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Floor Debate
April 20, 2011

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SENATOR CARLSON PRESIDING

SENATOR CARLSON: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-seventh day of the One Hundred Second Legislature, First Session. Our chaplain for today is Senator Krist. Would you all please rise?

SENATOR KRIST: (Prayer offered.)

SENATOR CARLSON: Thank you, Senator Krist. I call to order the sixty-seventh 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.

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

CLERK: I have no corrections, Mr. President.

SENATOR CARLSON: Are there any messages, reports, or announcements?

CLERK: Mr. President, I have neither messages, reports, nor announcements at this time.

SENATOR CARLSON: Thank you, Mr. Clerk. We'll now proceed to the first item on the agenda.

CLERK: Mr. President, back to consideration of LB84 offered by Senator Fischer, debated some yesterday. When the Legislature left the issue, pending was Senator Fischer's AM1216 as an amendment to the bill. Senator Conrad had moved to bracket the bill until January 5, 2012. That is the motion currently pending, Mr. President. [LB84]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Fischer, you are recognized to summarize your bill and the amendment before we proceed with discussion. [LB84]

SENATOR FISCHER: Thank you, Mr. President and members of the body. As you all know, we are on LB84, a highway funding bill. The amendment, AM1216, takes the original bill and we will now, under this amendment, have a quarter cent sales tax

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designated for highway funding. Fifteen percent of that quarter cent will be put in the Highway Allocation Fund to be split evenly between the cities and the counties; twenty-five percent will be designated for expressways; and the rest will be used for high-priority projects as designated by the Department of Roads. Thank you, Mr. President. [LB84]

SENATOR CARLSON: Thank you, Senator Fischer. Senator Conrad, would you summarize your motion? [LB84]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. The motion before you is simple. It's to bracket the bill for consideration...for further consideration not until January 5, 2012. Thank you. [LB84]

SENATOR CARLSON: Thank you, Senator Conrad. The floor is now open for debate. (Doctor of the day and visitors introduced.) Senators wishing to speak are Conrad, Nordquist, and Mello. Senator Conrad, you're recognized. [LB84]

SENATOR CONRAD: Thank you, Mr. President. And we started dialogue on this motion late yesterday afternoon and I had an opportunity to visit with a variety of senators after we adjourned and as people were preparing to go to other activities yesterday, and a few of them remarked, what's the harm in waiting for a year; what are we really out if we wait for one more year to get a more complete picture of what our financial...what our economic reality indeed will be at that point in time? And I said, well, I agree, I actually couldn't agree more, and that's why I started with the bracket motion on General File and that's why we're at a bracket motion here on Select File. And indeed, it mirrors again I believe the Governor's stated public position on this issue that there is no need to rush to judgment on this dramatic departure from our state's proud public history of paying as we go for what we need to meet our state's critical obligations. Of course, I would never venture to speak for any other member or Senator Fischer because she's very...a clear advocate for her own position, but maybe she can address that concern today. My guess would be that proponents want to move forward this year in order to hasten planning for utilization of the funds once they would be transferred and take effect in two years. But again, if that understanding is misguided or not a true representation of their position in terms of the timing of this consideration for this proposal, I'm hopeful that proponents will indeed weigh in on that. Colleagues, as you know, we will have an opportunity to have another meeting of the Economic Forecasting Board in just a few weeks, just a few days, and that will provide a more clear picture of where we are headed in terms of our existing economic climate and projections for the future. At the very least, I think we should wait and see what happens at that meeting. It's required by our statutory structure, it's been carefully constructed over many years to ensure that we take the politics out of our budgeting and out of our economic forecasting and pull together a nonpartisan group of laypeople and economic experts to help us craft these numbers which are so critical to our state's financial health, and this

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system has served us well. We must be respectful of that system. We cannot and should not substitute our own judgment for what we believe future economic growth will be in this state. I ask for your careful consideration of this bracket motion so that we can take the time to see how this fragile economic recovery concludes in the short term and will give us a better idea about what we can indeed devote to critical infrastructure needs and what we're going to need to keep back to meet our other important state obligations, like K-12 education, higher education, critical human services, and public safety. We must be able to meet all of these ever-growing needs and challenges if we want Nebraska to be strong and vibrant well into the future. Our system in Nebraska has kept a separate dedicated funding source for roads and infrastructure and for other purposes. This is important so that we can meet these objectives without putting them in competition with each other. [LB84]

SENATOR CARLSON: One minute. [LB84]

SENATOR CONRAD: Thank you, Mr. President. Don't forget for one moment, colleagues, that this represents an earmark, a 20-year-long earmark that totals \$1.3 billion, \$1.3 billion that we don't have today and we're not projected to have in the future. Let's maintain Nebraska's fiscal responsibility, let's maintain our fiscal integrity, and let's wait a minute to get more information next year before further consideration of this momentous proposal. Thank you, Mr. President. [LB84]

SENATOR CARLSON: Thank you, Senator Conrad. Senator Nordquist, you're recognized. [LB84]

SENATOR NORDQUIST: Thank you, Mr. President and members. I rise in support of the bracket motion. I think Senator Conrad did a great job of articulating the reasons to give us more time to make sure that we aren't putting our state in true fiscal peril by advancing this legislation. What's one more year? This bill does not go into effect until 2013. One more year will give us a more clear picture of what our fiscal situation is going to look like. Right now, we're going on the best estimates that we have now and that says very clearly we cannot afford this bill. But one more year, I don't know if that will change but certainly a year of information doesn't set us back at all in terms of moving forward with the construction and with appropriating these dollars, but it does give us a more clear fiscal picture. We are now on probably, I don't know, maybe hour 16 of this debate and we have yet to have a serious discussion about what we're going to do as a state should our projections come in as projected. Should we hit the mark in the next biennium with this legislation, with the fiscal situation of our state, what are we going to do with a \$250 million budget shortfall with only \$60 million sitting in our Cash Reserve Account? I mean after 16 hours of debate, no answers, no answers about what would we cut, how would we make this work; no answers about how we're going to hit the revenue marks we're projecting. Are there people in here thinking that tax increases are on the table? I don't know. No one has answered that. No one has said are we

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going to hold higher education flat for the fourth, fifth year in a row, maybe beyond that. Are we going to cut provider rates more and close down nursing homes in western Nebraska? Is that what we want to do? I'm waiting for answers on that. I don't know how much longer we need to prolong this debate to get those answers out, but I certainly am not going to support this bill as long as those answers aren't out there. That would be...it's fiscally irresponsible for us to move forward like that. We need the answers. And yesterday I made a point towards the end of the day, and I know a lot of people were checked out, but regarding the expressways. If we do the math, this bill generates between \$65 million, \$67 million a year. Expressways get 25 percent of that, so roughly about \$16 million a year. The total cost of the expressway project is somewhere between \$800 million and over \$1 billion in current construction costs, estimated. So we could rename this bill the 60-year expressway project because that's how long it would take to get those projects done at this funding rate, so I hope those of you that are going to your districts and saying this is our golden ticket here, here we come, expressways, are being realistic and honest in saying this money is not sufficient to get us there. It's \$16 million a year for the 20 years of this bill; maybe would get a third of the way there so maybe a third of the expressways would get done. I don't know whose those are. I hope you're being honest and realistic when we're talking and selling this to the public. The dollar amount on this, the \$130 million over the next biennium that it would add to our already projected budget shortfall, is too much, and I don't know that any dollar amount is appropriate. I got an amendment up at Bill Drafting that I'm going to file to scale that back, to cap it, to begin a discussion about that. Even at the cap of \$10 million a year that I'm going to introduce initially,... [LB84]

SENATOR CARLSON: One minute. [LB84]

SENATOR NORDQUIST: ...I don't know that we can afford it but it certainly would put us...certainly would not compound the problem nearly as much as AM1216 and the underlying bill would. Thank you, Mr. President. [LB84]

SENATOR CARLSON: Thank you, Senator Mello (laugh)...or Senator Nordquist. Senator Mello, you're recognized. [LB84]

SENATOR MELLO: (Laugh) Thank you, Mr. President, members of the Legislature. I don't know whether to take that as a compliment or (laugh)...or as a critique on that previous statement there. Colleagues, I rise today in support of the bracket motion, in part because my philosophy on the underlying issue of LB84 has not changed, which is we are in a tumultuous economic time still as a state as we are currently battling and facing over a \$900 million projected budget deficit. We'll be releasing a budget that looks to provide some, I think, strong guidance, if the Legislature chooses to adopt it, that would provide for a balanced budget which is painful, painful on pretty much every aspect of our state government, very painful to a lot of aspects of our local government, some of the decisions that we have already made in regards to eliminating aid to cities,

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counties, and NRDs, as well as cutting back significant aid to our local school districts. I think Senator Conrad's bracket motion, as we've come from General File to Select File, I think has a little bit more bite to it in a sense that the Governor, as I will reiterate from yesterday's comments, very rarely do the Governor and myself wholeheartedly agree on any particular issue, and it's unique that it appears this legislative session we've agreed on more than we had the last two years and this is another one of those examples where fiscally we can wait to enact LB84 next year. We can delay this decision because we need another six months and potentially another Forecasting...two Forecasting Board meetings to determine whether or not we can afford to do this. Because no one in the body has laid out, particularly no one for the proponents of LB84, has laid out how we are going to pay for this legislation. I jokingly was talking to someone yesterday and laid out, I don't know where we're going to find \$140 million in the state's couch cushions to pay for this because that's essentially the argument of why we need to do LB84. We'll find the money. We don't know where but we'll look for it. We'll find it somewhere. Give us some time. I don't think that's good fiscal policy. We've had other opportunities and other alternatives that were laid out in front of the Legislature that provided a more fiscally responsible path forward to provide additional funding of the roads and infrastructure funding. The argument that has been made, though, against these other fiscally alternative approaches is that we need to be able to plan. We need to have guaranteed money to be able to plan for the future. Colleagues, the Department of Roads in our state is a code agency. This agency reports directly to the Governor. If the Governor would like to direct his Department of Roads to do more planning for the future and provide alternative funding and resources to do that long-term planning, he has the ability to do that. He doesn't need LB84 to dictate how they can do planning in the future. And I think those who whether or not are on the Appropriations Committee or those members in this body who have integrally been involved in Department of Roads know that, but no one has made that argument and no one has brought those facts to light; that the planning behind...the planning argument behind why we need LB84 is just not there. It's a smokescreen argument. If we want to go ahead and start planning for the future, we can go ahead and start planning for the future without this piece of legislation. We can look to enact this piece of legislation next year. But the bigger underlying argument is the proponents of this bill have yet to lay out how we will afford to do this, how we will pay for LB84 in the future. I respect... [LB84]

SENATOR CARLSON: One minute. [LB84]

SENATOR MELLO: ...Senator Fischer's points yesterday on the floor, which is she doesn't want to cut education funding to do this. My question is, then where will you get the funding to cut? Because \$140 million in 2013 needs to be found, whether through increasing taxes or cutting education and human services to pay for LB84. There's no other way around it. There's no other choice available. A tax increase or a cut in K-12 education, higher education, and Medicaid--those are the only options you have. No one on the floor has laid out any potential other options besides those, because there

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are none, because if there were other options I would say this Legislature would have looked at them over the course of the LR542 process as well as what the Appropriations Committee has been working on for the last four months. And I think any other argument opposed to that essentially is telling the Legislature that we didn't do our job... [LB84]

SENATOR CARLSON: Time. [LB84]

SENATOR MELLO: ...during the LR542 process. Thank you, Mr. President. [LB84]

SENATOR CARLSON: Thank you, Senator Mello. Those still wishing to speak: Senators Council, Fischer, Ken Haar, Wallman, and others. Senator Council, you're recognized. [LB84]

SENATOR COUNCIL: Thank you, Mr. President. I rise in support of this bracket motion. As you look at what LB84 provides and what the course of the debate on this bill has been to date, LB84 puts off until the start of the next biennium a process of funding the road improvement and maintenance program in this state. Now it has already been stated, and I think without any contradiction, that the state currently with revenue projections as they are will be facing at the start of the next biennium at a minimum a \$40 million budget shortfall, and under those circumstances I think it would be fiscally irresponsible of us to enact legislation during this session that can wait until next session without harming the intent or purpose of the legislation, which everyone understands and appreciates. But by delaying the enactment of this legislation we provide an opportunity to receive the upcoming forecast as well as future forecasts to have a better feel for what the actual impact of enactment of LB84 will have on our ability to fund needed and vital services and programs of this state during the next biennium and beyond. As I indicated yesterday, I did a little research on the issue of the road funding and this state's policy on road funding over the years, and a number have made the point that the policy has been a pay-as-you-go policy and, in fact, any suggestion to deviate from that policy and to utilize General Funds, whether they were a direct appropriation of General Funds or that which is attempting to be accomplished by LB84, an earmark of a portion of sales tax revenue, use of those funds, sales tax revenue, income tax revenue, which makes up the overwhelming majority of our General Fund revenue, has consistently been declared to be unfair. But of greater significance in terms of this bracket motion, I want to refer to some statements made by our current Appropriations Chairman at the time an issue similar to LB84 but not exactly like LB84 was being debated by this body, and at that particular time there was already a projected \$80 million shortfall in the next biennium, biennial budget. And our current Appropriations Chairman at that time was speaking in opposition of a measure that would have taken money from the Cash Reserve and would have required General Fund monies to replace that money in the Cash Reserve, so it was actually a General Fund appropriation. And our Appropriations Chairman said at that time, and I quote:

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During a shortfall, you're either going, because of that extra \$80 million obligation--and in this case under LB84 we're talking about an extra \$65 million annual obligation--you're going to have to cut other programs. [LB84]

SENATOR CARLSON: One minute. [LB84]

SENATOR COUNCIL: I repeat: You're going to have to cut other programs or you're going to have to raise taxes, and I emphasize this point because there's just no other way to do that. I submit to you that the same circumstance exists with respect to LB84. If LB84 is enacted without us having a clear picture of what our revenue projections look like for the start of the next biennium, there just will be no other way to provide for what LB84 provides for without cutting essential services. And for those of you who don't think that education will be one of those essential services, I just ask you to look at what we've had to do in order to address this year's budget shortfall. For those reasons, I urge the passage of the bracket motion. [LB84]

SENATOR CARLSON: Thank you, Senator Council. Senator Fischer, you're recognized to speak. [LB84]

SENATOR FISCHER: Thank you, Mr. President and members. I rise in opposition to the bracket motion. I think we all need to realize that we're in a new paradigm. We're facing a new set of realities when it comes to highway funding, and we need to address those realities. It's true that the past has served us well. We've been a pay-as-you-go state. We have seen this body appropriate the needed funds to the Department of Roads, which of course then determines what the gas tax will be, but we haven't seen that happen lately and that's the problem. We are not seeing the revenue come into our Highway Trust Fund that is needed to even maintain our system. I think we need to address the situation we're in now and I think all of us will acknowledge that we're not going back. The last time we had a discussion on this floor about highway funding was in 2008. And Senator Council is correct. At that time I did say that we need to look at the funds we're using now, we need to look at the revenue we're using now. But as I previously stated, we as a Legislature have not kept up. Gas at the end...gas tax at the end of 2008 was 26.5; currently, it's 26.4. The price of gas at the end of 2008 was \$2.28; it's currently \$3.83. We're not going back. The price of oil continues to go up, the price of gas goes up, although our gas tax is not going up. That is a decision that we have made as a body and we reinforced that decision yesterday when we overwhelmingly voted not to increase the gas tax. We're in a different economy now. We have a different energy policy now at the federal level. Those are realities. We're seeing electric cars. Three years ago I didn't anticipate that we were going to see a bunch of electric cars on our highways, and we haven't yet but my guess is in ten years we will. Yesterday it was pointed out or it was asserted that we have never heard this option before. I beg to differ. At the transportation conference that we held in August, we had people come from Missouri and Kansas. We had a panel discussion. We had

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presenters. They brought up their use that they have of the sales tax. In fact, in Missouri they have now redirected a portion of the revenue from their sales tax to go for roads. In Kansas they have raised their sales tax almost a half cent for roads. We've heard these options. This didn't come out of nowhere. This didn't come out of nowhere that we need to discuss highway funding. Senator Adams said on General File... [LB84]

SENATOR CARLSON: One minute. [LB84]

SENATOR FISCHER: ...that you've asked me for five years to come up with a plan, and working with many of you we have. We're not going back. We all know that. We proved it yesterday. We voted down some options. It's time to move forward. We're not going to raise taxes. We're going to redirect these funds. We're going to recognize that roads are a priority. As Senator Gloor mentioned yesterday, let's solve this problem of one of the priorities for the state of Nebraska. We have other priorities too. Education, of course education, we need to figure that out, we need to fund it. We need to take care of our clients with Health and Human Services. And we need to take care of public safety. Those are our four priorities. Those are the four priorities, I believe, of government. This will... [LB84]

SENATOR CARLSON: Time. [LB84]

SENATOR FISCHER: ...take care of one of them. Thank you, Mr. President. [LB84]

SENATOR CARLSON: Thank you, Senator Fischer. Senator Ken Haar, you're recognized. [LB84]

SENATOR HAAR: Mr. President and members of the body. I probably won't be confused with Senator Mello because I have white hair and he doesn't. (Laugh) But anyway, I apologize for leaving earlier yesterday afternoon but I went to a dedication of a wind turbine at Southeast Community College here in Lincoln. It's a small wind turbine but it will be used for...it will be used for education purposes, it will be used for research and for training. And so I just wanted to put in that little plug because I think that was a really important event. I want to talk about several things today and I'm in favor of the bracket motion. First of all, it's about promises, and I go back to my quotes because I think often in the past people have summarized a lot in very simple quotes so I want to start with this quote: Promises are like crying babies in a theater; they should be carried out at once, Norman Vincent Peale. If this is such a good idea for funding highways, I think we ought to do it now. It's really easy to push off this promise, this promise that there's going to be the money there for funding and especially the promise to cities and counties who are now going to put this in their budgets. It's going to be really easy to push this promise off into the future. If it's such a good idea, I think we should be doing it now. This whole idea of leaving it to a future Legislature, the whole argument that, yes, it takes 25 votes, well, it's not quite that simple. Yes, it takes 25 votes but it has to come

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out of committee. Let's say that we decided when this is supposed to kick in that it wasn't a good idea at that time. It's not just 25 votes. It's someone bringing the legislation; it's going through committee, it's committee hearings, it's coming out of committee. Then someone has to prioritize it, either the committee or the senator or the Speaker, and then there have to be 25 votes. And the pressure at that time will be, gee, you promised that this money was going to be there; we've written it into our budgets. That's the way cities and counties will come back--we've written it into our budgets and now you're going to cut that funding. So I think this promise is more than just 25 votes in the future. And again, I would suggest that if it's such a good idea, why aren't we doing it now? Why are we pushing this into the future when a future Legislature will have to deliver on our promises that we're making now? That disturbs me. I might be a part of that future Legislature and, again, I think if this body thinks it's such a great idea that we ought to start it now. The second thing I want to talk about then is tax policy and earmarking. And promises, by the way, are part of tax policy because the promises we make are remembered and people expect us to follow through on those promises. But I want to talk about earmarking because earmarking, we've talked a lot in this session about how we've...in terms of tax policy we've taken money away from cities and counties that we just gave them before, and we've heard a lot, and I've used the analogy, we're tying their hands. So let's not tie their hands with other legislation that says, yes, we're going to give you other kinds of mandates but you can't... [LB84]

SENATOR CARLSON: One minute. [LB84]

SENATOR HAAR: ...thank you...you can't do it this way or that way. Well, earmarks at the state level are tying our hands. And so I will, since I have only one minute left, I will follow up with that discussion on earmarking as tax policy my next time at the mike. Thank you. [LB84]

SENATOR CARLSON: Thank you, Senator Haar. Senator Wallman, you're recognized. [LB84]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I have to agree with Senator Haar on this issue. Earmarking, we earmark different things out of here, you know, schools, HHS. We have earmarked funds out of here to a certain degree and we figure out formulas, like Senator Adams, and that's important. Is it important to fund roads? Yes, it is, and I actually think this LB84 is a good idea if we use it immediately, and then we have to increase taxes. Do we have the will in the body here? We had a couple of proposals of Senator Council's, wouldn't really increase taxes but it didn't get very many votes. Why? We wanted to kick the can down the road? I don't know. But that's your...you know, that's everybody's decision. But if we truly, truly, truly want better roads then it has to start now. Our roads are going to pieces. The deterioration is going to go faster and faster. And so I'd yield the rest of my time to Senator Haar, if he'd wish. [LB94]

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SENATOR CARLSON: Senator Haar, 3 minutes and 50 seconds. And I don't...okay, Senator Haar passes. Thank you, Senator Wallman. Those still wishing to speak include Nordquist, Conrad, Mello, Council, and others. Senator Nordquist, you're recognized. [LB84]

SENATOR NORDQUIST: Thank you, Mr. President and members. You know, I think we need to look at the discussion that we had yesterday and, as I reflected on it last night, it really gave me pause and I think we need to...everyone who is thinking that this bill gives us flexibility, we'll come back and change it if we have to, really needs to reflect on the conversation. Senator Mello had a bill up yesterday which would have taken half of the additional revenues that came in above the projected revenue amounts and that would have went towards roads funding. It would have generated roughly \$500 million over the last decade, as much or nearly as much as what's on the table here. In that discussion, Senator Heidemann asked Senator Mello, well, what would have went into the fund over the last three years? It wouldn't have been anything because, as we've seen an economic downturn, our actual revenues have trailed our projection as opposed to led it. In good times usually it's ahead of it and that's when we would be able to afford to do more in road construction. Then bringing...that kind of brought me to think, okay, we've been through the worst of the worst here the last three years, the biggest deficits our state has ever seen, nearly \$1 billion we're working on right now that we're going to pass the budget to close that hole. It wasn't easy and I don't know that we can do it again, over the last three years. I asked Senator Fischer at that time, you know, given what we've been through the last three years, would you have suspended this program, would you have supported that? And she gave a very eloquent answer that basically said, well, we would have to look at our priorities and adjust. Folks, if you're thinking that we can suspend this in two years, you're wrong. The proponents themselves are saying in the last three years, when we've been through the worst of the worst, well, we would have to look at the priorities and see. If they wouldn't have suspended it in the last three years, which are the worst of the worst that our state has seen and that any states have seen, they're never going to suspend this program. You're kidding yourselves if you think they are. We've been through the deepest deficits we've ever seen and the answer is, well, we would look at it; you know, we would balance it with our priorities. If you can't adamantly say when we go through...if we go through another time like that again that we wouldn't suspend this then you're never going to suspend it. We need a definitive answer from the proponents that say, yes, if we see another economic collapse like that again, if we see another \$1 billion budget shortfall, yes, we will enact...we would support legislation to suspend this for a couple years. But that answer is not there. That answer is not there. Senator Fischer just said we need to address this now; this is something we need to address now. Well, the bill obviously puts off the funding for two years but that addressing it now and putting that funding off, again, it's as the Governor said, it's a lot like D.C., we're buying things we don't have money for. They bought a prescription drug plan and two wars that they

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didn't pay for, and now we've seen what that's done to our budget. Senator Bloomfield is now saying three and he's probably very accurate in that, that they didn't pay for. Yes, we need to address it now but we need to do it in a fiscally responsible way of actually paying for it. And finally, you know, we've had a lot of debate here. Certainly been fair debate. Anyone can chime in but I don't know that we've had full debate yet because we have not answered those core fiscal questions about how are we going to pay for this. [LB84]

SENATOR CARLSON: One minute. [LB84]

SENATOR NORDQUIST: That's where we're left, Mr. President. And I have filed an amendment. You can pull it up and look at it. It would set the precedent of using General Fund dollars but it would cap it at a reasonable amount that I think at this point we could maybe afford. But again, we're still looking at shortfalls in the out-years. It would add to them by \$10 million a year, but it certainly wouldn't double them as the underlying proposal does. So I appreciate that and I hope that we'll have a truly full and fair debate that includes a discussion of how do we pay for this in the next biennium. Thank you. [LB84]

SENATOR CARLSON: Thank you, Senator Nordquist. Senator Conrad, you're recognized. [LB84]

SENATOR CONRAD: Thank you, Mr. President. Again, good morning, colleagues. When I was thinking about this legislation last night and how proponents characterize this as a bold plan for taking care of our future needs, I again respectfully will disagree with that. To put it in a simple...in simple terms, in a clear analogy, we talk a lot about comparing the state's budget to a family budget, so take for example my family. We're a young, married couple who are dealing with student loans, dealing with mortgages, dealing with all of the other household expenses that a typical family would deal with, and preparing for retirement or starting to. (Laugh) Would it be a bold, innovative and good idea for a family like ours to stop paying our mortgage and dump that money into a retirement plan? I sure venture to say not. We have existing obligations that have to be met and we do indeed have to prepare and plan for the future, but we have to do so smartly. We have to do so carefully. We have to make sure that we're not inhibiting our current obligations; we're not turning our back on what we've already obligated our family to, to prepare for the future in a way that's not sustainable--just a simple analogy I wanted to put out there. I'm glad Senator Fischer did acknowledge that this was discussed at the comprehensive funding conference we all attended this summer. Again, I was there, Senator Nordquist was there, Senator Mello, all of us for the most part. And I mentioned yesterday there were round table discussions that brought forward ideas. There were no votes for General Fund shifts. There were no votes for design, build. There were no votes for new sales tax for specific roads projects. There were two votes for motor vehicle fee increases, four votes for bonding from a dedicated

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revenue source. Federal exchange had four votes, and nine votes for fuel tax increase. That is what happened at that conference. Also, quoting from a Norfolk Daily News article Friday, August 27, 2010, that reported on the conference where they note that, yes, indeed, plans related to what happened in Missouri and Kansas were discussed that day, quoting: I'm not being coy, Fischer said. I don't want to put something out there and have it torn apart before I know whether or not there's support for it. Fischer also said that while the road funding plan successfully put into place in Missouri and Kansas have strong points, she wouldn't have voted for them if they had been presented to the Nebraska Legislature. I have my own idea, she said. I think it's also important to note that those alternatives that were presented at that funding conference based on Missouri and based on Kansas were done through a vote of the people, not rushed through a Legislature. In Kansas, it was new sales tax, bonded, decided by a vote of the people after an engaged statewide campaign. In Missouri it was utilizing sales taxes related to motor vehicle taxes, fees and services that were then dedicated to roads funding, that had a natural and logical connection to infrastructure funding. And the results have been mixed in both states... [LB84]

SENATOR CARLSON: One minute. [LB84]

SENATOR CONRAD: ...in terms of results about whether or not those plans have been sufficient to take care of all of their needs or not and have been reexamined during the current economic crisis and pressure. Of course Senator Fischer can change her mind from 2008 and she can change her mind from August 27, 2010, of this year. That's fine. But we do need to at least be accurate and if this report from the Norfolk Daily News is wrong, I stand corrected, but these funding proposals, this funding proposal was never part of the comprehensive dialogue on infrastructure funding that we have all committed to and have all actively engaged on during our tenure in the Legislature. So let's take a minute to take a deep breath and evaluate whether or not indeed this is a prudent policy to move forward with. [LB84]

SENATOR CARLSON: Time. [LB84]

SENATOR CONRAD: Thank you, Mr. President. [LB84]

SENATOR CARLSON: Thank you, Senator Conrad. Senator Mello, you're recognized. [LB84]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. Something that we've worked on over the past two years that this Legislature adopted and has supported was the creation of the Legislature's Planning Committee. This Planning Committee spearheaded by Senator Harms and vice chaired by Senator Gloor over the past few years created numerous benchmarks to be able to determine if the state is moving forward or falling behind in key areas, key indicators, benchmarks such

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as the economy, agriculture, Health and Human Services, as well as transportation and telecommunications. I want to read for you from the Planning Committee's benchmark report that we released this past December on some key aspects of what were identified by the committee. Under transportation infrastructure, our report says using a national standard, 99 percent of Nebraska's interstate highways were rated smooth, as were 92 percent of other principal arterials, quote unquote, rural arterials. The comparable national figures were both 94 percent. Another key component in terms of cost-effectiveness, Nebraska's state highway system ranks seventh in the nation in 2007. Perhaps one of the bigger issues that we understand the underlying premise of what LB84 is trying to accomplish is the dire need to insert a new influx of funding for transportation infrastructure. Under transportation stability, under the Planning Committee's report, it says on a per capita basis Nebraska spent relatively more for highways than the rest of the nation. In 2006-2007, local highway spending was \$258.05 per capita and \$316.85 per capita at the state level. The comparable national figures were \$189.31 and \$296.02 respectively. Nebraska's per capita highway spending ranked 12th for local spending and 24th for state spending. Within the region, only two states had lower per capita local spending and two states had lower per capita state spending. Colleagues, we can all agree that we have challenges in regards to long-term financing of road infrastructure and bridge infrastructure in our state. That's something that both those who support and oppose LB84 agree. But to utilize the argument that the sky is falling, that this is a do-or-die moment for the state, all national figures and research shows the opposite. And the work that I would say the Planning Committee, as a member, and I believe Senator McCoy was the member who oversaw and worked extensively on transportation and telecommunications, I don't want to dismiss the hard work that senators did in regards to preparing this data and researching this data. And this is what they came back with, that we can all agree that there's challenges ahead but to say that we have to do this or else we will fall into an abyss of roads and highways disintegrating is just...it's just not realistic, it's just not. It's just not the truth. So to one extent, I want to make sure that we utilize some of this I think key data and key information that was researched by our Legislature, adopted by our Legislative Planning Committee to lay out as a benchmark as we move forward as a state, as we identify the challenges in regards to the key benchmarks that face the future of our great state. But I think the underlying aspect beyond our current... [LB84]

SENATOR CARLSON: One minute. [LB84]

SENATOR MELLO: ...financing of transportation infrastructure is, to some extent, what Senator Nordquist so crystally clear spoke about, which is financially we have yet to go into detail in this body, in this marketplace of ideas, of how we will pay for LB84. There's been no amendment to the bill that says we will cut this area to pay for this area. There has been no amendment that says if revenues do not hit a certain level we will sunset or we will freeze LB84's implementation date. Or there's been no amendment that says we will raise taxes to pay for LB84 if we do not reach a certain revenue projection.

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Colleagues, this is the fiscal reality. This is how you fund government. These are the policies and mechanisms that we utilize. [LB84]

SENATOR CARLSON: Time. [LB84]

SENATOR MELLO: Thank you, Mr. President. [LB84]

SENATOR CARLSON: Thank you, Senator Mello. Senator Council, you're recognized, 4 minutes and 45 seconds. [LB84]

SENATOR COUNCIL: Thank you, Mr. President. I apologize, colleagues, but there are certain biological functions that must be attended to. Earlier one of my colleagues made comments about the proponents of this measure suggesting that if the revenue picture did not improve to the point where we would not be having to look at cutting other programs and services to fund LB84 that this program would be suspended, and I think the comment was, well, we know in reality that the program won't be suspended. And again, for some, you may say, Senator Council, get off that horse; you've ridden it to death. But the reality is we haven't suspended other programs that we enacted with the understanding and on the representation to the public that those programs would in fact be suspended if funds were not available, if funds would not be available without causing cuts in other programs and services. Give you an example: How about the Property Tax Credit Fund? This body enacted that legislation with a representation to the public that if funds were not available that program would be suspended. In fact, not even just suspended; it would be ended. We've had an opportunity to do that. I understand that, as Senator Fischer mentioned, the body has already cast its vote on my amendment that would substitute Property Tax Credit Fund dollars and make those dollars available to the Highway Improvement Fund this year. We want to do this now and we have the means to do this now. And I respect and appreciate the point that my colleague Senator Fischer made that times have changed since 2008. I agree. The landscape is much different in terms of the price of gasoline, the type of vehicles, where the country is moving in terms of its energy policy as it is. But I submit to you that the one thing that has not changed since 2008 and the one thing that has not changed since 2008 is the inherent unfairness of funding road improvement and maintenance from the sales tax. That fact has not changed. It remains fundamentally unfair to fund our road maintenance and improvement from what are, in essence, General Fund dollars. I was reminded in discussing this matter with some others who have a little more institutional memory than I have that there was a time when General Funds were lagging and there was a need to fund essential programs and services and there was an effort to raid the Highway Trust Fund to make up the General Fund shortfalls. [LB84]

SENATOR CARLSON: One minute. [LB84]

SENATOR COUNCIL: And the position taken was Highway Trust and Improvement

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Funds are just that, for Highway Trust and Improvement Funds, and they're not to be used for any other purpose, and General Funds are not to be used for highway improvement and maintenance. Yes, we do need to develop a more stable and sustainable means of funding highway improvement and maintenance. This is not the way because it is fundamentally unfair and there is no question in terms of the current state of our economic forecasts that to fund LB84 will be at the detriment of other essential services and programs of this state, and I must emphasize... [LB84]

SENATOR CARLSON: Time. [LB84]

SENATOR COUNCIL: ...that education would be among the first. [LB84]

SENATOR CARLSON: Thank you, Senator Council. (Visitors introduced.) Those still wishing to speak include Schumacher, Ken Haar, Fischer, Conrad, and others. Senator Schumacher, you're recognized. [LB84]

SENATOR SCHUMACHER: Thank you, Mr. President. My district wants roads. It really wants that piece of highway between Schuyler and Fremont to be completed, all 23 miles of four-lane. However, it's slowly dawning on us I think that it's going to be rather chilly in hell before we get that from this bill because it's probably a long way down the Roads Department list. Senator Conrad asked a fair question this morning: What is the rush? Why hurry up to wait two years? Last fall I talked with one of the senior members right after I was elected and I was fretting about the budget shortfall and I was told, look, don't fret just yet; things could get better. What we do in the Legislature is wait for the last best information before we lock things down. We're going to wait till the forecast that comes out in April before we really start fretting. We want the best information and we think that's the latest information. Now it seems to me that next January we will have later information than we have now and that that hopefully will be better information on us to make a rather important decision. It seems to me that if things are looking better and we've got a warm and fuzzy, we'll have a lesser risk of a gubernatorial veto of this matter. And so the question was fair: What's the rush? I could have understood if some of the things were passed yesterday that would put immediate money into the project so we would have people on...this summer working on roads, but we aren't going to have any people working on roads because of this, this summer, so there is no rush apparently. But I did listen to Senator Fischer closely for a compelling answer to act now. I didn't quite hear that. I did hear some really good news, though, from Senator Fischer when she outlined the four functions of government: education, public safety, human services, and roads. One thing I did not hear was huge and unfair subsidies to a select class of legacy phone companies and that enables me to suggest an answer to Senator Mello's question: Where's the money going to come from if the economy doesn't turn around? How is this going to be funded if we're not going to raise taxes? I suggest that the day will come when I will stand here and suggest that a roughly offsetting amount can be found in the Nebraska Universal Service Fund which so far

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has miraculously avoided a much needed examination. Thank you, Mr. President.
[LB84]

SENATOR CARLSON: Thank you, Senator Schumacher. Senator Ken Haar, you're recognized. [LB84]

SENATOR HAAR: Mr. President, members of the body, thank you. I would argue that a vote against LB84 is not a vote against roads but it's a vote for good tax policy. And I want to...I've really been struggling with this on a personal level because somehow I got myself into a Legislature that has to be cutting programs because of decreasing revenues because of a bad economy, so I'm really looking at how do we budget, how do we budget, how do we make those tough decisions, and they are tough decisions. And I think earmarking is a bad way of budgeting and I'm going to talk about that some. The first resource I have here is from the National Council of State Legislatures and it's called "The Principles of a High-Quality State Revenue System." This was first put out in June 2001, updated June 2007, and this quoting: A high-quality revenue system minimizes the use of tax earmarking, the practice of designating a particular revenue source for a specific expenditure. State programs may be placed in jeopardy if they are funded solely by earmarked revenue sources because there is no guarantee of a consistent revenue stream nor of adequate ongoing revenue. So here they talk about actually one danger. If you earmark for something, people say, hey, that's taken care of so let's just be done with that. But then furthermore, earmarking often, and this is the important thing, earmarking often imposes rigidities into the budgeting system that do not permit flexible allocations of general revenue among competing uses. Every session when we do the budget there's competing uses. They're political priorities and so on and so forth. With earmarking, we tie our own hands to deal with those competing uses that have been talked about. So again, earmarking often imposes rigidities into the budgeting system that do not permit flexible allocations of General Fund revenue among competing uses. When earmarking is used, there should be a direct link between the recipient of the funds and the earmarked revenue source, for example, the highway department receiving gasoline tax revenues. This use is justified on the grounds that all or a portion of the earmarked revenue source is supporting the benefit received. Generally, earmarking should not be used for general expenditures. Earmarking is a bad practice. I think there is the perception now that it's going to guarantee more funding for roads in the future. It's only going to tie our hands as we have to make budget decisions. This next one is a policy brief from the Minnesota house of representatives and the data on it says, "January 2008: Earmarking State Tax Revenues." This is a policy briefing again from Minnesota. Decisions on overall funding levels: Earmarking revenues, not program needs or benefits relative to the competing priorities, may determine overall funding levels for programs. The Legislature may simply adopt or default to the earmarked levels of spending. If the constitution earmarks revenues, the Legislature cannot spend less than the earmarked revenues even if it believes this is not in the constitution. But there is also...and this is part of the slippery

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slope, there is talk now of initiatives that would put into the constitution specific... [LB84]

SENATOR CARLSON: One minute. [LB84]

SENATOR HAAR: Thank you. I would like to continue this discussion my next time on the mike and give the rest of my time to Senator Conrad, please. [LB84]

SENATOR CARLSON: Senator Conrad, 45 seconds. [LB84]

SENATOR CONRAD: Thank you, Mr. President. Again, good morning, colleagues. Thank you, Senator Haar. Colleagues, I wanted to be crystal clear because I ran out of time my last point at the mike that we can have sincere and serious disagreements about public policy, and Senator Fischer and I have talked many times that even within and among those disagreements we do ensure, we have to ensure accuracy from the reports that we bring forward, from the data we bring forward, and from the characterization of past events. That and only that, trying to ensure accuracy, was my only point in trying to go back and provide a clear picture of what my perspective and many others were who attended that comprehensive... [LB84]

SENATOR CARLSON: Time. [LB84]

SENATOR CONRAD: ...road funding conference. Thank you, Mr. President. [LB84]

SENATOR CARLSON: Thank you, Senator Conrad and Senator Haar. Senator Fischer, you're recognized. [LB84]

SENATOR FISCHER: Thank you, Mr. President and members. There were a number of questions raised and comments made that I would like to address to clarify the record. Missouri was a vote of the people when they did that, but we also need to consider that that vote of the people was for \$344 million just to bring up the smoothness of their roads. That doesn't count what their budget was for roads. It's in addition to what their budget was for roads. They had to have a vote of the people just to bring up the smoothness of the roads. I don't want Nebraska to head in that direction, which I think we will be Missouri because we have dropped in two short years from 81 percent good roads to 74 percent. I would also like to clarify for the record that Kansas, in their T-WORKS Program, that was not a vote of the people. That was two bills that were passed by the Legislature and signed by the Governor. That was a sales tax increase. Senator Conrad is correct when I said I would not vote for it and I would not vote for that. I would not vote for a sales tax increase, let me make that clear. That's why LB84 is designating a quarter cent sales tax, a quarter cent of existing sales tax. Senator Schumacher said he hadn't heard me answer the question why do we need to act now, why can't we postpone this. Senator, we need to act now because we haven't acted in the past. It's always next year. It's always what's the rush. We need to act now and I

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would say if members want to make this bill effective now and put that quarter cent in this new fund I'd support that. But I think my plan is reasonable that we are making the commitment that we will do this, that we are going to allow the Legislature to make plans for the future knowing that this quarter cent is being designated for roads and can plan accordingly and can plan intelligently. But if you'd like it to take effect now, I certainly would support that amendment. I don't think that's the best course. We all know that's not the best course with the situation we're in now, but in two years we can make those plans. With the Transportation and Telecommunications Committee report, yes, there were 30-some suggestions. Senator Louden was the only one to introduce an amendment that dealt with those suggestions. I haven't seen the other opponents introduce an amendment dealing with those, and not all the opponents voted for Senator Louden's amendment to increase the gas tax. The other suggestions in that report were for fee increases. I haven't seen an amendment that would increase fees. As I stated previously I believe during Select File debate and I know during General File debate, I pointed out that Senator Campbell, Senator Gay and I worked on a number of those suggestions, and looking at raising fees, approximately five fees, brought in maybe \$15 million. The opponents are saying that this bill isn't enough money now and we all ought to realize it. I could not agree with them more. But if \$65 million isn't enough money then I think \$15 million wouldn't... [LB84]

SENATOR CARLSON: One minute. [LB84]

SENATOR FISCHER: ...be enough either. I had a colleague speak to me off the mike and I would like to relay what he told me. You know, we're talking about 2 percent of the budget. I don't mean to make light of that. This is a serious discussion. But I've also heard during debate, many hours of debate, that roads are a priority. Roads are a responsibility of government. And I think most of us in here agree to that. And I think the Appropriations Committee does an excellent job. I think they balance the budget. But we seem to be able to fund priorities. And as my colleague told me, we're talking about 2 percent of the budget for what the majority of us in here believe is a priority... [LB84]

SENATOR CARLSON: Time. [LB84]

SENATOR FISCHER: ...and a core responsibility of government. Thank you, Mr. President. [LB84]

SENATOR CARLSON: Thank you, Senator Fischer. Senator Conrad, you're recognized. This is your third time. [LB84]

SENATOR CONRAD: Question. [LB84]

SENATOR CARLSON: Question has been called. Do I see five hands? I do. Question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Record,

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Mr. Clerk. [LB84]

CLERK: 33 ayes, 0 nays, Mr. President, to cease debate. [LB84]

SENATOR CARLSON: Debate does cease. Senator Conrad, you're recognized to close on your motion. [LB84]

SENATOR CONRAD: Thank you, Mr. President. Again, good morning, colleagues, and thank you to Senator Fischer for clarifying those distinctions. I think that's important and helpful and definitely provides a more complete and clear picture about how we got to where we are today, which is important. Colleagues, I ask for your favorable consideration of the bracket motion that is pending before you. As I noted yesterday I think in my opening, this is a sincere, honest, and thoughtful opportunity to take a moment and allow this body to garner more information about our economic forecast, our economic future, and how Nebraska will fair in this very fragile economic recovery. This would allow our body to take a moment and digest that economic information that is critical to our budget process, that is critical to every issue, every bill that comes before us related to taxing, spending, revenue, education, human services, public safety, budget. The list goes on and on and on. I agree with Senator Fischer, this is a momentous bill which turns its back on a decades-old public policy that has served us well. So before we rush to judgment with little to no information about the economic assumptions contained in this legislation, we have an opportunity to take a step back and say let's look and see where we are next January. No one wins, no one loses at this moment in time. Planning can begin right now. We have the ability to put in interim studies in this body, working with the Department of Roads. I'm sure that they've always been responsive to requests for information and otherwise. Of course, they're a code agency. The Governor could authorize a study or a planning for any of these eventualities so we wouldn't lose any ground in that regard. We have other mechanisms, to meet those planning objectives, available to us that won't break the budget in the present sense. It will allow us more time to understand how the cuts we're making today to education and human services play out in your districts and in your communities. Under our current forecast, we are operating with 5.6 percent revenue growth. We are making cuts to schools. We are making cuts to healthcare. We are making cuts to services that the disabled and the elderly rely on in every county of this great state. Our future forecast suggests...no. Our future forecast does not suggest. Our future forecast says our revenue growth will be lower in the future. Yet, we remove a significant piece of the pie from the equation for 20 years into the future--\$1.3 billion off the table to meet our educational needs, to meet our public safety needs, to meet our human services needs. Take a moment to carefully consider this bracket motion. It mirrors the Governor's position on this issue, as stated in press reports, and it provides a thoughtful and respectful amount of time and distance to garner more information about our economy. Nebraska has always done the right thing and has been fiscally responsible. [LB84]

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SENATOR CARLSON: One minute. [LB84]

SENATOR CONRAD: Thank you, Mr. President. This legislation marks a dramatic departure from our fiscal responsibility from having and ensuring a balanced budget that meets all of our competing state obligations. Don't forget for one minute that there's already \$1 billion flowing into the Roads budget from all sources right now. And under the budget you'll see in a few weeks an additional \$40 million to this agency while every other agency is being cut. Take that to heart. Put that in perspective. Thank you for your careful consideration, time, and attention. Thank you, Mr. President. [LB84]

SENATOR CARLSON: Thank you, Senator Conrad. Members, you've heard the closing on the motion to bracket LB84. Those in favor of the motion vote yea; those opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB84]

CLERK: 11 ayes, 28 nays, Mr. President, on the bracket motion. [LB84]

SENATOR CARLSON: The motion is not adopted. Speaker Flood for an announcement. [LB84]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. The next amendment to be ordered is AM1268. It comes from Senator Nordquist. Thank you, Mr. President. [LB84]

SENATOR CARLSON: Mr. Clerk for an announcement. [LB84]

CLERK: Mr. President, very quickly, thank you. Senator Larson would move to withdraw LR121; that will be laid over. And a new A bill. (Read LB575A by title for the first time, Legislative Journal pages 1243-1244.) [LR121 LB575A]

Mr. President, I now have, Senator Nordquist, AM1268. (Legislative Journal page 1244.) [LB84]

SENATOR CARLSON: Senator Nordquist, you're recognized to open on your amendment. [LB84]

SENATOR NORDQUIST: Thank you, Mr. President and members. AM1268 simply puts a \$10 million a year cap on the amount of money that would come from sales tax. It wouldn't be able to exceed \$10 million. I'm not completely convinced we can afford any General Fund money. You've heard me say that, you know, explain where we're at with our fiscal situation, projected deficit in the next two years of \$120 million. The difference, though, and I would support...I would support the bill with this amendment is that this amendment would only increase that out-year deficit by about 16 percent. The bill and

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Senator Fischer's AM1216 without this amendment would increase it by over 100 percent. We would be more than doubling our budget shortfall in the next biennium as opposed to increasing it by \$20 million or 16.7 percent. There's nothing magic about the \$10 million number but I think it's a more reasonable approach. You heard Senator Fischer say, oh, this is simply 2 percent of our budget. Two percent doesn't sound like a lot. Well, let's talk about what that 2 percent would be: 2 percent of our budget cut in General Funds would be a 9 percent cut in TEEOSA if we chose to go down that road and 11 percent to healthcare provider rates. You think they're talking now about having closings of behavioral health and nursing homes in every community around this state at a 3 percent provider rate cut. What are they going to say at an 11 percent provider rate cut? Or we could choose to cut the university by 13.5 percent. They haven't seen an increase in a number of years but we can go down that road. Or we can choose to just eliminate General Fund support for a number of our agencies. Two percent of our budget, the \$65 million that's in Senator Fischer's amendment, would mean complete General Fund eliminations within the Department of Education; the Legislative Council, I hope you don't like your salaries or your staff; Game and Parks; Department of Natural Resources; Department of Agriculture; and the Military Department. All General Funds would be wiped out. That would be \$65 million. I don't think we can do that. I don't think we should do that. I know we can't afford that. We still have not had a serious discussion on how we afford it. I'm not sure we can afford \$10 million but it's sure a heck of a lot better than the \$65 million that's on the table. And there are more things coming. More people want to spend more money or reduce our revenues. We have a bill right now sitting on General File that Senator Fischer voted to advance out of the Revenue Committee that reduces our revenues by another \$1 million a year. We'll be debating it later today, Senator Cornett's bill, Senator Smith's priority bill. I don't know how we're going to do that if we're already diverting \$65 million away. Senator Fischer also mentioned that someone on the floor, and maybe it was me, said that this wasn't enough money. I don't know that that's what I said. I was saying to the proponents of this bill, who are talking about expressways and going to their districts and saying expressways are going to be completed because of this, need to be honest and up-front with their constituents because this is not enough money to complete the expressways. After 20 years it would only be a third of the amount of money to complete the expressways, and it's a 60-year expressway program. And I have to reiterate, too, that the proponents coming forward and in our discussions yesterday about...I want to say it's an unwillingness in the future to suspend this program. I mean right now if you can't look back and be honest and say, yes, over the last three years absolutely, definitively we would have suspended this program, then you're never going to do it. And I think everyone who pushes a green light ultimately on this needs to realize that and I hope you do because that's the position we will be in. Again, I hope that you'll support this amendment. It would put us in a better situation, certainly not great, certainly we would have a long hill still to climb out of in the next biennium, but it's better than what we're talking about now. It helps us a little bit more get to where we need to be. Again, the fiscal projections we have aren't showing it and hope is not enough to get us there. We

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need to figure out how to balance this actually with the numbers that we have. Thank you. [LB84]

SENATOR CARLSON: Thank you, Senator Nordquist. Members, you've heard the opening on AM1268. Senators wishing to speak include Mello, Council, Ken Haar, Nordquist, and Conrad. Senator Mello, you're recognized. [LB84]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I rise...I tentatively rise in support of Senator Nordquist's amendment because I understand the underlying purpose of it. And over the course now of coming up close to 16 hours of debate there has been a call in this body to look for compromise, to look for compromise that fits within the fiscal realities that our state faces, a call for compromise that fits within the reality that we do not want to raise taxes to pay for roads right now or we do not want to raise taxes to pay for roads in 2013 at the expense of our state's core responsibility that's placed in the constitution, which is education. Senator Nordquist's amendment, AM1268, is a compromise and I think everyone in this body understands, through legislating, compromise is usually struck when both sides are not happy with where both sides' positions currently lie, and that is where we're currently at with LB84. There are senators who feel \$65 million, roughly \$70 million in 2013 projections that can go anywhere up to over \$100 million with an unlimited, uncapped quarter cent of sales tax, is money we can't afford right now, is money that no one in this body has laid out how we will pay for, not the sponsor of this legislation, not the cosponsors of this legislation, not anyone who so far has voted for LB84 on General File. Not one member has laid out how will we pay for this bill. Senator Nordquist's amendment, while ultimately I question why we want to just unilaterally start appropriating a minimum amount of funding of General Funds towards the Department of Roads, which I remind you is getting an additional \$30-plus million in its upcoming biennial budget and received an additional \$10 million in the 2009 Special Session budget, why instead we wouldn't want to just allow the Legislature and the Governor to choose to appropriate money if they so choose to, which was Senator Conrad's amendment yesterday. I at least applaud Senator Nordquist of trying to look for more additional compromise with those who believe LB84, with the adoption of AM1216, is the needed path to move forward, is the only path, I should say, to move forward. I think in the floor debate over the last two days, I think we all can agree that it's not the only path to move forward. It's the path of least resistance, which essentially is what Senator Fischer has made mention multiple times. It's the easiest way to go. Take General Funds; take it from someone else in two years but we won't tell them who we're going to take it from in two years. That's the path that we're going under LB84 with the adoption of AM1216. Senator Nordquist's amendment, while it's tough to stomach because I generally believe Senator Conrad's and my amendments we put yesterday were the more fiscally responsible approach to go because we're not appropriating money unilaterally at a floor level, but I'm willing to compromise. I'm willing to compromise and say we will put a minimum of \$10 million right now of General Funds in the budget each year in the next

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biennial budget moving into the future. It's a starting point. That's what compromise is. Both sides come together and may not agree of where the other side is coming at, but they look for a solution. I applaud Senator Nordquist for looking for that solution. I urge the body to strongly consider AM1268 because everyone so far I've heard says we need to do something. Well,... [LB84]

SENATOR CARLSON: One minute. [LB84]

SENATOR MELLO: ...Senator Fischer alluded to that those who opposed LB84 had a chance to come out in support of a gas tax increase. Well, I think Senator Fischer fully understands my position and others who have opposed gas tax increases because it's not right for our economy right now, regardless of the fact that we have a Planning Committee report that says our roads are in some of the best shape in the country so we don't need to increase gas taxes right now. Instead we took other alternatives that we proposed, Senator Conrad's, my amendment, and now Senator Nordquist, all three fiscally responsible methods to try to provide more funding to roads without putting the state \$140 million in the red in two years. Colleagues, I urge you to strongly consider this amendment. It may not be perfect but it's a fiscally responsible way to move forward. And I hope that this Legislature doesn't toss its fiscally conservative morals aside for the sake of a short-term fix of providing a little bit extra money for the Department of Roads. [LB84]

SENATOR CARLSON: Time. [LB84]

SENATOR MELLO: Thank you, Mr. President. [LB84]

SENATOR CARLSON: Thank you, Senator Mello. Senator Council, you're recognized. I don't see Senator Council. Senator Ken Haar, you're recognized. [LB84]

SENATOR HAAR: Mr. President and members of the body. Last time I spoke, and I want to keep talking about this, is earmarking is a bad policy. Again, quoting from the Minnesota legislative earmarking state tax revenues report, it says...it talks...it says, if the constitution earmarks the revenues, the Legislature cannot spend less than the earmarked revenue, even if it believes less should be spent. This is one of the problems with earmarking. Many states now are...because people want to make sure their projects get done, they're going to the people in initiatives to earmark state monies, which certainly ties the hands of the Legislature. That's the slippery slope of what we started here by earmarking this money. And I'll give you some examples. In Texas there was a proposal for a temporary sales tax increase dedicated to public schools. There's been talk in other states, there have been initiatives by the people to designate, in some cases it adds, but in some cases it's just designate existing sales tax for environmental purposes. So all of this then boils down to who has the strongest lobby and who can make these things...put these things in the constitution. And all of these tie the hands of

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the Legislature to weigh priorities. Going on with the Minnesota thing, it says, the general assumption is that the earmarking revenues leads to overspending as compared with a comprehensive budget that encompasses all revenues. That's why proponents of programs lobby heavily for earmarks. That's why proponents of programs lobby heavily for earmarks because they feel that it's going to tie-in...that it's going to tie-in support for a certain program. However, it's also theoretically possible that earmarks in some instances result in lower overall spending for the benefitting programs. Earmarking is bad policy. It ties our hands and it's going to make it more difficult for us as a future Legislature. Here's another one called to earmark or not to earmark, from the center on the future, a policy brief, and this is connected with Clemson University. Most economists support limited earmarking such as fees for services or a clear benefit relationship between the revenue source and the object of the earmarking, a clear connection. It goes on to say, when revenues are earmarked they are removed from the process of weighing one expenditure against another that lies at the heart of good budget practice. And that's our responsibility, to weigh one expenditure against another to make good budget decisions. Finally, earmarking can make a budget crunch even worse when the economy turns down. It's easy to earmark specific revenue sources for pet programs when revenue is rising and competition for public resource is not too scarce. But with a revenue downturn legislators may find that a big part of their revenue stream has been taken off budget and placed in special funds. In spite of its political popularity, most economists advise against earmarking as a general principle. Most of the revenues... [LB84]

SENATOR CARLSON: One minute. [LB84]

SENATOR HAAR: Thank you. Most of the revenues need to be available to the General Fund so that legislators have the freedom to make trade-offs among spending priorities. That's our job, that's what we're elected to do. And earmarking only ties our hands and it takes General Funds, in this case sales tax, and puts it in a place that seems like a commitment, a definite commitment to roads, but is going to be a hallow promise if the revenues aren't there. And I will continue the discussion on my next time up. Thank you. [LB84]

SENATOR CARLSON: Thank you, Senator Haar. Senator Nordquist, you're recognized. [LB84]

SENATOR NORDQUIST: Thank you, Mr. President and members. I think Senator Haar made some excellent points about tying our hands into the future with earmarks. Again, we've made a lot of tough decisions. And the last biennial budget, and there was some discussion about the fact that it went so fast. We didn't really get into the details of it. And hopefully this time we will get to those details so everyone in this body can understand the tough decisions that the Appropriations Committee has to make sitting there, weighing priorities with a very fixed pot of money that we have based on the

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economic forecast of our state. And right now the best information we have available to us is we have a pie that is smaller than what we want to spend, than what our current budget would be in the next biennium. We can't fit that budget pie into our revenue pie. And now we're going to expand that budget pie by \$65 million under the proposal. I'm not keen on adding anything to it, but I think expanding it by \$10 million would be better than expanding it by \$65 million or \$67 million. This is kind of the...instead of shoving the whole hamburger in your mouth, taking one bite of it and trying to see if we can absorb that and then maybe into the future expand this if the revenues are there, if we can show that we have that stable revenue source to fund this. I'm deeply concerned about the ability in the future to change this. I've been around this body since 2004 as a staffer and then as a legislator since 2008. I know once these things get put in the budget they're next to impossible to get rid of. Whether it's a good priority or not, even if it's not a top priority it's very difficult to get rid of it. And I think even suspending it for a number of years would draw a lot of political fight. You all know how powerful the lobbies are on all sides of these issues. You know that there would be, anytime you try to cut a little piece out of their pie there's going to be all heck to pay. We've all seen it. We all know how that works. And I think that really does tie our hands, as Senator Haar said, into the future. And the cuts that we've had to make in Appropriations and have considered are very difficult. As I said, we spent hours on a couple issues that probably added up to less than \$100,000, crime stoppers in rural Nebraska, medical student loans to make sure that we have primary care physicians and other medical work force serving in rural Nebraska. That was \$63,000 and we had to have a long discussion whether or not we could afford to do that in this current budget. Unfortunately, those programs are going to be gone because they're at the top of the list right now. If we have to cut in two years they're going to be the first ones off the table. And I know that will have an impact on my community, and it certainly will have an impact on yours too. So I think the best thing we can do is to move forward by taking one bite of the apple or hamburger or whatever you choose with this amendment to LB84. Thank you, Mr. President. [LB84]

SENATOR CARLSON: Thank you, Senator Nordquist. Those still wishing to speak include Conrad, Mello, and Ken Haar. Senator Conrad, you're recognized. [LB84]

SENATOR CONRAD: Thank you, Mr. President. Again, good morning, colleagues. I rise in support of AM1268 to AM1216 and want to thank Senator Nordquist for bringing forward which is admittedly a difficult, a tough pill to swallow for opponents purposes. I've said all along I don't have a philosophical problem with General Funds going to support our infrastructure needs. But we have to do so when we have the funds available. That's been the point in terms of the amendment I filed yesterday and we considered. And it has been also reflective of past practice. As a member of the Appropriations Committee, a few years ago when times were indeed much better and our fiscal health was much stronger, the Appropriations Committee worked very hard to come together and to devote a one-time transfer of about \$15 million to help move the

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expressway projects along and to match some federal funds that were available. Unfortunately, those funds sat in an account and went unused for quite some time for a variety of reasons. And then the economic climate changed dramatically. And because those funds were being unutilized by the department, we had to take those back into the budget to meet our other obligations. So while this amendment is not perfect in my mind in terms of dealing with our fiscal future and existing obligations it is at least much closer to our economic reality. And that is a sincere and thoughtful and serious attempt at substantive compromise which is part of our work here in this body. We've all learned this lesson on many different and difficult issues over many years. We usually have strong set of opinions and values on any given issue and we work together through strong and passionate advocacy on all sides of those issues to identify the common ground that may exist and to recognize that each side gives a little bit to hold onto and build upon that common ground. Senator Fischer has already made those concessions along the way. The original legislation, which started out with a half cent earmark to the tune of about \$2.8 billion has been continually reduced to what is now before us in AM1216, which is a quarter cent earmark with a \$1.3 billion price tag. That is a significant reduction, that is an appropriate move closer to our economic reality. And I applaud her for making those changes. Those, I'm sure, did not come easily, but they are indeed a reflection of the fact that the original proposal was unaffordable. Sadly though, \$65 million a year, a \$1.3 billion earmark remains unsupported by our economic reality and is indeed a political compromise rather than a policy compromise. And that's okay, that's part of our work here. Politics does come into play. And you have to make concessions and you have to make changes to ensure that you can achieve the consensus requisite to move your proposal... [LB84]

SENATOR CARLSON: One minute. [LB84]

SENATOR CONRAD: ...forward. Thank you, Mr. President. Colleagues, again this allows for a recognition that we believe a strong infrastructure is important to our economic prosperity, growth and jobs. And it helps to make a measured step forward to invest in that, to achieve that and that is more closely mirrored in our economic forecast which we cannot turn our back on. We have a statutory obligation to adhere to those rules, to put forward a responsible budget. This gets much, much closer to helping us meet that obligation. Thank you, Mr. President. [LB84]

SENATOR CARLSON: Thank you, Senator Conrad. Senator Mello, you're recognized. [LB84]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I understand how sometimes floor debate goes in the sense that those who oppose a bill share their opposition, their concerns, potential suggestions to improve the legislation. And those proponents of the bill likewise, explain why they support the piece of legislation, explain what key provisions of the legislation they support and why they

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support it, sometimes offering suggestions to make that legislation better. That would be my hope with what AM1268 is because AM1268 is a compromise put forward by Senator Nordquist to those who want to spend General Fund dollars towards road infrastructure. It's a give and take. The opposition originally to LB84 was the \$125 million a year for a course of 20 years, \$2.5 billion in new government spending. That was the opposition in part because it wasn't explained how it was going to be funded. It eroded the pay-go system that we utilize as a Legislature in regards to fiscal matters. That original proposal has been changed to AM1216 which instead of \$125 million a year it's roughly \$70 million a year that is not capped, that can go up to potentially \$100 million over the growth of sales tax, equating anywhere, give or take, between \$1.4 billion to \$2 billion over the course of 20 years. So if we're following the logic and we're following the compromises that have been quote unquote put into place, we compromise \$2.5 billion in new government spending, compromise that to give or take an average between \$1.7 billion. What Senator Nordquist is saying is instead, okay, let us compromise a little bit further and start over again. What Senator Nordquist is suggesting, let's compromise at \$4 million over 20 years. And if we so choose and have the money and the financing available through our budget process and roads becomes a higher priority for additional General Funds as the economy grows, as the Legislature can debate that every year through the budget process, then it may be able to receive more additional funding. That, in my mind, seems like a very logical, very reasonable compromise, reason being is that you can only repeat it so many times, particularly when it's fact and not false, that no one has been able to explain how we're going to pay for AM1216. And to some extent Senator Nordquist has alluded to that we're moving from \$140 million over the biennial budget to \$20 million. Now granted, \$20 million is still \$20 million that will go to our projected budget deficit. Am I comfortable with that ultimately at the end of the day? Not really. But the fact is this, is \$20 million more manageable? Is that something that we could possibly gain over the course of some bills that we will be passing that have yet to show what the fiscal impact may be? Yes. But the bigger unaligned proposal is that it's a compromise. But those of us who adamantly opposed the use of General Fund dollars to... [LB84]

SENATOR CARLSON: One minute. [LB84]

SENATOR MELLO: ...go directly to the Department of Roads...what's that, Mr. President? [LB84]

SENATOR CARLSON: One minute. [LB84]

SENATOR MELLO: Thank you,...have made a compromise from \$125 million to \$70 million. We're willing to start out at \$10 million. In the effort of good faith, of trying to find a way to move forward that's the fiscally responsible way to go, that's something that is tangible, that we may be able to afford in two years from now, that is what you see in front of you with AM1268. Anything more than this is questionable in my mind because

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we know we can't afford it. And I think at the end of the day looking for \$10 million will be difficult to do because at the end of the day, unless you raise taxes, you will have to cut something. Senator Fischer said we'll find it. Well, sometimes, as I said yesterday, sometimes hoping you find it is not always a strategy. You need to lay out concrete ways of how you will find cuts. If you choose not to cut education, lay out how will you find \$140 million. [LB84]

SENATOR CARLSON: Time. [LB84]

SENATOR MELLO: Thank you, Mr. President. [LB84]

SENATOR CARLSON: Thank you, Senator Mello. (Visitors introduced.) The Chair recognizes Senator Ken Haar. [LB84]

SENATOR HAAR: Mr. President and members of the body. I had a discussion with Senator Hadley. And I think words are important so I want to clarify. If you consider earmarking as anything that comes through the General Fund then I disagree with that. My definition of earmarking that I've been talking about is an ongoing funding mechanism that is outside the general funding process. And what this would do, I'm talking about good budget policy, I'm talking about ongoing funding that's outside our general process. And this goes back to one of these briefings: to earmark or not to earmark. Most the revenues need to be available to the General Fund so that legislators have the freedom to make trade-offs among spending priorities. That's our job. What LB84 attempts to do is to assign so much importance to this that it's going to give a special priority outside the general funding process. And here's what makes the difference. It really takes this amount for funding roads outside of the regular appropriations process. Some people have said, okay, for example, TEEOSA is an earmark. No, TEEOSA is not an earmark because TEEOSA goes through a regular committee, it's submitted as part of the regular budgeting process. The Appropriations Committee gives its concept of what it thinks the appropriation for TEEOSA should be. And Education gives its ideas and then we vote on that in the general body. But in LB84 this is something different because it applies if we don't act. In the case of TEEOSA we have to act, in the case of all our other budget appropriations we have to act through resolution on the floor. But if LB84 passes there will be money that applies if we don't act. And we know in government if there's anything probably that makes government bigger than it should be it's things that get put in process and then they become auto pilot, they go on and on because, as we all know, once something is started it's really pretty difficult to get rid of it. And in this case with LB84, yes, with 25 votes we could "defund" it or change it or delay it or whatever. But it would take somebody putting in a bill, it would take somebody...it would have to go through a hearing in committee, it would have to come out of committee, it would have to be assigned a priority. That's different than the general funding process. So this would be another example in government of something that applies if we don't bother to act with it. And I think the

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funding of roads, other than from gasoline tax, if they're going to come out of General Funds should be dealt with during the appropriate funding cycle not two years in advance, not two years in advance. I think this will become a hollow promise, especially if the economy does not improve. I think the way we should be budgeting is to do planning. And if that planning, for example, and again, Senator Mello brought it up earlier, but I have in front of me and I hope you've all looked at this, the Legislature's Planning Committee 2010 report. This talks about... [LB84]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: One minute. [LB84]

SENATOR HAAR: ...thank you, the plans for Nebraska. This is the way we should be appropriating money at the appropriate cycle. And if we're going to talk about roads in this session from General Funds it should be discussed this session. If it's going to be road funding from the General Fund in two years it should be discussed then. And the best way to talk about those priorities and to set them is in a planning process that has been begun by this committee started by Senator Harms. So I'm concerned about taking this LB84 out of the regular funding process. And as we know those things are very difficult to change because then people start to expect that they will always be there. That's the kind of earmarking that I'm talking about. Thank you very much. [LB84]

SPEAKER FLOOD: Thank you, Senator Ken Haar. Mr. Clerk. [LB84]

CLERK: Mr. President, I have a priority motion. [LB84]

SPEAKER FLOOD: (Gavel) [LB84]

CLERK: Senator Fischer would move to invoke cloture pursuant to Rule 7, Section 10. [LB84]

SPEAKER FLOOD: Thank you, Mr. Clerk. It is the ruling of the Chair that there's been full and fair debate afforded to LB84. Senator Fischer, for what purpose do you rise? [LB84]

SENATOR FISCHER: Mr. President, I would request a call of the house, a roll call vote in regular order, please. [LB84]

SPEAKER FLOOD: Members, there has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB84]

CLERK: 30 ayes, 0 nays, Mr. President, to place the house under call. [LB84]

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SPEAKER FLOOD: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Pahls, Ashford, Carlson, Schilz, Nelson, Loudon, Mello, Janssen, Heidemann, Senator Burke Harr, Senator Schumacher, please return to the floor and record your presence. The house is under call. Senators Loudon, Nelson, Burke Harr, please return to the Chamber and record your presence. The house is under call. Senator Loudon, please return to the Chamber. The house is under call. Senator Fischer, all senators are present or otherwise accounted for. Mr. Clerk, the first question is, shall the Legislature invoke cloture pursuant to the rules of the Legislature, specifically Rule 7, Section 10? Mr. Clerk, please read the roll. [LB84]

CLERK: (Roll call vote taken. Legislative Journal pages 1244-1245.) 39 ayes, 9 nays on the motion to invoke cloture. [LB84]

SPEAKER FLOOD: Cloture is invoked. Mr. Clerk, the first vote following cloture is AM1268 to AM1216. Members, the question before the body is, shall AM1268...Senator Nordquist, for what purpose do you rise? [LB84]

SENATOR NORDQUIST: Can I get a roll call vote in reverse order? [LB84]

SPEAKER FLOOD: Certainly. Mr. Clerk. Well, prior to that, members, the question before the body is, shall AM1268 be adopted? Mr. Clerk, please read the roll in reverse order. [LB84]

CLERK: (Roll call vote taken, Legislature Journal page 1245.) 10 ayes, 38 nays, Mr. President, on the amendment to the amendment. [LB84]

SPEAKER FLOOD: AM1268 is not adopted. Mr. Clerk, we now proceed to AM1216. Senator Fischer, for what purpose do you rise? [LB84]

SENATOR FISCHER: Mr. President, I would request a roll call vote, regular order, please. [LB84]

SPEAKER FLOOD: Members, the question before the body is, shall AM1216 be adopted? Mr. Clerk, please read the roll in regular order. [LB84]

CLERK: (Roll call vote taken, Legislative Journal pages 1245-1246.) 39 ayes, 9 nays on adoption of the amendment. [LB84]

SPEAKER FLOOD: AM1216 is adopted. Mr. Clerk, we now proceed to the vote on LB84. Senator Fischer, for what purpose do you rise? [LB84]

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SENATOR FISCHER: Mr. President, I request a roll call vote, regular order. [LB84]

SPEAKER FLOOD: Members, the question before the body is, shall LB84 advance to E&R for engrossing? Mr. Clerk, please read the roll in regular order. [LB84]

CLERK: (Roll call vote taken, Legislative Journal page 1246.) 36 ayes, 12 nays on the advancement of LB84, Mr. President. [LB84]

SPEAKER FLOOD: LB84 advances to E&R for engrossing. I do raise the call. Mr. Clerk, we move to the next item on the agenda, Select File 2011 committee priority bills, Adams division. We begin with LB177. [LB84 LB177]

CLERK: Mr. President, Senator Larson, I have Enrollment and Review amendments first of all, Senator. (ER83, Legislative Journal page 1128.) [LB177]

SPEAKER FLOOD: Senator Larson for a motion. [LB177]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB177 be adopted. [LB177]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB177]

CLERK: Mr. President, Senator Campbell, I have AM1124. But I have a note you want to withdraw that particular amendment. [LB177]

SENATOR CAMPBELL: That is correct, Mr. Clerk. [LB177]

SPEAKER FLOOD: AM1124 is withdrawn. Mr. Clerk. [LB177]

CLERK: Senator Campbell would move... [LB177]

SPEAKER FLOOD: (Gavel) [LB177]

CLERK: ...to amend with AM1215. (Legislative Journal page 1206.) [LB177]

SPEAKER FLOOD: Senator Campbell, you're recognized to open on AM1215. [LB177]

SENATOR CAMPBELL: Thank you, Mr. President. Colleagues, when the E&R amendments were taken care of there were just a few harmonizing language that they felt we should put in a separate amendment. If you are looking at your machine it's very clear that we need to indicate an Indian child as defined in a particular section and also

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striking the word "kinship," and also spelling out, being very clear what the word department means. It's more of a technical amendment but the language does need to be very clear. Thank you, Mr. President. [LB177]

SPEAKER FLOOD: Thank you, Senator Campbell. Members, you've heard the opening on AM1215. There are no lights on. Senator Campbell, you're recognized to close. Senator Campbell waives her opportunity. Members, the question before the body is, shall AM1215 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB177]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Campbell's amendment. [LB177]

SPEAKER FLOOD: AM1215 is adopted. [LB177]

CLERK: I have nothing further on the bill, Mr. President. [LB177]

SPEAKER FLOOD: Senator Larson for a motion. [LB177]

SENATOR LARSON: Mr. President, I move that LB177 be advanced to E&R for engrossing. [LB177]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. All those opposed say aye. All those opposed say nay. LB177 advances to E&R for engrossing. Mr. Clerk, the next item on the agenda is LB54. [LB177 LB54]

CLERK: Mr. President, LB54, no Enrollment and Review. Senator Mello, I have AM1187, Senator. (Legislative Journal page 1192.) [LB54]

SPEAKER FLOOD: Senator Mello, you're recognized to open on AM1187. [LB54]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. As the body may recall, the purpose of LB54 is to delay the start of the 15-year clock for repayment of TIF bonds. Currently, the clock starts when a redevelopment plan goes into effect, which often has the practice result of leaving cities with only 12 or 13 years worth of increased property tax revenue to pay off the bonds. The green copy of the bill would have changed the start date to when the city enters into a redevelopment contract. But there was some concern that even this language would not give communities the full 15 years. After reviewing the Attorney General's Opinion on LB54, my office worked with the League of Municipalities as well as representatives from the cities of Omaha and Lincoln to develop the language in AM1187. Under the amendment, the 15-year clock would begin at the date identified in either the project redevelopment contract or in the

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resolution approving the bonds. This language has the support of all the interested parties, is consistent with the Attorney General's Opinion and will help ensure that our municipalities are able to take full advantage of the full 15-year window. I'd urge the adoption of AM1187. Thank you, Mr. President. [LB54]

SPEAKER FLOOD: Thank you, Senator Mello. Members, you've heard the opening on AM1187. There are no lights on. Senator Mello, you're recognized to close. Senator Mello waives his opportunity. The question before the body is, shall AM1187 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB54]

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of Senator Mello's amendment. [LB54]

SPEAKER FLOOD: (Gavel) AM1187 is adopted. Mr. Clerk. [LB54]

CLERK: I have nothing further on the bill, Mr. President. [LB54]

SPEAKER FLOOD: Senator Larson for a motion. [LB54]

SENATOR LARSON: Mr. President, I move that LB54 be advanced to E&R for engrossing. [LB54]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB54 is advanced to E&R for engrossing. (Visitors introduced.) Mr. Clerk, we now proceed to LB637. [LB54 LB637]

CLERK: Mr. President, first of all I have Enrollment and Review amendments, Senator. (ER85, Legislative Journal page 1131.) [LB637]

SPEAKER FLOOD: Senator Larson for a motion. [LB637]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB637 be adopted. [LB637]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB637]

CLERK: Senator Adams would move to amend with AM1191. (Legislative Journal page 1196.) [LB637]

SPEAKER FLOOD: Senator Adams, you're recognized to open on AM1191. (Gavel) [LB637]

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SENATOR ADAMS: Thank you, Mr. President, members. This amendment is very technical in nature. It just clarifies some additional language. The one other thing it does that is slightly more substantive, it tries to hone in on differentiating between those higher ed institutions that have a physical presence in our state that we are regulating and those that are purely on-line that we are not trying to regulate. And we try to clarify some language in this amendment. Thank you, Mr. President. [LB637]

SPEAKER FLOOD: Thank you, Senator Adams. Members, you've heard the opening on AM1191. There are no lights on. Senator Adams, you're recognized to close. Senator Adams waives his opportunity. The question before the body is, shall AM1191 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB637]

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Adams' amendment. [LB637]

SPEAKER FLOOD: AM1191 is adopted. Mr. Clerk. [LB637]

CLERK: I have nothing further on the bill, Mr. President. [LB637]

SPEAKER FLOOD: Senator Larson for a motion. [LB637]

SENATOR LARSON: Mr. President, I move that LB637 be advanced to E&R for engrossing. [LB637]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB637 advances to E&R for engrossing. Mr. Clerk, LB637A. [LB637 LB637A]

CLERK: LB637A, Senator, I have no amendments to the bill. [LB637A]

SPEAKER FLOOD: Senator Larson for a motion. [LB637A]

SENATOR LARSON: Mr. President, I move that LB637A be advanced to E&R for engrossing. [LB637A]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB637A advances to E&R for engrossing. Mr. Clerk, we now proceed to Select File, 2011 senator priority bills, Christensen division. The first bill is LB648. [LB637A LB648]

CLERK: LB648, Senator, I have Enrollment and Review amendments first of all. (ER80

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previously adopted April 14, 2011, Legislative Journal page 1204.) [LB648]

SPEAKER FLOOD: Senator Larson for a motion. [LB648]

SENATOR LARSON: Mr. President, I move I move that the E&R amendment to LB648 be adopted. [LB648]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB648]

CLERK: Mr. President, the next amendment I have to the bill, Senator Christensen, I have first of all, Senator, AM1164 with a note that you wish to withdraw that one. [LB648]

SENATOR CHRISTENSEN: Correct. [LB648]

SPEAKER FLOOD: AM1164 is withdrawn. [LB648]

CLERK: Senator, I also have a similar note with respect AM1165. [LB648]

SENATOR CHRISTENSEN: Yes. [LB648]

SPEAKER FLOOD: AM1165 is withdrawn. [LB648]

CLERK: Senator Christensen, I now have AM1166, Senator. [LB648]

SPEAKER FLOOD: Senator Christensen, you're recognized to open on AM1166. [LB648]

SENATOR CHRISTENSEN: Can we move that behind the next two amendments I have? [LB648]

CLERK: Yes, sir. [LB648]

SPEAKER FLOOD: So ordered. [LB648]

CLERK: The next amendment, Mr. President, Senator Christensen, AM1201. (Legislative Journal 1195.) [LB648]

SPEAKER FLOOD: Senator Christensen, you're recognized to open on AM1201. [LB648]

SENATOR CHRISTENSEN: Thank you, Mr. President and colleagues. Like I said

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earlier on General File, I believe my current amendment, AM1201, addresses several concerns of the Judiciary Committee and a couple of concerns from members from the General File debate. First, AM1164 would amend the ER80 on page 4, line 21, striking "five" and inserting "seven." This harmonizes the current requirements in statutes 43-285(3) to notify all interested parties seven days before any change of placement. Second, AM1201 would make it clear what the Supreme Court said in the case In the Interest of Jorius G. that foster parents are interested parties. And for the purpose of Section 43-285 they have standing to participate in foster care placement review hearings. AM1201 narrows the standing for foster parents when there is a placement review hearing to only the foster parents in which the foster child was in the home for at least six months and the placement is dealing with a move from the foster parent's home to another foster care facility, not a placement change to reunify the foster child back to the parents. Third, AM1201 would amend ER80 on page 5, line 27 to change "inquire" to make it "inquiry." Finally, my amendment would strike the words "willing to address" to address Senator Schumacher's concern. Thank you for your concern. And I ask for your adoption of AM1201. [LB648]

SPEAKER FLOOD: Thank you, Senator Christensen. Members, you've heard the opening on AM1201. Senator Coash, you are recognized. [LB648]

SENATOR COASH: Thank you, Mr. President. Would Senator Christensen yield to a few questions, please. [LB648]

SPEAKER FLOOD: Senator Christensen, will you yield for a few questions from Senator Coash? [LB648]

SENATOR CHRISTENSEN: Yes. [LB648]

SENATOR COASH: Thank you, Senator Christensen. Senator Christensen, as I look at AM1201 and I've also looked at the Jorius case that we're seeking to codify a little bit with AM1201. However, I do have some questions about how this might play out should this amendment be adopted and if it goes a little bit further, then what this case states. What is your understanding, Senator Christensen, if we give foster parents interested party status with regard to a foster parent's ability to initiate a hearing and call witnesses? Do you anticipate that that will be the case? [LB648]

SENATOR CHRISTENSEN: Well, it's not broadening it so they can call a new hearing. There is a statute for that already that gives them the ability within 30 days after an order awarding a juvenile in care. What this is doing is when they are having the court hearing that the judge is going to recognize them to speak in the case, where currently it's only done if the judge wants to. [LB648]

SENATOR COASH: Okay, so this amendment requires the judge to call on them, is that

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correct? [LB648]

SENATOR CHRISTENSEN: That is correct. [LB648]

SENATOR COASH: Okay. But your amendment also states that it gives a foster parent standing to call and cross-examine witnesses at the hearing and appeal the actions. With regard to calling and cross-examining witnesses, is that something that foster parents can already do? [LB648]

SENATOR CHRISTENSEN: No, it is not. [LB648]

SENATOR COASH: Well, go ahead, Senator Christensen. [LB648]

SENATOR CHRISTENSEN: Well, if you go back into Section 43-285 now and it says, the department, association or individual shall file a report with the court once every six months or at shorter intervals if ordered by the court or deemed appropriate by the department, association or individual. The department, association or individual shall file a report and notice of placement change with the court and shall send copies of the notice to interested parties at least seven days before the placement of the juvenile is changed from what the court originally considered to be a suitable family home or institution to some other custodial situation in order to effectuate the purposes of subdivision (1) of Section 43-246. The court, on its own motion or upon the filing of an objection to the change by an interested party, may order a hearing to review such a change and may order that the change be stayed until the completion of the hearing. Nothing in this section shall prevent the court... [LB648]

SENATOR COASH: Okay, thank you, Senator Christensen. I've been talking with some members of the judiciary branch on this. And it looks like we may have a disparity in jurisdictions as to whether these hearings are being ordered. And I'm wondering if that's not a better way to get at this. I'd like to talk to you more about this. I have to be frank with you, Senator Christensen. These amendments give me a little heartburn from the...not the intent of them, I want to be clear. The intent doesn't give me heartburn, but the effect might. The goal of the foster care system and DHHS when they have a kid placed out of the home is quick and permanent, permanency. And I'm concerned with these amendments that it may delay the time. [LB648]

SPEAKER FLOOD: One minute. [LB648]

SENATOR COASH: And so if we have the ability to initiate cases once kids are moved, we're delaying the time that that permanent placement for those kids is found. And I know that's not your intent, Senator Christensen. So I want to work with you on this. I've also got some feedback from folks who work in the foster care industry as foster parents. And the concern is the shift of burden to the foster parent and the lack of

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training that they may have to be able to initiate and do these proceedings because it does shift the relationship between foster parents and state caseworkers in a dramatic and a possibly counterproductive way as it might force a foster parent into a more defensive and micromanaging... [LB648]

SPEAKER FLOOD: Time, Senator. [LB648]

SENATOR COASH: ...situation. Thank you, Mr. President. [LB648]

SPEAKER FLOOD: Thank you, Senator Coash. A reminder, that we will recess today at 11:45 a.m. Immediately following our recess would ask members of the Legislature to proceed to the Rotunda. The Legislature will be presented a flag that was flown on the space shuttle by Nebraska native Clayton Anderson, a NASA astronaut, who will be joining us at 11:45 in the Rotunda. In addition, we will later today, following adjournment, have an opportunity to recognize former senators of the Nebraska Unicameral as they are in town today for their annual trip to the Capitol. (Visitors introduced.) Continuing with discussion on AM1201 to LB648, Senator Christensen, you are recognized. [LB648]

SENATOR CHRISTENSEN: Thank you, Mr. President. To address a little bit of Senator Coash's concerns there, this won't have a...doesn't have a play in the permanency deal, in most cases it wouldn't because they're looking at moving foster parents to another foster parent (sic) which may or may not be that permanency place. It may be the long-term goal. It's allowing them to state their case. And if a foster parent, and they're moving these kids out of their home and it's...may or may not be in the best interest of the children. And if you don't have the children's best interest here then it could be a good thing to have that ability to challenge this because we have had cases. I think every senator has had a chance to visit with people when they said, you know what, the children are content here, they're doing well, but because of something they have chosen to remove these kids. And, you know, I can go into details of a situation where this occurred. It was just a situation, department wanted change. Change isn't good on these kids. We need stability, we need to be working in the interest of these children. And so this just makes the department accountable if they're going to move these. It wouldn't affect if it's an emergency change because of abuse, neglect, things this way. I think that we got to think about the children in this situation here because that is what this is all about is taking care of the children and making sure they're being taken care of. And to hear the parents side, if they choose to show up, they don't have to show up unless they're subpoenaed, you know, if they're okay with this they're not going to challenge this. So it's, I think, a very good deal for the care of the children in this situation. Thank you, Mr. President. [LB648]

SPEAKER FLOOD: Thank you, Senator Christensen. Senator Ashford, you are recognized. [LB648]

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SENATOR ASHFORD: Thank you, Mr. Speaker. This is a very technical part of the law. And it is one that we have to be very careful with as we make changes in foster care issues and foster care placement issues. Senator Coash has taken an interest in this bill and others certainly in our committee as we faced many of these HHS issues as they interact with the justice system. The committee made a change in the law regarding foster care parents to make sure that if there is a hearing involving reviews or placements of a foster child that the foster parents receive notice. It is the current law that the foster parents receive notice of seven days prior to a change in placement. I believe that's correct under current law. Senator Christensen has related to the committee an issue that involved his family where the parents, foster parents, apparently, were not given the seven days notice. I understand that. My concern is if we expand the jurisdiction here of the juvenile court to allow for standing, which is a difficult term at best because what it means, it could mean is that the foster parents would have the ability to potentially have attorneys appointed for them, would be able to cross-examine witnesses, and would be generally engaged in the case involving these children to the degree...to the same degree as other litigants. This could have significant, and I hate to use this term, significant unintended consequences because it could delay potentially the transfer or change in placement which...the standard for which is the best interest of the children. We felt in the committee that by giving the family notice, the foster family notice and the existing statute certainly allows, already allows the...once there, if there is a review or if there is a hearing on a change of placement, would allow the foster parents to be involved, answer questions and be engaged and even ask questions in the hearing but would not give them the standing that would require their deeper involvement in the case. We felt in the committee that was the proper standard. I fully understand Senator Christensen's concerns here. I am concerned about the provisions in the amendment that would call for a criminal penalty in cases where there would be an alleged failure to give notice or failure to allow for participation in a case. I'm very sympathetic to Senator Christensen's situation but I just feel that in this case, though I grudgingly,... [LB648]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: One minute. [LB648]

SENATOR ASHFORD: ...I hate to do this, but I really feel that AM1201 is beyond where we should be going in the juvenile systems review of these cases. Thank you. [LB648]

SENATOR GLOOR: Thank you, Senator Ashford. Senator Campbell, you are recognized. [LB648]

SENATOR CAMPBELL: Thank you, Mr. President and colleagues. And I do want to thank Senator Christensen for keeping a focus on the notice that should be given to

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foster families and his strong advocacy for them. I must admit though in our conversation yesterday I told him that I did have some concerns about AM1201 and it really had more to do with the fact that I'm not an attorney and I don't quite know all the legal intricacies of the amendment. I put my light on today because I wanted to know if Senator Ashford would entertain a question. [LB648]

SENATOR GLOOR: Senator Ashford, would you yield? [LB648]

SENATOR ASHFORD: Yes, thank you. [LB648]

SENATOR CAMPBELL: Senator Ashford, I was listening very closely because I had two parts to my question. One was, what does standing mean? And I'm learning that that has a particular meaning in a court of law and should not be taken lightly. But my second question is as we look at this amendment, if I had a foster child in my home for six months and then that placement was changed and I would have the notice and standing that AM1201 said, but then because of a change the child is moved to another placement and they are there for six months, do I retain that standing even though the foster child is not in my home? And I promised Senator Christensen that I would ask this question on the floor. [LB648]

SENATOR ASHFORD: I think the...I don't...it's not clear. And my reading of this would be potentially that it could be chaotic because the standing could...would potentially continue on and impact not only the transfer to another foster home but also movement towards permanency. That would be my concern. [LB648]

SENATOR CAMPBELL: Thank you, Senator Ashford. I have to say that I share that concern because I didn't see the clarity in the amendment. And perhaps this is a situation that we may want to step back and involve the Judiciary Committee again. I certainly would be willing, we have invited the courts to be a part of the child welfare review and reform and we certainly will be leaning on the Judiciary Committee to help us with parts of that. And so I would be willing to continue to take a look at the issue because I know Senator Christensen's passion stands in advocacy for foster parents. And I don't want to diminish that, but I also want to be very careful that we put into statute exactly what we need for foster parents and foster children and make sure that it has the clarity we need. Thank you, Mr. President. [LB648]

SENATOR GLOOR: Thank you, Senator Campbell and Senator Ashford. Senator Council, you are recognized. [LB648]

SENATOR COUNCIL: Yes, thank you very much, Mr. President. As a member of the Judiciary Committee, I can tell the body and confirm what Senator Coash has said, that the body has spent...the committee has spent a lot of time on this issue because there is a genuine concern about the notice provisions currently in the statute with regard to

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hearings. The question that arises though with respect to AM1201 is that currently under statute if there's a change in placement there is a requirement that a report and notice of a placement change be provided to the court and to all interested parties. And DHHS currently has to do that before the placement is changed. And currently the court on its own motion or the filing of an objection to the change may order a hearing to review the change. And, I guess, that's where some of the questions still arise is because currently the foster parent is not defined as an interested party, although under the notice provision with the Judiciary Committee amendment they are to be notified. And the issue is, at least in my mind is now with AM1201, is that party, that foster parent now being provided the opportunity to file an objection which then requires the scheduling of a hearing which may, in fact, delay and/or postpone the ultimate placement of the child and the ultimate recommendation of the Department of Health and Human Services. And my concern generally is reunification of that child with their biological parent. And the way the juvenile court docket, at least in Douglas County, is packed right now with these kinds of notices, I think we need to give some careful consideration to what that means in terms of the court docket and if the ultimate objective of the DHHS plan is reunification, what impact this has on ultimately achieving that reunification objective, as well as placing into consideration the impact on county courts and county court budgets. So I think these are some issues that still remain to be addressed. I don't think anyone has indicated to Senator Christensen that they don't appreciate the concern that has been raised. In fact, through AM1201 Senator Christensen made an effort to address a concern that I expressed to him because I think it's AM1202. The only parties that he was seeking to provide standing to were the foster parents, and neglected to provide that same level of standing to preadoptive parents or to a relative who was responsible for the care and custody of that child while that child was a ward of the state. So I appreciate and will acknowledge that Senator Christensen has been making efforts... [LB648]

SENATOR GLOOR: One minute. [LB648]

SENATOR COUNCIL: ...to try to make this bill more workable. And I think that those efforts should continue. I know that Senator Coash has been working with Senator Christensen. As I've indicated, I've had a number of conversations with Senator Christensen about the bill and trying to provide for amendments that would make it the most workable to address the solution. But I really don't want to create a situation where if the ultimate objective and the case plan is for reunification, to put into place a process that delays that from occurring because there are battles between foster parents with regard to... [LB648]

SENATOR GLOOR: Time, Senator. [LB648]

SENATOR COUNCIL: ...the temporary placement. Thank you. [LB648]

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SENATOR GLOOR: Thank you, Senator Council. Mr. Clerk, items for the record.
[LB648]

CLERK: Mr. President, an amendment by Senator Nordquist to LB84 to be printed.
Senator Mello would like to add his name to LB575. (Legislative Journal page 1247.)
[LB84 LB575]

And priority motion. Senator Howard would move to recess the body until 1:30 p.m.

SENATOR GLOOR: Members, you've heard the motion to recess the body until 1:30
p.m. today. All in favor say aye. All opposed, nay. Reminder, there is a ceremony in the
Rotunda following our recess.

RECESS

SPEAKER FLOOD PRESIDING

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

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

SPEAKER FLOOD: Thank you, Mr. Clerk. Do you have any items for the record?

CLERK: I have no items at this time, Mr. President.

SPEAKER FLOOD: Thank you, Mr. Clerk. Members, we now proceed to Final Reading
at 1:30 p.m. on your agenda. Members, please find your seats in advance of Final
Reading. Members, please take your seats. The Legislature is in Final Reading. Mr.
Clerk, the first bill is LB35. [LB35]

CLERK: (Read LB35 on Final Reading.) [LB35]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied
with, the question is, shall LB35 pass? All those in favor vote aye; all those opposed
vote nay. Mr. Clerk, please record. [LB35]

CLERK: (Record vote read, Legislative Journal pages 1248-1249.) 46 ayes, 0 nays, 3
excused and not voting, Mr. President. [LB35]

SPEAKER FLOOD: LB35 passes. Mr. Clerk, LB70, where the first vote is to dispense
with the at-large reading. All those in favor vote aye; all those opposed vote nay. Mr.

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Clerk, please record. [LB35 LB70]

CLERK: 40 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB70]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB70]

CLERK: (Read title of LB70.) [LB70]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB70 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB70]

CLERK: (Record vote read, Legislative Journal pages 1249-1250.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB70]

SPEAKER FLOOD: LB70 passes. Mr. Clerk, the next bill is LB112. Members, 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. [LB70 LB112]

CLERK: 44 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB112]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB112]

CLERK: (Read title of LB112.) [LB112]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB112 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB112]

CLERK: (Record vote read, Legislative Journal pages 1250-1251.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB112]

SPEAKER FLOOD: Thank you, Mr. Clerk. LB112 passes with the emergency clause attached. Mr. Clerk, we now proceed to LB156. [LB112 LB156]

CLERK: (Read LB156 on Final Reading.) [LB156]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB156 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB156]

CLERK: (Record vote read, Legislative Journal page 1251.) 46 ayes, 0 nays, 3 excused

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and not voting, Mr. President. [LB156]

SPEAKER FLOOD: LB156 passes. Mr. Clerk, LB204. [LB156 LB204]

CLERK: (Read LB204 on Final Reading.) [LB204]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB204 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB204]

CLERK: (Record vote read, Legislative Journal page 1252.) 30 ayes, 12 nays, 4 present and not voting, 3 excused and not voting, Mr. President. [LB204]

SPEAKER FLOOD: LB204 passes. Mr. Clerk, LB204A. [LB204 LB204A]

CLERK: (Read LB204A on Final Reading.) [LB204A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB204A pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB204A]

CLERK: (Record vote read, Legislative Journal page 1253.) 39 ayes, 2 nays, 5 present and not voting, 3 excused and not voting, Mr. President. [LB204A]

SPEAKER FLOOD: LB204A passes. Mr. Clerk, we now proceed to LB235. 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. [LB204A LB235]

CLERK: 43 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB235]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title. [LB235]

CLERK: (Read title of LB235.) [LB235]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB235 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB235]

CLERK: (Record vote read, Legislative Journal page 1254.) 41 ayes, 2 nays, 3 present and not voting, 3 excused and not voting, Mr. President. [LB235]

SPEAKER FLOOD: LB235 passes with the emergency clause attached. Mr. Clerk, we

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now proceed to LB255. [LB235 LB255]

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? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB255]

CLERK: (Record vote read, Legislative Journal page 1255.) 23 ayes, 19 nays, 4 present and not voting, 3 excused and not voting. [LB255]

SPEAKER FLOOD: LB255 does not pass. Mr. Clerk, we now proceed to LB279. [LB255 LB279]

CLERK: (Read LB279 on Final Reading.) [LB279]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB279 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB279]

CLERK: (Record vote read, Legislative Journal pages 1255-1256.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB279]

SPEAKER FLOOD: LB279 passes. Mr. Clerk, the next item on the agenda is LB283. We will not dispense with the at-large reading as there...I understand there has been an amendment filed with the bill. Mr. Clerk. [LB279 LB283]

CLERK: Mr. President, Senator Cornett would move to return LB283 to Select File for a specific amendment, AM1272. (Legislative Journal pages 1256-1261.) [LB283]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Cornett, you're recognized to open on your motion to return LB283 to Select File for a specific amendment. [LB283]

SENATOR CORNETT: Thank you, Mr. Speaker and members of the body. First of all, I'd like to begin by thanking Senator Haar for allowing me to...this is a friendly amendment, he is allowing me to attach to his bill, and he was kind enough to agree to allow me to make the motion to return to Select File. Over the past couple of years, the Revenue Committee has dealt with an issue in regards to SID bonding that was brought to our attention by the State Auditor. I am asking the body to return LB283 to Select File for this amendment. I do this because I believe this bill provides the best vehicle and is the most germane to the underlying amendment to fix a problem with levy limits that was brought to our attention, as I mentioned, by the State Auditor's office. The amendment I have filed is the same language as contained in LB430 which advanced to

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the floor from the Revenue Committee with no dissenting votes. I had requested this as a consent calendar item, but because there were so many requests for consent calendar items obviously some had to be passed over. The statute I'm amending deals with SID bonded debt. We were approached by the State Auditor's Office to point out their concern with the language on bonded debt levy exceptions for SIDs. We have been seeking to clarify this language for the last couple of years. Last year, it came out of committee but died sine die, and then this year was not as large enough issue to make consent calendar. The bonded debt includes warrants and other financial instruments that have been viewed historically by the SID boards as an exception to the levy limit just as bonded debt is for other governments. The State Auditor felt this language was not clear in how it established that exception to the levy limit. The bill was drafted with their advice. The Auditor believes that the language clarifies the debt...that the debt instrument and the bonded debt levies are exempt. I ask you to support this clarifying provision. SIDs have functioned this way historically in the state. This was just a clarification of language requested by the State Auditor's Office. SIDs do contribute quite a bit to our state, particularly to growth and development in the metropolitan areas. And with that, again, I'd like to thank Senator Haar for allowing me to file this amendment on his bill on Final Reading. Thank you. [LB283 LB430]

SPEAKER FLOOD: Thank you, Senator Cornett. Members, you've heard the opening on Senator Cornett's motion to return this bill to Select File for a specific amendment. There are no lights on. Senator Cornett, you're recognized to close. Members, the questions...Senator Cornett waives her opportunity. Members, the question for the body is, shall LB283 be returned to Select File for a specific amendment? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB283]

CLERK: 42 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB283]

SPEAKER FLOOD: Senator Cornett's motion to return this bill to Select File for a specific amendment is adopted. Mr. Clerk. [LB283]

CLERK: Senator Cornett would offer AM1272 as a specific Select File amendment. [LB283]

SPEAKER FLOOD: Senator Cornett, you're recognized to open on AM1272. [LB283]

SENATOR CORNETT: Yes, that is the amendment that I have described and what it does is clarify the language for SIDs. Thank you. [LB283]

SPEAKER FLOOD: Thank you, Senator Cornett. Members, you've heard the opening to AM1272. Senator Fulton, you're recognized to speak. [LB283]

SENATOR FULTON: Thank you, Mr. President and members of the body. I did speak

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with Senator Cornett on this amendment and have some familiarity with it. Indeed it seems to me that this is simply a technical clarification. Bonded indebtedness it seems to me would include bonds but perhaps not. And so there was a request, I think by the Auditor, that this be more clearly identified in the statute. And so that's what AM1272 accomplishes. I felt it necessary to stand up because Senator Haar had allowed for an amendment earlier that I put forward that I think clarified LB283, but I still don't know whether I'm going to support...I don't know that I will support LB283 going forward. But this, anyway, was something that Senator Cornett brought forward and just having some understanding of it, I think it is technical in nature. Thank you, Mr. President. [LB283]

SPEAKER FLOOD: Thank you, Senator Fulton. There are no other lights on. Senator Cornett, you're recognized to close on your amendment. [LB283]

SENATOR CORNETT: Yes, and I just want to thank Senator Fulton for all of his cooperation. He even offered to allow me to suspend the rules of germane and place it on one of his bills, but I did not feel that was appropriate for Final Reading at this time. But I do urge the body to support the amendment. Thank you. [LB283]

SPEAKER FLOOD: Members, you've heard the closing to AM1272. The question is, shall AM1272 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB283]

CLERK: 43 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment. [LB283]

SPEAKER FLOOD: AM1272 is adopted. Senator Larson for a motion. [LB283]

SENATOR LARSON: Mr. President, I move that LB283 be advanced to E&R for engrossing. [LB283]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB283 advances to E&R for engrossing. Mr. Clerk, we now proceed to LB297 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. [LB283 LB297]

CLERK: 42 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB297]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB297]

CLERK: (Read title of LB297.) [LB297]

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SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB297 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB297]

CLERK: (Record vote read, Legislative Journal page 1262.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB297]

SPEAKER FLOOD: LB297 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign: LB35, LB70, LB112, LB156, LB204, LB204A, LB235, LB279, and LB297. Mr. Clerk, the next bill on the agenda is LB337. [LB297 LB35 LB70 LB112 LB156 LB204 LB204A LB235 LB279 LB297 LB337]

ASSISTANT CLERK: (Read LB337 on Final Reading.) [LB337]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB337 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB337]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1263.) Vote is 46 ayes, 0 nays, 3 excused and not voting. [LB337]

PRESIDENT SHEEHY: LB337 passes with the emergency clause attached. We will now proceed to LB366. [LB337 LB366]

ASSISTANT CLERK: (Read LB366 on Final Reading.) [LB366]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB366 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB366]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1263-1264.) Vote is 46 ayes, 0 nays, 3 excused and not voting. [LB366]

PRESIDENT SHEEHY: LB366 passes. (Visitors introduced.) Mr. Clerk, we will now proceed to LB385. [LB366 LB385]

ASSISTANT CLERK: (Read LB385 on Final Reading.) [LB385]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB385 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB385]

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ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1264-1265.) Vote is 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB385]

PRESIDENT SHEEHY: LB385 passes with the emergency clause attached. We will now proceed to LB388. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB385 LB388]

ASSISTANT CLERK: 42 ayes, 0 nays to dispense with the at-large reading, Mr. President. [LB388]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB388]

ASSISTANT CLERK: (Read title of LB388.) [LB388]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB388 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB388]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1265.) Vote is 46 ayes, 0 nays, 3 excused and not voting. [LB388]

PRESIDENT SHEEHY: LB388 passes. We will now proceed to LB388A. [LB388 LB388A]

ASSISTANT CLERK: (Read LB388A on Final Reading.) [LB388A]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB388A pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB388A]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1266.) Vote is 46 ayes, 0 nays, 3 excused and not voting. [LB388A]

PRESIDENT SHEEHY: LB388A passes. We will now proceed to LB407. The first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB388A LB407]

ASSISTANT CLERK: 39 ayes, 0 nays to dispense with the at-large reading, Mr. President. [LB407]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read

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the title. [LB407]

ASSISTANT CLERK: (Read title of LB407.) [LB407]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB407 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB407]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1267.) Vote is 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB407]

PRESIDENT SHEEHY: LB407 passes. We will now proceed to LB431. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB407 LB431]

ASSISTANT CLERK: 37 ayes, 3 nays to dispense with the at-large reading. [LB431]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB431]

ASSISTANT CLERK: (Read title of LB431.) [LB431]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB431 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB431]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1268.) Vote is 46 ayes, 0 nays, 3 excused and not voting. [LB431]

PRESIDENT SHEEHY: LB431 passes with the emergency clause attached. We will now proceed to LB477. The first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB431 LB477]

ASSISTANT CLERK: 38 ayes, 0 nays to dispense with the at-large reading, Mr. President. [LB477]

PRESIDENT SHEEHY: That at-large reading is dispensed with. Mr. Clerk, please read the title. [LB477]

ASSISTANT CLERK: (Read title of LB477.) [LB477]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB477 pass? All those in favor vote yea; opposed, nay.

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Record, Mr. Clerk. [LB477]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1268-1269.) Vote is 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB477]

PRESIDENT SHEEHY: LB477 passes. (Visitors introduced.) Mr. Clerk, we will now proceed to LB479. [LB477 LB479]

ASSISTANT CLERK: (Read LB479 on Final Reading.) [LB479]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB479 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB479]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1269-1270.) Vote is 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB479]

PRESIDENT SHEEHY: LB479 passes. We will now proceed to LB499. [LB479 LB499]

ASSISTANT CLERK: (Read LB499 on Final Reading.) [LB499]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB499 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB499]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1270.) Vote is 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB499]

PRESIDENT SHEEHY: LB499 passes. We will now proceed to LB512. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB499 LB512]

ASSISTANT CLERK: 38 ayes, 0 nays to dispense with the at-large reading, Mr. President. [LB512]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB512]

ASSISTANT CLERK: (Read title of LB512.) [LB512]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB512 pass? All those in favor vote yea; opposed, nay.

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Record, Mr. Clerk. [LB512]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1271.) Vote is 43 ayes, 0 nays, 3 present and not voting, 3 excused and not voting, Mr. President. [LB512]

PRESIDENT SHEEHY: LB512 passes. We'll now proceed to LB524. [LB512 LB524]

ASSISTANT CLERK: (Read LB524 on Final Reading.) [LB524]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB524 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB524]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1272.) Vote is 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB524]

PRESIDENT SHEEHY: LB524 passes. We will now proceed to LB544. [LB524 LB544]

ASSISTANT CLERK: Mr. President, with respect to LB544, Senator Coash would move to return the bill to Select File for specific amendment, that being to strike the enacting clause. (FA12, Legislative Journal page 1000.) [LB544]

PRESIDENT SHEEHY: Senator Coash, you're recognized on your motion to return to Select File. [LB544]

SENATOR COASH: Thank you, Mr. President, and good afternoon, colleagues. I have talked to Senator Pahls about this. This motion to return to Select File is an attempt to engage in some conversation with Senator Pahls. The intent was to have this conversation back on Select File, but we were unable to have that, a conversation at that time. So as a result, I have filed this motion to return to Select so that Senator Pahls and myself and anyone else who has an interest would be able to ask some questions about this bill. Following those clarifications on the record, it is my intent to withdraw the motion to return to Select File. Thank you, Mr. President. [LB544]

PRESIDENT SHEEHY: Thank you, Senator Coash. You have heard the opening on the motion to return LB544 to Select File. Are there members wishing to speak? Seeing...Senator Coash. [LB544]

SENATOR COASH: Thank you, Mr. President. We'll have the discussion at this time. And I do appreciate the opportunity to clarify some of these things for the record and I was wondering if Senator Pahls would yield for a question. [LB544]

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PRESIDENT SHEEHY: Senator Pahls, would you yield to Senator Coash? [LB544]

SENATOR PAHLS: Yes, I will. [LB544]

SENATOR COASH: Thank you, Senator Pahls. I do appreciate that. As I've looked at this bill, I wanted to make sure that we had clarified in the record some of the intent behind you bringing this. I know that you did discuss it at length during General and Select File, but I did have some specific questions. My specific concern is that because we have not opened up this particular part of the statute in a lot of years, that teachers and educators may have not looked at this in a long time and we ought to be clear as to how we expect educators to take a look at this. And my concern is that this bill might be fairly broad and open to some unintended consequences with respect to its implementation. So I believe if you could answer a couple questions, we could get that clarified. You had a nice article in the paper today, the Omaha World-Herald, about this and one of the teachers who has looked at this bill said she believes this bill would spur civics projects like those that she already requires. And her, for example, her students must define government as a community problem, study it from different points of view and propose the best policy. So she's already saying that she requires this and so, briefly, I wondered if you could explain, if students and teachers are already engaged in this kind of dialogue, why it's necessary to make a change in this statute. [LB544]

SENATOR PAHLS: I am assuming throughout the state a number of teachers are doing this. We just want to emphasize that we want to make civics come alive. And some of you can recall probably in some of your past schooling some, probably, teachers did more out of the book. We view the book as the basis and to have the students actually participate in activities would make them a better citizen. That's one of the goals. [LB544]

SENATOR COASH: Thank you, Senator Pahls. One of the things that I have some concern about is with regard to our First Amendment rights. Am I correct in my assumption that you do not intend for this bill to stifle any public debate or interfere with any First Amendment rights of citizens? [LB544]

SENATOR PAHLS: No, not at all, and I'm glad to get that on the record to understand the intent. [LB544]

SENATOR COASH: Okay. Thank you. So to repeat, it's not your intent to stifle First Amendment rights. Would you agree that our schools ought to be teaching our children how to critically evaluate arguments that they hear or, in other words, be able to sort out personal tax from policy arguments and be able to sort out accurate, illuminating facts, factual claims from inaccurate or misleading factual claims? [LB544]

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SENATOR PAHLS: Yes. [LB544]

SENATOR COASH: Thank you, Senator Pahls. My last question, Senator Pahls, just has to do with America's unique status in the world and as I looked at the statute that we're attempting to amend through this bill, your bill amends our state's Americanism statute, which is related to the duties of citizenship. So am I correct that this bill, as amended, calls for an improvement of...improvement of the world would be from the perspective of America's unique place in the world? In other words, should we be looking at civil discourse from an Americanism standpoint? [LB544]

SENATOR PAHLS: Yes. Yes. [LB544]

SENATOR COASH: Okay. Thank you, Senator Pahls. I think...my hope is that educators across the state will listen to...or look at this statute,... [LB544]

PRESIDENT SHEEHY: One minute. [LB544]

SENATOR COASH: ...look at the dialogue that we just had today, and it will help clarify what it is that you're trying to do with this bill. And I do appreciate you taking the time to explain that on the record. Thank you, Mr. President. [LB544]

PRESIDENT SHEEHY: Thank you, Senator Coash. Members requesting to speak are Senator Fulton, followed by Senator Coash and Senator Pahls. Senator Fulton. [LB544]

SENATOR FULTON: Thank you, Mr. President. I appreciate the opportunity to get some of this on the record. First go-around I probably didn't look at this close enough and I can see why we would need to put some of this on the record. So just a question for Senator Pahls and I think I'll just yield the remainder of my time to Senator Pahls. [LB544]

PRESIDENT SHEEHY: Senator Pahls, would you yield? [LB544]

SENATOR PAHLS: Yes. [LB544]

SENATOR FULTON: Senator, the line about, okay, "including active participation in the improvement of a citizen's community, state, country, and world and the value and practice of civil discourse between opposing interests," can you explain the language as to was that language you came up with or was that language that's seen in other states? [LB544]

SENATOR PAHLS: What this group...what we've done over the last two or three years, we've had a dialogue of what we were all about, this committee, and through that dialogue this is how these words came up. [LB544]

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SENATOR FULTON: Okay. Okay, "including active participation in the improvement of a citizen's community, state, country, and world," I'm not...this is probably not the appropriate time to pull these things, pull this language apart, but if we can get this into the record anyway what the intention was of the Legislature, then for future reference it's useful. How do you...a citizen's community, a citizen's state, a citizen's country, I see that, but a citizen's world, is this to say that there is some identity of citizenship toward the world? I guess it probably may be a rhetorical question, but I give you an opportunity to clarify that. [LB544]

SENATOR PAHLS: Well, let me explain how curriculum works in the schools, if you may, and maybe that will help answer that. For those of you, I want you to go back to kindergarten. When you went to kindergarten, they talked about you, the individual, and then it was a family, and then it became the city, and then it became the state, then it became the United States, and it became the world. If you look back through your history, that's what the spiral goes and that's what we're leading to, you know, basically starting from kindergarten all the way up, and that's how the curriculum spirals. [LB544]

SENATOR FULTON: Okay. So by putting this forward, this is to build on something that already exists in the curricula across the state. It's not necessarily to introduce anything new. [LB544]

SENATOR PAHLS: No. [LB544]

SENATOR FULTON: Okay. I think I'll just yield the remainder of my time to Senator Pahls. [LB544]

SENATOR PAHLS: Thank you, Senator. And let me explain, and I really am glad we did bring this up to clarify some of the issues. I don't know if you realize but every school system has a policy book very similar to the book in front of me. The teachers and the administrators are required to follow policy that has been established by the school board. So the school board establishes policy, the school board double-checks the curriculum. There are standards and objectives that the teachers are supposed to teach to. Now we all know probably every now and then some teacher may sway off to those objectives or those standards. They're out there on their own, and when they do that we bring them back in. But they understand what they...the length and the breadth they can go. It's that simple. So I'm going to ask you sometime to go back in your school and take a look at the policy, take a look at the curriculum and also take a look at the teacher evaluation form, because the questions will be on there, does this lesson follow in line with the curriculum. So there are a lot of double-checks and that's part of the responsibility of that school administrator to make sure that what's happening in that classroom... [LB544]

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PRESIDENT SHEEHY: One minute. [LB544]

SENATOR PAHLS: ...thank you, that they are following what that district is all about. Like I say, and the school board actually sets those guidelines. And I do think it would be a good point for some of you to go back and check your particular schools. Now what I want to do, I want to use the professional dictionary definition, not Pahls's definition, I may paraphrase a little bit, of the word "discourse," because that apparently seems to be also an issue, and this is what I'm reading from a dictionary: communication of thought by words, talk, or conversation; formal discussion of a subject in speech or writing; communicate thoughts orally; a subject formally in speech or writing. That's how you're supposed to treat those. That is what discourse means. So I think I will end my conversation now unless there are some further questions. [LB544]

PRESIDENT SHEEHY: Time, Senator. [LB544]

SENATOR PAHLS: Thank you. [LB544]

PRESIDENT SHEEHY: Senator Coash. [LB544]

SENATOR COASH: Thank you, Mr. President. I want to just briefly dig into a little bit deeper something Senator Pahls started on, which is how do we assure the implementation of this change in curriculum stays within the boundaries of Senator Pahls's intent and the legislative intent. Senator Pahls, you mention that it's possible a teacher could get out there on their own and start doing something, and my question is, and you began to answer this, I just want a little bit more detail about the protections that are in place that school boards and school administrators have so that when these curriculums are put into place and teachers begin to teach them that we don't have a rogue educator out there that's started to teach something that falls outside of the line, for example, starts to stifle First Amendment rights or something like that. And so my question, and if Senator Pahls would, I will just ask this and yield you the rest of my time. Could you go into a little bit more detail about the expectations that you have on...that the Legislature and that are already in place with regard to school boards and school administrators taking a look at the curriculums that teachers will put together with this new language in place and what kind of things they can and can't do to keep those curriculums in line with your legislative intent? [LB544]

PRESIDENT SHEEHY: Senator Pahls, you're yielded 3 minutes 25 seconds. [LB544]

SENATOR PAHLS: Thank you. And let me...I'll go over a few of the things. Like I said, you start with policy, school board members and teachers and administrators take a look at different types of curriculum that meet certain standards, and the public is involved in taking a look at this in most school systems. Now there may be some school systems that do not follow this procedure. I would be surprised if they do not do that

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anymore. They set up the guidelines to say these are the standards, these are the objectives that we want the teachers to be teaching. It's really that simple. And then an administrator, it's his or her responsibility to make sure that that content, I'm going to use the word "content," is followed, those activities meet those particular objectives or the overall standards. If not, it is the responsibility of that administrator to get that teacher back in line. And if it doesn't happen, they are written up, because in their evaluation it will state when a person goes in there to observe a lesson, they observe, see what curriculum they are following. And in many districts you cannot just bring in anything you want. You must follow prescribed curriculum. That doesn't mean on day 24 you have to be doing a certain topic but they just don't let you just willy-nilly go out there and bring all this stuff in. It has to be approved. Now if it is not, that school district is out there taking a chance. But that's why it needs to work all together. And I can assure you, in my past experiences, whenever a teacher, might say, and I'm going to use the word "rogue," gets out a little bit on the edge, parents let you know. And if you're, as an administrator or as a school board, if you're going to let that happen, you know that just will blow up. I think there are safeguards because if it were happening we would hear much more about it in the newspaper. But I do think our intent is to make civics action-oriented to work with the...to learn more about what's happening in government, and I think they gave a couple examples today. Hopefully some of these students are writing you letters. That is a way we are having them engaged in what we are doing, and I'm sure some of you have just recently, because this is a topic that students are talking about throughout the state. Now if I haven't addressed your questions, I'm willing to go back. [LB544]

PRESIDENT SHEEHY: One minute. [LB544]

SENATOR PAHLS: Thank you. [LB544]

PRESIDENT SHEEHY: Thank you, Senator Pahls. Thank you, Senator Coash. Senator Janssen. [LB544]

SENATOR JANSSEN: Thank you, Mr. President. And I didn't plan to rise for this but everybody was in front of me at the candy bucket here in front of me so I thought I'd shoo them away and take advantage of this to ask Senator Pahls a question, if he'd yield. [LB544]

PRESIDENT SHEEHY: Senator Pahls, would you yield to Senator Janssen? [LB544]

SENATOR PAHLS: Yes, I would. [LB544]

SENATOR JANSSEN: Thank you, Senator Pahls. This is a very interesting bill and I, too, read about it this morning in the newspaper. But when you're talking about the curriculum in teaching in civics or... [LB544]

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SENATOR PAHLS: Right. [LB544]

SENATOR JANSSEN: ...is this bound just to civics or is this all parts of curricula throughout the schools? [LB544]

SENATOR PAHLS: Yes. I mean every...let's say you have a math class... [LB544]

SENATOR JANSSEN: Okay. [LB544]

SENATOR PAHLS: ...or course, there are standards in those courses, reading, whatever. Now I can't say every school but that's what a good school has, they have to have these things organized in this day and age. [LB544]

SENATOR JANSSEN: Would part of that be then if I'm teaching history and I'm teaching about a certain conflict or whatever, the school board has laid out that I'm going to teach about maybe the Persian Gulf War and I'm the school instructor now or teacher? In this case, I could teach about the dates, times, but could I add my own opinions of that and my own maybe political agenda? Would that be getting off course with the curriculum or is that covered in this bill or... [LB544]

SENATOR PAHLS: I think if you, as a teacher, if you are looking at the objective and you are teaching to that objective and your personal opinion I'm sure would come in, would be part of it at times, but also if there are a number of parents out there who are saying that Senator Janssen is going over the line, then as an administrator, they'd come in and they'd be doing some double-checking of your lesson plans. [LB544]

SENATOR JANSSEN: So is it the idea to get maybe a balanced side of that? If my opinion is that this was a bad idea to go to this war or if it was a good idea to go to this war, I mean is that part of this? That's one thing I didn't see. [LB544]

SENATOR PAHLS: Well, in other words, if you're looking at...you want to get the...before you would jump to conclusion, you'd get the facts. And that may be one way for you to engage the students, okay, here are the facts, the pros, the facts that are cons, and then try to have them come to some type of a conclusion. Now if you go in there and say, hey, this is the only way, blah, blah, blah, then I think you're really running up against a wall. [LB544]

SENATOR JANSSEN: So my duty would be, as a teacher, then to give both sides of the story and maybe not say that, well, I believed in it because of this and this is why, and then dismiss the rest. I would say maybe I believe in it because of this; a lot of other people didn't believe in it because of this. Is that the way to teach? [LB544]

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SENATOR PAHLS: Well, that may be one way that you would teach some of the subjects, but if that's your general mantra day after day after day, you probably would get...some people would probably question you. [LB544]

SENATOR JANSSEN: For being impartial? [LB544]

SENATOR PAHLS: No, probably because your biases would probably come through. [LB544]

SENATOR JANSSEN: Okay. Okay, good. So in that case I could say here's the pros, here's the cons,... [LB544]

SENATOR PAHLS: Right. [LB544]

SENATOR JANSSEN: ...regardless of what I'm thinking about. [LB544]

SENATOR PAHLS: Yes. Yes. [LB544]

SENATOR JANSSEN: Okay, great. Thank you. [LB544]

SENATOR PAHLS: Okay. [LB544]

SENATOR JANSSEN: I don't know if Senator Coash had any more questions. He doesn't, so I'll just yield back my time. [LB544]

PRESIDENT SHEEHY: Thank you, Senator Janssen. Seeing no additional requests to speak, Senator Coash, you're recognized to close on your motion to return to Select File. [LB544]

SENATOR COASH: Thank you, Mr. President. And I do appreciate Senator Pahls entertaining these questions and clarifying some things for the record. I think what we've done today with this discussion is made this bill, from the perspective of legislative intent, even stronger. Make no mistake, colleagues, LB544 changes just a few words but it's a big deal. It's a big deal in how we expect our students of the state to be educated with regard to civics, and we've got to be clear because there are First Amendment issues at stake here. And I hope that the discussion, the legislative intent and the bill itself will be a message to educators out there and to administrators that we expect them to follow what Senator Pahls has outlined. We expect, as a Legislature, that this bill be implemented as we've discussed today. And with that, I will withdraw my motion to return to Select File. Thank you, Mr. President. [LB544]

PRESIDENT SHEEHY: Thank you, Senator Coash. The motion to return to Select is withdrawn. Mr. Clerk, we will continue with Final Reading on LB544. [LB544]

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ASSISTANT CLERK: (Read LB544 on Final Reading.) [LB544]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB544 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB544]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1273.) Vote is 42 ayes, 0 nays, 2 present and not voting, 5 excused and not voting, Mr. President. [LB544]

PRESIDENT SHEEHY: LB544 passes. We will now proceed to LB558. [LB544 LB558]

ASSISTANT CLERK: (Read LB558 on Final Reading.) [LB558]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB558 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB558]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1273-1274.) Vote is 42 ayes, 0 nays, 3 present and not voting, 4 excused and not voting, Mr. President. [LB558]

PRESIDENT SHEEHY: LB558 passes. We'll now proceed to LB600. Mr. Clerk, the first vote is to do away...dispense with the at-large reading. All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB558 LB600]

ASSISTANT CLERK: 38 ayes, 0 nays to dispense with the at-large reading. [LB600]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB600]

ASSISTANT CLERK: (Read title of LB600.) [LB600]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB600 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB600]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1274-1275.) The vote is 44 ayes, 1 nay, 4 excused and not voting. [LB600]

PRESIDENT SHEEHY: LB600 passes with the emergency clause attached. We'll now proceed to LB600A. [LB600 LB600A]

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ASSISTANT CLERK: (Read LB600A on Final Reading.) [LB600A]

PRESIDENT SHEEHY: All provisions of law relative to procedure being complied with, the question is, shall LB600A pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB600A]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1275.) The vote is 45 ayes, 0 nays, 4 excused and not voting. [LB600A]

PRESIDENT SHEEHY: LB600A passes with the emergency clause attached. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB337, LB366, LB385, LB388, LB388A, LB407, LB431, LB477, LB479, LB499, LB512, LB524, LB544, LB558, LB600, LB600A. And while the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR161 and LR162. Mr. Clerk, do you have items for the record? [LB600A LB337 LB366 LB385 LB388 LB388A LB407 LB431 LB477 LB479 LB499 LB512 LB524 LB544 LB558 LB600 LB600A LR161 LR162]

ASSISTANT CLERK: I do, Mr. President. A hearing notice from General Affairs regarding a Gubernatorial Appointment; Senator Council would like to print an amendment to LB200; Senator Heidemann to LB386. That's all that I have. (Legislative Journal pages 1276-1280.) [LB200 LB386]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will now return to the agenda under Select File, 2011 Senator priority bills, Christensen division, LB648. [LB648]

ASSISTANT CLERK: Mr. President, LB648 was briefly discussed this morning. At that time, Senator Christensen offered as an amendment, AM1201. Senator, that amendment is still pending. (Legislative Journal page 1195.) [LB648]

PRESIDENT SHEEHY: Senator Christensen, you're recognized to open on AM1201 to LB648. [LB648]

SENATOR CHRISTENSEN: Thank you, Mr. President. Basically, what AM1201 done was it brought back in the terms foster parent added to a preadoptive parent and relative providing care and standing that was talked about in the original amendments. At this time, can I share this time or not on this opening? [LB648]

PRESIDENT SHEEHY: Yes, you're on your own. [LB648]

SENATOR CHRISTENSEN: Yeah, but can I share the time because we're going to lift some stuff and do some other things? Can I yield time to Coash or not? [LB648]

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PRESIDENT SHEEHY: Yes, Senator, you're on your opening. You may yield time. [LB648]

SENATOR CHRISTENSEN: Okay. Would Senator Coash yield, please...or I'd yield the time to Senator Coash. [LB648]

PRESIDENT SHEEHY: Senator Coash, you're yielded 9 minutes 15 seconds. [LB648]

SENATOR COASH: Thank you, Mr. President. I certainly won't need the nine minutes...well, maybe I will. (Laughter) Senator Christensen has brought us a bill in LB648 that makes some significant changes in the way that we involve foster parents in the cases of children of whom are in the state's custody. He brought this bill to Judiciary Committee and we looked at it. He prioritized it and we advanced it with committee amendment that was already adopted on General File. And I remain supportive of LB648 because it does something that we need to continue to do. And it brings foster parents to the table more frequently, and with more clarity, and gives the judicial branch that kind of clarity. Foster parents are vital to the success of the children's behavioral health...child welfare reform that we're currently going through. Without quality foster parents, we're not going to make the turn that we need to make. And there are many of them out there. One of the things I wanted to do on this is explain the role of a foster parent because the role of a foster parent has really changed over time. The role of a foster parent is not to take over custody of a child. The role of a foster parent is to co-parent that child along with his or her biological parents. Foster parents and biological parents work together. And although it's only the child who happens to be in the home of a foster parent, it is the entire family that is being served by that foster parent. This hasn't always been the case. And there are cases out there where foster parents are the only parental figures in a child's life. But the system is designed and the intent is for foster parents to work with the families, and when foster parents work with families, and we know that they do it every day and they do it successfully, the permanent home for that child comes sooner and it becomes more stable. What Senator Christensen has brought in the amendments that he's filed, continue us down this path of bringing foster parents to the table with standing. And then we get into legalities here, colleagues, about what kind of standing does a foster parent have? When can they exercise those rights as a foster parent? One of the things we have to keep in mind here, colleagues, is that when a child is in foster care, the foster parents are not the legal guardian. The state remains the legal guardian of those children. The foster parents become the agents of that...of the state. And thank God for them, because the state makes a terrible parent. The foster parents are doing this work and doing it for very little pay and they're doing it all across our state every day. What Senator Christensen has proposed in several amendments are some changes to our statute with regard to their standing in front of the court. That's an important distinction because what we have here is a classic example of a marriage of HHS and the judicial

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branch, and they've got to work together. And we need to get this piece of policy right. We need to find a way to get foster parents the standing that they need because they have valuable voices that the court needs to hear, and they have valuable voices that the HHS needs to hear. And we've got to find a smart way to get those voices heard so that the best interests of the children is always up-front. As we've looked at the proposed amendments, and I've talked with Senator Christensen, we've come to the conclusion that we've got to get this right, and we need to take some time to do this, and we need to involve foster parents, and we need to involve the judiciary, and we need to involve Health and Human Services. And I'm committing myself to assisting in finding that voice and the appropriate avenue for that for foster parents. And with that, I would like to ask...can I ask...thank you, Mr. President. I would like to ask a quick question of Senator Campbell, if she would yield. [LB648]

PRESIDENT SHEEHY: Senator Campbell, would you yield to Senator Coash? [LB648]

SENATOR CAMPBELL: Yes, certainly. [LB648]

SENATOR COASH: Thank you, Senator Campbell. You've heard my comments about getting an appropriate avenue for the foster parent voice. We work with Judiciary Committee, would HHS Committee work with Judiciary Committee on an interim study to find appropriate avenues and mechanisms for the foster parent voice over the interim? [LB648]

SENATOR CAMPBELL: I'm sure we will. [LB648]

SENATOR COASH: Thank you. Would Senator Ashford yield to a question. [LB648]

PRESIDENT SHEEHY: Senator Ashford, would you yield to Senator Coash? [LB648]

SENATOR ASHFORD: Yes. [LB648]

SENATOR COASH: Thank you, Senator Ashford. You've heard my opening. We need to find an appropriate avenue for the voice of the foster parent. Can we...will you commit to an interim studies for...to find an appropriate avenue for those voices of foster parents within the Judiciary? [LB648]

SENATOR ASHFORD: Yeah, may I clarify. Does that mean I have to work with Senator Campbell during the interim too? (Laughter) [LB648]

SENATOR COASH: Yes, Senator Ashford, you're going to have to work with Senator Campbell. (Laughter) [LB648]

SENATOR ASHFORD: Do I have 30 seconds to consider this? (Laugh) No, no...

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[LB648]

SENATOR COASH: The clock is ticking, Senator Ashford. (Laughter) [LB648]

SENATOR ASHFORD: Thank you. (Laughter) No, thank you, Senator. Of course, I do, and I appreciate you asking me the question. [LB648]

SENATOR COASH: Thank you. Colleagues, I thought it was important to get the support behind the foster parents on record here from our two important committee chairs and we've got that support on record. I will continue to be involved as a member of the LR37 committee and would urge the body's support of those efforts. Many...certainly, there are many of us in this body that understand how foster parents and their services are vital. Your input is valued, and I would yield the rest of my time back to Senator Christensen. [LB648]

PRESIDENT SHEEHY: Senator Christensen, you have 2 minutes 30 seconds. [LB648]

SENATOR CHRISTENSEN: Thank you, Mr. President. That time, because we got this agreement that we'll go ahead and do the interim study and work on the language that has court case to back that foster parents have standing. They have all agreed to work with me. I'll lift this amendment, the following two amendments, and be ready to move the bill forward. Thank you. [LB648]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Thank you, Senator Coash. You've heard the opening of AM1201 to LB648. Members requesting to speak, Senator... [LB648]

ASSISTANT CLERK: Senator, did I understand correctly, you do want to withdraw at this time? Okay. [LB648]

SENATOR CHRISTENSEN: It's in the following two. [LB648]

ASSISTANT CLERK: Yes, sir. Thank you very much. So, Mr. President, with that, Senator Larson I have no further amendments to the bill. [LB648]

PRESIDENT SHEEHY: We will now return to floor discussion on LB648. Senator Coash, you're recognized for a motion. [LB648]

SENATOR COASH: Thank you, Mr. President. I move to advance LB648 to E&R for engrossing. [LB648]

PRESIDENT SHEEHY: You have all heard the motion. All those in favor say aye. Opposed, nay. LB648 advances. Speaker Flood, you're recognized for an

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announcement. [LB648]

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. We made progress today. Thank you for all the work. We are going to adjourn at this time, and I would ask all the members to stay in the Chamber. At 4:00 we will have a special ceremony honoring former members of the Legislature which will not be part of our official legislative day. We will be adjourned, but I would remind members, if you could, please stay in the Chamber and we will start that at 4:00. Thank you, Mr. President.

PRESIDENT SHEEHY: Mr. Clerk, do you have items for the record?

ASSISTANT CLERK: I do, Mr. President. Bills read on Final Reading this afternoon were presented to the Governor at 3:45 p.m. (Re LB35, LB70, LB112, LB156, LB204, LB204A, LB235, LB279, LB297, LB337, LB366, LB385, LB388, LB388A, LB407, LB431, LB477, LB479, LB499, LB512, LB524, LB544, LB558, LB600, LB600A.) Senator Pirsch would like to add his name to LB177. [LB35 LB70 LB112 LB156 LB204 LB204A LB235 LB279 LB297 LB337 LB366 LB385 LB388 LB388A LB407 LB431 LB477 LB479 LB499 LB512 LB524 LB544 LB558 LB600 LB600A LB177]

And Senator McGill would move to adjourn the body until Thursday morning, April 21, at 9:00 a.m.

PRESIDENT SHEEHY: You have heard the motion to adjourn until Thursday, April 21, at 9:00 a.m. All those in favor say aye. Opposed, nay. We are adjourned.