't have. This is the type of thing that's going on all across the state, families, businesses, things that we want to have or probably need to have but don't have money to pay for. Senator Langemeier said what I was going to say. This is...the fiscal note is going to get adjusted. We have three rounds to get at this. I do have concern that this doesn't have an A bill attached to it so, as it goes forward, we'll have to...we'll have to keep an eye on how much the fiscal note actually is instead of having an A bill that would be held at the end of this process. But to that end, I am going to go ahead and move this thing forward. I did not plan on voting for this, because of the fiscal note. And that being said, I...this was actually a bill of mine, this policy, in my second year here, I think is what it was. I sponsored the beginning farmer tax credit, an expansion of that tax credit. I have families in farming back home. I actually had a constituent here in Lincoln, believe it or not, who asked if we could expand that tax credit. He came from a small town. So this is an important piece of policy. It's just it costs money that we don't have. So in the interest of moving this forward, I think that I will vote for this to Select File with an idea that we're going to get a renewed fiscal note or get another look at that fiscal note, and then we'll have to make decisions after. So thank you, Senator Dubas, for this bill, for this discussion. Thank you, Mr. President. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Additional members requesting to

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Speak to AM424 to LB297: we have Senator Carlson, followed by Senator Dubas, Senator Lautenbaugh, Senator Langemeier, and Senator Utter. Senator Carlson, you're recognized. [LB297]

SENATOR CARLSON: Mr. President and members of the Legislature, it's been said but it doesn't hurt to say it again, that agriculture is our number one industry and, as legislators, we should never forget that. I would like to address Senator Dubas, if she would yield for a question. [LB297]

PRESIDENT SHEEHY: Senator Dubas, would you yield to Senator Carlson? [LB297]

SENATOR DUBAS: Yes. [LB297]

SENATOR CARLSON: Senator Dubas, you referred to a speaker that both of us heard the other night, and one of his points was that in rural Nebraska we've got to invest in our entrepreneurs and encourage them to take a risk and move forward. Certainly a beginning farmer, if he doesn't have family backing, is an entrepreneur, and so I think it fits this category. Now, some of the other things that the speaker talked about I didn't agree with at all. I don't think that we can tax our way out of a recession. But to try and make a point here, mechanically, tell me how money that goes into this bill, this program, how would that work? It's money that would be loaned to a beginning farmer. The beginning farmer repays that loan unless he goes down, and then we need to think about being able, if he's got a good plan to begin with, maybe helping him again. After he repays that loan, where does the money go? [LB297]

SENATOR DUBAS: The money would come from the State Treasurer's Office and go to the local bank. The bank would make that loan to the farmer or to the small business. That loan would be repaid back to the bank. The bank would give that money back to the State Treasurer's Office. That loan is guaranteed by the bank so the state coffers are not at risk. [LB297]

SENATOR CARLSON: Now I think I understand that, but when that money gets back into the state coffer, can it go out again to another beginning farmer? [LB297]

SENATOR DUBAS: Yeah. There will be that cap on how much money is available each year. We've got the \$2 million, so that's how much money would be available for loan, for banks to ask for money. And then, when that money comes back, it would come back to the Operating Investment Pool, but then would again go back into the program. And we have a...there's no new loans that can be made after 2019, I believe the date is, so. [LB297]

SENATOR CARLSON: But conceptually, that same amount of money could be turned over several times between now and 2019 for several beginning farmers. [LB297]

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SENATOR DUBAS: That would be my understanding, yes. Yes, it would have the chance to multiply. [LB297]

SENATOR CARLSON: You're agreeing with that. [LB297]

SENATOR DUBAS: Yes. [LB297]

SENATOR CARLSON: Okay. And I think that's a little bit different than money that goes out to community and builds a building or builds something else and that's it. This money is repaid. It comes back. It can be used again and again. And I think we perhaps look at that a little bit differently in these tough times, but I'm in support of moving this bill forward to Select File. Thank you, Senator Dubas. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Dubas, you're recognized. [LB297]

SENATOR DUBAS: I would really like to thank the members of the body for this discussion this morning and their support for this bill, understanding really how difficult this decision is, in light of the economic times. Believe me, I struggled with it myself, weighing out what were the benefits versus the risk. We spent a lot of time this morning talking about how this would help beginning farmers and ranchers, but this bill would also help small businesses on main street Nebraska, helping them get a storefront or buying the necessary equipment to get themselves up and running and contribute. You know, when we think about business development, we think about big companies that bring lots of employees into our state, but in rural Nebraska, in our small communities, if we get a business that has two or three employees, that's a big deal for us, and they contribute in a massive way to our local economy, which in turn contributes to our state economy. As has been stated, that if we approve this amendment and then move this bill on to Select File, we will get a new fiscal note that will reflect much more accurately the actual impact to the state and what those dollars would be. And as I stated in my opening, when I worked with the Treasurer's Office, you know, they told me at that time they had about \$47 million available for these kinds of programs. We ratcheted it down to \$20 million originally and then further with the amendment down to \$10 million because we felt, well, this would give the program a chance to get up and running and see if it really does do what we want it to do and serves the population that we want it to serve. Hopefully, if it's successful, we can continue to expand it and build on it. Other states are using it. They're telling us that it is...it is successful. There's a maximum loan cap of \$250,000. That would go a long, long way to a small business or a beginning farmer or rancher in getting a herd of cattle or hogs going. That's usually the entry or the gateway for farmers and ranchers to get into the business. Even if you're coming into a family business, it's a challenge. We're bringing our son into our business. It's not easy even with, you know, the capital that we have and trying to get him started and keep

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him going. The bankers have said, again, with the regulatory environment that they're operating under and the additional regulations coming down from the federal level, this would give them another opportunity to help a start-up business or a farmer or a rancher who maybe would be just right there on the edge but the bank didn't feel like they could go forward for...because of the regulations. Senator White talked about the value-added portion for ag producers. We're a value-added producer. We sell our beef and pork products through the Farmer's Market here in Lincoln. It wouldn't take a lot of dollars to get a start-up, value-added business going on a farming operation. The opportunities are there. It's just having that access to capital that seems to kind of stymie especially these younger start-up types of businesses, main street businesses, farmer or rancher. So if this would be something that the bankers have told me would be a very valuable tool for them, young farmers and ranchers. I've worked with Farm Bureau, they came in and testified in support of this who said, we really need this, we really want this program. So I would pledge to continue working on this, seeing if there are other sources of revenue or other ways that we could move this program forward without necessarily a negative impact to the state, and would really appreciate the body's allowing me to have that time to continue working on the program. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Lautenbaugh, you're recognized. [LB297]

SENATOR LAUTENBAUGH: Like to call the question, please, on the amendment. [LB297]

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 on AM424? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB297]

CLERK: 30 ayes, 0 nays, Mr. President, to cease debate. [LB297]

PRESIDENT SHEEHY: Debate does cease. Senator Pahls, you're recognized to close on the Banking, Commerce and Insurance Committee amendment, AM424. [LB297]

SENATOR PAHLS: Thank you, Mr. President. I think by us moving this amendment, this will allow us to have a true picture of what the fiscal impact would be, so I am asking you to, again, move this amendment so we can move the bill forward. But I want to make one comment before we do that. I did like when Senator Dubas talked about small business. The majority of the people stood up and talked about farming and ranching, but this could have an impact on small business. And the reason why I'm saying that is because I came from a small town and my dad was a businessman. So just to give you an idea, just briefly, if less than ten employees in the business and the unemployment rate exceeds the state level, the...there are several attributes in this that would allow these small towns and counties to actually help them in the area of

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business. In so saying, I suggest that we do pass this amendment and the bill. Thank you. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Pahls. You have heard the closing. The question before the body is on the adoption of AM424 to LB297. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB297]

CLERK: 41 ayes, 0 nays on adoption of committee amendments. [LB297]

SENATOR PAHLS: AM424 is adopted. We will now return to floor discussion on LB297. Senator Langemeier, you're recognized. [LB297]

SENATOR LANGEMEIER: Thank you, Mr. President. I'd like to yield my time to Senator Heidemann. [LB297]

PRESIDENT SHEEHY: Senator Heidemann, you're yielded 4 minutes 50 seconds. [LB297]

SENATOR HEIDEMANN: Mr. President, fellow members of the body, thank you, Senator Langemeier. This came up a little bit late for me. I've been watching every bill that has shown a fiscal impact and we didn't pick up on this one because the A bill wasn't there. And I do have some concerns, I'm trying to get myself up to speed on this, if I could engage Senator Dubas in a few questions. [LB297]

PRESIDENT SHEEHY: Senator Dubas, would you yield to Senator Heidemann? [LB297]

SENATOR DUBAS: Yes, I will. [LB297]

SENATOR HEIDEMANN: How...the way I understand it, these funds will be accessed from the General Fund and the only cost will be the revenue loss, the 2 percentage points difference that we would gain in what we would get from this. Is that correct? [LB297]

SENATOR DUBAS: This wouldn't be General Fund dollars. These would be dollars out of the Operating Investment Pool. [LB297]

SENATOR HEIDEMANN: Okay. So actually then there would be no General Fund impact. Has there ever been a program like this ever instituted before in the state of Nebraska, do you know, operating like this? [LB297]

SENATOR DUBAS: To my knowledge, no, but as I said, I worked with the State Treasurer's Office. There are other states that have done this in this fashion, and that's

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kind of where the idea came from. [LB297]

SENATOR HEIDEMANN: Okay. We was just trying...I was trying to get in my head anyway is how it would actually flow. So after...is it 2019 this program would be sunsetted, or it wouldn't be sunsetted, you just couldn't have any more loans after that time? [LB297]

SENATOR DUBAS: No more loans would be able to be extended past that date and then that would give us an opportunity to see does this program go forward or are we done. [LB297]

SENATOR HEIDEMANN: What's the length of the loan? [LB297]

SENATOR DUBAS: I'm not sure that there would be a length of loan in. I mean that would be between the bankers, I guess, and how that loan... [LB297]

SENATOR HEIDEMANN: So we would be out of that part, out of that side of it. [LB297]

SENATOR DUBAS: ...how that loan is (inaudible). Right, the banks...the banks would facilitate the loans. [LB297]

SENATOR HEIDEMANN: So we're almost looking this more as not an expenditure but as an investment? [LB297]

SENATOR DUBAS: Correct, and that's what the Treasurer's Office told me. They have these dollars available to make investments so they would make these dollars available at a lesser rate to the banks, so then the banks, in turn, could make these loans at a lower rate to these... [LB297]

SENATOR HEIDEMANN: Where does the money come from that goes into the Investment Pool? [LB297]

SENATOR DUBAS: The Investment Pool dollars come from...that's money that they take, like, from boards and commissions and things like that, that are extra dollars, apparently, that they're able to invest to generate dollars for the state. [LB297]

SENATOR HEIDEMANN: Or excess money that's sitting in the General Fund? [LB297]

SENATOR DUBAS: Excuse me? [LB297]

SENATOR HEIDEMANN: Or could it be, and I should probably know this but I couldn't say this for sure, would it be excess money that we have sitting in the General Fund that the Investment Council invests for us? [LB297]

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SENATOR DUBAS: It's my understanding, yes, that that's...these are the types of dollars that the Investment Council has to invest in different things to generate monies for the state, yes. [LB297]

SENATOR HEIDEMANN: And there is a cap of \$10 million on it. [LB297]

SENATOR DUBAS: Yes. It would be implemented in increments of \$2 million a year. [LB297]

SENATOR HEIDEMANN: Depending on where these funds come from, which I have to get a handle on, if times do get tight and we're pulling money from everything...place and everywhere that we possibly can, this actually could then have a \$10 million impact of where we could go look. [LB297]

SENATOR DUBAS: That's true. And that's, I guess, again, if we had this opportunity to make sure that we had an accurate fiscal note to give accurate fiscal information based on the amended copy of this bill, we'd be able to determine that. [LB297]

SENATOR HEIDEMANN: Thank you, Senator Dubas. [LB297]

PRESIDENT SHEEHY: One minute. [LB297]

SENATOR HEIDEMANN: I apologize to the body that I wasn't a little bit more up to speed on this. This is something that I knew was out there and something that I would want to get behind 100 percent. I will say, because of the economic times that we're in, because of the fiscal situation that we are in, in the state of Nebraska, right now I have concerns about expanding or starting anything, and I'm not trying to put a damper on this whatsoever, but I will say that I think this is something that we need to definitely look at. This will have an impact to what we do here. But once again, this would probably be a great program, but we just need to be cautious and have a little bit of concern of what we are doing. Thank you. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Members requesting to speak to LB297: we have Senator Utter, followed by Senator Schilz, Senator Heidemann, Senator Haar. Senator Utter, you're recognized. [LB297]

SENATOR UTTER: Thank you, Mr. President, colleagues. I just want to take a minute to clarify the position that I've taken in this matter, and I want to assure the body that I think being against a young farmer would be like being against God, motherhood, and apple pie, and that is not my position. But I do want to reiterate that we are looking at this at a time of...when the banking system, at least in Nebraska, at least in rural Nebraska, I think is very liquid, and so there may be minimal demand for this. And I

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congratulate Senator Dubas for the innovative thinking and an innovative tool to help young farmers. It does become another tool in the toolbox for them in addition to Farm Service Agency loans, in addition to NIFA loans, and in addition, by the way, let me just say, to the bank's own zeal to make loans to beginning farmers. When I was a younger man and in college, I'll never forget a statement that a professor of mine, an ag economics professor of mine, made when he said that there's only one way for a young guy to get started in farming these days and that's by the womb, tomb, or altar. And down through the years that's largely been true, maybe not quite as true today as it has been in other times but there isn't any of us in this state that don't want to keep agriculture viable and to keep the agricultural community strong. I'm going to let this thing flow to General...to Select File. I want to take a look at the revised fiscal note. But I would caution you that this may be, in this environment at least and which can change rather "fastly," in this environment at least it may be a program that won't get very much use, in the beginning at least. Thank you. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Utter. Senator Schilz, you're recognized. [LB297]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Obviously, in times like these when we have economic situations that we're dealing with now, it's awfully easy to look at something that costs money and say, oh, that's too much, we can't do that, we need to cut wherever we can. At some point we have to look at what actually drives our economy, what actually drives the revenue that the state gets, and that's money that comes from the private sector and is built through the private sector. And if we don't have growth within our state, if we don't have growth within the private sector and we don't have growth within agriculture for Nebraska, we start running into some problems. And I think that what we've seen over the last couple of years is that agriculture in the state of Nebraska has provided us a very substantial buffer to some of what the rest of the country is dealing with. So as we look at these things, and I can't disagree, it's our job to question. You know, will this do what we intend it to do? Will this create that? And that's the question that we have to ask. So I would urge everyone to go ahead and pass it through this first round, take a good, hard, close look at it, talk to folks around to see if there is a need for this and to see if that need and the application of this will put more money in the state's coffers. And that's the decision that we have to make. And the other thing is, beyond that, if we can provide jobs and provide private citizens with a livelihood that they want to do and bring people into an industry that could use an influx of young blood, these are the types of programs that we need to be looking at. Thank you very much. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Schilz. Members requesting to speak to LB297, we have Senator Haar, followed by Senator Lautenbaugh, Senator White, and Senator Langemeier. Senator Haar, you're recognized. [LB297]

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SENATOR HAAR: Mr. President, members of the body, I rise in support of LB297. And we all know that times are tough and the budget is tight and we're all going to look very carefully at any A bills, but just briefly, I think in this time when we have an economic downturn, what we have to...if we're talking about spending, we have to talk about spending wisely and we have to talk about spending in ways that will grow our economy and not just draw back into our shell. And so I think this is really important and I support it. Thank you very much. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Lautenbaugh, you're recognized. [LB297]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I appreciate Senator Haar's brevity and I'm going to try to emulate it. This bill is brought with the best of intentions and I think I've been designated a friend of agriculture once, despite where I'm from, you know, it works. But that said, I don't want Lavon and...I'm sorry, Senator Heidemann and Senator Utter to always be the ones, the lone voices chiming in--I don't know if there's two of them if they can be lone voices--but iceberg dead ahead. We are looking at increasingly worse times as far as our budget goes, even if a recovery starts tomorrow, and I believe that the choices we made over the special session are going to be nothing like what we're going to have to look at next year and maybe even this session, depending on how things play out. And so I'll be the third voice. There may have been more. I apologize if I didn't give credit where credit is due. But we have to decide between needs and wants, and everybody wants more farmers and no one wants tuberculosis and these are all good ideas, but it may not be there. It just may not be there. And that vote against a lot of proposals doesn't mean you don't like the proposal, it just means the money isn't there. And I don't think we can be cognizant of that enough, that harder times and harder choices are coming for us, and I don't even think we started to scratch the surface yet. Thank you, Mr. President. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator White, you're recognized. Senator White waives. Senator Langemeier, you're recognized. [LB297]

SENATOR LANGEMEIER: Question. [LB297]

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 on LB297? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB297]

CLERK: 28 ayes, 0 nays, Mr. President, on the motion to cease debate. [LB297]

PRESIDENT SHEEHY: The motion to cease debate passes. Senator Dubas, you're recognized to close on LB297. [LB297]

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SENATOR DUBAS: Thank you very much, Mr. Lieutenant Governor. I would really like to thank the members of the body for the comments that they made this morning and recognizing how difficult of a decision that this is. It was very hard for me to decide whether I should move forward with this bill or not, in light of the economic challenges that we face. But it was important for us to have this discussion, and it's very encouraging for me to see really where the heart of this body lies and that you recognize the importance of agriculture and what small business does to support the economy of the state. And so, you know, again, while we are faced with very many difficult decisions ahead of us, I appreciate the support of the concept and how you understand just what agriculture does contribute to the state. I've had a visit with Senator Heidemann. I'm very willing to sit down with him and the Treasurer's Office and the other vested parties to actually get some of the questions answered that have been asked this morning in much more detail. It's very important, when we are making our voting decisions, that we have the most up-to-date and the most accurate information in front of us as we're able to have because that's what determines our decisions. And unfortunately, you know, with the amendment and, you know, not being able to get that very detailed and accurate information to you until the amendment is adopted and then the bill passes, if you advance this bill to Select File, I will be able to get that information for you. As I said, I'll sit down with Senator Heidemann so we do fully understand just what the ramifications could be to our General Fund, to our revenue stream. I'll sit down with the Treasurer's Office again, helping me so that I can help you understand just exactly how these investment dollars work for us. As I stated in my opening, I can't think of any better place to invest our dollars than to actually invest them in the citizens of our state and in those young farmers and ranchers and business owners and entrepreneurs that just maybe need this little extra boost up to get their business off and running and to really become contributors to our revenue stream and the ability to boost that revenue stream. So again, I certainly do understand the dilemma that you have in making your decision about this vote. I commit myself to getting you much more accurate information should we be able to have this debate on Select File, and would certainly honor and understand your vote. After you have that accurate information, if you don't feel you can move forward, I certainly would understand that. But would appreciate the body giving me the opportunity to at least continue to work on this a little bit more so that we can give you the best information possible. Appreciate your support for LB297. [LB297]

PRESIDENT SHEEHY: Thank you, Senator Dubas. You have heard the closing. The question before the body is on the advancement of LB297. Senator White, you have a request? [LB297]

SENATOR WHITE: Record vote, please. [LB297]

PRESIDENT SHEEHY: Thank you. Senator White has requested a record vote. Again,

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the question before the body is on the advancement of LB297. All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB297]

CLERK: (Record vote read, Legislative Journal pages 200-201.) 34 ayes, 2 nays, Mr. President, on the advancement of the bill. [LB297]

PRESIDENT SHEEHY: LB297 advances. Mr. Clerk, do you have introduction of new bills or items for the record? [LB297]

CLERK: I do, Mr. President. Thank you. (Read LB919-928 by title for the first time.) Mr. President, new resolutions: Senator Mello offers LR288, that will be laid over; and LR289CA is a constitutional amendment proposal by Senator McCoy amending Article I, Section 31 of the state constitution. In addition to those items, Mr. President, hearing notices from the Revenue Committee, from the Judiciary Committee, and from the Government Committee, all signed by the respective Chairs. Enrollment and Review reports they've examined and reviewed LB682 and recommend it be placed on Select File, LB683, LB684, LB261, LB522. That's all that I have, Mr. President. (Legislative Journal pages 201-207.) [LB919 LB920 LB921 LB922 LB923 LB924 LB925 LB926 LB927 LB928 LR288 LR289CA LB682 LB683 LB684 LB261 LB522]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now proceed to LB205. [LB205]

CLERK: LB205 is a bill originally introduced by Senator Nordquist. (Read title.) Bill was introduced on January 9 last year, at that time referred to the Retirement Committee, advanced to General File. There are committee amendments, Mr. President. (AM689, Legislative Journal page 744, First Session, 2009.) [LB205]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Nordquist, you're recognized to open on LB205. [LB205]

SENATOR NORDQUIST: Thank you, Mr. President and members. As introduced, LB205 would require continuing education for public pension board members who oversee municipality pensions, fire and police pensions around the state. The bill was unanimously advanced from committee with an amendment that Senator Pankonin will talk about which limits the scope of the bill just to pension board members in metropolitan-class cities, meaning Omaha, and primary-class cities, meaning Lincoln. Specifically, these pension board members would be required to obtain six hours of training in the management and operations of the pension systems, in actuarial analysis, and in employee benefits. That would...the committee amendment, I don't want to steal Senator Pankonin's thunder, but that would be rolled back to every two years as opposed to every year in the bill. And then they would be required to obtain ethics training every four years. Members would be reimbursed for their expenses out of the pension itself, which is a standard that we have with our NPERS Board here in

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Nebraska for the state retirement plans. The world of investments and pension management is growing complex, sometimes seemingly by the day, certainly after the roller coaster ride we've seen in the markets over the last year. Many times these decisions must be based on complex assumptions on investment returns, inflation rates, average retiree life span. The educational training is necessary not only to help board members make these decisions but to ensure that pension boards can be informed, competent in the oversight of their fund. Without this level of sophistication, we will see problems continue in our state that eventually will lead to shortfalls in plans, if they haven't already, and will be passed on to Nebraska taxpayers. Aside from the educational training, the ethics piece I think is critical. We've seen problems in cities such as Chicago, Philadelphia, and Milwaukee. States of Ohio, Illinois, and California have all had major conflicts of interest issues arise and that...some of those pieces, the need for training and everything is highlighted in a article I sent around from GOVERNING magazine that was...it's about a year old now that shows nationally we're facing in all of our public pensions a \$3 trillion shortfall in public pensions. States have taken action. Ohio, Louisiana, Missouri, Maryland have all enacted similar legislation requiring this of pension plans. Again, we limited the scope just to our two largest cities and their pension plans. Just for those of you that aren't aware, we are facing a major problem in Omaha, who brought me the bill. Specifically, Omaha City Councilman Chuck Sigerson brought this legislation to us. The Omaha plan has about \$300 million...the fire and police plan in Omaha has about \$300 million in assets right now and it needs another \$500 million in assets just to meet current obligations. It's eventually going to be \$30 million a year that the taxpayers of Omaha are going to have to contribute. I contend that with this legislation and with the required training keeping our board members well-informed, well-educated on the changing dynamics of public pensions will ensure sustainability and will help avoid deep pitfalls like this in the future. I would encourage your support of LB205 and the committee amendment. Thank you, Mr. President. [LB205]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. You've heard the opening to LB205. As was noted, there is a Nebraska Retirement Systems Committee amendment, AM689. Senator Pankonin, you're recognized to open. [LB205]

SENATOR PANKONIN: Thank you, Mr. President. As Senator Nordquist has mentioned, he introduced this bill at the request of an Omaha City Councilman after some experiences the city of Omaha had in their retirement plans, and I think the committee did its work in limiting the scope of this idea from the standpoint of we didn't want small communities that maybe have three or four people in a defined contribution 401-type plan to be affected by the educational things because it's so much simpler and not as complex as the city of Omaha and Lincoln's plans. So I think that was one move that helped. So if you kind of go through the committee amendment, the first part strikes Sections 3 through 5 of the bill, so education training requirements in the management of these public employee retirement pension systems, actuarial analysis, and/or

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employee benefits would only apply to pension boards in metropolitan and primary-class cities. As Senator Nordquist has said, that would be Omaha and Lincoln. Secondly, it deletes some of the hours of ethical training every four years, and the mandate for annual six-hour educational training in retirement issues is reduced to six hours every other year in even-numbered years. And, number three, it would require a three-fifths majority vote of the board to approve reimbursement of board members' expenses related to training. So it's not like somebody can just say, I want to go to this meeting wherever and get reimbursed. The governing body has to have a three-fifths majority to approve folks going on to training. So with that, I'll answer any questions anyone might have, but I think the amendment makes the bill limited in scope and more to the intent of what the committee and Senator Nordquist wanted to accomplish. Thank you. [LB205]

PRESIDENT SHEEHY: Thank you, Senator Pankonin. You've heard the opening of AM689 to LB205. Members requesting to speak are Senator Hadley, followed by Senator Lautenbaugh. Senator Hadley, you're recognized. [LB205]

SENATOR HADLEY: Mr. President, members of the body, would Senator Nordquist yield to a question? [LB205]

PRESIDENT SHEEHY: Senator Nordquist, would you yield to Senator Hadley? [LB205]

SENATOR NORDQUIST: Certainly. [LB205]

SENATOR HADLEY: Senator Nordquist, why do we need a state law on this if it's going to apply to Lincoln and Omaha? Could not their city councils just basically pass an ordinance in Omaha and Lincoln that requires their pension boards to get the required training? [LB205]

SENATOR NORDQUIST: They do have optional training right now and I believe that Councilman Sigerson in Omaha strongly felt that we need a state law requiring this because eventually it gets around to the taxpayers; puts our cities, our two biggest cities certainly, Omaha and Lincoln, in jeopardy, slows down the economic engine there. So it eventually gets back to the state so that's why I think the Omaha City Council and Councilman Sigerson brought that to us. [LB205]

SENATOR HADLEY: Okay. Thank you, Senator Nordquist. I guess I just have a concern of we're passing legislation for Lincoln and Omaha and I just wondered...my concern is, is this proper legislation for the state to handle or is this proper legislation for the city of Omaha and the city of Lincoln? And secondly, I guess I have concern, if it's a problem in Lincoln and Omaha, I don't know, can it be a problem in Kearney, can it be a problem in Grand Island, can it be a problem in Scottsbluff? It seems to me that if we're going to delve into this, why do we limit it to two cities? Senator Nordquist, would you

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yield to another question? [LB205]

SENATOR NORDQUIST: Sure. [LB205]

SENATOR HADLEY: I guess why not expand it to other cities who might have similar type of pensions? [LB205]

SENATOR NORDQUIST: Well, as Omaha brought the legislation that would have expanded to everybody, they thought it was good public policy. There was some resistance from the League of Municipalities. They didn't want to see it that expanded for the reasons Senator Pankonin mentioned. It could on smaller plans, travel by their board members could be limited or could be a burden on...a significant burden on smaller plans. So that's why we had a brief discussion with some folks in Lincoln last year and they had indicated it wouldn't be a problem for them as well. So I mean that's kind of the reason we limited it to that. [LB205]

SENATOR HADLEY: Okay. [LB205]

SENATOR NORDQUIST: Because the smaller the plan, the more...you know, if you start using some assets for the purposes of obtaining this education, it could have a negative impact on the plan. [LB205]

SENATOR HADLEY: One last question, Senator Nordquist. I guess I also have a concern. Six hours every two years doesn't seem like a lot of... [LB205]

SENATOR NORDQUIST: Yeah. [LB205]

SENATOR HADLEY: ...education to handle complex problems that deal with actuarial estimates and those kinds of things that...investment problems in pension plans. [LB205]

SENATOR NORDQUIST: Um-hum. I would agree. I think it's a minimum floor. It would be probably a one-day conference. Usually these are either put on at universities or by investment firms, actuarial firms that advise the plans. Again, it would just be a very basic over the coverage. I know in Omaha some of the boards require...have professionals helping them and some of the members themselves are professionals, but for those public members, this would at least give them some basic knowledge. [LB205]

SENATOR HADLEY: Thank you, Senator Nordquist. [LB205]

SENATOR NORDQUIST: Yep. [LB205]

SENATOR HADLEY: I'm going to sit back and listen to the rest of the discussion

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because I just do have a few concerns yet. Thank you, Mr. President. [LB205]

PRESIDENT SHEEHY: Thank you, Senator Hadley. Senator Lautenbaugh, you're recognized. [LB205]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I guess I share some of the concerns of Senator Hadley on this. As I understand what we're doing here, Omaha and Lincoln want us to put in minimum requirements on some sort of training requirements for people that handle their funds? I think they can do that if they choose to. And I don't know, this is not a big thing. This probably isn't a ditch to die in, to harken back to last session, but it is the kind of thing that we're putting in statute and I don't know why. Again, if these are requirements that the city of Omaha and the city of Lincoln want, it seems to me they can make that their requirement for doing business with these entities. I'm not going to belabor the point but I honestly don't follow this and I don't understand why we're involved. Thank you, Mr. President. [LB205]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Members requesting to speak on AM689: Senator Wightman, followed by Senator Loudon, and Senator Christensen. Senator Wightman, you're recognized. [LB205]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. If I could engage in a few questions with Senator Nordquist, if he would yield. [LB205]

PRESIDENT SHEEHY: Senator Nordquist, would you yield to Senator Wightman? [LB205]

SENATOR NORDQUIST: Yes. [LB205]

SENATOR WIGHTMAN: Can you tell me, like cities of...the two cities we're talking about, Omaha and Lincoln, they have a fund manager I assume, do they not? [LB205]

SENATOR NORDQUIST: They have investment consultants that join them on the board, but the board ultimately has the up or down vote to approve both the administration portion of their plans and the investment portion. They have an investment consultant and an actuarial consultant that performs analysis on the plan to ensure they're fully funded or when they're not fully funded (laugh) in the case of Omaha right now. [LB205]

SENATOR WIGHTMAN: Well, I guess I would have to say I do share some of the concerns that Senator Hadley and Senator Lautenbaugh have raised as to why, if it's good, we're limiting it to the two classes of cities and not applying it across the board, and I understand that the League of Municipalities might be part of the reason for that. One of the things that...and the indication is on the agenda that one of the things we're

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looking at primarily is ethics. Is that correct? [LB205]

SENATOR NORDQUIST: That's right, Senator Wightman. There are two components. The bill originally would have applied to everybody and would have required it every year. Committee decided unanimously to scale that back to every two years for the actuarial, financial, and administrative training, they'd have to get six hours every two years, and then every four years they would be required to obtain ethics training. [LB205]

SENATOR WIGHTMAN: And in many ways it seems to me that perhaps the ethics is more important than the others because they are acting probably through a consultant. Again, I don't know whether they're actually handling their own investments and managing their own investments and doing the investments themselves. I'm assuming that a first-class city would not be doing that. They would probably be doing all of theirs through an investment consultant or a fiscal agent. Is that correct? [LB205]

SENATOR NORDQUIST: I would imagine that would be the case for those cities, although a lot of the pension, you know, I haven't looked through all the first-class city pension boards, but I know some of them do have the ability, they make the final decisions, they approve recommendations from consultants, so there is a point of decision there that they have to make. [LB205]

SENATOR WIGHTMAN: In reviewing the information, the handout from Senator Nordquist from GOVERNING magazine, it certainly does raise some concerns, particularly on the ethical considerations. And it indicates that so many of these are employees that are recipients or beneficiaries under the plan and in many instances they've raised the expectant returns far beyond what is likely, and that has created a big problem with regard to the plan being solvent and created some real unfortunate imbalances to where maybe the plan can never get out of problem. So I can certainly see the ethics problems that are involved. On the other hand, could I ask another question? [LB205]

SENATOR NORDQUIST: Yeah. [LB205]

SENATOR WIGHTMAN: How are these boards...are they appointed, they elected, the investment boards? [LB205]

SENATOR NORDQUIST: Yeah. I can speak for Omaha, there's one board, where in the state we're a little different. We have NPERS who handles administration and then the Investment Council which handles the investment of the plans. NPERS sets some benchmarks for the Investment Council to meet. In Omaha, there's one board overseeing, for instance, the police and fire, of which there is one city councilman, either the city's financial director is on there, and then there's a couple other members that are

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elected by the board as a whole. I believe it's a five-member board. [LB205]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Thirty seconds. [LB205]

SENATOR WIGHTMAN: Is the...if you know, is the council member elected by the council? [LB205]

SENATOR NORDQUIST: I believe he's appointed by the council and currently...well, it was Chuck Sigerson who was leading the charge on this. He, unfortunately, had a stroke. I don't know who's fulfilling his capacity now. He's the one that brought the bill to us, because of his expertise. [LB205]

SENATOR WIGHTMAN: Does the mayor then make some of the appointments? [LB205]

SENATOR NORDQUIST: You know, I can get clarification on that. I think that if there's a vacancy at this point, the board selects the replacement. Maybe initially there would be a mayor's appointment or... [LB205]

SPEAKER FLOOD: Time, Senator. [LB205]

SENATOR WIGHTMAN: Thank you, Mr. President. Thank you, Senator. [LB205]

SPEAKER FLOOD: Thank you, Senator Wightman. Senator Louden, you are recognized. [LB205]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I think Senator Nordquist could certainly attest to this, that I was one of the holdouts on advancing this bill out of committee, and my feeling was it was actually an unfunded mandate because when you set it up that those people had to go take these classes, why, someone had to pay for it. And I've seen organizations before where they would be shipped all over the countryside to play golf and take these kind of courses, and I thought it was probably a waste of pension money. So as the committee amendment came out with the three-fourths majority vote of the body that would vote whether or not to pay their expenses, I felt that that took some of the pressure off the unfunded mandate and that was the reason I did vote it out of committee. But as Senator Lautenbaugh has asked, you know, why are we doing this, because actually why don't these pension plans do this themselves if they think it's necessary? And that was my concern, that we are putting some more into statutes that I question is something that they could do themselves. That was the reason I voted it out of committee. I think with the three-fourths majority vote made it a little bit more palatable to go forwards with, but

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that was my position on this deal. But I still feel there is a possibility of an unfunded mandate here. Thank you, Mr. President. [LB205]

SPEAKER FLOOD: Thank you, Senator Louden. Senator Christensen, you are recognized. [LB205]

SENATOR CHRISTENSEN: Thank you, Mr. President. Would Senator Nordquist yield to a question? [LB205]

SENATOR NORDQUIST: I sure will. [LB205]

SPEAKER FLOOD: Senator Nordquist, will you yield to a question? [LB205]

SENATOR NORDQUIST: Yes. [LB205]

SPEAKER FLOOD: Thank you, gentlemen. [LB205]

SENATOR CHRISTENSEN: Senator Nordquist, who's really managing these funds? Are they just some elected people doing this or are we getting professionals? [LB205]

SENATOR NORDQUIST: Well, for instance in Omaha, the police and fire fund, there's...I believe it's a five-member board: the city's financial director, a city councilman, and then three members. I know, for instance, one of the members is a professor at UNO in public administration. He serves on one of the boards. The other ones are sometimes at-large members. Sometimes there are representatives of the groups that serve. For instance, on our state retirement NPERS Board, there are...there's a teacher representative, there's a State Patrol representative, there's a judge representative, and that kind of sometimes gets into the problems where they're seeing it from their vantage point although they do have a fiduciary duty to serve all plan participants and not just their narrow focus. [LB205]

SENATOR CHRISTENSEN: Senator Nordquist, why would these people want to take this on? I've been in the commodity business and people hire me if they don't do their own because they want a professional job done. And if you get professionals outside of their expertise, all of a sudden you're opening yourselves up for (inaudible). I'd understand why they would want training... [LB205]

SENATOR NORDQUIST: Um-hum. [LB205]

SENATOR CHRISTENSEN: ...and need ethics training, but I don't understand why a board like this wouldn't hire a good one. [LB205]

SENATOR NORDQUIST: Well, the boards do have folks advising them, but they

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ultimately have to make the decisions. And I think we have public members of these pension boards because sometimes the public doesn't trust, whether it's the plan members or the actuaries, to always be looking out for the taxpayers' best interests. So I think sometimes we want a voice of the public on there, but those people should also have a base of knowledge, too, so that they represent the view of the public as a whole but yet they're knowledgeable enough to make wise, competent decisions. [LB205]

SENATOR CHRISTENSEN: Senator Nordquist, why wouldn't we be seeking only on-line training? I could do all my tests, I could do basically everything on-line. I didn't have to travel to get it. And to me, we're opening this up for extra high cost that's going to be passed on through the plan, lower results, and I guess I'm concerned with this approach of allowing so many wide expenses. [LB205]

SENATOR NORDQUIST: Well, that's a great point, Senator Christensen, and that's kind of the reason we put in the supermajority. It requires a three-fifths vote of the entire board to allow travel because we're hoping that in their duties as fiduciaries for the plan that three-fifths of the board will say, well, let's do this as economical as possible to get...to allow our members to obtain the training then, and hopefully they will use some of those resources or will use those on-line resources and do it as fiscally responsible as possible. [LB205]

SENATOR CHRISTENSEN: Final question, Senator Nordquist: We've had several people speak on this. Is there any reason why they can't just put these requirements on themselves instead? [LB205]

SENATOR NORDQUIST: Yeah. [LB205]

SENATOR CHRISTENSEN: Why did we need state legislation? [LB205]

SENATOR NORDQUIST: Well, they can. Right now they have optional...I believe Lincoln does it and they're in support of the bill as well. I think we have a state interest, I feel this strongly, that in our two biggest cities and, you know, certainly we always say agriculture is the most important industry and I agree with that, but really two real strong economic engines of this state. And if we... [LB205]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: One minute. [LB205]

SENATOR NORDQUIST: ...we let those cities, their financial situation get to a point where they're having to raise taxes locally and they start slowing down their economic engine, that comes back to our state. So I think the state has a critical tie here that we keep these pension plans healthy so they're not falling on to taxes of businesses in

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Omaha and Lincoln and reducing the economic power of our state. [LB205]

SENATOR CHRISTENSEN: Thank you, Mr. President. [LB205]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Members requesting to speak on AM689 to LB205: Senator Lautenbaugh followed by Senator McCoy. Senator Lautenbaugh, you're recognized. [LB205]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. And I do rise in favor of the amendment which, as I understand it, just brings us down to a requirement for Omaha and Lincoln. And I suppose that's a good thing if you're not Omaha or Lincoln. So I will vote yes on the amendment. But, again, at a very basic level, I think the first thing I ever spoke against here was a bill that I argued did absolutely nothing but we were passing it because it had come up so many years in a row that this do-nothing version was the version that would put it to rest. And I said we do have some sort of an obligation not to put things in statute just so we can stop talking about it, and sometimes it's okay just to vote no. We've demonstrated that. You know, we have a willingness this year to do that it seems like. If this is a problem in Omaha and Lincoln and, you know, we all talk about local control and we're all champions of it except when we aren't, and this is something they can do--clean up your own house. What they're trying to do, in my opinion, is make us the heavy here and make us the ones, oh, you know, we're not putting the requirement on you people who want to do business with us, it's the Legislature stepping in and adding another requirement. I'm not inclined to do that today. If they want the requirement and they're worried about this, then make it a requirement of the people they choose to do business with. But...and I understand this was no one's priority bill and I understand it was thrown in and we're talking about it now because we have nothing else to talk about, but (laugh) that's not a compelling reason to vote yes for me, and it's actually pushing me far the other way. If you want to be self-governing, if you want home rule, we had this discussion...we always have this discussion in state government, I guess. We were talking about mandating something for the State Board of Education to do a few years ago and I finally said if we keep telling you exactly what to do, why do we need you? If we're going to run everything and we're going to mandate everything, what do you do? Why do we need a board? Now I realize the city council in Omaha does a lot more than this but they could do this too. And I'm sorry, I'm just not inclined to take whatever hypothetical heat they would feel for having a policy like this, take that off of them and put it in our statutes. The statute books are thick enough. We need to have a reason to do the things we do. And I'm sorry, but I've heard nothing that justifies this conversation and certainly nothing that justifies a yes vote today on this bill. I just...I can't go there. And I'll yield the rest of my time to Senator McCoy. [LB205]

PRESIDENT SHEEHY: Senator McCoy, you're yielded 2 minutes, and you're next in the queue. [LB205]

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SENATOR McCOY: Thank you, Mr. President and thank you, Senator Lautenbaugh. Would Senator Nordquist yield to a question? [LB205]

PRESIDENT SHEEHY: Senator Nordquist, would you yield to Senator McCoy? [LB205]

SENATOR NORDQUIST: Yes. [LB205]

SENATOR McCOY: Senator Nordquist, I guess a simple question: Can you tell me the proponents of this legislation; namely, Councilman Sigerson, can you tell me what his reason was, why this was something he wanted to address at the state level versus handling this on the council level? [LB205]

SENATOR NORDQUIST: Yeah. Well, as you may know, Councilman Sigerson is really the expert on Omaha pensions. He's the city councilman that serves on these boards in Omaha so he knows firsthand. He's worked hard to develop a plan to try to bring Omaha out of the situation that they're in, and he contends that, you know, we have education as serving with some of his members, helping them become more educated on the financial and the actuarial and the administrative portions of the plan will help, but the reason he wanted state level... [LB205]

PRESIDENT SHEEHY: One minute. [LB205]

SENATOR NORDQUIST: ...he believes, like I said earlier, that this is becoming such a drag on Omaha and it's going to lead to, you know, we're going to have to see more property taxes or something, unfortunately. It's becoming such a drag that eventually that's going to slow down our state's economy as well. And that's why he said he came to us and said it needs to be a state issue and state discussion. [LB205]

SENATOR McCOY: Thank you, Senator Nordquist. I guess I would tend to concur with my colleague, Senator Lautenbaugh, that now with the committee amendment, where we're really just talking about Omaha and Lincoln, to me it would go back to, if we're just talking about them, perhaps this is an issue best handled by those respective metropolitan areas versus, since we really are just talking about them now, versus us putting this in state statute. The committee amendment would seem to me to go back to the issue of perhaps this is best to be handled on the local level rather than on a state level. Perhaps you might be able... [LB205]

PRESIDENT SHEEHY: Senator, you're now on your time. [LB205]

SENATOR McCOY: Thank you, Mr. President. Perhaps you'd like to very briefly respond to that, Senator Nordquist. [LB205]

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SENATOR NORDQUIST: Yeah. Like I said before, I agree completely with the points that Councilman Sigerson brought before the committee and that the whole Omaha City Council supported unanimously back in '08, and that is this is a state issue because of the impact that this can have on the economy of the state. [LB205]

SENATOR McCOY: Well, thank you, Senator Nordquist. I would support the amendment but I'm not in support of the bill because I really honestly believe that with this amendment this goes back to being a local issue and, therefore, should be handled at the local level. I'm a firm believer in local control and I believe that this can be handled best on the local level, and I appreciate Senator Nordquist addressing that. But quite honestly, I believe with this amendment there may be no need for this bill and no need to put this in statute. Thank you, Mr. President. [LB205]

PRESIDENT SHEEHY: Thank you, Senator McCoy. Senator Stuthman, you're recognized. [LB205]

SENATOR STUTHMAN: Question. [LB205]

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 on AM689? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB205]

CLERK: 28 ayes, 0 nays to cease debate on the committee amendments, Mr. President. [LB205]

PRESIDENT SHEEHY: The motion to cease debate passes. Senator Pankonin, you're recognized to close on the Nebraska Retirement System amendment, AM689. [LB205]

SENATOR PANKONIN: I appreciate the discussion and I think the amendment is very worthwhile to limit the scope of this legislation in case it does pass. I think the comments that came up today are valid. People have to make a decision about whether they think it's a worthwhile thing to have the state involved, but these plans are large in size. They do affect the financial situations in the cities involved, as Senator Nordquist has talked about, so I think there's some validity there as well. But please vote for the amendment and thank you. [LB205]

PRESIDENT SHEEHY: Thank you, Senator Pankonin. You have heard the closing. The question before the body is on the adoption of AM689 to LB205. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB205]

CLERK: 32 ayes, 4 nays on adoption of committee amendments. [LB205]

PRESIDENT SHEEHY: AM689 is adopted. Mr. Clerk, you have an amendment on your

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desk. [LB205]

CLERK: Senator Nordquist would move to amend his bill with AM1550. (Legislative Journal page 207.) [LB205]

PRESIDENT SHEEHY: Senator Nordquist, you're recognized to open on AM1550. [LB205]

SENATOR NORDQUIST: Thank you, Mr. President, members. This amendment simply changes the date from January 1, 2010, every two years thereafter, to January 1, 2012, and every two years thereafter. [LB205]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. You have heard the opening of AM1550 to LB205. Member requesting to speak, Senator Lautenbaugh, you're recognized. [LB205]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I missed this amendment so I'm not going to speak to it. I'll just speak during it, I guess. I voted against the prior amendment that I said I supported because someone once told me never try to improve a bad bill or you make it your own, and I've fallen for that a time or two before someone told me that. So the last amendment did improve the bill but I'm not responsible for it and so I can continue to point out that now the bill is virtually meaningless because we have made it apply only to Omaha and Lincoln and they can do this themselves. They can choose who they contract with. And I feel like we're being told, you know, stop us before we contract again. Well, they manage millions of dollars. They're sophisticated people, by and large, so I don't know why we're in this. I'm glad we relieved the rest of the state of this obligation and now I would urge Omaha and Lincoln to take care of this on their own. Thank you, Mr. President. [LB205]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Seeing no additional requests to speak, Senator Nordquist, you're recognized to close. Senator Nordquist waives closing. The question before the body is on the adoption of AM1550 to LB205. All those in favor vote yea; opposed, nay. Senator Nordquist, you're recognized. [LB205]

SENATOR NORDQUIST: Yeah, could I get a call of the house and a roll call vote? I'm sorry, a board vote will be fine. [LB205]

PRESIDENT SHEEHY: There has been a request for 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. [LB205]

CLERK: 39 ayes, 0 nays, Mr. President, to place the house under call. [LB205]

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PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please report to the Chamber. All unauthorized personnel please step from the floor. The house is under call. Senators, please record your presence. Senator Heidemann, Senator Krist, the house is under call. Senator Heidemann, the house...Senator Nordquist, all members are present or accounted for. How would you like to proceed, Senator Nordquist? [LB205]

SENATOR NORDQUIST: Call-ins would be fine. [LB205]

PRESIDENT SHEEHY: Senator Nordquist is taking call-ins. Continue, Mr. Clerk. [LB205]

CLERK: Senator Fulton voting yes. Senator Rogert voting yes. Senator Avery voting yes. Senator Adams voting yes. Senator Pirsch voting yes. Senator Cornett voting yes. Senator Louden voting yes. [LB205]

PRESIDENT SHEEHY: Please record, Mr. Clerk. [LB205]

CLERK: 26 ayes, 6 nays, Mr. President, to adopt Senator Nordquist's amendment. [LB205]

PRESIDENT SHEEHY: AM1550 is adopted. The call is raised. We will now return to...anything further, Mr. Clerk? [LB205]

CLERK: Nothing further on the bill, Mr. President. [LB205]

PRESIDENT SHEEHY: We will now return to floor discussion on LB205. Members requesting to speak, Senator Lautenbaugh and Senator Campbell. Senator Lautenbaugh, you're recognized. [LB205]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body, and I'll be brief. And I may be stealing Senator Campbell's thunder but she did point this out to me and I do need to correct my prior remarks. The city of Lincoln already takes care of this on their own in absence of this legislation. They already do this. They require it of the people they do business with. So now we're down to a bill for the city of Omaha. I don't think this changes any of my prior arguments, it may underline them a little. But I did not...to the extent that I said Lincoln should handle this on their own, Lincoln is handling this on its own and kudos to them. Thank you, Mr. President. [LB205]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Seeing no additional requests to speak, Senator Nordquist, you're recognized to close on LB205. [LB205]

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SENATOR NORDQUIST: Thank you, Mr. President and members. Just a refresh for those of you that came in, this would require for the city of Omaha and Lincoln, as amended now by the committee amendment, six hours of educational training for their pension board members and that's every two years, and ethics training every year. And the real reason behind this, this sets minimum standards for our two largest cities to ensure...to help ensure that they don't run into the continued pension problems we have. I strongly believe, as the years I served as the research aide for the Retirement Committee, I know how challenging these plans can be and these pension boards are required to do the administrative piece, they're required to do the actuarial analysis to make sure the plans are adequately funded, and they're required to do the financial piece. They make the decisions on all those. On the state level, we have that at least divided up between two entities. So I think it's critical that, to ensure the health of our two largest cities, which Omaha right now is facing potentially a \$30 million need every year in additional revenue, whether that's through property taxes or something else, to make this up. That slows down the economic engine of that city. That, therefore, slows down the economic engine of our state. And so I think this is critical for the long-term health of these plans, the long-term health of these cities, and the long-term health of the state to advance this legislation. Thank you, Mr. President. [LB205]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. You have heard the closing. The question before the body is on the advancement of LB205. All those in favor vote yea; opposed, nay. Senator Nordquist. [LB205]

SENATOR NORDQUIST: Mr. President, could I get a call of the house and a roll call vote? [LB205]

PRESIDENT SHEEHY: There has been a request for the 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. [LB205]

CLERK: 39 ayes, 0 nays, Mr. President, to place the house under call. [LB205]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please report to the Chamber. All unauthorized personnel please step from the floor. The house is under call. Senators, please record your presence. Senator, all members are present or accounted for. There has been a request for a roll call vote. Please proceed, Mr. Clerk. [LB205]

CLERK: (Roll call vote taken, Legislative Journal pages 207-208.) 19 ayes, 22 nays, Mr. President, on the advancement. [LB205]

PRESIDENT SHEEHY: LB205 does not advance. The call is raised. Mr. Clerk, do you have new bills for introduction, items for the record? [LB205]

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CLERK: I do, Mr. President. New bills. (Read LB929-930 by title for the first time.) An announcement: The Reference Committee will meet upon recess; Reference Committee, upon recess. (Legislative Journal page 208.) [LB929 LB930]

Priority motion: Senator Utter would move to recess the body until 1:30 p.m.

PRESIDENT SHEEHY: You've heard the motion to recess until 1:30 p.m. All those in favor say aye. Opposed, nay. We're in recess until 1:30.

RECESS

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good afternoon, ladies and gentlemen, and welcome back to the George W. Norris Legislative Chamber for the afternoon session is about to reconvene. Senators, please return to the Chamber and record your presence.

SENATOR ROBERT PRESIDING

SENATOR ROBERT: Mr. Clerk, please record.

ASSISTANT CLERK: There is a quorum present, Mr. President.

SENATOR ROBERT: Thank you. Any items for the record?

ASSISTANT CLERK: Mr. President, I have a Reference report from LB893 through LB918 plus LR286CA, and a notice of hearing from the Appropriations Committee. (Legislative Journal pages 209-210.)

SENATOR ROBERT: New bill introduction, Mr. Clerk. If nothing further, we will proceed to the agenda, General File. Mr. Clerk.

ASSISTANT CLERK: Mr. President, the first bill on this afternoon's agenda is LB235. (Read title.) The bill was read for the first time on January 13 of last year. It was referred to the Education Committee. That committee reports the bill to General File with committee amendments. (AM681, Legislative Journal page 745, First Session, 2009.) [LB235]

SENATOR ROBERT: Senator Adams, you are recognized to open on LB235. [LB235]

SENATOR ADAMS: Thank you, Mr. President. LB235 came to us last session from the Board of Educational Lands and Funds and it spurred a great deal of interest in the

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committee. As I'm sure all of you are aware, the monies generated from the lease agreements that we have in educational lands and funds are apportioned annually to all of the school districts in the state regardless of their size or their tax base. They are apportioned out--constitutional requirement. Educational Lands and Funds came to us and said, We have a thought for how we could increase the amount of money that we're generating off of these lands that goes into the Permanent School Fund and is apportioned out. What we'd like to be able to do is two things. One, enter into wind and solar leases for electrical generation on educational lands; and secondly, for the sale of contracts for carbon sequestration. What you have in front of you is the original bill, first of all, LB235 which does those two things: allows the Board of Educational Lands and Funds to enter into lease agreements for wind generation or for electrical generation with wind and solar and contracts for carbon sequestration units. There is a committee amendment that I would prefer to spend more time on because the committee amendment becomes the bill. And I want to tell you right up front I have an amendment to the committee amendment which takes carbon sequestration out of the bill. It takes it out. It is too controversial an area right now. It is too problematic for all of us. And the day may come when we come back here with that, but now is not the time. So there will be a committee amendment that will replace the bill and there will be an amendment to the amendment, and I can explain those as we go. Thank you, Mr. President. [LB235]

SENATOR ROBERT: Thank you, Senator Adams. Mr. Clerk for an amendment. [LB235]

ASSISTANT CLERK: Mr. President, I do have Education Committee amendments, AM681. [LB235]

SENATOR ROBERT: Senator Adams, as Chair of the Education Committee, you are recognized to open on AM681. [LB235]

SENATOR ADAMS: AM681 gets us part of the way there. What AM681 does, it still allows for leases for educational lands and funds for electrical generation with wind and solar and it still allows for the carbon sequestration, but what the amendment does is this. Currently under statute when Educational Lands and Funds enters into lease agreements with ag producers and livestock producers, the Board of Educational Lands and Funds will set a base rent and then will open it up for, in effect, a kind of public auction to see who ultimately over that base rent will get to enter into a lease with the state for the use of that land. What the committee amendment would do would to grant an exception to Educational Lands and Funds to the bidding process when we are entering into leases with electrical generation companies. Now we would still enter into the leases and we would still auction the leases the same way we are right now for all other uses of the land. It would just be for the electrical generation. That in essence is the committee amendment, Mr. President. [LB235]

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SENATOR ROBERT: Thank you, Senator Adams. You have heard the opening to AM681, the Education Committee amendment to LB235. Mr. Clerk. [LB235]

ASSISTANT CLERK: Mr. President, Senator Adams would offer AM1541 to the committee amendments. (Legislative Journal page 123.) [LB235]

SENATOR ROBERT: Senator Adams, you are recognized to open on AM1541. [LB235]

SENATOR ADAMS: This amendment has been a work in progress because what this amendment will do now is to take the carbon sequestration out of it. This amendment makes it wind and solar generating of electricity only. It also continues to allow the exception from the public auction mechanism when Educational Lands and Funds would enter into an agreement with a generation company. The other thing that it does, it harmonizes the lease language with statutes that we already have in place dealing with leases. And particularly if you will remember, I believe it was LB564 last year that dealt with...that may be the wrong number but that dealt with wind generation, it aligns our language here with existing language. That's what that amendment does. Thank you, Mr. President. [LB235]

SENATOR ROBERT: Thank you, Senator Adams. Members, you have heard the opening to AM1541, the amendment to the committee amendment. (Doctor of the day introduced.) Those wishing to speak on LB235: Senators Price, Schilz, Hansen, and Stuthman. Senator Price, you are recognized. [LB235]

SENATOR PRICE: Thank you, Mr. President, members of the body. I would like to express my deep and profound appreciation and admiration for Senator Adams and his motion here to remove the carbon sequestration from the bill because it was going to provide me an opportunity to bring forward the fact that we're having record cold temperatures that there's 25-plus percent increase in sea ice. And just the other day the U.N. climatologist said we're in for 30 to 40 years of global cooling. So thank you very much, Senator Adams. I appreciate that. Thank you, Mr. President. [LB235]

SENATOR ROBERT: Thank you, Senator Price. Senator Schilz, you are recognized. [LB235]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. I was wondering if Senator Adams would yield for a question. [LB235]

SENATOR ROBERT: Senator Adams, will you yield to a question from Senator Schilz? [LB235]

SENATOR ADAMS: I will. [LB235]

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SENATOR SCHILZ: Thank you, Senator Adams. And we've talked...discussed this somewhat before. I have a couple of clarifying questions for myself. If I understand you right, this would not change how we go about letting people have these leases or things like that. There would still be a public auction.... [LB235]

SENATOR ADAMS: That's correct. [LB235]

SENATOR SCHILZ: ...and the lease going on. [LB235]

SENATOR ADAMS: For ag use it wouldn't change a thing. [LB235]

SENATOR SCHILZ: Right. And then over and above that, you want to place another opportunity for the school board...the land folks to try to get some more revenue off of that. [LB235]

SENATOR ADAMS: Correct. [LB235]

SENATOR SCHILZ: Is it my understanding that folks that...maybe you can answer this, maybe you can't...is it true that this has to be leased to someone with agricultural interests today, this land? [LB235]

SENATOR ADAMS: Right now there's nothing in statute that would allow for the wind generation kinds of leases. That's correct. [LB235]

SENATOR SCHILZ: But if I want to lease a piece of school land for, say, hunting or something, there's nothing that disallows that either. Correct? [LB235]

SENATOR ADAMS: I believe that's right. I'd have to check. [LB235]

SENATOR SCHILZ: And the only reason I ask is do we need to have another layer or is it possible that if there's a developer or anyone that wants to come along and put wind energy on this land, do we need another layer or can we just allow them to go get the lease and then do what they can? Now I will admit that maybe there's something we need to do to allow the development to occur there, but just like on the land that I lease, the improvements are mine. And, you know, if I lose that lease, it's my responsibility to go take those improvements out. So I guess my question is, are we just muddying the waters by putting layer upon layer of stuff? Or do we just need to go back and say, hey, look? If somebody wants that, go buy the lease and let's make it work just like it works now. [LB235]

SENATOR ADAMS: Well, I would certainly hope that we're not muddying the waters, rather creating another opportunity without making it problematic for the ag producer that's currently using the land or the next person that may want to lease it. [LB235]

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SENATOR SCHILZ: Right and I understand. Okay, thank you. Thank you very much. I guess it's my contention is that we need to be really careful with this. I know that when you go out and you lease these lands and you win the auction and then you pay the lease on top of that, you have entered into a contract with the state. And I want to make sure that we...I'm concerned that this bill would put some problems there as to what that contract means if you enter into another contract with the developer to do something. What does that mean with the original contract? And that's what I'm concerned about because I don't want to have us give the authority and the opportunity for these guys to do something if we are...if we're basically voiding out another contract or changing the terms of a contract with somebody else. So that's my concern right here, and I'll sit down and listen for a bit. And with that, if I've got any time left I would give that to Senator Adams. [LB235]

SENATOR ROBERT: Senator Adams, 1 minute 24 seconds. [LB235]

SENATOR ADAMS: In partial response, Senator Schilz, you've raised good questions. One might look at this in this fashion. The state is the owner of the property. You're farming it; you're raising cattle on it. If a power company came along and said we're going to build a 345 line through here and this is one of the places we're going to place a structure, then if your farming arrangement is inhibited, then you're going to be compensated by the agency that's coming in through the easement agreements, loss of crop, those kinds of things. And many of the lease agreements that we currently have under Educational Lands and Funds has a clause in there that says that very thing: If your property, if you're leasing it and your corn crop in some way has been diminished because NPPD is driving onto the property putting up structures, you'd be the one compensated for that. [LB235]

SENATOR ROBERT: Thank you, Senator Adams and Senator Schilz. Senator Hansen, you are next and recognized. [LB235]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I, too, want to thank Senator Adams for the amendment to take off the carbon sequestration part of this bill. As a landowner and as a renter of Board of Educational Lands and Funds, last summer I got the letter. I got the letter that says that this was coming and the sequestration part of it was in it too. And so I'm glad we're definitely putting this in the statute. We've had a school section in McPherson County for many years. When I was a teenager, there was an electric line put across that at that time. And the only reason I remember that is because the construction crew started a prairie fire and then left and we were left to put out the fire. But I know those transmission lines and things like that are...go through private lands and also they're going to have to hit some school sections, too, for sure. My question now would be...well, I don't think on our school section personally is not going to bother because I think we're about eight miles from

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the closest electric line that comes into a house. So I don't think the solar or wind generation would be a problem there. But on other people's land, are they going to be able to renegotiate the contract for that wind tower, the ingress and egress from that...from those facilities? Are they going to be able to lower their rent on those school section, on school leases? That would be my...I'm sorry. Would Senator Adams yield to that question? [LB235]

SENATOR ROBERT: Senator Adams, will you yield to a question? [LB235]

SENATOR ADAMS: Yes, I will. And I'll try to answer the question as best I can. If they're going to enter onto your property... [LB235]

SENATOR HANSEN: It's not my property... [LB235]

SENATOR ADAMS: Well if... [LB235]

SENATOR HANSEN: ...I lease it. [LB235]

SENATOR ADAMS: You lease it, but if you're the one that is generating revenue off of it in a crop and that crop in any way is going to be damaged, you're going to be compensated for that loss. You, not Educational Lands and Funds, if I understand your question correctly. [LB235]

SENATOR HANSEN: I'm not sure I agree with that answer through because it's not my land. And I make the lease. I didn't make the lease. I signed the lease for 640 acres, more or less, to graze cattle on. But if they want to put up a tower, they're not going to wait six years to change that lease so they can take out 160 acres of it for a wind turbine. That would be my question. [LB235]

SENATOR ADAMS: And you're right about that. You're right about that. [LB235]

SENATOR HANSEN: And it's not our land. That lease can probably be changed at any time. That's probably my feeling about it. I'm not sure that's correct or not. But I do appreciate the taking out the carbon sequestration part, mainly because that affects the way you use the ground. You have to put it into an intensive grazing project, which is fine except in our situation the water development is extremely expensive to do, and it does not fit intensive grazing in that particular place because it's 365 feet to water and we can't develop the water. So we don't have intensive grazing on that particular part of our summer pasture. But I appreciate you taking that out and then we'll go ahead and discuss the rest of it. Thank you, Mr. President. [LB235]

SENATOR ROBERT: Thank you, Senator Hansen. Senator Stuthman, you are next and recognized. [LB235]

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SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I think on the surface I think this is a good bill. But I think it could be very complicated in the end result in my opinion. And I'd like to enter into a little bit of discussion with Senator Adams if he would. [LB235]

SENATOR ROBERT: Senator Adams, will you yield to a question? [LB235]

SENATOR ADAMS: Yes, I will. [LB235]

SENATOR STUTHMAN: Senator Adams, I want to give you the situation. Say there's 50 parcels of school land in that area and they're up for rent on different years. And every one of them is eligible to bid for it again, eligible...the original one is eligible to have the first chance on the bidding for it or it can be opened up. And I think a lot of them are opened up for a public auction for the lease and the individual gets it again, and all 50 of them sign the leases within a four- or five-year period. [LB235]

SENATOR ADAMS: Correct. [LB235]

SENATOR STUTHMAN: That's the correct...okay. So in the situation where we have these 50 quarters or 50 sections, we have a wind developer that wants to come in, and they want to put one over here in Section 35 and one of them in 39. Who does that wind developer go to or get the lease to put a structure in on the property that is owned by the state, leased by Senator Schilz has one, Senator Hansen has another one, who does that wind developer go to, to get a lease to put that structure on property that is already leased? [LB235]

SENATOR ADAMS: You're yielding? [LB235]

SENATOR STUTHMAN: Yes. [LB235]

SENATOR ADAMS: To Educational Lands and Funds, to the state. [LB235]

SENATOR STUTHMAN: So the wind developer would go to the Educational school... [LB235]

SENATOR ADAMS: Correct. [LB235]

SENATOR STUTHMAN: ...Lands and Funds to get a lease to put something on the ground that is already leased. [LB235]

SENATOR ADAMS: Correct. [LB235]

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SENATOR STUTHMAN: Does he have to get permission from the lessor? [LB235]

SENATOR ADAMS: No. [LB235]

SENATOR STUTHMAN: So in other words, somebody can come and put something on some ground, property that is already leased. [LB235]

SENATOR ADAMS: Correct. [LB235]

SENATOR STUTHMAN: I don't think that's right. [LB235]

SENATOR ADAMS: If...let me give you another example. If you were renting property from me and NPPD had determined that this was where an electrical line was going to go, who would NPPD negotiate the easement with? Now if you had crop there and you were the one that had experienced a problem, you're going to be compensated for that. [LB235]

SENATOR STUTHMAN: Yes. [LB235]

SENATOR ADAMS: But me, as the owner of the property, would be the one that would grant the easement. [LB235]

SENATOR STUTHMAN: And then the individual would get paid out on the crop that was destroyed... [LB235]

SENATOR ADAMS: Right. [LB235]

SENATOR STUTHMAN: ...(inaudible). [LB235]

SENATOR ADAMS: And the rent, at the same time, let's assume that there were some loss of acres because of the electrical structure or the wind-generating structure, then the lease would be adjusted according to the loss and the amount of land that you're no longer being used. [LB235]

SENATOR STUTHMAN: Is there any situation that makes a difference whether it's public power putting in the structures or if it's a private company putting in wind generation units--the difference between a private person coming in on rented ground that is owned by the state? [LB235]

SENATOR ADAMS: I don't have an answer to your question. [LB235]

SENATOR STUTHMAN: And I don't know either. I don't know either. The thing that concerns me is, in my opinion, this can be a real complicated situation. I really think if a

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power company, I mean if a wind generation company wants to come in and put their wind turbines on Section 35 and Section 37, I think they should bid for that ground just like anyone else is bidding for that ground, in my opinion. And then once they're put in and installed and there's pasture land available to be utilized... [LB235]

SENATOR ROBERT: One minute. [LB235]

SENATOR STUTHMAN: ...to be utilized, you know, then that could be renegotiated to an individual like Senator Schilz or Senator Hansen to utilize that grass. There's going to be situations where there may have to be roadways built to it. I think this...I really, in my opinion, I think this is a situation that we need to have it spelled out a lot more clear with the lease ownerships and subleasing and everything like that before we jump into something like this. I think it's doable. I think it's workable. But I think we either got to decide whether the person that leases the ground leases that section for the five- or six-year period or two-year period, whatever they are. [LB235]

SENATOR ROBERT: Time. [LB235]

SENATOR STUTHMAN: Thank you, Mr. President. [LB235]

SENATOR ROBERT: Thank you, Senator Stuthman. Those wishing to speak: Senators Carlson, Dubas, Heidemann, Wightman, Wallman, and others. Senator Carlson, you are next. [LB235]

SENATOR CARLSON: Mr. President, members of the Legislature, I think that Senator Schilz and Senator Hansen and Senator Stuthman have brought forth some good questions. I would like to address Senator Adams with a question if he would yield. [LB235]

SENATOR ROBERT: Senator Adams, will you yield to a question? [LB235]

SENATOR ADAMS: Yes, I will. [LB235]

SENATOR CARLSON: Senator Adams, I have an opinion and it's not based on fact, but I have felt that school lands has been heavy in overhead. And perhaps schools haven't realized as much income off of that property as they maybe should have. Do you feel that implementation of this program would be any reason to request or add any additional overhead expense for school lands? [LB235]

SENATOR ADAMS: I really don't have a clear answer for you to that. I don't believe that it will. Entering into these lease agreements it won't be a change in personnel cost or anything like that to do that. [LB235]

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SENATOR CARLSON: I agree with you. And for the record, I think that's the way it ought to be and we need to clarify and perhaps check that out. Now having listened to the discussion at this point, I think that off school lands we need to encourage all the income that's legitimate income that we can for the benefit of education. And some good questions have been brought up, but I'm sure there's ways to work through this and make it a viable option. And I am in support of AM1541. Thank you, Mr. President. [LB235]

SENATOR ROBERT: Thank you, Senator Carlson. Senator Dubas, you are recognized. [LB235]

SENATOR DUBAS: Thank you, Mr. President, members of the body. Would Senator Adams yield to some questions, please? [LB235]

SENATOR ROBERT: Senator Adams, will you yield to a question? [LB235]

SENATOR ADAMS: Yes, I will. [LB235]

SENATOR DUBAS: Thank you, Senator Adams, and forgive me if this question has...these questions have been asked in any form prior, but I just need some clarification and have missed some of the discussion. Have any of the school lands been approached so far to put any wind development on? [LB235]

SENATOR ADAMS: Yes, and I can't tell you specifically where. That's anecdotal, but educational board or Educational Lands and Funds approached us with this because they have been...they, too, have been approached about this as a possibility and want the authority within statute to enter into these leases. [LB235]

SENATOR DUBAS: So they didn't feel right now the way things are set up that they had that ability to go ahead. [LB235]

SENATOR ADAMS: No, and one of the biggest reasons, Senator Dubas, is that typically these leases could be up to 40 years whereas our ag leases are nowhere near that. [LB235]

SENATOR DUBAS: Okay. So does the development, any of the income that comes from a wind turbine, does that stay...does that go to the school lands or does that go to the developer or is there...? [LB235]

SENATOR ADAMS: That goes to the developer. All we're talking about is the lease payment to Educational Lands and Funds. [LB235]

SENATOR DUBAS: Okay, all right. So whoever develops it would pay a lease payment

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to Lands and Funds. Okay. [LB235]

SENATOR ADAMS: Correct. [LB235]

SENATOR DUBAS: All right. Then what would happen if that land is sold? Does, you know, how would that lease be handled if someone else bought the land? Would... [LB235]

SENATOR ADAMS: Well, I would think...well, I would only be speculating. I don't have an answer to you. [LB235]

SENATOR DUBAS: Okay. All right. You know my support of renewable energy and particularly wind energy so we want to be able to open all of the doors and avenues that we can. I think this bill needs to be discussed. We just need to make sure that it's in the form and fashion that it needs to be so everybody is clear and on board. So I thank you for bringing it forward. Hope we can work something out. Thank you. [LB235]

SENATOR ROBERT: Thank you, Senator Dubas. Senator Heidemann, you are next and recognized. [LB235]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. Sometimes I wonder if there isn't anything that comes out of Education that isn't just a little bit controversial (laugh). I actually stand in support of LB235, the amendment and what Senator Adams and the Education Committee are doing. I do listen to Senator Schilz and to Senator Stuthman. There might be some concerns over there. We need to overcome those concerns. If there's anything that we can put in this that will address those, I think we need to try to accomplish that. But I think it's very important that LB235 go forward. And I stand up here and I say that because I actually have in my district in Richardson County a wind farm that is going up, and that is why I have a lot of interest in LB235. I think the question was asked, you know, has this ever happened before? And I can answer that, that this wind farm actually wanted to put up one or two wind towers on these lands. And because of the way it is right now, they weren't able to. That's the reason that I am going to support LB235. And if there are concerns, hopefully we can overcome them. But it might be too late for Richardson County. Hopefully with LB235 it won't be too late for somebody else. And there's actually hope that it's a possibility that because of LB235 this company might still put up a tower or two down in Richardson County on these lands. I think when you look at the overall benefit that that can do for the area and for the state, because there's going to be a significant amount of revenue coming in to the Board of Educational Lands and Funds because of this, this is something that we shouldn't take lightly by any means. This is very important. And if there are concerns, we need to overcome those concerns and move this forward so that we can take advantage of these opportunities that are out there. So I appreciate all the questions and comments that are coming in, but I do support Senator Adams on LB235

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and hopefully if there are concerns that we can overcome them and move this thing forward. Thank you. [LB235]

SENATOR ROBERT: Thank you, Senator Heidemann. Senator Wightman, you are recognized. [LB235]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. I, too, rise in support. And I think Senator Carlson and Senator Heidemann have both given us good reasons to support LB235 and the amendments. I do have some questions later. I'll make a statement first, have some questions later that I would like to address to Senator Adams. But I think we have a duty in handling the lands owned by the Educational Lands and Funds to maximize the income from them. And I think we will do that, at least we will certainly increase it. Who's to say that something might come along later that maybe would be an even better use of these lands? But there's no question that some of these lands will have a lot more revenue generated from wind power, maybe solar power, than they have for ag leases. And the two uses are certainly not inconsistent with each other because in many instances much of the land will still be able to be used for ag purposes. However, with that in mind, I think there are different situations that it might require some amendments, and I would like to address some questions to Senator Adams if he would yield. [LB235]

SENATOR ROBERT: Senator Adams, will you yield to a question? [LB235]

SENATOR ADAMS: Yes. [LB235]

SENATOR WIGHTMAN: Senator Adams, I'm assuming that there would be a major difference between lands that are currently leased under a lease and then there would be an opportunity to lease those same lands for wind generation then new leases that would come on board because you can address those issues, I'm assuming, in the new leases. [LB235]

SENATOR ADAMS: That would be one avenue, yes. [LB235]

SENATOR WIGHTMAN: One other...another question would...if Nebraska Public Power District or one of the rural power districts were to get interested in wind energy, would they have any right of eminent domain as a public utility for wind energy purposes if they wanted to put a wind turbine on a particular piece of land? Do they have any right of eminent domain? [LB235]

SENATOR ADAMS: Well, you know, I don't have a good answer. We all know that NPPD does have the power of eminent domain. Now whether it is for wind generation I wouldn't want to venture to say. [LB235]

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SENATOR WIGHTMAN: And I know the public power districts and the rural electrification out in rural Nebraska do have the power for easements to put in power lines. I don't know whether that includes a right for a generation plant or not. But...so there might be a difference between a private developer who would not have that right of eminent domain and a public utility I assume. But I'm assuming that you would have to go in and negotiate with a current tenant, the current lessee of the Educational Lands and Funds lands if they had a current lease and it had five years to run. If you wanted to put that in, you would have to make peace with the current lessee. Would that be your opinion? [LB235]

SENATOR ADAMS: Well, I...if I were doing it, I would sure want to have a conversation with...I don't know that there's any obligation to, though. [LB235]

SENATOR WIGHTMAN: Well, it might be. It would seem to me that there might very well be an obligation to do that because it's probably going to cut down upon the usable land that's left in a particular tract. [LB235]

SENATOR ADAMS: Right and...or damage to crops, there's going to have to be some compensation there, yes. [LB235]

SENATOR WIGHTMAN: But probably not only damaged crops, but if there's five years left, roadways and things would also use up part of that land so they would about have to negotiate I would assume. [LB235]

SENATOR ADAMS: Right, and the rents would have to be reduced or whatever the conditions may be, yes. [LB235]

SENATOR WIGHTMAN: Right. And if they ran into a tenant who wasn't willing to negotiate, they might not be able to do it. Do you recognize that as being... [LB235]

SENATOR ADAMS: I would recognize it. Right now I think that might be a possibility. [LB235]

SENATOR WIGHTMAN: Okay. I am in support of the bill. I do think we need to maximize the return off of these lands. I do see some problems and maybe those can be addressed. I don't know whether they need to be addressed. [LB235]

SENATOR ROBERT: One minute. [LB235]

SENATOR WIGHTMAN: But my guess is they may need to be...thank you, Mr. President...they may need to be addressed before we have this bill on Final Reading. Thank you, Mr. President. Thank you, Senator Adams. [LB235]

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SENATOR ROBERT: Thank you, Senator Wightman. Senator Wallman, you are next and recognized. [LB235]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I, too, have little concerns about that. I have power lines going through some property, and it's a permanent easement type thing. They pay you once and then crop damage--we had some with the tornado and stuff--I didn't get paid any but that was okay. This here thing here...would Senator Adams yield to a question? [LB235]

SENATOR ADAMS: Yes. [LB235]

SENATOR WALLMAN: Thank you. [LB235]

SENATOR ROBERT: Senator Adams, will you yield to a question? [LB235]

SENATOR ADAMS: Yes, I will. [LB235]

SENATOR WALLMAN: What is the average lease? Is it five years, ten years? [LB235]

SENATOR ADAMS: I believe the minimum is 5 and they go as much as 12. But the wind leases...this bill would allow a wind lease up to 40 years. [LB235]

SENATOR WALLMAN: And if I was a wind developer, would I be able to lease school lands also then for ag purposes? [LB235]

SENATOR ADAMS: I would assume so. [LB235]

SENATOR WALLMAN: Or just for wind purposes? [LB235]

SENATOR ADAMS: That's what we're headed for right here. [LB235]

SENATOR WALLMAN: Okay. I can see where the tenants would have a little concern here. I don't have any school land leases, but I appreciate what he's doing. I think we ought to maximize the income we can out of the land we have in the state. Thank you. [LB235]

SENATOR ROBERT: Thank you, Senator Wallman. Those wishing to speak: Senators Nelson, Haar, Stuthman, Schilz, and Langemeier. Senator Nelson, you are recognized. [LB235]

SENATOR NELSON: Thank you, Mr. President. I rise in general support of the bill and the amendment under discussion, but I would like to ask a question or two of Senator Adams if he would yield. [LB235]

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SENATOR ROBERT: Senator Adams, will you yield to a question? [LB235]

SENATOR ADAMS: Yes, I will. [LB235]

SENATOR NELSON: Were you just getting the answer to a previous question there, Senator? [LB235]

SENATOR ADAMS: (Laugh) as always. [LB235]

SENATOR NELSON: (Laugh) All right. Thank you. I think it was Senator Dubas that raised the question, well, what if the land was sold? It's the state of Nebraska that owns these lands. Is that correct? [LB235]

SENATOR ADAMS: That's correct. [LB235]

SENATOR NELSON: And this board, are they empowered...they certainly can lease the land so are they the ones that would sell the land? [LB235]

SENATOR ADAMS: They can...yes, exactly. [LB235]

SENATOR NELSON: Well, I would think in the normal state of affairs that anytime there's a sale of land it's going to be subject to the leases that you have in existence. So if you've got a 5-year lease on the agriculture and also a 40-year lease, whoever is going to buy it I think would take subject to that unless there was some negotiation. And my question is this: Is that...do they sell these school lands very often? Is that the case? [LB235]

SENATOR ADAMS: I don't know to be able to say the frequency. There is encouragement within statute for them to do that. [LB235]

SENATOR NELSON: Um-hum. [LB235]

SENATOR ADAMS: But there's also a fiduciary responsibility in statute as well. [LB235]

SENATOR NELSON: Well, it occurs to me with an additional lease for 40 years I don't know whether the land would be an attractive, you know, if they decided to sell it whether it might reduce the amount that they could get. The second question is that you said the board had come to you and say we have a way of generating more income here. Did they give you any figures, just for the record, as to how much more they thought they could get and how many leases might be negotiated on what they have? [LB235]

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SENATOR ADAMS: No, they did not. [LB235]

SENATOR NELSON: All right. Well, thank you, Senator. I still am in support of the bill at this point, but we perhaps do have some questions that need to be answered by the time we get to second reading. Thank you, Mr. President. [LB235]

SENATOR ROBERT: Thank you, Senator Nelson. Senator Haar, you are recognized. [LB235]

SENATOR HAAR: Mr. President, members of the body, I rise in support of the amendment and in support of LB235 in general. And I believe it would be irresponsible for us not to use the wind and solar potential of school lands if that's possible. One thing we also have to remember that the benefit for developing wind and solar doesn't just go to the holder of the land, the lease on the land, but it really goes to all of Nebraska. It produces more taxes, it produces jobs, and those kinds of things. So I think we have a responsibility to work out a method for using wind and solar potential on school lands, and I think this bill is a good first step. And I appreciate Senator Adams taking the grilling on all of these questions, and I appreciate your knowledge. Thank you. [LB235]

SENATOR ROBERT: Thank you, Senator Haar. (Visitors introduced.) Returning to discussion, Senator Stuthman, you are recognized. [LB235]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. As I stated before, I think there is a lot of value to this, but it needs to be spelled out a lot more clear as to how they want to do it. I think there is one other thing that also enters my mind. You know, if they put these wind farms or these wind turbines out there, you know, there's going to be a transmission line that's going to be added to it and crossing a lot of property also. And how close to the place of need are these windmills going to be? So it's just not the issue of just the towers being located in an area. It also is, you know, how many miles of transmission line, how many properties are they going to go through, and everything like that? I mean I think that's also responsibility of the developer. So it...on the surface I think it sounds very simple, but in my opinion it could be very complicated. But I think it's workable. I think it could be doable. So I would like to see and I would like to ask Senator Adams a question, please. [LB235]

SENATOR ROBERT: Senator Adams, will you yield? [LB235]

SENATOR ADAMS: I do. [LB235]

SENATOR STUTHMAN: Senator Adams, do you feel that something could be worked out between General and Select as to identifying the potential problems that we have with two lessors, two individuals owning property and transmission line? Could things be worked out do you think? [LB235]

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SENATOR ADAMS: In response to your question, Senator Stuthman, I would like to think absolutely. Even this morning as we were going through other bills and I was talking to some of our colleagues about this one, questions were popping up that all kind of focused around the very thing that we're dealing with right now had already precipitated my staff to start working out some language. And I'm just not prepared right now to put something in. It's a bit too technical. But I think, yes, we could try to smooth this out between now and Select File because I think clearly there are some...two or three key points that keep popping up. [LB235]

SENATOR STUTHMAN: Okay. Thank you, Senator Adams. I feel very confident also that the fact that things can be worked out as far as notification of the individuals that are leasing the ground, the potential happenings through, you know, in the years to come in the final years of their lease or maybe in the whole lease that they have as far as being subject to lease agreements that are a lot longer like up to 40 years for these towers. So I think things can be worked out, and I'd be willing to support this on the surface so that we can see what we come up with and then I can make a decision after that. Thank you, Mr. President. [LB235]

SENATOR ROBERT: Thank you, Senator Stuthman. Senator Schilz, you are next and recognized. [LB235]

SENATOR SCHILZ: Thank you, Mr. President. I was wondering if Senator Adams would yield to a question, please. [LB235]

SENATOR ROBERT: Senator Adams, will you yield to a question? [LB235]

SENATOR ADAMS: Yes. [LB235]

SENATOR SCHILZ: Senator Adams, thanks again. I know you've worked hard on this and I must say as a concept I think it's...I don't think it's a bad idea. I think that there may be some opportunities here for everybody. But just as...and I hope we really can get something worked out. I guess a couple of the questions that I have, having leased land, school land and knowing that. As I understand it when we go to the auction and then that's done, if my bid is high enough and I can get that from somebody else, then those improvements that are there I can tell that person, those are yours, you need to take them off. That's in the contracts right now. Won't we have to change that so that those wind towers aren't looked at as improvements and the next guy that gets the "land lease" can take that out? [LB235]

SENATOR ADAMS: If I may respond, I don't have an immediate answer to you. We'll put that question down and we'll get you an answer. [LB235]

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SENATOR SCHILZ: Okay, yeah. And I just thought about that myself thinking about it. And then the next question that I have is one that I've been thinking about a little bit here. If we split the land lease or "land lease" from the "wind lease," are we starting down that path of saying wind is the same thing as mineral rights in the state of Nebraska? Is that what we're starting down the path here? Is that the...I don't think that's the intention. [LB235]

SENATOR ADAMS: It's certainly not the intention. And we could all look at language in the constitution and decide what wind is or is not,... [LB235]

SENATOR SCHILZ: Sure. [LB235]

SENATOR ADAMS: ...but that's not the intention here. [LB235]

SENATOR SCHILZ: Thank you very much, Senator. Those are a couple of questions that I hope we'll think about. Would Senator Langemeier yield to a question? [LB235]

SENATOR ROBERT: Senator Langemeier, will you yield to a question? [LB235]

SENATOR LANGEMEIER: As long as I don't have to answer it, sure. [LB235]

SENATOR SCHILZ: (Laugh) Well, that's up to you. But I'll go ahead and ask it anyway. Senator Langemeier, just the same question that I asked Senator Adams, and I didn't mean to put him on the spot. But you being the Chair of the Natural Resources Committee, do you see that this could run into some issues with starting down that path of a precedent for a mineral right for wind or whatever you want to call it? [LB235]

SENATOR LANGEMEIER: Well, as you stated, we do not have wind as a right within the bundle of rights to real property in Nebraska. And Senator Adams and I talked about that. That's not the intent of this legislation. We're going to have to take that up in our wind bill as we look to continue LR83 study and try and address that in that manner because we're headed down kind of a gray area in my opinion. [LB235 LR83]

SENATOR SCHILZ: Okay. Well, and I appreciate that. I just wanted to make sure that I wasn't the only one thinking in that direction. Thank you very much. [LB235]

SENATOR ROBERT: Thank you, Senator Schilz. Senator Langemeier, you are next. [LB235]

SENATOR LANGEMEIER: Mr. President, members of the body, I, too, have a couple of questions. And I think at this point for Senator Adams there's a lot of questions on this, but I think it's the right idea. So I think he's going to...it would be my thought is we move this on to Select File at some point here and then he's got lots of issues to address

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before we get to it again on Select File. But I'm going to address this if Senator Adams would yield to a question. [LB235]

SENATOR ROBERT: Senator Adams, will you yield to a question? [LB235]

SENATOR ADAMS: Yes. [LB235]

SENATOR LANGEMEIER: I'm not really...thank you. I'm not really asking for an answer at this point, but I do want it on the record as a question. If I'm in the process, I bid on a school land lease, a seven-year lease, and I'm two years into it and now you come to me, not with the...I'm not so worried about the structure, the transmission structure because they have the right of eminent domain and they go across the state on a pretty regular basis. But if a developer came to the Board of Educational Lands and Funds to put up a wind turbine and somewhere in your lease it allowed for that or something like that or you had the fact that the Board of Educational Lands and Funds wanted to put a wind turbine up and that breached the contract because they took some ground, I'm leasing 160 acres or 640 acres, they need 3 acres for this turbine. So they breach my contract because now I'm not leasing three acres. I believe in state statute now in Board of Educational Lands and Funds' leases states that if there's a breach of contract in any way we have to put that lease back up for bid. And if I have five years left and now we've got to put it back up to bid, do I have to "reagain" bid against my neighbors for that lease again? Or do I automatically somehow in this get to continue if it was 640 acres and they took 5 acres, would I automatically get to lease the 635 acres that are left at the same rate I had before? Or do I get to go through that bidding process again? And I'm not asking for an answer because this is kind of new, but I want it on the record that that's something we're going to have to look at because I would hate to have gotten a lease for seven years and made my offer thinking I'm going to get it for seven years and then only get it for two. And now this, which we all believe is a good idea with this bill is very important, but I don't want to have to go back through that bidding process again to get that 635 acres back. And so with that, I just want to make that of a record because I think that's pretty important, especially as some of those leases get pretty competitive. Where my in-laws live on their ranch, we have a school section within our ranch and it's pretty much the guy that has it, if he wants to continue, nobody bids against him. But that's not necessarily the case all across Nebraska. Sometimes those bidding for those school lands get pretty intense. So I would just put that of record of something to work on by Select File. And I, too, am going to support this to move it to Select File and give you an opportunity to address some of those issues. Thank you, Mr. President. [LB235]

SENATOR ROBERT: Thank you, Senator Langemeier. Senator Hadley, you are next and recognized. [LB235]

SENATOR HADLEY: Mr. President, members of the body, something about this just

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bothers me that someone has a lease and someone else can come in and basically get another lease and use the property for a different use. I guess would Senator Hansen yield to a question? I guess Senator Hansen isn't here. How about Senator Louden? [LB235]

SENATOR ROBERT: Senator Louden, would you yield to a question from Senator Hadley? [LB235]

SENATOR LOUDEN: Yes, I would. [LB235]

SENATOR HADLEY: Senator Louden, if I leased you a quarter section, could I come in later and have someone else come in and put a wind turbine up on your land? [LB235]

SENATOR LOUDEN: Well, I have an idea it would all have to be negotiated and I suppose there would have to be some monetary arrangements made and it would make it work better if you want to do that. [LB235]

SENATOR HADLEY: That's right. There would have to be some negotiations and there would have to be the fact that you could probably say no, too, because when I originally leased it to you, we didn't talk about wind turbines. [LB235]

SENATOR LOUDEN: Well, when you have a lease you have a contract. And that's what...unless it states in that lease that you have the authority to go in there and do that, why, I'm sure that would be some more negotiations would have to be done. [LB235]

SENATOR HADLEY: Okay. Thank you, Senator Louden. I guess that's what concerns me about this. Senator Adams, would you yield to a question? [LB235]

SENATOR ROBERT: Senator Adams, will you yield? [LB235]

SENATOR ADAMS: Yes, I will. [LB235]

SENATOR HADLEY: If we have the school lease lands that you said I think were like 2 years to potentially 12 years or there's some period of time that we have school lease lands, these all don't come up for re-leasing at the same time, do they? [LB235]

SENATOR ADAMS: No. [LB235]

SENATOR HADLEY: Why wouldn't we start working on a prospective basis and as these leases come up in the future, we write the lease so that we can have potential wind energy rather than going in and changing basically the terms of leases we have? From here on out there will be leases coming up every year. Why don't we change those leases as they come up over a period of time to allow the subleasing for wind

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energy? [LB235]

SENATOR ADAMS: If you put that in a form of a question to me... [LB235]

SENATOR HADLEY: Yes. [LB235]

SENATOR ADAMS: ...I think you raise an interesting prospect which would in effect solve the problem. I guess I would have to talk with the Board of Educational Lands and Funds to see what the demand is and the more immediate demand for the construction to see whether that could be incrementally worked out. [LB235]

SENATOR HADLEY: Okay. Thank you, Senator Adams. I guess I would ask that we do that to at least look and see if there isn't a way to kind of satisfy both parts here by having the potential new leases have wording in it that take care of this problem. And if the average is six years, that's means one-sixth of the leases are coming up basically every year so I think that might be a potential to look at it. And it still...I guess it does concern me that I leased land and then I suddenly find out somebody else can come in and put a wind turbine on it and transmission lines, even though I may be reimbursed. It, you know, just bothers me. Thank you, Mr. President. [LB235]

SENATOR ROBERT: Thank you, Senator Hadley. Senator Louden, you are next and recognized. [LB235]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. Would Senator Adams yield for a question, please? [LB235]

SENATOR ROBERT: Senator Adams, will you yield to a question? [LB235]

SENATOR ADAMS: Yes, I will. [LB235]

SENATOR LOUDEN: Senator Adams, who crafted this legislation or this amendment for you? Did you and your staff and committee or did it come from the Board of Educational Lands and Funds or who drew the original idea up on this? [LB235]

SENATOR ADAMS: Well, the amendments that you see in front of you were drafted by committee staff with a great deal of input from the executive director of Educational Lands and Funds. [LB235]

SENATOR LOUDEN: Okay. Thank you. Here's my problem with this. This isn't a problem that's insurmountable. But I think you've went at it, what would you say, you got vast plans here and a half-vast proposition. And what you should do, the Board of Educational Lands and Funds at this time leases to oil, minerals, and everything. And I'm sure they have producing oil wells now. To me, this legislation should be crafted on

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the order of how you run producing oil wells and have oil wells, how people have the authority to go onto a piece of property to drill for an oil well, and how that's taken care of. And something like that should be in here more than as you have a blanket of just a lease. For one thing, the lease can't exceed 40 years, and really that should be something like your oil well production--it lasts as long as there's producing available or as long as they're generating wind on there, they're allowed to renew the lease. There should be a clause more like that than just to say that it's going to run for 40 years. When you have these like that, there's always a question of--I think Senator Langemeier alluded to it a little bit--but your fees...your bidding fees I guess, the fees that you pay to purchase this right to lease this thing, and where does that come in if you've had that lease? And if you've had the lease, what rights do you have to keep it? And so I'm wondering where this is all in this legislation, and I don't see it anyplace. I would like to see something in there that states that if they want to have a wind lease or they have a rights to put that on there, but have it stated in the lease and that there would be damages paid for anything or land would be withdrawn that would occupy this wind generation and any transmission that would go on there and also roads in and out of there to build the things. Because when you put up one of these wind generators, it isn't just that four acres it sits on. There's a road that goes with it and there's power lines that come in and out of there and there's maintenance for power lines and that sort of thing. So I think somewhere along the line it needs to be, personally I think it needs to be redone the whole thing is what I would personally like to see. I think the time frames that you have set aside in here I think there's better ways of doing it than that and some of the other issues that have come up in here on who has the authority to go in there and what years and that sort of thing. Also one other thing that I'm wondering about, right now if you lease school lands and you have the lease on it, you can petition to have them sold. Well, can some company that's building these outfits go in there and bid that lease in and get that lease and then petition to have it sold and then own the school land and then put the wind machine up in there? See, there's nothing in there to stop them from doing that on petitioning to have the land sold. So that would have to be addressed somewhere along the line because that's in statutes now. And your bonus leases, as I'd mentioned before, haven't been addressed in there on how they would react to... [LB235]

SENATOR ROBERT: One minute. [LB235]

SENATOR LOUDEN: ...taking it over if someone wanted to...if the Board of Educational Lands and Funds wanted to go in there and lease it and there was a bonus bid on the thing. So there's a few holes in the thing. Like I said, I don't think it's insurmountable because they already have a situation where they lease for mineral rights and oil and that's...and have, I'm sure there's producing oil wells on some of the Board of Educational Lands and Funds' property. So with that, I would...hopefully if you can get it done before Select File, perhaps I could support this thing. If not, maybe it ought to go back to the committee and give it a little bit better shot and come out with something a

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little bit more clear. So that's where I stand on that. Thank you. [LB235]

SENATOR ROBERT: Thank you, Senator Louden. Senator Wightman, you are next and recognized. [LB235]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I know there are a lot of questions, and I think most of us are standing here or sitting here today not knowing what the terms of these six-year leases are, and I think that might be true. I don't know. Are you familiar...let me engage in a question or two with Senator Adams if I might. [LB235]

SENATOR ROBERT: Senator Adams, will you yield? [LB235]

SENATOR ADAMS: Yes. [LB235]

SENATOR WIGHTMAN: You don't have one of the leases, ag leases in front of you that...? [LB235]

SENATOR ADAMS: No. [LB235]

SENATOR WIGHTMAN: And I think we're all here not knowing exactly what the provisions may be in the event that the Board of Educational Lands and Funds come in and want to rewrite that lease in the middle. I'm not sure they have that right. They may have, but I think they're a six-year lease that the Board of Educational Lands and Funds would have very difficult time in breaking that lease or altering the terms of that lease. It seems to me they're probably going to have to come in and negotiate. And I think just as a matter of integrity they're going to do that. I don't see them coming in and trying to override the rights of that tenant during that period of time. I do think they'll negotiate with them because I think that there's a time that is ripe for entering into these wind leases probably, and they're going to want to do it if they can. But I think they are going to have to come in and negotiate, but that could change when I saw the terms of that. But I do think that this bill is certainly worthy of being advanced to Select File. We could take a look and see what the terms of those leases are, whether we need to make some changes based upon that. And certainly there's been some questions raised with regard to whether if they took any part of that lease or in any way changed the terms of that lease whether that lease would then have to be put out for bids again. And I don't know the answer to that and I don't know that anybody on the floor knows that right now. But I do think it's a worthy bill. It should be advanced. And I think there are not differences that can't be worked out between now and when the bill comes up on Select File. So I certainly do intend to support the bill and the amendments. Thank you, Mr. President. [LB235]

SENATOR ROBERT: Thank you, Senator Wightman. Senator Pirsch, you are next and

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recognized. [LB235]

SENATOR PIRSCH: I'll waive. [LB235]

SENATOR ROBERT: Senator Pirsch waives. Senator Schilz, you are next and recognized. [LB235]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. You know, I think that what we've...where I'm at here today is, like I said before, I think that Senator Adams is bringing something that very definitely needs to be discussed. I think that Senator Adams is bringing a bill that has some validity that the concept is real and we need to take a look at that and try to figure out how to do that. I just wanted to bring up some very serious questions to myself, and I think that if Senator Adams can work on these questions that we've had and have something that addresses all these, I will go ahead and support this to Select File and then make a decision from there. But I just wanted everyone to know that I don't want to shoot this bill down. I don't want to shoot opportunities for the state of Nebraska down as well. And so I'm willing to go with this to the next round and see what we can figure out. So thank you, Senator Adams. [LB235]

SENATOR ROBERT: Thank you, Senator Schilz. Seeing no other members wishing to speak, Senator Adams, you're recognized to close on AM1541. [LB235]

SENATOR ADAMS: Thank you, Mr. President, and I will go through these amendments in closure very quickly and then try to respond in maybe a moment longer closing to some of the things when we get to the bill itself. What the amendment AM1541 does is to take the carbon sequestration out very simply. Thank you, Mr. President. [LB235]

SENATOR ROBERT: Thank you, Senator Adams. Members, you have heard the closing to AM1541, the amendment to the Education Committee amendments. The question before the body is, shall AM1541 be adopted? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB235]

ASSISTANT CLERK: 33 ayes, 0 nays on the adoption of the amendment to the committee amendments, Mr. President. [LB235]

SENATOR ROBERT: AM1541 is adopted. Back to the committee amendments, AM681. Are there members wishing to speak? Seeing none, Senator Adams, you are recognized to close on the Education Committee amendment. [LB235]

SENATOR ADAMS: Thank you, Mr. President. And again very briefly, we have now amended out the carbon sequestration which takes us very simply to the committee amendment which exempts the public auction process when Educational Lands and Funds negotiates with the electrical generation company on these leases. Thank you,

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Mr. President. [LB235]

SENATOR ROBERT: Thank you, Senator Adams. Members, you have heard the closing to AM681, the Education Committee amendment to LB235. The question is, shall the amendment be adopted? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB235]

ASSISTANT CLERK: 36 ayes, 0 nays on adoption of committee amendments. [LB235]

SENATOR ROBERT: AM681 is adopted. Returning to discussion of LB235. Seeing no members wishing to speak, Senator Adams, you're recognized to close on LB235. [LB235]

SENATOR ADAMS: Thank you, Mr. President. Members of the body, let me first of all begin by telling you quite simply the questions you have raised are legitimate. And I know that quite often when we're in this position we say, let me get this to Select File. I'll try to fix it. This is new territory, and there are some valid questions that have been raised and some things to be worked out. And what I will tell you now is that if we do move this to Select File we will try to work it out. And I hope you know that I'm a person of my word. I will do that. And if there are still problems, I will let you know and you can do what you will when the lights go on during Select File. But we'll work on these things and hopefully we've kept track and tried to address them all. This does present, as nearly all of you have said, it presents a new opportunity for us to increase the monies in our Permanent School Fund that can go out to various school...to all school districts and assist in that burden that we have in funding public education. Thank you, Mr. President. [LB235]

SENATOR ROBERT: Thank you, Senator Adams. Members, you have heard the closing to LB235. The question is, shall LB235 advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB235]

ASSISTANT CLERK: 36 ayes, 1 nay on the motion to advance the bill, Mr. President. [LB235]

SENATOR ROBERT: LB235 does advance. Next item on the agenda, Mr. Clerk. [LB235]

ASSISTANT CLERK: Mr. President, LB210. It was introduced by Senator Langemeier. (Read title.) The bill was read for the first time on January 13 of last year, referred to the Committee on Revenue. That committee reports the bill to General File with no committee amendments. [LB210]

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SENATOR ROBERT: Senator Langemeier, as the introducer of LB210, you are recognized to open. [LB210]

SENATOR LANGEMEIER: Mr. President, members of the body, if you listened to the Clerk read the title, he pretty much read the bill. LB210's purpose is to change the state aid formula for state aid to NRDs. Currently at the end of a year, the NRDs provide their budgets. They collectively put them together. The state puts in roughly \$1.5 million. It's sent back on a per rata basis. That's the way it works today. Now in the Lower Republican with LB701, we allowed them to start bonding. And as they bond, their budget gets bigger due to the bonds so that throws that state aid formula out of whack. So what we're asking for you to do with LB210 is to exclude the amount of a bond out of their budget for the calculation so we keep this money distributed on a fair level across the state. And with that, I would ask for your support of LB210. And there's an amendment to change the operative date, and I'll talk about that in a minute. [LB210]

SENATOR ROBERT: Thank you, Senator Langemeier. Members, you have heard the opening to LB210. Mr. Clerk, for an amendment. [LB210]

ASSISTANT CLERK: Mr. President, Senator Langemeier would offer FA57. (Legislative Journal page 210.) [LB210]

SENATOR ROBERT: Senator Langemeier, you're recognized to open on FA57. [LB210]

SENATOR LANGEMEIER: Mr. President, members of the body, thank you. FA57 is offered to change the operative date for this budget process from January 1, 2010, to July of 2010, July 1 of 2010, to get us into the next fiscal year. This bill was introduced last year and so we have to make some corrections to catch it up to current dates. So with that, I would ask for your adoption of FA57 and LB210. [LB210]

SENATOR ROBERT: Thank you, Senator Langemeier. Members, you have heard the opening to FA57. Are there members wishing to speak? Seeing none, Senator Langemeier, you're recognized to close. Senator Langemeier waives that opportunity. The question before the body is, shall FA57 be adopted to LB210? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB210]

ASSISTANT CLERK: 34 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB210]

SENATOR ROBERT: FA57 is adopted. Returning to discussion, LB210. Seeing no members wishing to speak, Senator Langemeier waives closing. The question before the body is shall LB210 advance to E&R Initial? All those in favor vote yea; opposed

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vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB210]

ASSISTANT CLERK: 35 ayes, 0 nays on the motion to advance the bill. [LB210]

SENATOR ROBERT: LB210 does advance. Next item on the agenda, Mr. Clerk. [LB210]

ASSISTANT CLERK: Mr. President, LB280 offered by Senator Avery. (Read title.) The bill was read for the first time on January 14 of last year, referred to the Committee on Government, Military and Veterans Affairs. That committee placed the bill on General File, no committee amendments. [LB280]

SENATOR ROBERT: Senator Avery, you're recognized to open on LB280. [LB280]

SENATOR AVERY: Thank you, Mr. President. LB280 creates the Commission on Military Affairs that will work with local, state, and federal officials to develop and to implement a comprehensive plan to support the best interests of the military assets in our state and help us better serve the nation's defense needs. The commission will make recommendations for preserving and sustaining military assets and missions in Nebraska and what other actions might be taken to encourage expansion of those assets. This piece of legislation is a result of a task force that was convened in 2008 that sought to look at the base realignment and closure process at the federal level and to see how Nebraska might want to prepare for that process. Very quickly, let me explain a little bit about the base realignment and closure process. We usually refer to this as BRAC, B-R-A-C. The base realignment and closure process involves the creation of an independent, bipartisan commission by the Congress, the purpose of which is to engage in a rational realignment and closure of military bases to meet the needs of our military in the twenty-first century. Recommendations that are agreed to by this commission are forwarded to Congress. Congress must approve the recommendations unless by joint resolution they reject the entire report. Now the reason for this is that base realignment and closure is a very sensitive issue. Congress can't do this by themselves. What they do is they create a commission to prepare a rational plan, and then they either have to accept the plan or reject it. They cannot amend it or amending it certainly is a difficult process. Over the history of the BRAC process, there have been five commissions dating back to the early 1980s that affected 125 military installations. This resulted in significant savings, I think in excess of \$16 billion. The last BRAC was in 2005, and I just have to tell you that another one is looming because the federal government usually undertakes a BRAC evaluation about every five years. The problem is that if you have military assets that have deficiencies, then that can be used as a reason to put your base, your military installation on the closure or realignment list. And once your military installation is on that list, you don't get it off. It's almost impossible to amend that list. So we in '08 organized a task force to look into this and came up with a series of recommendations. And what we were trying to do was to get

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ahead of the game, trying to anticipate a new BRAC commission, and try to prepare Nebraska so that we could protect the assets that we have. Nebraska has, for the most part, avoided major losses during BRAC rounds, but that does not ensure that future rounds will not affect us. Losing any military installation or losing a mission would, of course, be detrimental to the locality where those missions are located and certainly it could affect our statewide economy. There are currently about 50 operational military installations in our state. These assets contribute substantially to the state economy. And I won't go into all of those assets, but let me just say to you that Offutt alone accounts for \$2.2 billion of our state economy, \$2.2 billion. The Air Force Base at Bellevue employs over 10,000 people. An additional 4,600 indirect jobs are generated. So if that installation is affected, it will be a serious blow to the state economy. What we were trying to do with this proposal is to set up a commission that would have the task of continuing to monitor the national situation, looking for threats to our institutions, and looking for ways that we can protect those institutions and also looking for opportunities and trying to exploit those opportunities to expand our missions. You are all aware that Offutt lost out in a nationwide competition for two recent very large missions, Cyberspace and the nuclear Global Command. Without going into why that might have happened, the task force believes that being ready for these kinds of developments is important and this commission could be helpful. The state of Kentucky has used a commission like this to vastly expand military investment in their state. Now I've talked with the Governor's Office. The Governor's Office has expressed some concerns about this bill. I'll be honest with you. You've looked at the fiscal note. It's not cheap. The Governor and his office works with the Department of Economic Development to try to monitor these circumstances on an ongoing basis. I am a realist. I think most of you know that. I know this fiscal note is large so I have filed a motion that the Clerk has on his desk to indefinitely postpone this, not because I lack commitment to it, but because I realize that the circumstances of our fiscal condition do not favor this kind of proposal at this time. My discussions with the Governor's Office assures me that the Department of Economic Development will continue to emphasize the need to protect our assets and to expand them and that they will be working to do that. At some point, I hope to be able to convince the Governor perhaps to set aside a specific position in the Department of Economic Development to handle these issues. If not, this is a proposal that can come back when economic times improve. But at this point, I wanted and asked the Speaker to schedule this so that I could at least make this body aware of the importance of maintaining, of protecting, and expanding our military economy. We cannot afford to have the state of Nebraska be unprepared for the next BRAC round. If we have another BRAC round and some of our facilities are threatened, then that will be an economic loss we cannot afford. I can tell you we already have here in Lincoln an issue that is looming and that is the Federal Emergency Management Agency has, in the wake of Katrina, ruled that our levee is too low out at the airport. And that puts the National Guard facility mostly in the flood plain. That is a deficit that would hurt us in a round of base realignment and closure discussions. [LB280]

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SENATOR ROBERT: One minute. [LB280]

SENATOR AVERY: So I would hope that you will not forget about this. I will now defer to the Clerk for the IPP motion. [LB280]

SENATOR ROBERT: Thank you, Senator Avery. Members, you've heard the opening to LB280. Mr. Clerk. [LB280]

CLERK: Mr. President, Senator Avery has filed a motion to indefinitely postpone. Senator, as the principal introducer, you have the option to lay the bill over, which I understand that's what you would prefer to do at this time. [LB280]

SENATOR AVERY: That is true. Thank you. [LB280]

SENATOR ROBERT: LB280 is laid over. Mr. Clerk, items. [LB280]

CLERK: Mr. President, items: new bills. (Read LB931-934 by title for the first time.) In addition, Mr. President, new resolutions: LR290 by Senator Fulton and others. That will be laid over. LR291 by Senator Fulton. That likewise will be laid over. And LR292 by Senator Fulton memorializing Congress. That will be referred to Reference Committee, Mr. President. Hearing notice from the Natural Resources Committee. I have a name add: Senator Howard would like to add her name to LB929. That's all that I have at this time, Mr. President. (Legislative Journal pages 211-214.) [LB931 LB932 LB933 LB934 LR290 LR291 LR292 LB929]

SENATOR ROBERT: Speaker Flood, you are recognized for an announcement.

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. We made some progress on our agenda today. I want to let you know that I think we'll quit for the day at this time. We have a short day tomorrow. A reminder that we will start again tomorrow morning at 9:45, which is an unusual time for us. We'll have the Governor in the Chamber with the State of the State, and we will take up some debate. But I can assure you we will be adjourned tomorrow by noon. The only other thing I want to mention is today on the floor you saw a member of our Legislature indefinitely postpone his own bill by laying it over. The way I treat those, and Senator Avery is well aware of this, is that bill will not come up again this session unless somebody prioritizes the same. It is one of the actions you can take on your own to take your bill off the agenda, but it doesn't come back unless it has a priority. Thank you again. Again tomorrow we start at 9:45 in the morning. Thank you, Mr. President.

SENATOR ROBERT: Thank you, Speaker Flood. Mr. Clerk.

CLERK: Mr. President, Speaker Flood would move to adjourn until Thursday morning,

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January 14, at 9:45 a.m.

SENATOR ROBERT: Members, the motion is, shall we adjourn until Wednesday, January 14...Thursday, January 14, at 9:45 a.m.? All those in favor signify by saying aye. Opposed, nay. We are adjourned.