

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

Floor Debate
April 08, 2011

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SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixtieth day of the One Hundred Second Legislature, First Session. Our chaplain for today is Pastor Dan Wills, Chandler Acres Baptist Church in Bellevue, Senator Mello's district. Please rise.

PASTOR WILLIS: (Prayer offered.)

SPEAKER FLOOD: Thank you, Pastor. I call to order the sixtieth day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

SPEAKER FLOOD: Are there any messages, reports, or announcements?

CLERK: I have a series of reports received in the Clerk's Office from the Auditor of Public Accounts...

SPEAKER FLOOD: (Gavel)

CLERK: ...and Health and Human Services. Those will be on file and available for member review. And the required report of registered lobbyists for this week. That's all that I have, Mr. President. (Legislative Journal pages 1099-1100.)

SPEAKER FLOOD: Thank you, Mr. Clerk. Members, please find your seats in preparation for Final Reading. Members, please find your seats in preparation for Final Reading. Unauthorized personnel please leave the floor at once. Unauthorized personnel please leave the floor at once. Staff members, unauthorized personnel please leave the floor. Members, the first bill on Final Reading is LB27. Mr. Clerk. [LB27]

CLERK: (Read LB27 on Final Reading.) [LB27]

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SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB27 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB27]

CLERK: (Record vote read, Legislative Journal pages 1100-1101.) 42 ayes, 0 nays, 7 excused and not voting. [LB27]

SPEAKER FLOOD: LB27 passes. Mr. Clerk, LB31. [LB27 LB31]

CLERK: (Read LB31 on Final Reading.) [LB31]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB31 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB31]

CLERK: (Record vote read, Legislative Journal page 1101.) 42 ayes, 0 nays, 7 excused and not voting, Mr. President. [LB31]

SPEAKER FLOOD: LB31 passes. Mr. Clerk, LB32. [LB31 LB32]

CLERK: (Read LB32 on Final Reading.) [LB32]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB32 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB32]

CLERK: (Record vote read, Legislative Journal pages 1101-1102.) 42 ayes, 0 nays, 7 excused and not voting, Mr. President. [LB32]

SPEAKER FLOOD: LB32 passes. Mr. Clerk, LB237. [LB32 LB237]

CLERK: (Read LB237 on Final Reading.) [LB237]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB237 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB237]

CLERK: (Record vote read, Legislative Journal pages 1102-1103.) 42 ayes, 0 nays, 1 present and not voting, 6 excused and not voting. [LB237]

SPEAKER FLOOD: LB237 passes. Mr. Clerk, LB34. [LB237 LB34]

CLERK: (Read LB34 on Final Reading.) [LB34]

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SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB34 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB34]

CLERK: (Record vote read, Legislative Journal page 1103.) 43 ayes, 0 nays, 6 excused and not voting. [LB34]

SPEAKER FLOOD: LB34 passes. Mr. Clerk, LB105. [LB34 LB105]

CLERK: (Read LB105 on Final Reading.) [LB105]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB105 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB105]

CLERK: (Record vote read, Legislative Journal page 1104.) 41 ayes, 2 nays, 6 excused and not voting, Mr. President. [LB105]

SPEAKER FLOOD: LB105 passes. Mr. Clerk, LB207. [LB105 LB207]

CLERK: (Read LB207 on Final Reading.) [LB207]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB207 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB207]

CLERK: (Record vote read, Legislative Journal pages 1104-1105.) 43 ayes, 0 nays, 6 excused and not voting. [LB207]

SPEAKER FLOOD: LB207 passes with the emergency clause attached. Mr. Clerk, LB218. [LB207 LB218]

CLERK: (Read LB218 on Final Reading.) [LB218]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB218 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB218]

CLERK: (Record vote read, Legislative Journal page 1105.) 38 ayes, 5 nays, 6 excused and not voting, Mr. President. [LB218]

SPEAKER FLOOD: LB218 passes. Mr. Clerk, LB255. [LB218 LB255]

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CLERK: (Read LB255 on Final Reading.) [LB255]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB255 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB255]

CLERK: (Record vote read, Legislative Journal page 1106.) 30 ayes, 12 nays, 1 present and not voting, 6 excused and not voting, Mr. President. [LB255]

SPEAKER FLOOD: LB255 does not pass with the emergency clause. We now shall vote on whether LB255 shall pass without an emergency clause. Again, this vote is to determine whether LB255 shall pass? This version of the bill will not include the emergency clause. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB255]

CLERK: (Record vote read, Legislative Journal pages 1106-1107.) 30 ayes, 12 nays, 1 present and not voting, 6 excused and not voting, Mr. President. [LB255]

SPEAKER FLOOD: LB255 passes. The emergency clause is stricken. Mr. Clerk, we now proceed to LB259. [LB255 LB259]

CLERK: (Read LB259 on Final Reading.) [LB259]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB259 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB259]

CLERK: (Record vote read, Legislative Journal pages 1107-1108.) 39 ayes, 2 nays, 2 present and not voting, 6 excused and not voting. [LB259]

SPEAKER FLOOD: LB259 passes. Mr. Clerk, we now proceed to LB260. [LB259 LB260]

CLERK: (Read LB260 on Final Reading.) [LB260]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB260 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB260]

CLERK: (Record vote read, Legislative Journal page 1108.) 43 ayes, 0 nays, 6 excused and not voting. [LB260]

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SPEAKER FLOOD: LB260 passes. Mr. Clerk, LB342. [LB260 LB342]

CLERK: (Read LB342 on Final Reading.) [LB342]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB342 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB342]

CLERK: (Record vote read, Legislative Journal page 1109.) 43 ayes, 0 nays, 6 excused and not voting, Mr. President. [LB342]

SPEAKER FLOOD: LB342 passes. Mr. Clerk, LB543. [LB342 LB543]

ASSISTANT CLERK: (Read LB543 on Final Reading.) [LB543]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB543 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. Madam Clerk, please record. [LB543]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1109-1110.) The vote is 42 ayes, 0 nays, 1 present and not voting, 6 excused and not voting, Mr. President. [LB543]

SPEAKER FLOOD: LB543 passes with the emergency clause attached. Madam Clerk, we now proceed to LB563. [LB543 LB563]

ASSISTANT CLERK: (Read LB563 on Final Reading.) [LB563]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB563 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB563]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1110-1111.) The vote is 44 ayes, 0 nays, 5 excused and not voting, Mr. President. [LB563]

SPEAKER FLOOD: LB563 passes with the emergency clause attached. Madam Clerk, we now proceed to LB621. [LB563 LB621]

ASSISTANT CLERK: (Read LB621 on Final Reading.) [LB621]

SPEAKER FLOOD: All provisions related to procedure having been complied with, the question is, shall LB621 pass with the emergency clause attached? All those in favor

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vote aye; all those opposed vote nay. Madam Clerk, please record. [LB621]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1111.) The vote is 44 ayes, 0 nays, 5 excused and not voting, Mr. President. [LB621]

SPEAKER FLOOD: LB621 passes with the emergency clause attached. Madam Clerk, LB100. [LB621 LB100]

ASSISTANT CLERK: (Read LB100 on Final Reading.) [LB100]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB100 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB100]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1112.) The vote is 42 ayes, 2 nays, 5 excused and not voting, Mr. President. [LB100]

SPEAKER FLOOD: LB100 passes. Madam Clerk, we now proceed to LB230. [LB100 LB230]

ASSISTANT CLERK: (Read LB230 on Final Reading.) [LB230]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB230 pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB230]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1112-1113.) The vote is 43 ayes, 0 nays, 1 present and not voting, 5 excused and not voting, Mr. President. [LB230]

SPEAKER FLOOD: LB230 passes. Madam Clerk, we now proceed to LB90 where the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB90]

ASSISTANT CLERK: 37 ayes, 1 nay to dispense with the at-large reading, Mr. President. [LB90]

SPEAKER FLOOD: The at-large reading is dispensed with. Madam Clerk, please read the title. [LB90]

ASSISTANT CLERK: (Read title of LB90.) [LB90]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied

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with, the question is, shall LB90 pass? All those in favor vote aye; all those opposed vote nay. Record please, Madam Clerk. [LB90]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1113-1114.) The vote is 44 ayes, 0 nays, 5 excused and not voting, Mr. President. [LB90]

SPEAKER FLOOD: LB90 passes. Madam Clerk, LB90A. [LB90 LB90A]

ASSISTANT CLERK: (Read LB90A on Final Reading.) [LB90A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB90A pass? All those in favor vote aye; all those opposed vote nay. Madam Clerk, please record. [LB90A]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1114.) The vote is 44 ayes, 0 nays, 5 excused and not voting, Mr. President. [LB90A]

SPEAKER FLOOD: LB90A passes. Thank you, Madam Clerk. (Gavel) Mr. Clerk, we now proceed to LB329. [LB90A LB329]

CLERK: (Read LB329 on Final Reading.) [LB329]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB329 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB329]

CLERK: (Record vote read, Legislative Journal page 1115.) 44 ayes, 0 nays, 5 excused and not voting, Mr. President. [LB329]

SPEAKER FLOOD: LB329 passes. Mr. Clerk, we now proceed to LB20. [LB329 LB20]

CLERK: (Read LB20 on Final Reading.) [LB20]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB20 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB20]

CLERK: (Record vote read, Legislative Journal pages 1115-1116.) 44 ayes, 0 nays, 5 excused and not voting, Mr. President. [LB20]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB20 passes. Mr. Clerk, we now advance to LB41. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB20 LB41]

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CLERK: 37 ayes, 0 nays to dispense with the at-large reading. [LB41]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB41]

CLERK: (Read title of LB41.) [LB41]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB41 pass? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB41]

CLERK: (Record vote read, Legislative Journal pages 1116-1117.) 44 ayes, 0 nays, 5 excused and not voting, Mr. President. [LB41]

SPEAKER FLOOD: LB41 passes. Mr. Clerk, we now proceed to LB45 where the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB41 LB45]

CLERK: 36 ayes, 2 nays to dispense with the at-large reading, Mr. President. [LB45]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB45]

CLERK: (Read title of LB45.) [LB45]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB45 pass? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB45]

CLERK: (Record vote read, Legislative Journal pages 1117-1118.) 44 ayes, 0 nays, 5 excused and not voting, Mr. President. [LB45]

SPEAKER FLOOD: LB45 passes. Mr. Clerk, we now proceed to LB465. [LB45 LB465]

CLERK: (Read LB465 on Final Reading.) [LB465]

SPEAKER FLOOD: Members, all provisions of law relative to procedure having been complied with, the question is, shall LB465 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB465]

CLERK: (Record vote read, Legislative Journal page 1118.) 33 ayes, 8 nays, 3 present and not voting, 5 excused and not voting, Mr. President. [LB465]

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SPEAKER FLOOD: LB465 passes with the emergency clause attached. (Visitors introduced.) Mr. Clerk, the next bill is LB468. [LB465 LB468]

CLERK: (Read LB468 on Final Reading.) [LB468]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB468 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB468]

CLERK: (Record vote read, Legislative Journal page 1119.) 34 ayes, 10 nays, 5 excused and not voting, Mr. President. [LB468]

SPEAKER FLOOD: LB468 passes. Members, before we proceed to the next bill, one note, LB255 will be placed at the end of Final Reading for a reconsideration motion on today's agenda. Again, LB255 will be placed for a reconsideration motion after LB366. Mr. Clerk, we now proceed to LB509. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB468 LB509]

CLERK: 38 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB509]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB509]

CLERK: (Read title of LB509.) [LB509]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB509 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB509]

CLERK: (Record vote read, Legislative Journal page 1120.) 44 ayes, 0 nays, 5 excused and not voting, Mr. President. [LB509]

SPEAKER FLOOD: LB509 passes with the emergency clause attached. Mr. Clerk, we now proceed to LB546. [LB509 LB546]

CLERK: (Read LB546 on Final Reading.) [LB546]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB546 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB546]

CLERK: (Record vote read, Legislative Journal pages 1120-1121.) 31 ayes, 9 nays, 4

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present and not voting, 5 excused and not voting, Mr. President. [LB546]

SPEAKER FLOOD: LB546 passes. Mr. Clerk, LB366. [LB546 LB366]

CLERK: Mr. President, Senator Langemeier would move to return the bill for a specific amendment, AM1052. [LB366]

SPEAKER FLOOD: Senator Langemeier recognized to open on your motion to return LB366 to Select File for a specific amendment. [LB366]

SENATOR LANGEMEIER: Mr. President, members of the body, I'd appreciate your consideration to pull LB366 back for...so we can talk about AM1052. First of all I'd like to thank Senator McCoy for letting us do this. If you will recall back to LB366 on General File, we put an amendment on there that deals with the Environmental Trust. And the concern was, is that as they have hearings at the Environmental Trust that there is some time lag that they would think about what they just heard before they made a decision, and so we put an amendment on to go 30 days. In our discussion that we came to on LB229 a few days ago, and in that, part of that negotiation, the Environmental Trust was neutral on the 30 days on LB366. But as we started looking at the time lines, to deal with the compromise in LB229 and their process, the 30 days seemed to be a little bit as a damper and a hindrance to get these things done. So we'd ask that you'd bring it back. This is part of that commitment that I made to them, that I would try and bring LB366 back, adopt AM1052 to strike that 30 days out so they would be back to where they were prior to that addition. And again I thank Senator McCoy for letting me do this. And if there's any other questions, I'm more than happy to answer them, but I'd ask for your favorable vote to bring it back to adopt AM1052. Thank you. [LB366 LB229]

SPEAKER FLOOD: Thank you, Senator Langemeier. Senator McCoy, you are recognized. [LB366]

SENATOR McCOY: Thank you, Mr. President and members. I support the return to Select File for AM1052. Thank you. [LB366]

SPEAKER FLOOD: Thank you, Senator McCoy. Senator Louden, you are recognized. [LB366]

SENATOR LOUDEN: Yes, thank you, Mr. President. Would Senator Langemeier yield for a question? [LB366]

SPEAKER FLOOD: Senator Langemeier, will you yield to a question from Senator Louden? [LB366]

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SENATOR LANGEMEIER: Yes. [LB366]

SENATOR LOUDEN: Then...and actually what this bill does is take the deviation from where there has to be at least eight members to deviate from the subcommittee's findings, is that actually what the bill does now? [LB366]

SENATOR LANGEMEIER: That's what...if we adopt AM1052, we strike out the 30 days. The remainder of the bill is still the open meetings laws--that the Environmental Trust has to follow open meetings laws and the eight members, correct. [LB366]

SENATOR LOUDEN: But in the original, green copy, there was a motion that was stricken, to deviate from the subcommittee's findings, and you--now they can have just a simple majority of those at the meeting--can deviate from a subcommittee's findings. Is that the way that will work now? [LB366]

SENATOR LANGEMEIER: Correct. That's the rest of the bill that will remain. [LB366]

SENATOR LOUDEN: Okay. And that did make a difference here on these last findings, when they bought that--or allowed that grant money to go to this Snake Falls operation up there, because there wasn't eight members to deviate from it. Is that correct? It will make a difference on how they operate? [LB366]

SENATOR LANGEMEIER: They actually--on the Snake Falls vote, it was--that was...well, first of all, this isn't law, so we aren't affecting that vote that happened yesterday. That vote was 6 to adopt and 4 against. And so this really wouldn't have affected that. Now, if there was only 8 of them there, then it would, yes. [LB366]

SENATOR LOUDEN: Yeah, but I mean if this bill--from now on, it would affect a situation like that. [LB366]

SENATOR LANGEMEIER: Exactly. [LB366]

SENATOR LOUDEN: Yeah. Okay, thank you, Mr. President. And thank you, Senator Langemeier. [LB366]

SPEAKER FLOOD: Thank you, Senator Louden. There are no lights on. Senator Langemeier, you're recognized to close on your motion to pull the bill back to Select File. Senator Langemeier waives his opportunity. The question before the body is, shall LB366 be returned to Select File for a specific amendment? All those in favor, vote aye; all those opposed, vote nay. Mr. Clerk, please record. [LB366]

CLERK: 41 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB366]

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SPEAKER FLOOD: The motion is successful. Mr. Clerk. [LB366]

CLERK: Mr. President, Senator Langemeier now would offer AM1052. (Legislative Journal page 1016.) [LB366]

SPEAKER FLOOD: Senator Langemeier, you're recognized to open on AM1052. [LB366]

SENATOR LANGEMEIER: Mr. Clerk, members of the body, again thank you for bringing it back so we can talk about AM1052 of LB366. This does strike out the requirement for the Environmental Trust to wait 30 days after a hearing before they could vote to either accept the project or not. And I'd ask for your adoption of AM1052. Thank you. [LB366]

SPEAKER FLOOD: Members, you've heard the opening on AM1052. There are no lights on. Senator Langemeier is recognized to close. Senator Langemeier waives his opportunity. The question before the body is, shall AM1052 be adopted? All those in favor, vote aye; all those opposed, vote nay. Mr. Clerk, please record. [LB366]

CLERK: 42 ayes, 0 nays, Mr. President, to adopt the Select File amendment. [LB366]

SPEAKER FLOOD: AM1052 is adopted. Senator Larson for a motion. [LB366]

SENATOR LARSON: Mr. President, I move that LB366 be advanced to E&R for engrossing. [LB366]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB366 is advanced to E&R for engrossing. As I stated earlier, LB255 is now placed at the end of our Final Reading list for this day. In my role as Chair, I've asked this bill be brought back for the following reason: The Legislature did not adopt the emergency clause to LB255; upon further review, the bill contains an operative date on page 2, of July 1, 2011; the actual effective date of the bill, following the Legislature's decision not to enact the emergency clause, will be a date sometime in early September. For that reason, we've asked Senator Fischer to harmonize the language by removing the operative date of July 1, 2011, from the bill. Mr. Clerk. [LB366 LB255]

CLERK: Mr. President, pursuant to that, Senator Fischer would move to reconsider the Final Reading vote on the passage of LB255 without the emergency clause. [LB255]

SPEAKER FLOOD: Senator Fischer, you're recognized to open on your motion to reconsider. [LB255]

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SENATOR FISCHER: Thank you, Mr. President and members. I believe the Speaker explained the situation. We need to go through four motions here in order to clean up the process that we did earlier this morning on Final Reading, when the bill was adopted without the emergency clause. This is the first motion. And I would ask that you vote to, please, reconsider this vote. Thank you, Mr. President. [LB255]

SPEAKER FLOOD: Thank you, Senator Fischer. Members, you've heard the opening on Senator Fischer's motion. There are no lights on. Senator Fischer, you're recognized to close. Senator Fischer waives her opportunity. Members, this does take 33 votes to reconsider a vote on Final Reading. The question before the body is, shall the Legislature reconsider the vote on Final Reading on LB255? Point of...Senator Lathrop. [LB255]

SENATOR LATHROP: I'm afraid I don't understand where we're at. Your representation from the Chair was that we were going to take up a motion to take the date out of the bill, and what we heard was a motion to reconsider our vote. And I'm not sure that I'm tracking you, Mr. Chair, or maybe I misunderstand the procedural process. And if it's a vote to reconsider, can a person who voted for it move to reconsider the vote at this point in time? So perhaps a clarification from the Chair, if you wouldn't mind. [LB255]

SPEAKER FLOOD: Senator Lathrop, as to your first point, the Chair has already declared that LB255 passed upon the second vote, after the Final Reading...after the decision by the Legislature not to adopt the emergency clause. Senator Fischer was on the losing side of the vote to not adopt the emergency clause. She was on the prevailing side of the motion--of the second vote, which advanced the bill to Final Reading--or advanced--which passed the bill on Final Reading. So she is, under our rules, eligible to reconsider the vote on Final Reading, pursuant to the legislative rules. Would you like a page and line clarification? [LB255]

SENATOR LATHROP: No. No. So the vote that we're taking now is to reconsider...are we taking it back to reconsider... [LB255]

SPEAKER FLOOD: We are. [LB255]

SENATOR LATHROP: ...or to take out a date? Is that it? [LB255]

SPEAKER FLOOD: We are. [LB255]

SENATOR LATHROP: All right. Thank you for the clarification. [LB255]

SPEAKER FLOOD: Senator Conrad, for what purpose do you rise? [LB255]

SENATOR CONRAD: Mr. Chair, I...I would like to ask, I guess, maybe there--a question

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to the Chair or a question to Senator Fischer about the implications if the existing operative date is left in--wouldn't it simply be unenforceable? [LB255]

SPEAKER FLOOD: Senator Conrad, we're not in a posture to debate, but I'm going to treat your rising as a point of order, which... [LB255]

SENATOR CONRAD: Okay, thank you. [LB255]

SPEAKER FLOOD: ...I think is legitimate. [LB255]

SENATOR CONRAD: Thank you. [LB255]

SPEAKER FLOOD: We visited with the Revisor of Statutes regarding this situation, and she felt, in concurrence with the Clerk and the Assistant Clerk and myself, that, to be absolutely accurate on the effective date of LB255, that the provision stating "July 1, 2011," should be stricken, so that the only effective date the Revisor's Office will recognize is the actual three calendar months from the adjournment of the Legislature sine die. [LB255]

SENATOR CONRAD: Okay. And just so I understand, then, if it's not...if that portion of the legislation is not removed and it remained in the legislation, it...wouldn't it in effect take...be enforced at that typical three-month period, because the existing stated date would be impractical--both--to enforce? [LB255]

SPEAKER FLOOD: The effective date for enforcement purposes would be the date three calendar months from sine die adjournment. The issue remaining would be that while the effective date would be, for instance, September 9, the actual legislation would say "July 1." And so by removing the July 1 date we're cleaning up the statute and making sure that we speak very clearly to the citizens of this state as it relates to the effective date of LB255. [LB255]

SENATOR CONRAD: Thank you. [LB255]

SPEAKER FLOOD: You're welcome. Members, the question before the body is, shall LB255 be reconsidered as to the vote earlier taken on Final Reading? This does take 33 votes. All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB255]

CLERK: 42 ayes, 0 nays, Mr. President, on the motion to reconsider. [LB255]

SPEAKER FLOOD: The motion is adopted and successful. Mr. Clerk. [LB255]

CLERK: Mr. President, Senator Fischer would move to return LB255 to Select File for

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specific amendment, specifically AM1139. (Legislative Journal page 1122.) [LB255]

SPEAKER FLOOD: Senator Fischer, you're recognized to open on your motion to return LB255 to Select File for a specific amendment. [LB255]

SENATOR FISCHER: Thank you, Mr. President and members. And thank you for your first vote in this process to clean up the bill now. I would ask that you vote to return the bill to Select File. The specific amendment, if you are reading it, will be to strike section 4 of the original bill--that is the operative date of July 1. So I would ask that you return this to Select File. Thank you, Mr. President. [LB255]

SPEAKER FLOOD: Thank you, Senator Fischer. Members, you've heard the opening on Senator Fischer's motion to return this bill to Select File for a specific amendment. There are no lights on. Senator Fischer, you're recognized to close. Senator Fischer waives her opportunity. The question before the body is, shall LB255 be returned to Select File for a specific amendment? All those in favor, vote aye; all those opposed, vote nay. Record, please, Mr. Clerk. [LB255]

CLERK: 44 ayes, 0 nays, Mr. President, to return the bill to Select File. [LB255]

SPEAKER FLOOD: The motion to return LB255 to Select File is successful. Mr. Clerk. [LB255]

CLERK: Mr. President, Senator Fischer would offer her specific Select File amendment, AM1139. [LB255]

SPEAKER FLOOD: Senator Fischer, you're recognized to open on AM1139. [LB255]

SENATOR FISCHER: Thank you, Mr. President and members. And thank you for that previous vote. This is the amendment that I would ask you to, please, adopt. It strikes section 4, which is the operative date of July 1. We need to strike that so it clarifies that this bill will take effect after three calendar months, which would be the operative date of September 9. Thank you, Mr. President. [LB255]

SPEAKER FLOOD: Thank you, Senator Fischer. Members, you've heard the opening on AM1139. There are no lights on. Senator Fischer, you're recognized to close. Senator Fischer waives her opportunity. The question before the body is, shall AM1139 be adopted? All those in favor vote aye; all those opposed vote nay. Record, please, Mr. Clerk. [LB255]

CLERK: 42 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment. [LB255]

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SPEAKER FLOOD: AM1139 is adopted. Mr. Clerk. Senator Larson for a motion. [LB255]

SENATOR LARSON: Thank you, Mr. President. I move that LB255 be advanced to E&R for engrossing. [LB255]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB255 advances to E&R for engrossing. Mr. Clerk, we now proceed to LR102. [LB255 LR102]

CLERK: Mr. President, LR102 was a resolution introduced originally by the Redistricting Committee and signed by its membership. It proposes certain guidelines and other parameters with respect to the redistricting process. Upon introduction, it was referred to the Redistricting Committee for public hearing. The resolution has been reported back to the Legislature for further consideration. [LR102]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Langemeier, as Chair of the Redistricting Committee of the Legislature, you are recognized to open on LR102. [LR102]

SENATOR LANGEMEIER: Mr. President, members of the body, the introduction for LR102 is a little different. LR102 prescribes the guidelines to be used by the Legislature during this 2011 redistricting process. The guidelines help to ensure that redistricting plans developed and passed by this Legislature meet legal parameters and are constitutionally acceptable. The Legislature is responsible for drawing the district boundaries for the U.S. House of Representatives, the Legislature, the Supreme Court, the Board of Regents of the University of Nebraska, and the Public Service Commission, and the State Board of Education. Generally, LR102 directs the Legislature, when drawing district boundaries, to use the population data from the 2010 U.S. Census and census geography; to follow county lines where applicable; and the traditional redistricting principles such as compactness, contingency, and the core of prior districts, and respect the boundaries of cities and villages. Additionally, LR102 prohibits the drawing of districts and boundaries intentionally to favor political parties or political affiliations of registered voters. Now the most important part of the resolution requires the creation of districts which are substantially equal in population. Population equality, known as one person, one vote, is the most fundamental requirement when drawing the district boundaries. In practical terms, population equality means that each district in its apportionment and the plan shall have roughly, if not precisely, the same number of people in every other district, but there are no two different legal standards to determine whether one person, one vote is standard. The U.S. Constitution and the Supreme Court require the state Congressional districts to be as nearly to equal as possible. LR102 provides no congressional plan...provides that no congressional plan will be considered which results in an overall range of deviation of 1 percent, in other

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words, plus .5 or minus .5. As applied to state legislative districts, the U.S. Constitution and the Supreme Court require that the state make a good-faith effort to create population equality among the districts, generally equal in population, requiring the state legislative districts is satisfied as long as the population in the smallest district and the population in the largest district does not vary by more than 10 percent. LR102 provides that no legislative plan will be considered which requires an overall range of deviation of 10 percent, relative plus 5 or minus 5. LR102 also provides that the plan for the Supreme Court, the Board of Regents, the Public Service Commission, and the State Board of Education be drawn at that same 10 percent overall deviation as the legislative districts are. With that, that is what LR102 does for us today and we'd ask for your adoption and consideration of LR102. Thank you. [LR102]

SENATOR SULLIVAN PRESIDING

SENATOR SULLIVAN: Thank you, Senator Langemeier. The floor is now open for discussion. The Chair recognizes Senator Burke Harr. [LR102]

SENATOR HARR: Thank you, Madam President. Senator Langemeier, would you yield for questions? [LR102]

SENATOR SULLIVAN: Senator Langemeier, would you yield for a question? [LR102]

SENATOR LANGEMEIER: Yes. [LR102]

SENATOR HARR: Thank you. I'm looking at the deviations and I see they're different between state and federal. Is there a reason for that? [LR102]

SENATOR LANGEMEIER: Yes. The federal has a U.S. Supreme Court case that was ruled that deviation has to be set at 0 or 1 percent or less, and so we're working on a court decree in that regard. [LR102]

SENATOR HARR: And the number 5 percent, where did that number come from? [LR102]

SENATOR LANGEMEIER: Five percent is...been typically over history has been considered a reasonable level of plus or minus 5 percent, so that is our maximum in here. As we... [LR102]

SENATOR HARR: And you say reasonable, and that's reasonable by whom? Is there a court case to that effect? [LR102]

SENATOR LANGEMEIER: It hasn't been challenged in court. [LR102]

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SENATOR HARR: Okay. So that is by a court case? [LR102]

SENATOR LANGEMEIER: It has not be challenged by a court,... [LR102]

SENATOR HARR: Oh, it has not. I'm sorry. [LR102]

SENATOR LANGEMEIER: ...to my knowledge. [LR102]

SENATOR HARR: All right. And traditionally, what was the ratio difference in 2000, if you know? [LR102]

SENATOR LANGEMEIER: Two percent. [LR102]

SENATOR HARR: And what was it in 1990? [LR102]

SENATOR LANGEMEIER: Ooh, I don't have that one in front of me. I can get it for you. [LR102]

SENATOR HARR: Okay. And what was the reasoning for going from 2 percent to 5 percent? [LR102]

SENATOR LANGEMEIER: In 2000, it was 5 percent. [LR102]

SENATOR HARR: Oh, it's 5, okay. [LR102]

SENATOR LANGEMEIER: It was set in this legislative...this is the same legislative resolution that was used in 2000 and that was deemed acceptable and it seemed to work. Now that doesn't mean that when we come up with a proposal as a committee that we're going to be at 5 percent. We'll strive to shoot for less than that. This is just setting our max so don't bring...so basically we're saying is if you have an amendment to what the committee proposes, don't bring one that's got 10 percent. [LR102]

SENATOR HARR: Okay. And what is the reasoning for having a 5 percent variance? If we're able to do it at less on a federal level, what is the reasoning for having it larger on the state level? [LR102]

SENATOR LANGEMEIER: It's much more difficult to honor. If you've gone down and looked at the software, as we try and honor keeping counties together and other factors across the state, that's where deviation comes in. [LR102]

SENATOR HARR: Okay. And can you explain for the record what that software is? [LR102]

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SENATOR LANGEMEIER: Oh, I don't know the name of it. The software is the software we use that incorporates the census data to the voting tracts to allow us to do redistricting. [LR102]

SENATOR HARR: Okay. And you would agree with me that this software has probably been updated since 2000? [LR102]

SENATOR HARR: My understanding is it's not a lot different than 2000. [LR102]

SENATOR HARR: Okay. [LR102]

SENATOR LANGEMEIER: It's extremely different from 1990. [LR102]

SENATOR HARR: Is it? And do you know if the variation has gone up or down since 1990, up 5 percent between 1990 and 2000? [LR102]

SENATOR LANGEMEIER: What variation? [LR102]

SENATOR HARR: The 5 percent variation. Do you...I guess you answered that already. You don't know if 1990 was more or less or the same as 5 percent. [LR102]

SENATOR LANGEMEIER: Yeah, I know it was under 5 percent. I don't exactly know what it was... [LR102]

SENATOR HARR: Okay. [LR102]

SENATOR LANGEMEIER: ...but we'll find that out. [LR102]

SENATOR HARR: And have you looked at the congressional or the...congressional, no, legislative record as to why we switch from a lower number up to 5 percent or do you know how that number was obtained? [LR102]

SENATOR LANGEMEIER: We didn't switch. The legislative resolution was set at 5 percent. [LR102]

SENATOR HARR: In 2000. [LR102]

SENATOR LANGEMEIER: The maps, when drawn, came in at 2 percent,... [LR102]

SENATOR HARR: Okay. [LR102]

SENATOR LANGEMEIER: ...just like our maps will come in under 5 percent. What we're setting is a top end level here that says no maps will be drawn over 5 percent.

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[LR102]

SENATOR HARR: Okay. And why is it important to keep county boundaries for legislative districts or for districts for all of them I guess, from Supreme Court on down? [LR102]

SENATOR LANGEMEIER: Yeah, it's constitutionally set that we respect county boundaries. [LR102]

SENATOR HARR: Okay. That would be a good answer. Showed my ignorance. (Laugh) All right. I guess I, personally, have a problem with 5 percent. I think that's a large variation. [LR102]

SENATOR SULLIVAN: One minute. [LR102]

SENATOR HARR: Personally, I think that's a large variation. I think with the modern computer programs that we do have out there, where we can trace populations quite easily, I think it's important that we have, as Senator Langemeier said, the very important one person, one vote concept and I think we need to look at the best ways possible of enforcing that constitutional right. If we're able to do it on the congressional level, on the federal level, I think we have the ability and the know-how through computers to make that as close as possible. And I would urge that perhaps we reevaluate that 5 percent, which allows for a 10 percent variance between counties. Thank you very much, Madam President. [LR102]

SENATOR SULLIVAN: Thank you, Senator Harr. (Visitors introduced.) Those senators wishing to speak are Conrad, Avery, Lautenbaugh, Price, and Loudon. Senator Conrad, you're recognized. [LR102]

SENATOR CONRAD: Thank you, Madam President. Good morning, colleagues, and thank you to our Chair, Senator Langemeier, for his clear opening on this legislative resolution, and also many thanks to our colleague Burke Harr, Senator Harr, for asking questions about this process, because it is indeed important and unique and I believe it's important that we also have a very clear record about our plans and parameters to implement redistricting. Just a little bit of background that Senator Langemeier may not have had time to provide in his opening that might be helpful to other members of the Legislature: At the committee level we had an extensive dialogue about the appropriate parameters for the various deviation rates. There were proposals put forward by Senator Mello and myself to first try and mirror the deviation level as set forward for the Congressional districts for the other jurisdictional issues, which was not adopted by the committee. We also put forward a motion to try and mirror the smaller deviation utilized by the Nebraska Legislature in the 1991 redistricting process, which would have allowed for a total of 4 percent, and then we also tried to move forward with a proposal to split

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the difference between the current 5 percent and put a 3-6 split difference in place. Those three motions were rejected by the committee and we did so because we believed that the technology had vastly improved, that uniformity should be important. If we can do it for the Congressional districts, we should do the same for the Legislature and other jurisdictional entities that will be affected by redistricting, and because, while we recognize the need for flexibility amongst committee members in this body, we have to remember that flexibility does not, indeed, rise to the level of import from a statutory or constitutional perspective and that, rather, we must adhere to other parameters and guidances, like following counties as a constitutional import put forward in Nebraska and, of course, the well-recognized and well-established one person, one vote principle in Baker v. Carr. So like all things that come before this body, it is indeed a balancing of various interests that are affected by these decisions. I think it is important to note that at the committee level we also had a very engaged dialogue, after these motions to change the deviation levels failed to advance, about how we personally, as committee members, in conjunction with staff and then in conjunction with the citizenry and the full Legislature who will weigh in on these proposals, that we are committed to making as many districts as small in deviation as possible. And regardless of the set deviation standards in the legislative resolution, in fact, that is what has happened in Nebraska in previous years. And I think it is important that these issues are on the forefront of our minds as we enter into the important work of redistricting and I can say for myself, and I believe other committee members on the Redistricting Committee, that we see this deviation issue as a ceiling rather than a floor and will indeed be working as hard as possible to make as many districts within a lower set of deviation and as close to uniform as possible. Thank you, Madam President. [LR102]

SENATOR SULLIVAN: Thank you, Senator Conrad. The Chair now recognizes Senator Avery. [LR102]

SENATOR AVERY: Thank you, Madam President. I am a member of the Redistricting Committee and when we were discussing this resolution in committee we did talk about what is appropriate, what the constitutional issues were. We talked about Supreme Court cases and, more importantly, we talked about what are considered best practices in this process of redistricting. Five percent is within the deviation limits that virtually all groups that care about redistricting and study it and all the scholarly literature on this considers 5 percent to be within the margins of best practices. I can tell you, too, that when I've been down in the Legislative Research Office doodling with the computer and the software and trying to get legislative district boundaries drawn to reach something lower than 5 percent, it's very difficult to do. And I talked with the computer specialist down there, who knows more about this than I do and probably all of us, and I asked him, I said, how hard is it to get down to 1 percent when you are dealing with legislative race...legislative districts? He said, almost impossible. At 5 percent we can do it. We can probably get down to 3, maybe a little bit lower, but when you start going much lower than that it's extremely difficult to do. The fact is that when you are drawing

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boundaries for larger districts like Congressional districts, it's much easier to get down to 0 or near 0, and that is what I'm sure we will do. But when you're dealing with smaller districts, like legislative districts and school...Board of Education districts, Public Service, and the districts for Regents, it's much more difficult and that's largely because we are required to try to protect, to the extent possible, county boundaries. And I think Senator Langemeier made that point. One other comment about the software, the software is better now but the main difference between the software we have today and what they had 10 years ago is that it's much faster. We can actually pick up blocks of voters. We can split an apartment building down the middle if we need to. I mean it's amazing software, but the speed is the main difference. I think this resolution deserves your support. We discussed it thoroughly in the committee and it does conform to a constitutional and court issue requirements and it does meet best practices standards. Thank you, Mr. President. [LR102]

SENATOR SULLIVAN: Thank you, Senator Avery. Senators wishing to speak are Senators Lautenbaugh, Price, Louden, and Krist. Senator Lautenbaugh, you're recognized. [LR102]

SENATOR LAUTENBAUGH: Thank you, Madam Chair and members of the body. As is often the case, I rise to agree with Senator Avery's comments and expand upon them a little. The reason for the variance that we talked about on the 10 percent, 5 percent either way, I think has been amply explained but I do want to underline the point. It is very different drawing a Congressional district than it is drawing a legislative district. In our constitution from the state of Nebraska, it says we're supposed to follow county lines whenever practicable. If we required absolute or if it's close to absolute 0 deviation as possible, as we get out into greater Nebraska it would be very difficult to follow county lines and have districts that comprise whole counties. That is why we need the flexibility. While one man, one vote is important, obviously, and it's one of the criterias we shoot for, that doesn't mean that there should be almost no deviation. And even among the Congressional districts, while we are allowed very little deviation among the three districts, between, among the three districts that we have in Nebraska, our Congressional districts vary by a substantial percentage from the size of Iowa's Congressional districts and Wyoming's Congressional districts by population and all the other states. Because just as surely as we're tasked with dealing with county boundaries wherever practicable when we're drawing legislative districts, the U.S. Congress has to deal with state boundaries. So it is not correct to say that of the 435 House seats, the deviation is almost 0. Within a state they're supposed to be almost 0 but they differ from state to state and that's just something that the federal government can't control. Similarly, with our constitutional provision regarding respecting county boundaries wherever practicable, that's something we can't and shouldn't try to get down to 0 because it would work a substantial hardship, again, in the western part of the state in trying to draw districts that have logical boundaries that, wherever practicable, follow county lines. Again, while the software is faster, there is a certain

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minimal bit of census information that we can get down to beyond which we cannot go. I believe it's called a census block. And we were able to manipulate districts down to the block level in 2000; we're able to manipulate districts down to the block level in 2011. That hasn't changed. The only thing that's changed is the software is faster. Our information isn't better. It's just faster software. We don't have any greater abilities to get closer to 0 now than we did before. I think we were told that very clearly in the Redistricting Committee. So I do rise in support of LR102. I believe we do need the plus or minus 5 percent range, as we did in 2000, to do the best job we can out in greater Nebraska, and I would urge your support of the resolution. [LR102]

SENATOR SULLIVAN: Thank you, Senator Lautenbaugh. The Chair recognizes Senator Price. [LR102]

SENATOR PRICE: Thank you, Madam President, members of the body. I rise because I did notice that when the hearing was held on the legislative resolution before us today there was one member of our citizenry who did testify before the committee, and that individual does reside in my district. And he came to testify because what we see in the resolution on point Number 3, where we're going to respect, as much as possible, county lines and things of that nature, in my area it's a very, very sensitive topic. And I would like to ask, would Senator Lautenbaugh yield to a question? [LR102]

SENATOR SULLIVAN: Senator Lautenbaugh, would you yield for a question? [LR102]

SENATOR LAUTENBAUGH: Yes, I will. [LR102]

SENATOR PRICE: Thank you very much, Senator Lautenbaugh. I appreciate that. And the question I have, do you believe that there's substantially much different from this resolution than perhaps was done by previous bodies in redistricting? [LR102]

SENATOR LAUTENBAUGH: I don't believe the resolution differs very much. [LR102]

SENATOR PRICE: All right. Thank you very much, Senator Lautenbaugh. And I bring that question up and that point up in that when the districts are drawn and everything it just seemed that in my area we're blessed to have seven senators representing Sarpy County. Only three of them are within the contiguous boundaries of the county. And with the growing population that we even have today, if we were to say 38,000 is the prime number we're looking for, you would still be able to put all four within Sarpy County and have over 8,000 citizens to share and make whole for other districts, and in the last two redistrictings it didn't happen. And I have great faith in the committee. I've heard everybody say we're going to do what is level best and, of course, we have to do it for the state and then want to do it for the county, and I respect and believe that they're going to do that. But I would just encourage that that adherence to county boundaries is truly sought after in what we do in drawing the districts. Thank you, Madam President.

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[LR102]

SENATOR SULLIVAN: Thank you, Senator Price. The Chair now recognizes Senator Louden. [LR102]

SENATOR LOUDEN: Thank you, Madam President and members of the body. The reason I guess we've always had these deviations over the years for one thing was because of the rural areas and the urban areas we have in Nebraska. By having the 5 percent deviation on one side or the other helps to keep from getting some of these rural districts so they won't be 250 miles across. And this is what, if you went with the one man, one vote system, we'd probably have districts out in western Nebraska that would be somewhere around 200 miles by 200 miles or more and they get to be so unwieldy that actually those people don't get that much representation out there. Even the district I'm in now it's 100-and-some miles from one side to the other. So with the deviation of 5 percent, you're talking about between 1,850 and 1,900 people that you can vary those districts, which makes some difference out in rural areas. We have some of those counties that don't have that many people in the counties so it makes a difference where you can move a county around and square it up a little bit. Actually, as we were working on some of this here earlier in the year when they first got the computer system in down there, if you went with a deviation of 10 percent and you had 7 percent could be under and 3 percent could be over, you actually wouldn't move the district boundaries that much. Somewhere along in that system they would come up with about what we have now for the shapes of the districts in the state of Nebraska. And I think Senator Burke Harr mentioned why that we had to go with county lines and I think that was tested in court. I think Madison County took that to court a few years ago, and if they have enough people in a county then they're allowed to have a legislative district, such as now Lincoln County is one and I think Madison County at the present time is one but whether or not that will change...and it looks like, some of the numbers we have, perhaps with the deviation Scotts Bluff County may be a district by themselves. So that's some of the reasons we have, not that I'm not satisfied with a 5 percent deviation. I think that's probably pretty good of what can be done. I know it could have been done better with 7 and a 3 but...on a 10 percent, but I don't know if that would have been legal, if it would stand a test in court. And I'm sure this 5 percent deviation, where it's been used different years, I'm sure that will be able to withstand any court challenge that may come about. We have to consider on some of the districts in some of these urban areas, in some of the downtown Omahas and downtown Lincoln's that have actually are going to be below the average population right now, so the question is if those districts need to get just a little bit larger in there to take up some of the slack that has for the population that's spread out from around the outside of the towns. With that, I certainly support the LR102. Thank you, Madam President. [LR102]

SENATOR SULLIVAN: Thank you, Senator Louden. Senators wishing to speak are Krist, Burke Harr, and Conrad. Senator Krist, you're recognized. [LR102]

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SENATOR KRIST: Thank you, Madam President. I wondered if I could ask Senator Langemeier a few questions. [LR102]

SENATOR SULLIVAN: Senator Langemeier, would you yield for a question? [LR102]

SENATOR LANGEMEIER: Yes. [LR102]

SENATOR KRIST: Where is the requirement stated for contiguous counties as much as possible? [LR102]

SENATOR LANGEMEIER: Those are...when it says in there we follow traditional redistricting principles, that is an example of a principle. It doesn't say those in there, point, line by line. [LR102]

SENATOR KRIST: I believe that it's a constitutional requirement, is it not? [LR102]

SENATOR LANGEMEIER: It is. [LR102]

SENATOR KRIST: Okay. So for the record, the fact that we need to consider contiguous counties is a constitutional requirement of the state. The plus or minus 5 percent parameter is a realistic parameter in my mind, as I know it is in yours. I would like to state for the record, folks, that when I submitted a bill to reduce the number of seats in this Legislature, I did an incredible amount of research. Thanks to our Legislative Research Office, Nancy Cyr and her folks, I became extremely...I got myself educated up to speed, if you will, on those parameters, and it took about a month and a half to figure out what parameters needed to go in there. I applaud Senator Langemeier and his committee for stating those parameters. That's exactly what we hit and we hit the button and we hit it two or three different times to see how things might be considered differently. And I don't think we ran one, my office, in Research, I don't think we ran one that was more than a 2.75 percent variation in any of the models that we ran. So I believe that this is...that I would support LR102 and I would encourage the Redistricting Committee to get on with their job and to allow us to see some plans that we can then debate, because these are realistically the best parameters that I think we can start with to get on with life. And that's all I have to say. Thank you. [LR102]

SENATOR SULLIVAN: Thank you, Senators. The Chair now recognizes Senator Burke Harr. [LR102]

SENATOR HARR: Thank you, Madam President. Just like to talk about a couple issues Senator Lautenbaugh brought up, namely about Congress, that there are deviations from state to state. Senator Lautenbaugh has left the building so I won't ask him...or at least left the Chamber. But I guess my issue is, while there are deviations from state to

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state, I would be highly suspect to say that it is 5 percent. And if he can present evidence to the contrary, I would really like to hear that. But Congress cannot cross state lines. That's part of the way we did our constitution. We can cross county lines. It's "as much as possible." It is not a restriction. Off-mike I had a conversation and I've looked at some of the districts. Senator Langemeier, who is chairing the Redistricting, is currently in five counties, five. That's "as much as possible"? That's ridiculous. Some have seven, but he's in five separate and he's not part of one county. I hear people catcalling from the back. It's fine if you're seven, but he's part of five counties, not five counties in total. There's a difference. And that was with 5 percent. So to make the argument that we need 5 percent is not right. What we have to realize is in 1990 we had a 2 percent variation. I've looked it up since then. It's 2 percent. Why do we have to go from 2 to 5 when we have more technology and it's easier to track population? I don't know. That argument has been made. I haven't heard it on the floor other than "as much as possible," by counties. Ladies and gentlemen, my issue here is what is wrong with the concept of one man, excuse me, one person, one vote? If someone can present a reason other than preserving counties, I understand that, but I would think one person, one vote would supersede "as much as possible." I understand why we have a variation, but that variation leads to further problems. We have Senator McCoy's district. It's almost doubled in the last year. We can take his district and divide it by two because we have such a large variation of that 5 percent. I understand his district grew but it started out below and it's only gone further. It leads for great inequity. I am for fairness. Call me an idealist, I don't know. With that, I will cede the rest of my time. Thank you. [LR102]

SENATOR SULLIVAN: Thank you, Senator Harr. The Chair now recognizes Senator Conrad. [LR102]

SENATOR CONRAD: Thank you, Madam President. And again, thank you, colleagues. And I would be remiss if I did not also offer thanks to Senator Langemeier and staff from the Legislative Research Office who have really demonstrated a great amount of astute leadership as we work through this process and we are grateful to have their expertise and knowledge as it has helped to keep what can sometimes, in other states and I guess even potentially historically in Nebraska, be a very political and emotional process. And I'm very confident that our Redistricting Committee, this body as a whole, and our citizenry, when they have a chance to weigh in, will indeed keep the best interests of Nebraska at heart. And just to be clear for the record, because this is important as we move forward, the requirement that we follow county lines "whenever practicable" is found in Article III, Section 5 of the Nebraska Constitution, just so that's clear in case everybody...anyone happens to be looking for a reference that is also spelled out in LR102. The only other...the other point that I wanted to make, because I think there may have been some confusion on the record, is the only other time it's allowable to take into account geographic considerations beyond the county line requirement is when you're looking at boundaries of cities and villages, etcetera, and

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this is laid out in subsection 4 of LR102. So while my good friend Senator Louden mentioned that indeed we can have legislative districts or other districts that encompass a very great geographical area, we're not allowed to take geography into account in terms of crafting the size or scope of any particular district. Rather, if you look specifically at the additional parameters set forth in 7, 8...in sections 6, 7, and 8, we can only base our district size and composition based on demographic information and population figures. We really aren't able to utilize geographic consideration or size of district because that would contravene the census data and the population requirements and the principles of one person, one vote that are inherent in all of our work. So I did want to be very, very clear about that. I did want to also make sure that members had a chance to recognize there are some other important components of LR102 that you should draw your attention to and feel free to visit with voters and citizens in your district as you discuss this process. But I think it's also a very good thing that our legislative parameters for redistricting, put forward in LR102, specifically note in subsection 5 that, "District boundaries shall not be established with the intention of favoring a political party or any other group or person." And that, of course, will be critical as we move forward. Again, I'm very hopeful that our committee will be able to put forward a solid plan which adheres to these principles and seeks to achieve a deviation percentage that is actually much, much lower than the ceiling parameters that are set forward in this resolution. And I am also thankful that here in Nebraska we're able to operate in a way that allows us to put... [LR102]

SENATOR SULLIVAN: One minute. [LR102]

SENATOR CONRAD: ...the state interest before--thank you, Madam President--before any partisan or political interests. And I think once members have a chance to look at the redistricting information process and software, they will see that as long as we stay focused on these good directives, many of the shenanigans that have happened in other states or even in our history hopefully will not be present as we move forward. But I really believe that we'll be able to have a strong plan that is based on upholding the principles of one person, one vote and will be a strong way to move forward for the next ten years following these electoral boundaries. Thank you, Madam President. [LR102]

SENATOR SULLIVAN: Thank you, Senator Conrad. (Visitors introduced.) Senators in the queue are Lathrop and Lautenbaugh. Senator Lathrop, you're recognized. [LR102]

SENATOR LATHROP: Thank you, Madam President, as the crowd clears. I don't know, it seemed to be a gathering point. I do want to speak about this and maybe respond to some of what I've heard, and I maybe should have tried to get on this committee. I think everybody here tried to but me. But I do want to respond to this idea of a deviation, the idea of a deviation that some districts might be 5 percent bigger than the average or the ideal and some might be 5 percent smaller. And I can appreciate we do this every ten years and we do it in response to the census. I get that. And I get that the census is a

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snapshot. I get that the census is a snapshot. But as we talk about the deviation, and I'm in some respects I suppose responding to Senator Loudon, which is the idea that we would use the deviation to make districts in greater Nebraska geographically smaller, that isn't the point. Okay? And the idea that we are going to get some distance away from one man, one vote in order to accommodate the geography one must cover to represent a district in greater Nebraska, I'm going to suggest a different thing that I'll be looking for when this bill comes to the floor and that is when we look over the census data from 10 years ago or even 20 years ago, there's a trend. And while the census gives us a snapshot and that's the data we use to develop the districts, Senator McCoy has two districts inside of his legislative district. So it would make more sense for us to look at some of the trends and say, if we are going to make deviations and actually make districts smaller, put them in Omaha, put them in Lincoln, put them in Hall County, put them in Madison County, wherever history tells us there are growing communities is where the deviations should be smaller than 1/49 of the state's population, because they will grow into that and we will not end up with the...what I consider to be an inequitable situation where Senator McCoy, for example, and he's not the only one, but where Senator McCoy, for example, ends up representing almost two full districts worth of the population. So the deviation I appreciate is necessary to make this a practical process, but it is not and should not be used to reduce the geography one must cover in greater Nebraska or in less-populated parts of the state. And in quite the opposite, I think what we should be looking at is which of the districts is most likely to grow into the deviation rather than just say we'll start out in the western part of the state, we'll make theirs 10 percent greater or less, whatever you have to do to make them smaller, and then we get to Omaha and then we kind of work from there. I think it's backwards. Where there is growth in population, and it may well be in Scotts Bluff or it might be in Hall County, wherever history tells us those are growing communities, I think the deviation ought to be taken into account to start out with a smaller population because they'll grow into it, and that's what I'll look forward to when this bill gets to the floor. Thank you. [LR102]

SENATOR SULLIVAN: Thank you, Senator Lathrop. Mr. Speaker for an announcement. [LR102]

SPEAKER FLOOD: Thank you, Madam President. Good morning, members. A couple of notes, I want to do two things: talk about the balance of today and then what next week is going to look like. For the balance of today, as far as I'm concerned, we can leave when this bill moves. One way or the other we can finish our work up for the week. As it relates to next week, if you grab your agenda, we're going to continue on General File and we'll start with LB463 on Monday morning at 10:00. I hope we can come to terms on that bill one way or the other by noon. At 1:30 on Monday we're going to go to LB357, which is Senator Ashford's half-cent sales tax bill. That would be LB357. We'll remain on that until it's dealt with by the Legislature. And that may or may not go into Tuesday but we're going to back it up with some Select File Tuesday and all day

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Wednesday. If you've got a bill on Select File, pay special attention to it. If there's an amendment you want to take up, let's get it filed. We're going to spend some time on Select File next week and, depending on how we do with Select File, assuming we can resolve most of it, we're going to try to go with our consent calendar bills on General File next Thursday, which will be a day that we potentially will work well beyond the noonhour. So that's what we're looking at. I wanted to give you kind of a picture into next week so that you are ready. And my office will send out a little e-mail walking through some of those steps. Thank you, Madam President.

SENATOR SULLIVAN: Thank you, Speaker Flood. Those senators in the queue are Senators Lautenbaugh and Pankonin. Senator Lautenbaugh, you're recognized.
[LR102]

SENATOR LAUTENBAUGH: Thank you, Madam President and members of the body. And it's always tough speaking after the guy who says we move this and you guys get to go home, because now I'm the bad guy. But I won't take all of the time, I promise you that. We have these discussions about the variance and I suggested that some on the Redistricting Committee were suggesting that we actually draw districts to take the future into account, where we think population growth will be. I didn't think that was a good idea; I just thought that's what was being suggested. And I was told that's not being...was not what was being suggested. Here's why. Senator McCoy's district is about 100 percent larger than it should be and that's not because we had a 5 percent deviation back in 2001 when we did this. His district was almost dead-on when it was drawn. My point was, if we are...some of those who are arguing we should have a smaller variance cite Senator McCoy's district as an example. I said, well, the logic of it, if you're trying to address that, would be to draw his district with less population than everyone else because you assume it's going to grow. I think that's a fool's errand because, again, we're talking about 5 percent, plus or minus, here and his district is 100 percent out of balance. Mine, I believe, is about 60 or 70 percent out of balance. Senator Price's is the same way. This 5 percent, plus or minus, would not make any difference in the great scheme of things. The reason the 5 percent is okay is because this is a numbers game. Smaller percentages deviation are permissible when you have much larger population districts, like Congressional districts. As the districts get smaller populationwise, like dividing the state by 49, then the cases under this, the Supreme Court decisions have tolerated greater deviations. And again, we shouldn't make ourselves crazy with this because the census isn't perfect. It's just the best information we have. The districts we draw aren't going to be perfect. It's just the best we're going to be able to do. And I'll warrant you that we're going to try to get closer than 5 percent, plus or minus, with every district we draw, but in some circumstances it's not going to happen. And since we know our population information isn't perfect anyway and we do have a countervailing concern that says you are to follow county lines whenever practicable, I think we shouldn't give that short shrift. "Practicable" doesn't mean when we want to. "Practicable" means when we can and so we should. And in 2001, we

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didn't, and I even filed a lawsuit over it at the time. So I mean I know of what I speak here for once. This is important, that we actually pay attention to this constitutional provision, and I think we will. I think this variance of plus or minus 5 is entirely appropriate for state legislative districts. I think we have reported decisions on our side. If you think about it, if we had a township of 50 people and we were trying to fill a 7-person or 10-person county board, you know, there should be 5 people in each district. You move one from one district to another, you've got a 20-30 percent population variance there. It's just the law of large numbers versus small numbers. And the 5 percent, plus or minus, is infinitely defensible, a good practice for redistricting, and we should adopt the resolution as introduced. Thank you, Madam President. [LR102]

SENATOR SULLIVAN: Thank you, Senator Lautenbaugh. Chair recognizes Senator Pankonin. [LR102]

SENATOR PANKONIN: Thank you, Madam President. As Senator Lautenbaugh said, when you're near the end of the queue and this is the end of the week, the day, a little tough, but I want to make two observations. The first one about the process this time around, I think is different. I'm part of a class, I think there's like 22 of us left plus the 8 folks that are in their last two years, I think this is a different dynamic than what has happened in the past when people would serve in the Legislature oftentimes for long tenures, my predecessor having been here for 20 years, five terms. You know, if your district that you're in and you can influence that or have some feelings about how it works, is going to be different than we've got at least about 30 of us that this redistricting isn't going to affect us as far as any reelection, that sort of thing. So I think it is a different dynamic. I think it will help the process as we try to be as fair as we can. But the other thing I want to mention I think that is important--and I really appreciate Senator Langemeier and the committee, all the work they're going to do, have done--as I've talked to Senator Langemeier, the importance of trying to keep a county together. In my legislative district, District 2, there's a precinct out of it that is in the southwest corner. It's the Eagle, Nebraska, area. It's called Tipton Precinct. And that county...that's the only thing out of Cass County, my home county, and that could have been left in there but it wasn't, and it's in Senator Heidemann's 1st District. And as we go forward, I know our county commissioners have passed a resolution that they'd like to have our county, Cass County, intact. I think it does make sense. Senator Langemeier has been very amenable to talking about that and knows that that is a concern of mine or an issue. And so I really appreciate that we will be looking at that and try to put counties together as much as we can. But I think my first point was it's going to be different this time because so many of us won't be personally affected. We've either ran, because of term limits, ran our last race. It just makes, I think, a difference in this process. And I see now that it's thank you, Mr. Speaker, instead of Madam President. [LR102]

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SPEAKER FLOOD: Thank you, Senator Pankonin. There are no other lights on. Senator Langemeier, you are recognized to close on LR102. [LR102]

SENATOR LANGEMEIER: Mr. President, members of the body, I thank everybody for their discussion. I think we, as a committee, fully understand that this is the max at the 5 percent and we will work hard to get to as close to one man...or one person, one vote as possible. Thank you, and ask for your adoption of LR102. [LR102]

SPEAKER FLOOD: Thank you, Senator Langemeier. Members, you've heard the closing on LR102. The question before the body is, shall LR102 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LR102]

CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of LR102. [LR102]

SPEAKER FLOOD: LR102 is adopted. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following legislative bills, including LB27, LB31, LB32, LB237, LB34, LB105, LB207, LB218, LB259, LB260, LB342, LB543, LB563, LB621, LB100, LB230, LB90, LB90A, LB329, LB20, LB41, LB45, LB465, LB468, LB509, LB546, and LR102. One note before we adjourn for the day, next week, as I mentioned, we will be taking up some Select File. The highway bill, LB84, will not be in that grouping. Mr. Clerk, items for the record? [LB27 LB31 LB32 LB237 LB34 LB105 LB207 LB218 LB259 LB260 LB342 LB543 LB563 LB621 LB100 LB230 LB90 LB90A LB329 LB20 LB41 LB45 LB465 LB468 LB509 LB546 LR102]

CLERK: Mr. President, new resolution, LR160 offered by Senator Cook; that will be laid over. Enrollment and Review reports LB235, LB682, LB177, and LB54 to Select File, some of those having Enrollment and Review amendments attached. Confirmation report from Health and Human Services, signed by Senator Campbell. Senator Ashford would like to print an amendment to LB463. Senator Pirsch would like to add his name as cointroducer to LB384. (Legislative Journal pages 1122-1128.) [LR160 LB235 LB682 LB177 LB54 LB463 LB384]

And Senator Christensen would move to adjourn the body until Monday morning, April 11, at 10:00 a.m., Mr. President.

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