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Floor Debate
February 07, 2012

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PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-third day of the One Hundred Second Legislature, Second Session. Our chaplain for today is Pastor Dorothy Smith from Waterloo United Methodist Church is Waterloo, Senator McCoy's district. Would you all please rise.

PASTOR SMITH: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Pastor Smith. I now call to order the twenty-third day of the One Hundred Second Legislature, Second Session. Senators, please record your presence. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Are there corrections for the Journal?

ASSISTANT CLERK: No corrections this morning.

PRESIDENT SHEEHY: Messages, reports, or announcements?

ASSISTANT CLERK: A series of items, Mr. President. Senator Hadley would declare LB1118 to be his priority bill. Notice of committee hearing from the Executive Board. Amendments to be printed: Senator Lautenbaugh to LB190; Senator Harms to LB507. Your Committee on Enrollment and Review reports LB646 to Select File. Committee on Banking reports LB963 to General File, and LB613 to General File with amendments. And that's all that I have. (Legislative Journal pages 449-452.) [LB1118 LB190 LB507 LB646 LB963 LB613]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR386. Mr. Clerk, we'll move to the first item under General File, LB540. [LR386 LB540]

ASSISTANT CLERK: Mr. President, LB540 was introduced by the Health and Human Services Committee. (Read title.) Bill was read for the first time on January 18 of 2011, it was referred to the Health Committee. The committee reports the bill to General File with committee amendments attached. Those amendments were under consideration by the body yesterday, as was an amendment to the committee amendments as offered

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by Senator Fulton. (AM1859, Legislative Journal page 447.) [LB540]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Campbell, would you like to give us a brief summary of LB540 and also the committee amendment, AM1719. (Legislative Journal page 322.) [LB540]

SENATOR CAMPBELL: Thank you, Mr. President, and certainly. Good morning, colleagues. LB540 relates to the state medical assistance program to Medicaid. And I want to emphasize that point, that it does... [LB540]

PRESIDENT SHEEHY: (Gavel) [LB540]

SENATOR CAMPBELL: ...it is related to Medicaid. The bill requires the Department of Health and Human Services to apply for a Medicaid waiver or an amendment to an existing waiver for the purpose of providing medical assistance for family planning services for persons whose family earned income is at or below 185 percent of the federal poverty level. A waiver would allow us to draw down federal funds in a 90 to 10 percent match, meaning the federal government would provide 90 percent of the funds and the state General Funds would be in 10 percent. I will also briefly comment on the committee's amendment. The committee's amendment states, and I quote, "No state funds shall be utilized to pay for abortion services." And updates the date for the time frame for application for the waiver to July 1 of 2012. Thank you, Mr. President. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Fulton, would you like to give us a brief summary of your amendment to committee amendment, AM1859? [LB540]

SENATOR FULTON: Yes, Mr. President, thank you. Good morning, colleagues. AM1859 I think is pretty straightforward. You can read through it. It simply states that after the term "services" insert "or to promote elective abortion services. The department shall ensure" and then it goes on. Pretty straightforward amendment. I hope we can adopt it. If we are able to adopt it, I think this bill would probably have a good chance of moving forward. So thank you, Mr. President. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Fulton. (Doctor of the day introduced.) We will now resume floor discussion on AM1859. Members requesting to speak: Senator McCoy, and Senator Howard. Senator McCoy. [LB540]

SENATOR McCOY: Thank you, Mr. President and members. I stand this morning in support of AM1859 to AM1719. And with the adoption of this amendment I also stand in support of LB540. And I would encourage the adoption of AM1859 this morning. Thank you, Mr. President. [LB540]

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PRESIDENT SHEEHY: Thank you, Senator McCoy. Senator Howard. [LB540]

SENATOR HOWARD: Thank you, Mr. President. If Senator Fulton would yield to a question or two. [LB540]

PRESIDENT SHEEHY: Senator Fulton, would you yield to Senator Howard? [LB540]

SENATOR FULTON: I will. [LB540]

SENATOR HOWARD: Thank you, Senator Fulton. I'd like some clarification about the terminology, because we all know that things that get put in, and we have one understanding, sometimes are interpreted by other entities as (laugh) being a little more...a little different than what we intended. So in looking at your amendment it says, "funds received under this subsection shall not be spent or used in any way to contract with any entity that performs or promotes elective abortion services or with any entity that affiliates with any entity that performs or promotes elective abortions." How do you see this being interpreted? Maybe that's the place to start. [LB540]

SENATOR FULTON: Well, I...do you mean...I don't want any tax dollars going toward any entity that...well, as it's written. Do you mean what do I think "affiliate" means? What do I think "promote" means or...? [LB540]

SENATOR HOWARD: I will...my concern is women's health services share common interests. I mean, we all recognize that. It's no different than child welfare services where they promote their concerns regarding child welfare and they work together. I am worried or concerned here that when you say in no way will they affiliate with an entity, affiliate, what do you mean by that? [LB540]

SENATOR FULTON: Well, what I mean by it and what I think can be taken from this language is there are...I think there are 27, and Senator Campbell can correct me if I'm wrong, I think the number is 27, yeah, 27. There are only two clinics that perform abortions. And what I don't want to see happen is that we...that there's some way to get around what we put in the law such that these entities that perform abortions can apprehend these new dollars. And so one way to do that would be to create another company that is an affiliate of one of these companies, and I don't want that. And that's what I have proposed here. And I'm trying to determine by a positive vote on this whether indeed that should be the policy of Nebraska. So there are 25 clinics who I think would be able to receive these funds today and there are 2 who wouldn't. And I want to draw a bright line between abortion and the other services that are being offered. [LB540]

SENATOR HOWARD: So it's not your intent, by the word "affiliate," to suggest that through meetings or shared communications or conversations that a women's health

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clinic, for example, wouldn't be able to receive this funding? Any different than if you and I sat down together and were affiliates. [LB540]

SENATOR FULTON: In what...what you've just described, Senator, no, that's not my intention. If there are communications, if there is communications between two companies, I do not consider that affiliating. And I don't think there would be a way to consider affiliation under the law. [LB540]

SENATOR HOWARD: Well,... [LB540]

SENATOR FULTON: So what you're describing is accurate. [LB540]

SENATOR HOWARD: Well, the reason I'm trying to be so cautious is a bill that, just for example, a bill that I got passed last year regarding social services allowing adoptive parents to read their files, they interpreted it in a different way than I had intended, which prevented folks from...had previously adopted going back and reading their files. So there's a lot of room for error in anything we pass. You know that as I know that. [LB540]

PRESIDENT SHEEHY: One minute. [LB540]

SENATOR HOWARD: Thank you. And I want to ensure that the word "affiliate" doesn't become such a strong term that people that go to conferences together, people that share concerns, people that in some way have a relationship with another agency are not precluded from this. And I'm sure you share my concern about that. Thank you, Mr. President. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Howard. Members requesting to speak on AM1859, we have Senator Council, followed by Senator Burke Harr, and Senator Krist. Senator Council. Senator Burke Harr. [LB540]

SENATOR HARR: Thank you, Mr. President and thank you, ladies and gentlemen here today. Yesterday, I got up and asked some questions to Senator Fulton. I asked what the definition of "promote" is, I asked what the definition of "elective" is, and I asked what the definition of "abortion" is. Now I understand Senator Fulton was caught a bit off guard and I like to call him the Tim Tebow of the Legislature. He's usually always ready and he's going to come at you pretty hard. But yesterday he was off his game a little and the reason is this was an amendment brought right at the last second. And I think he brought upon a group that did not...on behalf of a group that had a chance in committee to testify and chose not to. Now I could be wrong, but I think the committee process is very important for weeding out and making good, sound laws so that when they come to the floor we know what they are. This group chose to bypass the committee process, introduce an amendment and, quite frankly, it's not ready for prime

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time. I have no problem with the underlying...well, let me restate that. I'm not making judgment on the underlying assumption that we don't want to fund Planned Parenthood. What I am doing is I am worried, there are a lot of questions that we can't ask the introducer because it wasn't done in committee. We don't know what "promote" means. We don't know what "elective" means. When asked what "abortion" means, I was told it's in the statute. Well, it is, as a matter of fact it's in the statute twice. It's defined in 28-326 and 71-6901. Now I'm assuming, and you know what happens when you assume, but I'm going to assume that we want to use the definition in 71-6901. And there it says, "Abortion means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with the knowledge that the termination by those means will with reasonable likelihood cause the death of the unborn child." Well, guess what? There's something out there, a lot of drugs out there that I don't know and I don't know if it's been contemplated cause abortion. RU 486 would be one, but there are countless others. Now if the intent is to stop Planned Parenthood and a traditional abortion through I think a D&C, I get that. But this doesn't do that. This goes further. And my question is, how are we going to enforce this, what promotes abortion? Are we going to enter and do stings like we do for underage drinking, where we send in women who are pregnant to see if they're given RU 486 or any other prescription drug that may cause abortion and then cutoff funding for that clinic and its affiliates? How are we going to be able to know? Do we really want to become involved in the public policy of policing activity between a patient and a doctor? I don't think we want to go there. And yet that's what this does. If we don't want to fund Planned Parenthood, let's just... [LB540]

PRESIDENT SHEEHY: One minute. [LB540]

SENATOR HARR: Thank you,...let's just say it. But let's not get in...let's not bypass the committee process, introduce a bill that quite frankly we don't know what it means or its ramifications because we haven't been able to properly vet this amendment and ask enough questions. And we don't want to get involved in the doctor-patient relationship. Again, you can have two partners in a practice. One doctor feels one way, one the other. If we go in there and police, both of them are going to be responsible, we're going to be breaking up partnerships. Ladies and gentlemen, look at this bill closely, really analyze it. I understand the intent, but this casts a lot wider net than possibly we were initially intending. Thank you very much. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Harr. Senator Krist. [LB540]

SENATOR KRIST: Good morning, Nebraska. Good morning, colleagues. I have to disagree with my colleague from Omaha, not just a bit but a lot. This is not about anything but the 27 health clinics that are on this piece of paper. I handed out the health clinics and where they lie within the state so that you could see how your district is supported by family planning clinics. Both of these amendments in one way or another,

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AM1719 and AM1859, express the fervent desire that we should not be funding Planned Parenthood. Okay. I stood up here yesterday and made no bones about it, I don't believe...they are nonprofit. They raise a lot of money, they are very wealthy as a group, they have a great deal of will. They do some things that other family planning clinics do, but the reality of the situations is in Omaha and Lincoln, in Senator Fulton's district and in my district, Room 21 and 22 are dedicated surgical suites that come down to one thing and one thing only and that is terminating life. Now those of you who have been here for the last couple of years know that what we did is from 0 to 20 weeks we made that a choice. Whether we agree with it or not, the law says from 0 to 20 weeks. Now there are opponents that are going to say, abortion is the issue here, we don't want people to go back to the days of the dark alley and etcetera, etcetera. And with that, I would say I have to agree. However, my conviction, my religion, my belief says that abortion, except in extraordinary circumstances, and they are in statute, is not an option. That's my decision. It's between me and my God. This piece of legislation, the amendments to this piece of legislation, try to signify or single out not putting federal dollars, state dollars, government dollars, taxpayer dollars towards an institution that provides or is associated with providing abortion procedures for clinics. Women in this audience know all too well a D&C is a procedure that is done in an office and could be in some ways an affiliation. We're not talking about D&Cs, we're not talking about doctors office. We're talking about these clinics and there's only two. I've gotten so many e-mails in the last few days, and Senator Hadley knows what that feels like, you get bombarded because they think you're making the wrong decision. Well, I got them all in the last 24 hours, and it says what great things these family planning clinics have done around the state. Really? Let's look at the proportion of women or families who have been helped by family planning clinics. There are 27 of them on the sheet. The Planned Parenthood Clinic in Omaha has only been open for two years, and the only other Planned Parenthood organization that exists in this state is in Lincoln. So out of the 27 that are listed, we're talking about 2. And we are I think, if you go back and talk to your constituents as I have, we are prevailing with the common belief that our tax dollars should not go to those institutions. They've raised \$3 million in the last couple of weeks, if you listen to the press, over the Komen issue, they can raise all the money they want to. They can do what they want to do. This is America. We fought for their freedom to do exactly what they wanted to do. But now we're talking about taxpayer dollars that are going to go into the institutions. That's what those two amendments are about. Vote your heart on those two amendments. But let's go back to the technical part of... [LB540]

PRESIDENT SHEEHY: One minute. [LB540]

SENATOR KRIST: ...LB540 in this discussion. Thank you, Mr. President. The issue in LB540 is there's two ways that LB540 can proceed. The fiscal note that we have does not address those two options. I'll get back and talk about it technically, if we need to later, when we get through the amendment. We do not have a fiscal note that

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addresses both of those options. In between General and Select, if it goes forward, we have to decide what that fiscal note is. That is very important in this discussion. Thank you, Mr. President. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Krist. Members requesting to speak on AM1859, we have Senator Ken Haar, followed by Senator Council, Senator Fulton, Senator Bloomfield, and Senator Lautenbaugh. Senator Ken Haar. [LB540]

SENATOR HAAR: Mr. President, members of the body, I think the end game of this amendment is to kill LB540, and let me tell you why. Texas, for example, will no longer be allowed to prohibit Medicare (sic) recipients from receiving care at family planning clinics that perform abortions, the federal government informed Texas on Monday. And this is dated December 12, so several months ago. The federal agency that runs Medicaid informed Texas that next year it will not approve an agreement like the one now in place, which is very similar to the amendment that we're discussing here. Quote, the issue is whether a state can restrict access to a qualified health provider simply because they provide other services Medicaid doesn't pay for, Cindy Mann, director of the Center for Medicaid and CHIP services, said in a phone interview with reporters, the law does not permit this. In other words, with this restriction of this amendment you're basically killing LB540 because the federal government has a Medicaid...part of Medicaid says that you can't restrict access to a qualified health provider simply because they provide other Medicaid services. So the end game of passing this amendment is to kill LB540. Now we could take the tack that they're trying in Indiana. Indiana had the same kind of amendment and they've been informed by Medicaid that that's illegal and that they will no longer get...be able to do the Medicaid waiver kinds of services. And Indiana, some people are saying, well, we're going to fight Medicaid on this issue. So if you pass amendment, this amendment, and you want LB540, we have a big court battle in our future which we're probably going to lose. So I would like to ask Senator Fulton a question, if I could. [LB540]

PRESIDENT SHEEHY: Senator Fulton, would you yield to Senator Haar? [LB540]

SENATOR FULTON: I will. [LB540]

SENATOR HAAR: Senator Fulton, are you aware of the Texas and Indiana situation where Medicaid is saying that we will not approve the waiver if it has this kind of amendment? [LB540]

SENATOR FULTON: I am not aware of Indiana; I was aware that Texas had done something similar. In fact, that's where we got the language for AM1859. I do not, however,...I am not aware that that is a court case. And what you've described is not how I understand it. [LB540]

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SENATOR HAAR: Okay. So is the end game to kill LB540 here? [LB540]

SENATOR FULTON: No, Senator. If the end game were to kill LB540, then I would try to kill LB540. And I don't mean that flippantly. [LB540]

SENATOR HAAR: No, no. [LB540]

SENATOR FULTON: I really think there are arguments that could be made against LB540. And I and others are willing to exert the time, the energy, the brain power, if you will, to come up with ways to shoot it down, if not directly by vote, by forcing a threshold of 33 votes through a filibuster. Those are options that were before us. And I just...I don't agree with LB540, but this doesn't rise to the level where I would engage in a filibuster. And so I'm just...I'm being honest with the body. If we could adopt AM1859, I think it makes a bad bill better and I would sit down and, as I said yesterday, I'd sit down and shut up. So if...no, my intention by adopting AM1859 is not to kill LB540. I'd be more direct than that if that were my intention. [LB540]

SENATOR HAAR: Okay. Well, I appreciate that. Do you think it's worth the court cost to fight Medicaid on their rule that Texas is coming up against now? [LB540]

SENATOR FULTON: That's where I... [LB540]

PRESIDENT SHEEHY: One minute. [LB540]

SENATOR FULTON: This is not a court case in Texas, as I understand it. [LB540]

SENATOR HAAR: It's going to result in a court case, it's a ruling of Medicaid right now. [LB540]

SENATOR FULTON: Yeah. [LB540]

SENATOR HAAR: And Indiana as well, where Medicaid is telling them that according to Medicaid you can't exclude Planned Parenthood or whatever. [LB540]

SENATOR FULTON: Do I think it's worth the cost of a court case, that's a hard question because we're talking about spending money to force us to fund things that the federal government wants us to fund. And so that becomes not simply a Medicaid issue, but it almost becomes a Tenth Amendment issue it seems to me. So I don't know that there's a court case out there. I did not envision or consider court cases because that's not what's going on in Texas. [LB540]

SENATOR HAAR: Okay, thank you. I appreciate that. Thank you very much. And I'll continue this my next time. Thank you. [LB540]

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PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Council. [LB540]

SENATOR COUNCIL: Thank you, Mr. Lieutenant Governor. I have to sit here and chuckle. (Laugh) Really, Senator Fulton? (Laugh) Really? You don't know that if LB540 is passed with your amendment it absolutely jeopardizes the grant of a waiver? Really? When you use language like, well, if AM1859 passes I'll let LB540 go through. Really? Boy, I guess we're a gullible group here because I have not known Senator Fulton not to research every angle of one of these measures that's brought forth. But I just keep saying, really? You expect this body to believe that you don't know that it is a violation of the Freedom of Choice provisions of Medicaid for AM1859 language to be included in statute? I find it hard to believe. Let me correct some erroneous statements that were made on the record. Senator Krist made a statement that Planned Parenthood has only had a family planning clinic in Omaha for two years. Senator Krist, that's not correct. They've only had a family planning clinic in your district for two years. They've had a presence in Omaha for decades. And in fact, the clinic location in midtown Omaha that formerly existed served a number of low-income women from my district. And what the amendment does, although the language is unclear, it's absolutely unclear. And in that regard would Senator Fulton yield to a couple of questions? [LB540]

PRESIDENT SHEEHY: Senator Fulton, would you yield to Senator Council? [LB540]

SENATOR FULTON: I will. [LB540]

SENATOR COUNCIL: Senator Haar has been attempting to discern the definition of "promote" as used in AM1859. And I have yet to hear a definitive explanation of that term. So if a clinic is presented with a patient who, for whatever reason, has a condition during her pregnancy that the option for her is to risk losing the pregnancy, and in which case the recommendation from her physician is to have an abortion. So is it your understanding of "promote abortion" to include a doctor's advice to his or her patient that an abortion, under a particular circumstance, is an option? [LB540]

SENATOR FULTON: It's not my intention to limit what the doctor...I guess we have a couple different parties here. The doctors aren't the ones who are receiving this funding. So I don't know that this...your question is relevant to this particular amendment. But if your question is whether I'm trying to prohibit a doctor from entering his own medical judgment, the answer would be no. [LB540]

SENATOR COUNCIL: Okay. Well, who provides these family planning services or other medical services at these clinics if it's not doctors? That's a question for you, Senator Fulton. [LB540]

SENATOR FULTON: I'm...I guess I don't know. But if there are doctors who are

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promoting abortion then they would not be able to receive this particular funding.
[LB540]

SENATOR COUNCIL: So am I to understand that that's your definition of "promotion," if a physician advises his or her patient that in his or her medical opinion an abortion is necessary, then that would disqualify that clinic that employs that doctor... [LB540]

PRESIDENT SHEEHY: One minute. [LB540]

SENATOR COUNCIL: ...from receiving funds? [LB540]

SENATOR FULTON: Senator, not necessarily. I...when I use the word "promote" and I think when the word "promote" is used, and this is...I just...I looked it up and I found a good definition I think that would fit. To present for buyer acceptance through advertising or publicity. That's something different than what you are explaining, which would happen under the confines of a doctor-patient relationship. So what you are talking about I would say, no, is not the promotion of abortion. [LB540]

SENATOR COUNCIL: Well, I guess reasonable minds can differ, because if your objective is to prevent abortion, which is what I've heard throughout this debate so far, that a doctor at any of the other 25 clinics on this list who recommended an abortion procedure to a patient because of his... [LB540]

PRESIDENT SHEEHY: Time, Senator. [LB540]

SENATOR COUNCIL: Thank you. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Fulton. Senator Fulton.
[LB540]

SENATOR FULTON: Thank you, Mr. President. Sorry, I didn't catch you the first time. Couple of things that merit response. Number one, let the record show that I did perform the Tebow in front of Senator Harr with thanks for his I think it was a compliment. This amendment, to be clear, is something that I have introduced. Senator Harr made an allusion to another group who had introduced this amendment. I don't think it's strong enough to say that I take offense to that, because I don't know that I take offense to it, but I hope that the members of this body recognize that I am an agent who is able to think on his own accord. And while I do identify with a number of groups that are out there, this is something that I brought. The language was not suggested to me by anyone. It was my aide and me. So I assume Senator Harr was expressing his discontent with probably Nebraska Right to Life or one of the pro-life groups out there. I can assure you this is my amendment. I think that that's good enough for the record. Thank you, Mr. President. [LB540]

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PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Bloomfield. [LB540]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good morning, members. I opposed this bill coming out of committee. It came out on a 4-3 vote. I didn't like it then, I don't like it now. AM1859 makes it better in my eyes, but even with that amendment I'm not sure I can support LB540. And if Senator Krist would care for my remaining time, I would yield that. [LB540]

PRESIDENT SHEEHY: Senator Krist, you're yielded 4 minutes 20 seconds. [LB540]

SENATOR KRIST: Thank you, Senator Bloomfield. Good morning again, Nebraska and colleagues. I don't often call Senator Council out on the mike, but I want to clarify my comments because it would appear that I made an error. Senator Council, my point was that there are 27 family planning clinics around the state of Nebraska. And although there have been Planned Parenthood facilities in Omaha for decades, one of which was in my district, they were not, quote unquote, full-service facilities. The press release that came out in the Omaha area touted everyone and let them all know, Omaha now has its first full-service facility. Now you've...I could use the slang, but I'm not going to. It is the first full-service facility we've had under Planned Parenthood's guidance which provides abortions in some rooms in that facility. And to the point, I don't know how you give money to somebody in any fashion when there are several kinds of services going on in the building, and have them segue or segment some of those funds over. So I needed to say that. And again, it is an interpretation, I'm sure, of what I said on the mike. I don't have a problem with family planning matters, I don't have a problem with a family planning clinic. We have 25 others in the state, you have them in front of you. They do great work. They provide services to families in different ways, but they do not have operating rooms in their clinic, in their facility. And that's where I morally have to draw a line. But I'm not going to spend my time on the amendments again. I'd like to just reinforce for you LB540 was brought to our committee as a potential dollar savings as it came to the LR542 process, which we all engaged in, trying to save money. It does not save money. It does not save money. It does not save money in the first couple of years. It is a leverage on federal dollars. For the dollars that come in, there's exponentially more federal dollars that come with it. Now we've all been here and we've all listened to the discussions. There's no such thing as a free lunch. When they give you money from the federal side and say, yea, go forth verily and do your thing, there is complications to that money and there are definite tags that are put on that money. Now let's talk about the question that went back and forth, I think it was Senator Ken Haar and Senator Fulton, about is this a doomsday bomb, because we know if there's any exclusion to Planned Parenthood, CMS will disapprove the waiver and we'll be back in the same boat as Texas and Indiana, etcetera, etcetera, etcetera. You know, there's a pretty good possibility that CMS is going to do that. But guess what happens in November? [LB540]

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PRESIDENT SHEEHY: One minute. [LB540]

SENATOR KRIST: We have a presidential election. And the current administration wants to make it absolutely obvious that they are going to tell the states how to manage their Medicaid money amongst other things. Maybe the voters will reelect our current President and maybe he will see that there is a need to back off on some of those things. Maybe the next administration, whether it's this four-year period or the next, will make another decision. I have no problem with LB540 leveraging federal funds. I have a problem with them telling us how to use those federal funds and what to fund. If this is about family planning, let's talk about family planning. You have to eventually get around to the bottom line subject, and that is what do you provide in the clinics, and do you qualify. We have to decide how that waiver process will go forward. We need the fiscal note and that is unclear. Thank you, colleagues. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Krist. Thank you, Senator Bloomfield. Members requesting to speak on the amendment to committee amendment, AM1859, we have Senator Lautenbaugh, followed by Senator Burke Harr, Senator Ken Haar, Senator Council, and Senator Cook. Senator Lautenbaugh. [LB540]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I do rise in support of this amendment. And again, no, I don't see this as a vehicle by which we're trying to kill the underlying bill. We all know how to do that, as Senator Fulton pointed out, if we are of a mind to. And I'd be remiss if I didn't admire Senator Krist's admonition to go forth verily and do your thing. Is that from the King James version or is that a version I'm unfamiliar with? But in any event, maybe we all need shorter memories and we'd do well with shorter memories, perhaps not. We're talking about federal strings here being attached to some federal money we want. Sometimes we get ourselves in trouble when we do things chasing federal dollars and we may not be comfortable with the underlying things. Sometimes the things come and bite us somewhere and we regret having passed the bill in the first place. I'm thinking of an issue we're still wrangling with in Judiciary, and I think we've been wrangling with for the last two years, since we passed it to be in compliance with a federal act. And we didn't do the right thing. I was part of doing the wrong thing. And we're trying to fix it. And this isn't something that you can just be or some of us can just be okay with. This is, once again, as Senator Krist correctly pointed out, we do get down to the issue of abortion here. And this is a very, to say it's divisive is an understatement. It is a very, very, very divisive issue, but also a very deep-felt issue. And I think it's proper recognizing how you can take one set of funds and say, okay, I won't use your funds to support this activity, I'll use these other funds to support this activity. I'm forced to belong to an organization that does that every day. I won't use our funds for lobbying, I'll set your funds over here to fund everything else; I'll use these other funds for lobbying, so don't worry about it even if we consistently oppose your bills. Anyway, so money is fungible. Senator Fulton's

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amendment is meant to address that and say, no, you can't just take it out of a different pots and we're all supposed to be okay with it. If you provide funding that's going to be used on one activity, you're freeing up funds to use the activity that we don't want you to do, some of us, and we don't want to be a party to, some of us. And, yeah, we have floor amendments that sometimes dramatically alter bills. And they don't always come through the committee process. And we're always told we should respect that committee process. And this comes full circle to the shorter memory thing again I was talking about. (Laugh) I remember standing here for hours on redistricting last year, and part of that time was spent dealing with the very person who decried this floor amendment as not coming through the committee process, who offered up a map that redrew the whole state from two law students in Columbia Law School I think, and we were supposed to be sort of fine with that. Didn't come through the committee, didn't know who the law students were. So I guess I can't criticize them for not availing themselves of the committee process because I don't know if they knew who we were either. But, yeah, we'll just do it on the floor on the fly. I would submit to you that that was substantially more of a deviation from what we were talking about than what this very predictable amendment is. And I think I saw this amendment coming. And I understand the point that Senator Fulton is trying to make and I have to rise in support of it because I don't want to be a party to providing funding for one set of things, freeing up other funds to fund something that I find abhorrent, not disagreeable, not something I'd rather not happen but abhorrent. And I know many of you... [LB540]

PRESIDENT SHEEHY: One minute. [LB540]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I know many of you feel the same way. And so we are where we are and we're going to have a discussion on this issue again it appears. But I do rise and I understand what Senator Krist is saying, I understand what Senator Fulton was saying, and I have to support this amendment. Thank you, Mr. President. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Burke Harr. [LB540]

SENATOR HARR: Thank you, Mr. Lieutenant Governor. Thank you, Senator Lautenbaugh. I always enjoy your soliloquies. And I did, as a naive freshman, introduce a bill similar to what you said on redistricting. And for the record, one was a son of a former state senator who worked on that and it was more to make a point. But I digress. We are here to discuss AM1719. And I am going to do something rather uncommon, I'm going to start citing law. It is, well, I shouldn't say it's law. It's an opinion, Planned Parenthood of Indiana v. Commissioners of Indiana State Department of Health. Now I heard, we don't want to fund Planned Parenthood. If we pass AM1719 that is exactly what we will be doing. Many of you will recall, who don't have short memories, we had to pay out to Planned Parenthood last year some money because we passed another bad bill. And unfortunately, whether you agree with the underlying abortion is good,

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abortion is bad, there is something out there called federal law and federal Constitution that we have to submit ourselves to, whether we like it or not. And so that brings me to this case that I referred to. It's a TRO, which is a temporary restraining order. It's not permit, but what a TRO is, it says there's a violation of...to win you have to say there's a violation, there's a high probability the party bringing this action will win, and that there's irreparable harm. Now what this case does, and again I apologize for stating case law, it says, a state that participates in Medicaid is voluntary. But if a state opts to participate, and thus receive federal assistance, it must conform its Medicaid program to federal law. And then it says, see Blanchard v. Forest, 71 F 3rd edition 1163. So all right. See federal law. What is the federal law? Well, there's something out there called the Freedom of Choice provision. The Freedom of Choice provision has been interpreted by the Supreme Court as giving Medicaid recipients the right to choose among a range of qualified providers without government interference. And that again, I'm going to cite that from O'Bannon v. Town Court Nursing Center, 447 U.S. 773, 1980. So let's progress on down. What is a freedom of choice? What is a qualified provider? Well, that then takes me to 42 U.S.C. 1396a and now I'm quoting United States Code and again federal law. And I don't...again, I apologize for bringing law into this but I think it's important. It provides that an individual eligible for medical assistance, including drugs, may obtain such assistance from any institution, agency, community pharmacy, or person qualified to perform the service or services required, including an organization which provides such services or arranges for their availability or who undertakes to provide such services. Planned Parenthood is that organization, ladies and gentlemen. Now we can agree that... [LB540]

PRESIDENT SHEEHY: One minute. [LB540]

SENATOR HARR: Thank you,...we don't always like what they do. But if you are for LB540 you can't be for AM1719, unless you intend to fund Planned Parenthood through cost...refunding their legal obligations. At the end of the day, the lawyers are the only ones who come out ahead. Sometimes I don't have a problem with that. But it's not the best use of our state resources that are so valuable in this time. We need to be very cautious going forward and really realize, and it's another words matter, we have to...can't just say what we'd like. We have to realize that we are subjected to federal Constitution and federal laws, especially when we take federal dollars. So while AM1719 is on its face... [LB540]

PRESIDENT SHEEHY: Time, Senator. [LB540]

SENATOR HARR: ...nice...thank you. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Harr. Senator Ken Haar. [LB540]

SENATOR HAAR: Mr. President, members of the body, Senator Fulton, when I want to

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get information from you, I just ask you. (Laugh) And that's a compliment. Federal money always, always, always comes with strings. And LB540, let's be real clear about LB540, LB540 I believe is 80 percent federal money. And the only reason we take federal money in this state is because we think there is benefit to that. And I'll talk about that more after we get through the amendment. The reason I'm talking against this amendment is because I think it threatens LB540, which I think has enormous benefits for the state of Nebraska. The case in Texas, and you're right, Senator Fulton, right now there's no lawsuit. Right now, because the thing I read from you comes from December. But there's a fight going on, obviously, between Texas and CMS, the federal agency that oversees Medicaid. So the fight right now is between Texas and the state (sic) and...because Texas is proposing to go against Medicaid requirements. That's what Indiana is proposing to do. That's what this amendment is proposing to do. We are going against Medicaid requirements. And the reason I would encourage the body to vote down this amendment, because I believe it threatens LB540. Why wouldn't it? It goes against Medicaid requirements. So next time when I get up to talk about this at the mike, one issue that I find very interesting is that we talk about, well, an agency performs one thing and then they perform a second thing, and they can't segregate those funds. Well, I'm going to talk about a couple programs where we take this for granted that agencies can segregate funds. And one of them is an agency that I respect very much. It's the largest recipient. When you look at all government public funding this agency receives the most money from public funds. I think it does a tremendous job. And I would raise a question, if this agency, which I'll talk about my next time on the mike, if this agency is not affiliated, can't segregate funds, then why are we arguing about a group like Planned Parenthood. Thank you very much. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Haar. Members requesting to speak on AM1859, we have Senator Council, followed by Senator Dubas. Senator Council. [LB540]

SENATOR COUNCIL: Yes, thank you, Mr. Lieutenant Governor. I've been intrigued by the conversation that has occurred, particularly with regard to segregating dollars and federal strings on federal funds. And I generally refrain from sharing on the mike conversations I've had with colleagues off the mike. But I must share this conversation with you because it has bearing on where we are and what exactly the intent of AM1859 is. I spoke to Senator Fulton yesterday during the debate. And I said, Senator Fulton, you know, what really is your problem? What is your intent in AM1859? And he was very forthright. He said, my intent with AM1859 is to prevent the new people who would be eligible for family planning services to utilize Planned Parenthood or an affiliate. Okay? So that is recognition of the fact, of the fact, ladies and gentlemen, that currently under Medicaid if Planned Parenthood provides family planning services to people who meet Medicaid guidelines they have the freedom of choice to choose Planned Parenthood to receive those services. So if we want to be almighty and righteous, let's turn back all Medicaid dollars, because currently if you're Medicaid-eligible you can

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receive these family planning services and you have the freedom to choose your medical provider. And who does that cover? If you're a woman with dependent children and an income at or below 58 percent of the federal poverty level, you can use Planned Parenthood now for your family planning services and, colleagues, we pay for it. If you're pregnant and living at or below 185 percent of the poverty level you will receive family planning services paid by whom, ladies and gentlemen--us, using these federal dollars with these strings attached that everybody is so concerned about now. If you're disabled with an income of 100 percent or below, we pay now if you choose Planned Parenthood as your medical provider. So let's cut away all of this other nonsense and get to the bottom line. If we are so self-righteous enough to say we don't want the federal government putting all these strings on the federal dollars that come to us for healthcare services, let's eliminate Medicaid, let's go for it, because right now this same self-righteousness will not prevent a woman on Medicaid from going to a Planned Parenthood health clinic and receiving services paid by Medicaid. And currently, what is this astronomical amount that's going to Planned Parenthood? I just received data that shows that last year the state of Nebraska paid out \$5,616,146 in family planning benefits, a whopping \$17,721 went to women who chose to receive those benefits under Medicaid at a Planned Parenthood clinic. [LB540]

PRESIDENT SHEEHY: One minute. [LB540]

SENATOR COUNCIL: Let's talk truth, let's talk honesty, let's quit trying to hide our hand and the rock behind our back. If we want to provide these services to all families who are at 185 percent of poverty, that's what the issue is of LB540. Adding AM1859 is not going to stop Planned Parenthood from receiving federal dollars to provide family planning services to women because they get it now. So if you want to stop them from getting any federal money, then eliminate Medicaid. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Council. Speaker Flood, you're recognized for an announcement. [LB540]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. The time is approaching for us to have priority bill deadlines. And in just a few minutes we're going to be handing out the letter from my office that explains how to designate a priority bill, the processes and procedures you need to go through. We have a couple of new members, and you'll want to read this very carefully. But right now you need to know that we are accepting committee and senator priority bills and we are also accepting requests for Speaker priority bills to my office. And the memo covers this. A reminder that when you designate your individual senator priority bill or, if you are a committee chair, the committee priority bill, you need to do that in writing. The original goes to my office. And you'll see an example of what that letter looks like at the back of this memo we're handing out. And then a copy needs to go to the Clerk's Office at the same time so that it can be read into the record. A reminder that if you are designating a priority bill

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that is not your own, your letter has to have your signature and the approval and signature of the principal introducer of the other bill. As far as deadlines, and this is all in the memo, the deadline to submit to me a Speaker priority request letter is by 5:00 p.m. Wednesday, February 15. And the deadline for committee and senator priority bill designations is prior to adjournment, whenever we adjourn, on Thursday, February 16. Also, it talks about if you want a bill considered for a Speaker's priority bill, you know, obviously there is some information in the memo about that. There's going to be I think a lot of requests this year. So please do the best job you can sorting through what the public policy reasons are for the bill that you want designated as a Speaker priority bill. And I would also remind everybody that if you have any questions, you can certainly ask me or Laurie in my office, and you can always visit with the Clerk about the process of getting that to him as well. And again, there is a sample of what that letter should look like to my office at the back of this memo. This is an important step in every session. And it's my hope that this articulates it clearly. I just want to remind folks that people that have submitted either Speaker priority requests or designations after the actual deadlines have not been accepted. And we've turned down a couple people in the last few years. And I know that's tough on you and your offices. So please pay close attention to the deadlines so that we can run an orderly ship and get everybody off and running with priority designations this session. Again, it will be handed out momentarily. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Speaker Flood. Continuing with floor discussion on the amendment to committee amendment, AM1859, members requesting to speak: Senator Dubas, followed by Senator Ken Haar, and Senator Council. Senator Dubas. [LB540]

SENATOR DUBAS: Thank you very much, Mr. Lieutenant Governor. Good morning, colleagues. We've been spending a lot of time talking about the clinics across the state who would benefit from this bill dollarwise. And I guess, first, I'd like to say I rise in support of the amendment to LB540. But I'd like to take a moment to talk about around 30 clinics that are all across our state that provide help and services to women who are facing a difficult time in their lives, an unplanned pregnancy, maybe an unwanted pregnancy, and puts those other options out in front of them. We have 30 pro-life pregnancy help centers all across our state and they do a lot of things. They help women if they're in need of housing. They provide educational programs. They provide clothing, they provide furniture, they advise and counsel on adoption through licensed agencies, parenting classes, job training, medical care, pregnancy testing, prenatal and obstetrical care, social services including counseling. They help with transportation, help with child healthcare, they help with assistance in applying for financial help before and after the birth of the child, navigating the Medicaid system and child support. And all of these services are provided without any government dollars, they are provided through generous donations and support of citizens across our state. And while I know their focus is on women who are already pregnant, I think through the educational programs

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that they have they are helping to empower women so that they maybe don't find themselves in a similar situation again in their lives. And they're providing them that hand up instead of that handout and helping them make good and wise decisions in their future. So, you know, this is a very I guess emotional is the right word, discussion and debate that we're having. I think the citizens of our state have spoken quite loudly about how they want their tax dollars spent. You know, I don't want to stand in judgment of women who may be facing these difficult situations. We need to offer them that help and support. And, you know, we do have I believe 27 of the clinics that we're talking about this morning, but we also have 30 other clinics that provide those alternatives. And I think we need to spend a lot more time talking about what those clinics do and the efforts that they put in to helping these women who again will empower them and try to help them to avoid this type of a situation in the future in their lives. So I do rise in support of the amendment. I still have some concerns with LB540 and will listen to that discussion and see where it goes after the amendment. But I think the amendment goes a long, long way in addressing the concerns of our taxpayers and constituents that we're hearing from. Thank you, Mr. President. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Ken Haar, this is your third time. [LB540]

SENATOR HAAR: Mr. President, members of the body, the group I referred to earlier in addressing this whole thing, can organizations really separate out their money or should, you know, if we have something...somebody affiliated with something we don't like should we just cut that funding. The group that by far and away gets the most public funding of any nonprofit in the United States, and I appreciate the services, Catholic Social Services. Now the slippery slope argument or whatever it's called that, gee, because we can't, you know, you have an agency that can't segregate out their money because if I'm giving money then to, you know, am I supporting their other kinds of efforts which might be considered religious. I think we have instances every day where we give money to agencies, such as Catholic Social Services, recognizing that those groups can segregate their money into different funds. Okay. I'd like to talk about another program, Title X. And all of these 27 agencies that we got here are Title X family planning clinics. I think we need to know in this state then if we're going to discriminate against anybody that...on this issue, that Title X requires, and all of these clinics, all of these 27 clinics get Title X money distributed by the Department of Health and Human Services. And again, Medicaid requires that all of these Title X agencies have to talk to all options when a woman comes in pregnant, they have to talk about abortion, they have to talk about adoption as well. So every one of these 27 clinics I think by the definition, the loose definition in this amendment you could call, would somehow be affiliated with this whole issue of talking about abortion. I rise again in opposition to the amendment before us because I'm a strong proponent of LB540. And just as Texas and Indiana are being informed that they are going against Medicaid requirements, that I'm afraid that LB540, even if we pass it and I hope that we do,

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will...we will be informed by Medicaid that we're not going to get this funding because of the restriction which goes against their requirements. So I think if we, again if we look at this globally, let's look at Title X, see if we want all those millions of dollars for all these other 27 health clinics because they are required by this same kind of rule that you have to talk about all options, including abortion, including adoption. We know this is federal money. We take it. We know there are strings attached, let's not be naive about that. Thank you very much. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Council. [LB540]

SENATOR COUNCIL: Thank you, Mr. Lieutenant Governor. Again, if we look at the current Medicaid program, and I stated the dollars according to our Fiscal Office, would Senator Fulton yield to a question? [LB540]

PRESIDENT SHEEHY: Senator Fulton, would you yield to Senator Council? [LB540]

SENATOR FULTON: I will yield, yes. [LB540]

SENATOR COUNCIL: Yes, thank you, Senator Fulton. I don't know whether you were in the room when I related the fact that out of total Medicaid family planning dollars spent last year by the state of Nebraska, which was \$5.6 million, \$17,000 of those dollars were paid to Planned Parenthood. Are you opposed to Planned Parenthood receiving those dollars? [LB540]

SENATOR FULTON: I'd like to answer that in two parts, if I could, Senator. I am opposed, but that is not what is being contemplated under AM1859. [LB540]

SENATOR COUNCIL: Okay. So and your opposition to the payment that is currently being made, what...your amendment doesn't address those, but it is in contradiction, wouldn't it be? Because under Medicaid and under the current Medicaid program if you're Medicaid-eligible your amendment would not be permissible, correct? [LB540]

SENATOR FULTON: Say it again. Under current Medicaid-eligible? [LB540]

SENATOR COUNCIL: Yes, if you're currently eligible for Medicaid your amendment would not be permissible. We could not add that condition to our current Medicaid-eligible recipients of family planning services. Is that correct? [LB540]

SENATOR FULTON: I'm not certain whether...I don't know whether that's correct. And that I don't know is yet another reason why I have brought AM1859 as it relates to this before us today. [LB540]

SENATOR COUNCIL: Okay. [LB540]

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SENATOR FULTON: I'm not sure what the answer to your question is. That's... [LB540]

SENATOR COUNCIL: Okay. You know, I...thank you very much, Senator Fulton. I doubt that seriously because during our off-the-mike conversation yesterday you said that your amendment only applied to the expanded group that's covered by LB540. And in my opinion, and it's my opinion only, that is a recognition of the fact that your amendment could not be made to our Medicaid program. If that amendment were made to our Medicaid program we would be ineligible to receive Medicaid funds for the exact reason that Senator Haar just related with respect to the requirements of Title X. Again, here let's break this down to its lowest common denominator. And the lowest common denominator is that there is a desire to prevent funds from going to Planned Parenthood. I understand that. But the reality is that under AM1859 there is an expressed recognition that this condition, this limitation could only apply to the additional families that the Health and Human Services Committee believed needed to receive family planning services. That's it. You can't deprive Medicaid-eligible recipients of their freedom to choose where they want to receive family planning... [LB540]

PRESIDENT SHEEHY: One minute. [LB540]

SENATOR COUNCIL: ...services or any other medical services paid under the Medicaid program. So let's stop the hypocrisy. We can make this about abortion if you want, but let's make it about what the bill is all about, expanding family planning services to a group of individuals in this state who can't afford it but are not eligible for Medicaid. That's it, that's the plain and simple of LB540, to provide family planning services to families in this state who can't afford it but are not eligible for Medicaid. And if we look at what our intent is in all of the previous abortion-related legislation, this proposal under LB540 has a track record of reducing abortions. I submit to you, you can't say that with... [LB540]

PRESIDENT SHEEHY: Time, Senator. [LB540]

SENATOR COUNCIL: Thank you. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Council. Members requesting to speak on AM1859, we have Senator McGill, followed by Senator Wallman. Senator McGill. [LB540]

SENATOR MCGILL: Thank you, Mr. President, members of the body. Just going to speak shortly before yielding the rest of my time to Senator Haar. But, you know, I've been looking over the data in terms of how many folks go to Planned Parenthood that fall under Medicaid. And really the numbers aren't that high, because so many of them are so poor that they automatically qualify for help in other ways. But my greater

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concern with this amendment is that we won't be accepted for the waiver in the long run. And I have Minnesota's statistics pulled up from when they enacted their family planning waiver in 2006. And in that year they had 14,000 abortions. And since then, they are down to 11,500. That's thousands of abortions that were prevented in part due to this Medicaid family planning waiver, those are thousands of lives. And we talk about the cost and strings attached, if this were another bill dealing with preventing abortions people in here wouldn't care about those costs or strings attached. They would say, that's a life and we want to prevent abortion, well here's our chance to prevent those unplanned pregnancies and prevent abortions from taking place, and the emotional cost that a woman undertakes by either having an abortion or giving a child up for adoption or having that child, those are all extremely high costs. And this is a chance to prevent those things, those high costs. With that, I yield my time to Senator Haar. [LB540]

PRESIDENT SHEEHY: Senator Haar, you're yielded 3 minutes 20 seconds. [LB540]

SENATOR HAAR: Thank you, Senator McGill. Mr. President, members of the body, as one of my colleagues just said to me, this is Nebraska, we don't need to follow federal guidelines, right, because the federal guidelines say that a state cannot restrict access to a qualified health provider simply because they provide other services Medicaid doesn't pay for. So I'm a strong believer in LB540 and the Medicaid waiver is the most effective way of preventing abortions that we have. And my fear, and I can't see any other evidence to the contrary, that if we pass this amendment that Medicaid is going to come back and say to us, just the way they said to Texas, you cannot restrict access to a qualified health provider simply because they provide other services Medicaid doesn't pay for. That's true of Medicaid waiver, it's true of Title X, etcetera. But if you believe that this is Nebraska and we don't need to follow federal guidelines, vote for the amendment because we can pass it and we can pass LB540 and everything will be just fine. Thank you very much. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Wallman. [LB540]

SENATOR WALLMAN: Good morning, Mr. President, members of the body. I stand in support of LB540 and the committee amendment because it has it in that pretty plain I think about abortion issues in the amendment and the bill. And I had dinner last year in a Catholic church in Beatrice, and a young woman came up to me and that we didn't bring that bill forward last year and healthcare and she was crying because her husband lost his job and she didn't have a job. She said, I need help. So, you know, we can stand up here sanctimonious as males, we can't walk in a female's shoes and nor should we, I would not want to. But we as males should pay attention to what we do here. And we should be responsible as well. It's part of our problem as well. We shouldn't just blame that on one segment of society. So should we plan for health concern? It's not just abortions, folks. I'm not for abortion. My family was one of the first ones put up crosses in our church, how many abortions Nebraska did a year. It was

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amazing. And not very many people like to do those things, but we did it. And that's a lot of plywood. So I appreciate bringing forth...the committee bringing forth this, they knew it would be controversial and it is controversial for me as well. But I support the bill, LB540, and the amendment. And I'd yield the rest of my time to Senator Council. [LB540]

PRESIDENT SHEEHY: Senator Council, you're yielded 3 minutes 20 seconds. [LB540]

SENATOR COUNCIL: Thank you, Mr. Lieutenant Governor. Thank you, Senator Wallman, for yielding time. Just quickly, I want to get back to a point that was made earlier about the language of AM1859 and the exchange I had with Senator Fulton about the definition of "promote." And as we all know, there are, with any word, there are primary definitions and there are secondary definitions. So there are a variety of definitions for a term. And "promote" includes within its definition to give approval. So the hypothetical that I provided Senator Fulton with, that doctor could be charged with promoting an abortion if he or she, in their medical opinion, indicated their approval of an abortion. That aside, again let's look at what is at the core of LB540. What is at the core of LB540 is extending an existing benefit to residents of the state of Nebraska who are unable to afford but need family planning services, but whose income is greater than the Medicaid eligibility requirements. And Medicaid allows us to do that. And Medicaid allows us to do that at a cost to the state of only 10 percent of the cost of those services, with the federal government picking up the balance. Senator McGill has referenced Minnesota. I did some research and in at least 6 of the other 29 states that have requested and have received a waiver of the type reflected in LB540, all of them experienced substantial declines in abortions. And if that is our objective, here is a proven method of accomplishing that result. And we have, this body has passed legislation ostensibly to prevent abortions where there... [LB540]

PRESIDENT SHEEHY: One minute. [LB540]

SENATOR COUNCIL: ...is no such comparable data that shows any impact on reducing abortions to the extent of that reflected in the states where a waiver similar to LB540 has been enacted. Again, you know, if we're going to fall on our swords about opposition to providing any funding to Planned Parenthood, then we really need to seriously, and I think people thought I was jesting, we need to seriously consider withdrawing from the Medicaid program because we do it now, ladies and gentlemen, we do it now. And if we felt so strongly that we could do it with regard to this group, why don't we just amend this and say, no Medicaid dollars can go to an entity that these terms, "promotes or performs,"... [LB540]

PRESIDENT SHEEHY: Time, Senator. [LB540]

SENATOR COUNCIL: Thank you. [LB540]

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PRESIDENT SHEEHY: Thank you, Senator Council. Senator McGill. [LB540]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I'm going to yield some time back to Senator Ken Haar again because he has a letter from...to the state of Indiana rejecting their Medicaid waiver for family planning services due to restrictions that were passed in their law. And just want to remind folks that if this...if our waiver, because it sounds like this amendment will go and the bill will go and advance and be passed. But if our Medicaid waiver is denied because of this amendment, then those abortions and unplanned pregnancies that take place are on the souls of people in this body, the souls of people who say they're pro-life and who want to prevent abortions. And so with that, Senator Haar, to read from that letter. [LB540]

PRESIDENT SHEEHY: Senator Haar, you're yielded 4 minutes 15 seconds. [LB540]

SENATOR HAAR: Thank you very much, Senator McGill. I do have the letter here, dated June 1, 2011, sent to the Indiana...from the CMS. And it says, "I am responding to your request to approve the State of Indiana's medical (sic--Medicaid) state plan amendment...received by the Centers for Medicare and Medicaid Services on May 15, 2011. In this amendment, Indiana proposes to prohibit the state medical (sic--Medicaid) agency from entering into a contract or grant with providers that perform abortions or maintain or operate facilities where abortions are performed, except for hospitals or ambulatory surgical centers (sic--centers). For the reason set...below, I am unable to approve SPA...", etcetera, etcetera, "...because it does not comply with...section 1902(a)(23) of the Social Security Act. Section 1902(a)(23)(A) of the act provides...beneficiaries may obtain covered services from any qualified provider that undertakes to provide such services." And I'm going to skip a little here because I'm...I don't have the time. "Medicaid programs may not exclude qualified healthcare providers from providing services that are funded under the program because of a provider's scope of service (sic--practice)." Skipping another paragraph, "We assume this decision is not unexpected." And so we will...should not be...it should not be unexpected when we get this similar letter if we pass LB540. "As the Indiana Legislature (sic--Legislative) Services Agency indicated in its April 19, 2011, fiscal impact statement, quote, while states are permitted to waive a recipient's freedom of choice of a provider to implement managed care, restricting freedom of choice with respect to providers of family planning services is prohibited." And so I guess we can go into this with our eyes closed and pretend we don't know this. But if you support LB540, which I strongly support, it has made a major impact in states using it to prevent abortions. If you think LB540, then vote against this amendment because if we pass this amendment before us now, we will get just about a carbon copy of this letter sent to Indiana by CMS saying we're not going to approve your plan because you're violating our rules. We're taking federal money for a good purpose for the state of Nebraska. There are strings attached and all of us know what those strings are. Thank you very much. [LB540]

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PRESIDENT SHEEHY: Thank you, Senator Haar. Seeing no additional requests to speak, Senator Fulton, you are recognized to close on your amendment to committee amendment AM1859. [LB540]

SENATOR FULTON: Thank you, Mr. President. I won't use all my time on this. Very straightforward amendment. I bring it, and I bring it with an attempt to be open, and I think I'm...I don't think there's anything I'm missing here. It's pretty straightforward. I don't support LB540 but I'm not also so certain in my conviction that I would be willing to waste all of our time with a filibuster. There are times where one finds the word "epistemology." There are times when one finds one's own certitude so convinced of the voracity of a position that we're willing to take it to the mat. This isn't one of them. This is one where I think AM1859 makes a bad bill better, and I'm hopeful we can adopt AM1859. It doesn't mean I'm therefore in favor of LB540, but it does mean that it should at least have the opportunity to move forward without any dilatory tactics. So there are some points that were raised here about Indiana and Texas. Indiana is just a completely different scenario. I mean, they're talking about reducing...eliminating Medicaid funding, period, in Indiana, and that's not what we're doing here. The Texas case was a decision by the federal government. It wasn't a court case. It's not a court case. As to the language that appears in AM1859, if it's inconclusive or if it leaves wiggle room such that it renders LB540 ineffectual, I don't think that's the case. I think the language is fairly obvious. But in between General and Select I've indicated a willingness to Senator Campbell that if we need to have language that more accurately clarifies the intent of the body, that's fine. So be it. This is...as I said, and I'll say it again: This is very straightforward. I ask for your adoption of AM1859. Thank you, Mr. President. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Fulton. You have heard the closing to the amendment to committee amendment AM1859. The question before the body is on the adoption. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB540]

CLERK: 25 ayes, 8 nays, Mr. President, on adoption of the amendment to the committee amendments. [LB540]

PRESIDENT SHEEHY: AM1859 is adopted. We will now return to floor discussion on the committee amendment AM1719. Senator Council. [LB540]

SENATOR COUNCIL: Mr. Lieutenant Governor, thank you. I'm going to be brief. And I would urge my colleagues now to oppose AM1719 and the underlying bill. Otherwise, your vote affirmatively for this amendment and the underlying bill constitutes a sham, and I wouldn't think that any of you would want to be participants in a sham. Because, rest assured, that while Senator Fulton says the Texas case isn't a...the Texas situation isn't a court case, it's the federal government. You bet, it's the federal government. It's the very federal government that administers Medicaid. It's the very federal government

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that says these are the limitations on your ability to use these federal funds. It doesn't have to be stated in a court case. That's the statement of the entity that administers Medicaid. You shall not deny freedom of choice. So recognizing that to be the federal law that governs Medicaid funding, we should not vote to advance a bill that requires our state agency, one that is strapped for cash, as we all know, to go through the effort of submitting a waiver application that everyone in this body ought to know will be denied because of the action that was just taken. Again, let's be honest, let's be forthright. Several of my colleagues stood up and said, well, you know, we know how to kill a bill. Yeah, you know how to kill a bill and you also know how to sham a bill through knowing full well that the underlying measure will never be implemented. So I will be voting in the negative. No indication that I disapproved of what the committee did, because the committee's efforts were noble. The committee was seeking to provide a benefit and a service to residents of this state who are in need of it. The committee was trying to put into place a proven method of reducing abortions in this state, and I applaud them for their efforts but I will not participate in this sham. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Council. Seeing no additional requests to speak, Senator Campbell, you're recognized to close on the Health and Human Services Committee amendment AM1719. [LB540]

SENATOR CAMPBELL: Colleagues, I appreciate very much the discussion today, and the original amendment that was brought by the committee was meant to clarify that and I think the body has stepped forward to clarify it even further. I would like to note for the record that there have been a number of copies circulated in terms of the amount of money on a total Medicaid family planning under the existing eligibility. And I appreciate the Budget and Fiscal Office helping to get those figures, but what we want to say is, would you take the piece of paper and put it in the recycle bin, because it's not accurate. We have other figures that need to be involved in it. So we just wanted to be very clear for the record. Colleagues, you certainly have my commitment to try to work on all of these issues between General and Select. I still remain very much committed to LB540 because I believe that the extended eligibility that has been talked about would be extremely important, and we will do all that we can to try to clarify your questions. But unless we can go forward on LB540, I'm not sure we can get to those questions, and this is a serious medical issue. Thank you, Mr. President. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Campbell. You have heard the closing. The question before the body is on the adoption of the Health and Human Services Committee amendment AM1719 to LB540. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB540]

CLERK: 29 ayes, 1 nay, Mr. President, on adoption of committee amendments. [LB540]

PRESIDENT SHEEHY: AM1719 is adopted. Mr. Clerk, do you have items for the

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record? [LB540]

CLERK: I do, Mr. President. The Committee on Urban Affairs chaired by Senator McGill reports LB729 and LB863 to General File. General Affairs chaired by Senator Karpisek reports LR375CA as indefinitely postponed. Confirmation report from the General Affairs Committee. Hearing notices from the Judiciary Committee. And Senator Brasch offers LR393, LR394, and LR395. Those will be laid over. (Legislative Journal pages 452-455.) [LB729 LB863 LR375CA LR393 LR394 LR395]

Mr. President, back to LB540. Senator Burke Harr would move to amend with AM1903. (Legislative Journal pages 455-456.) [LB540]

PRESIDENT SHEEHY: Senator Harr, you're recognized to open on AM1903 to LB540. [LB540]

SENATOR HARR: Thank you, Mr. President. All right, I enter this a little leery and not as well prepared as I would like to be, but let me try to explain what my amendment does and why I think it's important. If you agree with the underlying assumption of LB540, and I'm not sure everyone here does, but if you do, pay attention, because what this bill LB540 does is we are applying for a waiver. Now to apply for a waiver it's either a yes or a no. As this, with the previous amendment, this would override that and introduce a new amendment. And the reason for that is, that previous amendment that we adopted violates federal law. Now I'm going to walk you through it. I hope it makes sense. If not, I'm more than willing to talk on or off the mike about this subject. I will preface it with, I am no legal expert in this area but I will try to help as much as possible. So state participation in Medicaid is voluntary, but if a state opts to participate and thus receives federal assistance, it must conform its Medicaid program to federal law. Under federal law there is something called the freedom-of-choice provision. And the freedom-of-choice provision has been interpreted by the United States Supreme Court as governing Medicaid recipients and the right to choose among...and the right of those recipients to choose among a range of qualified providers without government interference. So what we did with the amendment, Senator Fulton's amendment, was we have one institution, and I think it's fair to say Planned Parenthood, that is qualified to provide the services under LB540. However, we have chosen not to let them provide it, therefore it's a violation of federal law; ergo, the waiver is denied. Now if you don't like the waiver, fine; you can do whatever you want on this bill and my amendment. But if you do accept the underlying assumption of LB540, I think it's important to look at AM1903. It's a little more comprehensive than the original committee amendment but less than Senator Fulton's. And I am by all definitions not a bright man, so I found this language, and this language comes from the stem cell research compromise language, and we just cut and paste. That's what lawyers do. So it says, "No funds appropriated or distributed under the waiver shall be used for abortion, abortion counseling, or a referral of abortion or any operational costs of a facility that provides abortion, abortion

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counseling, or a referral for abortion." Very comprehensive. It gets at what we want to do but it still allows the underlying assumption of LB540. It's very simple. If there are any questions, I will be more than willing to try to answer them, and I hope we can have a discussion on the merits and whether the issue here is whether we want the waiver or not; not abortion. That's a sideshow. It's fun to talk about. But that's not what LB540 is about. LB540 is about helping with family planning. If you believe in family planning, you believe in LB540, then you must agree to AM1903. Thank you. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Harr. (Visitors introduced.) You have heard the opening of AM1903 to LB540. Member requesting to speak: Senator Fulton. [LB540]

SENATOR FULTON: Thank you, Mr. President and members of the body. I don't support AM1903. I think it undoes what we did previously. If indeed I'm incorrect about that and this would be a preferable way forward, then perhaps we could entertain it on Select File. But as I read it, I think this puts us back into that dilemma of...well, I think it was Senator Krist who used the term "fungible" with respect to money, and I don't think it takes much imagination to see how indeed one could accept money and say it's not being used for this, that, or another. But it frees up money to be used in some other way for abortion--which I don't think is a sideshow issue, Senator Harr. It's something that many taxpayers do not believe their monies should be funding, and that's really the policy at work here. So if indeed we need to work on this, let's work on it on Select File. Thank you, Mr. President. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Ken Haar. [LB540]

SENATOR HAAR: Mr. President and members of the body, first of all, Senator Burke Harr had said I think the quote was "I'm not bright or..." First of all, I disagree with that, but if anybody quotes it make sure you say Burke Harr said that and not...(laugh). It gets confusing. Well, I just have to tell a little story. I'm old enough to have had the pleasure of knowing Frank Morrison, who was the Governor of Nebraska and quite a character, and he told me a story. When he graduated from law school he went to a western county, and I don't remember which county it was, and it was a long time ago, but...and he served in the county attorney's office. And the county attorney came up to him and said: Son, the laws they pass in Lincoln don't apply here. And that was his first advice out of law school. Well, I would just remind people that even though we may not like them, the laws they pass in Congress do apply here, and an important law we have been talking about is the Medicaid requirement that you...it doesn't matter what services are provided for the person you plan to go to for family planning. So again, although we may have said the laws they pass in Lincoln don't apply here, the laws they pass in Congress do apply here. Thank you very much. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Haar. Seeing no additional requests to speak, Senator Burke Harr, you're recognized to close. [LB540]

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SENATOR HARR: Well, I see that started a lot of debate. And I need to clarify the record a little bit. I did not mean abortion is a sideshow but what I meant was it is a sideshow to LB540 and the underlying meaning. And the question is, do we want to provide family planning? If you do, and that means you want to expand it to 186 or what--the bill I think is 175, 186--you've got to apply for a waiver. If you're going to apply for a waiver, it's the old saying: He who has the purse strings controls. So if we're going to ask for 90 percent of the state...or the funding for this to come from the federal level, we have to play by their rules--like them, dislike them. I think it was Senator Krist who said we'll have a choice to vote come November, and we will, but we're not there today. So the law is what the law is and there's not much we can do about it. So if you accept the underlying premise of LB540, you have to vote for AM1903. Senator Fulton's bill, while well-intended, no doubt about it, it goes too far because you will have individuals who are qualified to provide the range of services, and those providers will be denied. You can't have one set of laws that say you have private insurance, you can do see this person; you have Medicaid, you go see that person. Maybe I'm sticking up for the 1 percent who have social nets, but we don't want to create holes in that net. This would do that. I'm going to use the cliché: a 186 percent gets you, a family of four, \$46,000 would qualify for services under LB540. Ladies and gentlemen, I'm going to use the key word of this session, those people, those women, hardworking middle class--not a special interest. If you agree with LB540, and I think we all think it's a good deal, AM1903 is what you need to do. We can't let one sect of people have one set of doctors, another group another set. That's common sense. You can't do it. Federal law says you can't do it. If we want federal money, you got to vote for AM1903. So appreciate the time and I wish we had a little more time to talk about it, a little more conversation. But that being said, we don't. I assume that means because everyone overwhelmingly agrees with my argument and the amendment. Thank you very much. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Harr. You have heard the closing. The question before the body is on the adoption of AM1903 to LB540. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB540]

CLERK: 11 ayes, 19 nays, Mr. President, on the amendment. [LB540]

PRESIDENT SHEEHY: AM1903 is not adopted. Anything further, Mr. Clerk? [LB540]

CLERK: I have nothing further on the bill, Mr. President. [LB540]

PRESIDENT SHEEHY: We will now return to floor discussion on LB540. Senator Campbell. [LB540]

SENATOR CAMPBELL: Thank you, colleagues. I have spent the morning writing down

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everyone's questions, and I very much understand the questions with regard to federal law and CMS and Indiana and Texas. But I guess what I'm saying to my colleagues is I would like to advance LB540 and spend time with all parties between General and Select to see if we can find answers to it. We also know that there are new rulings coming down almost every day, and I have new information that was handed to me just this morning. And so we will...we would like the opportunity to do that. I want to remind my colleagues that we currently do have a family planning segment in our Medicaid plan and we have 27 centers across the state, and the maps have been distributed by both myself and Senator Krist. What LB540 does is extend the eligibility of our existing family planning Medicaid component to our state plan. And there, frankly, colleagues, is a lot that is offered under our existing plan. The problem with our existing plan in my estimation is that it has limited eligibility. We want to be able to reach more women. At this point in the testimony before the committee, these are the criteria that we currently have. You must be a woman with dependent children and an income at or below 58 percent--58 percent--of the federal poverty level, or you must be pregnant and living at or below 185 percent of the poverty level. You will receive family planning services for a period of time following the birth of your child or you must be disabled with an income of 100 percent or below of the poverty level or be a woman who has breast or cervical cancer, in which case services would be available up to 250 percent of the poverty level. I think that's what's hard to understand about Medicaid is it's just not one entry point and it's just not one eligibility point. But the effort behind LB540 is to realize that we have an existing family planning component to Medicaid and we have clinics all across the state that are providing these services. Our point in putting this bill forward was to say that we will reach more women, and that is a critical point in our health process. It also seems to me that what we're trying to say here is you can look at this bill as an eventual cost savings, and yes, there are start-up costs. But in talking with the Budget and Fiscal Office this morning, it's very clear that we need a new fiscal note, because from the time we prepared it to now, there have been changes in the federal conditions that have come down that will make that fiscal note different. Or you can look at this bill as a women's health bill. And I have to say, colleagues, that I have persevered in LB540 and would like the opportunity to sit down with all parties, because... [LB540]

PRESIDENT SHEEHY: One minute. [LB540]

SENATOR CAMPBELL: ...we very much need to address the eligibility of women in this program. It's not that the program goes away or that we don't have one. We have one right now but it is limiting. And so I urge your support for LB540. Thank you, Mr. President. [LB540]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Seeing no additional requests to speak, Senator Campbell, you're recognized to close. Senator Campbell waives closing. The question before the body is on the advancement of LB540. All those in favor vote

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yea; opposed, nay. Please record, Mr. Clerk. [LB540]

CLERK: 28 ayes, 5 nays, Mr. President, on the advancement. [LB540]

PRESIDENT SHEEHY: LB540 advances. Mr. Clerk, we will now proceed to LB886. [LB540 LB886]

CLERK: LB886, a bill by Senator Schumacher. (Read title.) The bill was introduced on January 9 of this year, referred to the Banking, Commerce and Insurance Committee, advanced to General File. I have no amendments to the bill at this time, Mr. President. [LB886]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Schumacher, you're recognized to open on LB886. [LB886]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. LB886 was brought at the suggestion of the Secretary of State's Office. It deals with trademarks and trade names. Trademarks and trade names are either symbols or alias names that a company might use in the promotion of its business and the conduct of its business. They're a longstanding feature of the law, but the law is a bit ambiguous when it comes to how to handle changes in those trade names that occur when a corporation renames itself or moves to different jurisdictions, and this particular bill addresses how to handle those situations. It would amend Sections 87-130, 87-132, and 87-134 of the Trademark Registration Act, and Sections 87-210 and 87-211 of the trade name registration statutes. These acts are administered by the Secretary of State's Office. Section 1 would amend 87-130 to provide that an application for a registration of a trademark shall include the state of organization of applicants that are business entities other than corporations and partnerships. Corporations and partnerships are currently addressed in this section. Section 2 would amend Section 87-132 to provide that a certificate of registration of a trademark shall show the state of organization of the registrants that are business entities other than corporations and partnerships. Corporations and partnerships are currently addressed in that section. Section 3 would amend 87-134 to provide that a trademark registrant or an applicant may record a change of address or state of incorporation or organization upon payment of a recording fee. This section would provide that a registrant or applicant be required to submit documented proof of the name change at the discretion of the Secretary of State. It would also provide that a registration filed before a change in the trademark laws may be amended to comply with the current law upon payment of another recording fee. Section 4 would amend 87-210 to provide that an application for registration of a trade name shall set forth the state of incorporation of the applicants that are business entities other than corporations. Corporations are currently addressed in this section. Section 5 would amend 87-211 to provide that a trade name registrant may file a statement of change of name and street address, and if a corporation or other business entity, its

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state of incorporation or organization upon payment of a \$10 fee. This section would also provide that a trade name registrant may be required to submit documented proof of that name change to the Secretary of State's Office. The Secretary of State's Office registered trademark and service marks and trade names at the state level, there are currently 19,932 active trade names and 2,458 active marks registered with the state. At this time, there is no authority to amend a trade name registration and a limited authority to amend a mark registration. LB886 provides a mechanism to amend trade name registrations or trademark registrations, and to change the registrant's name, address, state of incorporation, or organization and classification in the case of trademarks. LB886 also provides that a registrant may be required to submit documented proof of the name change. Providing authority to amend a trade name or mark registration is necessary so the records of the Secretary of State's Office are up-to-date, and so consumers and others searching the registrant office and the records are given reliable and timely information. With that I'd ask for the adoption of LB886. Thank you, Mr. President. [LB886]

PRESIDENT SHEEHY: Thank you, Senator Schumacher. You've heard the opening to LB886. Seeing no requests to speak, Senator Schumacher, you're recognized to close. Senator Schumacher waives closing. The question before the body is on the advancement of LB886. All those in favor vote yea; opposed, nay. Senator Schumacher. [LB886]

SENATOR SCHUMACHER: I'd ask for a call of the house. Whoop, we don't need that now. [LB886]

PRESIDENT SHEEHY: Please record, Mr. Clerk. [LB886]

CLERK: 25 ayes, 0 nays on the advancement of LB886. [LB886]

PRESIDENT SHEEHY: LB886 advances. We will now proceed to LB890. [LB886 LB890]

CLERK: LB890, a bill by Senator Pirsch. (Read title.) The bill was introduced on January 9 of this year, referred to the Banking, Commerce and Insurance Committee, advanced to General File. I have no amendments to the bill, Mr. President. [LB890]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Pirsch, you're recognized to open on LB890. [LB890]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. LB890, I brought it at the request of the Secretary of State's Office. The purpose of LB890 is to allow nonprofit corporations to more efficiently communicate with their members and others. LB890 amends the Nebraska Nonprofit Corporation Act to ensure that Nebraska

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nonprofit corporations are able to deliver notices to members and others electronically, and specifically provides that notices electronically transmitted to a member as part of a publication regularly sent to them constitutes written notice when electronically transmitted in a manner authorized by the member. LB890 is based on similar amendments made to the Business Corporation Act in 2009. I just want to remind the body, it came out of committee without any no votes, and there were no opponents or neutral testifiers. I would urge you to pass LB890. Thank you. [LB890]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. You've heard the opening to LB890. Seeing no requests to speak, Senator Pirsch, you're recognized to close. Senator Pirsch waives closing. The question before the body is on the advancement of LB890. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB890]

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB890. [LB890]

PRESIDENT SHEEHY: LB890 advances. We'll now proceed to LB854. [LB890 LB854]

CLERK: LB854 is a bill introduced by Senator McCoy. (Read title.) The bill was introduced on January 6 of this year, referred to the Banking, Commerce and Insurance Committee. There are committee amendments, Mr. President. (AM1685, Legislative Journal page 337.) [LB854]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator McCoy, you're recognized to open on LB854. [LB854]

SENATOR MCCOY: Thank you, Mr. President, and good morning. I am pleased to introduce LB854 which limits the time period an administratively dissolved corporation, professional corporation, nonprofit corporation, limited cooperative association, and limited liability company may reinstate. I'd like to thank Senator Pahls and the committee staff for helping in this issue. You'll see an amendment here in a moment that will address a couple of small technical changes that need to happen with the legislation for it to move forward, and that result is AM1685, which again Senator Pahls will explain a little further in a moment. Currently, an administratively dissolved entity may be reinstated at any time after paying back fees and delivering an application for reinstatement. When the reinstatement is effective, it relates back to and takes effect as of the date of revocation. The company can then resume carrying its business as if the revocation had never occurred. Under the proposed bill, an entity would need to reinstate within three years after the effective date of the administrative dissolution, and the committee amendment will change that to five years, which just gives a little bit lengthier time for the statute of limitations. And I'd like to thank Senator Schumacher who also brought this to our attention, and that's some of the changes that you'll see in the committee amendment in a moment. And there are a couple of reasons to set such a time limit. First, we're really losing accountability without it. Currently, if you've been

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dissolved by the law, you can continue to do business for 10, 20, or more years. When you may enter into a contract or unable to get a loan because of not being in good standing, you may go back and retroactively reinstate back to the date of dissolution and regain your good standing. So, in effect, what we would have are hidden entities out there until they're reinstated. Second, business identity theft is a growing national issue, and limiting the time for reinstatement removes shelf entities dissolved by law and which have long ceased doing business for being reinstated by unrelated third parties and used for nefarious purposes. A shelf or shell entity is an entity that has been dissolved but they are still in existence as a type of a phantom entity. Criminals can buy the hollow shell or shelf entity, reinstate back to the day of dissolution, then conduct criminal business under a company that once had a good name but has gone out of business. Nationally, billions of dollars supposedly are being run through these shelf entities that were dissolved but continue to exist because there is an unlimited date for reinstatement. In our neighboring state of Wyoming has recently...it's been reported by Reuters and other news services and at news outlets, have gone through a process of some very severe problems related to this issue and which we would clearly not like to have happen in our great state. LB854 provides a delayed operative date of January 1, 2013, to allow entities the opportunity to review their records and reinstate where appropriate and if needed. And I'd ask for your support on LB854 and the underlying committee amendment that we'll have here in a moment. Thank you, Mr. President. [LB854]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Thank you, Senator McCoy. (Visitors introduced.) As the Clerk stated, there are amendments from the Banking, Commerce and Insurance Committee. Senator Pahls, as Chairman of that committee, you're recognized to open on the committee amendment. [LB854]

SENATOR PAHLS: Thank you, Mr. President and members of the body. The committee amendments would make both changes of substance and changes that are cleanup in nature. Most significantly the committee amendments would extend the reinstatement period from three to five years. This change is in response to concerns raised by the State Bar Association. We have been told that the bar supports the change for five years. The committee amendments would harmonize new language with existing language, including changing dissolution to the more correct usage of revocation in sections involving foreign corporations. Nebraska can't dissolve a foreign corporation but it can revoke its certificate of authority to transact business here. I urge the adoption of the committee amendments to LB854. Thank you. [LB854]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Thank you, Senator Pahls. You've heard the opening of the

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Banking, Commerce and Insurance Committee amendment AM1685 to LB854. Member requesting to speak: Senator Lautenbaugh. [LB854]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I wonder if Senator Pahls would yield to a question. [LB854]

PRESIDENT SHEEHY: Senator Pahls, would you yield to Senator Lautenbaugh? [LB854]

SENATOR PAHLS: Yes, I would. [LB854]

SENATOR LAUTENBAUGH: Senator Pahls, if you recall--and I apologize, I don't mean to put you on the spot--what concerns did the bar express that were addressed by the amendment? [LB854]

SENATOR PAHLS: They thought the term of three years was too short. I think they talked one time in ten years, and then apparently it's my understanding the settlement was to five, and they were okay with that. [LB854]

SENATOR LAUTENBAUGH: Do you know how they arrived at the conclusion that five was better than three or ten? [LB854]

SENATOR PAHLS: I think that was part of the negotiations, and I don't know if Senator McCoy was involved in that or not. [LB854]

SENATOR LAUTENBAUGH: Thank you, Senator Pahls. I wonder if Senator McCoy would yield to a question? [LB854]

PRESIDENT SHEEHY: Senator McCoy, would you yield to Senator Lautenbaugh? [LB854]

SENATOR McCOY: I would. [LB854]

SENATOR LAUTENBAUGH: Senator, really the same question: Do you recall what the concerns of the bar were and how they're addressed by the amendment? [LB854]

SENATOR McCOY: Certainly, Senator Lautenbaugh, and not in...if I need to delve into that a little more, by all means. But there was some concern that three years was too short of a time period and that ten would be appropriate given what's in statute as far as statute of limitations. Again Senator Schumacher was instrumental in bringing up these concerns as well. And as we talked about with the Secretary of State's Office and with the State Bar Association, we determined that ten was probably too long. It really was out of the bounds of what was applicable and had been used in the past, and it really

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was arrived at that five years was probably satisfactory to all parties involved and really accomplished a lot more of what we were after, being as that currently there is no time limit at all. So five years was certainly better than what's currently in place. [LB854]

SENATOR LAUTENBAUGH: Thank you, Senator McCoy. And was there some attempt to make some comparisons in this bill to surrounding states and what they do? [LB854]

SENATOR McCOY: There was, Senator Lautenbaugh. It was talked about in committee, and I'll tell you, some very fascinating news clips. I'm holding one in my hand that's a Reuters story from the state of Wyoming, and Cheyenne, Wyoming, in particular, called the "The little house of secrets on the Great Plains." And it talks about that Wyoming, unbeknownst to their state legislature and their governor, became a haven for these type of entities. And, in particular, it shows a little house, very small, and a sleepy little street in Cheyenne, Wyoming, that had some 5,000 shelf entities using this little home as its place of business. And what was discovered in a very lengthy investigation that I believe involved some criminal charges in Wyoming was that there were Ukrainian mafia individuals that were using shelf entities based out of this home in Cheyenne, Wyoming, and some billions of dollars in terrorist money and mafia money were being ran through Cheyenne, Wyoming. And I found this fascinating from a standpoint that clearly we don't know of any circumstance like this happening in the great state of Nebraska, nor would we want to, though, and so it appeared, even though it's a fairly simple piece of legislation, that LB854 would hopefully slam the door on such a situation arising here. [LB854]

SENATOR LAUTENBAUGH: Thank you, Senator McCoy. How did this concern first come to you? [LB854]

SENATOR McCOY: This concern first came to me from the Secretary of State's Office. This was a piece of legislation that they felt like largely from the instance... [LB854]

PRESIDENT SHEEHY: One minute. [LB854]

SENATOR McCOY: ...that I just described to you in the state of Wyoming, they felt like this was a loophole that we needed to close, that we need to put a clear line, a bright line, of when entities can be dissolved and that could go down so we don't have these, some hundreds, sometimes thousands, of entities that sit there basically on the shelf for 30 or 40 years or longer. [LB854]

SENATOR LAUTENBAUGH: Thank you, Senator McCoy. That was an interesting story, I'll grant you that. Were there any stories from other surrounding states on a par with that, or...? [LB854]

SENATOR McCOY: Not that I'm aware of. I will share with you, though, Senator

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Lautenbaugh, that testimony from the Secretary of State told the committee basically in this testimony that there have been many conference...this is, I should say... [LB854]

PRESIDENT SHEEHY: Senator Lautenbaugh, you may continue under your next five minutes. [LB854]

SENATOR LAUTENBAUGH: Thank you. [LB854]

SENATOR McCOY: There have been quite a number of discussions at conferences that Secretary of State, members of the Secretary of State's Office have attended over the last few years that have described this as a haven particularly for terrorism and in...and there has been an attempt in a number of states, not just surrounding states--Wyoming has now done something very similar to this legislation after this investigation--but that there have been quite a number of states across the country that are doing...or are undertaking similar efforts in their legislative sessions this year and in the last few years, and will in the future, to try to put the clamps down on this and make sure that we are not creating safe havens for terrorism just through seemingly innocuous LLCs and corporate entities here in our states. [LB854]

SENATOR LAUTENBAUGH: Thank you, Senator McCoy. Members, I do rise in support of this bill, and sometimes I think we get into very technical areas and things that might not sound very titillating or fascinating to us as we roll on ahead here, but we don't always get to graft the Ukrainian mafia onto it to kind of spice it up a bit, so I appreciate that story. This is likely an important bill and I simply can't say enough about it, apparently, and I'm running out of things to say about it. So I would urge your support of the committee amendment and the underlying bill. [LB854]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Seeing no additional requests to speak, Senator Pahls, you're recognized to close on AM1685. Senator Pahls waives closing. The question before the body is on the adoption of the Banking, Commerce and Insurance Committee amendment AM1685 to LB854. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB854]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB854]

PRESIDENT SHEEHY: AM1685 is adopted. Anything further, Mr. Clerk? [LB854]

CLERK: Nothing further, Mr. President. [LB854]

PRESIDENT SHEEHY: We'll return to floor discussion on LB854. Seeing no requests to speak, Senator McCoy, you're recognized to close. [LB854]

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SENATOR McCOY: Thank you, Mr. President. And again I would ask for your adoption of...advancement, I should say, of LB854. As I described in some dialogue with Senator Lautenbaugh a few minutes ago, there are some salacious details and some stories with surrounding states on this issue. And while that wouldn't seem to be the case as you read through this legislation, it is true that there appears to be an attempt, especially by foreign individuals, to use these shelf entities for nefarious purposes. And clearly I believe that we would not want similar stories of what I accounted in the state of Wyoming to happen here in Nebraska. So I believe that LB854 and the underlying committee amendment which we just adopted hopefully will close that loophole and allow good, upstanding LLCs and corporations here in our state to continue to conduct business as they do now and be a thriving part of our state's economy. Thank you, Mr. President. [LB854]

PRESIDENT SHEEHY: Thank you, Senator McCoy. You have heard the closing. The question before the body is on the advancement of LB854. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB854]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB854. [LB854]

PRESIDENT SHEEHY: LB854 advances. We will now proceed to LB911. [LB854 LB911]

CLERK: LB911, introduced by Senator Lathrop. (Read title.) Introduced on January 10 of this year, referred to the Business and Labor Committee, advanced to General File. I have no amendments to the bill at this time, Mr. President. [LB911]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Lathrop, you're recognized to open on LB911. [LB911]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. This is a very, very simple bill. It amends state statute 48-622.02 to clarify that nonprofit businesses are eligible for job training programs funded by the Nebraska Training and Support Trust Fund. In the past, nonprofit businesses have been eligible for job training programs but only if they partner with a for-profit business. However, it has been brought to our attention that some nonprofits have recently been recipients of these funds. As a result, I was asked to introduce LB911 to provide clarification on the issue. There was no opposition to the bill at the public hearing and it was supported by representatives from nonprofits who believe it would help with training of their work force. The Department of Labor submitted a letter to the Business and Labor Committee but did not take a position on the bill. The Business and Labor Committee advanced LB911 to General File without opposition, and I ask for your support. Just to give you a little more detail, this worker training fund is a fund that we've created. It's longstanding, and it's the interest earned on the unemployment money, and it is available for grants to

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various businesses across the state for training. It's used for things like CPR training or to update your work force's ability to use various computer programs, for example. All we do today is say it's not just the for-profits that have access to these training funds, but nonprofits. It does not give them a preference. It simply allows them into the process. And I would urge your support of LB911. [LB911]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You've heard the opening to LB911. Member requesting to speak: Senator Carlson. [LB911]

SENATOR CARLSON: Mr. President and members of the Legislature, being on the Business and Labor Committee, this was one of the easier bills that I thought should be advanced. And I made the motion to advance the bill and I believe that it's a good bill and would ask for your support. Thank you. [LB911]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Lautenbaugh. [LB911]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I wonder if Senator Lathrop would yield to a question. [LB911]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Lautenbaugh? [LB911]

SENATOR LATHROP: Yes, I will. [LB911]

SENATOR LAUTENBAUGH: Thank you, Senator Lathrop. And I just want to be clear on something. You may recall last session we had a somewhat protracted floor debate on a bill of, I think, Senator Schilz's, that would adjust the interest rate on comp payments and amounts that were due under a comp award. Do you recall that debate? [LB911]

SENATOR LATHROP: I do. [LB911]

SENATOR LAUTENBAUGH: Do you believe this bill might be an acceptable vehicle to address that interest rate provision? [LB911]

SENATOR LATHROP: No. [LB911]

SENATOR LAUTENBAUGH: Why is that? [LB911]

SENATOR LATHROP: Because this deals with a labor training fund issue and hasn't a single thing to do with work comp. [LB911]

SENATOR LAUTENBAUGH: I note they're in the same Section 48. Does that not do it

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for us, or...? [LB911]

SENATOR LATHROP: No, it doesn't. There's more to germaneness than the chapter. [LB911]

SENATOR LAUTENBAUGH: Will there be more bills coming down the pike that are perhaps more germane than this one that we can look forward to? [LB911]

SENATOR LATHROP: Relative to work comp? [LB911]

SENATOR LAUTENBAUGH: Yes, sir. [LB911]

SENATOR LATHROP: I hope that you and I can sit down and make that happen. [LB911]

SENATOR LAUTENBAUGH: Thank you, Senator. [LB911]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Seeing no additional requests to speak, Senator Lathrop, you're recognized to close. [LB911]

SENATOR LATHROP: It is as simple as it sounds. We are just clarifying that nonprofits have and may apply for these training funds, and I think it's good policy and would urge your support. Thank you. [LB911]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You've heard the closing. The question before the body is on the advancement of LB911. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB911]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB911. [LB911]

PRESIDENT SHEEHY: LB911 advances. Mr. Clerk, we will now proceed to LB942. [LB911 LB942]

CLERK: LB942, Senator McCoy. (Read title.) Introduced on January 11, referred to the Banking, Commerce and Insurance Committee, advanced to General File. I have no amendments to the bill. [LB942]

PRESIDENT SHEEHY: Senator McCoy, you're recognized to open on LB942. [LB942]

SENATOR McCOY: Thank you, Mr. President. Good morning again, members. I'm pleased to introduce LB942 to you this morning, which makes the published notice requirements for forming an LLC consistent with the requirements for a certificate of organization that's filed with the Secretary of State's Office. In 2011 (sic--2010), we

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passed LB888 which changed the requirements for the information required for filing a certificate of organization with the Secretary of State. This means additional information is currently required for the published notice portion of these requirements. Simply put, LB942 requires the published notice and the filing or amendment of a certification of organization contain the exact same information. And I ask your support for LB942. Thank you, Mr. President. [LB942]

PRESIDENT SHEEHY: Thank you, Senator McCoy. You've heard the opening to LB942. Seeing no requests to speak, Senator McCoy, you're recognized to close. Senator McCoy waives closing. The question before the body is on the advancement of LB942. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB942]

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB942. [LB942]

PRESIDENT SHEEHY: LB942 advances. Mr. Clerk, we will now move down to the 11:30 a.m. agenda items, Final Reading. Members should return to their seats in preparation for Final Reading. Mr. Clerk, do you have items for the record? [LB942]

CLERK: I do, Mr. President. Your Committee on Government, Military and Veterans Affairs, chaired by Senator Avery, reports LB1070 to General File. Senator Pirsch would like to print an amendment to LB612. That's all that I have, Mr. President. (Legislative Journal page 457.) [LB1070 LB612]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Mr. Clerk, we will now proceed to Final Reading. The first legislative bill, LB705. [LB705]

CLERK: (Read LB705 on Final Reading.) [LB705]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB705 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB705]

CLERK: (Record vote read, Legislative Journal pages 457-458.) 45 ayes, 0 nays, 2 present and not voting, 2 excused and not voting, Mr. President. [LB705]

PRESIDENT SHEEHY: LB705 passes. We will now proceed to LB706. [LB705 LB706]

CLERK: (Read LB706 on Final Reading.) [LB706]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB706 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB706]

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CLERK: (Record vote read, Legislative Journal page 458.) 45 ayes, 0 nays, 2 present and not voting, 2 excused and not voting. [LB706]

PRESIDENT SHEEHY: LB706 passes. We will now proceed to LB707. [LB706 LB707]

CLERK: (Read LB707 on Final Reading.) [LB707]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB707 pass? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB707]

CLERK: (Record vote read, Legislative Journal page 459.) 45 ayes, 0 nays, 2 present and not voting, 2 excused and not voting, Mr. President. [LB707]

PRESIDENT SHEEHY: LB707 passes. We will now proceed to LB708. [LB707 LB708]

CLERK: (Read LB708 on Final Reading.) [LB708]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB708 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB708]

CLERK: (Record vote read, Legislative Journal pages 459-460.) 45 ayes, 0 nays, 2 present and not voting, 2 excused and not voting, Mr. President. [LB708]

PRESIDENT SHEEHY: LB708 passes. We will now proceed to LB709. [LB708 LB709]

CLERK: (Read LB709 on Final Reading.) [LB709]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB709 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB709]

CLERK: (Record vote read, Legislative Journal pages 460-461.) 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB709]

PRESIDENT SHEEHY: LB709 passes. We will now proceed to LB710. [LB709 LB710]

CLERK: (Read LB710 on Final Reading.) [LB710]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB710 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB710]

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CLERK: (Record vote read, Legislative Journal page 461.) 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB710]

PRESIDENT SHEEHY: LB710 passes. We will now proceed to LB946. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor, vote yea; opposed, nay. Record, Mr. Clerk. [LB710 LB946]

CLERK: 45 ayes, 0 nays, Mr. President, to dispense with the at-large reading. [LB946]

PRESIDENT SHEEHY: The at-large reading is dispensed with. Please read the title. [LB946]

CLERK: (Read title of LB946.) [LB946]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB946 pass with the emergency clause attached? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB946]

CLERK: (Record vote read, Legislative Journal pages 462-463.) 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB946]

PRESIDENT SHEEHY: LB946 passes with the emergency clause attached. We'll now proceed to LB415. [LB946 LB415]

CLERK: (Read LB415 on Final Reading.) [LB415]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB415 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB415]

CLERK: (Record vote read, Legislative Journal pages 463-464.) 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President. [LB415]

PRESIDENT SHEEHY: LB415 passes. We'll now proceed to LB503. [LB415 LB503]

CLERK: (Read LB503 on Final Reading.) [LB503]

PRESIDENT SHEEHY: All provisions of law relative to procedure having been complied with, the question is, shall LB503 pass? All those in favor vote yea; opposed, nay. Record, Mr. Clerk. [LB503]

CLERK: (Record vote read, Legislative Journal page 464.) 47 ayes, 0 nays, 2 excused

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and not voting. [LB503]

PRESIDENT SHEEHY: LB503 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB705 LB706, LB707, LB708, LB709, LB710, LB946, LB415, and LB503. Mr. Clerk, do you have items for the record? [LB503 LB705 LB706 LB707 LB708 LB709 LB710 LB946 LB415]

CLERK: I do, Mr. President. A series of name adds. Senators Council, Fulton, Avery, McGill, Lathrop, and Nordquist would like to add their name to LB1130; Senator Fischer to LB863; Senators Cook, McGill, and Nordquist to LB863; Senator Smith to LB1144; and Senator Smith, Haar, Campbell, Mello, and Lambert to LB1130. (Legislative Journal pages 464-465.) [LB1130 LB863 LB1144]

Mr. President, a priority motion. Senator Flood would move to adjourn the body until Wednesday morning, February 8, at 9 a.m.

PRESIDENT SHEEHY: You have heard the motion to adjourn until Wednesday, February 8, at 9 a.m. All those in favor say aye. Opposed, nay. We are adjourned.